LEGISLATIVE COUNCIL

Thursday 10 November 1983

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

QUESTIONS

NEW SEED VARIETIES

The Hon. M.B. CAMERON: I seek leave to make an explanation before asking the Minister of Agriculture a question about new seed varieties.

Leave granted.

The Hon. M.B. CAMERON: Some months ago the former Minister of Agriculture, the Hon. Mr Chatterton, on several occasions indicated that he was unhappy with the wheat industry's capacity to effectively distribute new crop varieties. He suggested that the Department of Agriculture consider releasing new varieties by tender to specific marketing organisations. Today's *Stock Journal*, under the heading 'Confusion over sale of new varieties', states:

The question of who should determine a fair price for the basic seed of new crop varieties developed by the Department of Agriculture and other research institutes is likely to come to a head in Adelaide today. A meeting of the newly formed Field Crop Consultative Committee will try to establish guidelines for the release and sale of all new crop varieties developed in South Australia. It will also have the task of sorting out who should bear the cost and responsibility of multiplying the small quantities for commercial sale.

The issue had become a 'hot potato' within the seed and cereal industries, with accusations that research institutes have shown favored treatment to specific growers or organisations in releasing new varieties. There is also growing concern that the Department of Agriculture is about to take over the sale and distribution of all new varieties in direct competition with private operators. In other States the breeding and distribution of new crop varieties is largely the responsibility of the respective Departments of Agriculture.

However, in South Australia the situation is complicated. There are major wheat breeding programmes at both the Roseworthy Agricultural College and the Waite Agricultural Research Institute. The Waite Institute is also involved in breeding barley, triticale, faba beans and rye.

The Department of Agriculture has no wheat or barley breeding programmes, but it recently established programmes to develop peas and oats. There are no significant breeding programmes in South Australia for lupins or any of the oilseed crops despite growing interest shown by growers in the past decade. In the past the cost of multiplying the basic seed to a certified seed production stage has largely been absorbed by the respective research institutes, or alternatively it has been born by Roseworthy College or the Department of Agriculture. However, because of serious budgetary problems these organisations have been forced to question their costs and consider how they can be recouped.

The situation at Roseworthy College is at crisis point and the future of the State's wheat multiplication programme is now in doubt following a statement from the Minister of Education's office that it will no longer provide funds for the college to carry out seed multiplication. The decision of what is a fair price for basic seed is likely to be further confused as farmers are being called on to pay a greater proportion of the costs of the various breeding programmes. There is a strong feeling that growers should not have to pay high prices for new varieties that they have helped finance.

What is the Minister's attitude towards the release of new seed varieties by the Department of Agriculture? Does the Minister of Agriculture intend to allow the Department of Agriculture to become directly involved in the marketing and distribution of new seed varieties? The article states that the Minister of Education intends withdrawing funds from the seed breeding programme at Roseworthy College; if that occurs, what action will the Minister of Agriculture take? Will the Minister ensure that sufficient funds are available for the breeding programme to continue?

The Hon. FRANK BLEVINS: I am aware of the controversy that is currently raging in the rural press over the price of certain new seed varieties, and I think that the Schooner variety has been mentioned. First, I understand that the Department does not sell new seed varieties at all. I believe that the Department has grown some Schooner on contract to the Waite Institute, and that it is the Institute that sells the seed. We have no control over the price charged by the Waite Institute. The Department simply supplies the seed on contract.

I appreciate that this is a vexed question, but it seems to me that it is also an example of the law of supply and demand. If producers have the initiative to produce a new seed variety, they are in a position to demand a certain price. I am not sure whether I as Minister, the Government or the Agriculture Department has any role to play in fixing a price for new seed varieties. However, if the industry itself feels that I have some role to play, I will look at any proposition put forward by the industry. I appreciate that the United Farmers and Stockowners has expressed some reservations about the high prices being paid for some seed varieties at the moment.

To my knowledge the U.F. & S. has not contacted my office with a request for me to intervene. If that occurs, I will look at any proposal put forward and make a decision accordingly. In relation to the problem at Roseworthy, I will have discussions with the Minister of Education to determine the position and I will bring back a considered reply for the honourable member.

The Hon. M.B. Cameron: What about the Department being involved in the sale?

The Hon. FRANK BLEVINS: As far as I am aware, the Department is not involved in the sale of any new seed varieties at the moment although, from memory, it has grown some Schooner on contract to the Waite Institute, but not to sell on its own behalf. It is certainly not doing that at the moment. I am not aware of any departmental proposal in that regard at the moment. I am not sure whether the Department has a proposal to grow and sell seed of its own account. However, if the Department had such a proposal and it referred it to me, I would look at it (as I will look at any other proposal). If a producer can grow and sell certain seed varieties, it may be that for one year he will be in the fortunate position of obtaining a good price. However, I am sure that the law of supply and demand will ensure that in the following year that will not be the case.

