LEGISLATIVE COUNCIL

Tuesday 8 December 1981

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Forestry Act Amendment,

Industrial Conciliation and Arbitration Act Amendment (No. 2),

Statute Revision (Fruit Pests).

PETITION: CITY OF ADELAIDE DEVELOPMENT CONTROL

A petition signed by 531 residents of South Australia concerned with the administration of the City of Adelaide Development Control Act, and the Heritage and National Trust Acts, as amended, and praying that the Council will repeal the said Acts was presented by the Hon. Barbara Wiese.

Petition received.

YATALA LABOUR PRISON

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

Yatala Labour Prison (Toilet and T.V. Facilities, A and B Division).

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Justices Act, 1921-1980—Rules—Form of Complaints and Informations.

Rules of Court—Supreme Court—

Supreme Court Act, 1935-1981—Applications for Appeals.

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

Pursuant to Statute—

Health Act, 1935-1980—Regulations—Inspection Fees.

Long Service Leave (Building Industry) Fund Actuarial Investigation as at 30 June 1980.

Planning and Development Act, 1966-1981—Regulations—South-East Planning Area Development Plan—Corporation of Mount Gambier Planning Regulations—Zoning.

Outer Metropolitan Planning Area Development Plan—District Council of Yankalilla Planning Regulations.

By the Minister of Consumer Affairs (Hon. J. C. Burdett):

Pursuant to Statute—

Places of Public Entertainment Act, 1913-1972—Regulations—Revocations.

Residential Tenancies Act, 1978-1981—Regulations—Various Amendments.

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 direct my question to the Attorney-General because of his involvement in the Riverland cannery and the problems of that particular canning fruit industry. The Department of Agriculture released a report yesterday which, under the heading 'Canning fruit growers' troubles continue', states:

> Disposal of the canning peach crop in the coming season is causing increasing gloom in the Riverland. Growers' troubles continue to mount with the collapse of export sales at a time when there is near-record stock holdings and South Australia's only cannery remains in receivership. The Australian Canned Fruits Corporation is planning to restrict production, which will have particularly serious repercussions for South Australian growers. Quotas are expected to be made known soon.

Those quotas are now known. The report continues:

> The R.F.P. cannery has advised suppliers that growers' delivery quotas amounting to about half those of last season will apply for peaches, pears and apricots. The current market outlook and high stock holdings may necessitate even further cuts. This will cause great hardship for growers.
>
> Although the State Government has assured growers that the cannery will process this season, and in 1983, it will continue to be at levels that cannot be viable. In the meantime, there is a danger that canning fruit production levels could fall so low that the South Australian industry could never recover.
>
> The Federal Government's announced I.A.C. inquiry into the canning fruit industry, although welcomed by growers, comes too late to be of help to South Australia in the 1982 season. Although an interim report on assistance for the 1982 season should be available by 31 March, the main I.A.C. report for 1983 and beyond has been set a deadline of 31 August. The State Government is now considering interim support measures for canning fruit growers.
>
> Growers are actively seeking other outlets for canning fruits, including fresh market, export, and drying. At the Australian Canning Fruitgrowers Association annual conference it was apparent that Victoria favours a tree-pull scheme to rationalise current over-supply. In South Australia and New South Wales, however, where there is a need to maintain throughput to survive, the need for a tree-pull scheme is not so easy to justify. The fear is that South Australia and New South Wales growers, if given the opportunity, would remove trees and leave the industry and leave the canneries fruitless.

I must congratulate the department on that report, which very succinctly puts before the public the problems of the industry and which is in great contrast to the apparent lack of concern expressed by the Minister of Agriculture during the Budget Estimates Committee debates.

I refer particularly to the fifth paragraph of the department's report, which states that the State Government has assured growers that it will process fruit this season. Does the Government intend to process the 7 100 tonnes that it previously promised to process through the cannery? Does it have the money in hand to pay to growers for that fruit? Now that the Government has written to the Federal Government for assistance to the canning fruit industry, what are the specific forms of assistance that the Government has asked the Prime Minister to provide, and when was the assistance sought?

The Hon. K. T. GRIFFIN: It should be made clear that it is not the Government which processes the fruit in the Riverland cannery—it is a separate entity, which is under receivership. The receivers have been given certain undertakings by the Government through the State Bank in order that they may carry on the operation of the cannery at present. The Minister of Agriculture last week made a statement in another place which put the current difficulties in an appropriate context. He then indicated in the last

paragraph of his Ministerial statement that, notwithstanding the difficulties, the Government is anxious that growers do not embark on a premature tree-pull scheme before the I.A.C. report is made. The Government, as part of its overall responsibility for the growers in the Riverland, is anxious to ensure that there is not a premature tree-pull scheme. If there is a premature tree-pull scheme, the viability of the cannery will be prejudiced even more than it is at the present time. In his Ministerial statement, the Minister of Agriculture said:

The Premier has made the following requests of the Commonwealth Government:

(a) for funds to enable growers to be paid at F.I.S.C.C. prices up to a limit of 7 100 tonnes (taking into account the direct payment by the cannery for the fruit processed);

(b) for carry-on finance of up to $1 000 000 to assist cash flow needs. The State Government has agreed to make $500 000 available for this purpose on a matching $1 for $1 basis. This will assist growers in dealing with the surplus of product over 7 100 tonnes.

The Minister of Agriculture then went on to state that the Premier had signalled to the Federal Government that an approach was likely to be made for some carry-on finance for the cannery itself of about $5 000 000 and $6 000 000 in order to ensure that adequate funds were available for the purpose of keeping the cannery operating at present. That request was signalled pending the interim fundings of the I.A.C. inquiry into the industry.

In addition to what the Premier has done in writing to the Prime Minister, the Minister of Agriculture has made an identical request to the Federal Minister for Primary Industry stressing the urgency of the request from South Australia because in this State, as everyone would know, we are particularly hit by the difficulties in the canned fruit industry, more so than perhaps Victoria, where there is a much stronger industry, and the sort of set-backs we are experiencing in the current year can be more readily handled in the context of a stronger industry.

So far as the current season is concerned, I understand that the receivers have already indicated to growers that they intend to take 500 tonnes of apricots, because that is the most pressing problem. They are presently having some discussions with respect to the peach crop to ensure that as much fruit as possible is processed of the peach and pear crop. The final decisions on the amounts they will take in the current season have yet to be made.

The Government gave an undertaking in June this year, through the Ministerial statement which I made in the Council and which was also made in the House of Assembly, that quite clearly set out the Government's commitment with respect to processing 7 100 tonnes at F.I.S.C.C. prices. There was nothing that would indicate that the Government would in any way withdraw from that commitment given at that time.

The Hon. B. A. CHATTERTON: By way of supplementary question, I would like to clarify the last part of the Attorney's answer. Am I to understand that the Government is committed to 7 100 tonnes being processed by the cannery, as the Minister stated in his Ministerial statement in June? If the Commonwealth Government will not provide the funds to meet the shortfall between the 7 100 tonnes promised by the Government and the 3 000 tonnes that is the quota of the Cannery Fruit Corporation, will that shortfall be met by the State Government?

The Hon. K. T. GRIFFIN: The Ministerial statement of 11 June stated that the Government's preferred option at that stage was, among other things, as follows:

1. Support the receivers continuing in control of the situation for the time being and provide them with Government guarantees against any losses which they may incur.

2. Guarantee to fruitgrowers that their fruit will be processed in the 1981-82 and 1982-83 seasons to the extent of a minimum of 7 100 tonnes in the light of the Australian Canned Fruits Corporation's likely quotas for 1981-82.

3. Guarantee to fruitgrowers payment for their fruit for the two seasons referred to in paragraph 2 at the then applicable F.I.S.C.C. prices.

It seemed to me and to the Government that, regardless of what happened to the 7 100 tonnes of fruit, the Government has given a commitment that that amount will, in one way or another, be processed. In one way or another, the growers will be paid at applicable F.I.S.C.C. prices. The Government has no intention of withdrawing from its undertaking. The responsibility for dealing with the crop lies principally with the receivers. I know that the receivers are paying very close attention to the orchestration of the implementation of that undertaking over a period of time. They are as anxious as anyone that good faith should be maintained with the growers. In the long term, it is in everyone's interest that growers maintain their trees and do not embark on a premature tree-pull scheme. It is also important that the Federal Government recognise its responsibility in coping with the very real difficulties that are experienced in the canned fruit industry for a number of reasons. That has been made clear in what I have said today and also in the communications that have taken place between the Premier and the Prime Minister and between the Minister of Agriculture and the Minister for Primary Industry.

HOSPITAL COMPUTERS

The Hon. J. R. CORNWALL: Does the Minister of Community Welfare have a reply to a question I asked on 6 August about hospital computers?

The Hon. J. C. BURDETT: The replies are as follows:

1. Patient care has been maintained at a high standard in public hospitals. There have been no massive cuts and all hospitals have indicated their ability to live within their proposed budgets.

2. Neither the Health Commission nor the Government considered spending $20 000 000 on computers. The $20 000 000 to which the honourable member referred is the consultant's estimate of expenditure which would be required over the next four years on computer equipment for hospitals if the express wishes and needs of all hospitals were to be met and computer support in hospitals were to be lifted to industry standards.

The consultant's report is a basic, strategic planning document to look at computing needs in the health area and the cost of the various applications. It is being considered by the commission's Computing Policy Committee in developing its forward plan for the introduction of information systems. System priorities will be progressively set over the next six to 12 months and individual systems will be subject to feasibility study, including cost benefit analysis, before proceeding further.

3. The Health Commission has recognised that it needs to develop further expertise in the computing services field. To this end it has employed experienced and skilled computer systems development personnel on a contract basis who work with Health Commission and hospital personnel in system development. A restructuring of the Computing Services Unit is taking place following a review of its operations.

4. The answer to question 2 covers this matter.

The Hon. J. R. CORNWALL: Does the Minister of Community Welfare have a reply to a further question I asked on 6 August about hospital computers?

The Hon. J. C. BURDETT: The members of the Computing Policy Committee are as follows: Mr B. B. McKay, Chairman, South Australian Health Commission; Mr T. B. Prescott, Chairman, Board of Management, the Queen

Elizabeth Hospital, member; Dr N. Elvin, Administrator, Royal Adelaide Hospital, member; Mr R. Blight, Director, Management Services, South Australian Health Commission, member; Mr J. Cooper, Executive Director, Corporate Sector, South Australian Health Commission, member; Mr G. Heinrich, Manager Computing Services Branch, executive officer.

The Health Commission, in conjunction with consultants, has been developing a comprehensive forward plan for the introduction of information systems in the State's health services over a five-year period. During the planning project, the consultants sought an indication from the Computing Policy Committee on the priorities between nominated systems. The committee decided it was inappropriate to set priorities until it knew the overall commitment and the level of resources required for each project. The policy committee gave no extraordinary directions to the consultants. It asked the consultant to provide resource estimates on the basis of all identified systems proceeding, so that priorities could be set on an informed basis.

The Hon. J. R. CORNWALL: Has the Minister of Community Welfare a reply to another question that I asked of the Minister of Health regarding hospital computers?

The Hon. J. C. BURDETT: I am informed by my colleague the Minister of Health that the honourable member's use of confidential information has served to embarrass the companies involved and, at the same time, to eliminate any scope the Health Commission may have had for price negotiation. The reasons behind the original tender for an interim A.T.S. system and the subsequent limited tender call have already been conveyed to the House and I draw the honourable member's attention particularly to my Ministerial statement of 22 July 1981. Neither the Minister of Health nor the South Australian Health Commission has indicated any preference for IBM systems or any other system for the entire hospital computer programme. The evaluation process has been rigorously pursued and the evaluation report is currently being assessed by the Data Processing Board. Once the tender evaluation has been completed, the matter will be placed before the Supply and Tender Board, which will in due course make a recommendation to the Government.

PARLIAMENTARY STAFF

The Hon. N. K. FOSTER: I seek leave to make a statement prior to directing a question to the Attorney-General in respect of the so-called Steering Committee that may or may not still operate in this place.

Leave granted.

The Hon. N. K. FOSTER: Last week, the Attorney-General answered in this Chamber a number of questions in relation to the so-called Steering Committee in this place, a number of questions being directed to yourself, Sir. It is not my intention at this stage to direct any further questions to you, as President of this Chamber, on this matter after the Attorney accepted that he was a member of the Steering Committee. He may well recall having grossly misrepresented the Leader of the Opposition in relation to his being a member of the Steering Committee during the course of some questions asked and answers given last week. The Attorney may well recall that I had reported here last Thursday afternoon that, as a member of the Joint House Committee, one heard a report from the Speaker which was at considerable variance with what the Attorney had said during questioning last Tuesday, Wednesday and Thursday. I did not accuse the Attorney of being a liar, nor did I accuse the Speaker of being a liar, but I say now that neither could have been telling the truth because of the wide disparity in the answers to the questions. Before I ask my series of questions in relation to this matter, I wish to acquaint the Council with certain information. I have here a letter dated 3 December and addressed to Mr J. C. Bannon, Leader of the Opposition, as follows:

Dear Mr Leader,

I acknowledge receipt of your letter of 3 December 1981 in relation to remarks made by the Attorney-General in the Legislative Council yesterday. In response to the final paragraph I take the point that has been made and indicate that at a meeting of the Joint House Committee earlier today I provided members of that committee with a summary of action taken in respect of staff review to this time. I indicated that the documents presented over the names of the President and myself had presumed that the Leader of the Opposition or his nominee would be a member of the Steering Committee and that for this reason I took full responsibility having been the party discussing the likelihood of participation with yourself and the Hon. D. J. Hopgood.

I hope the Attorney will now accept that what was said by questioners in this Council last week is absolutely true and that there was only an assumption. In conclusion, as a member of the Joint House Committee, I must say that the summary of action in respect of staff review was mentioned only to the extent that the Speaker dwelt at considerable length on the fact that the review was because (and this is pertinent to my question) the *Hansard* staff in this building does not have any home and/or department.

This was confirmed by an agitated reply from the Attorney-General who, with some degree of almost hurt, said that *Hansard* staff belonged to his particular department. Hence, the Speaker cannot be right and wrong at the same time, and neither can the Attorney-General. Who is hiding from whom, and who is protecting whom from what? If I am asked to withdraw 'liar' and 'truth', I am prepared to do so; in this context both mean the same thing. Obviously Parliament is to resume in February with a *fait accompli*. The Steering Committee report is required by 18 December, and it will be a *fait accompli* due to the inability of the Joint House Committee to meet to consider the matter and, indeed, the denial of an opportunity for Parliament to do that when members return in the new year and find there have been structural and organisational changes made in so far as staff is concerned. Yesterday, at a meeting of a great number of staff in this place, they were told clearly that the letter sent under the name of the Presiding Officers did not mean in any way, shape or form an addition to any Parliamentary staff: in so far as the library is concerned (despite the great burdens carried by the present research officers) it was the reverse. Therefore, I ask the Attorney-General the following questions:

1. Does the Parliamentary *Hansard* staff come within the portfolio of the Attorney-General?
2. If so, does the Attorney-General consider that there are problems with his portfolio responsibility, because of his responsibility and his Ministerial administration of *Hansard*?
3. Is the Attorney-General aware that the Speaker of the House of Assembly, in his capacity as Chairman of the Joint House Committee, reported that the current inquiry was initiated because *Hansard* has no base?
4. Is it the intention of the Attorney-General and the Government to create a separate department for *Hansard*?
5. Is the Attorney-General aware that at a meeting on Monday 7 December 1981, at which there were a large number of Parliamentary staff present, staff members were advised that no staff increases could result from the current ill-formed Steering Committee?
6. Will the Attorney-General request a statement of clarification from the Speaker of the House of Assembly in his capacity as Chairman of the Joint House Committee?

The Hon. K. T. GRIFFIN: The honourable member seems to be quite uptight about this.

The Hon. N. K. Foster: I ought to be, and so should the 20 other members of this place.

The Hon. K. T. GRIFFIN: He is suggesting, without any substance at all, that apparently—

The Hon. N. K. FOSTER: I rise on a point of order. My point of order is that my question is not without substance. I quoted from a letter from the Speaker and I indicate that the documents presented in the main were from the Presiding Officer and not the Leader of the Opposition as presumed. The letter is not without proof or authority; it is a letter from the Speaker, not Mr Bannon.

The Hon. K. T. GRIFFIN: The honourable member would have done well to wait until I had finished the sentence to find out to what I was referring when I said that he was making a suggestion without any substance. That related to the statement that Parliament was to resume in February and would be faced with a *fait accompli*. I have never understood, from anything I have been told, that anything was ever to be presumed from this review to be a *fait accompli*. As I understand it, the whole purpose of moving quietly and gently and of fully informing the Government, the Opposition, and members of staff was to ensure that everybody who was likely to be affected in one way or another by what the committee was proceeding to do had an opportunity to respond openly and was fully aware of what was happening. That is, as I understand it, what has been happening. The suspicions the honourable member has voiced are quite baseless and have no justification at all, in connection with arriving at any conclusions to which he has referred this week or last week (that there will be any *fait accompli* arising out of the deliberations of the committee and the work of the review group). The answers to the questions are: No. 1, yes; No. 2, no; No. 3, it is really a matter for Mr Speaker; No. 4, I do not believe that it is really something that I need answer; No. 5, it is none of my business; No. 6—

The Hon. N. K. Foster: Are you going to create a separate department?

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: I am not going to do that.

The Hon. N. K. FOSTER: Why didn't you say so, instead of all that clap-trap? I rise on a point of order, Mr President. I take umbrage that the Attorney regarded my question as being baseless and, upon my interjection, correctly answered it. What sort of person are you?

The PRESIDENT: Order! That is not a point of order. It is not a matter of whether the question is baseless or not. Does the Attorney wish to further complete his reply?

The Hon. K. T. GRIFFIN: I do not wish to add to my answer.

HEALTH PAMPHLETS

The Hon. ANNE LEVY: Has the Minister of Community Welfare a reply to my question of 12 November about health pamphlets?

The Hon. J. C. BURDETT: An extensive range of health information pamphlets is available though the resources of the Health Promotion Services of the South Australian Commission, teaching hospitals and community health centres, as well as other agencies such as Mothers and Babies Health Association, the Family Planning Association, the Anti-Cancer Foundation and the universities of South Australia. The Health Promotion Services is co-ordinating information from all sources and is presently in the process of assessing requirements for health information over and above the literature already available.

DISPOSABLE NAPPIES

The Hon. ANNE LEVY: Has the Minister of Community Welfare a reply to my question of 24 September regarding disposable nappies?

The Hon. J. C. BURDETT: The Minister of Local Government, who has within his portfolio the Waste Management Commission, has informed me that the committee set up to investigate and report upon problems arising from the disposal of 'one use' or disposable baby napkins has completed its investigations and prepared a report, a copy of which I will seek to table when I have finished reading this reply, for the information of the honourable member who asked the question and that of the Council. It is proposed that this report will be given wide circulation, and public comment will be sought before any action is taken to implement the findings. The problems of disposal of 'one use' napkins can be satisfactorily overcome by means of an education programme designed to inform the public of acceptable means and standards of disposal and to actively discourage undesirable practices. I seek leave to table the report.

Leave granted.

RESIDENTIAL TENANCIES ACT

The Hon. C. J. SUMNER: I seek leave to make a brief statement before asking the Minister of Consumer Affairs a question about the Residential Tenancies Act.

Leave granted.

The Hon. C. J. SUMNER: First, in view of the fact that the Residential Tenancies Act variation of regulations was tabled today and included an exemption for residential premises which are located together with premises from which a business is conducted, what steps does the Minister intend to take to protect tenants in this situation, given that the working party set up by the Minister recommended that, if these sorts of premises were exempted from the legislation, alternative protection should be made available to them?

Secondly, when is it intended to provide for the provisions relating to the payment of bond moneys to country areas such that tenants in country areas obtain protection from the tribunal regarding bonds? Thirdly, in conjunction with these regulations, have the provisions of the Act relating to the binding of the Crown been proclaimed and, if not, why not?

The Hon. J. C. BURDETT: In regard to the first question relating to residential premises attached to business premises, the occupants of such premises (if they are let—which would probably be fairly rarely) will have access to the tribunal for advice and assistance, although they are exempted and will have access to the department if they require assistance.

The Hon. C. J. Sumner: What about the working party recommendations?

The Hon. J. C. BURDETT: Working party recommendations do not all have to be implemented. This is what is being done. In answer to the second question, there is nothing specific at the present time. In answer to the third question, the Government has no present intention of extending the security bond provisions of the Act to country areas because no such need has been demonstrated.

The Hon. C. J. Sumner: What about the Crown?

The Hon. J. C. BURDETT: I answered the third question.

The Hon. C. J. Sumner: The second question related to bonds.

The Hon. J. C. BURDETT: In regard to binding the Crown, that matter is still being considered.

The Hon. C. J. Sumner: You put it in the Act—it was a phoney thing.

The Hon. J. C. BURDETT: It was not a phoney thing. It has been necessary to consider carefully what specific arrangements have to be made before the Crown can be bound.

IRAQ PROJECT

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question on the Iraq project.

Leave granted.

The Hon. B. A. CHATTERTON: Recently it was reported to me that the fencing materials and farm buildings for the South Australian project in Iraq had been supplied by a New South Wales company. Earlier this year the Tractor Manufacturers Association of Australia complained to the Minister of Agriculture that it did not have an opportunity to supply tractors to the South Australian project in Iraq. Has the Minister taken any steps to see whether South Australian manufacturers will be able to provide materials to the South Australian project in Iraq? If he has taken any steps, what have those steps been?

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

SALES TAX

The Hon. C. J. SUMNER: Has the Attorney-General an answer to my question of 20 October on sales tax?

The Hon. K. T. GRIFFIN: The replies are as follows:

1. The Government does not totally agree with the comments of the Institutes Association of South Australia. In particular, it is probably not fair to say, as the Institutes Association did, that:

> Australia will be one of the very few countries in the world which taxes the right of individuals to have reasonable access to information.

A number of developed countries have wide-ranging sales taxes or value-added taxes which include taxes on books. Furthermore, a 2½ per cent sales tax hardly constitutes denial of reasonable access to information. Free access to information will still be available through the State's public library system.

2. The State has already made strong representations to the Prime Minister and Federal Treasurer on the matter of increases in sales tax generally. No further representations on this particular aspect are envisaged at this time.

JOSEPH VERCO

The Hon. B. A. CHATTERTON: Does the Minister of Local Government, representing the Minister of Fisheries, have a reply to a question I asked on 22 October about the *Joseph Verco?*

The Hon. C. M. HILL: Any replacement for the research vessel *Joseph Verco* or a refurbished *Joseph Verco* would be engaged on diverse multi-disciplinary research work ranging from biological to hydrological programmes. Suggestions that commercial vessels on a charter basis could carry out the same work are not supported for the following reasons:

1. Surveys frequently require larger numbers of personnel than can be accommodated on commercial vessels. Normal manpower requirements are the crew of the *Joseph Verco* plus two research officers and two technical officers.

2. Although commercial vessels are available cheaply during the off-season, this is not the case at other times of the year. In some fisheries the cost of compensation to the fishermen would be prohibitive. Adequate sampling entails long delays which are not compatible with a commercial operation. Complete stock assessment requires surveys in low catch areas and in the off-season. This would be unprofitable and inconvenient for commercial fishermen.

3. Commercial vessels are not suitable to carry out larval and environmental sampling, which requires very specialised equipment.

4. It is difficult to achieve compatibility of results when research is carried out from a diverse group of vessels.

RAM SALES

The Hon. B. A. CHATTERTON: Does the Minister of Community Welfare have a reply to a question I asked on 24 September about ram sales?

The Hon. J. C. BURDETT: The allegations concerning the conduct of merino ram sales at the 1981 Royal Adelaide Show have been investigated by officers of the Department of Public and Consumer Affairs. No evidence was found to support the allegations that it was a condition of the sale of some of the rams that a flock of ewes was to be included in the price. However, there could be tacit agreements that this would be the case if arrangements could have been made after the sale of any ram between the vendor and purchaser to supply a flock of ewes. This would be very difficult to uncover. However, because of regulations covering the transfer of stock to other States, health clearances would need to be obtained from the Department of Agriculture and that department would become aware of the movement of ewes if such agreements were made. I understand that so far the Department of Agriculture has had no applications for health clearances for flocks of ewes.

Investigations have revealed that there do not appear to have been any breaches of any legislation administered by my department. I point out that the Auctioneers Act only provides licensing provisions for auctioneers and does not regulate any of the conditions under which auctions must be conducted.

LOCHIEL PARK

The Hon. N. K. FOSTER: I seek leave to make a short statement before asking the Minister of Local Government, representing the Chief Secretary, a question about Lochiel Park, and the possible disposal of land there.

Leave granted.

The Hon. C. M. Hill: That question should be directed to the Minister of Community Welfare.

The Hon. N. K. FOSTER: Well, I refer the question to the Minister of Community Welfare. Lochiel Park is situated in the Felixstow area and covers quite a large tract of land, although I cannot recall just how many acres it comprises. Lochiel Park has been used for a number of years by what is now known as the Department of Correctional Services. Following the defeat of the Labor Government, the property is no longer referred to as a boys reformatory. It has quite a substantial acreage, which for some years was used for agricultural purposes, but which has been downgraded considerably. The number of staff has been reduced, and some staff members work on a part-time basis and are interchanged with the Magill Home. There is no weekend staff as such for the cooking and preparation

of meals, which are cooked before Friday of each week and put in the deep freeze, and then the 'warders' (or whatever they are called) are required to heat and serve the meals to the few remaining inmates. This seems to be a very much run-down service. It has been said that the property is being used for community meetings and certain community activities, but I find it difficult to observe any such activity; in fact, the place has become almost a wilderness in comparison with its condition of a few years ago.

I want to make some brief references to McNally. The member for Glenelg brought the name into prominence with false allegations of all sorts of dire matters that he considered were being carried on.

The PRESIDENT: Order! A reflection on someone else will not help the explanation.

The Hon. N. K. FOSTER: I am not reflecting. When did I reflect on the member for Glenelg? I am talking about what he used to say. He used to say that all sorts of behaviour—

The PRESIDENT: This is not part of the explanation, is it?

The Hon. N. K. FOSTER: That was his type of question at the time. He seems to have lost sight of the matter since his Party came to Government. Will the Minister say what is the present function of Lochiel Park; what is the total acreage now in the area of that park; to what purpose is it presently put; and is it subject to the possibility of sale by the present Government? Will he say whether or not the Government intends to relinquish McNally; what is the total acreage of that property, which extends a long way up the hill; and has the Government been secretly negotiating with overseas buyers for the Magill Home, with the very real possibility that a buyer of that property may well consider the purchase of the present McNally site?

The Hon. J. C. BURDETT: There have been no secret negotiations with any potential overseas or local buyer or anyone else for the disposal of the Magill Home or of SAYTC. There is no such suggestion; it has never been raised. Regarding SAYTC, which the honourable member referred to as McNally, and Lochiel Park, I do not have in my head figures of the acreage involved, but I will obtain that information and provide it to him. Lochiel Park has been used as a residential care centre for moderately and severely retarded children.

The Hon. N. K. Foster: And you leave them in the hands of two people over the weekend and will not let the cook stay on the job.

The PRESIDENT: Order!

The Hon. J. C. BURDETT: The children are well cared for, in a very caring situation, with an extremely good superintendent; there is no problem whatever about their care. I have been to see them on some occasions. I have eaten with the children, and I have found the meals very good. My only problem was in trying to eat the whole of the meal. The children at Lochiel Park are engaged in therapeutic treatment, and are well cared for. The land at Lochiel Park is used for limited farming activities for the children.

The Hon. N. K. FOSTER: I ask a supplementary question. Will the Minister give figures of the number of staff available at Lochiel Park Monday to Friday and the number available over the weekend, and will he say whether it is true that the domestic staff is reduced over the weekend so that it is necessary to rely on security staff to ensure that the inmates are properly fed?

The Hon. J. C. BURDETT: The inmates are properly fed, but I will obtain those figures for the honourable member and give him a reply.

PLANNING BILL

In Committee.

(Continued from 2 December. Page 2219).

Clauses 2 and 3 passed.

Clause 4—'Interpretation.'

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

Page 4, line 13—Leave out 'production'.

This is a simple amendment. If we take out the word 'production' it would leave 'mining tenement'. The definition of mining tenement as I understand it is much broader.

The Hon. J. C. BURDETT: The amendment of the definition of 'mining production tenement' as suggested will have the effect of bringing exploration activities under the referral and environmental impact statement procedures of clause 58. The purpose of Part VI of the Bill is to replace the present dual system of approval under both the Mining Act and the Planning and Development Act for mineral production operations. This was one of the recommendations of the Hart Inquiry into the Control of Private Development.

Exploration activities are not at present subject to this dual system of approval and to do so now in the Planning Bill would be to complicate rather than simplify the statutory procedures for land use management. It would also act as a serious deterrent to the many major petroleum and mining companies in any decisions to continue to operate in South Australia at the present levels of activity. It is necessary to recognise the variety of exploration methods and more particularly the very wide range of potential impacts which they have on the environment. Geological mapping, geochemical soil sampling and the various airborne techniques are akin to bushwalking, stock mustering or other scientific surveys in terms of impact. These latter activities are not generally subject to statutory control.

In the appraisal phase of exploration, closely spaced drilling or the excavation of trial pits are normally required. Similar activities, although generally at a lesser scale, are permitted as accessory uses to pastoral or agricultural land uses without the requirement of planning approval. However, these mineral appraisal activities are subject to the statutory controls of the Mining Act and are normally subject to conditions, including restoration of the site. Current restoration proposals at Plumbago Station provide an example of this.

An administrative system of environmental assessment and referral to other departments has been in operation for some time to translate the statutory requirements of the Mining Act into an effective management tool. For example, licence conditions in sensitive areas (such as those envisaged in the regulations proposed under Part VI of the Planning Bill) require the preparation of a Declaration of Environmental Factors and prior approval for such activities as new track construction or intensive drilling.

These procedures are also used in areas outside of those envisaged in the regulations. For example, at Olympic Dam, which is not considered to be a sensitive area in either environmental or planning terms, proposals for an exploratory shaft and 80 km of new access road were subject to the DEF procedure and referral to the Department for the Environment, before approval was given to proceed.

It is considered that the present administrative procedures, established under the previous Government, provide the necessary flexibility for processing applications for exploration activity which would be difficult to achieve in legislation. To extend the scope of this Bill to embrace exploration for minerals and petroleum could be expected to seriously jeopardise the search for these commodities at

a time when these are being undertaken at record levels. Therefore, the Government cannot accept this amendment, because it believes that the present provisions in this Bill and in the Mining Act are sufficient.

The Hon. ANNE LEVY: The amendment moved by the Hon. Mr Milne is consequential on amendments he wishes to move to clause 58 and can be regarded as a test for clause 58. If the amendments to clause 58 are to be accepted, the amendment to clause 4 must be included.

I listened to the reply of the Minister but he is ignoring the fact that exploration can be just as damaging to the environment as production can be. To have a system of requiring environmental impact statements before production occurs is one thing; to have it only where mining production is taking place is to ignore the fact that the exploration phases of some development can be extremely damaging to the environment, and should be considered with regard to environmental impact statements, and so on.

The Minister dismissed the exploration at Roxby Downs as being of no importance in environmental terms. I disagree with this. There is vast activity going on at Roxby Downs at the moment under the exploration tenement. There is extensive habitation, drilling and an enormous shaft which, when I and other members of Parliament saw it, was already 100 metres deep and was going much deeper. To pretend that this has no environmental impact is ludicrous. It would seem to me highly desirable that there should be the process of environmental impact statements and other such safeguards not only for mining production tenements but for all mining tenements, including exploration tenements.

The environmental impact section of this legislation deals with development proposals which, in the opinion of the Minister, are of major social, economic or environmental importance. I believe that where mining is concerned, be it at the development, exploration or full production stage, if it is to be of major social, economic or environmental importance, an environmental impact statement should be called for. As I understand it, the amendment moved by the Hon. Mr Milne is consequential on a later amendment to be moved by him. It would ensure that exploration or development which was considered in the mining area to be of major environmental importance, such as is occurring or may be occurring at Roxby Downs, should come under planning legislation.

The Hon. J. C. BURDETT: I point out that, if this amendment were passed, the question of whether or not there would be an environmental impact statement would rest with the Minister. He is the only person who can authorise it. I agree that exploration can be damaging, but I suggest that, through the procedure I have outlined under the Mining Act and through the co-operation between the two departments, it is effectively controlled. I suggest that the procedure set up under the previous Government is adequate for this purpose. When I spoke before, I mentioned that an administrative system of environmental assessment and referral to other departments had been in operation for some time.

It is my submission that it is working well and that, to attempt to amend this Bill to subject mining operations to environmental impact statements and various other aspects to which the amendment would subject them, is not necessary. The Mining Act itself is effective. The power is in the hands of the Minister, anyway, under this Bill, as to whether or not the environmental impact statement will be ordered. There is no necessity in practice for this amendment.

The Hon. ANNE LEVY: It seems that the Minister is saying that it does not matter whether this amendment is carried or not, and that it will be in the hands of the Minister to decide one way or the other, in which case I cannot see why the Minister objects to the amendment if it is going to be a Ministerial situation both ways. Why should he object to the amendment?

The Hon. J. C. BURDETT: I have merely pointed out that the matter is in the hands of the Minister. At present, we have a flexible system which is working. This amendment would require unnecessary rigidity. As the present system is working, I do not see any reason why it should be changed.

The Committee divided on the amendment:

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

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

Pairs—Ayes—The Hons. G. L. Bruce and C. W. Creedon. Noes—The Hons. L. H. Davis and M. B. Dawkins.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Page 4—

Line 14—Before 'a mining lease' insert 'an exploration licence,'.

Line 16—Before 'petroleum productions licence' insert 'a petroleum exploration licence,'.

These amendments are consequential on the amendment just carried, and further amendments are to be moved later. These amendments are for the same reasons as outlined by the Hon. Anne Levy and me.

The Hon. J. C. BURDETT: I accept that the amendments are consequential, and I do not propose to have the Committee divide on them. They are part of the package which was debated with the original amendment.

Amendments carried.

The Hon. R. C. DeGARIS: I refer to the definition of 'prescribed mining operations' on page 4, as follows:

'prescribed mining operations' means operations carried on in the course of—

(a) the recovery of naturally occurring substances (except water) from the earth (whether in solid, liquid or gaseous form);

(b) the recovery of minerals by the evaporation of water,

but does not include operations carried on in pursuance of any of the Mining Acts:

The only place in the Bill where 'prescribed mining operations' is used is in paragraph *(d)* of the definition of 'development'.

Can the Minister say what prescribed mining operations are not carried on in pursuance of the Mining Act? Secondly, why is the recovery of minerals by evaporation of water the only one included? Are there other evaporative methods other than by the evaporation of water?

The Hon. Anne Levy: Evaporation of alcohol?

The Hon. R. C. DeGARIS: It could be anything. Thirdly, I refer to the recovery of naturally occurring substances with the exception of water? Why is water exempted from prescribed mining operations?

The Hon. J. C. BURDETT: As to the question of what prescribed mining operations would be on the land, that is to be prescribed by regulation. I cannot give any information on that at the present time. The question of evaporation of water is doubtless in regard to the leaching processes. On the question of recovery, I do not think anything more needs to be said. It is obvious that material which has evaporated cannot be recovered.

The Hon. R. C. DeGARIS: The question is in relation to what other mining operations are carried out which are not under the Mining Act. I can only think that there may be some operations under the Local Government Act not covered by the Mining Act. It is strange that there are pre-

scribed mining operations that can be carried out that are not under the Mining Act. If there are any I would like to know what they are. I am suggesting that there may be some in other Acts which are not caught by the Mining Act.

The Hon. J. C. BURDETT: The provisions are a matter of flexibility, so that if it transpires that, with very great variation in mining operations at the present time, some mining operations are not caught by the Mining Act, they may be prescribed in relation to this Act. It would perhaps be in relation to private mines. Certainly we are in a time when there has been a great variation in mining operations. I am sure that the reason for this definition in clause 4 is to cover the situation that, if there do turn out to be any mining operations not covered in the Mining Act, they may be prescribed under this legislation.

The Hon. R. C. DeGARIS: In that case, will the Minister say why we are dealing with prescribed mining operations in regard to recovery of minerals by the evaporation of water? I can see that there may be operations not caught by the Mining Act where evaporation is used, but not necessarily of water.

The Hon. J. C. BURDETT: If that transpires it will be provided for at that time.

The Hon. R. C. DeGARIS: We could strike out the words '(by water)'. If this new process is to be caught by the Act it will already be there. It is only a matter of taking out those two words.

The Hon. J. C. BURDETT: If we take out the words '(by water)', evaporation occurs with all liquids. If we do not address ourselves to exactly what the consequence of that may be, there may be some problems. I suggest that the words are pertinent and that they should remain.

The Hon. R. C. DeGARIS: I refer to clause 4 (2). The city of Adelaide legislation has a somewhat different approach whereby the additional penalty is that which it would cost to return the land to its state before the offence. It appears that that clause does require some further clarification. I have some difficulty in being able to arrive at the cost of development—whether it is the cost of development to the developer, the value of the development, or whether the prosecuting authority would need to obtain a valuation. In the case of a partially completed development it may have no value unless it is applied specifically to the cost of the work carried out. It appears that it is a difficult concept to interpret. Why has the Government changed the approach from that existing in the city of Adelaide legislation?