The Hon. M.B. Cameron: Or the season.

The Hon. FRANK BLEVINS: Yes, or the season. The market place will force an appropriate level. Although it might be annoying for someone who wants a particular variety of seed at the moment that the price of that seed appears to be high, the same person, if he gets a high price for what he grows from that seed, will perhaps, in turn, be smiling. It is, I think, a case of the swings and roundabouts argument—one that I do not want particularly to become involved with unless the industry feels that I should become involved, or unless there is some clearly stated disadvantaged to South Australian agriculture involved.

FEES AND CHARGES

The Hon. K.T. GRIFFIN: My questions to the Attorney-General are as follows:

1. Will the Attorney-General give a commitment that the fees and charges payable under any Act commited to him, or any fees or charges payable to any of the departments responsible to him, will not be increased prior to June 1984?

2. If the Attorney cannot give that commitment, will he indicate which current charges and fees are likely to increase by 30 June 1984, and by how much?

The Hon. C.J. SUMNER: That is a strange question for someone with the honourable member's knowledge of Government.

The Hon. C.M. Hill: You are point scoring.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not.

The Hon. C.M. Hill: Why don't you answer the question?

The PRESIDENT: Order! Each day this question is asked. I do not know why the Minister does not answer it and I do not know why the honourable member keeps on asking it.

The Hon. C.J. SUMNER: I always answer questions asked of me, as the honourable member knows. The honourable member knows how Governments work, or at least he should know. He was in Government for three years and should know that the question of increases in charges in any Government department is a matter for decision by Cabinet. I am not in a position to answer either of the honourable member's questions.

TOBACCO ADVERTISING (PROHIBITION) BILL

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about the Tobacco Advertising (Prohibition) Bill.

Leave granted.

The Hon. L.H. DAVIS: In the first edition of today's *News* a story appeared under the heading 'Anti-Tobacco Bill likely to Lapse'. It quotes Mr Trainer, the Government Whip, as saying the following:

> I know of no Government member prepared to do this.

The story goes on to explain how the legislation will lie on the table because of lack of a sponsor and says that it is likely to remain there until the end of the current session, when it will lapse. However, in the stop press of the more recent edition of the *News* the headline 'Tobacco Bill Lapses' appeared, and the following is stated:

> The Australian Democrat Bill to ban tobacco advertising was thrown out of the House of Assembly when Parliament resumed. No Government or Opposition M.P. sponsored the Bill when it was delivered from the Upper House. The Speaker, Mr McRae, twice called for a sponsor, and with no response he ruled that the Bill had lapsed.

I think it is worth reflecting on what the Hon. Dr. Cornwall said when debating the Tobacco Advertising (Prohibition) Bill. On 14 September he stated the Government supported the general thrust of the Hon. Mr Milne's private member's Bill and that the Government believed that the ban envisaged should come into force in South Australia when similar legislation had been enacted in at least three other States and/or another territory. The Hon. Dr Cornwall got his wish in regard to that amendment: it was accepted by the Council. Quite clearly the Government, on the admission of the Minister of Health, supported the Bill that had been moved by the Democrats. In the second reading debate and again in the Committee stage, the Minister of Health made quite clear that not only did the legislation reflect Labor Party policy but also it reflected the policy of the Cabinet and had the support of the Cabinet.

It also had Caucus support, and now we find that the Minister of Health has been left like a little limpet out on his own. He has had no support in the House of Assembly on this Bill, which he claimed has the support of the Government. Now we are faced with an incredible situation where the Stop Press tells us that the Bill has lapsed. Quite clearly, the Minister of Health has misled the Council. He claimed that the Government supported the Bill with the amendment he moved. Will the Minister explain why he misled the Council in relation to Government support for the Bill, which has now lapsed due to the fact that not one single Government member supported the Bill when it entered the other place this morning.

The Hon. J.R. CORNWALL: Many times during the course of what was a long debate, I said—

The Hon. C.M. Hill: They've left you like a shag on a rock.

The PRESIDENT: Order! The Minister has been asked a question, and members should have the decency to listen.

The Hon. J.R. CORNWALL: It is perfectly true that I said (and I will reiterate for the benefit of members opposite and for anyone else who cares to listen) that the Government supported the general thrust of the Milne Bill. We believed that it would be appropriate for that Bill to come into force when three other States and the A.C.T. passed or were likely to pass and proclaim similar legislation, and when the Commonwealth had enacted legislation to control the television aspect. It is also perfectly true what I said in regard to general Labor Party policy, which states that we would support the ban on all forms of tobacco advertising, and that the course of action that I proposed was supported by my Cabinet colleagues and my Caucus colleagues.

The Hon. C.M. Hill: They have dumped you since.

The Hon. J.R. CORNWALL: I do not know what the Hon. Mr Hill has been smoking, but it is not doing him any good. I also made very clear that it was a private member's Bill and that the Government regarded it as such. The Government had no intention of sponsoring the Bill. Even some members opposite would know there is a vast difference between, first, picking up a private member's Bill or an Opposition member's Bill and sponsoring it as a Government, and, secondly, continuing to treat it as a private member's Bill. Throughout the debate that Bill was treated as a private member's Bill and it was supported with a significant major amendment by Government members. There is an end to it. Whether or not the Bill is picked up and introduced in another place is of no direct concern to me as a member of the Cabinet. It was entirely up to any member down there—National Party, Liberal Party or Labor Party—to pick it up if they wished to.

Members interjecting:

The Hon. J.R. CORNWALL: In the event, it seems that no-one chose to do so, which is no skin off my nose.

The Hon. C.M. Hill: They dumped you.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I was never picked up, so I cannot be dumped. It is absurd to suggest that it is a matter of embarrassment to me. The allegations are typical of the scurrilous and disgraceful way in which the matter has been handled by the Opposition in this place.

The Hon. L.H. DAVIS: I desire to ask a supplementary question. I am not satisfied with the Minister's answer.

The Hon. ANNE LEVY: I rise on a point of order, Mr President.

The PRESIDENT: I take the point of order. The Hon. Mr Davis should ask his supplementary question.

The Hon. L.H. DAVIS: If the Labor Caucus supported the Milne Bill with the amendment which was accepted by this Council, why did none of the 24 Caucus members in the Lower House pick up the Bill, given that at least eight of them must have given support to the Bill if one takes into account that there are 33 Caucus members, with 17 being required for a majority and at least eight having to come from the Lower House? Can the Minister explain how he can claim that this Bill had Government support when not one Labor member in the Lower House would sponsor the Bill even for the purposes of debate?

The Hon. J.R. CORNWALL: I have already answered that question at considerable length. I suggest that the honourable member gets the *Hansard* pull tomorrow and gets someone of greater intelligence with greater grasp of Parliamentary proceedings to explain it to him.

RURAL HEALTH

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question about rural health.

Leave granted.

The Hon. R.J. RITSON: Recently in this Chamber the Minister made a Ministerial statement in which he described action being taken to produce a series of quality assurance criteria and delineation of privileges guidelines for Port Augusta Hospital. I thought that his remarks indicated that quite a satisfactory scientific position had been arrived at by a process of consultation with a variety of interested parties. For that I commend the Minister. However, my concern now is directed to other areas of rural health, namely, the small country hospitals.

People living in rural areas suffer a number of handicaps and disadvantages, whether it be freight on manufactured goods supplied to them, travelling costs, more difficult access to education for their children and the like. One of the disadvantages they suffer is a health disadvantage related to small country hospitals. Without canvassing the whole issue because of the constraint of time I want to ask the Minister particularly about obstetric practice in small country hospitals. As the Minister is aware, obstetrics is perhaps above all else an area of medical practice where an apparently normal situation can turn to disaster in a matter of minutes. I am sure that the Minister is also aware that there are a number of small hospitals servicing a small number of obstetric cases each year—five, 10 or 15—and that these hospitals are staffed by one or two doctors. Often the emergency cover is provided by a doctor from a nearby town who could be an hour's travelling time away and in many cases emergency anaesthesia will depend on the co-operation of a colleague at a somewhat distant and equally small town.

Furthermore, the Minister will be aware that, in the case of obstetrics, the doctor administering the anaesthetic may find that he has two patients, as the baby may need emergency resuscitation. The small number of deliveries conducted in each of these hospitals is such that the hospitals cannot be aware of the quality of their results. These hospitals are not able to look back through their records of the last 1 000 deliveries and analyse them. But Government medical officers are able to do this and have done it over the past 10 years. Professor Cox drew attention to the matter some time ago and the Sax Committee picked up this issue again.

It would be the opinion of every responsible doctor who reads this material and thinks about it that women having babies in these circumstances are at undue risk, not because of a lack of diligence on the part of a practitioner but because of the small scale of the system and the difficulty in producing instant expert anaesthesia, instant Caesarean section, and so on. The observed results in rural practice are decidedly worse than those in urban practice.