The Hon. J. C. BURDETT: The cost to return the land to its original state, which is using the word 'cost' as is used in this subclause, would almost certainly be greater than the cost of development. So, the reason for the difference is to make it a lesser amount. It would appear that the appropriate maximum penalty should be the cost of development to be undertaken. It is not a question of value; it is a question of cost. The word 'cost' is used in both cases. The cost of returning the land to its original position and, in this case, the cost of development, can be ascertained. It is a concept known to the law and to the courts. It was considered that the penalty should not be greater than the cost of development, namely, what was done in the first place by the developer.

Clause as amended passed.

Clause 5 passed.

Clause 6—'Application of Act.'

The Hon. ANNE LEVY: I move:

Page 7, line 2—Leave out 'proclamation' and insert 'regulation'.

I discussed this clause in my second reading speech. It seems desirable that such an exclusion be made by proclamation. There will obviously be situations in which it is felt desirable that exclusions should be made, but we believe that they should not be made without Parliament having its say on the matter. If it is done by regulation it must go to the Subordinate Legislation Committee and be subject to possible disallowance in the Parliament. This at least gives a means of airing the topic in public, and representations can be made by interested parties to members of Parliament, to the Subordinate Legislation Committee, and so on.

If it is done by proclamation there is no way that anyone, including elected members of Parliament, can have any say whatsoever in this matter. It is for this reason, to preserve the right of people to make representations to Parliament and the right of Parliament itself to be able to disallow such a matter, that I have moved my amendment.

The Hon. J. C. BURDETT: The Government cannot accept the amendment. This matter was canvassed during the second reading debate. The main reason why it should be done by proclamation rather than by regulation is that making the exemptions by regulation would completely upset the whole procedure. The regulation would have the force of law as soon as it was made. It would have to lie on the table of the Council and it would then be subject to disallowance, which could occur six months later. Members know that it often happens that a motion for disallowance is moved and a regulation lies on the table for a very long period. During that period developers may well have acted in accordance with that regulation. If the regulation is then disallowed, obvious problems could arise. There needs to be certainty in a procedure such as this. Certainty is probably one of the major requirements, but it is not always easy to achieve.

I suggest that certainty would be impossible to achieve under planning legislation, if exemptions were made by regulation, because there would be no certainty as to whether the exemptions would apply or not. It might take six or eight months or until the end of a Parliamentary session; a disallowance motion having been moved, a regulation could still be on the Statute Book. I suggest to make the exemptions by proclamation is perfectly reasonable and I must oppose the amendment.

The Hon. K. L. MILNE: I support the amendment. Giving discretion such as this to the Governor is both unwise and unfair, because the clause is very broad. Everyone must stand by it. The Governor, simply by proclamation, may exclude any particular portion of the State. You may as well not have this Act if you have a power like that. It does not matter which Government is in power, because it could recommend that the Governor do what it required. The Governor is not an expert on planning. This is an enormous responsibility to be put on someone. The difficulties resulting from planning Bills are permanent. If damage is done it is very often permanent and irrevocable. The Bill is far too dictatorial in its effect. It is undercutting the powers of Parliament to allow an enormous discretionary power like this in a Bill of this kind. I think the Hon. Anne Levy's description of why the amendment has been moved is accurate, and I support the amendment.

The Hon. J. C. BURDETT: The Hon. Mr Milne said that the Governor may have no knowledge about planning matters. I point out that the reference to the Governor effectively means Cabinet, which receives advice from the Department of Environment and Planning.

The Hon. R. C. DeGARIS: There are good arguments on both sides about this matter. However, one must agree with the Minister that regulation is a most ineffective means of handling this question. Regulations can be made and gazetted and they may be operative for two months before Parliament sits. A person could begin a development and

then find that the regulations have been disallowed. This Council should not allow situations such as that to arise. This whole question of regulation and proclamation in relation to planning becomes an extremely important issue and I will deal with it in connection with a later clause. On the other hand, I believe that there is some correctness in the views expressed by the Hon. Anne Levy and the Hon. Mr Milne, and I refer to the fact that the Bill will apply Statewide.

To give Cabinet an overriding power to exclude any specified portion of the State in the application of the Act or any specified provision of the Act or to exclude any specified form of development appears to be taking a very long view.

The Hon. Anne Levy: Why bother having a Parliament?

The Hon. R. C. DeGARIS: That is a valid point. In relation to the question of regulation, there is a very strong argument in the Minister's favour. As the Hon. Mr Milne and the Hon. Miss Levy have both spoken in favour of the amendment, I believe it will be carried. However, I believe there is a compromise which should be considered. Parliament, by resolution, should say whether any part of the State should be removed from the application of the Act. Then, of course, the problems mentioned by the Minister would not be evident in relation to regulations. As this Bill is bound to go to a conference of the two Houses, this question could be thrashed out at that time.

The Hon. ANNE LEVY: The Hon. Mr DeGaris's remarks are worthy of further consideration. I agree that the amendments should be carried at this time and, when the Bill is referred to a conference, they can be discussed at that time.

The Committee divided on the amendment:

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

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

Pairs—Ayes—The Hons. G. L. Bruce and C. W. Creedon. Noes—The Hons. L. H. Davis and M. B. Dawkins.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. ANNE LEVY: I move:

Page 7, lines 8 and 9—Leave out subclause (3).

This is consequential on the amendment already carried, and I hope the Minister will accept it as such.

Amendment carried.

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

Page 7, line 10—Leave out subclause (4).

I have never seen any reason why the City Council should be exempt from the Planning Act; it has never seemed logical. I realise that it has its own rules and legislation, but I see no reason why it should not come under the Planning Act, as everyone else does. I think it would be of great assistance to the council and to the citizens who live in its area—and more and more people are doing that.

The Hon. J. R. Cornwall: Are you going to declare interest?

The Hon. K. L. MILNE: I live there myself. In the short time I have been living in the city, I have had no problem with the gentlemen, but they can be difficult, as we found when we were trying to build the building for the State Government Insurance Commission. The only board we did not have to appear before was the Apple and Pear Board! I recognise that the City of Adelaide is governed by its own planning legislation and that the need for environmental impact studies within the city may be less than elsewhere, but environmental impact studies are not required under this legislation.

Against this it must be put that the citizens' rights of appeal are essentially excluded in the Adelaide City Council area, and that this exclusion has been keenly felt by residents, most recently over the demolition of some historic cottages to make way for a car park in an otherwise residential street. We all know of that instance, because ratepayers were protesting on television about their lack of rights of appeal. There are two instances alone where the City Council legislation is not up to the standard we would expect. I do not wish to labour the point, but I think the safest and cleanest way is simply to delete subclause (4).

The Hon. J. C. BURDETT: I must oppose the amendment, because we are faced with the situation that we have two systems of control, one for the City of Adelaide, and one beyond the city. We have the system of the Planning and Development Act and the City of Adelaide Development Control Act. That system was introduced by the previous Government, and there is a lot of merit in it. There are particular questions that arise in regard to the City of Adelaide, but in any event we have two systems. If the honourable member wishes to repeal the City of Adelaide Development Control Act, that is another matter, but while we have the two systems surely it is desirable that that be recognised, and recognised in this Bill. Control of the city is under the City of Adelaide Development Control Act.

The Bill as originally introduced suggested that only Part V not apply in the city, but the City Council asked that either the whole Act not apply or a series of amendments be made throughout the Part. This would have, in effect, amounted to much the same thing.

The City Council is satisfied that it can consider all environmental matters relevant under its own development control legislation. The City of Adelaide Development Control Act empowers both the council and the commission to call for additional information in relation to a major development proposal, and this information will take the form of an environmental impact study. We have to face the fact that we have in South Australia the two systems of control: the Planning and Development Act and the City of Adelaide Development Control Act. I consider that that is a proper provision because of the special considerations that apply in the City of Adelaide. Whether or not it is proper, while we have the two systems it is particularly necessary to preserve what applies in this specific regard, namely, to provide that this Act should not apply to land within the City of Adelaide. I oppose the amendment.

The Hon. FRANK BLEVINS: I strongly support the amendment. Like the Hon. Mr Milne, I am an occasional resident of the City of Adelaide.

The Hon. J. R. Cornwall: Declare your interest.

The Hon. FRANK BLEVINS: I am doing that, in accordance with the relevant Standing Order. I am not overly critical of the Adelaide City Council and the way it handles planning matters, or certainly those that have been brought to my attention. Over the past few days, I have been contacted, as a resident, by the Adelaide City Council to comment on a development proposal close to where I live occasionally. The council outlined the proposed development and invited me to examine the plans and to comment, and I have done that.

However, while the council letter to me states that the council will consider my comments at the time it considers the proposition, there is no obligation on it to do so. There is no obligation on the council to take any notice of my comments. I have no formal rights to intervene in that development that could possibly affect me because of its proximity to where I live. That is quite wrong. I am not sure how many councils have third party rights of appeal but I believe that it is a substantial number.

The Hon. R. C. DeGaris: Thirty-one.

The Hon. FRANK BLEVINS: Thirty-one out of how many? I do not know whether it is a majority.

The Hon. Anne Levy: In metropolitan councils it is a majority of people in the metropolitan area.

The Hon. FRANK BLEVINS: Those councils permit their residents to have some formal third party rights of intervention in planning matters; and so they should. Personally, I would not go so far as allowing anybody in the State to have a third party appeal, but I would be happy to hear any arguments. If there was a development at Whyalla, for somebody who resides at Ascot Park to have the opportunity of continually intervening in the planning proposal would, on the face of it, seem to be drawing a particularly long bow, and one that is unnecessary. However, I am not committed to that point of view; it is something I would have to hear argument on.

The Hon. R. C. DeGaris: How about somebody who lives in Whyalla, sometimes residing in Adelaide, having a third party right of appeal in Adelaide?

The Hon. FRANK BLEVINS: That is a little more complicated. What I am saying is that there are very few people who are in the position of myself and Mr Milne.

The Hon. J. R. Cornwall: Only the rich ones.

The Hon. FRANK BLEVINS: I can assure the honourable member I am certainly not one of those. However, I got fed up after six years of subsidising a wellknown motel in Hindley Street; I was also frightened of being burned down. I decided that it was time to go, and I went.

However, I can see no reason why somebody living in a particular country area can have absolute rights, under the legislation, to comment on and intervene in any developments taking place within that area. All metropolitan councils, with the exception of the Adelaide council, have that, and it is therefore good enough reason for the Adelaide City Council to follow suit. The Minister said that the legislation governing the Adelaide City Council is still in operation and that we, therefore, should not interfere with what goes on. That argument is not worthy of the Minister. If a proposition comes before this Chamber, as it has this afternoon, which improves the position for residents in the Adelaide City Council area, then, irrespective of what other legislation applies, it is the obligation of Parliament, and within its rights, to consider that particular proposition and, if necessary, for Parliament to carry it and say that, notwithstanding any other legislation, this is a perfectly proper suggestion being made and is perfectly reasonable, and that Parliament should agree to the proposition. I strongly support the amendment.

The Hon. R. C. DeGARIS: The problem with the amendment is that the city of Adelaide is operating under an existing Act of Parliament. I agree with what has been said, that it has no environmental legislation attached to it. It does not have third party appeals attached to it, but to nevertheless make the Bill apply to the city of Adelaide would be extremely confusing because you would end up with two tribunals and commissions, which would be separate commissions looking after the city of Adelaide. What has been said by the A.L.P. members and the Democrat member is justified, but what should happen is that we should bring in the city of Adelaide Act, have a look at it and bring it into line with the provisions in this legislation when it is passed so that there is some dual concept. If this Act applies to the city of Adelaide there will be confusion and it will not be possible to administer properly either of the Acts because you would have two commissions. No-one would know which commission applied. It would be an extremely confusing position.

The Hon. K. L. Milne: What tribunals and commissions are you referring to?

The Hon. R. C. DeGARIS: In the city of Adelaide they have their own commission.

The Hon. K. L. Milne: What commission?

The Hon. R. C. DeGARIS: Their own particular commission, their own tribunal under that particular Act.

The Hon. K. L. Milne: What tribunal?

The Hon. R. C. DeGARIS: Perhaps the Minister can assist me on whether it is the same tribunal they have here or not. If I remember, when the Act went through—and I have not turned it up—there was a separate administration altogether for the city of Adelaide. Perhaps the Minister can correct me on that.

The Hon. K. L. Milne: You are using 'commission' in the sense of instruction or orders from Parliament or an authority?

The Hon. R. C. DeGARIS: What I am saying is that the city of Adelaide Act is a totally separate Act from this Act and deals entirely with the city of Adelaide and what it can and cannot do. As I understood the Act when it went through, there was a city of Adelaide Planning Commission and a tribunal acting in regard to the Adelaide City Council under that particular Act. It would be quite confusing if we had two Acts of Parliament applying to one particular problem.

The Hon. K. L. Milne: Withdraw the other one; that is easy.

The Hon. R. C. DeGARIS: That may be the right thing to do; I am not saying that it is not. Nevertheless, at this stage for this Bill to apply in the city of Adelaide would be quite a confusing situation in regard to the whole planning system. While I am not disagreeing with what the honourable member says, nevertheless I do not think the amendment will achieve what he hopes it will achieve.

The Hon. J. C. BURDETT: The Hon. Mr DeGaris asked whether I could throw some light on the commission to which he was referring. It is the city of Adelaide Planning Commission set up under the City of Adelaide Development Control Act. The tribunal he was referring to is the State tribunal, set up under that Act. Under the existing City of Adelaide Development Control Act there is that commission and tribunal. What the Hon. Mr DeGaris said was quite correct.

Listening to the Hon. Mr Blevins, I was wondering what would happen if we passed this amendment. Which Act would then apply, and which commission and tribunal is he referring to? This is the whole point: whether there should be a dual system. Subclause (4) says that the Act does not apply to land within the city of Adelaide. If that is struck out, how does one know whether or not the Act applies? How does one know which Act applies, which commission and which tribunal applies?

The Hon. ANNE LEVY: When this legislation first came before the Parliament last June this subclause was worded differently and stated that part of this Act applied to the city of Adelaide, and part of this Act exempted the city of Adelaide. The change occurred when the new legislation was brought into Parliament in November. The best solution may be to have certain clauses of this Bill apply to the city of Adelaide and not others. I share the concern of the Hon. Mr Milne in that the third party appeal rights of residents in the city of Adelaide are non-existent. I also share his concern that environmental impact statements are not applicable to the city of Adelaide, but are applicable to the rest of the State.

At this stage I propose supporting the amendment of the Hon. Mr Milne. I reiterate the remarks that the Hon. Mr DeGaris made in regard to the amendment earlier, that if this legislation goes to conference, a compromise may well be worked out on this clause, such that certain important matters will apply to the city of Adelaide but any confusion

as to tribunals and so on will not. I support the amendment with a view to perhaps discussing it in more detail in conference.

The Hon. J. C. BURDETT: I do not disagree that probably the best course at this stage is either to support or oppose the amendment, but I point out that I have already canvassed the matter raised by the Hon. Anne Levy. In the original Bill as introduced, only Part V was not to apply in the city and I already covered that.

The Hon. K. L. MILNE: The more I hear about this matter, the more I believe that we should support the amendment, even if it confuses things for a while. We can bring the city council's legislation into line with this legislation or do away with it altogether. If honourable members had ever tried to initiate a project, as did the State Government Insurance Commission at a time when the building industry was at its lowest, they would be aware that the argument between land developers as members of the council (some councillors are land developers, others are architects and engineers, and they are interested parties) and other councillors was intense. To have separate tribunals is a nonsense, because the whole State ought to be subject to the same rules. The delay cost this State, through the S.G.I.C., several million dollars. It was absolutely unnecessary, unwarranted and doubtless will happen again. I give notice that, if this causes any confusion and if the council does not sort itself out, I will move for the Adelaide City Council Development Control Act to be repealed.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. G. L. Bruce. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 7—'Extent to which the Crown is bound by this Act.'

The Hon. R. C. DeGARIS: I will deal with the clause as a whole, and whether the amendments are put as a whole or separately will remain to be seen. This clause allows for exemption of all Ministers of the Crown and, by regulation, any instrumentality or agency of the Crown and, where the Crown or any prescribed agency wishes to undertake any development, it shall give notice to the commission and, if within a council area, to the council. It must be noted that the commission is under the direction and control of the Minister, except for certain circumstances which are detailed in a later clause. Under clause 7 the commission shall, and a council may, report to the Minister upon a proposal.

If the Minister, after consideration of the report, is of the opinion that the proposal is seriously at variance with the development plan, he may refer the matter to the Governor, and the Governor may give such directions in relation to the development as he thinks fit. Perhaps there are not any questions here that the Minister should answer, but it is clear that the reference to the Minister in subclause (2) is clearly to any Minister of the Crown, and the reference to the Minister in subclauses (4) and (6) means the Minister in charge of planning legislation.

The Minister initiating the development advertises the proposed development, and should, in my opinion, advertise the proposed development in a daily newspaper and a paper circulating in that council area. I think this whole clause is a change from the existing legislation. In the fact that this clause is the only clause that in any way binds the Crown is obvious, because it starts off with the phrase, 'Subject to this section, this Act binds the Crown' and finishes by saying, '. . . this Act does not bind a Minister of the Crown or a prescribed instrumentality or agency of the Crown'. Clearly, this clause is the only one that affects the Crown in any way. The advertising of any Crown development undertaken under this clause would allow interested people to approach their council with their views and perhaps influence the report of the council.

The second point I make is that I believe the council should report to the commission and not to the Minister and that the commission should table a copy of the report, including the council's report, in Parliament. It should be mandatory for the commission to express its opinion whether or not an environmental impact statement should be made in relation to the project development.

Subclause (6) I also find somewhat extraordinary. I am unable to find in any Statute a provision of this nature. The clause does not deal in any way with the situation in which the proposal is not seriously at variance with the Development Plan. How the Minister can interpret the difference between variance and serious variance I have no idea. Can the Minister impose any conditions on his consent? Is there any right of appeal by any person if the Minister is of the opinion that the proposal is not at a serious variance? Is there a right of appeal by a Crown agency if consent is refused? While the clause is silent on these questions it is not so silent if the Minister is of the opinion that the proposed development is seriously at variance with the Development Plan.

The matter is referred to the Governor, who may give such directions as he sees fit. I point out that this is placing the Governor in the role of a planning authority. I strongly believe that that is quite inappropriate. There are lawyers in this Council who may like to expand on this provision and throw more light on the subject. Surely even lay members of the Council must at least question this provision. As I understand it, once the Governor is involved in decisions of this nature, not even a prerogative writ can be taken out in relation to that matter. I believe it is quite foreign to our system that the Governor should be used to make a decision which is a decision of a Minister. When a decision has been made in regard to a development surely a Minister in the Parliament should be responsible for it and should be responsible to the Parliament. However, in this regard the Governor is the one who makes the decision and he cannot be held responsible to this Parliament for that decision. They are general comments on clause 7. Therefore, I move:

Page 7, lines 16 to 20—Leave out all words in these lines and insert:

subsection (3)—

(a) give notice containing prescribed particulars of the proposal—

(i) to the commission;

and

(ii) where the land in relation to which the development is proposed is within the area of a council—to that council;

and

(b) publish notice containing prescribed particulars of the proposal in a newspaper circulating generally throughout the State.

When any development is to be undertaken a notice must be given to the commission and the council, and a notice must be published in a newspaper circulating generally throughout the State. The council should report to the commission and the commission to the Minister, and finally the commission must make a statement on whether an environmental impact statement is warranted on the devel-

opment. The Minister has the final responsibility for any decision that is made, and he is responsible to Parliament. Whilst this amendment improves the clause, it still leaves one very important question unresolved—the ability to appeal against Crown development. That is not covered in my amendment and I believe the Council should concern itself with that matter.

The Hon. J. C. BURDETT: The honourable member asked whether a Minister of the Crown in subclause (2) meant any Minister. The answer is clearly 'Yes'. Also, in subclauses (4) and (6), in accordance with the definition, the word 'Minister' refers to the Minister to whom the Act is committed. I will refer to these amendments as a package, although we have the first one as a test case. The amendments with which I have no great quarrel are proposed subclauses (4), (5) and (5) *(b)*. In regard to the rest, I do have a quarrel.

I point out that this clause does bind the Crown more than the present Act binds the Crown. Under the present Act, planning regulations bind the Crown but such regulations apply only in three council areas and control is exercised by the State Planning Authority over only a limited number of developments. If the authority refuses an application, the legal implications of the appeal by the Crown to the Appeal Board and to the courts are complex. This Bill is giving a greater measure of binding on the Crown than applies at the present time.

In regard to the rest of the matter in the amendments which the honourable member has moved, the onus is possibly on the Government. In regard to the publication of a notice and the requirement in the proposed subclause (5) *(c)*, we consider that the subject of the application may be very small indeed and may be in regard to a small allotment in the country which is proposed to be subdivided. It seems that this proposal is therefore very oppressive. For those reasons the Government cannot accept the amendments. We agree with dealing with the first one. Some are less objectionable than others.

The Hon. B. A. CHATTERTON: I refer to where the Hon. Mr DeGaris seeks to strike out the words 'refer the matter to the Governor'. Surely in the Bill before us 'the Governor' refers to the Governor-in-Executive Council and not to the Governor personally. Therefore, we are seeking to refer these matters to Executive Council or Cabinet. It would not be the Governor personally who would be making planning decisions, as referred to by Mr DeGaris.

The Hon. J. C. BURDETT: What the Hon. Mr Chatterton says is quite correct. I referred to that matter in dealing with the amendment moved by the Hon. Lance Milne. The Governor means the Governor-in-Council, and I am sure the Hon. Mr DeGaris knows that. This means that the decisions are made by Cabinet. I think the Hon. Mr DeGaris wants to make the Minister responsible for the decisions. His point is that the Minister is responsible to Parliament, through the electors, whereas Cabinet, as such, is not.

The Hon. R. C. DeGARIS: It is a very interesting point. I fully appreciate that Cabinet will make the decision. I am saying that, when a decision is made by Cabinet, the Minister responsible for that decision is a member of Parliament. As the clause presently reads the Governor is responsible, and that effectively stops any action that may be taken by any member of the community who might wish to appeal against any decision. It also stops any Parliamentary action to censure a Minister about a decision he may make or to even question him, because the decision is made by the Governor. I believe that is the wrong approach, and I do not think that it should become part of the law. I have searched the Statutes for other provisions of this type: perhaps there is another provision such as this, but I cannot find it. I may be wrong, but I believe that this clause is the first move towards this type of legislation in South Australia's history.

The Hon. B. A. CHATTERTON: In practical terms it is quite likely that Cabinet would approve a decision and then, once it has been through this process, it would come back to Cabinet. It is unlikely that the Minister would proceed before receiving Cabinet approval.

The Hon. R. C. DeGARIS: The Minister said that it would be a costly procedure. However, the only cost involved would be for advertisements in relation to Crown developments.

The Hon. J. C. Burdett: What about tabling in Parliament?

The Hon. R. C. DeGARIS: I do not know that tabling in Parliament is a very costly exercise, because the commission has to make a report to the Minister anyway. I do not believe that tabling in Parliament involves much cost. I accept that some Crown developments may be very small and an advertisement may not be warranted. I am concerned about this clause because the general public will receive no notice of what could happen in relation to a Crown development. The Crown is one of the biggest developers in the community, and I believe local councils and the public should have as much access as possible to information about Crown instrumentalities in their districts. Although that will involve a cost, I do not think it will be excessive.

The Hon. J. C. BURDETT: If the Housing Trust were included as an instrumentality, it would require the tabling of a report in Parliament in relation to every Housing Trust home in this State.

The Hon. R. C. DeGARIS: As clause 7 presently stands, I believe the commission already has to look at and report on every house built by the Housing Trust. If the Housing Trust is a prescribed instrumentality it must prepare a report in relation to every house that it builds. I am simply asking that that report be tabled in Parliament.

The Hon. J. C. BURDETT: That procedure is heavy-handed enough, but to go further than that and require the report to be tabled in Parliament will probably impose quite a burden on the clerks and on the filing processes of Parliament.

The Hon. ANNE LEVY: I support the Hon. Mr DeGaris's amendment, which can be described as a whistle-blowing exercise. It will not inhibit the Crown any more than the Bill before us already does. It will enable many people to know what is going on and it will make the whole process public. I do not accept the Minister's contention that the tabling of a few pieces of paper in Parliament will make the whole process unworkable.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. R. C. DeGARIS: I move:

Page 1—

Lines 24 and 25—Leave out subclause (4) and insert subclause as follows:

'(4) A council may report to the commission upon a proposal of which it receives notice under subsection (2).'

Line 27—Leave out 'Minister' and insert 'Commission'.

After line 29 insert subclauses as follow:

'(5a) The Commission shall report to the Minister on any proposal of which it receives notice under subsection (2).

(5b) A report under subsection (5a)—

(a) must incorporate any report made by a council under subsection (4);

and

(b) if an environmental impact statement has not been prepared and published in relation to the proposal—must contain a recommendation on whether an environmental impact statement should be prepared and published in relation to the proposal.

(5c) The Minister shall, as soon as practicable after his receipt of a report under subsection (5a), cause copies of the report to be laid before both Houses of Parliament.

Line 30—Leave out '(4)' and insert '(5a)'.

Lines 32 and 33—Leave out 'may refer the matter to the Governor and the Governor'.

The CHAIRMAN: The Hon. Mr DeGaris has moved a series of amendments which I believe are consequential on the amendment last carried.

The Hon. J. C. BURDETT: They are not really consequential, but I have agreed that all amendments to clause 7 be taken as a package, and I do not propose to divide on the others.

The CHAIRMAN: They may not be consequential, but they are a package.

Amendments carried; clause as amended passed.

Clause 8 passed.

Clause 9—'Establishment of the commission.'

The Hon. R. C. DeGARIS: I have instructed the draftsman to draft an amendment to clause 9, but it is not yet on file. Perhaps I could indicate to the Minister the amendment I would like to move. In clause 9, we are setting up a commission with powers, functions and duties conferred, assigned or imposed under the Act. The clause goes on to say that, in the exercise and discharge of the powers, functions or duties, the commission shall be subject to the control and direction of the Minister. There are some exceptions: where the commission makes or is required to make a recommendation or report, or is required to give effect to an order or direction of the tribunal or a court. I think this clause is very important when one reads the powers contained in clause 46 (2) *(b)* (i), where it states that the commission is constituted by the regulations as a planning authority in relation to a class of development in which the proposed development is comprised.

If the Minister has the power to control and direct the commission, it will be a very wide power. I feel that the exception should also be when the commission is acting as a planning authority under this Act, so that there is an independence of the commission to make a decision as a planning authority. If the Minister has a right to direct and control the commission when it is making a planning decision, I do not think we want the commission at all. Perhaps the clause has been drafted with the idea of that sort of independence of the commission in making planning decisions, but, as I read it, it does not give the commission that independence.

When my amendment goes on file, that is what I will be moving: that the commission cannot be under the control or direction of the Minister when it is making a planning decision. Perhaps the Minister could speak to my proposal or defer clause 9 until the amendment is on file.

The Hon. J. C. BURDETT: I see no point in speaking to the proposal until it is quite clear what it is. Therefore, I move:

That consideration of clause 9 be postponed and taken into consideration after clause 73.

Motion carried.

Clause 10—'Membership of the commission.'

The Hon. ANNE LEVY: I move:

Page 9, lines 17 to 20—Leave out subclause (2).

The first part of this amendment is a tidying up amendment, as the Minister probably realises. Subclause (2) provides that one of the part-time members appointed to the commission shall be chosen from a panel of three persons with practical knowledge of and experience in local government submitted to the Minister by the Local Government Association. Subclause (6) provides that, of the two members appointed on a part-time basis, one must be a person with practical knowledge of and experience in local government, and one must be a person with practical knowledge of and experience in administration, commerce, industry, or the management of natural resources.

It seemed that there was a duplication between the provisions of subclause (2) and subclause (6) *(a)*, and that the same could be achieved by removing subclause (2) and adding subclause (6a), which has exactly the same wording as has subclause (2), that is, that the member referred to in subclause (6) *(a)* shall be chosen from a panel of three persons with practical knowledge of and experience in local government submitted to the Minister by the Local Government Association. I am not sure how to proceed. Lines 17 to 20 are obviously the crux of the matter which I have discussed. If the Minister was prepared to accept that, I presume he would not oppose subclause (6a), and we could discuss (6b), which could be taken separately.

The Hon. J. C. BURDETT: If the honourable member moves the amendment that she has moved so far, the Government will accept it.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 10, after line 43—Insert subclause as follows:

(6a) The member referred to in subsection (6) *(a)* shall be chosen from a panel of three persons with practical knowledge of, and experience in, local government submitted to the Minister by the Local Government Association.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 10, after subclause (6a)—Insert subclause as follows:

(6b) At least one member of the commission must be a woman and at least one member must be a man.

Speaking to the additional subclause (6b), that at least one member of the commission must be a woman and at least one member must be a man, I point out to the Committee that the commission will be extremely important for the future development of this State. It is not a trivial matter to suggest that the decisions it will make will be of vital importance, and we think it extremely important that the points of view of men and women should be represented in the commission. The same will apply in a later amendment regarding the advisory committee. While it is true that planning decisions affect the whole community, it is also true that the sexes often have very different types of lives and are affected very differently by all sorts of planning decisions.

In considering the effects of planning decisions, we feel it is absolutely essential that both men and women be involved so that the effects of such planning decisions on the lifestyle of both men and women can be given accurate consideration. This view is substantiated by no less a body than the National Council of Women of South Australia, which has written to me on the Bill before us and has given careful consideration to the matter. The national President of the Australian Council of Women of South Australia said that it was essential that due and proper weight be given to the well being of people as individuals and in the family and community in determining the range of expertise to be represented on the commission and the advisory committee, and the National Council of Women has on many occasions drawn attention to the necessity to ensure that the needs and views of women are properly represented.

The National Council of Women has often been quoted in this Chamber by members opposite. It cannot in any way be regarded as a radical organisation. Many people would describe it as a very conservative organisation, and on this point it is clearly at one with the Labor Party in feeling that these matters are so important that it is absolutely essential that both men and women be members of the commission, and the advisory committee which is to be dealt with in a later clause.

The Hon. J. C. BURDETT: The Government cannot accept the amendment. I suggest, with respect to the National Council of Women, that that body, like the honourable member, has not understood that this organisation is not a representative one and is not intended to be. There is specific provision in the Bill, and that has been the subject of two amendments by the honourable member, in regard to local government associations which have a very close relationship to the workings of the commission and to the administration of the Act as a whole. Apart from that, the commission is not a representative body. It is a body of people chosen for their expertise and ability—the best people for the job.

Some organisations should be representative of both men and women. Some organisations—alluding now to a further amendment—ought to be representative of the trade union movement. This commission is not a committee; it is a commission and has a specific part to play, as do all such bodies, including the courts and all sorts of commissions and tribunals. Surely, these bodies ought to be selected from the persons best capable of carrying out the job, whether it be men or women. I would hope that there would be some women on the commission, but it seems to me wrong in selecting a commission, to provide that it ought to have representatives here and there. It ought, as I say, to comprise persons most suitable for carrying out their functions in that commission, with the resultant proper exemption of the local government association, because that association is directly involved in the administration of the Act. I oppose the amendment.

The Hon. ANNE LEVY: It is slightly insulting for the Minister to suggest that we cannot say that there must be at least one man and at least one woman on the commission, because we must have people who are properly qualified. The Minister seems to be suggesting that either there are no men who are properly qualified, or that there are no women properly qualified in our community. I certainly reject that contention as applying to either sex. There are plenty of both sexes in our community well qualified to fulfil the requirements for membership of the commission as laid down in the Bill before us. It is definitely stated that one person must have a practical knowledge of and experience in local government, and that an experience of local government is necessary to be able to appreciate the implications of the planning work of the commission. I maintain equally that the results of the planning functions of the commission will affect women differently from the way in which they affect men and in order for proper consideration to be given to this view, the commission should contain at least one man and one woman. This is not a question of representation any more than it is for the person with practical knowledge and experience in local government. Certainly, we want the best people for the job and the qualifications are stringent and detailed. To suggest that there are not both men and women in the community who have these qualifications and experience is quite ludicrous. We do not suggest that people unqualified be appointed, but insist we should have at least one man and at least one women on such an important commission.

The Hon. BARBARA WIESE: I support the remarks made by the Hon. Anne Levy. It is crucial that on commissions such as this one women, as well as men, be represented. The Minister should take into account that these days a number of women in many walks of life and professions are now taking a particular interest, and specialising in their areas of interest, in matters relating to women and families, and the effects of Government and other decisions on the lives of those people. I am sure that there are women with appropriate qualifications in the planning area who would bring very important knowledge to the commission. It is highly desirable to have that diversification of interests represented on such a commission. I support this amendment.

The Hon. J. C. BURDETT: With respect to the Hon. Miss Levy and the Hon. Miss Wiese, they have still missed the point I made before, that this is not a matter of representation of persons who may be affected. It is a matter of appointing people to a tribunal. I do not see that most members of the Council would agree that the Supreme Court Act or the Local District and Criminal Courts Act ought to be amended to provide that at least one judge be a woman or a man.

The Hon. Anne Levy: That's an excellent suggestion.

The Hon. J. C. BURDETT: Women who are members of the Judiciary of those courts are members without any such provision. To require that specifically by legislation would to me be quite wrong. I am interested to hear the Hon. Miss Levy say that that is an excellent suggestion. It means that this amendment, if passed, is the thin end of the wedge, and we will have amendments to the Supreme Court Act, and the Local District and Criminal Courts Act. Similar provisions will be moved in relation to the Credit Tribunal and the Residential Tenancies Tribunal, and there are a whole host of others. I would like to see them there, too. What the Hon. Miss Wiese said is correct: there are women who are specialising, and those women will doubtless be recognised. There is no reason why they should not be.

The Hon. R. C. DeGaris: It would also require amendment of the Constitution Act.

The Hon. J. C. BURDETT: Yes. They have been recognised in the past and will be recognised in the future. We must not forget that we are simply appointing members of a commission. The proper course is the course which applies in relation to all commissions, tribunals, courts and the like—to leave matters as they are, to leave the best person to be chosen. That has usually applied in the past, and in the future there will doubtless be many more women on those bodies because more are qualified.

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 11 and 12 passed.

Clause 13—'Delegation of powers and functions.'

The Hon. R. C. DeGARIS: I move:

Page 11, line 20—Strike out 'that is responsible to' and insert 'of'.

This is really a drafting amendment. This clause deals with the delegation of power by the commission. Subclause (3) provides:

Where the commission delegates powers or functions to a council in pursuance of this section, it shall be lawful for the council to

subdelegate those powers to a committee that is responsible to the council.

Any subdelegation of powers from a council to a committee should be to a committee of the council. One can say that a committee may be responsible to the council but it need not be comprised of councillors of that council. In the subdelegation of powers, it should be to a committee of the council.

The Hon. J. C. BURDETT: The Government cannot accept the amendment. The Committee must remember that a power of delegation takes with it a power of revocation of that delegation. The council is still fully in control and the committee is responsible to it. It may revoke the powers given to the committee, and doubtless would if it felt that the committee had exercised those powers irresponsibly.

When one is dealing with a technical Act, it is proper that a council may draw on expertise outside its own ranks and may delegate to a committee repsonsibilities to it because, as I said, it is still fully controlled. The committee will still be fully responsible to the council and will report to it. The council may withdraw the powers it has delegated. It seems unduly restrictive to require that the committee be a committee of the council. There is sufficient control if it is a committee responsible to the council.

The Hon. FRANK BLEVINS: I support the amendment. We are not arguing, as the Minister appears to be, about a council giving some brief to a committee, and for that committee to come back and report; there is nothing wrong with that. The Hon. Mr DeGaris has moved that the council cannot delegate its powers to that committee unless the committee is a committee of the council. That seems perfectly proper. If the council feels the need on a particular issue to set up a committee of citizens or the like to investigate a problem and come back with a report, that is fine, but to say that the committee has the powers that have been given under legislation to the council seems to be totally wrong—

The Hon. R. C. DeGaris: The commission delegates powers to the council, which delegates powers to the committee.

The Hon. FRANK BLEVINS: That seems a ridiculous suggestion for a council to do that. I strongly support the amendment.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 3 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 14—'Constitution of the committee.'

The Hon. ANNE LEVY: I move:

Page 11, line 29—Leave out 'seven' and insert 'eight'.

My amendments to this clause refer to the composition of the advisory committee. Although they are set out as three or four different amendments, in effect, two matters are covered by the series of amendments. The first is the matter of the composition of the advisory committee as set out and the lack of representation of what might be called the workers. There is no nominee of the Trades and Labor Council.

As set out in the Bill there are two persons with experience in local government and one person only with experience in environmental matters. There have been suggestions from many people that this should be increased. One member is to be a person with experience of commerce and industry. Why do we have in the clause before us the suggestion of a member being experienced in commerce and industry but not one from the other side of the industrial fence, that is, from the union movement? If we are to have a person with a background in commerce and industry we should surely have one with a background in union matters. They can be regarded as being on the opposite side of the coin. If one of these people is to be present to give advice on planning matters then the other should be likewise.