Successive Governments have attempted to rectify this problem by encouraging some hospitals and discouraging others in such practices as anaesthesia and obstetrics, in the hope of centralising this type of practice within a region, to justify the full paraphernalia, the medical person power, the availability of instant 'O negative' blood transfusions, and so on. One obstacle has been social, in that well meaning community leaders feel a little possessive about their own hospital and think that, if there is to be any upgrading, it must be at their hospital rather than the hospital in the neighbouring town.

Given that the Hon. Dr. Cornwall has had a measure of successs in producing co-operation at Port Pirie, will he now turn his attention to the problem of rural obstetric practices in small hospitals? Can the Minister explain the present attitude of the Government on this matter, and will he undertake to inform the Council from time to time what the Government is doing or proposes to do about the matter?

The Hon. J.R. CORNWALL: I was pleased to receive the Hon. Dr Ritson's approval and approbation for the actions which I took at Port Augusta and which have now led to what I believe may well be a model in patient care review and quality assurance for programmes for hospitals of a similar size around the State. The Hon. Dr Ritson then turned to the question of obstetric practices in small country hospitals. The difficulties that are involved are well known and extremely well documented in the Sax Report. There are many different parameters that can be used to establish the levels and competence of obstetric services at any given hospital. One of the criteria used is the number of deliveries per year and whether or not 30 or 50 deliveries are enough for the hospital to maintain obstetric services. That is only one aspect.

I repeat that the whole matter is discussed at great length and extremely competently by the Sax team. It is, of course, of concern to me and, more importantly, to health professionals. On the other hand, as the Hon. Dr Ritson said, it is true that there are social reasons why there are substantial pressures to keep every country hospital open.

First, it is often seen as necessary to retain the local doctor. Normally, when one is talking about the possibility of a hospital withdrawing from obstetrics or other acute care services, and so on, it is in a town served by a one-person practice. A hospital is seen as a significant employment base in the local township. Also, the local hospital is always a matter of pride for the residents of the township and surrounding district. It would normally have a history of being built significantly from subscriptions of local supporters, with the assistance of the old Government subsidy scheme of $2 for $1 or, as it was, £2 for £1. The whole question of a rationalisation or integration of that service into a neighbouring hospital is a matter of considerable emotion.

Nevertheless, I feel that there are good grounds in some areas for looking at integrating those services. One has to remember that a great number of these hospitals were built in the horse and buggy days or shortly thereafter, when transport and roads were poor. However, we now have the situation where many hospitals are separated from an adjoining hospital, often with larger and better services and equipment, by a road journey of only 15 to 30 minutes.

One such case is the Blyth Hospital which, in my recollection, is a journey of about 12 minutes on a good bitumen road from the Clare Hospital. Of course, Clare Hospital has been, and will continue to be, upgraded by the expenditure of significant capital. Clare is a reasonably sized town with a well organised medical service.

Inevitably, the recommendation has been made that acute services should not be delivered at Blyth Hospital and that such services, including obstetrics, should be transferred to the Clare Hospital and that the Blyth Hospital should revert to nursing home status. I think that that is inevitable and is a rational progression. This is also strongly and specifically recommended by Sax. So, I anticipate that, at the appropriate time, I will be taking a recommendation to my Cabinet colleagues. This does not mean that a large number of hospitals around the State will be closed. The member will be aware that only two hospitals are mentioned in the Sax

Report: the Blyth Hospital and the Tailem Bend Hospital. Those are the only two hospitals which are under consideration at this time or which will be under consideration in the reasonably foreseeable future.

I take the honourable member's point, which is well made. There is concern among the profession regarding the quality of obstetric services in particular, and anaesthetic and surgery services in general. This theme runs through the Sax Report as it examines the various questions of quality assurance. These matters are being addressed by the Commission and will be addressed by me as Minister and by the Government at the appropriate time.

TAFE SCHOLARSHIPS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Education, a question about TAFE scholarships.

Leave granted.

The Hon. ANNE LEVY: Today the Minister of Education released the names of eight staff members in TAFE who have been awarded release time scholarships for further training next year. On examining the release time scholarships, I was rather surprised to note that only one was awarded to a woman, the other seven going to men. I find that situation surprising given that the staff ratio in TAFE is nothing like that high proportion of males, and the areas of expertise covered are by no means limited to those areas that are traditionally limited to males. I realise that the release time scholarships and the overseas scholarships awarded by TAFE are designed to promote the professional development of TAFE staff in areas of priority as determined by TAFE. However, I believe that the situation revealed by the scholarships that have been awarded is worrying.