There is also to be a person with experience in rural affairs and someone with experience in housing or urban development and, finally, a person with experience of utilities and services which form the infrastructure of urban development. Many of these people can be public servants and may well be so, although there has been no indication from the Minister as to what type of person will be looked for to fulfil those qualifications. Obviously someone with an experience in commerce and industry is not going to be a public servant. It will be someone from the Chamber of Commerce. We believe that it is absolutely necessary, if there is to be a member from the Chamber of Commerce, for there also to be a member from the Trades and Labor Council. For that reason I am moving this amendment.

The first amendment is to leave out 'seven' and insert 'eight'; the membership of the committee will be enlarged by one. My first amendment can be taken as a test of the Minister's approval or otherwise of adding a nominee of the Trades and Labor Council. My second amendment to clause 14 is similar to those moved in the past by the Council with respect to the composition of the commissions. It would seem to be even more important to have a woman who is a member of the advisory committee. The argument raised by the Minister, in opposing the idea that a woman and a man necessarily be members of the commission, would not apply to the advisory committee. The advisory committee obviously is to give advice. Therefore, the point of view and perspective that the two sexes can bring to give advice on planning matters should be safeguarded by ensuring that there is at least one man and one woman on the advisory committee. I will not expand further except to say that the matter has been explained and presumably the Minister will wish to consider these amendments as two separate groups as they deal with two separate topics related to the same clause.

The Hon. K. L. MILNE: I support the suggestions made by the Hon. Anne Levy. Having been intimately involved in local government at one time, I find that the types of people nominated in the Bill tend to be people with an availability of time because of their jobs, their income or their financial or social situation. It becomes very one-sided indeed. Local government here is not as political as in the United Kingdom, where the councils sit as Government and Opposition. Councils are more likely to get councillors who are members of the trade union movement because the Labor movement there is very prominent in local government. However, in Australia it is not as prominent, particularly in South Australia.

The Hon. Barbara Wiese: It is a pity.

The Hon. K. L. MILNE: It may be a pity—I do not know. There is a strong political flavour in some councils, but many councils say that they are non-political, and that usually means that they are conservative.

The Hon. J. E. Dunford: Liberal councils.

The Hon. K. L. MILNE: That is correct. A person with experience in local government would probably not be involved with the union movement. A person experienced in environmental matters would probably have no connection with the union movement either. A person experienced

in commerce and industry would probably be from management. A person with wide experience in rural affairs is also unlikely to be a trade union representative. I think it is sad that we must insert a provision such as this, but I think that, unless it is put into the legislation, representation of this kind will not occur. I support the amendment.

The Hon. J. C. BURDETT: I oppose the amendment. Clause 14(2) sets out a detailed list of people who all have direct contact with development. As I said in relation to the commission (and there is no secret about it), it is not meant to be a representative body, and that applies to the advisory committee as well as to the commission. It is meant to be a group of people who can bring expertise in relation to planning and development in order to give necessary advice to the commissioner. The people mentioned in clause 14 will have direct knowledge. It is not meant to be representative of various groups in the community. In relation to a nominee from the Trades and Labor Council, there is no guarantee that such a person would have any knowledge about pertinent subjects.

The Hon. R. C. DeGaris: That does not preclude him.

The Hon. J. C. BURDETT: No, but it is certain that all the other persons mentioned will have such knowledge. It is wrong to include someone who cannot guarantee that he will have any expertise.

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. ANNE LEVY: I move:

Page 11—

Line 37—leave out 'and'.

After line 39—insert paragraph as follows:

and

(g) one shall be a nominee of the Trades and Labor Council.

After line 41—insert subclause as follows:

(3a) At least one member of the Advisory Committee must be a woman and at least one member must be a man.

Amendments carried; clause as amended passed.

Clauses 15 to 19 passed.

Clause 20—'The commissioners.'

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

Page 13, lines 32 to 41—Leave out subclause (4) and insert subclauses as follow:

(4) Subject to subsection (4a) a full-time commissioner shall hold office upon terms and conditions determined by the Governor.

(4a) The following provisions shall apply in respect of full-time commissioners:

(a) a full-time commissioner shall not be subject to the Public Service Act, 1967-1981, but the rights of a full-time commissioner to long service leave, recreation leave, sick leave and other forms of leave shall be determined in accordance with the provisions of that Act and the regulations under that Act;

(b) a full-time commissioner may, notwithstanding that he has reached the age of retirement, complete the hearing and determination of any appeal or matter part heard by him before reaching that age and shall, for that purpose, be deemed to continue as a full-time commissioner;

(c) a full-time commissioner shall be an 'employee' within the meaning of the Superannuation Act, 1969, as amended;

(d) a person who was immediately before the commencement of this Act a full-time commissioner under the repealed Act shall, subject to this Act, continue in office on terms and conditions no less favourable than those on which he held office under the repealed Act.

The remarks in *Hansard* and the assurance given by the Minister have all been to the effect that the commissioners, particularly the full-time commissioners, will be retained on the same basis as previously, and I am sure that this is what the Government intends. I have had discussions with one of the commissioners, who in turn has had discussions with the judges and the Chairman of the tribunal. They find that, in the Bill as drafted, an attempt has been made to simplify the matter, but in doing that the conditions of employment are in danger of being changed. To put this right needs considerable amendment to clause 20. These provisions are taken straight out of the previous Act.

The commissioner and I had a long discussions with the Parliamentary Counsel, and we came to the conclusion that, to do what the Minister required, we would need to move these amendments. There was some feeling that the status of the commissioners was being changed, and I will be moving an amendment later to provide that, where there was one commissioner, there shall be two. At present, if two commissioners agree and the judge disagrees, the decision of the commission is given according to that of the two commissioners, a majority decision. Decisions of the commission are frequently challenged in the courts, but the commission is nearly always upheld, and certainly it is nearly always upheld when the decision has been by the two commissioners with the judge dissenting; the court has upheld the commissioners.

The system is working very well, and the status of the full-time commissioners is almost indistinguishable from that of the judge. The judges now will be sent to other jurisdictions and other circuits when they are not required in the commission, and possibly they will become less familiar with the situation than they are now. This is a very expert area, and the system of having commissioners has worked extremely well. It would be unfortunate (and I am sure that the Government does not intend that) if the situation were to be altered to the detriment of the commissioners, who were invited to take their position and who, on the whole, were successful people and gave up a lot to become commissioners. It would be unfair to put them in a different position under the new legislation.

The Hon. J. C. BURDETT: I oppose the amendment. I do not dispute, and no-one is disputing, that the present system of having judges and commissioners is working well. There is no intention of departing from that, and no such intention is indicated in the Bill. The Hon. Miss Levy, in her second reading speech, asked me to give an assurance that the commissioners would remain, and I assured her that they would. It is an administrative matter, and that assurance has been given. The only change really is that commissioners are to be subject to the Public Service Act, which puts them under one umbrella. It is unwise to have people who are acting in the service of the public being too widely fragmented. There is no disability in that. It will not bring about any disability, and it will not change their status.

There is power in clause 20 for the Minister to make exemptions and modifications. Should there be any need to, and should it be found that there is any kind of disability on the commissioners in being subject to the Public Service Act, that can be remedied by the Minister. It is clear in the Bill that the system of commissioners and judges is to be continued. There is no intention to depart from that. The existing commissioners will be continued in their job, and the only change is their becoming members of the Public Service, and subject to that Act. There is good

reason for that as a matter of tidiness, and there is no disability on the commissioners.

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, K. L. Milne (teller), and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 21 to 24 passed.

Clause 25—'Constitution of the tribunal when hearing proceedings.'

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

Page 14, line 30—Leave out 'one commissioner' and insert 'two commissioners'.

I realise that there are arguments for and against this amendment, and on what sort of cases there will need to be two commissioners and when it is not necessary. In pressing the amendment, I realise that this will probably be one of the matters discussed at the conference.

The Hon. J. C. BURDETT: I do not think that there is any need for two commissioners to be provided; one commissioner as provided for in this Bill is adequate. As the Hon. Mr Milne says, he can see both sides of the question, and it may be something which ought to be considered in conference. My view is that the Bill is adequate and that one commissioner is the proper provision. For these reasons I oppose the amendment.

The Hon. ANNE LEVY: I support the amendment. I agree with the comments of the Hon. Mr Milne in that it may come out at the conference in an amended form. Until now, as a general principle, the State Appeal Board has functioned extremely well with having one judge and two commissioners for every hearing. It would seem to me to be unwise to change that, unless very good reasons can be brought forward for doing so.

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, K. L. Milne (teller), and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. Noe—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Page 14—After line 30, insert subclause as follows:

(1a) Where a commissioner dies, or is for any reason unable to continue with the hearing of proceedings part-heard before the tribunal, the tribunal constituted of the judge and the remaining commissioner or commissioners may continue and complete the hearing and determination of those proceedings.

There is no reference in the Bill to what happens if a commissioner is in the middle of hearing a case and dies, suddenly takes ill, or for any other reason is not able to continue. This amendment will overcome that difficulty.

Amendment carried; clause as amended passed.

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

Clause 26—'How decisions of the tribunal to be arrived at.'

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

Page 15, line 15—Leave out 'one' and insert 'two'.

My amendment is consequential on the previous amendment.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 15—

Lines 17 to 19—Leave out all words in these lines.

Line 20—Leave out 'a question of fact' and insert 'any question arising before the tribunal'.

My amendment has been circulated separately from the first list of amendments circulated under my name. This amendment is in regard to the functions of the judge and the commissioners in any hearings of the tribunal. Until now, with the Planning Appeal Board, the commissioners and the judge constituting the board had equal power and participation in decisions reached by the board. This Bill suggests a change to this arrangement, whereby questions of law would only be considered by the judge and the commissioners would only be able to play a part in questions of fact or opinion. It seems unnecessary to make that change from the existing procedure with the board. It has worked satisfactorily until now, and I do not believe that anyone has suggested that the commissioners' having equal power with the judge has in any way been to the detriment of the work of the board.

We believe that this situation should carry over for the new tribunal and that the commissioners should have the same powers as a judge. In fact, this situation applies now in the Industrial Commission, where judges and non-legal commissioners who form part of the Industrial Commission have equal power and status, and all take part in decisions made by the Industrial Commission. It has worked well there, and there have never been any suggestions that the powers of industrial jurisdiction commissioners should be limited in the way proposed here for commissioners in the planning area.

It may be that the commissioners can contribute much to the legal deliberations of members of the tribunal. I understand that there have been only three cases in which decisions of the board have been appealed against where the decision of the board was constituted by two commissioners comprising the majority and the judge constituting the minority. In those three cases, where the decisions have been appealed against to the Supreme Court, in each case the court has upheld the judgment of the commissioners who dissented from the judge. It cannot be suggested that the commissioners lack the ability or experience to be able to take full part in all matters before the tribunal, and the amendment is to achieve that end. The two parts of the amendment are inter-related.

The ability of the commissioners to contribute to the work of the tribunal can, as I said earlier, be compared to the work of industrial jurisdiction commissioners, where the commissioners are co-equal with the judge in determining questions not only of fact and opinion but also of law. In this context I refer to comments by Judge Olsson on the occasion of the retirement of Commissioner Lean from the Industrial Commission. Commissioner Lean was not a judicial member of the Industrial Commission but contributed greatly to its work, which was recognised by the comment made by Judge Olsson who, in discussing the contribution made by Commissioner Lean, stated:

An important contribution he has made is that he has always seen it as his duty to keep most of the presidential members both humble and up to the mark. He has never hesitated to tell us what

he thought of our conclusions on points of law or in colloquial terms to invite us to quite the ball and get to the point. This is quite proper and desirable of course as you would all realise.

I suggest that the comments applying to a commissioner in the industrial sphere would apply equally to a commissioner in the planning sphere. My amendment seeks to have the commissioners co-equal with the judge in any sitting of the tribunal.

The CHAIRMAN: As the two amendments are complementary, I will put them together.

The Hon. J. C. BURDETT: I agree that the amendments be put together, but I oppose them. The provision in the Bill in its present form was also the provision when the Bill was tabled earlier this year. There has not been any great pressure to depart from this. It is difficult to compare one jurisdiction with another. The Hon. Anne Levy has sought to do that but, just because something works in one jurisdiction, it does not necessarily work in another. This question of judges and other persons and points of law and points of fact does vary a great deal. The extreme example is in a criminal trial, when matters of law are for the judge and matters of fact are for the jury. A distinction is often drawn.

There are a number of other instances where the judicial chairman of a tribunal does have the say in questions of law, and the other members of the tribunal have an equal say in questions of fact. I do not think that the parallel of the Industrial Commission is necessarily a good one, because planning appeals are difficult. There are difficult and technical questions of law and some of them not only relate to the interpretation of the Act but also to allied questions of property law, having regard to the property which is being dealt with in relation to the appeal. So, it seems that there is a good argument for saying that there are points of law—not only points of particular law but also points of general law—which may apply in regard to planning appeals.

In regard to the Industrial Court, the law to be interpreted is almost exclusively the law set out in the relevant Act—the industrial law itself. In regard to planning appeals, general property law and other legal considerations come into reckoning. It seems to be perfectly proper to suggest, as the Bill does, that the judge should predominate in points of law, and in points of fact the commissioners should have their say. For those reasons I oppose the amendments.

The Hon. ANNE LEVY: Is the Minister suggesting that the commissioners of the Planning Appeal Board have not contributed adequately in terms of considering matters of law which until now they have had the right to do? Is it for that reason that a change is being proposed?

The Hon. J. C. BURDETT: No, the change has been proposed because of the general matter of principle because of the complications of proceedings in this area, and also because not only the interpretation of the particular Act but also broader questions of property law are involved. It is thus more appropriate that judges do have the say in matters of law.

The Hon. K. L. MILNE: I understand that the judges themselves are in favour of retaining things as they are now, and that the Law Society is in favour of it as well. This might be unexpected; it was unexpected to me. My colleague in another place took the trouble to contact one of the senior judges in the jurisdiction. He was quite definite that this is what they would prefer—that the situation be left as it is.

The Committee divided on the amendments:

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendments thus carried; clause as amended passed.

Clause 27—'Conference of parties to proceedings.'

The Hon. R. C. DeGARIS: I move:

Page 16—After line 8 insert subclause as follows:

(6) Where a matter has been the subject of a conference under this section, the chairman of the conference shall not be a member of the tribunal as constituted for the purposes of hearing and determining that matter.

This amendment is a simple one. The Bill provides for a question of a conference, which is covered in clause 27. There is an argument that the person who chairs the conference, because of his knowledge of the question, should be on the tribunal to hear the matter when it comes before it. I take a different view and believe that, because of bias which may come from chairing a conference, that person should not be on the tribunal. I realise that there are arguments for and against but I prefer, so that justice can be seen to be done, for the person involved in the first conference not to be on the tribunal.

The Hon. J. C. BURDETT: I oppose the amendment. It is not usual in *quasi* judicial matters to preclude from the sitting of a trial the officer who presided at the conference. In the Supreme Court, in Land and Valuation Division hearings, the conference is usually presided over by the judge who eventually hears the matter. No question of bias applies; he simply presides at the conference.

If he goes on to be the judge at the hearing there is no question of prejudice. There is no reason why he should not sit. In the Family Court and other jurisdictions there is no preclusion of the judicial officer who presides at the pretrial conference from being the presiding officer at a hearing, and there is no reason why there should be. There is no way in which anybody could be prejudiced. It would be unwise in my view to disqualify a member of the commission who presided at a conference from being a member of the commission when the matter was heard. There is no possible prejudice to either party that will be caused by that happening.

Amendment negatived; clause passed.

Clauses 28 and 29 passed.

Clause 30—'Joinder of parties and intervention by Minister.'

The Hon. R. C. DeGARIS: I move:

Page 17, line 14—After 'proceedings' insert 'for the purpose of adducing evidence relevant to those proceedings'.

This clause deals with the interpretation of the word 'intervention'. There is some conflict about the meaning of this word. Some say that it means that the Minister has the right to give evidence before the tribunal. I have received legal advice which states that it has a much wider meaning than that. My amendment simply makes the meaning quite clear.

The Hon. J. C. BURDETT: I oppose the amendment. The right to intervene simply means that the Minister has the right to make representations before the commission. The commission has the final say. The power of the Minister to intervene is not only a power to give evidence; it is a power to make representations about the law and about the effect of matters before the commission on the community at large and on planning matters generally. I believe that right should exist. That meaning is very common in other jurisdictions. For example, in certain cases the Crown has a right to intervene in the Supreme Court. It refers to the

power to make representations. The power to intervene does not give the Minister any overriding power; he cannot override the commission in any way at all. The Minister simply has the right to make representations in matters in which he thinks those representations should be made in the public interest. As always, the final decision rests with the commission.

The Hon. ANNE LEVY: Is the Minister sure that the interpretation he has given to the word intervention is the only possible interpretation? A number of people who are very concerned about this Bill have doubted that interpretation and have made representations to me, and I am sure to other members, that the type of intervention should be spelt out in more detail. These people are very involved with local government and the whole planning area at local government level. They are concerned that the power of intervention is something more than the ability to appear before the tribunal.

The Hon. Mr DeGaris mentioned that he received a legal interpretation, which suggests that it means more than that. If there is any doubt about its legal meaning, the situation should be clarified. On the other hand, if the Minister can give an assurance that his interpretation is correct the Opposition and the people who have made representations to us will be reassured.

The Hon. J. C. BURDETT: 'Intervention' means the power to make representations: in this case, where, in the Minister's opinion, proceedings before the tribunal involve a question of public importance. It is only a power to make representations, and I give the Hon. Miss Levy that assurance. It is universally interpreted in that way throughout the *quasi judicial* system. A classic example can be found in constitutional matters before the High Court where States not directly involved may apply to intervene and make representations about the interpretation of the Constitution. There is no doubt that in judicial matters this word is always interpreted in that way. I appreciate the concern expressed by people in local government, but I assure them that the interpretation I have given is correct.

The provision cannot be interpreted to mean that the Minister could direct the commission about certain matters. The power to intervene simply allows parties not involved in the proceedings to make representations. Generally speaking, the only people who can appear before a tribunal are parties to the proceedings. There are specific cases, such as the one I have mentioned in relation to constitutional matters before the High Court, where a person who is not a party (in this case the Minister) and who may have a legitimate interest should be allowed to make representations. I assure the honourable member that that is the only interpretation that can be applied.

The Hon. K. L. MILNE: This conflict has arisen in other Bills. I have been assured that the Minister's interpretation is correct. The fear expressed by many people is that it could have been taken to mean that the Minister can interfere. That is not so. It only gives the Minister power to appear and to give evidence or make suggestions in the same way as anyone else has that right. This also applies to the Industrial Conciliation and Arbitration Act and other Acts. It does not give the Minister more power. Town Clerks and other people involved in local government were afraid that the Minister would be able to interfere. I am certain that the interpretation in this case is the same as in other Bills where the word 'intervene' has been used. I do not support the amendment.

Amendment negatived; clause passed.

Clause 31—'Costs.'

The Hon. R. C. DeGARIS: I move:

Page 17, lines 17 and 18—Leave out 'or vexatious' and insert ', vexatious or trivial'.

I believe that there have been appeals to the tribunal where costs should have been awarded. This clause deals with the question of the tribunal's being able to order costs where an appeal is frivolous or vexatious. We do not want to risk a position where people are afraid of going to a tribunal because of a fear of what costs may be awarded. Nevertheless, I believe that the clause as drafted means that the tribunal will award costs on the basis of an appeal's being frivolous or vexatious. I believe that the clause should be slightly widened, and to do that I have moved my amendment. It slightly widens the scope of the power of the tribunal to award costs.

The Hon. J. C. BURDETT: I oppose the amendment. The Bill as it stands provides as the present Act does, so there is no substantial change. I would suggest that inserting the word 'trivial' makes it difficult to decide how the commission is to act in the matter of costs. It is usual to provide one of two things. The first is that costs follow the event in the ordinary case, with a discretion to the court; almost automatically, except in special cases, the party that wins is awarded costs against the party that loses.

It has been deemed in the past and proved satisfactory that that should not apply in regard to planning appeals, because there would be a great deterrent to people to appeal. Generally speaking, if we depart from the situation that costs follow the event, we go to the situation prescribed in clause 31, namely, that costs are awarded only where, in the opinion of the tribunal, the proceedings are frivolous or vexatious or where, in the opinion of the tribunal, the proceedings have been instituted for the purpose of delay or obstruction. Those matters have been commonly adjudicated upon by the court, and there is a great deal of case law on the question of what is frivolous or vexatious. That is well known.

If we put in 'trivial', we are opening up a Pandora's box in giving discretion to the tribunal to decide what, in its opinion, is trivial. I believe it is quite adequate to leave it as it is, within well defined parameters, namely, to use the words 'frivolous or vexatious'. To use the word 'trivial' would leave it to the tribunal to decide somewhere between the two wellknown stances: first, that costs follow the event (and the Hon. Mr DeGaris, I think, has acknowledged that that should not be followed), or, secondly, the wellknown and present one that costs should be awarded only where the proceedings are frivolous or vexatious. To put in 'trivial' is opening up a new middle ground and, if the amendment were passed, it would be hard for the tribunal to know where it was supposed to go. I suggest that the procedure that has proved satisfactory so far of continuing the wording of the present clause should be retained.

Amendment negatived; clause passed.

Clauses 32 to 35 passed.

Clause 36—'Jurisdiction of the court.'

The Hon. R. C. DeGARIS: I move:

Page 19, lines 36 to 38—Leave out subclause (4) and insert subclause as follows:

(4) Any person with a legal or equitable interest in land to which an application under this section relates shall be entitled to appear and be heard in proceedings based on the application before a final order is made.

This clause deals with civil enforcement proceedings, and subclause (4) as drafted provides that, where a respondent to an application is not the owner of the land to which the application relates, the owner shall be entitled to appear and be heard in the proceedings before a final order is made. People other than the owner may have an interest in the matter, and I suggest that the provision should be widened to include all those with a legal or equitable interest in the land involved.

The Hon. J. C. BURDETT: The Government is prepared to accept the amendment.

Amendment carried.

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

Page 20—After line 16 insert subclause as follows:

(10) The court may make such orders in relation to the costs of proceedings under this section as it thinks just.

This provision relates to the question of costs incurred, particularly by councils. Local government is very worried about the additional responsibilities being placed on councils and additional costs of administering legislation without any help with the cost of doing so. The cost of taking a person to court is quite considerable. I am not talking of costs awarded by the tribunal, but of the costs in court. The cost of a council's fighting a case of this kind, as contemplated in this clause, is often considerable, running into hundreds of dollars. Fines are very often small, and in any case the money from fines goes to the Crown—and so it should. Representations were made to me, and I think to others, that fines should go to the council but, even if they did, that would not rectify the position. Therefore, I am anxious that the matter of costs should be spelt out in the Bill.

I know that, in normal practice, the courts may award costs, but, knowing that costs were mentioned regarding the tribunal, I think it better for costs to be mentioned here so that people contemplating a court case, the council or the other party, can read for themselves that those are the powers of the court under this legislation, and that costs could well be awarded against them. The Local Government Association has asked that consideration be given to spelling it out in the legislation in this way.

The Hon. J. C. BURDETT: I oppose the amendment, because it is quite unnecessary. If an action is taken to the court, it depends on the legislation and the rules appertaining to that court.

The Hon. K. L. Milne: I realise that.

The Hon. J. C. BURDETT: All right. That is perfectly clear, and there is no point in saying again what is already perfectly clear. It is clear in the Local and District Criminal Courts Act that the court may make an order, and there is no point in saying it in this legislation. I take the point raised by the Hon. Mr Milne that this is desired apparently by some people who wish to spell it out again in this Act, so that people would know about it. I suggest that, where people contemplate taking a matter to the court, they then advert to the rules of that court, and it is sufficient that the matter of costs be stated in the legislation appertaining to the court and the rules of the court; it is not necessary to say it again in this Bill.

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, K. L. Milne (teller), and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 37 to 39 passed.

Clause 40—'The Development Plan.'

The Hon. R. C. DeGARIS: I move:

Pages 22 and 23—Leave out subclauses (2) to (6) and insert:

(2) Subject to this Part, the Development Plan shall be as set out in the schedule to this Act.

I will deal with all of my proposed amendments to Part IV, which is the crux of the altered approach to planning matters in South Australia. Clause 40 deals with the preparation of the Development Plan and sets up one Development Plan for the whole of South Australia based (and I emphasise the word 'based') upon existing development plans and zoning regulations. It must be noted by the Chamber that there is no specific mention in the Bill as to what the Development Plan is.

The first question that one must ask is this: why is the Development Plan not clearly identified in the Bill itself? The existing development plans and regulations, which will make up by marriage the new Development Plan, may be altered, first, to achieve consistency, secondly, to remove obsolete matter and, thirdly, to achieve uniformity of expression. Those alterations may be made by the Minister.

When the compilation of the Development Plan is complete, the plan shall be authenticated by endorsement of the Governor, and the Minister shall publish that Development Plan. The document then has legal status. The Development Plan can then be amended by a supplementary development plan which can be prepared by a council or the Minister acting at the request of a council or, where the Minister has requested a council to prepare a supplementary development plan and the council has not done so after six months, or substantially done so, the Minister may prepare that particular plan. However, where the supplementary development plan relates to areas or parts of areas of two or more councils, the Minister may prepare a supplementary development plan. Where a supplementary development plan has been prepared by a council, it shall be submitted to the Minister, who shall submit it to the Advisory Committee and, after considering the advice of the Advisory Committee, the Minister may, first, accept the plan without amendment for public submission, secondly, amend the plan before public submission or, thirdly, decline to accept the supplementary development plan.

Where the Minister has prepared a supplementary development plan or accepted the council's supplementary development plan, it shall be advertised, and written submissions may be made upon it to either the Advisory Committee or the council, depending on who prepared that particular plan. This is followed by a public hearing. After all this procedure, the Minister may approve or amend the supplementary development plan.

When the Minister approves the supplementary development plan, the Governor by notice in the *Gazette*, declares the plan to be an authorised supplementary development plan and fixes a day on which it becomes operative. The Development Plan is a public document of which a court or tribunal shall take judicial notice without formal proof of its contents. The Council must understand the changes that this Part makes to existing practices. One needs to understand that the Development Plan at the present time is not a legal document, and one needs to look at the definitions in clause 4 of 'the principles of development control'. What this Part does is give legal status to a document of which we have, virtually, no knowledge. The development plan under the existing Act has no legal status but it is legally interpreted by the regulations which come before Parliament and which are subject to scrutiny and disallowance.

The procedure proposes to marry the development plan and the regulations into one and allow the Minister to make modifications under certain conditions and allow variations by means of supplementary development plans, without the necessary scrutiny of Parliament. The Bill is asking this Chamber to support changes to the law without Parliamentary scrutiny. I emphasise that point so that honourable members understand exactly what Part IV does. The Bill

asks the Chamber to support changes to law without any Parliamentary scrutiny.

Apart from that grave difficulty which I see as quite fundamental, I can foresee that this approach of using a document which is not a legal document, with a broad definition in the interpretation clauses, will create increased litigation and controversy in the interpretation of the law. There are a number of suggestions that I can make to overcome the problems that I see in this Part. One of the great problems in regard to planning is the fact that, at the present time, we have a document called the Development Plan. It has no legal status: the legality of that plan is reflected in regulations. One must admit that in regulations (and I mentioned this before on a previous clause) there are difficulties because, when regulations come down to interpret the Development Plan, they are law from when they are made, but they are subject to disallowance by the Council.

As anyone can see, this creates a problem in the development area. I am unable to support any legislation which allows any law-making procedure without the approval or the power to disallow by Parliament. It is necessary that the Development Plan and its variations are submitted for Parliamentary approval and scrutiny. It is not a practical proposition for the Subordinate Legislation Committee to be saddled with such a massive task in dealing with the regulations, and perhaps a new Parliamentary committee should be established to be responsible for the scrutiny of planning regulations and the Development Plan. My amendment does not go along this line. If we took this line it would mean that the Development Plan itself would have to be presented as a regulation, and the changes made to that plan would have to be presented as variations of that regulation.

The second suggestion I could make is that the Development Plan should not have any force of law until it is incorporated as a schedule to the Bill, and power could be given to vary that schedule by tabling such variations which could come before a Parliamentary planning committee and reported upon and be subject to the normal disallowance process. This is an extremely complex and difficult matter. I raise with the Committee what this clause does: it allows a change of law in this State without any Parliamentary scrutiny or approval. I cannot support that procedure. I do not know whether the amendment will satisfy every member of the Committee, but it provides that the Development Plan must be a schedule to this Bill and provides:

(12) Where the Minister has approved a supplementary development plan under subsection (11), the Minister may cause copies of the supplementary development plan to be laid before both Houses of Parliament.

(13) The supplementary development plan shall come into operation:

(a) if no motion for disallowance of the plan is moved in either House of Parliament within six sitting days after the plan is laid before Parliament—upon the expiration of six sitting days after the plan was laid before Parliament;

(b) if a motion for disallowance of the plan is moved in either House within six sitting days after the plan is laid before Parliament and the motion is defeated, withdrawn or lapses—upon the day next following the day on which the motion is defeated, withdrawn or lapses,

This is a completely new approach, because we are saying here that the Development Plan becomes a schedule to the Act and the tabling of the documents of a supplementary development plan virtually amends an existing Act of Parliament, but the Parliament, at least under this amendment, has the right to disallow that change in an Act of Parliament.

There are many ways in which one can approach this problem. I have solved it this way, but I stress to the Committee that this clause allows a fundamental change to the law of the State without any involvement of Parliament. I cannot support such an approach. There may be much argument to say that this approach that I am taking is not capable of being supported, but it is a suggestion. Every honourable member should realise that the fundamental point is this—that as the Bill stands the law can change without Parliamentary approval.

The Hon. J. C. BURDETT: I oppose the amendment. I point out that in my second reading explanation and the Minister in his second reading explanation in another place on the Development Plan stated:

The Bill as introduced provides for the editing and consolidation of existing development plans and relevant parts of existing regulations into a single consolidated development plan. During the period of public comment on the Bill I have given an undertaking that the consolidated development plan will be publicly exhibited prior to its authentication by the Government.

That undertaking has been given twice. I do not agree with the honourable member when he says that the clause allows for a fundamental change to the law without reference to Parliament. I suggest that that is not so. The argument is similar to the argument which we had this afternoon on the question of certain matters in the Bill being made law by proclamation or by regulation. The Hon. Mr DeGaris referred to a development plan as not being a legal document. Of course, a proclamation is a legal document and the Development Plan can well be a legal document.

The Hon. R. C. DeGaris: It was not legally drafted—that is the point.

The Hon. J. C. BURDETT: A proclamation is a legal document, and there is no reason why a development plan should not be a legal document. I suggest, as I suggested this afternoon in regard to the question of proclamation of regulations, that in planning matters there is a need for certainty after there has been the public display, which the Minister has undertaken will happen. After this has happened, when it is brought into operation, then it is necessary that there be certainty. I used the same argument this afternoon, and the Hon. Miss Levy recognised that there was merit in that argument, that it is not practical in a planning matter to have a plan or any other matter given the force of law and then people not know what the future of that is.

If this amendment were to come into force and there was the power of Parliament to disallow, a development plan would have the force of law when it was introduced—we were talking about this this afternoon in regard to regulations—and people would be entitled to act on the law.

The Hon. R. C. DeGaris: Not under my amendment.

The Hon. J. C. BURDETT: It would be a matter of law. If that is not the case, there is a very grave area for delay which has been one of the problems with planning legislation at the present time. There is no reason for delay. It is quite untrue to say that the Bill as it stands allows a fundamental change to the law without permission of Parliament. I would suggest that the Development Plan really is an administrative matter. It is quite untrue to say that it allows any fundamental change to the law; that certainly is not so. Just as there is a need for certainty and expediency in regard to proclamation and regulation, it applies in this case. It is necessary, after the period of public display which has been assured and after the plan has been brought into effect, for it to be given the force of law. It does not change the matter. It is necessary that the Act come into effect expeditiously and quickly.

The amendment moved by the honourable member makes a fundamental change, because plans as such have never been required to lie on the table of the Houses of Parliament. There have been regulations which have been

required so to do, but it has not been required in regard to plans. This is a new departure and I suggest a quite unnecessary one. It was a perfectly proper procedure to display the plans, and assurances have been given about that. When the plans have been displayed they will be brought into effect and from that time will have the force of law. I oppose the amendment.

The Hon. ANNE LEVY: I find myself in quite a quandary with this amendment as proposed by the Hon. Mr DeGaris. He is, of course, dealing with the questions which I raised in my second reading speech. This is the question of the power of Parliament. At the moment, supplementary development plans do not come before Parliament but the regulations which flow from them do have to come before Parliament, be examined by the Subordinate Legislation Committee and subsequently are able to be disallowed by motion in either House of Parliament. I did point out in my second reading speech that under the Bill before us supplementary development plans will undergo a much more thorough examination at the public level than they have had to date but that the functions of Parliament in this regard are completely removed.

With the Bill before us there will no longer be any regulations so that, although the supplementary development plan will be open to much more public discussion and public inquiry than has ever applied in the past, Parliament is being completely removed from the whole process of supplementary development plans. I raised this in my second reading speech, and we view this as a very serious matter: that the whole process of supplementary development plans is to be completely divorced from Parliament. However, I am not quite sure that the method which the Hon. Mr DeGaris has proposed is the best way of achieving what I am sure that he and I and other members in this Chamber want to see achieved: that is, that the Parliament still have a role. There certainly are disadvantages with what the Hon. Mr DeGaris has put forward. I can imagine that many Ministers would not like to work with it in their legislation. At this stage I feel that I do not know what the correct answer is. However, I think that the best procedure at this stage would be for us to support these amendments with the idea again that the matter can be more fully discussed at the conference in which I am sure this legislation will result. My support for these amendments is in no way an unconditional support, and the results of the conference may end up with something quite different in this regard. As an interim measure I will support the amendments.

The Hon. R. C. DeGARIS: I do not want to hold up the Council on this matter but I wish to emphasise that, irrespective of what the Minister has said, the law of the land can be changed without Parliamentary approval under this Part; that cannot be denied.

The Hon. J. C. Burdett: I have denied it.

The Hon. R. C. DeGARIS: The Minister cannot deny it. How can we have a position where a supplementary development plan can alter a document that has legal status without Parliamentary approval? That is the position. I cannot accept that position. I agree with what the Hon. Anne Levy has said: that the answer I have come up with may not be the proper answer. I have given it much thought and it is the only answer that overcomes all the problems related to regulations. What the Hon. Anne Levy has said is correct. No longer will there be planning regulations: there will only be amendments to the Development Plan, which can be altered by supplementary development plans which are not subject to Parliamentary approval. That is the position.

What we have to face is that regulations are not a good way of handling the position because they can be made, have the force of law, and then be disallowed; this is disturbing to anyone in relation to planning matters. I believe that if Parliament gives up its right to determine the law in this State then every member in this Chamber should hang his head in shame. That is the position.

The Hon. B. A. Chatterton: This allows so much delay.

The Hon. R. C. DeGARIS: It may be but if we overcome the question of delay we then have the problem of regulations which have been made and which can be disallowed. That is disturbing to the whole question. In most cases the delay would be less than two months.

The Hon. B. A. Chatterton: Can a motion for disallowance be continually adjourned?

The Hon. R. C. DeGARIS: It must be handled within six days as I understand it.

The Hon. Anne Levy: Can't the motion be adjourned?

The Hon. R. C. DeGARIS: Maybe that is the question we have to look at. My amendment is a totally new approach which allows a Bill to be amended by not disallowing it. If every time a development Act had to be amended we had to introduce a new Bill, it would create a virtually impossible situation. We should adopt a reasonable approach about this matter. I agree with the Hon. Miss Levy that we may have to have a conference to solve this problem. As the Bill stands, the law can be changed without the concurrence of Parliament. I will fight that provision to the very end, because it cannot and should not exist. We are dealing with a completely new area in the legislative history of planning, but if Parliament forgoes that right every member should be ashamed of himself.

The Hon. J. C. BURDETT: I oppose the proposition put by the honourable member, who suggested that a development plan or a supplementary development plan changes the law. It does not change the fundamental law at all. It has the force of the law, as do many provisions which do not come before Parliament: for example, an order of the court has the force of the law. That same situation applies in relation to development plans and supplementary development plans. I certainly disagree with the honourable member's suggestion that such plans do affect the law. In an earlier speech, the Hon. Mr DeGaris suggested that it was a fundamental change in the law. However, many provisions which have the force of the law do not come before Parliament.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 41—'Amendments to the Development Plan.'

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

Page 23, lines 13 to 15—Leave out 'and the council either declines to do so, or has not at the expiration of six months from the date of the request made substantial progress' and insert 'and the council declines to do so or, at some time after the expiration of three months from the date of the request, it is apparent that substantial delay has occurred.'

This amendment tightens up the clause in relation to a council which does not act on the request of the Minister, or declines to act, or delays the implementation of such a request. It gives the Minister power to act in such circumstances. We have referred to the question of delay on several occasions. The question of delay is important in

planning matters. I suggest that it is reasonable to reduce the time from six months to three months and to provide that the Minister may exercise his power where it is apparent that substantial delay has occurred.

The Hon. ANNE LEVY: I support the amendment. Obviously, three months is better than six months. However, my support in no way alters my intention to insert new clause 42a. I do not believe that the matter of interim development control has been satisfactorily resolved. Nevertheless, I certainly agree that three months is preferable to six months.

Amendment carried.

The Hon. R. C. DeGARIS: I move:

Pages 25 and 26—Leave out subclause (12) and insert subclauses as follow:

(12) Where the Minister has approved a supplementary development plan under subsection (11), the Minister may cause copies of the supplementary development plan to be laid before both Houses of Parliament.

(13) The supplementary development plan shall come into operation—

(a) if no motion for disallowance of the plan is moved in either House of Parliament within six sitting days after the plan is laid before Parliament—upon the expiration of six sitting days after the plan was laid before Parliament;

(b) if a motion for disallowance of the plan is moved in either House within six sitting days after the plan is laid before Parliament and the motion is defeated, withdrawn or lapses—upon the day next following the day on which the motion is defeated, withdrawn or lapses,

or on a day fixed in the plan as the day on which it is to come into operation, whichever is the later.

(14) In this section—

'sitting day' means a day on which either or both Houses of Parliament sits for the despatch of business.

This amendment is consequential on the amendment carried to clause 40 and fulfils the intention of the amendment as I explained in amending that clause. Therefore, I do not think there is much point in explaining it further, except to say that we must recognise that, while the supplementary development plans did not come before the Parliament previously, the regulations did. As there will now be no regulations, it appears reasonable that Parliament should assert its influence on the acceptance of supplementary development plans because of that. I suggest that the amendment could be argued and debated, but I agree with what has been said: if we are to make any progress at this point, the matter will probably go to a conference and we may be able to work out a satisfactory solution.

Amendment carried; clause as amended passed.

Clause 42—'Certain amendments may be made without preparation of supplementary development plan.'

The Hon. R. C. DeGARIS: Consequential on the amendments, I oppose this clause.

The Committee divided on the clause:

Ayes (8)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, M. B. Dawkins, 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, R. C. DeGaris (teller), J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, and Barbara Wiese.

Pair—Aye—The Hon. L. H. Davis. No—The Hon. C. J. Sumner.

Majority of 3 for the Noes.

Clause thus negatived.

New clause 42a—'Interim development control.'

The Hon. ANNE LEVY: I move:

Page 26—After clause 42 insert new clause as follows:

42a. (1) Where the Governor is of the opinion that it is necessary in the interests of the orderly and proper development of an area or portion of the State that a supplementary development plan should come into operation without the delays attendant upon advertising for, receiving and considering public submissions, he may, at any time after notice that the plan is available for public inspection has been published, declare, by notice published in the *Gazette*, that the plan shall come into operation on an interim basis on a day specified in the notice.

I do not wish to take up the time of the Committee, as there is still a way to go with this Bill. I did discuss this fairly fully in my second reading speech. Situations can arise where immediate action is required. This clause was in the original Bill produced by the Minister in June, but it had vanished when the final Bill arrived in November. We on this side feel that it is extremely important that there be interim control development measures, as there are currently in the existing planning legislation.

I am moving to replace the clause which was in the Bill brought down in June and which is consistent with what applies at the moment. I imagine the Minister is about to reply that the time span has been reduced, in clause 41, from six months to three months. If some most undesirable development is proposed and a council refuses to act, the Minister is unable to act until three months later. While three months obviously is better than six months, nevertheless a great deal of development can occur in three months. All sorts of destruction of the environment or of the general amenity of the area could occur within a three-month period, and we feel it totally undesirable that, where it is determined that the public interest is at stake, the Minister is unable to step in for three months.

It need only be for the three months until the Minister can act under clause 41, but one does need some provision for upholding a situation where, otherwise, development which is highly deleterious can go ahead during the period of three months. I stress that the clause is the same as that in the original draft of the legislation. Its omission has caused a great deal of concern on the part of many people. I realise that it was probably omitted from the final draft at the suggestion of people who did not like it when it was present in the June draft. However, many people thought this clause was very necessary. They had no notion that it was under threat, and so they made no submissions relating to it when the June draft was brought in, because they felt that the clause was there, it was highly desirable, and no-one would suggest removing it. However, its removal, as discovered only a few days ago, concerned a great number of people who think that some interim development control clause, however rarely it is used, is an absolute necessity in a planning Bill if we are to have proper planning in South Australia.

The Hon. J. C. BURDETT: I oppose the amendment to insert the new clause. In the past, it has not been that interim development control has been rarely used: it has been used quite frequently. If the new clause is not inserted it would not be the case that you would be without controls for three months. It would simply be that you would not be moving from one situation to another for three months. To continue with interim development control against the background of this Bill is a denial of natural justice, because to proceed under the Bill will require public exhibition. People will have the opportunity to make submissions. If you act without public exhibition and without the public having the chance to say anything, an action could be taken which would cause property values to drop substantially over a period. Given the background of this Bill, it is not desirable to continue with the practice of interim development control that applies immediately and without any kind of public examination or opportunity for public comment. I oppose the insertion of the new clause.

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

New clause thus inserted.

Clauses 43 to 45 passed.

Clause 46—'Conditions under which development may be undertaken.'

The Hon. ANNE LEVY: I move:

Page 27, line 38—Leave out 'subsection (4)' and insert 'subsections (4) and (4a)'.

After line 42—Insert subclause as follows:

(4a) Where—

(a) a proposed development is permitted absolutely or conditionally by the principles of development control without the consent of a planning authority; but

(b) the relevant planning authority is of the opinion:

(i) that the proposed development would create serious hazards to life or property; or

(ii) that the proposed development would have a serious detrimental effect on the amenity of the locality in which it is proposed,

the relevant planning authority may, by notice in writing served personally or by post upon the proponent, prohibit the development.

This is again a clause that was in the June draft and vanished between June and November. It was clause 47 (4) of the old draft. What it does is allow a planning authority to step in over the top of a committed development and prohibit it if it deems that the development would create serious hazards for life or property. I am particularly concerned, of course, with the provision dealing with serious hazards to life. It would seem to me absolutely essential that, if any proposed development that was by some quirk a permitted development nevertheless posed some hazard to life, somebody must have the authority to step in over the top and prevent such development.

I could not understand how this clause was omitted between June and November. My first thought on seeing the November Bill was that a mistake had been made and that this clause had been accidentally omitted. It seems inconceivable that, should there be a hazard to life from a development, someone not have the right to step in and prohibit that development that could cause a hazard to life. I cannot understand how it was omitted in the first place, nor what possible justification the Government could have had for removing it; it seems to me absolutely essential that hazards to life should be prohibited and that someone must have the authority to step in and remove such hazards to life.

The Hon. J. C. BURDETT: This matter was canvassed by the honourable member in her second reading speech and, from memory, I referred to it in my reply. It not only deals with hazards to life, but also with a proposed development which could have a serious detrimental effect on the amenity of the locality in which it is proposed—for example, an ugly building. Therefore, this provision is much wider than including only a hazard to life. As I mentioned before, I oppose the amendment on the basis of certainty. It is necessary and desirable, so far as possible, to have certainty in planning Acts and the orders made under planning Acts so that people will know where they stand, including questions of land use.

It is a very serious detriment if people have no idea whether or not there may suddenly be a decision made by, for example, a council, that a proposed development is considered likely to create serious hazards or, particularly, that a proposed development would have a serious detrimental effect on the amenity of the locality in which it is proposed. If there is a serious hazard to life, doubtless there are ways and means of that being brought to the notice of the relevant authority. For a council to have the power, by notice, to prohibit a development on either of those two fairly uncertain bases, particularly the second one—having a serious detrimental effect on the amenity of the locality, for instance, an ugly building—takes the certainty out of planning law. That is not appropriate. Therefore, I oppose the amendment.

The Hon. ANNE LEVY: I am not talking about ugly buildings: I am talking about hazards to lives. I appreciate the points made by the Minister—

The Hon. J. C. Burdett: The second point applies in your amendments, also.

The Hon. ANNE LEVY: If you wish to amend the amendment, by all means do so. The hazard to life concerns me. I appreciate the points made by the Minister about the uncertainty which may arise for some developer, but it would seem to me that any developer with a sense of conscience would welcome intervention if unintentionally he was posing a threat to life. I cannot imagine that there is anyone who would wish to pose hazards to life in our community. If there is, they jolly well ought to be stopped. It is for this reason that I move this amendment with the greatest of enthusiasm and, I hope, sense of responsibility, as I would also expect to see the Government showing.

The Hon. J. C. BURDETT: The Hon. Miss Levy suggests that a responsible developer, if he inadvertently came up with a development which was hazardous to life, would welcome its being pointed out to him. I have no doubt that such a developer would do so, and that it would be pointed out to him. Thus, there is no need to introduce this amendment in the Bill.

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. ANNE LEVY: I move:

Page 28, lines 32 to 40—Leave out paragraphs *(a)*, *(b)* and *(c)* and insert paragraphs as follow:

(a) the council shall not consent to the proposed development except upon the conditions so determined, or upon conditions that include those conditions;

(b) the conditions so determined shall be differentiated in any notice of consent given by the council to the proponent; and

(c) any appeal in respect of those conditions shall lie against the commission.

Subclause (10) provides that, where under the provision of the regulation a council is required to refer a proposal for development to the commission or a prescribed instrumentality or agency of the Crown for its consideration before consenting to the proposed development, and the commission or the instrumentality or agency determines that the council should not consent to the development except on certain specified conditions, and notifies the council of that determination, then, the council need only consider the conditions as set out, and need not impose them. Provided the council carefully reads the document and notes what the commission has said, it can then ignore them completely.

This seems totally unsatisfactory. If the commission feels that certain conditions are necessary before development is

to be approved, then the council should not consent to a development except on those conditions. In other words, the council cannot ignore the conditions which have been opposed by the commission. It seems to me to be erroneous to give local councils the authority to ignore the conditions, which the commission feels are absolutely essential, before giving consent to some development proposal. My amendment ensures that the conditions cannot be ignored but must be taken into account by the council.

The Hon. J. C. BURDETT: In opposing the amendment, I trust that the Hon. Mr Milne will listen to what I have to say—

The Hon. N. K. Foster: Why should he; you've been talking all that clap-trap all day?

The Hon. J. C. BURDETT: Because it pertains to local government, and I know that he is interested in local government. Regarding the question raised by the amendment, its purpose is to provide that, where conditions are proposed by the authority, the council must have regard to them whereas, as the Bill stands, it only provides that the council may have regard to them. Really, it is a question of whether this should be a council matter or a State matter. It is the view of the Government, which tries to give as much support and as much real power to local government as possible, that this is properly a council matter.

The Hon. Miss Levy wishes to make it mandatory. I indicate that local government objected strongly to the mandatory provision which was included in the earlier Bill. For that reason the Government has accepted its representations and decided that these matters are properly council matters rather than State matters, that the only thing the commission ought to do is to propose the conditions, and that it is up to the council to say whether it will impose those conditions or not. I oppose the amendment.

The Hon. ANNE LEVY: There is a logic in these amendments which is absent in the Bill. The Bill says that the conditions are not mandatory, that a council may or may not impose them but, if the council does not impose them, any appeal does not lie against the council but against the commission. Local government is trying to have it both ways. It does not want to have it mandatory (it wants to have a say in whether the conditions are imposed or not) but it does not want any appeal to be against it when it is dodging its responsibility in this way.

If the conditions are not mandatory but are imposed by the council, then any appeal should surely lie against the council which has decided to impose them. On the other hand, the Bill suggests that appeals lie against the commission even where the council has decided that it will abide by the conditions. My amendment makes the conditions decided by the commission mandatory and, quite properly, any appeal against those decisions will lie against the commission. It is the commission which has to determine the conditions, and the appeal procedures should lie against it. That is the correct way in which the matter should proceed.

The Hon. K. L. MILNE: I am confused about what this means. Can the Minister give an example of what he means by something being directed to the councils which they may or may not approve? What sort of thing are we talking about? Is it in regard to any conditions at all? What is the reason for saying that the council can over-ride or ignore instructions from the commission? What is the commission there for, if it cannot give instructions to councils? There is a danger in over-balancing in trying to give respect and status to local government. One can go to the extreme and it becomes unworkable and foolish. I cannot see, unless I can be given examples, why a council can ignore a direction from the commission.

The Hon. J. C. BURDETT: That is the whole point. As the Bill stands, it is not a direction from the commission or from a State agency: it is a condition suggested, which is not mandatory on a council. A council can take that into consideration and make up its own mind. An example could be in regard to development along a main road. The Highways Department, as a State agency, may suggest that a condition ought to be imposed in regard to development along the main road. When the State agency suggests that condition, it should be up to local government to say whether or not it will impose it. It is not a question of making a direction, but a question of a condition being suggested by the State agency and the power being left to the council to decide whether or not to impose the condition. It is not a question, with respect to the Hon. Mr Milne, of over-balancing in favour of local government—it is a question of allowing local government its proper role.

Local government has a great role, particularly in the planning area. If the amendment were carried, there would be too great a disincentive to councils. Councils ought to be free. Regarding the question of appeals raised by the Hon. Miss Levy, the Government is content that the appeal be against the State Planning Authority and not against the council. If that were not the case, there would be too great a disincentive to the council. The council would not impose any conditions at all. It should be free to decide whether or not to impose the conditions suggested by the authority and, if there is an appeal, it is fair enough that that appeal should be against the authority.

Councils would not run the risk otherwise of allowing an appeal against themselves, and would not impose the conditions. I suggest that the position in the Bill, which was strongly requested by local government, is reasonable. It gives local government reasonable power in an area in which it properly operates, that is, planning. If there is an appeal, that should be against the State authority. That is perfectly in order, and the Government is willing to accept that.

The Hon. N. K. FOSTER: I support the amendment. I do not accept the Minister's attempted persuasion in respect of the only right in the mind of the Government. The Minister suggests that there has been great demand by local government for this clause. I wonder whether the Local Government Association was the only tenderer regarding this clause or whether proper consultation was undertaken with the whole local government area. I am concerned that perhaps local government only wants additional powers, because it has plently under the existing Act and will have plenty under this Bill. It is the abuse and ignoring of ratepayers in many areas of local government with which I am concerned. This clause deals with appeals. My experience with people wanting to make objections in respect of local government indicates that they see local government as their first point of contact. Until they are convinced otherwise, they see it as the only area to which they can object. I refer to my experience and that of the Minister and you, Mr Chairman, as former members of the Subordinate Legislation Committee. Many matters have come before that committee concerning local government.

I rise to object to the clause and to support the amendment because of remarks made by the Minister in regard to the Highways Department. In some areas councils now have absolute control or power and they owe moral allegiance not to the rate payers but rather to the flat earth society of the Highways Department. They bend over backwards to ensure that their supremacy remains strong within local government, but ratepayers' objections are quite minimal. The street closure in regard to the Gorge Road deviation is a classic example of where ratepayers have been ignored by the Campbelltown council. Even though this Parliament and this Council carried objections and refused

to okay certain matters of the local council, within 24 hours that council had put the same regulation back. How many times does the Parliament have to move dissent from such regulations before the council takes note? I see some of the dangers very near to the bone.

In regard to the area to which I have referred, I believe that local government in that council at the most recent election had a total vote by ratepayers in the vicinity of 60 people. I agree and I look to my colleague, Mr Milne, to support the amendment. Local government can be dictatorial, roughshod and answerable to no-one. It is a danger that the Minister has been aware of or he has been conned by those who have had his ear in regard to this clause. I would think the Government should not expect the Opposition to do what it probably has to do—to force a vote on this. The Minister ought to be big enough and bold enough and have enough individuality in his position to accept the amendment.

The Hon. J. C. BURDETT: We are talking about clause 46 and the question is as to whether the conditions suggested by State agencies are mandatory on councils or not.

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. R. C. DeGARIS: I seek clarification on this clause. I refer to subclauses (5), (6), (7) and (8) which deal with the question of a development which is prohibited. When a consent is given for a development that is prohibited, subclause (8) provides that no appeal shall lie against a refusal of consent or concurrence under subsection (6) or against a condition attached to a consent under subection (6). As I understand the clause, it means that where a development is prohibited and a refusal of consent or concurrence is given, there is no appeal against that refusal because the development is already prohibited.

Does an appeal against refusal of consent or concurrence refer only to the refusal? Secondly, if a prohibited development is given consent, does an appeal lie against that consent? In other words, I agree that there should be no appeal where a refusal occurs in regard to a prohibition. What is the position where something that is prohibited is granted consent? Does an appeal lie in that case against that consent? Perhaps the Minister could answer these questions.

The Hon. J. C. BURDETT: An appeal does not lie against consent where the commission and the council agree on a matter.

The Hon. R. C. DeGARIS: That concerns me. Where a development plan totally prohibits a certain development and consent has been given for a development that is prohibited, I believe that some appeal should lie against that particular development. I simply raise that question, although I have no amendment. I have noticed right throughout this Bill that there are some peculiarities in relation to regulations. Subclause (10) requires a council to refer a proposal for development to the commission. That is a bald statement. It does not state that regulations may be made in this regard, but simply assumes that there will be regulations.

The Hon. J. C. BURDETT: There is nothing peculiar about the provisions of this Bill. It does not really differ from the existing Act. The Hon. Mr DeGaris has commented on the fact that, where the council and the commission concur in the granting of consent in circumstances contemplated by subclauses (5), (6), (7) and (8) of this clause, it is exactly the same as the present Act in relation to a Governor's exemption. It is really doing the same thing. It is giving an exemption after agreement by the commission and the council.

At the present time there is power to grant a Governor's exemption. In effect, it is an exemption in connection with a prohibition provided for in the plan. That happens quite frequently. This power is exercised quite often and there is no appeal against that. It is not surprising that there should be no appeal in this case. It provides the same thing as applies in the present Act in relation to the Governor's exemption, but in a different way. It is now following agreement between the commission and the council. I suggest that it is a less autocratic way than the present procedure.

Clause as amended passed.

Clauses 47 to 49 passed.

Clause 50—'Consent of Governor required for certain forms of development.'

The Hon. R. C. DeGARIS: I move:

Page 30—
Line 15—Leave out 'Governor' and insert 'Minister'.
Line 17—Leave out 'Governor' and insert 'Minister'.
Line 25—Leave out 'Governor' and insert 'Minister'.

I acknowledge that the Government has the right to make a declaration under this provision to obtain adequate control of developments of major social, economic, or environmental importance. However, I take issue with clause 50. I believe that, in connection with a declaration in relation to taking control of a development of major social, economic or environmental importance, it is up to the Minister to be responsible for any decisions that are made in that regard.

I refer back to the attitude I adopted in relation to clause 7. I believe that clause 50 (2) grants the Government the power to virtually enter into an indenture with a developer without reference to Parliament. I believe that once the Governor decides that certain parts of this Act should not apply to certain developments, those developments must come under Ministerial control. Where a declaration is made, the same provisions that apply in clause 7 should apply to this clause. However, I have not gone that far. I have left the powers exactly as they were, except that my amendment provides for Ministerial responsibility for developments after a declaration has been made.

The Hon. J. C. BURDETT: I oppose the amendment. Clause 50 pertains to major developments in this State, such as Stony Point, which are matters of policy and not matters of detail. They are very properly matters for the Governor in Council, as recommended by Cabinet. This is quite a different situation from the previous clause in which the Hon. Mr DeGaris took the same point. They were not matters of policy. I understood what he was saying in relation to that clause, although I opposed it and did not agree that it should be a matter of Ministerial responsibility.

This clause deals with matters which are properly matters of policy and matters for the Government. If this amendment is carried, the Minister would be subject to action on matters which are properly matters for the Government and matters of policy. In any event, the environmental impact statement provisions would apply, which allow for public scrutiny. There is no denial of public scrutiny. The matters contemplated in clause 50 are major matters of policy for the Government, for Cabinet and for the Governor in Executive Council.

The Hon. ANNE LEVY: I appreciate the argument put forward by the Hon. Mr DeGaris. I believe that his argument in relation to clause 7 applies equally to this clause. Clause 49 refers to the proclamation of a development of major social, economic or environmental importance. Once that decision has been made there should be Ministerial responsibility so that a Minister can be questioned in Parliament. The provisions of clause 50 should be the same as the provisions in clause 7. The two clauses are complementary. To amend one without the other would imply a lack of consistency.

The Committee divided on the amendments:

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

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 3 for the Ayes.

Amendments thus carried.

The Hon. R. C. DeGARIS: I move:

Page 30, line 28—Leave out 'Governor is not required' and insert 'Minister is not required under this section'.

The rest of the amendments are consequential.

Amendment carried; clause as amended passed.

Clause 51—'Aggrieved applicant may appeal.'

The Hon. R. C. DeGARIS: I move:

Page 30, line 42—Leave out 'Governor' and insert 'Minister'.

Amendment carried; clause as amended passed.

Clause 52—'Third party appeals.'

The Hon. ANNE LEVY: I move:

Page 31, lines 8 to 17—Leave out subclause (1) and insert subclauses as follow:

(1) Notice of an application for a planning authorisation must be given in accordance with the regulations.

(1a) Where notice of an application has been given under subsection (1), any person who desires to do so may, in accordance with the regulations, make representations to the relevant planning authority in relation to the granting or refusal of the application.

Page 32, lines 1 to 5—Leave out subclause (9).

This is one of the most important amendments to be moved, as it deals with the rights of third party appeals. Under the existing legislation, we have the situation whereby people living in the 31 council areas with development plans have third party rights of appeal, while the people living in the remaining 90-odd council areas without full development plans do not have third party rights of appeal. As the areas where third party rights of appeal cover largely metropolitan areas of the State, it is certainly the case that by far the majority of people in this State at the moment have third party rights of appeal.

We have already mentioned that, under the City of Adelaide Development Act, people do not have rights of third party appeal in the city of Adelaide but, with the exception of the residents of the city of Adelaide, the rest of the people in the metropolitan area and also many of the people in country centres currently have this right of third party appeal.

The Bill proposes that third party rights of appeal will be for people as set out in the regulations, but of course we have no regulations to say who will have third party rights and who will not. During the meetings which occurred between June and November, advice was given at one of those meetings that the regulations being proposed were such that third party rights of appeal would virtually cease to exist for consent uses except where the planning authority gave permission for a right of appeal against its own decision. I suggest that, if that were the situation, it would be very rare for a planning authority to give a right of appeal against its own decision.

Virtually, the legislation before us can result in most of the people in this State losing the right of third party appeals which they now enjoy. The Minister may say that that is not the case, that it depends on what is to be in the regulations, but we do not know what is going to be in the regulations. They may or may not be satisfactory, but, in view of the hint given as to the type of regulation which may well be brought in under this legislation, we are very fearful that many people will lose their third party rights.

What should be done is to extend the third party appeal rights which the majority of the population now enjoy to the rest of the population, and not take the view of restricting the third party rights of the majority while giving some third party rights to those people in this State who currently have no such rights. The amendment will ensure that everyone in the State will have third party appeal rights whenever there is a consent application. I cannot see that we can do less than this, as otherwise we may well be removing rights which the bulk of the population currently enjoys.

Many representations have been made to members of Parliament since this legislation was brought in. I think this was the matter which has concerned more people than any other in this legislation. I certainly have had more people contact me about their third party appeal rights than about any other matter within this legislation, and the concern on this is great indeed amongst many people. I am sure other members on both sides of the Chamber have had some concern expressed to them. In view of the uncertainty of leaving third party rights to regulations, I move the amendment to ensure that everyone in this State will have the third party appeal rights which some people now enjoy.

The Hon. J. C. BURDETT: I oppose the amendment. The Hon. Miss Levy says that the effect of her amendment is to give wide-open third-party rights to everyone in the State. I am not quite sure that the amendment does have that effect, because subclause (1) provides:

Notice of an application for a planning authorisation must be given in accordance with the regulations.

That might catch her up in the regulations, but that is her worry. The intention of the Government in the clause was to extend third-party rights to everyone in the State, whereas now they are confined to those in 31 council areas. These matters were canvassed at the second reading stage, and I do not intend to go into them in great detail. As I said in the second reading reply, it is not practicable in the Bill to spell out all the circumstances in which third-party rights should be granted, because there can be changes from time to time and there can be different circumstances in which those rights are appropriate. On the other hand, it is not, in my view, appropriate that everyone in the State should be given a complete, wide-open, blank cheque right to a third-party appeal, whether it is really appropriate or relevant or not. I therefore oppose the amendment.

The Hon. R. C. DeGARIS: This question of third-party appeal is a very difficult one. I agree that, where those third-party appeals presently exist, people enjoy in those areas a right that I think should be enjoyed by everybody. It concerns me to know that in the city of Adelaide no third-party appeals are permitted at all. I think that is something we need to examine. On the other hand, I agree with the Minister that the amendment before us does not seem to get at the question of granting third-party appeal rights. I would like from the Government some undertaking as to what the regulations will contain. While third-party appeal rights exist at the present time in 31 councils, it may well be the third-party appeal rights will be extended to everyone in South Australia with the exception of the

city of Adelaide. However, they may be confined more than those 31 councils are enjoying at present. I think that this is the essential point on which the Council should be informed.

I would like to know from the Government what it proposes in regard to the regulations, particularly if what the Minister has said is correct. The circumstances may change whereby third-party appeal rights need to be altered by regulation. However, we surely should have some basis in the Bill for what the Government proposes in regard to third-party appeal rights. If there is to be a restriction of third-party appeal rights on those councils that presently enjoy them, I assure the Committee that I will be most upset that those rights will be taken away without this Committee taking the necessary action to preserve a privilege that those people enjoy at present. I think that the Government should tell us exactly what it intends in regard to third-party appeals in these regulations.

The Hon. J. C. BURDETT: I am afraid that I cannot give the honourable member any information or assurance on that, because the regulations have not yet been drafted and, of course, cannot be drafted until the state of the Bill is known. I know that action has been taken to look at them, the draft being in progress in skeleton form, but I am unable to commit the Government, and I cannot give the honourable member any assurance as to the nature of the regulations.

The Hon. R. C. DeGARIS: Can the Minister give an undertaking that the third-party appeal rights at present enjoyed by 31 councils will not be diminished by the regulations?

The Hon. J. C. BURDETT: No. For the reasons I have mentioned, I cannot at this stage give any undertaking as to the content of the regulations.

The Hon. R. C. DeGARIS: That places me in a very difficult situation. What the Government is seeking is a clause which contains no right of third-party appeal other than what it may bring down in the future within regulations. Quite candidly, that is unacceptable to me, because already there are existing third-party appeal rights in 31 councils. The majority of people in the State are now enjoying the privilege of having third-party appeal rights and those rights may well be diminished. I want an undertaking from the Government that the regulations will not diminish the rights that presently exist to those 31 councils that enjoy that particular privilege. Unless that undertaking is given, I will be forced to vote for the amendment, but I am not too certain that it does what the Hon. Anne Levy thinks it does. I know what the honourable member proposes by her amendment, but I have some doubt whether the amendment does what she hopes.

The amendment leaves out subclause (1) and inserts a new subclause which provides that a notice of application for a planning authority must be given in accordance with the regulations. Subclause (1) *(a)* provides that, where notice of an application has been given under this clause, any person who desires to do so may, in accordance with the regulations, make representations to the surburban planning authority in relation to the granting or refusal of the application. That to me appears not to get us very much further along the line.

The Hon. ANNE LEVY: I am not a lawyer or one who drafts things in the legal language. As I understand the provision, it means that any person who desires to do so may make representations to the relevant planning authority. That gives complete rights to the third party to appeal in accordance with the regulations. The regulations cannot limit who can have the rights, but merely set out what forms are to be used, what times are relevant, whether the application is in triplicate, duplicate, or quadruplicate, and the details regarding the form of the appeal—not whether an appeal can be made or not. That is what I intended and that is what the Parliamentary draftsman tells me this amendment means. I hope he is correct.

The Hon. R. C. DeGARIS: I accept what the Hon. Anne Levy tells me. I would like to canvass another question with the Minister, since I believe there will be changes to circumstances in regard to third-party appeals. I would be happy to accept the position whereby third-party appeals were granted by legislation, but could be restricted by that legislation so that Parliament could see where the restriction was applying.

The Hon. J. C. Burdett: It can be restricted by regulation.

The Hon. R. C. DeGARIS: Or by legislation. That then makes sure that Parliament can see what is happening in regard to third-party appeals. What I am concerned about is that, if this provision grants a sort of State-wide third-party appeal, whereby anybody can appeal against anything, it is very dangerous.

The Hon. B. A. Chatterton: Costs would be awarded against them if the appeal were frivolous or vexatious.

The Hon. R. C. DeGARIS: I know. I pointed out that one of the things I would like to think through is the question of making that provision stronger. I do not think that the tribunal will make a determination if appeals are frivolous or vexatious. Although the Government may try to do something, I do not think that costs will be awarded on very many occasions. Nevertheless, I feel that, in the absence of an undertaking in regard to what the regulations will contain regarding third-party appeals, I am forced to support the amendment.

The Hon. K. L. MILNE: Much of this debate is irrelevant. What we are really saying is that it is an argument between those who want the protection for third-party appeals contained in the regulations and those who want it in the Act. I want it in the Act. If we are going to do that, I do not care what is put in the regulations; I want to see it in the Act. Therefore, I am in favour of the amendment. Some members say that it will broaden the position too much and there will be a situation in which any third party can appeal, so that dozens of people might frivolously appeal. I do not think that that is the case. To lodge an appeal one has to do a lot of work; there is a lot of preparation, procedure, and time to be spent and, in many cases, a lot of expense.

The Hon. R. C. DeGaris: Mr Howie likes it.

The Hon. K. L. MILNE: He is one in a million; he is unique. He enjoys it. He proves the point; one can use him as an example. I do not think that widening the provision in this way would cause any significant increase in the number of appeals, unless the third-party was justified in doing it. It gives more protection to people to have it in the Act itself and, as the Hon. Anne Levy has said, it is the provision about which there have been the most representations from all over the State—city, suburbs and country. The Government would be wise to accept this amendment or something very like it.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. ANNE LEVY: I move:

Page 32, line 1—To strike out subclause (9).

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 53 passed.

Clause 54—'Advertisements.'

The Hon. R. C. DeGARIS: I move:

Page 32—
Line 12—After 'advertisement' insert 'or advertising hoarding'.
Line 15—After 'advertisement' insert 'or advertising hoarding'.
Lines 16 to 19—Leave out all words in these lines and insert 'to remove or obliterate the advertisement or to remove the advertising hoarding (or both)'.
Page 33—
Line 3—After 'advertisement' insert 'or advertising hoarding'.

These drafting amendments deal with advertising hoarding, as well as advertisements. The clause deals with advertisements but should also deal with advertising hoarding.

The Hon. J. C. BURDETT: The Government accepts the amendments.

Amendments carried.

The Hon. ANNE LEVY: I move:

Page 33, line 5—To strike out 'three' and insert 'one'.

This division deals with advertisements. We have the situation where, from the time of the commencement of this Act, any advertisements which are on display but which will not be permitted can continue for three years. This seems excessive. It could be 12 months before the Bill is proclaimed, and to allow a further three years beyond that seems unnecessarily long. My amendment would, in effect, give up to two years notice that advertisements are to be moved. That should be adequate for any contracts to expire and for people to make other arrangements. I do not see why, when something has been controlled by legislation, there should be a long phasing-in period of up to four years.

The Hon. J. C. BURDETT: I oppose the amendment. These matters were canvassed in the second reading stage, and I emphasise them now. The Government considers that three years is an appropriate period. Often advertising contracts for such advertising are for three years. That appears to be an appropriate period, as it is in common with advertising practice.

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 (teller), K. L. Milne, and Barbara Wiese.

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

Pair—Aye—The Hon. C. J. Sumner. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 55 to 57 passed.

Clause 58—'Applications for mining tenements to be referred in certain cases to the Minister.'

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

Page 36—
Line 4—Leave out 'production'.
Line 17—Leave out 'production'.
Line 21—Leave out 'production'.

These amendments are consequential on the amendment moved to clause 4.

Amendments carried; clause as amended passed.

Clause 59 passed.

Clause 60—'Agreements relating to preservation or development of land.'

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

Page 38—
Line 7—Leave out 'development,'
After line 8—Insert subclause as follows:
(2a) An agreement under subsection (2) may provide for the carrying out of any form of development that is consistent with the preservation or conservation of the land to which the agreement relates.
Line 10—After 'is made' insert 'by agreement'.

This clause inserts new subclause (2a). It will ensure that councils will not act as developers themselves. The only type of development to be undertaken by councils must be consistent with the conservation or preservation of land.

The Hon. B. A. CHATTERTON: My question relates to the Government's expressed intention to repeal the Marginal Lands Act. The Government has promised to introduce appropriate controls over rural subdivisions. Does the Government consider that this Bill is adequate or will it be introducing further amendments after the Marginal Lands Act is repealed?

The Hon. J. C. BURDETT: This Bill will adequately deal with the situation after the Marginal Lands Act is repealed.

The Hon. B. A. CHATTERTON: I was hoping that the Minister would not say that. One of the important principles established under the Marginal Lands Act was the understanding that rural subdivisions were an important part of land use, particularly in marginal lands. If areas were subdivided, it placed greater pressure on farmers to use that land very intensively. That was an important reason why that land was being eroded and over-cropped. I do not believe that any land use control exists in this Bill. That was an established principle in the Marginal Lands Act. That provision was passed nearly half a century ago as an important protection for those fragile areas that have already been severely eroded. That was not the only principle on which protection for those areas was based, but it was an important principle, because as properties were subdivided they were farmed more intensively, causing more erosion. It is an important principle that should not be overlooked, simply because the land is not as badly affected as it was some years ago. It should be an important principle in this legislation.

The Hon. J. C. BURDETT: This is not the appropriate clause to deal with this matter, but I will deal with it now. The matters raised by the honourable member could be considered in relation to any development plan. I understand that the honourable member is concerned about land use where there is no development plan and no application needs to be made. The Government believes that this Bill adequately deals with situations that would arise following the repeal of the Marginal Lands Act. I assure the honourable member that the Government is quite prepared to look at the matter again and consider whether further powers are necessary before the Marginal Lands Act is repealed. The Government believes that this Bill is adequate, but the honourable member has raised some reasonable suggestions and we will certainly look at them.

The Hon. B. A. CHATTERTON: I am pleased that the Minister has given an assurance that the matter will be looked at again. It is a very specific problem which, as I said, was recognised half a century ago. Specific remedies are required within the legislation to ensure that the situation that occurred then does not arise again.

The Hon. R. C. DeGARIS: I am concerned about this amendment for several reasons. A moment ago the Minister made a plea on behalf of local government in relation to an amendment moved by the Hon. Miss Levy. However, we are now going to restrict the rights of local government. Indeed, we are going to reduce the powers of councils, with the exception of the city of Adelaide. The city of Adelaide will possess this power alone. The Minister and the city of Adelaide are capable of entering into an agreement, but no

other council in South Australia has that power. I do not know what the rationale behind this particular move is, but I have sufficient confidence in my own local council to undertake a development if it so desires. If members of the public do not want it, they will take action against it.

It is quite apparent to me that councils in this State are not prone to usurping ordinary business activity at the expense of local residents. Councils should be able to make agreements to develop and provide services not adequately catered for by the market. They should also be able to provide accommodation for aged persons and homeless students and to enter into agreements with developers for ongoing maintenance schemes in the community. As I understand it, the philosophy of the Government is to grant councils greater local autonomy and flexibility. The growth of local government can be sustained only by State Governments untying the apron strings. I believe that sufficient controls already exist. I do not agree with this restriction on the rights of local government to enter into developments in their local council areas and, therefore, I oppose the amendment.

The Hon. J. C. BURDETT: The amendment relates only to agreements under clause 60 of this Bill. Councils already have this power; it is not taken away by this amendment. They have this power under section 382d of the Local Government Act.

They have powers under that Act to enter into development. It was simply thought appropriate that, in regard to agreements made under clause 60, councils should not themselves be the developing authority and should confine their activities to the preservation or conservation of the area.

The Hon. R. C. DeGARIS: Can the Minister say why the Minister may enter into agreements and not the council? The Minister can already carry out the powers I have mentioned under other Acts. I cannot see any reason why a local council should be restricted. I think the Minister would agree that the city of Adelaide has this power. Are we to say that there are second-rate citizens, second-rate ratepayers, outside the city of Adelaide? I do not see why this restriction should be placed on councils in South Australia, and I still oppose the amendment.

The Hon. J. C. BURDETT: The Minister is responsible to Parliament. Councils could use unwisely the power to enter into agreements under clause 60. They already have some wide powers of development which the Government deems to be adequate.

Amendments carried; clause as amended passed.

Clauses 61 to 63 passed.

Clause 64—'Reservation of land for future acquisition.'

The Hon. R. C. DeGARIS: I move:

Page 40, line 35—Leave out 'reserved for future acquisition under this section' and insert 'affected by a reservation under this section'.

Page 41, lines 7 to 11—Leave out subclause (6) and insert:

(6) The owner of land reserved for future acquisition under this section may at any time require the relevant authority to proceed immediately with the acquisition of the land.

This clause deals with reservations for future acquisition, and there have been times when there has been great criticism in this Chamber, by members on the Liberal side anyway, of the effect of indications being given that a Government may want to acquire land at some time in future. In looking at the clause, I was concerned about a couple of things. One is subclause (6), and the other is the question of compensation for future acquisition when there may be a severance. I have satisfied myself, in regard to severance, that that is covered by subsection (7), but I am not totally satisfied with the procedures in subclause (6). The first part of my amendment is rather a drafting amendment, and the second part leaves out subclause (6) and inserts a new subclause (6).

I think that is a perfectly reasonable position. Where any intention is indicated that a piece of land is reserved for a certain purpose and that person wants to sell and get out, he should have the full protection of the courts regarding that acquisition, and should ask that development authority to acquire the land so that he can undertake a purchase elsewhere. This overcomes problems that have occurred in several acquisitions about which this Council was concerned over a long period.

The Hon. J. C. BURDETT: The Government does not accept the amendment. I understand the concerns of the Hon. Mr DeGaris, and they have been often expressed by various members in this Chamber. Subclause (6) merely provides that, if the commission refuses its consent to the development of land reserved for future acquisition, or if the owner, after making all reasonable attempts to sell the land, is unable to do so, the owner may require the relevant authority to proceed immediately with the acquisition of the land. That seems reasonable, and subclause (7) sets out the procedures for compensation. I do not think it is necessary at this stage to go further than subclause (6) provides. That seems to be a reasonable proposition and I oppose the amendment.

The Hon. N. K. FOSTER: I refer to subclause (7) *(a)*, which provides that compensation shall be determined having regard to the value that the land would have had if it had not been reserved. We are talking about acquisition in that sense. I put a case to the Minister. There may be two owners of land in equal lots of, say, 40 acres. One is zoned by the local council for residential development (they are adjoining market garden properties, both with the same land use), and the other is to be earmarked by the council for recreational purposes. Does the Bill provide for the same value to be paid to the owners of both equal lots of land? There have been many cases where a person has been fortunate enough, if the local council has declared a 40-acre area of land for residential purposes, to be paid more than $100 000 for that property, whereas the owner of the adjoining land, earmarked by the local council for reserve purposes, has received only $30 000 or $32 000, even after the matter has been through the courts.

The Hon. J. C. BURDETT: The clause provides only—

The Hon. N. K. Foster: I am asking whether that is likely to arise.

The Hon. J. C. BURDETT: If the honourable member wants to listen to the answer he had better do so. The clause applies only to cases where the land has been reserved for future acquisition. If the two lots referred to are reserved for future acquisition, the value will be as though they had not been so reserved. Therefore, the answer to the question is that the same value will apply to the two lots, because it does not matter what they are reserved for; we ignore the fact that they have been reserved. That is the point of the subclause. This clause is removing the doubts and the difficulties that the Hon. Mr Foster has expressed. It is saying that, if both pieces of land are reserved for future acquisition, in certain circumstances as set out in the clause they can be acquired, and the value is as though they had not been reserved at all—in other words, their ordinary market value, quite apart from the question of reservation.

The Hon. N. K. FOSTER: The land is acquired. If it is not needed for a singular purpose and if there is a deviation of the future use I have already stated, is there any right on the owner to expect further payment for his land, at least within a given period, because there has been a change of mind on the part of the authority? One section remains clearly one for development purposes and housing and the

other is for recreational purposes. Whoever the owner is, if he flogs one for $100 000, the other person may still get only $30 000.

The Hon. J. C. Burdett: No, once the land is acquired it is paid for by the acquiring authority and that is that.

The Hon. N. K. FOSTER: I would like to know what happens where the acquiring authority no longer considers that it wants the land and seeks to sell it on the market. This happens all to frequently.

The Hon. J. C. Burdett: I have given the answer. Once the land is acquired by the acquiring authority and paid for, that is the end of it. There is no further adjustment.

The Hon. N. K. FOSTER: Are you prepared to give an assurance to the Chamber that you will not wrongfully acquire land to pay for one to the detriment of others? We have a Bill coming into this Chamber to protect the people that paid for your election.

The Hon. J. C. Burdett: There are a number of acquiring authorities. What they might do I do not know. Obviously this Government does not act on that.

The Hon. N. K. FOSTER: Would the Minister care to state to the Chamber that he would consider the practices I have mentioned, which are real? I could name the properties if I wanted to; they are on Womma Road adjacent to Elizabeth. Exactly the same thing occurred; there were those types of acquisitions and differential payments to different owners on the basis of what the land was going to be used for when it was acquired. This is wrong and is outside of the purport of the whole of this Bill.

The Hon. J. C. BURDETT: I do not think that is relevant to clause 64. Clause 64 clearly sets out the principles. If the commission decides to reserve land for future acquisition, there are procedures for the acquisition. Compensation is determined, subject to the clause, as if the land had not been reserved; in other words, subject to what I have said, in paying the compensation you forget about the purpose for which the reservation is made. That may answer the honourable member's question. I cannot give any further assurance.

The Hon. R. C. DeGARIS: I ask the Government to reconsider its opposition to my amendment on the basis of what I might term reasonable justice. I have been involved in fighting within this Chamber on a number of occasions, against stupid actions in regard to the acquisition of land. I am not talking about any particular Government, because there have been different Governments at different times. I have seen things happen which should not have happened. Things have happened where people did not have the right of access to the Land and Valuation Court for reasonable compensation for their land when it had been acquired, where a reservation had been placed on the land and the people had to move and then the only ready market for the land was the Government; that is not fair to anyone concerned. All my amendment does is provide that, where the Government or an authority places a reservation on land for a future purpose, and a person wants to sell, the person should have access to the court for determination of a price. The authority should negotiate in that particular way. Subclause (6) provides:

> If the commission refuses its consent to the development of land reserved for future acquisition under this section, or if the owner, after making all reasonable attempts to sell the land is unable to do so . . .

It does not say that the owner cannot sell his land at a reasonable price. It says, 'to sell the land is unable to do so.' It is quite clear that a person can sell his land but not at a reasonable price.

The Hon. N. K. Foster: Sometimes it is unsaleable as a result of development or road making.

The Hon. R. C. DeGARIS: Exactly. All my amendment seeks is that, where a reservation has been placed for future acquisition and the person wants to get out, the person should be able to go to that authority and say, 'Look, I want to sell and get out; you continue with the acquisition.' If this happens it is a perfectly fair and just position where he has the protection of the courts in that particular acquisition. I ask the Committee to support the amendment.

Amendments negatived; clause passed.

Clauses 65 to 73 passed.

Clause 9—'Establishment of the Commission.'

The Hon. R. C. DeGARIS: I move:

Page 9—

Line 10—Leave out 'or is required' and insert 'is required'.

Line 11—After 'court' insert 'or has a discretion in relation to the granting of a planning authorization'.

Throughout the Bill the commission has a number of strong procedures. In subclause (3) it provides that in the exercise and discharge of its powers, functions or duties the commission shall be subject to the control and direction of the Minister, but there is an exception included in that subclause in brackets which provides that this is so except where the commission makes or is required to make a recommendation or report, or is required to give effect to an order or direction of the tribunal or a court.

That clause may well mean that the Minister cannot direct the commission in regard to making a planning authorisation. We should make the clause quite clear and provide that the Minister cannot control or direct the commission in relation to the question of making or obtaining authorisation. The clause may mean that now. Nevertheless, it should be made clear that the Minister does not have that power or direction over the commission.

Amendments carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

REAL PROPERTY ACT AMENDMENT BILL

(Second reading debate adjourned on 2 December. Page 2204.)

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

SOUTH AUSTRALIAN COLLEGE OF ADVANCED EDUCATION BILL

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

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

That this Bill be now read a second time.

In view of the late hour, I seek leave to have the second reading explanation and the explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill will complete the amalgamation of the Adelaide College of the Arts and Education, the Hartley College of Advanced Education, the Salisbury College of Advanced Education and the Sturt College of Advanced Education to form the South Australian College of Advanced Education. This merger is the result of policy adopted by the Govern-

ment in November 1980 following a report of the Tertiary Education Authority of South Australia which dealt, *inter alia*, with the consequences of a prospective decline in teacher education numbers.

Granted this decline, a multi-campus proposal offers at the very least staffing flexibility for, while it will not increase the absolute level of natural attrition, it will consolidate the number of positions falling vacant each year. Moreover, because the resources of the total college are larger and more diverse than its constituent parts, there will be more scope for maintaining the level of teaching service without replacing all losses with new appointments.

But this flexibility in staff matters is by no means the only advantage of the proposed amalgamation; it will lead, in turn, to an ability to cope with the vagaries of supply and demand in the specific field of teacher education and more generally to respond with greater ease to other emerging needs. It is proposed, for example, that pre-service teacher education enrolments will have decreased from about 6 000 in 1978 to less than 3 500 in 1984. As a consequence, the college will be able to expand in other fields of community need, such as health, art, design, business, community languages and in particular areas of concern related to teacher education, such as early childhood and family studies. The new college will thus be a diverse, flexible and significant institution within the Australia-wide context. Furthermore, it will be geographically well balanced to serve the needs of the metropolitan area and through its external studies programmes (already well established) the State.

Given, therefore, the pressure on the four colleges to effect a major transfer of resources from teacher education by 1984, the Government acted promptly to establish a committee to recommend on the procedures appropriate to the amalgamation—a decision which was well justified in view of the subsequent statement by the Prime Minister in April of this year concerning the review of Commonwealth functions. In South Australia planning was already well advanced; the office of the principal-designate for the new institution had, for some time, been working towards a detailed management plan. The present Bill will allow the college to be established by the beginning of 1982, implementing thereby the decisions taken thus far.

Clauses 1 and 2 are formal. It is the intention of the Government to proclaim the Act in the new year. The interpretation clause provides the usual range of definitions on matters relating to the identification of the college. Clause 4 establishes the college as a self-governing body resulting from the merger of the four constituent institutions. It also, however, indicates a limitation in terms of its ability to dispose of property. Clause 5 sets out the functions of the college and establishes its commitments in the area of advanced education, as approved by the Tertiary Education Authority of South Australia, and in the provision of consultative and research services and of refresher courses for the benefit of the community. In performing the first of these functions the college, as indicated in clause 6, may award degrees, diplomas or other accredited awards.

Clause 7 makes provision for the establishment of the college council. There will be equal representation of academic staff, general staff and students on the council. In the first instance, provision has been made to ensure that elected membership is drawn widely from the constituent colleges. Since the new college will have a diversity of interests, it is not proposed to prescribe the categorisation of members appointed by the Governor. Further, because it will be possible from the large number of such appointees to choose persons with a broad range of skills and expertise of value to the college, no provision is made for the council to co-opt additional members from outside the college. Subclause (4) defines the initial electorates for student and staff representation on the council.

Clause 9 defines the terms of appointment of members of the council and the means by which they may resign. Although the normal term of office will be for two years, some of the initial appointments to council will be for one year only, with the right of reappointment. The intention of introducing staggered appointments is to ensure some continuity of experienced membership, while at the same time allowing for a regular turnover of council.

Clauses 10 and 11 are normal provisions for the conduct of council's business and include a precise definition of a quorum. Clause 12 sets out the specific powers of the council. Clause 13 requires collaboration with other appropriate authorities and in subclause (2) provides for particular involvement of the Minister with a view to ensuring the public interest. This latter provision extends a power in all constituent college Acts presently referring to the admission of students to courses for the training of teachers. The extension is related to the new college's substantial interest in fields outside teacher education. Clause 14 gives the council authority to determine the internal organisation of the college and subclause (2) perpetuates the designation of one of the schools or divisions within the college as the de Lissa Institute of Early Childhood and Family Studies.

Clause 15 provides for the position of principal as the chief executive and for the appointment of the first principal. The interests of staff transferring from the constituent colleges of the new institution are protected under clause 16. It is proposed that staff within the present colleges transfer automatically to the new college as from the date of proclamation of the Act. Subclauses (2) and (3) protect existing salary and accrued leave entitlements whilst subclause (5) entitles staff to continue as contributors to any superannuation scheme already approved. More specifically, under subclause (6) staff may remain or become contributors to the South Australian Superannuation Fund.

Clause 17 makes possible the encouragement of an active student life within the college while at the same time not making membership of any student association or council compulsory. With regard to this second matter, the Bill varies from present provisions to bring the Act into line with the Government's policy on the membership and funding of student organisations.

The Government believes that funds derived from student sources for the provision of amenities and services should not be used for socio-political activities. The council of the college will, of course, be able to fix fees for provision of such amenities and services under subclause 12 *(c)*.

Clause 19 gives the council authority to make Statutes governing the detailed operations of the college. Members will note that any such Statutes will be subject to disallowance by either House of Parliament. Similarly, the by-laws, provision for which is made in clause 20, will be subject to disallowance in the usual way. In each case, provision is made for promulgation by the Government in the first instance. Clause 21 attests the validity of Statutes and by-laws.

Clause 22 requires the college to report to Parliament annually, while clause 23 requires the keeping of accounts audited by the Auditor-General. Clauses 24 and 25 relate to the funding of the college and its borrowing rights. Clause 26 specifies the college's exemption from certain charges. Clause 27 makes the powers conferred on the college subject to the powers of the Tertiary Education Authority of South Australia. Clause 28 refers to legislation which will need to be repealed or amended consequent upon this Bill.

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

VALUATION OF LAND ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

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

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

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation and the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

As honourable members know, the present Governor, Sir Keith Seaman, proposes to retire on 29 March 1982, and it is expected that his successor will be sworn in on 23 April 1982. Sir Keith will then have completed more than 4½ years of his five-year term and will not have taken the customary six month's furlough. It is not intended that Sir Keith should suffer any financial detriment by reason of his early retirement. The present Bill therefore makes it possible for a Governor who retires after completing nine-tenths or more of his term of office to receive salary on the basis that he has completed his term. Periods of furlough will not be counted for the purposes of this new provision. Thus it will provide a means by which a retiring Governor may be paid salary in lieu of furlough.

Clause 1 is formal. Clause 2 provides that, where a Governor retires after completing nine-tenths or more of the term for which he was appointed, his entitlement to salary shall be determined as if he had completed his term. For the purposes of the new provision periods of furlough (that is, extended recreation leave) shall not be counted as part of the Governor's period of service.

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

INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation and the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It proposes a revision of the method by which financial assistance is made to industry. Considerable attention has been given in the past two years to the needs of developing industries and the problems encountered in attaining sound financial structuring.

The South Australian Development Corporation, formerly known as the Industries Assistance Corporation, was established by amendment to the Industries Development Act in 1971. Its major role was the provision of loans to industry but it could also recommend the making of grants and the purchase of equity. In recent years former Governments requested the corporation to handle a number of difficult and politically sensitive financial assignments. The board accepted these additional responsibilities, even though the possibility of success was remote, in the understanding that this was in the public interest. As a result large amounts of Government money have been loaned and invested but significant sums subsequently have been classed as irrecoverable.

A committee, comprised of officers from the Department of Trade and Industry and from my own department, has examined the types of assistance possible for the development of industry with a view to determining the most effective way of providing finance. The committee considers that the provision of Government guarantees for loans from the private banking sector is the most efficient and commercially prudent method of providing support and reinforces the relationship between the proprietor of a company and his banker. This type of financial assistance comes within the existing scope of the Industries Development Committee.

The Minister of Industrial Affairs has recently announced substantial boosts in lending to small business through funds made available by the State Bank and the Savings Bank of South Australia. The banks had agreed to set aside up to $5 000 000 for small business and tourism ventures and this money would be in addition to funds the banks would normally lend to these sections of business.

This initiative is designed to overcome the disincentives for banks to lend to small business occasioned by the interest rate ceiling. The Government realises the need for venture finance with flexibility of repayment terms for so-called 'seed bid' industry and a number of proposals were being examined to encourage small companies with special technology to expand rapidly commercial development.

The S.A.D.C has been providing assistance by way of loans and guarantees for loans. This assistance will still be available through either the State Bank and S.B.S.A., as outlined above, for loans and through the Department of Trade and Industry for guarantees upon approval of the Industries Development Committee. The effect of this Bill is therefore to terminate the life of the South Australian Development Corporation. Some of the powers held by the corporation have been retained for the Industries Development Committee for use in exceptional circumstances. My Government would wish to place on record its appreciation of the work done by members of the board of the corporation who have worked hard on many projects, some of which have been difficult and unrewarding. In particular, the board has had considerable success in reducing the very heavy financial losses of the South Australian Frozen Foods Operations Pty Ltd.

The involvement by a previous Government of the board of the South Australian Development Corporation in the hazardous problems of Riverland Fruit Products Co-operative Ltd has, however, been an unhappy episode and it is not my Government's philosophy that it should become enmeshed in the affairs of the manufacturing sector in such a complicated manner. The problems of the fruit canning industry will not easily be laid to rest.

The staff of the South Australian Development Corporation will be transferred to the Department of Trade and Industry where they will be engaged in new initiatives for assisting industry.

Clauses 1 and 2 are formal. Clauses 3, 4, 6 and 7 make amendments to the principal Act that are consequential

upon the abolition of the South Australian Development Corporation.

Clause 5 repeals the provisions of the principal Act under which the South Australian Development Corporation is established. New section 16a invests the Treasurer with certain functions formerly exercisable by the corporation. Under this new provision the Treasurer may, on the recommendation of the Industries Development Committee—

(a) make loans for the purpose of assisting in the establishment or development of industry within the State;

(b) acquire land and equipment and make it available for use in industry; and

(c) make non-repayable monetary grants for the purpose of assisting in the establishment or development of industry in the State.

Clause 8 vests all property rights, powers and liabilities of the South Australian Development Corporation in the Crown. The property that vests in the Crown under this clause is to be administered by a Minister nominated by the Governor and that Minister is empowered to exercise the rights and powers that vest in the Crown under this clause.

The Hon. N. K. FOSTER secured the adjournment of the debate.

MOTOR FUEL DISTRIBUTION ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation and the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This small but important Bill amends the definition of 'industrial pump' in section 53 of the principal Act by increasing the capacity of the tank to which a pump must be connected to constitute an industrial pump. The capacity is increased from 1 800 litres to 2 001 litres.

To facilitate the effective operation of the Act, it was necessary to curtail the proliferation of industrial pumps. Restrictions, therefore, were placed upon the installation of these pumps where their capacity was greater than 1 800 litres, by requiring the approval of the board for installation. Pumps of a capacity of less than 1 800 litres were exempt from the operation of the Act.

In recent months, a perusal of the applications made to the board has revealed that the 1 800-litre capacity figure is an unsatisfactory one. This figure was apparently a direct conversion from the old 400-gallon measure (the usual small tank size of pre-metric days). However, since the introduction of metrication, the standard metric capacity utilised in the production of the equivalent tank has been 2 000 litres. This anomaly has led to obvious problems for those persons wishing to install the small capacity tanks, which it must be remembered, were never intended to come within the ambit of the Act.

The board has no discretionary power when determining applications for approval to exempt those caught in this situation.

Even if it were to be vested with such power, the subsequent proliferation of applications would seem an unnecessary burden on the Motor Fuel Licensing Board's time and resources.

In these circumstances, it has been decided that the most sensible solution is to increase the tank capacity below which pumps are exempted from the operation of the provisions of the Act.

Clause 1 is formal. Clause 2 increases the minimum capacity of a bulk tank connected to an industrial pump from 1 800 litres to 2 001 litres.

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

IRRIGATION ACT AMENDMENT BILL (No. 3)

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

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

That this Bill be now read a second time.

Mr President, I seek leave to have the report and detailed explanation of the clauses inserted in *Hansard* without my reading them.

Leave granted.

Explanation of Bill

The principal objects of this Bill are twofold; first, to permit the freeholding of Crown tenures over land within irrigation areas and, secondly, to exempt holders of perpetual leases, agreements to purchase and land grants, where appropriate, within those areas from the requirement to obtain the Minister of Lands consent to transfer, mortgage or otherwise deal with their interest in the land.

These proposals are consistent with the Government's land tenure policies under which it has clearly indicated that freehold (fee simple) is the most desirable form of tenure. The intention to give holders of permanent Crown tenures the freedom to deal with their interest in the land without the consent of the lessor is consistent with the Government's deregulation programme.

At present, the provisions of the Irrigation Act restrict the sale of land for cash or on terms through an agreement to purchase to town lands only. Fee simple title is available under all other land tenure Statutes covering all areas of the State except those lands subject to the provisions of the Marginal Lands Act and the Pastoral Act which are currently under review. It is now appropriate to allow land in irrigation areas to pass into private ownership, as the basic reasons for the Crown to retain the fee simple in those areas no longer apply.

The proposed amendment will enable the present freeholding policy which applies to other forms of perpetual leases to be extended to all perpetual leases in irrigation areas, including leases granted under the Discharged Soldiers Settlement Act and the War Service Land Settlement Agreement Act. Although the Bill provides for the freeholding of war service leases, certain administrative aspects involving the Commonwealth remain to be finalised.

Land tenure legislation relating to limitations on the maximum area which could be held by any person was repealed in 1971. It is generally accepted in the market place that there is little difference between the interest of a perpetual lessee and that of a freehold proprietor, particularly in other areas of the State. Consequently, the requirement for the lessee to obtain consent to deal with his interest no longer serves any useful purpose. The Bill relieves lessees, etc., in irrigation areas from complying with that condition. It is proposed to also amend other land

tenure Acts to free all holders of perpetual leases from this requirement.

There are numerous parcels of land throughout irrigation areas on which various irrigation and drainage headworks are located. These are licensed to the Minister of Water Resources but many of them are used to gain access to leasehold properties. This arrangement is unsatisfactory and, in order to assist in resolving the problem, it is proposed to grant easement titles where required, and then add the land, subject to those easements, to the adjoining perpetual leases as a prerequisite to freeholding. Currently the Act precludes the granting of easements over Crown lands and the Bill corrects this deficiency.

The administration of those sections of the Act which relate to the irrigation and drainage functions and related charges have been delegated by the Minister of Lands to the Minister of Water Resources. Under the provisions of the Act, the latter Minister can exercise various rights over leasehold land, but as freehold tenure over broad-acre areas has not previously been available, those provisions do not contemplate the need to exercise the same rights over lands held under fee simple title. In order to ensure the continued efficient operation of the water supply and drainage systems, and the recovery of charges, it is essential that all existing rights be maintained over all land in irrigation areas irrespective of tenure. The Bill gives the Minister of Water Resources that authority.

The current rehabilitation programme has been generally designed on the basis that each property has a metered irrigation connection and one drainage outlet. It is essential that fragmented or haphazard subdivision of irrigated lands be controlled in order that the efficiency of the system can be maintained irrespective of tenure. For the purpose of ensuring continuity of irrigation water and drainage services where partition of a holding could occur, it may be necessary to issue conditional land grants if it is not practical to consolidate holdings into one land parcel by administrative action. Furthermore, some perpetual leases may be subject to other special conditions which may need to be carried forward on to land grants. The Bill makes provision for the Governor to include special conditions in fee simple titles.

Clause 1 is formal. Clause 2 provides for the commencement of the Act upon proclamation. Clause 3 is a consequential amendment to the arrangement of the Act. Clause 4 inserts a definition of owner that includes a reference to a person who is purchasing lands in an irrigation area under an agreement to purchase. Clause 5 repeals the section of the Act that presently entitles lessees of town allotments in irrigation areas to surrender their leases for a land grant. This section will be covered by a later section to be inserted.

Clause 6 provides for the granting of easements by the Governor over certain lands within irrigation areas—a power that he does not currently have. The present system is for lessees or purchasers to surrender the necessary rights to the Crown so as to enable bodies such as the Engineering and Water Supply Department to carry out works. It is desirable that, before applications for freeholding are approved, such easements should be registered so that land grants issued will be subject to those registered interests.

Clause 7 provides that any lessee or licensee of lands within irrigation areas may apply to the Minister for the freehold of the lands comprised in his lease or licence. This section applies to leases and licences under the Irrigation Act, the Discharged Soldiers Settlement Act and the War Service Land Settlement Agreement Act. The Minister will determine the purchase price for the lands, and must give the applicant full details of all the various terms and conditions upon which the application is granted. It is made clear that land grants issued pursuant to this section may be subject to conditions and reservations determined by the Minister. Conditions and reservations attached to land grants will be carried over to subsequent certificates of title, if still current. New section 48d attracts certain enforcement provisions of the Crown Lands Act in relation to breaches of agreements to purchase or conditions attached to land grants. New section 48e provides that lessees, purchasers and owners of land within irrigation areas no longer have to seek the consent of the Minister to any dealings with their land (unless, of course, the Minister stands in the position of mortgagee in any particular case). Again, this section applies in relation to leases, etc., under the Irrigation Act, the Discharged Soldiers Settlement Act and the War Service Land Settlement Agreement Act.

Clauses 8 to 23 (inclusive) effect consequential amendments that apply to those provisions of the Act to deal with such matters as rating, maintenance of drains, etc., to persons who obtain the freehold of their leases in irrigation areas. Clauses 24 and 25 effect consequential amendments to the form of leases as set out in the schedules to the Act.

The Hon. B. A. CHATTERTON secured the adjournment of the debate.

DISCHARGED SOLDIERS SETTLEMENT ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is consequential upon the Irrigation Act Amendment Bill that I have just introduced. It is necessary to provide that all applications for the freeholding of leases in irrigation areas be dealt with in the manner proposed by the Irrigation Act Amendment Bill, no matter which Act the leases were originally granted under.

Clause 1 is formal. Clause 2 provides for the commencement of the Act upon proclamation. Clause 3 excludes irrigation leases from the section that deals with the surrender of leases for agreements to purchase. Clause 4 excludes irrigation leases from the section that deals with the surrender of leases for land grants. Clause 5 repeals the section that requires a lessee to obtain the consent of the Minister before transferring, subletting or mortgaging his lease.

The Hon. B. A. CHATTERTON secured the adjournment of the debate.

LICENSING ACT AMENDMENT BILL

Returned from the House of Assembly with an amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

The Hon. C. M. HILL (Minister of Local Government) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received and read.

Bill recommitted.

Clause 1 passed.

Clause 2—'Discharge of trusts affecting the Glenelg amusement park and validation of transactions entered into by the Council in relation to the park.'

The Hon. C. M. HILL: This Bill was referred to a Select Committee by the Council. The Select Committee has reported to the Council today and its report has been tabled. The committee has recommended that the Council pass the Bill. The Select Committee reprimands the Glenelg council for not taking the care and caution which the committee thought it ought to take in its deliberations on the general question of granting a lease to developers at Glenelg so that a major amusement park could be erected. The committee also requested the Minister of Local Government to investigate the issue after the Bill has been passed. As Chairman of the Select Committee I indicated that as Minister of Local Government I would adhere to the committee's request and conduct an investigation. A report on that investigation will be brought back to Parliament.

I thank members of the Select Committee for the manner in which they conscientiously applied themselves to their task. The committee met on eight occasions and considered the evidence put before it. The committee seriously considered the whole issue as to whether it would recommend that the Bill be passed or not. In the final consideration and in view of the fact that work has not only commenced but is partly completed and in view of the fact that the unemployment problem in Glenelg could be improved through the continuation of this work and the establishment of this particular park and in view of all the other considerations that arose, the committee found that not only should the Bill pass but that the Glenelg council should be informed in the strongest terms that the committee believed that there was a need for more prudence in its consideration of this whole question, particularly the way in which the documentary aspects of the transaction have been considered and the ultimate arrangements by which the council agreed that the developer could occupy the site.

The Hon. J. R. Cornwall interjecting:

The Hon. C. M. HILL: The inquiry requested is an inquiry under section 295 of the Local Government Act.

The Hon. J. R. Cornwall: Not a public inquiry?

The Hon. C. M. HILL: It is public in that its findings will be made public when it is brought into this Chamber. That is why we will include a considerable amount of detail, and I think it does satisfy any query that any honourable member might have that the whole inquiry should be public. Again, I commend the committee on the manner in which it applied itself to the task, and I recommend that the Council pass the Bill in accordance with the committee's findings.

The Hon. N. K. FOSTER: I find the Minister's attitude, since his Party has regained office, quite in contrast to what he used to say when he was on the other side. A case has been made out in this report, not in the language that I would have liked to read, but I do not intend to criticise the committee, genteel as it might have been in its approach to this matter. Here we have a council with the Mayor, the Town Clerk, and the Deputy Town Clerk, and Mr Gardner, solicitor for the council. These people tendered evidence and were heard by the committee, and yet paragraph 5 of the report states that the committee 'express its concern'. The committee should have expressed its utmost condemnation of the manner in which the City of Glenelg permitted development on a site effected by the trust, although it had knowledge that the title of the land was encumbered. That would be an unlawful act for any other citizen of this State. It is one of the worst types of white collar crime by a body of elected members that I have seen since I have been in this place. MacMahons had their eyes open. They were the contracting people in this respect, and the period was not months, as the Minister has said. They were at it for over a year. The Minister quietly whispered to the council that there should be some sort of inquiry. There should have been a Royal Commission, and the Minister should stop winking, because this is crook.

The Hon. C. M. Hill: I had something in my eye.

The Hon. N. K. FOSTER: Fancy telegraphing messages across the Chamber in such a manner to members of the committee! That was an attempt to hide his attitude from the Chairman, and that is a disgrace. The council's assumptions are at least in bad taste and irresponsible, and this displays an arrogance towards ratepayers that I consider false and disgracefully mischievous. They support what is an unlawful action. There can be no excuse for the worn-out cliches used by the developers, such as, 'We acted in good faith.' Yes—$1 000 000 worth of good faith! What councillor stood to make personal gain on this? Is that a wrong question? It could be said that there must be a burden of proof. That is correct, and I agree. The report states that the matter was adequately and properly advertised in the *Advertiser,* the *News,* and the *Glenelg Guardian.* The Minister should make a statement by way of a press statement to the same newspapers, condemning the council, and insisting that the newspapers correctly report such scurrilous actions on the part of the council, no doubt encouraged by MacMahons, who are no small developers. People have used such phrases as, 'We did it in good faith', to defend their ill conceived plans on such scurrilous assumptions, and now we have a *fait accompli* and Parliament has to cop it. That is what is said. It would be remiss of me even at this late hour not to say this, even though we have not got the brains not to be here at this hour.

The Hon. C. M. Hill: Why don't you let the committee members speak?

The Hon. N. K. FOSTER: I sat here silently for 10 minutes—

The Hon. C. M. Hill: You jumped up before they could.

The Hon. N. K. FOSTER: There are the quick and the dead in this game. The Minister has driven a cheap and vicious wedge between me and my colleagues. They will support what I am saying: there should be a Royal Commission. The Minister should say what he used to say to Geoff Virgo: sack the Meadows council; inquire into Port Adelaide; what is Roy Marten doing?

The Hon. M. B. Dawkins interjecting:

The Hon. N. K. FOSTER: What about the Munno Para council, and the gentleman who just interjected? He rode around with the Minister last year telling him about the Munno Para council. The Minister should carry out his responsibility within the power conferred upon him to wind up this council, to declare all positions vacant, and to order a new election, with all ratepayers being properly advised of the scurrilous action of the council, and particularly of the clerks I have named. They must be in it somewhere. I cannot say whether there were any members of council in it, and I would be pleased to hear whether any members of the committee have views on that. What was the Minister's cut out of the $1 000 000?

The Hon. D. H. Laidlaw: We have got more Bills to debate.

The Hon. N. K. FOSTER: Of course we have, but these poor ratepayers are paying 10 per cent or 15 per cent—

The CHAIRMAN: Order! I ask the Hon. Mr Foster—

The Hon. N. K. FOSTER: I do not have to write to the Editor of the local rag to get some publicity. It is the Minister's responsibility, and he should do it: sack them.

The Hon. M. B. DAWKINS: I support the remarks of the Minister.

The Hon. N. K. Foster: What about mine?

The Hon. M. B. DAWKINS: The word the honourable member used was 'scurrilous', and the most scurrilous thing he said tonight was to suggest that the Minister got a cut.

The Hon N. K. Foster: I never did.

The Hon. M. B. DAWKINS: You did.

The CHAIRMAN: Order!

The Hon. C. M. Hill: Don't say you didn't say it; of course you said it.

The Hon. N. K. Foster: I did not.

The CHAIRMAN: Order!

The Hon. C. M. Hill: Look at *Hansard* tomorrow.

The Hon. N. K. FOSTER: On a point of order, Mr Chairman, I asked what was the Minister's cut; I did not say that he got one.

The Hon. M. B. DAWKINS: The honourable member implied it. If we are to use the word 'scurrilous', that is the most scurrilous thing said here tonight. I support the comments of the Minister, and I also castigate the Glenelg council for what it has done. It would be far too kind to use the word 'careless'; they certainly were incompetent, and I believe some of them were ignorant—perhaps the staff rather than the council. I do not know, but it is incumbent on the council to know what it is doing. The actions of the council deserve the utmost criticism, particularly in view of the fact that section 481 of the Local Government Act, under which it did have some power, expired no less than eight years ago. It still continued to endeavour to exercise powers that were completely illegal.

It is a very great criticism of the council that it should try to lease the area concerned as it has done. Quite apart from the development by MacMahon, several leaseholders in that area (their solicitors like to call them permit holders but I believe they are leaseholders) are in a very untenable position at the moment. It is because of those people and because there would be some unemployment with regard to the cessation of the MacMahon project that the committee decided that the Bill should be passed.

I agree completely with the comment in paragraph 6 of the report, that the committee objects most strongly to the Glenelg council's allowing construction to take place on the presumption that Parliament would validate its actions. With the exception of the extravagant language used by the Hon. Mr Foster, as, of course, is typical of him, I agree with what he had to say with regard to the council's presumption. It is completely wrong for the council to presume that this Parliament will straighten out the mess into which it got itself. It is only because of the problems that exist for the people in the area that the committee has decided that the Bill should be passed.

I agree entirely with the suggestion made by the committee that there should be an investigation into the actions of the city of Glenelg and the way in which it conducts its affairs. I believe that the situation into which it got itself and out of which it expected us to bail it is culpable.

The Hon. N. K. Foster: Scurrilous is the word.

The Hon. M. B. DAWKINS: Scurrilous was the word used by the honourable member, and in one particular case I thought that was absolutely scurrilous. I support the Minister's comments, the action of the committee, and the report which has been brought before the Council tonight.

The Hon. C. W. CREEDON: I support the Select Committee's report, and the remarks that have been made. In recent times, I have had the opportunity of serving on a number of Select Committees dealing with local government matters, and I have been critical of some of the attitudes that have been evident. Generally, local government is doing its best to meet the needs of the community. However, this matter is different; it is a flagrant flouting of the law and it causes one serious doubt whether one could place much trust in this council.

There is no doubt that the Glenelg council was fully aware of its legal limitations, yet apparently, without hesitation, it gave building and planning approval to MacMahon Constructions to build on land that was encumbered. I should say that, in giving the approval to MacMahon Constructions, it was to the value of almost $1 000 000 and there was also approval to other lease holders in recent times for construction of buildings on this site, one of the present holders to the tune of $90 000.

Council consent certainly gave the developers the go-ahead. The question is whether or not the council took this attitude because it wanted this development, while perhaps many of its ratepayers did not. Did the council think that, if it encouraged MacMahons to get on with it, it would then have a lever with which to prod the Government, rather than allow the council to place itself in a position in which it could be sued for huge sums? Did it hope that the Government would agree, as it has in this case, to remove any restrictions? There is no doubt that many councils are looking for ways to escape certain restrictions, and we can be grateful that most councils consist of honest people who do not stoop to unethical practice.

The Select Committee requested that the Minister examine the activity of this council. The Minister indicated tonight that he will certainly do that and will bring back a report to Parliament at some future date. Over the years, there have been investigations of a few councils, and I believe that in local government circles this is considered to be a very serious action. In this case, I wonder whether this is strong enough action. Maybe the council should be dismissed and an administrator appointed so that its activities could be highlighted and any problems it has pinpointed so that the electors in the Glenelg district may take positive steps in electing a new council. I have been a supporter of local government for a long time and have always sought to defend it, but on this occasion I find it very hard to defend an action that I can only describe at best as impudent, and at worst as deceitful.

The Hon. G. L. BRUCE: I support the report and the Bill. In doing so I draw the attention of the Chamber to some of the things that came to our attention. When the Bill came across to the Parliament it was dull, had no life, and looked as though there was nothing in it. Once we got into the Select Committee stage and discussed the matter it came to light that there had been bad faith, if you like, on the part of the Glenelg council. I do not know how its action can be condoned in any light. It showed complete contempt for Parliament, in knowing that this Bill had to be introduced in Parliament and passed. There was nothing firm in writing—for a large developer to construct an amusement centre. This showed complete disregard for that developer to the extent that he was aware that he had no legal rights or title to be there, but had a verbal assurance that 'she would be right mate'. I resent that; it put the project so far up the pipeline that, irrespective of whether or not the project was approved of, there was little alternative but to recommend the Bill.

If the council had acted in good faith and had stopped the development, there is no way in the world in which it could not now legally go ahead and give MacMahon, or any other developer, the right to do what is happening. On that basis, I cannot see how one could stop the Bill. Of course, it would be happening now—but it should be happening now and should not have happened before.

Clause 5 provides that the council shall continue to maintain the park as a public park and that it may provide in the park facilities or amenities for public refreshment,

recreation or amusement. It goes on to provide that it shall grant, by such terms and conditions that the council thinks fit, leases or licences in respect of land comprised in the park. The council could now do what it has already done, but could do it legally. The fact that it knows that it had acted illegally, displays the bad faith in what has been happening.

I approve of the non-partisan attitude of the Select Committee. I believe that it got the best result for most of the people in South Australia. The Council has a vital role to play with Select Committees. In the two years in which I have been a member of this Chamber, I have served on three or four Select Committees and I believe that this procedure provides great benefit to all the people of South Australia. None of what has developed would have come to light if the Bill had not gone to a Select Committee and had been passed with just the second reading explanation to look at. I am a firm believer and supporter in the investigation by the Parliament of Bills that come to this Council. There is not enough of it. I support and understand the comments of the Hon. Mr Foster. The Select Committee acted in good faith and has come down with a strong condemnation of what the Glenelg council has done, considering that it could do now what it is doing legally. I object to the set-up that it undertook illegally. I endorse the report of the committee and congratulate the Minister on his strong stance. Although the Hon. Mr Foster has called for a much stronger inquiry, that was not our role. The recommendation before the Council is worthy of support.

The Hon. BARBARA WIESE: I, too, support the Bill and the Select Committee's report. I agree with the other honourable members that Glenelg council has behaved badly in this matter. In fact, there are a number of contradictions in the evidence that was put before the committee. At best, we can say that Glenelg council has either not kept itself informed about the legislation that relates to its operations and the terms of the trust that we are dealing with or, at worst, it has just totally ignored the terms of the legislation and the trust and has gone ahead and made its own arrangements. Either way, I believe this is an indication that the council has been negligent in fulfilling its duties as a representative of the local community.

The way in which the council has handled the matter in relation to MacMahon Constructions is disgraceful. In its evidence the council told the committee that it approved the project on 8 October 1980 but that it was not until February 1981 that it discovered the encumbrance on the land. It then decided that it was necessary to introduce this legislation to Parliament to clear up the confusion that might ensue but, in the meantime, knowing about that encumbrance, it allowed MacMahon Constructions to begin building on that site. This was really quite disgraceful.

In reply to a question asked of the Town Clerk during evidence taken by the Select Committee, he said that the council allowed MacMahon Constructions to proceed. He advised the committee that the council allowed the company to go ahead because MacMahons had indicated that it wanted to take occupation of the site immediately. That seems to be small grounds for allowing such a thing to happen. The Town Clerk also indicated in reply to a question that the council did not really expect that there would be any serious challenge when the Bill came before Parliament, so it seems that both the council and MacMahons just assumed that this Parliament would pass the legislation and get them out of an embarrassing situation that they had put themselves in. This attitude shows, as the Hon. Mr Foster pointed out earlier, extreme arrogance on the part of both organisations and, at the very least, contempt for this Parliament, and I object strongly to that.

I must say that my first response when I learned about this was to say that we should not pass this Bill, in order to teach these people a lesson, but I know, as they knew, that it would not be possible for us to do that. There are no good reasons of principle why this Bill should not pass. The Bill is sound. The trust ought to be taken away from the title that it holds over the land and, in fact, according to the evidence that we have received, even those people affected by the project's proceeding at Glenelg—in particular, the leaseholders already on the foreshore and residents who would otherwise oppose some of the decisions that have been taken by this council—support the terms of the legislation and we must pass the Bill.

However, like other members of the Select Committee from both sides of the Council, I object strongly to the manner in which the council has conducted its business. I, too, welcome the Ministerial inquiry into the council's affairs. If it is at all possible, I believe that the inquiry should also address itself to some of the other questions raised in evidence by residents who referred to breaches or waiving of fire regulations both on the MacMahon Constructions projects and other projects in the Glenelg council area. These should be looked at.

The Hon. C. J. Sumner: What about McGrath?

The Hon. BARBARA WIESE: I am going to deal with him. These questions should be looked at to ensure the safety of members of the public who use these constructions and whose safety is in the balance. By way of questions in this place, the Hon. Mr Sumner has raised other projects in the Glenelg council area, and they need attention as well. One or two other matters were raised in evidence given to the committee by residents, who were most disturbed and dissatisfied with the service that they have received from Glenelg council in the past few years. I hope that the Ministerial inquiry will address itself to those questions as well as the specific matter now before the council. With those few remarks, I reluctantly support the Bill and endorse the committee's report.

Clause passed.

Title passed.

Bill read a third time and passed.

[Midnight]

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 3 December. Page 2311.)

The Hon. FRANK BLEVINS: The Opposition opposes this Bill, with the exception of clause 7 which deals with the problems that arose out of *Moore v Doyle*, which is the case well known although not entirely understood by people involved in this matter. This problem arose many years ago. No-one seems to have been able to find a solution to the problem, and clause 7 merely extends the moratorium. The Opposition supports clause 7, but opposes the rest of the Bill.

At best, the Bill is utterly worthless. It will do nothing whatsoever for the people of this State. It will do nothing at all to improve industrial relations. In fact, the Opposition maintains that it will do exactly the reverse. The intention of this Bill is to destroy the Industrial Commission in this State. To shackle the commission with this legislation would make it even more ineffective than it is already becoming.

The Bill seeks to prevent the commission from awarding any wage increases or improvements in conditions that exceed decisions brought down by its Federal counterpart.

The Bill only allows the State commission to award lower rates of pay. Perhaps this Bill would be a little more worth while if it provided parity between the State commission and the Federal commission, but it does not seek to do that, despite the quite misleading second reading explanation by the Minister. It allows the commission to award the workers of this State less than a Federal award, but not more. The Bill is grossly discriminatory and grossly unfair. It does not matter whether it may be in the interests of this State for the commission to make a higher award than its Federal counterpart. It may well be desirable to make a higher award for certain economic reasons in specific industries: it may be to improve industrial relations, or it could be for any number of reasons.

I believe that the South Australian Industrial Commission has exceeded a standard of the Federal commission only once in my 16 years of involvement in the industrial sphere. The commission in this State does not have a record of exceeding the standards set by the Commonwealth. In fact, quite the reverse has applied. The Opposition has three objections to the Bill. It is implicit in the Bill that the Government fears that the commission may do something against the interests of the people of this State. However, the Government has produced no evidence to support that contention. The Industrial Commission in this State has a record of impartiality. It has a lot of expertise and it exercises this quality that is required for industrial relations. It has exercised a great deal of common sense. Common sense in the industrial sphere is sorely needed, and that has always been exhibited by the South Australian Commission.

The Opposition's second point of contention is that the Bill pre-empts the Cawthorne inquiry, which was established by this Government. I believe that that inquiry was established as a result of an election promise—one of the few that the Government has kept. The person chosen to conduct that inquiry was the Industrial Magistrate, Mr Cawthorne. The trade union movement has a great deal of respect for Mr Cawthorne. We thought that something worth while would come out of the Cawthorne inquiry, but every time the Minister of Industrial Affairs introduces a Bill to significantly alter industrial legislation he is pre-empting Mr Cawthorne's inquiry. The Opposition can see no point in continuing with this inquiry when the Minister is repeatedly introducing Bills which fundamentally attack the commission and change industrial legislation to a very large degree.

Our third point of contention relates to the total lack of consultation with the community, with the commission, with the trade union movement, and with the employers. This Bill has been presented to Parliament with no consultation having taken place whatsoever. It will fundamentally alter the role of the commission, stripping it of its independence, and it will tie it to an outside body. One would have thought that, before embarking on that course, any reasonable Government would consult with the commission, the employers, the unions and the community to see whether those parties agreed with the changes proposed and to make any suggestions on improvements that could be made to the Bill. However, that was not done by this Government or by the Minister.

The Minister wants to confront everyone in this State with his small-minded and petty legislation. He is seeking a confrontation with the commission. He is telling the commission what it will do, and he is giving the commission no warning about his intentions. The first hint that the commission receives about new legislation was gained from the newspapers. This Bill does not deal with some small social club; it deals with the Industrial Commission of this State. It is a great discourtesy to treat the commission in this way, and I defy any member of the Government to defend the Minister's actions.

The commission found out about this Bill during a case before the commission involving clerks under a South Australian award. On Friday 20 November the employers' advocate, Mr Bleby, tendered a copy of this Bill to the commission. The President of the commission then said:

> May I say, Mr Bleby, that the commission is indebted to you for doing so, because the commission finds itself in what I might describe as the extraordinary and unprecedented situation of not having been advised by the Government of the introduction, much less of the terms of the Bill . . . much less, of course, is that in accordance with long-established practice been invited to comment as to the practical application of it, so at last we are being, as it were, placed in the picture.

The Bill, as I said, alters fundamentally the role of the commission, strips it of its independence, and the commission finds out about it when the copy of the Bill is handed to it, during proceedings before it, by the employers' advocate. It is bad enough to ignore the commission in this way, but the Government also, in its even-handed way, ignored the employers. Mr Bleby went on to say:

> I can assure the commission that my clients are in the same position. Despite what might be thought from the other end of the Bar table, the first I knew of it was when I heard it had been introduced on the radio on Wednesday night, I think it was.

So, the Minister has gone nowhere near the employers either. The Trades and Labor Council, the body that organises the overwhelming majority of workers in this State, had no knowledge of the Bill. It was left to the Trades and Labor Council to telephone the Minister's department and ask for a copy of the Bill. Is it any wonder that industrial relations in Australia today are in the state they are in when Liberal Ministers of Labour behave in this way?

Industrial relations cannot be handled in this way without expecting repercussions. The area of industrial relations is a very delicate one, affecting the lives, the wellbeing, and the standard of living of virtually everyone in the State. To go about industrial affairs in the ham-fisted way that the Hon. Dean Brown does is asking for trouble. It is my firm expectation that the Minister will get the trouble he has asked for, because a consensus has been built up in this State over the years. Not all of the decisions of the commission have always been agreed to by both sides; it would be a miracle if that happened. By and large, however, the commission has been seen to be independent, it has been seen to be acting in a commonsense way, and it has not, in any shape or form (and for people to accuse it of doing so is quite wrong), done anything that has in any way damaged the economy of this State. For it to be treated in this way is appalling.

I think the main problem that the Minister has, and this applies right throughout the Commonwealth, is the ending of the wage indexation system. The Minister is seeking to tie the State Industrial Commission to the Federal commission, so that its decisions are a maximum in the State. What is the record of the Federal commission? One would think that, if the Minister wanted to take away the independence of this State—and no other State has done it—and hand it over to someone else, that body would have to have a better record than the one we are taking it away from, the State commission. Has it? I think the Federal Arbitration Commission has made the greatest mess of industrial relations that I have seen in 16 years. It is utterly, absolutely and totally hopeless. It made a complete and utter foul-up of wage indexation so that there was no support for it in the trade union movement when it finished. Every time the Government appeared before the Federal commission, the Federal commission carried out what the Federal Government said, almost to the letter, and brought the whole wage indexation system into disrepute.

Wage indexation was never a wage rise for workers. If was a payment in arrears to bring them back up to the standard that had been eroded by inflation. There was not a wage increase in wage indexation. Not satisfied with that, the Federal commission did not give full indexation in all except one of its hearings. Therefore, it was not a maintenance of wages, but in effect a well-organised wage reduction. That would be fine for the commission and fine for the Liberal Government if they could get away with it, but they could not and they did not. What we are seeing today is the Government and the commission paying the price for its completely irresponsible attitude over wage indexation. Throughout the Commonwealth, employees are getting wage increases, shorter working hours, and improved conditions to an unprecedented degree.

Only yesterday in the metal industry award—and I am sure the Hon. Mr Laidlaw will comment on this—we heard the decisions agreed to between the parties, with a wage increase of up to $50 a week, a reduction in working hours, an increase in tool allowance, and sundry other matters. The Arbitration Commission has not had a look in. It will go before the commission for ratification, but no-one is particularly interested in whether or not the commission ratifies the agreement. The metal industry employers will pay the increase and the employees in the industry will receive it, one way or another, whether the commission agrees or not. Frankly, I think the Federal arbitration system is in one hell of a mess, of its own making, and I am not breaking my heart over that.

Many other agreements are being made by employers and employees, some on the basis of what we call handshake agreements; they do not even go to the Arbitration Commission for ratification. I was involved for many years in Whyalla with a section of the tug industry up there. I do not think in the nine years I was there we wrote down an agreement. We shook hands, and that was the end of it. We could not give two hoots about the Arbitration Commission or anyone else.

One case which I think needs highlighting is even better than the recent increase for the metal industry. It was a hand-shake agreement involving the Australian Theatrical and Amusement Employees Association with three national cinema chains. It provided a no-strike contract for two years, and is being seen in some quarters as a sign of the future. The key section reads:

> This agreement is binding on the ATAEA and the employer organisations of Greater Union, Village and Hoyts and guarantees that no industrial stoppages will take place during the period of this agreement on any matters affecting the wages and conditions of ATAEA members.

The trade-off for this was automatic quarterly increases in line with the c.p.i., wage increases, and a 35-hour week. The wage increase was $75 a week. There is no way that this legislation could stop that. The temporary provisions are being repealed, and the legislation is saying that one cannot go to the commission and have it ratified. If there is $50 a week being picked up in the metal industry and $75 a week in the theatrical industry, and if the only impediment is going to the commission, obviously no-one will go to the commission. They would be crazy to do so. I would not support my organisation's going to the commission if the commission is going to argue about it and the employer wants to shovel all this money at me. The commission could sit there and quietly moulder away. That is my personal attitude.

The Hon. D. H. Laidlaw: This is a long 10 minutes.

The Hon. FRANK BLEVINS: Do you want to hear about this?

The Hon. D. H. Laidlaw: You told me that it was going to be 10 minutes.

The Hon. FRANK BLEVINS: I will start winding down. Already the commission is becoming more and more irrelevant. I am not breaking my heart about that, but the Government apparently wants to prop up the commission; that is its philosophy, that everything should go to Arbitration. In this Bill it is doing precisely the opposite: it is shooting down the commission and taking away its independence and saying, 'You will do exactly as we say'. The unions are saying more and more, 'Well, if that is the commission, we won't have it.'

What about the employers? What annoys me about this argument over the commission is the attitude of the employers to the commission now. In the *Advertiser* last week there was strong criticism of the commission by an employer's advocate, the Industrial Director of the South Australian Employers' Federation, Mr D. R. Nolan, who told the federation's annual meeting that the employers had been critical of the role and actions of the commission. He continued:

> They do not believe they have received fair and unbiased treatment before the commission, Mr Nolan said.
>
> Yesterday, before the State wage case resumed, Mr Justice Olsson told the court on behalf of the members of the commission that Mr Nolan's statements exceeded the bounds of fair criticism.
>
> It is difficult to construe them as being other than a thinly veiled attempt, among other things, to influence the course of the present proceedings, he said.
>
> Had it not been for the fact that in his report Mr Nolan purported to be reporting the perceptions of other people with regard to alleged unfairness and biased treatment before this commission, we would have had no hesitation in regarding his statements as plainly contemptuous and would have dealt with it accordingly.
>
> Mr Justice Olsson said the commission totally rejected any suggestion of bias and would not be influenced by such an attack during the present proceedings.
>
> Mr Nolan's statements were particularly irresponsible given their prominent reporting in the daily media.
>
> They can only lead to an undermining of the confidence of the public at large in a tribunal which is charged with the duty of holding the scales evenly between employers and employees, he said.

It is not only the employers undermining the commission, it is this Government with this rather stupid piece of legislation. I gave the Honourable Mr Laidlaw a promise that I would finish in 10 minutes. I conclude on this: in essence, what this Bill is seeking to do is replace what has arguably been the most successful commission with standards set by what is arguably the worst commission. This commission has given the employers of this State the lowest wage rates on the mainland of Australia, it has given workers the worst working conditions of any State in Australia, and it has given the employers in this State the lowest level of industrial disputes of any State in Australia. I would like to point out what it has given the workers, but I will leave it at what it has given the employers.

What does the Government want further from the Industrial Commission, than the lowest wages, the worst conditions, the lowest strikes? What else can it squeeze from the commission? There is nothing left, yet it persists in attacking it along with the employers, to somehow discredit it. That is its record. I do not think it has ever given the workers too much; it certainly does not show up in the figures that we have. My Party is in favour of conciliation and arbitration, so therefore I speak strongly in support of maintaining the independence of the commission despite my own personal views. This Government has an obligation to support and strengthen the individual role of this commission. If it feels that the commission is important to the economic welfare of the State then, on its record, it deserves support and not attack. Members of the Opposition will vote against the second reading of the Bill. There will be an amendment moved during the Committee stages in case this Bill does get through and there will be an attempt to

make it more palatable to the commission and employees in South Australia. We will also be voting against the third reading.

Regarding clause 7, I can see the necessity for that moratorium continuing. I give an undertaking that, if a Bill is introduced to do that, it will go through both Houses in half an hour; there will be no problem whatsoever. In no way will the defeat of this Bill create any complications arising out of the *Moore v. Doyle* decision. We are totally opposed to the Bill and will vote against it at every opportunity. I hope that the Australian Democrat and perhaps the Honourable Mr Laidlaw will also vote to preserve the independent role of the commission which includes protecting the employers of this State and the policies of this Government.

The Hon. D. H. LAIDLAW: Last July the Full Bench of the Commonwealth Commission abolished the system of wage indexation which had existed for seven years.

The Hon. N. K. Foster: They are sorry now.

The Hon. D. H. LAIDLAW: I was always in favour of it. The President, Sir John Moore, said that in future, in accordance with the Federal Conciliation and Arbitration Act, the interests of society as a whole would still permeate the activities of the commission. The Full Bench would still be required, pursuant to section 39 of the Act, to have regard to the state of the economy with special reference to the likely effect on employment and inflation. It should be stressed that section 39 relates to matters referred to the Full Bench, such as national wage cases or disputes of national consequence.

In the light of this pronouncement a few weeks later at a conference in Canberra, each Premier, including the Labor Premiers of New South Wales and Tasmania, agreed to strive towards uniformity in wage structuring in Australia.

The Hon. N. K. Foster: That is unconstitutional.

The Hon. D. H. LAIDLAW: They agreed to do it. The six State Premiers agreed to the word 'uniform'. Our Government was concerned that, whereas about 55 per cent of workers in this State are employed under Federal awards, which will be subject to the principles enunciated by Sir John Moore, the remainder are subject to State awards which are fixed by the South Australian Industrial Commission. Uniformity between comparable Federal and State awards is important to avoid leap-frogging. Shortly after that, the State Government introduced a Bill to amend the Industrial Conciliation and Arbitration Act. The main purpose of this Bill was to make the Industrial Commission (that is, both the Full Bench and single commissioners) industrial committees, the Parliamentary Salaries Tribunal, the Public Service Board, the Public Service Arbitrator, the Teachers Salaries Board, and the Local Government Officers Classification Board, have regard to the public interest, the economy of the State and the principles enunciated by the Commonwealth Commission before making a decision affecting wages or working conditions.

The Opposition strenuously opposed this Bill. The Deputy Leader in another place referred to it as Draconian legislation, and a succession of speakers supported him. They stressed that, if the commission and other industrial authorities are to take into account the economic consequences, the cost of expert witnesses and more qualified advocates, plus the cost of longer and more complex hearings, it will impose large expenses upon unions, employer bodies and the Government.

The Government will probably want to intervene in many disputes. The Industrial Commission will be enlarged in many cases, and many cases may be delayed. Of course, this could nullify the low incidence of time lost through industrial disputes which in South Australia at present is as low as one-quarter of any other State.

The Government agreed that some delays could occur but firmly believed that the benefits of uniformity in wage-fixing were more important than the matters raised by the Opposition.

The Democrats expressed doubts regarding the effectiveness of the Bill, but agreed to support it as a temporary measure on condition that it applied only in the Industrial Commission, industrial committees and the Teachers Salary Board. Certain cases regarding teachers salaries and the like were being considered at the time and the Democrats agreed that it was undesirable for decisions to be made in isolation from Federal commission principles. They considered that the practice of leap-frogging in wage demands should be avoided if possible.

The amended Bill passed on 27 August and, during the debate in another place, the member for Mitcham said that the principles which are in section 39 of the Commonwealth Act should be in our law. I remind the Council that section 39 (2) provides that the commission shall take into consideration the public interest and for that purpose shall have regard to the state of the national economy and the likely effect on that economy of any award, with special reference to the level of employment. Mr Millhouse added that he had an assurance from the Minister of Industrial Affairs that this Bill was an interim measure and that another Bill would be introduced within a few weeks when the matter could be properly considered.

In fact, it has taken the Government three months to redraft the Bill and produce this amending Bill. The Opposition and the Trades and Labor Council have protested vehemently that they were not consulted by the Minister before this new Bill was introduced. What good can be served by consultation in this instance because the Opposition has already stated its unqualified distaste of the concept that State industrial authorities should have regard for the economic consequences of their decision?

The Hon. Frank Blevins: Come on! The commission had not stated that—it did not say that the Government should negotiate with us but with the commission.

The Hon. D. H. LAIDLAW: I said that you did not like the idea.

The Hon. Frank Blevins: Sure, but that did not stop the Government from having discussions with the commission.

The Hon. D. H. LAIDLAW: I merely asked what was the point of consultation.

The Hon. Frank Blevins: That we are opposed does not stop the Government having discussions with employers or the commission.

The Hon. D. H. LAIDLAW: Yes. When considering the claims of this Bill, honourable members must remember that industrial arbitration in Australia is in a state of flux. After the Commonwealth commission abolished wage indexation in July and fell back upon section 39, the Federal Minister of Industrial Relations (Mr Viner) said that henceforth employers and unions would be able to negotiate wage increases directly. That was a misleading statement. Employers and unions have always been able to negotiate contracts above award conditions. Australia has the most legalistic system of industrial relations of any country, and merely giving up wage indexation will not abolish the system. The community is accustomed to this legalistic system and the Government, employer bodies and unions have a duty to try and maintain an orderly system within the existing framework.

I wish to refer briefly to the salient clauses in the Bill. Clause 4 repeals section 36 and substitutes a new section laying down procedure for the flow-on of national wage decisions by the Commonwealth commission. The State

Full Commission could not grant previously wage variations on economic grounds unless the Commonwealth commission had already made such findings. In future it is intended that the State Full Commission should institute an inquiry of its own initiative after the Commonwealth commission has acted, but should not make increases higher than that granted in Federal awards. This is sensible, realising that about half of the workers in South Australia work under Federal awards and the other half work under State awards.

Clause 8 amends section 146 *(a)* and includes within the definition of 'industrial authority' the Parliamentary Salaries Tribunal, the Public Service Board, the Public Service Arbitrator, the Teachers Salaries Board, the Local Government Officers Classification Board and any other authority or persons so proclaimed.

Clause 9 amends section 146 *(b)* and enacts that an industrial authority must have regard to the public interest and must give effect to principles enunciated by the Commonwealth commission that flow from its consideration of the national economy, and must have regard to the likely effects of the State economy. Whereas section 39 of the Federal Act places an obligation only upon the Full Bench of the commission to have regard to the economic effects of its decision, this clause 9 places an onus to take such notice on various State industrial authorities but, unlike section 36 of the State Act, it does not restrict the industrial authority to the level granted to Federal awards.

The Opposition claims that this provision will lead to undue delays and excessive costs in industrial cases. Only practice will show whether this is so. In my view, this Bill should pass as one step towards uniformity between Federal and State wage fixation.

Finally, I wish to refer to an amendment to clause 3 which has been put on file by the Hon. Mr Sumner. It has the object of seeking to classify owner drivers in the transport industry in South Australia as employees under the Act. This would enable the State Industrial Commission to make an award to cover wages and conditions for owner drivers.

The industrial organisation of the transport industry has been confusing for as long as I can remember. For example, there is the Master Carriers Federal Award to which the large national carriers such as T.N.T., Brambles and Mayne Nickless are respondents. Their interstate drivers are employed under this award as are the drivers who provide local deliveries to their depots in South Australia. The other large Federal Award is the Transport General Award, which has wide coverage of companies operating intra and interstate. In addition, there are many small State transport awards like the Bread Carters Award or the E.T.S.A. Drivers at Leigh Creek Award.

Recently, Mr Justice Northrop in the Federal Court decided that until the Federal Transport Workers Union changed its constitution it could not represent owners drivers before the Australian Industrial Commission. This means that owner drivers are not to be regarded as employees under the Master Carriers or the Transport General Award, both Federal awards.

In Queensland, legislation states positively that owner drivers are not employees. In contrast, in New South Wales in 1979 owner drivers were classified as employees, and there is a small breakaway State Transport Union which operates in competition with the Transport Workers Union. In Victoria the position has not been clarified, whilst in Western Australia the Full Appeal Bench of the Industrial Court decided that the T.W.U. cannot represent owner drivers.

I have said that the passage of this amendment would cause confusion. For instance, I know of one company which operates a transport division in various ways. First, it owns some trucks and its employees are engaged under the Federal Transport General Award. Secondly, it contracts with individual owner drivers on terms which provide guaranteed weekly sums to cover the lease or hire-purchase cost of the owner's truck, plus a fee for tonne-mileage of the operation.

Thirdly, it contracts with owner-drivers who each own several trucks. They usually drive one truck personally and employ drivers for the others. This example is not unusual. If the Hon. Mr Sumner's amendment passes, this company will have driver employees engaged under a Federal award and owner-drivers, now to be called employees, engaged under a State award. Does the company have to cover the owner of four trucks, now regarded as an employee, for sick leave, annual leave, long service leave and workers compensation, and does the owner do likewise for his drivers?

What happens when the owner-driver operates in Western Australia and Victoria? Is he an employee in South Australia but becomes an owner as soon as he crosses the border? This situation applies very often for carriers based in Mount Gambier.

The Hon. C. J. Sumner: What happens in New South Wales?

The Hon. D. H. LAIDLAW: New South Wales is a crazy situation. People have no idea where they are. Does the owner-driver accrue annual leave whilst he is working in South Australia but not while he is working interstate? If this measure is introduced it will add to the confusion that has existed in the transport industry for the 25 years that I have been associated with it. I support the second reading.

The Hon. J. E. DUNFORD: I oppose the Bill. I believe it should be tossed out completely, but for that we must rely on the Australian Democrat. In fact, the Hon. Mr Milne has shown fairly good judgment so far today. After reading the Minister's second reading speech and speeches made by Government members, I believe that two things have been overlooked. However, I did not overlook the criticism made by the Minister or his criticism of speeches made by Opposition members. The Minister said that one member could not express himself, and he said that the Deputy Leader did not have a brain. He punctuated his remarks about the Bill in that aggressive manner.

I have made many comments about Mr Brown in the two years that he has been a Minister. I have said that he is incompetent, inexperienced, and that he is certainly being advised wrongly. I think that fact becomes evident in this Bill. Three amendments have already been introduced this year. In August Mr Brown tried to introduce industrial conscription. He tried to force workers to become informers on their workmates but, through the assistance of the Australian Democrats, that move was unsuccessful. I have read the Minister's second reading speech. I believe it is a criticism of the South Australian Industrial Commission for passing on the full 4.5 per cent increase to workers covered by State awards in South Australia, which is 50 per cent of the workers of this State.

Before the last State election Mr Tonkin said that his Government would keep out of the way of business. I believe that the Minister of Industrial Affairs is kowtowing to the multi-nationals. Wherever multi-nationals operate in the world and whenever they talk to Governments they want to know whether Governments can control wages and the unions. I can just imagine them talking to Mr Brown and receiving a lot of co-operation and head nodding. If Governments can do those things, multi-nationals will provide the money. That approach is quite consistent with the speeches that I have heard from Mr Brown in the two years that he has been a Minister. He is quite incompetent, quite ignorant and, as has been pointed out by the Hon. Mr

Blevins and other members of the Opposition, he does not consult with the parties concerned.

How many times have we read in the press statements by Mr Brown and other Ministers that before they introduce Bills affecting people in the community those people will be consulted. On this occasion, and it has not been denied by Mr Brown—

The Hon. J. C. Burdett interjecting:

The Hon. J. E. DUNFORD: The Minister will have an opportunity to speak in a moment. I am on the industrial committee, which received representations from the Trades and Labor Council. The Minister had no consultation with that body, which did not receive a copy of the Bill. The Industrial Commission was not informed about the Bill either. The Hon. Mr Burdett will shake his head and say that that is not true, but I have a document which supports what I have said. The report is as follows:

> May I say, Mr Bleby, that the commission is indebted to you for doing so, because the commission finds itself in what I might describe as the extraordinary and unprecedented situation of not having been advised by the Government of the introduction, much less of the terms of the Bill, much less, of course is that in accordance with long established practice been invited to comment as to the practical application of it so at last we are being, as it were, placed in the picture.
>
> What a sorry state of affairs. It is almost disgraceful. It is almost unbelievable that legislation which has so much effect on the Industrial Commission could be brought into this House without even the courtesy of its being provided to the President of the court. Let us go a little further in relation to the consultation processes of this Minister. Mr Bleby, the person who handed up the Bill to the President, said this, again quoting from the transcript:
>
> > I can assure the commission that my clients are in the same position, despite what may be thought from the other end of the bar table, the first I knew of it was when I heard that it had been introduced on the radio on Wednesday night, I think it was.

I believe that this is an effort to freeze the wages, to take away the power that the Industrial Commission has exercised over the years to have the right, after hearing arguments from the trade union movement, to determine wage rates and conditions for employees in South Australia.

I can foresee that there is a big possibility of a liquid petroleum pipeline being built from Moomba to Stony Point. I negotiated, with the assistance of my industrial officers, the agreement for the pipeline between Moomba and Adelaide. At the time, wages were high and we increased them as the pipeline went along. We had many disputes on the job and we were able to meet with the employers in the Industrial Commission, thrashing out the problems and getting the agreements endorsed in the courts. That was the accepted order of the day.

If clause 4 and other clauses of the Bill that bind the commission to Commonwealth awards are carried, that situation will not be possible in South Australia. Most employers do not give money away, and they do not like to be beaten in the court, but they realise that the courts set only minimum standards. As I read the Bill, the Minister wants to set minimum and maximum standards. He is binding the court not to give any more than the Commonwealth Industrial Commission will give. The concept of a minimum and a maximum wage has never been heard of before, to my knowledge, in industrial relations. If the Minister is successful in getting this Bill through this place this morning, it will sound the death knell of industrial relations in South Australia. I have been told by the unions that they will not tolerate it, and that they will fight its provisions.

The Hon. D. H. Laidlaw: They were going to stop uranium being moved from the Northern Territory.

The Hon. J. E. DUNFORD: They could have done so if they had wished. The Hon. Mr Laidlaw realises, as I do, the power of the worker. The coal miners brought down the English Government, and the workers in Australia will bring down this Government, which is starving the pensioners and the recipients of social services. Now we have an incompetent Minister of Industrial Affairs putting through unnecessary legislation. I have no big raps for the Industrial Commission. I was before the commission for many years, but I got nothing spectacular from it. It was only a part of the machinery. The money I got was by negotiation, and by strike action with most employers. We used the Industrial Commission to register the award. Once the agreements and determinations were registered, if there was a dispute in the industry we would go back to the Industrial Commission. The employer would file a summons for me to attend, or we would file and he would attend and the commission carried out the function for which I believe it was instituted: to solve industrial disputes between the parties.

Now, in 1981, we find a Minister with no experience in industry, a person whose one redeeming feature is to attack the 33 Liberal members who want to open up the flood gates of Australia to the free traders, but when it comes to industrial affairs he has been a complete disaster, especially in the last year. I wonder how the people in the Industrial Commission feel. Contrary to what he believes, I think that the Industrial Commission in this State has served very well the Governments of the day and the employers. It has not given anything to the unions, and that is why South Australia was a low-wage State. When I came here, South Australia was the hanging State and the low-wage State.

The Hon. D. H. Laidlaw: Then why did you come here?

The Hon. J. E. DUNFORD: That is none of your business. I did not come here to work for low rates. I did not work for Perry Engineering, where people get time off work to vote against Scott. When I worked for an employer I did not go to the Arbitration Commission. I went to the employer and told him what I wanted and how much I wanted. I told him that if I did not get it I would go on strike and that, if I could not get my men to go on strike, I would leave.

The Hon. M. B. Cameron: That's why you're here.

The Hon. J. E. DUNFORD: I am here because I would not accept low rates and bosses' promises; that is why I finished up in Parliament. I am not worried about what happens to the South Australian Industrial Commission, but it should worry the Minister of Industrial Affairs. Whatever the workers get, they deserve it, and they never get enough. Recently, I heard Mr Howard on television. He is a pathetic figure, and he said on national television that he could understand the problems of the average person earning $300 per week. I could tell him that 75 per cent of wage earners receive less than $15 000 a year, or $300 a week; about half the wage earners receive less than $11 000 a year, and 40 per cent receive less than $10 000 a year, but here we have this man saying on television that he knows how workers feel when they receive only $300 a week. We wonder why the wage push is on. We have the Hon. Mr DeGaris with his farm, the Hon. Mr Hill with his farm, and the Hon. Mr Laidlaw with his chairmanships. They do not know what the worker on $200 a week pays as interest and tax. Mr Howard introduced the tax.

The Hon. D. H. Laidlaw: What has this got to do with the Bill?

The Hon. J. E. DUNFORD: I am talking about why the workers are getting away from the Arbitration Commission, why there is a wages push, and why the Minister of Industrial Affairs is trying to stop it. It is like a tidal wave, and the workers are waking up. The Government predicted a 13.5 per cent increase in the average wage across the board. A person earning $8 000 a year would have a 57 per cent increase in tax this year. If a person on $8 000 a year

received a 13 per cent wage increase, as predicted by the Treasurer in his Budget, his tax bill for the next financial year would go up by 57 per cent. The tax for a person earning $14 500 a year will go up by 21 per cent, and that of a person earning $50 000 a year by 17 per cent. Here we have the low wage earner, and the man I am concerned about, whose wages are determined by the Industrial Commission, getting increases in tax of 57 per cent on $8 000 a year, while the man on $50 000 a year, such as yourself, Mr President, will have an increase of only 17½ per cent.

The same situation applies in relation to company taxation; it has not kept pace with inflation, so one finds that the burden is on those people who have to go to the Industrial Court. We have the Minister, Mr Brown, making it more difficult by hamstringing the Industrial Commission down to the public interest. I received a letter from the United Trades and Labor Council, and regarding the public interest it states:

> There is nothing at all, in the view of the United Trades and Labor Council, which is objectionable in requiring the commission to have regard to the public interest.

In this situation, where a case is properly presented by a capable industrial advocate, the commission should have a right to adjudicate on the evidence presented to it. It would be in the public interest in certain cases to have applying in South Australia awards with determination agreements over and above those applying in the Commonwealth. As I have pointed out, the gas pipeline is an instance. If you are going to build it and want the expertise of a metal trades worker from New South Wales, you will not be able to give him a South Australian over-award payment—you have to pay him a lot more. Most of these people are used to industrial agreements and awards registered in a court.

In Mr Brown's second reading explanation, he does not seem to care if there are industrial agreements and awards made in common law outside of courts. That suits him fine; he knows when there is a dispute in a common law jurisdiction over an industrial agreement that it is altogether different from the situation before the Industrial Commission. You cannot get a hearing when you like. Civil courts are absolutely different, in their construction and method of dealing with industrial disputes, from the Industrial Commission. I believe that once again the employers are getting in the Minister's ear and saying, 'Look, let us have agreements outside the court and we can rob the worker.'

I have had plenty of experiences of agreements that are not registered. Most people like to see their awards registered by their employer in the Industrial Court because those awards go in perpetuity until they are rescinded. A personal contract does not afford the worker the security he desires.

The Hon. Mr Laidlaw was not at his best when he dealt with the owner-drivers. Several members on the other side believe that owner-drivers should not have the protection they already receive. Certainly, the Australian Workers Union owner-drivers are protected in the award. Many people want owner-drivers out of the award so that they can have the open tender system whereby there is no security of employment for those owner-drivers, no preference of work and protection under an award, and no provision for escalation of petrol costs, as there is under the A.W.A. award. One progressive union, which proved in a dispute the ability to fight, was the Transport Workers Union. That union will be affected immensely if this Bill is not amended according to the amendment on file of the Hon. Mr Sumner. The Hon. Mr Laidlaw spoke against the amendment. I have a letter dated 3 September from Mr Scott Ashenden, M.P. for Todd, which states:

> Further to our discussions yesterday afternoon in my office, please find attached a copy of a letter I have forwarded to the Minister of Industrial Affairs, Mr Dean Brown, seeking amendments to the South Australian Conciliation and Arbitration Act to provide the continuance of the present protection rightfully afforded owner-drivers.

This letter comes from one of the up and coming Liberal members.

The Hon. N. K. Foster: He tried to move it in the Party room and they knocked him off.

The Hon. J. E. DUNFORD: I do not know about that.

The Hon. N. K. Foster: Mr Griffin told me.

The Hon. J. E. DUNFORD: Well, he would know. The letter continues:

> I would like to reassure you of my total support on this matter and I will continue to keep you fully informed as developments occur. Thank you for the time you have taken in approaching me on this matter.

I have another letter here to Mr Dean Brown, which states:

> I am writing on behalf of a number of constituents who have approached me expressing concern in relation to their present rights as owner-drivers to have negotiations conducted on their behalf by the Transport Workers Union. They believe that this right could be removed.
>
> Should this occur, the present stability that has existed over the last 12 to 18 months would be in jeopardy and these persons who are small business owners could again find themselves in the situation where they are unable to obtain a reasonable economic return for their efforts and investments.
>
> There is no doubt that since the T.W.U. has been authorised to engage on behalf of owner-drivers, stability of conditions and economic viability have become quite noticeable. I am advised that the prime reason for this improvement is because the Federal Government through the Trade Practices Commission authorised the T.W.U. to negotiate on behalf of subcontractors in respect of conditions and freight rates. This authority applies to the interstate area as well as to cartage within South Australia.

This answers the proposition put forward by Mr Laidlaw. The letter continues:

> However, approximately 3 to 4 weeks ago, the Federal Industrial Relations Bureau tested the Federal legislation in the High Court to determine whether the T.W.U. could in fact represent owner-drivers.

There you have a High Court decision. This is being said by Mr Scott Ashenden. You would think that I wrote it. The letter continues:

> Unfortunately the High Court decision handed by Justice Northrup stated that the T.W.U. could not represent owner-drivers because of an inconsistency in the Conciliation and Arbitration Act of Australia.
>
> My constituents advise me that as these matters relate to interstate transport, the decision could also apply to intrastate transport. This would mean that the many transport companies operating in South Australia and engaging contractors who have entered into agreements between them, the companies and the T.W.U., could find that such agreements are no longer binding and also that the T.W.U. could no longer act on behalf of owner-drivers in future negotiations.
>
> This would not be in the interest of these small businessmen as their earnings would quickly drop below operating costs as was the situation prior to the present arrangement. I am advised that presently contractors as well as owner-drivers are extremely happy with the present arrangement as it allows both parties to plan for the future knowing the full details of likely costs and/or returns.
>
> Because the present situation is so satisfactory and well accepted by all parties, could I please request that immediate amendments be made to the Industrial Conciliation and Arbitration Act 1972-1975. In paragraph A of the definitions of employee, delete the . . .

This refers to the same sort of amendments as the Hon. Mr Sumner has on file. The letter continues:

> It would ensure that all of these small businessmen retain the protection which they presently enjoy and it would ensure stability throughout the entire industry.
>
> On behalf of my constituents, could I please request that the above matter be attended to with extreme urgency to ensure that the amendments are passed immediately and thus preventing any possibility of the removal of the status quo. Should you wish to discuss this matter in further detail, please do not hesitate to contact me and I look forward to early action on this vital issue.

I have another letter dated 14 September, which states:

Thank you for calling my office on Thursday and I am sorry that I was not in when you phoned. As advised to you by my personal assistant, I have received an interim reply from the Minister of Industrial Affairs, Mr Dean Brown, concerning amendments to the South Australian Conciliation and Arbitration Act. Mr Brown advises that he has called for information from his Department on this issue and he will be writing to me shortly with his decision on this.

I would like to assure you that I will continue my representations personally to Mr Dean Brown as I am aware that the amendments to the Act must be considered in an extremely urgent sense, i.e. well before October 17. As soon as I hear further from the Minister, I will be in touch immediately.

Another letter dated 2 October states:

Further to our telephone conversations of yesterday, please find attached a copy of a letter I have forwarded to the Minister of Industrial Affairs, Mr Dean Brown, seeking an appointment for a deputation to meet with him and the Minister of Transport, Mr Michael Wilson, to discuss the potential problems of owner drivers. As soon as the Minister advises a time, I will be in touch with you again. In the meantime, can I again assure you that I am doing all possible for you and the owner drivers on this matter.

Another letter to Mr Dean Brown states:

I am writing on behalf of Mr Adrian Achatz who has advised that he accepts our recommendations that a deputation consisting of Mr Achatz, and a person representing owner drivers should meet with you and the Minister of Transport, Mr Michael Wilson, to discuss the problems that could shortly concern owner drivers in South Australia. Accordingly, could your staff please liaise with the Minister of Transport, Mr Michael Wilson.

On 8 October a letter signed by Scott Ashenden, M.P., member for Todd, states:

Further to our earlier correspondence, I am writing to advise that a meeting is to be held between the Minister of Industrial Affairs, Mr Dean Brown, the Minister of Transport, Mr Michael Wilson, and representatives of owner drivers on Tuesday, 27 October at 4 p.m. in the Minister of Industrial Affairs' office.

Accordingly, I would extend an invitation to you to be present at that meeting. I will also be in attendance, as will Mr John Hughes. Could you please advise other representatives whom you wish to attend the meeting?

Another letter dated 14 October 1981, also signed by Scott Ashenden, M.P., member for Todd, states:

I refer to my letter dated 8 October 1981 in which I advised that a meeting is to be held between the Minister of Industrial Affairs, Mr Dean Brown, and the Minister of Transport, Mr Michael Wilson, representatives of owners drivers and myself on Tuesday, 27 October at 4 p.m.

I have now been advised that Parliament will be sitting on that day and therefore the meeting will be held at Parliament House, in Mr Dean Brown's office.

I would appreciate it greatly if you could advise the other members.

Here is a man fighting as hard as I am, yet he is a member of the Liberal Party. It is obvious that Mr Scott Ashenden is acquainted with industrial relations and the dangers of this Bill's not being amended so far as the owner drivers are concerned, because he has gone to the extent of lobbying his own Minister.

I have no doubt that if members opposite came clean they would realise that small business men, as the Hon. Mr Laidlaw said, are only workers. Until the Transport Union Workers took up their representation, they were losing their trucks in droves. When I found out that councils wanted to do away with owner drivers and delete them from their award, I objected. They wanted to go back to the tender system. Owner drivers were in financial difficulties. They owed much, but before they went bankrupt they would tender lower prices because they were going to go out of business anyhow, and this affected the whole industry.

Owner drivers seek some uniformity. They want a body representing them in their negotiations for wages; they want an award and conditions, and this can easily be done by the support of the Democrat in this Council. I would think much more of him if he tossed out the whole Bill, but I do not think he is worrying about my admiration for him.

I have here a lengthy document to which I wish to make brief reference. It is important that these comments be included in my contribution because it may persuade people like the Hon. Mr DeGaris and the Hon. Mr Cameron, who both pretent to be fair men. The document states:

The Northrup decision in the Federal Court of Australia. Some six months ago, a militant small owner-driver group or association called the Independent Truckers Association based in N.S.W. led by the Secretary called Mr MacMillan using political lobbying has caused the Federal Industrial Relations Bureau to test in the Federal Court whether the Transport Workers' Union could represent owner-drivers. The apparent reason for this is that Mr MacMillan is trying to seize power of the transport industry performed by owner-drivers. He is trying to create an anti-union climate in the transport industry to the detriment of transport companies and other companies transporting goods and between contractors and the Transport Workers' Union. The Federal Court judge, Justice Northrup, passed down the decision that the Transport Workers' Union could not represent owner-drivers in Australia because the Federal Conciliation and Arbitration Act only protected employees and he ruled that owner-drivers are not employees and therefore the Transport Workers' Union could not represent owner-drivers. The fact that the rules of the Transport Workers Union do entitle the union to represent owner-drivers is irrelevent. The court then ordered the union within three months to change its rules, thereby prohibiting in the union's rules membership to persons who were self-employed.

The ramifications of this are that if the union should do this and comply with the law, immediately all agreements in existance between owner-drivers and transport companies, and other companies would be cancelled and conditions and freight rates to subcontractor owner-drivers would immediately drop as was the case at the time of the blockades.

Upon legal advise, we have been advised that if the definition of employee was changed in the South Australian Conciliation and Arbitration Act—

that is what we are seeking to do here tonight—

to include persons who carry goods or materials in vehicles owned by themselves, then at least in South Australia the situation could continue as is the case at present. If the Act is not changed, then the Government of South Australia will be forcing transport companies, and all other companies who use subcontract transport operators, including the concrete industry, brick industry, grocery industry and every other transport user, into a situation where, if an agreement is made between the company and between the Transport Workers Union and the subcontractor, then each of the parties are liable to be at risk of being prosecuted under section 51 2 *(a)* of the Australian Trade Practices Act and could be fined a sum of $50 000 each. The alternative, of course, would be to have the union advise all their members who are subcontractors and for whom agreements are currently in force, that they are no longer able to negotiate cost updates because of the anomoly in the South Australian law. The effect of this would be that persons adversely affected will immediately stop work, disrupting the industry in which they are engaged.

This disruption about which I talked earlier is not far away, if the amendment on file by the Hon. Mr Sumner is not carried tonight. It will be on the heads of members who oppose that amendment. The document further states:

I would like to reiterate that it is essential for the stability of the road transport industry in South Australia, affecting all sections of the community, that the rights of owner-drivers be protected in having the Act changed so that employers, unions and small business owner-drivers are not forced to act illegally by negotiating freight rates and conditions in contravention of the Trade Practices Act, because the Arbitration Act in South Australia is inadequate. The other matter is that the Liberal Government was convinced—

at the time of writing this statement—

that the change was correct and good for the State of South Australia and that the change was correct and good for the State of South Australia and employer groups and would be of benefit to the public as well as protecting the rights currently enjoyed by owner-drivers which would be lost if the amending legislation was not passed. In consequence to this the Minister of Industrial Affairs, Mr Brown, instructed the Parliamentary draftsman and the Director of the Department of Industrial Affairs, as well as Mr Shillabeer, an officer in that Department, to prepare a suitable amendment and to make sure that this be done with the greatest urgency so that the amendments can be passed before Parliament goes into recess. The persons drafting the legislation had to do so within a fortnights period and in fact had to take the work home to have it finished within the required time. The Minister knew

that if the legislation was not passed owner-drivers and companies negotiating conditions and rates for cartage would be at risk with the Trade Practices Commission and liable to be fined with amounts up to $50 000 each, making the Minister appear responsible to both industry and contractors for failure to act.

What has happened since 3 December 1981? Obviously, someone has got to the Minister. The Minister was agreeing and directing his senior officers to prepare an amendment similar to the one placed on file by the Hon. Mr Sumner. There is something very evil associated with a turnabout such as the one I have just described. The Transport Workers Union has indicated that it does not believe that owner-drivers as members of the union should be treated exactly in the same way as any other employee in the industry. That point is made clear in a letter from the lawyers acting for the Transport Workers Union, Stanley and Partners. The letter reads:

Following discussions with Mr Shillabeer and with Parliamentary Counsel, it has been proposed that the definition of 'employee' in section 6 of the Industrial Conciliation and Arbitration Act, 1972 be amended to include any person of a class prescribed by regulation as being an employee for the purposes of the definition. At the same time it is proposed to make and pass regulations prescribing one such class as being the owner-drivers of motor vehicles used to carry goods or materials. It is proposed that the provisions of the Act dealing with unfair dismissal, sick leave and time books not apply to this class of employees.

Even at that time, on 27 November, Stanley and Partners were acting in all good faith. They were meeting with a senior officer from Mr Brown's department and Parliamentary Counsel, in relation to drawing up amendments which would have the same effect as the amendment placed on file by the Hon. Mr Sumner.

I appeal to the Council to toss this Bill out and put Mr Brown where he belongs—on the political scrapheap. The Government should kick Mr Brown out of this job and replace him with someone who is concerned about the working class. I have given the Council enough evidence that Mr Brown's back-benchers are crooked on him for somersaulting. The Transport Workers Union is also crooked on him. We have all seen Mr Brown's second reading explanation. I am sure he will be very embarrassed when he reads what I have said tonight. I oppose the Bill.

The Hon. K. L. MILNE: It is rather strange that the Hon. Mr Dunford now seeks my support for this Bill, following remarks made by the Opposition about me and my colleague in another place.

The Hon. J. E. Dunford: I didn't say that.

The Hon. K. L. MILNE: Yes, the last time this Bill was debated. I think the Opposition pulled every dirty trick in the book. We were abused on false grounds. The Opposition severely criticised the Democrats for temporarily allowing a certain situation in the Bill. However, the Opposition no longer objects to all the industrial authorities being listed. They are all listed and the Opposition has no objection. Therefore, the Opposition should not expect any sympathy from me. This is all grandstanding—the irrelevant speeches and the threats to vote against the Bill are sheer hypocrisy. The Opposition knows as well as I do that the U.T.L.C. has little complaint against the Bill, except for section 146b which I intend to amend. The chance of my voting against the second reading of this Bill is nil.

The Hon. R. C. DeGaris: What clause are you referring to?

The Hon. K. L. MILNE: Clause 9. I now turn to the Government's performance. When the Democrats assisted the Government with the passage of the present Bill we did so on the understanding that a new Bill would be introduced within a few weeks and that we would all have a lot of time to consider it. It took three months to produce this short Bill, and the Government is now forcing it through as if it were vital legislation. There will be no time for proper discussion. It is simply not good government.

When Mr Millhouse said that Federal law should be incorporated into our law he had not read the speeches made in this Council. I believe the commission is quite capable of deciding what matters should be included in the definition of 'public interest'. Therefore, I will be moving an amendment to clause 9 to require the commission to consider the public interest only. We discussed before how difficult it would be for lawyers untrained in economics and commerce and industry to work out what effect a certain wage decision would have. The Minister said that all that could be measured. The economists have been wrong very frequently and it is almost impossible to decide whether an increase in wages and a happy work force would increase productivity or harm it.

The Hon. R. C. DeGaris: Tell me when an economist has been right?

The Hon. K. L. MILNE: Very seldom. It is too difficult to try to put this responsibility on a State commission of this kind. That was said before, and I believe it to be true. Amending clause 9 will free the commission from these restraints and constraints which have caused so much difficulty for the Opposition and the U.T.L.C. I am prepared personally to allow the commission to make its decisions. It knows what it should take into account, and I am prepared to let it continue to do so, because I believe that would be in the public interest.

The Hon. N. K. FOSTER: I oppose the Bill, and I say so quite emphatically. It is time people such as Minister Brown kept their hands out of the pockets of those who receive least in the community. It is time that this Minister, the Government, the Cabinet, and the so-called razor gang directed their efforts to desisting from further stripping the assets of this State in their blind pursuit of some economic bonanza that they think will be the result of their cargo cult attitude to the quick result from the mineral development which is not yet even around the corner. It is time the Minister, the Government and the Cabinet realised that their industrial relations policies have been an absolute sham. It has been shameful, and reflects no credit on the Minister, showing an appalling lack of understanding.

The facts of industrial life are enshrined in many ways in many places. This Bill has as its purpose some form of uniformity. Let me reply to the statement of the Hon. Mr Laidlaw about the meeting of Labour Ministers seeking uniformity. Let me refer to Western Australia and that great anti industrial workers personality, the Premier of that State, a grand defender of the industrial rights of the multi-nationals. The State Industrial Commission in Western Australia came down not on the side of the Government, the Minister, or the Premier, but on the side of the applicants and in fact granted full indexation, even though they had attended the meetings to which the Hon. Mr Laidlaw referred.

The Hon. D. H. Laidlaw: What I said was accurate.

The Hon. N. K. FOSTER: It was accurate in the sense that the Ministers attempted to con themselves and their Federal counterpart, in the mistaken belief that it was on in all States in industrial honesty. Although the Ministers conned themselves, before they boarded their aircraft some of them realised that it could not be done. Let me again quote from the report of the Joint Committee of Constitutional Review. A large percentage of that 1958 report dealt with industrial relations and industrial matters. I quote from page 90 at paragraph 652, as follows:

The objects of the Conciliation and Arbitration Act were restated in 1956 in the following terms:

2. The chief objects of this Act are—

(a) to promote goodwill in industry;
(b) to encourage conciliation with a view to amicable agreement, thereby preventing and settling industrial disputes;

I notice that the Hon. Mr Milne has gone. He talked about the public interest, and he is not here. It further stated:

(c) to provide means for preventing and settling industrial disputes not resolved by amicable agreement, including threatened, impending and probable industrial disputes, with the maximum of expedition and the minimum of legal form and technicality;

I impress that point on the Hon. Mr Laidlaw, and perhaps the Hon. Mr Burdett might listen, because he represents the Minister in this Council and he knows the least of anyone about industrial relations. It further stated:

(d) to provide for the observance and enforcement of agreements and awards made in settlement of industrial disputes; and
(e) to encourage the organization of representative bodies of employers and employees and their registration under this Act.

That is only part of it: I will not weary the Council with the rest. It goes on in respect to the matter that this Bill addresses. Before I refer to the matter that is contained on page 97 of the document (the effects of the present division of industrial power between the Commonwealth and the States), I will deal with the disparities between the Commonwealth and the States in relation to dealings with the court. Let me say that no-one in the legal profession in a broad and proper commonsense way has dealt with that term or has attempted to define the term by using the words 'in the public interest'. Is not the overwhelming majority of people who rely on the courts or industrial unions for agreement on awards members of the public? Are not they to be considered as those who use this throw-away public interest jargon that seems to have manifested itself not only in the T.L.C. but also in political Parties?

One cannot determine and define the public interest. I heard a break-down in respect of the wage earners in the Commonwealth at a conference in Melbourne that goes something like this—24 per cent of total wage earners are relying on a single wage. Are they then considering in a better way the public interest because they are the least paid in the community? Are we to say that the 10 per cent of the people who enjoy in excess of $100 000 a year are the better people in respect to the public interest? I have dealt with both ends of the spectrum, and it is not possible to do just that. It is an ill-conceived, throw-away line that has no proper application or meaning, and I suggest that in all fairness. Do we take over salaries on the basis that we are considering that throw-away phrase, the public interest?

The Hon. G. L. Bruce: It is not a throw-away phrase—it is deliberate.

The Hon. N. K. FOSTER: The honourable member is quite right. The centrefold of the *Advertiser*, which is a description I give to the editorial column, often uses that phrase, with no qualification whatsoever. The press ought to be taken to task for that, as I take the Council to task for using that phrase. Often, it has no application. Are those who impose no burden on the structural changes of wages and salaries and who represent the unemployed people in the city to be taken as having a greater appreciation of the public interest because they receive no wage at all? Are we to refer to them, as Mr Hill has done, as dole bludgers?

The Hon. C. M. Hill: I have never said that, and you know it. You are just a galah.

The Hon. N. K. FOSTER: At least a galah has two wings.

The Hon. C. M. Hill: And it squawks all the time.

The Hon. N. K. FOSTER: I will not ask the Minister to withdraw and apologise. The galah is a wellknown member of the Australian native fauna. It knows its presence, as does everyone else.

You, Mr Hill, are a rather exotic type of animal. If you want to carry on, you can do so. This matter is of public importance, Mr Hill. You were so dishonest in trying to impress the public that you bought the 4 000 copies of the *Sunday Mail* and tried to impose your will on that number of people. You have been a scoundrel all your life, so do not call me a galah.

The Hon. C. M. Hill interjecting:

The ACTING PRESIDENT (The Hon. J. A. Carnie): Order! I call the honourable Minister to order.

The Hon. N. K. FOSTER: Thank you, Mr Acting President, and I apologise for not resuming my seat. I was taken up with those woeful interjections. I did not observe you on your feet and I apologise.

The Hon. D. H. Laidlaw: What is wrong with a galah?

The Hon. N. K. FOSTER: I would not call him that. All the Minister of Industrial Affairs attempts to do is divide the trade union movement, and he is not going to achieve that. All he attempts to do is belittle the Industrial Commission, strip it of its powers, and reduce it to a nonentity. Mr Burdett, who represents him in this Chamber, knows full well that the wrath of the commission can be incurred in no quicker way than that. I have refuted what Mr Laidlaw has said in respect of the matter on which he sought to convince the Council that the Bill provided for some uniformity. On page 97 of the document it talks about the effects of the present division of industrial power between the Commonwealth and the States. The committee dealt with the difficulty arising from the language of paragraph 35 itself. Independent of this, however, the committee considers that serious problems have arisen from the legislative power over industrial matters by the Commonwealth and the State. It goes on to say this:

In the first place, the Committee's attention was drawn to obvious disparities between Commonwealth and State awards and determinations . . .

It deals with the determinations and it deals with matters before the court by applicants before the court. It goes on to say:

. . . the tendency sometimes for Commonwealth and State awards to compete with each other to the detriment of good employer-employee relationships in particular industries.

State industrial authorities, for the most part, take into account relevant awards and determinations of the Federal authorities

The Bill says something about this. I am correcting the misconceptions in the Bill. It goes on to say:

. . . and on occasions are enjoined by State legislative direction to pay regard to Federal action.

There is nothing in the way of State legislation powers directly related to what the Minister has pertained to in this Bill. What I said about Western Australia explodes that. So the Minister should be content that when that so-called understanding of the commission was breached by the Western Australian commission there was no validity. If there was any agreement then the Minister should have felt free not to act upon that, because already the Western Australian counterpart had completely and absolutely and utterly ignored it. I have yet to read of any like legislation to the matter that is before us being a matter before the Queensland, New South Wales, Victorian, Tasmanian or the Northern Territory Governments. So, the Minister does not know the feeling and he was under a misapprehension. I do not want to read this all but it goes on to say:

So far as the persuasive authority of decisions of the Commonwealth Court is concerned, all we need to say is that this Commission has always paid due regard to the decisions and the reasons accompanying those decisions of both the Commonwealth Court of Conciliation and Arbitration and the Courts of the States of the Commonwealth that are vested with jurisdiction in relation to industrial matters.

In some cases, after examination and consideration of the reasons given, the Commission has been satisfied that in the exercise of its own jurisdiction the Commission should follow the same or a similar course; in others, the Commission has not been so satisfied. . . . The positive duty placed upon the Commission by the Industrial Arbitration Act is to reach its own conclusions and then to give expression and effect thereto.

It continues:

Even when State authorities have close regard to the activities of the Federal authorities and endeavour to keep in line with Federal decisions, there is, nevertheless, a time lag between the date of a Federal award or variation of an award and its incorporation in a State award. Moreover, the work of a State industrial authority is subject to the legislative power of the State Parliament and, if particular terms and conditions of employment are prescribed by Act of Parliament, then it may be impossible for a State award and a Commonwealth award operating in the same industry to provide similar terms and conditions of employment.

A number of pages, of course, deal with the economic arguments that are put forward in respect to that report, the series of documents, the evidence, and so on. If I wished I could go on and read what the recommendations were in respect to this particular document. However, it deals with no more than perhaps suggesting that all industrial matters should be reversed, and that the whole of the power should reside with the Commonwealth. However, there has been no suggestion from any of the States represented on this committe that they ought to accept the recommendation as contained in that joint committee report.

Before I was interrupted by the Hon. Mr Hill I intended to make known to this Council that at a conference in Melbourne recently I was quite staggered about a breakdown of figures of wage earners, because the thought had not occurred to me concerning percentage terms of the work force. It was shown that 24 per cent of the work force rely on a single wage earner, at the lower end of the wage scale, and another 18 per cent are single parent wage earners, which makes a staggering 42 per cent. It did not go on and deal with the unemployment percentage, because it was dealing with that particular context only. That figure is considerable when one considers the average earnings within the Commonwealth and the very, very small percentage of the total work force that enjoys that. Then, of course, one realises what wide disparities occur.

Let us take a case that occurred today, or should I be saying, yesterday, in respect to health workers. The employers, the press, and some idiot who has been wrongly let into the office of the A.M.W.S.U. have been issuing condemnations. There is nothing that the Hon. Mr Brown can do in this or any legislative process that can undo this. If I was a union official I would not give a tinker's damn as to whether the Industrial Commission gave its authority or not. There is nothing that the State Legislature can do about it, bearing in mind that it is a Federal award and that it has its inhibitions.

All that this Bill will do in its finality is place on the Statute book an infamous document, an infamous Statute, but all it will do in real terms is to inflict hardship upon the lowest paid people, the people who are least able to pull any industrial muscle, people who are least able to defend their rights or who can only cry in the dark. All this Bill will do, if anything at all, is give some denial but not protection.

I now deal briefly with what it means in totality in protecting the State from the inroads that have been made as a result of the election of this Government, and perhaps to some extent with what is happening in the western world and the Australian economy in general in attempting to protect itself against a financial situation in which it has rapidly found itself. It has run out of finance for the Frozen Food Factory and the Monarto Development and is sacking people and denying them the right of a salary or wage. It has got to the stage where it wants to get rid of certain authorities in the State in the wrong and belated belief that it can save money.

In the 1930s, when the State was broke and could not pay a depleted Public Service because of actions of the Government, Mr Bonython had to go cap-in-hand to a private citizen and beg a loan for thousands of pounds to allow the Public Service to be paid its fortnightly pay packet. Is that the stage to which this State is getting? Can the Government take any comfort in the fact that this industrial measure will put off that inevitable day and that the State Industrial Commission should do the Government's dirty work to save it from its own loud-mouth policies at the recent election when it failed to have the foresight to see the economic path that it ought to tread in the interests of this State? It embarked on sensationalism in advocating 'Stop the job rot' and in getting rid of death duties. Could it not foresee the results of its actions, or was it too anxious to grab office and not accept responsibility?

It saw the Bank of Adelaide go to the wall and institutions in this State being taken away. We have seen Elders go. It has had an effect to the extent that there are no warehouses of reasonable size in this State of big employing companies. We can look at the motor vehicle industry. Ought not the Government be leaving the courts alone to make its own determinations? It should tax the rich, tax the bludgers and the tax dodgers.

We were silly enough to accept pay-roll tax in 1971 when the Premier of the day should have told McMahon that we would not fall for the thimble and pea trick. Whoever was Premier at that time fell for it. Governments of both political persuasions have been attempting a short-term policy in regard to pay-roll tax. We cannot run our economy on that type of adjustment. The Government has reduced its share of income tax in real and proper terms by aiding and abetting in this State the sacking of thousands of employees.

The Hon. J. C. Burdett: That's not in the Bill.

The Hon. N. K. FOSTER: It is, because the Bill is an economic measure which takes an economic stance. It forces an economic stance on the Industrial Commission. Tell me where I am wrong. The Bill's real purport is the denial of the ill-conceived idea that the Government will obtain uniformity, but that is impossible because of what I have already told the Hon. Mr Burdett and the Hon. Mr Laidlaw—Western Australia has denied that uniformity and legislated for full indexation.

I have already told my Party room that we were remiss that no-one in another place moved a private member's Bill seeking full indexation after the decision was made to abandon it. It was abandoned after only one or two decisions were made. Who were the whingers and whiners in respect of indexation—the employers and Malcolm Fraser, who made the promise that full indexation would be granted but he never kept his promise. Liar and scoundrel that he is, he must continue in the office that he unfortunately holds.

There has been too much union bashing and not enough defence of unions in this country for too many years. The *Advertiser* headline this morning concerning the A.C.T.U. is false. No credit is given at all. I refer to the role of the union movement in regard to the quarterly cost of living adjustment. The union movement went without from about 1951 or 1953 until the mid-1960s. It was based on the economy of spuds and onions—no bread. The Government does not give a damn for the underpaid in the community who have to start looking on Saturday if they will have money for two loaves of bread instead of one and milk on the Wednesday before pay day. They are the people about whom I am concerned, but the Government does not give a damn.

The Minister of Industrial Affairs can live in his ivory tower in the eastern suburbs. He can have his false principles in regard to Moral Rearmament, but his father has more principles than the Minister. I refer to the hand-out that his family has received since the Government has been in office and the cuts that were made in the last Budget when the Government got such a shock when it saw how much consultants were getting from departments, how much fat they were getting, yet the Minister has the hide to support the rich. Government members should not be in office and should be ashamed to describe themselves as human beings.

The Hon. Mr Burdett and the Hon. Mr Hill have nothing to be proud of when they support a measure which denies rights to those who have less to get less. Those honourable members would not inflict it on their children. The Hon. Mr Hill ensured that his son got into the Senate. Good luck to him, yet the Hon. Mr Hill sits in this Chamber in judgment of those who have nothing. If we can force the bench not to make wage decisions on the basis of the evidence given to it, then that is a feather in our cap.

Members opposite can get Brigadier Willett on his $80 000 a year. They can be turned upside down and one would not get a zak out of their pockets if there was a charity shop next door for that purpose. That is the way I regard members opposite, including the Minister. This is an infamous Bill that deserves not passage but damnation and condemnation. There is not a skerrick of principle in it. Let Mr Griffin, the Leader of this House, stand here and tell us how his hand has signed Cabinet documents which have sent people to the dole queue. You have done it again, Mr Griffin. You are continuing to do it, and yet you call yourself a family man and a family person. You are not fit to breathe, let alone be here, if you do things like that.

The ACTING PRESIDENT (Hon. J. A. Carnie): Order! I suggest that the honourable member return to the Bill.

The Hon. N. K. FOSTER: I am on the Bill. It is a Bill of denial and the Minister is a person of denial. He is a person who believes in so-called lawful justice, but he does not believe in the Industrial Court having the right to determine the matters before it. The Minister takes great umbrage if we say he ought to intervene in any civil or Supreme Court matter. It is a different context, a different form of criminality. I consider the people responsible for this Bill as a collective Cabinet are no more than white collar criminals. I ask everyone in this Council to oppose this Bill. If my colleagues want to call for support of the amendment, so be it, and I make no criticism of them for that.

I say to all honourable members at this late hour, 2 o'clock in the morning, that it is just as well that it is summer time. Otherwise, I would say that you are denying the parents of kids who are not getting enough to keep them warm whilst you are debating this matter in air-conditioned comfort. There are people sleeping in doorways. You come with me, Mr Griffin, to the church near the Morphett Street bridge and shake the shoulders of the destitute, not elderly destitute, but young people who are looking for jobs. You are an Anglican churchgoer, but I have compassion for them and you have none. If the Minister walks the city with me tonight he will see the haunts of the underpaid and the unemployed, but he does not have enough guts and compassion to do that. There will be those who will be fortunate enough to have bombed themselves out with cheap wine to get to sleep.

You do not worry about them, Mr Griffin; you worry about the business section of this city. You drive from here to the State Administration Centre in your white car. I suggest that you walk the city at 3 o'clock in the morning or join your church organisations and walk with some of them, as some of them do. You do not participate in that. I am telling the Minister this because he ought to be ashamed and ought to be told because he damn well deserves to be told.

The Hon. G. L. BRUCE: I feel compelled to speak in this debate about a couple of points. I oppose the Bill. My colleagues on this side of the House think that this is an ill-considered, ill-advised and hastily-conceived Bill. I think it is far from that. I think it has been well considered and well thought out by the Party on the other side. The Bill provides that the Commission shall consider the state of the economy and the likely effect of the determination on that economy with particular reference to its likely effect on the level of employment and on inflation. What the Government has done, of course, is abdicate its responsibility in Government and pushed it onto the commission, saying, when things are not going well on the employment scene or with the economy, that the commission did not give sufficient study to it.

The Government has done even worse; it has turned the commission into a farce, because if this Bill passes the Council (and I do not doubt for a minute that it will) the witnesses at that commission are going to be political witnesses. I do not see why they cannot drag in the Premier, Treasurer or any person on the Government scene who raises an issue on some money matter about how the state of the economy is in South Australia.

The Government is turning the Industrial Commission, which should be an impartial body that looks at facts, into political arena. The witnesses appearing before the commission will be political. The Government is inviting economists into the commission. God knows whether an economist can give a proper decision. I understand that if all the economists were put end to end you would still not reach a conclusive decision. For every point of view put by an economist there is an opposing point. The commission will be turned into a political arena. Politicians will go to the commission and describe the state of the economy, while economists will go there and describe the future for the state of the economy. One clause takes away any credibility that the commission may have had. Clause 9 (3) *(b)* provides:

> where there is a nexus between the proposed determination and a determination of the Commonwealth Commission—shall consider the desirability of achieving or maintaining uniformity between rates of remuneration payable under the respective determinations;

It does not say that they must: it says that they shall. The Government is saying that if it does not suit it to allow a rise in equity, good faith, and good conscience, as is allowed in other States, it will take the option out. The Government has not gone the whole way and provided a maximum, but has inserted a rider referring to the maximum in other States.

This is a well considered Bill and I congratulate the Government on the thought that it has put into it. What the Government has prepared has been well considered. The Government has made no off-the-cuff decisions in relation to this Bill. The Government is making a farce of the commission. The Bill is not worthy of support. To read this Bill, one would think that we have the most outlandish commission in existence, that it is going to take huge decisions, and that it will shatter the economy of this State.

Two or three weeks ago the commission tried to break new ground in relation to sick leave. However, the Government could not get a new Bill into Parliament quickly enough. The Government introduced a Bill to prevent the commission from considering sick leave. I have not seen the South Australian Industrial Commission break new ground anywhere. If it looks like getting out of hand, the Government introduces a Bill to curtail it. This is not an ill-

conceived Bill. The Government has thought it through and probably will get it passed, but that will not be to its credit. I oppose the Bill.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank members for their contributions in this debate, some more than others. In reply I only wish to refer to one matter, and that is the allegation of lack of consultation. The Hon. Mr Dunford said that that allegation was not denied by the Minister. However, it was denied in the Minister's second reading reply in another place, as follows:

In fact, Mr Gregory, on the morning he left to go overseas, issued through his office a press statement predicting that the Government was about to legislate to tie the South Australian Industrial Commission to the Federal commission. Yet, we have heard speaker after speaker tonight claim that Mr Gregory had not been consulted. I have a copy of the transcript of the statement that Mr Gregory gave to Mr Bill Rust in making that claim.

The Hon. J. D. Wright: That is telling him, not consultation. You know that.

The Hon. D. C. BROWN: The Director of the Department of Industrial Affairs and Employment sat down and talked to the Secretary of the United Trades and Labor Council, in confidence, yet we find that that statement was made publicly on the morning the Secretary left to go overseas. That is the only substantial new material in the Bill that was not already in the Bill that was introduced in August, except the *Moore v. Doyle* case.

I cannot see on what grounds the Opposition has become so excited in terms of no consultation. Members opposite have not denied the fact that the Director of the Department of Industrial Affairs and Employment sat down and talked to Mr Gregory, the President, and the employers. No-one has denied that, yet there is a claim of no consultation.

The Council divided on the second reading:

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

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

Pair—Aye—The Hon. L. H. Davis. No—The Hon. B. A. Chatterton.

Majority of 1 for the Ayes.

Second reading thus carried.

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

That it be an instruction to the Committee of the whole Council that it have the power to consider amendments relating to owner-drivers in the transport industry.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

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

Page 1, lines 10 to 12—Leave out 'by striking out from the definition of "industrial agreement" in subsection (1) the passage "filed under section 108" and substituting the passage "made under Part VIII" ' and insert:

(a) by inserting after paragraph *(b)* of the definition of employee in subsection (1) the following paragraph:

(ba) any person engaged to drive a motor vehicle used for the purposes of carrying goods or materials, whether or not that vehicle is registered in his own name and whether or not the relationship of master and servant exists between that person and the person who has so engaged him;

(b) by inserting after paragraph *(c)* of the definition of employer in subsection (1) the following paragraph:

(ca) in relation to a person referred to in paragraph *(ba)* of the definition of employee, means the person or body, whether corporate or unincorporate, who engaged the person to drive the motor vehicle;

(c) by striking out from the definition of industrial agreement in subsection (1) the passage filed under section 108 and substituting the passage made under Part VIII; and

(d) by inserting after subsection (1) the following subsection:

(1a) The Governor may, by regulation, declare that this Act, or any specified provision of this Act, shall not apply to or in relation to employees referred to in paragraph *(ba)* of the definition of employee in subsection (1), or a specified class of such employees, and any such regulation shall have effect according to its terms.

This clause deals with definitions, and it is in relation to this clause that I obtained the authority of the Council to enable the Committee to consider amendments which I have placed on file relating to owner-drivers in the transport industry. This amendment deals with the rights of owner-drivers or subcontractors and, in particular, their rights in relation to which industrial organisation they want to join. I will not detain the Committee with a long explanation of the history of the owner-drivers' situation and their relationship with the Transport Workers Union unless, of course, that becomes necessary during the course of the debate. It will suffice to provide to the Council a brief resume of the situation.

Over the past 18 months or so the Transport Workers Union has acted on behalf of owner-drivers in negotiations with the Australian Road Transport Federation and with organisations also in South Australia, including the South Australian Road Transport Association and a number of other employer groups. This situation has been to the satisfaction of the owner-drivers, who were members of the Transport Workers Union; of the Transport Workers Union, which has been happy to represent these owner-drivers in these negotiations and in hammering out these agreements with the employer organisation; and of the employers in the industry.

Over the past 18 months or so the conditions in the industry have improved considerably and a degree of stability has returned after a period of difficulty, of which all members will be aware and which led in part to the blockades of some two to 2½ years ago. The situation whereby the Transport Workers Union could negotiate and represent owner-drivers has been upset by a decision in a Federal court, when Mr Justice Northrop held that the Federal Conciliation and Arbitration Act definition of 'employee' did not give scope for coverage by the Transport Workers Union of owner-drivers.

Although I understand that the Federal rules of the Transport Workers Union cover owner-drivers, the judge held that the Act was not broad enough to allow those rules to cover owner-drivers. In effect, this initiative takes away the coverage of owner drivers from the Transport Workers Union and was initiated through the Industrial Relations Bureau at the behest of an organisation called the Independent Truckers Association, which, I am informed, is an anti-union organisation and is trying to disrupt the situation that has operated satisfactorily in this area over the past 18 months.

The Hon. D. H. Laidlaw: Does the Independent Truckers Organisation exist in South Australia?

The Hon. C. J. SUMNER: I do not believe that it exists as such, but another organisation does exist, with which I will deal later. The amendment would overcome the situation at least in South Australia, and it would enable the existing agreements to continue in this State. If the position is not changed, and if this amendment does not pass, the owner-drivers will be characterised as sub-contractors in their relationships with the contractors or the employers. If that occurs, I understand that the Trade Practices Act will operate to prevent any agreements being entered into between owner-drivers and the contractors or the employers. That will have a disastrous effect on the number of agree-

ments that have been reached in the concrete industry, the grocery industry, the brick industry, and the sand and metal industry.

If the Bill is not amended, I understand that those agreements that have been reached could be challenged and could be struck down under the Trade Practices Act. Any further agreements could not be entered into because of the implications of the Trade Practices Act. However, I understand that, if the Transport Workers Union has the coverage of the owner-drivers, they are considered under the Trade Practices Act to be employees, or at least it provides an exemption for the agreements that are negotiated. I hope that honourable members will see that the amendment is significant in terms of stability in the industry and in relation to ensuring that those owner-drivers who wish to be represented by the Transport Workers Union can continue to be so represented and can use the union to negotiate agreements, as has occurred over the past 18 months or so.

My information is that that has occurred to the substantial benefit of the industry, because it has produced a degree of stability. The employers know with whom they are negotiating, the union is negotiating on behalf of the owner-drivers, and the owner-drivers are generally happy with that situation. Of the 7 000 members of the Transport Workers Union, 17 per cent are owner-drivers, so that more than 1 000 owner-drivers are members of that union.

That would be by far the organisation that has the largest number of members who are owner-drivers. I understand that there is in South Australia an organisation called the South Australian Long Distance Road Transport Association, which I am advised has 100 members, only 50 of whom are signed up and many of whom are members of both the South Australian Long Distance Road Transport Association and the Transport Workers Union. So, there is no doubt that in terms of effective industrial representation it is the Transport Workers Union that is carrying out the task with the support of the overwhelming majority of the owner-drivers in this State.

If this situation is not fixed up there will quite simply be a return to industrial chaos in this area. There will be no agreements, and no rights and conditions for owner-drivers in the industries to which I have referred in this State because the employers will only negotiate with the Transport Workers Union. If owner-drivers are not considered to be members of the Transport Workers Union or if that union has no coverage for them and they are treated as subcontractors, there is no question of any agreement being entered into because of the trade practice implications. In any event, I believe that the employers prefer to negotiate these agreements through the Transport Workers Union, which has over the past eighteen months been shown to have had the support generally of the owner-drivers. So, that is the history of the matter.

There is one other matter on which I must touch, namely, that the Government has been involved in this issue over the past two or three months. Indeed, the Liberal Government agreed to the amendment that I have now placed on file. It agreed to that as a result of discussions and representations it received from the member for Todd and certain other Liberal back-benchers. Because Mr Ashenden has had experience in this industry, he fully endorsed these amendments and took up the matter with the Minister of Industrial Affairs. That Minister and the Government gave an undertaking that they would move this amendment in precisely these terms, but what happened? Pressure was then applied to the Government by the independent truckers association. The matter went to a Liberal Party meeting, and the Government's decision was overturned by the Liberal Party meeting.

So, a hasty telephone call was made by Mr Ashenden to the people representing the Transport Workers Union and the owner-drivers in this State to say 'Sorry, we cannot proceed with these amendments because the Party room has overturned the Government decision'. So, let there be no mistake about it. The Liberal Party has reneged on an agreement that the Government entered into. The Government entered into the agreement and the Liberal Party overturned the agreement that the Government entered into and caused the Government to renege on the agreement.

I have here correspondence from a firm of public accountants, Achatz, Webber and Company, to Mr Lance Milne, the Australian Democrats representative in this Chamber, dated 3 December 1981, which letter was also sent to me and some other members. I should like to read from that correspondence to indicate the extent to which the Government was involved in this proposition and had agreed to implement it. One paragraph thereof, headed 'An approach to the Government requesting a change to the Arbitration Act in relation to the definition of "employee", is as follows:

> On 2 September 1981, an approach was made to Mr Scott Ashenden, member for Todd, asking him to assist the whole transport industry by changing the definition of employee. After a deputation from representatives of 200 concrete carters and the Transport Workers Union and Kenworth Truck Sales Pty Ltd, a company which is involved with the supply of commercial vehicles, Mr Ashenden agreed that it was essential to have the Act changed to protect the rights of owner-drivers, being small business persons. He wrote a letter to the Minister for Industrial Affairs and a meeting was arranged between the secretary of the Transport Workers Union, ourselves (representing our transport clients) Mr John Hughes (representing the concrete carters), Mr Scott Ashenden (member for Todd), the Minister of Industrial Affairs (Mr Dean Brown), Mr Cawthorne (the Industrial Conciliation and Arbitration Act draftsman), Mr Brian Shillabeer (from the Department of Industrial Affairs) and Mr Wilson (Minister of Transport). The Minister of Industrial Affairs agreed that the Act would be changed in order to protect owner-drivers and to that effect suggested that Achatz Webber & Co., the Transport Workers Union and our solicitors, work together with Mr Frank Cawthorne and with Mr Shillabeer to draft an amendment to the existing Act suitable to the Government and to the owner-drivers. The proposed amendment was drafted and was to have been moved by Mr Scott Ashenden on Wednesday night, 2 December, 1981. The amendment to be moved by Mr Scott Ashenden was number 3 of 60 of 1981.

The amendment was in precisely the same terms as that which I have placed on file today. The letter continues:

> At three o'clock on 2 December, Mr Ashenden telephoned me to advise me that following a meeting, immediately before lunch, by the South Australian Liberal Party, it was decided that the amendment would not be moved. This followed a deputation received by the Minister of Industrial Affairs, sent by the Independent Truckers Association of new South Wales, one person from the South Australian Long Distance Road Transport Association.

Further on, the correspondence states:

> The other matter is that the Liberal Government itself was convinced that the change was correct and good for the state of South Australia, employer groups, and would be of benefit to the public as well as protecting the rights currently enjoyed by owner-drivers which would be lost if the amending legislation was not passed. In consequence to this, the Minister of Industrial Affairs, Mr Brown, instructed the Parliamentary Draftsman and the Director of the Department of Industrial Affairs, as well as Mr Shillabeer, an officer in that department, to prepare a suitable amendment and to make sure that this be done with the greatest urgency so that the amendments can be passed before Parliament goes into recess.

I think that anyone in the Chamber who had any doubt about what I said about the agreement that the Government entered into should have had those doubts dispelled by that correspondence, a detailed account of negotiations which went on over a period of time and which culminated in an undertaking from the Minister of Industrial Affairs, an undertaking from the Government that was subsequently overturned in the Liberal Party room on 2 December.

I would have thought that common sense would prevail in this matter, that the Government ought to be prepared to stand up for its original commitment and agreement on this matter. The issue has now been brought before Parliament by this amendment and I would hope that the Government sees the strength of the amendments. I should say that there were negotiations between the Government and the union that culminated in an undertaking being given by the union in the terms contained in a letter from the Transport Workers Union solicitors, Stanley and Partners, dated 27 November 1981, to Mr B. Shillabeer, Department of Industrial Affairs and Employment, as follows:

We refer to the writer's telephone conversation with you of 26 November 1981. The Transport Workers Union of Australia undertakes not to seek or apply for an industrial award in respect of its members who are owner-drivers of vehicles used for carrying goods or materials. In addition, the Transport Workers Union of Australia repeats the undertaking already given to the Department of Industrial Affairs and Employment and to the Government that it shall not recruit members in areas in which it does not already operate.

Negotiations were going on up until 3 December about the terms of this legislation and commitments were given by the Transport Workers Union in these terms so that the question of there being an award to cover the owner-drivers is not in issue in these proceedings or in the negotiations between the union and the Government. In fact, I have just referred to negotiations which have occurred. That was specifically provided for in the amendment. The Government can regulate the terms of it such that the terms of the Act will not apply to owner-drivers except that the owner-drivers would be employees within the definition of the Act and would therefore be able to be covered by the Transport Workers Union in negotiations.

The essence of the agreement reached between the Government and the union was that there would be coverage by the union of the owner-drivers but that the union would not take action in terms of trying to obtain awards through the Industrial Commission; that their acting on behalf of owner-drivers would be acting in direct negotiation with employer groups to try to reach agreements which had been the practice over the 18 months. So, I trust that that history has explained to the Council the importance of this issue. I ask that consideration be given to the amendment.

The Hon. J. C. BURDETT: I oppose the amendment. It is true that some owner-drivers wish to be deemed to be employees for the purposes of the Act but the owner-drivers are by no means united on this. In fact, they are split down the middle as to what they want. The Leader referred to agreements pursuant to the Federal decision that owner-drivers are not employees who may be challenged before the Trade Practices Act. That may be, but none of them have been challenged yet. What the Leader said in regard to that matter is pure supposition.

I do not propose to speak long on this amendment because the matter was thoroughly canvassed by the Hon. Mr Laidlaw in his second reading speech. He pointed out that there could be all sorts of strange consequences deeming people, who are not in fact employees but contractors or subcontractors, to be employees. For those reasons I oppose the amendment.

The Hon. K. L. MILNE: I have had discussions with the firm of public accountants who prepared the submission. Though they are an interested party, it is an excellent submission. The Leader of the Opposition explained the situation well, and I will not repeat it all. In addition, I sought the advice of the T.L.C. One of its officers prepared a summary for me and he finished up saying, 'Mr Sumner has prepared an amendment which will be circulated, and it would be at my recommendation that you support the amendment, as Mr Achatz says, "because it is essential for the establishment of the road transport industry in South Australia that the system of representation by the T.W.U. continue".'

What people are frightened of in the industry is that, if the owner-drivers are not represented by some organisation like the T.W.U., which has expertise in the area, they will be again driven into the ground, rates will be cut, and there will be another series of road strikes or blockades. The industry could deteriorate into a series of blockades such as we had two years ago.

There are complications when drivers go interstate, and it is probably a complication to call such people employees when they are not strictly employees, but something has to be done in the interests of the industry and its stability. This is the best suggestion that has been made, and I intend to support it.

The Hon. D. H. LAIDLAW: I have listened to what the Hon. Mr Milne has said. My view is that the preponderance of employees in the transport industry are under Federal awards. Whilst the large carriers are under the Master Carriers Award, most other interstate carriers are under the Federal General Transport Award. If those two Federal awards regarded owner-drivers as persons who could be classified as employees and be represented by unions, I would not be protesting now. I have said many times in this Chamber that we must have uniformity in Australia, or strive for it, and it would be a great shame if this State and this Council created one more division in the industry. For that and the other reasons I stated in my second reading speech, I oppose the amendment.

The Hon. C. J. SUMNER: The Minister's response was really pitiful. He did not answer any of the issues that I raised in a reasonable and responsible manner. He did not answer the statement that an agreement had been reached and subsequently re-negotiated. He said that the owner-drivers were split down the middle. That is certainly not the information I received. There are a few owner-drivers who obviously have some influence with the Liberal Party and who have overturned the agreement. My information is that they are very much in a minority. I mention the organisation in South Australia, the South Australian Long Distance Road Transport Association, which has some 100 members, compared to over 1 000 owner-drivers who are members of the Transport Workers Union.

The Hon. D. H. Laidlaw: What about all those owner-drivers in the Federal award scene?

The Hon. C. J. SUMNER: I will come to that in a moment. The Hon. Mr Burdett has tried to claim that they are split down the middle. There are obviously one or two people who have caused the Liberal Party members to change their minds about the issues, but on the figures I have given I do not see how the Minister can possibly maintain that they are split down the middle. Information I have from the organisations and people acting for the owner-drivers is that they want to be covered by the Transport Workers Union. The employers want that, it has provided stability in the industry, and it is just plainly not true for the Minister to say that the owner-drivers are split down the middle. The Minister also said that some strange consequences would arise if this Bill was passed. That has to be totally refuted because that, too, is nonsense. The Hon. Mr Laidlaw tried to drum up some situations where he said there would be strange consequences. All that the amendment does is provide coverage for the Transport Workers Union for owner-drivers.

There is in the amendment power in the Government if the Transport Workers Union does not, for instance, adhere to the agreement it has entered into with the Government and goes for an award or tries to get conditions through the Arbitration commission. If the Government does not like that, it can, by regulation, make those provisions of the

Industrial Conciliation and Arbitration Act not apply to these people. The Minister knows that that is in the amendment, so why does he misrepresent the situation? He knows it was in the amendment because that is what the Government agreed to: that was the drafting that the Government agreed to, with that clause in the amendment. The Hon. Mr Laidlaw's fears have no validity at all.

There certainly are some interstate owner-drivers. However, there are also owner-drivers within South Australia who are employed by South Australian companies, who are currently represented by the Transport Workers Union, and who have negotiated agreements with South Australian companies in the areas that I have mentioned—the concrete industry; grocery industry; brick industry; and the metal industry. What the Hon. Mr Laidlaw and the Hon. Mr Burdett say is that these people should not be represented by the union by which they want to be represented.

The Hon. D. H. Laidlaw: They have been represented by the union.

The Hon. C. J. SUMNER: There is no coverage unless this Act is passed. There can be no difficulties that will arise, as the Hon. Mr Laidlaw says, provided that the amendment is passed in the form that it is in. I cannot see what the Hon. Mr Laidlaw has in his argument except a smokescreen. What really is the situation is that the Liberal Party finds itself in political difficulty. The Government made an agreement. Some of the Government supporters got uptight about the agreement, took it to the Party room, and the back-benchers overthrew the decision. That is the political reality that we are facing. I am a bit disappointed that the Hon. Mr Laidlaw and the Hon. Mr Burdett have not tried to explain their opposition to this amendment in some kind of rational terms. Their arguments have no validity. The basis of their opposition is purely political. They have been forced into a corner, and on that basis I ask the Committee to support my amendment.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. B. A. Chatterton. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 4—'General variation of awards following general variation by Australian Commission.'

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

Page 2, line 9—After 'of South Australia' insert, ', the Retail Traders Association of South Australia Inc.'

The Government believes that the Retail Traders Association of Australia Incorporated is an appropriate body to be included together with other organisations named.

The Hon. FRANK BLEVINS: The Opposition can see no argument against this.

Amendment carried; clause as amended passed.

Clauses 5 to 8 passed.

Clause 9—'Industrial authorities to pay due regard to the public interest.'

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

Page 3, lines 39 to 43—Leave out 'and substituting the following subsection:' and all subsequent words.

Page 4, lines 1 to 19—Leave out all words in these lines.

I am moving my amendments for the purpose of taking out the items which I think are superfluous to what the Minister really requires. I have already explained that, in my view, the necessity to go into great detail about what the commission is to take into account is causing the trouble, restricting the commission, and not getting the Minister any further. If these amendments are passed, section 146b will simply state:

> In arriving at a determination affecting remuneration or working conditions, the industrial authority shall have due regard to the public interest and shall not make a determination unless satisfied that it is consistent with the public interest.

All the other things written down there are things that should be considered by any responsible commission as being in the public interest. I think Opposition members have been exaggerating the so-called wickedness involved in the Bill. They sometimes do not understand that the commission must know perfectly well that the wage and salary structure in South Australia could well be lower than that in other States. It used to be 9 per cent lower, and that was when South Australia was doing extremely well. As the wages in this State have come closer or equal to those of the other States, it has become more and more difficult, and we all know that.

I am not saying that we should keep the wages down, if that is what is wanted, but we cannot have it both ways. I have said before, and I am not ashamed of saying it because I am saying it in the best interests of everyone, that Federal awards do mean that our people in South Australia are paid the same as people interstate, with a lower cost of living. I do not believe that it is in our interests in South Australia to equalise the wages structure. The people in the other States know that it is not in our interests, and they do not want it to be in our interests. We are playing into the hands of the other States, but that is beside the point. I say that what was in the temporary provisions in subsection (2) involved extra items which the commission was to take into account merely because those items were in the Federal provision.

I do not think that that helps the State commission at all. Those words ought to come out, and it will then release the commission and make the union movement happier. It will have all sorts of good effects and I hope that this will be supported.

The Hon. FRANK BLEVINS: I have on file an amendment to this clause which basically seeks to do the same thing as the amendments moved by the Hon. Mr Milne. I think that my amendment is better in one respect, but I do not have the numbers for it. The Hon. Mr Milne, for all the deficiencies of his amendments, has the numbers. So, I see no point whatsoever in going through the exercise of moving my amendment if it will be defeated, particularly as the Opposition is going to vote against the third reading of this Bill, anyway. I support the Hon. Mr Milne's amendments. I certainly do not endorse everything that he said, because I believe that this Bill will never be any good. However, certainly the amendments (either mine or the Hon. Mr Milne's) would have improved the Bill and made it slightly less obnoxious.

The Hon. J. C. BURDETT: I oppose the amendments, which, as far as the Government is concerned, completely emasculate the Bill.

The Hon. Frank Blevins: That's right.

The Hon. J. C. BURDETT: That is acknowledged by the Hon. Mr Blevins by way of interjection: that is exactly what it is intended to do. I am surprised that the Hon. Mr Milne moved these amendments, because when a Bill on the same subject was before the Council previously I thought that he supported in substance what we are now seeking to do in clause 9. The Government considers that all the matters set out in clause 9 are important and ought to be set out in that order.

The purpose of new subsection (2) is to provide that principles enumerated by the Commonwealth commission shall be regarded as being consistent with the public interest and shall in fact be done. The State commission is quite able to operate under that umbrella; it is not deprived of power. The Hon. Mr Milne has indicated that, generally speaking, wages in South Australia have been lower and that, therefore, there will be a margin of operation for the State commission. Because it was very much the Government's intention that this should apply and because, as far as the Government is concerned, the amendment would emasculate the Bill, I oppose the amendment.

The Hon. D. H. LAIDLAW: I oppose the amendment, because I am led to believe that if the Hon. Mr Milne's amendment is passed it will also have an effect on clause 4, which relates to section 36, and speaks about the consideration of the Full Bench decision of the Australian Conciliation and Arbitration Commission.

I refer to the national wage cases. If the Full Bench of the State commission does not have regard to the economy of the State, it would be most unfortunate, because it is essential to have a flow-on of national wage cases. For that reason, and in addition to what the Minister has said, I oppose the amendment.

The Hon. K. L. MILNE: There is no suggestion that the Full Commission or the commission at any time should not take into account the factors referred to by the Hon. Mr Laidlaw.

The Hon. Frank Blevins: It is an insult to say that they do not.

The Hon. K. L. MILNE: I see no reason to spell out the provision, because the criteria and measurement will be different than those in regard to Federal problems, and the courts will be well aware of what is contained in the Federal Act. They know perfectly well that as far as possible they must take into account the same things. As the Hon. Mr Blevins has said, it is simply not necessary to spell out that provision in this Bill, because there are other things in addition. This is not a full list that I hope to take out. Other factors should be taken into account at different times. To set out the provision in this Bill could result in a detrimental effect on occassions.

The Committee divided on the amendments:

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

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

Pair—Aye—The Hon. B. A. Chatterton. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendments thus carried; clause as amended passed.

Remaining clauses (10 and 11) and title passed.

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

That this Bill be now read a third time.

The Hon. FRANK BLEVINS: The Opposition opposes the third reading of the Bill, and it does so for all the reasons stated by members on this side. I do no wish to go through those reasons again, except to say that the Industrial Commission, which is under attack in this Bill, has served the employers and various Governments of this State extremely well. I repeat that, although we have the lowest wages and the worst working conditions in Australia we have the lowest level of industrial disputes, and yet this Government is still not satisfied. As far as members on this side are concerned, that is quite far enough. The Commission has always had to give Liberal Governments everything they wanted, and we cannot understand why this Government wishes to attack the Commission in such a way. We are certainly not prepared to go along with it, so we will divide on the third reading.

The Council divided on the third reading:

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

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

Pair—Aye—The Hon. L. H. Davis. No—The Hon. B. A. Chatterton.

Majority of 1 for the Ayes.

Third reading thus carried.

HOUSING AGREEMENT BILL

Returned from the House of Assembly with the following amendment:

New clause 3—'Authority to execute agreement.'

Page 1, after line 7—Insert new clause 3 as follows:

(1) The execution of the agreement on behalf of this State is authorized.

(2) The Treasurer is, upon execution of the agreement, authorized and required to carry out the terms of the agreement on behalf of this State.

(3) The moneys required by the Treasurer for the purpose of exercising his powers or carrying out his obligations under subsection (2) are, to the necessary extent, appropriated.

(4) Any act done by the Treasurer in anticipation of the agreement coming into force is ratified.

Consideration in Committee.

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

That the House of Assembly's amendment be agreed to.

Motion carried.

STONY POINT (LIQUIDS PROJECT) RATIFICATION BILL

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

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

That this Bill be now read a second time.

In view of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill seeks to ratify the Stony Point indenture, pipeline licence No. 2 and the PASA and Procucers Right of Way Agreement. The indenture reflects the agreement between the State and the producers regarding the overall conduct of the development. Pipeline Licence No. 2 specifically empowers the producers to construct and operate a pipeline between Moomba and Stony Point. The PASA and Producers Right of Way Agreement provides for the use by the producers of a right of way to be obtained by PASA for the purpose of their pipeline. The first two of these documents are schedules to the Ratification Bill.

The background to the agreement is that, at the beginning of this year, the Cooper Basin Producers advised the Government that they had selected Stony Point, which is situated close to Whyalla, as the site for a scheme for the

shipment of crude oil from 1983 and l.p.g. from 1984. As well as the development of the site itself, the scheme would involve the construction of a pipeline to transport the liquids from Moomba to Stony Point. Since the announcement was made the producers have pursued their design, cost and environmental studies. In the case of the pipeline, these were undertaken by the Pipelines Authority of South Australia which will be supervising the construction and operation of the pipeline, and maintaining it (notwithstanding the producer's ownership of it) on behalf of the producers and providing the easement in which it will be located.

The producers and PASA's studies progressed to the point where environmental impact statements for the Stony Point site development and the pipeline were able to be released in the middle of the year. The Department of Environment's assessment of those statements, which was generally favourable, was released last month. In August overall planning reached the point where the Producers felt able to approach the Government for an indenture so that if the environmental assessments were favourable, ratification of the agreement could be sought from Parliament without delay. In the event the environmental assessments were favourable and negotiations with the producers were recently completed with the producers. In passing I point out that these negotiations involved a large number of departments including Mines and Energy, Treasury, Attorney-General's, Lands, E. & W. S., Marine and Harbors, Highways, Environment and Planning, and Trade and Industry as well as ETSA and PASA.

Before turning to details of the arrangement, I believe I should remind the Council of the broad outlines of the project. It is the largest resource development project ever undertaken in this State. The 659 km pipeline for the transport of the liquids from Moomba to Stony Point is expected to cost $150 million. The construction of facilities at Moomba and the fractionation plant at Stony Point is expected to cost over $600 million. The wharf and associated facilities are expected to cost at least $40 million. As I mentioned earlier, shipment of crude oil is expected to commence in 1983 and shipment of l.p.g. in 1984. The reserves that will be available from the Cooper Basin as estimated by the producers, comprise 3.47 trillion cubic feet of sales gas, 138 million barrels of ethane, 95 million barrels of l.p.g. and 99 million barrels of crude oil and condensate. At present world market prices they are valued at over $5 billion. Already, the producers have announced the negotiation of a five year contract for the sale of l.p.g. to Idemitsu Kosan, expected to be worth over $50 million per annum from 1984.

I now turn to the agreement which this Bill seeks to ratify. In negotiating this agreement, the State has sought to obtain an appropriate return for the resources it is making available to the producers. In this context, the word resources has been broadly construed and includes not only the liquids themselves (which have only been discovered as a result of the substantial investment by the producers in exploration) but also such elements as the port site, which is one of only two deep water sites in the upper Spencer Gulf. The State has also been concerned to minimise its involvement in the provision of infrastructure at the present time. The producers for their part, sought to ensure that State charges in the circumstances were reasonable and non-discriminatory and that there was sufficient certainty as to the impact of State taxes such as royalties and pipeline licence fees, particularly during the financing period of the project.

Negotiations between the State and the producers recognised the need to provide for access to the pipeline and wharf as well as water at the Stony Point site by third parties on reasonable terms. These approaches by the State and the producers are reflected in the financial provisions of the agreement to which I now turn.

Capital Funding: The arrangements which have been agreed between the State and the producers in relation to the financing of capital facilities can be summarised very simply. With only one exception, all the capital expenditure necessary for this project—estimated to total something in the order of $800 million in today's prices—will be met by the producers. They will, of course, be directly responsible for the gathering, storage and processing works in the Cooper Basin and for the plant at Stony Point. They will also own and finance the pipeline from Moomba to Stony Point, the estimated cost of which is around $150 million. Clause 22 of Pipeline Licence No. 2 provides that PASA will have an option to purchase this pipeline at a price to be agreed at the time when it is no longer operated by the licensees for the purpose of transmitting their product from the Cooper Basin region in accordance with the project referred to in the indenture. The exception to which I referred is that the Pipelines Authority of South Australia will be providing the easements on which the pipeline will be built and may be involved in the financing of a communications system in connection with the pipeline. The latter of these is subject to further discussion.

The reason that PASA is acquiring the pipeline easement is to facilitate the construction of further pipelines by the State in the pipeline corridor should that be considered appropriate in the future to enable, for instance, ethane to be supplied to a petrochemical plant. Road, water supply and port facilities at Stony Point will be owned by the State, but will be financed through security deposits to be lodged by the producers. These security deposits will be returned to the producers over specified periods as they or third parties pay offsetting charges for the use of the facilities in question. The capital costs in these three areas are estimated at about $45 million in today's prices, the bulk of which is represented by the jetty and other port facilities. The producers are making separate arrangements with ETSA for the financing of new transmission lines into Stony Point; again, the capital costs will be met by the producers.

In addition, costs will be incurred by the State in making land at Stony Point available and suitable for the producer's operations, including fencing, surveying, and exhange of land with the Commonwealth and construction of an access track to Fitzgerald Bay. These costs, which could amount to $480 000, will also be reimbursed by the producers. In addition the State's costs of resuming shack leases are to be borne by the producers. The fact that the capital financing will fall almost entirely on the producers is in line with the political and economic philosophies of this Government. We believe that governments should become involved in such activity only when the private sector is unable to carry the full financing load or where there are other clear grounds for government involvement. There are, however, other practical benefits which flow from private sector financing. The project will proceed without the Government exposing itself to any financial risk and without reducing the Government's capacity to finance other priority works. These arrangements also mean that the State is not giving any subsidy to the project, whether direct or indirect. They also mean that the State's ability to raise finance for other major development purposes in the future has not been unnecessarily diminished.

Royalty (Schedule 5): Because royalties are fixed by the existing Cooper Basin indenture and the Cooper Basin (Ratification) Act, 1975, royalties regarding the liquids project are dealt with by amendments to the indenture and Act, set out in Schedule 5 of the Stony Point Indenture. Under the existing Cooper Basin Indenture, royalty is fixed on

both gas and liquids at 10 per cent of well-head value until the end of 1987. The indenture now before the House makes no provision with respect to royalty on gas which, at this stage, remains open after 1987 and on which we will be having separate negotiations with the producers. So far as liquids are concerned, the indenture gives the State power to request discussions with the producers to review royalty arrangements to apply over the period 1988 to 1992 if royalty rates, pipeline licence fees or other similar charges have increased significantly interstate and the indenture lists matters which will be taken into account in such discussions, including royalty and like arrangements in other States. If agreement is not reached in such discussions the State will have the right unilaterally to increase the royalty rate to 12½ per cent. I believe this to be a reasonable arrangement as the State is given flexibility to increase the rate over the five year period 1988 to 1992 should that seem appropriate, having regard to the position in other States and other relevant circumstances.

It is estimated that, in today's prices and without allowing for any major new discoveries, the existing 10 per cent royalty rate will yield about $20 million per annum from the liquids project. Should the State decide to take advantage of the power to increase the rate to 12½ per cent, this would yield a further $5 million per annum between 1988 and 1992 again in today's prices and before any major new discoveries. These figures compare with estimated total mining royalties of $9 million in the present financial year. The project will thus result in a major boost to State revenues.

Pipeline Licence Fee: The Petroleum Act provides for a nominal licence fee—amounting at most to approximately $16 000. The indenture provides for an annual pipeline licence fee of $500 000, indexed by the C.P.I. This represents a significant addition to State revenue.

Charges for State Services and Facilities: Charges for electricity and water will be on the normal basis applicable to other users, subject to additional charges to reflect the new capital facilities to be installed by the State. The indenture specifies in some detail the charges to be levied in respect of marine facilities over the first 20 years of the project. These are based on a tariff of $1.50 per tonne for the first million tonnes and 70 cents per tonne thereafter. As is the normal case, these charges are halved in the event of shipment to another port in the State. Under the arrangements agreed to, the Department of Marine and Harbors will receive a guaranteed minimum income for operating expenditure of $1.5 million per year. These charges and guaranteed minimum income will be indexed in accordance with the C.P.I. and after operating expenses, the Department should obtain a significant surplus.

Protection from Discriminatory States Taxes or Imposts: Clause 29 of the indenture protects the producers from discriminatory State taxes or imposts. I would draw attention especially to sub-clause (2) of this clause which, in effect, means that the State cannot, before 1992, apply any new State impost on the producers' operations unless it also applies to others. This reflects our firm belief that, if resource developments of this magnitude are to be facilitated and encouraged, they should be able to operate in a predictable economic climate during the initial financing phase. At this stage of South Australia's development, I believe it is vital that the Government make it clear to resource developers that it recognises their legitimate need for reasonable financial security.

Stamp Duty: The Indenture provides exemption from Stamp Duty in relation to documents related to transfers or financing of matters dealt with in the Indenture. This is in recognition of the fact that the Producers are providing items of infrastructure that would, if funds were readily available to the State, be provided by the State and therefore would not attract stamp duty.

I believe that the financial provisions of this Indenture represent a sound and fair balance. On the one hand, the State's financial commitments are minimal and it can expect a sizeable addition to annual revenue. On the other hand, the Producers will be able to operate within a known financial environment for a reasonable period in the future. There are other features of this agreement which are of importance and which I would like to emphasise.

Future Development: The Government is anxious to encourage downstream processing of the Cooper Basin liquids which will be extracted as a result of this Indenture. This is facilitated in a number of ways by the arrangements agreed to by the State and the Producers. Firstly, there is adequate land being acquired for expansion at Stony Point. This will provide for future integrated development by the Producers or a third party such as a separate proponent of a petrochemical plant or refinery or other compatible industries.

Secondly, the Producers have agreed to undertake, on an ongoing basis, studies regarding the storage and processing of ethane as a petrochemical feedstock in the State and the practicability of the construction and operation of a refinery in the region of Stony Point. The basis of these studies will be agreed with the Government.

Thirdly, the Producers have agreed that they will give preference to a purchaser of feedstock in South Australia if such is technically and economically feasible, although, quite properly, this undertaking will not oblige them to sell Product on other than commercial terms.

Fourthly, the Indenture makes provision in the case of water, wharf and the pipeline for the use of these facilities by third parties subject to priority for the Producers and compatibility with their operations. Provisions with regard to the pipeline are contained in Clause 58 of the Indenture. In the event of a third party seeking to use the wharf the State and the Producers will in the first instance confer with a view to setting an appropriate charge, having regard to the value and profitability of the commodity to be shipped, current interest rates (because of their impact on the amortisation of the original cost) and the provisions in the Indenture regarding further processing. In the event that agreement cannot be reached arrangements for calculating the tariff are set out in clause 72 (3) of the Indenture.

State Preference: The Government is anxious to ensure that the benefits of this development are retained as far as possible in South Australia. In this regard the Producers have undertaken, as far as reasonably practicable, to give preference to services, labour, suppliers, manufacturers and contractors located within the State. From time to time, the Minister can seek a report from the Producers on the performance of their obligations under this clause.

Environment Protection: It is essential, if resource development projects are to be accepted by the widest cross-section of the community, for proper environmental standards to be observed. The Producers have undertaken to comply with all environmental laws of the State and Commonwealth, standards set thereunder, the undertakings contained in the Enviromental Impact Statements for the pipeline and Stony Point development and other standards determined during the development of the project and agreed in consultation with the Producers. The State acknowledges that the decision by the Producers to proceed with the project has been undertaken in the context of present day environmental standards and has undertaken to sympathetically consider any request by the Producers to reconsider its charges and levies in the event that changes in the State's environmental requirements lead to substan-

tial additional costs being imposed on the Producers. The Producers and the State have agreed to establish the 'Stony Point Environmental Consultative Group' to consult on matters relating to the protection of the environment in the Stony Point region.

Protection of Gas Supply: Some of the liquids for the purpose of this project will be extracted from wells that are also producing natural gas. It will be necessary for appropriate steps to be taken to ensure natural gas supply in the event that liquids production is hindered for any reason. Accordingly, the Producers have agreed that in carrying out their activities, they will have regard to their obligations under existing and future sales agreements with PASA. This is apart from the obligations contained in the relevant contracts.

Land at Stony Point: The exact location of the 100 hectare development site is indicated in Schedule 3 to the Indenture. As indicated earlier when I outlined the financial aspects of this Indenture, the cost of this land to the Producers includes the costs associated with making Stony Point a suitable site for a project of this kind. An additional 40 hectares, not yet precisely defined but to be adjacent to the 100 hectare development site, will be made available to the Producers in the event that they can demonstrate the need for it. As I mentioned in regard to 'Future Development' the balance of the 2 000 hectares suitable for development at Stony Point will be available in the event that other projects are proposed that would use feedstock from the Producer's Liquids Project.

Shacks: There are a number of shacks on, and in the vicinity of the proposed development site. The agreement sets out the arrangements between the Producers and the State to cover the State's costs, including any compensation for the premature termination of holiday accommodation leases, in the case of shacks removed as a result of the resumption of the proposed development site for the purposes contemplated by the Indenture. In the event that other shacks require to be removed at some later time because of changed circumstances affecting the safety of the plant, the Producers will reimburse the State for the cost it incurs for the removal of the shacks.

Services Corridor: Provision is made for a 20 km services corridor to accommodate the pipeline and utilities, particularly ETSA and E. & W.S. Details are shown in Schedules 2 & 3 of the Stony Point Indenture. The Producers have undertaken to remove any unexploded military ordnance from this corridor as a result of the former use of the area as a military reserve. The Producers provide an indemnity to the State for loss, injury or damage to persons arising out of any unexploded military ordnance where they are on the services corridor engaged on business or activity or a course of conduct related to the operation of the Producers pursuant to this Indenture. This indemnity is supplemented by a broader indemnity of the State by Santos which matches an indemnity given by the State to the Commonwealth in relation to land made available for the purposes of this project.

Area of Coverage at Moomba: The benefits of the existing Cooper Basin Indenture extend to what is known as the Subject Area. In order to enable the benefits of this Indenture to be extended to encompass known discoveries of liquids contiguous to the subject area as presently defined, two additional areas have been granted the benefits of the Cooper Basin Indenture. These are to be known as Area 1 and Area 2 and are defined in amendments to clause 6 of that Indenture set out in Schedule 5 of the Stony Point Indenture. These areas comprise the discoveries made by the Beanbush No. 1, Coonatie No. 1, Cuttapirrie No. 1, Kanowana No. 1 and Paning No. 1 wells. In these additional areas clauses 6 (1) and 6 (4) of the Cooper Basin Indenture, which prohibit any action by the Government which would restrict or prevent the Producers from giving affect to their rights and obligations under sales contracts will not apply. This will ensure that the provisions of the Petroleum Act relating to conservation and management will apply in those areas.

The Government believes that the arrangements to be confirmed by this Bill are of great importance and benefit to the State. The Producers will be able to proceed with the profitable extraction and processing of the major resource comprised within the Cooper Basin on terms satisfactory to them. The State will receive a satisfactory return from the development of a resource which is owned by the Crown on behalf of the people of the State. Commitment of public funds to infrastructure for the project will be minimal, thus ensuring that the Government's priorities elsewhere are not affected. There is provision for future development, State preference and environmental protection, which reflects the Government's determination to ensure maximum development in South Australia.

The provisions of the Bill are as follows:

Clause 1 is formal. Clause 2 contains definitions required for the purposes of the new Act. Clause 3 ratifies the relevant instruments and provides for their implementation by the Crown. Clause 4 makes the necessary consequential amendments to the Cooper Basin Act and indenture.

Clause 5 amends the law of the State to accommodate the provisions of the indenture. Clause 6 enables regulations to be made for implementing the Indenture. Clause 7 provides that the new Act will operate in respect of land registered under the Real Property Act.

Clause 8 requires the Stony Point Environmental Consultative Group to report annually to the Minister of Environment and Planning on its work. This report will be laid before Parliament.

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

ADJOURNMENT

At 3.21 a.m. the Council adjourned until Wednesday 9 December at 2.15 p.m.