First, will the Minister take up the matter with TAFE to determine whether it will consider re-examining the method by which its priorities are established and publicised? Secondly, what moves can be adopted by the Department to ensure a more adequate representation of women in the future? Thirdly, what steps did the Department take on this occasion to encourage women to even apply for the scholarships?

The Hon. FRANK BLEVINS: I will be pleased to refer the honourable member's question to my colleague in another place and bring back a reply.

DENTAL SERVICE

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the confidentiality of information given to an officer of the South Australian Dental Service.

Leave granted.

The Hon. J.C. BURDETT: During the Parliamentary Public Accounts Committee inquiry into the School Dental Service (a public inquiry of which I have a copy of the transcript of evidence), Dr David Blaikie (Administrator of the Dental Hospital) gave public evidence. In his evidence Dr Blaikie tendered several letters written by members of the public to the Premier of the day and to the Minister of Health of the day. In his evidence Dr Blaikie admitted that he had obtained the letters as a result of his privileged position as a senior public servant.

Dr Blaikie submitted the letters as evidence without obtaining the permission of the Premier of the day or the Minister of Health of the day, and I understand that he did not obtain permission from the authors of the letters (certainly, I have been informed by the authors of two of the letters that their permission was not obtained).

Does the Minister agree that public servants should maintain confidentiality on matters that they learn about as a consequence of their positions? If so, why did Dr Blaikie, a senior public dental administrator, breach such confidentiality, and what action has the Government taken as a result of his actions?

The Hon. J.R. CORNWALL: It is interesting to note that the shadow Minister of Health is continuing his attack on the public dental service and those who serve in it. I find it somewhat distressing, not to me personally but certainly on behalf of my senior officers, that the Hon. Mr Burdett should use coward's castle to—

The Hon. L.H. Davis: Look who was the king in coward's castle when he was in Opposition.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —launch an attack on Dr Blaikie, who is quite unable to defend himself in this forum. If the shadow Minister was genuinely concerned about this matter, he could have raised it with me informally, through correspondence, or in a range of other ways. Instead, in the first instance the Hon. Mr Burdett has chosen to raise the matter in this Chamber and to specifically name a senior and respected member of the South Australian public dental service who is also a former South Australian President of the Australian Dental Association. I think that the Hon. Mr Burdett's actions are disgraceful.

The Hon. L.H. Davis: You never named anyone in the Council, did you?

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I think that the Hon. Mr Burdett's actions are quite disgraceful. Most certainly I was never guilty—

The Hon. C.M. Hill: Scurrilous!

The PRESIDENT: Order!

The Hon. L.H. Davis: You would have had a bagful of libel suits, if you had had the guts to say that outside.

The PRESIDENT: Order!

The Hon. C.J. Sumner: I think that that should be withdrawn, Mr President.

The PRESIDENT: Yes, I think that it should be. Members are making a mockery of Question Time by continually interjecting. I ask the Hon. Mr Davis and the Hon. Mr Hill to cease interjecting, and the Hon. Mr Davis to withdraw his remark.

The Hon. L.H. DAVIS: I withdraw, Mr President.

The Hon. J.R. CORNWALL: I suggest that the unfortunate group of people opposite who call themselves the Opposition should obtain copies of *Hansard* for the three years and two months in which I sat on the front bench opposite. They will see that from time to time I was certainly not averse when it was warranted to exposing people whom I believed had to be exposed in order to ensure that the South Australian public was protected.

However, I never descended to naming in this place senior public servants or senior employees of the Health Commission. I think that that practice is beneath contempt. Having said that, I will most certainly speak to Dr Blaikie and, if it is appropriate, I will bring back a response. I conclude as I began by saying that I think that the practice of naming senior public servants or senior Government employees in this place, where they are quite unable to defend themselves, is quite contemptible.

The Hon. J.C. BURDETT: I desire to ask a supplementary question. I think that the Minister can reply now to the first part of my question.

The Hon. ANNE LEVY: On a point of order, Mr President, a supplementary question has no explanation; it is purely a question.

The PRESIDENT: Order! I think that the honourable member was explaining to the Chair—he is not explaning the supplementary question.

The Hon. J.C. BURDETT: Will the Minister answer the first part of my question, that is, whether he considers that public servants should maintain confidentiality on matters that they learn about as a consequence of their positions?

The Hon. J.R. CORNWALL: I have already said that I will speak to Dr Blaikie and take up with him the matters raised by the honourable member. I have nothing further to add at this time.

HINCKS NATIONAL PARK

The Hon. H.P.K. DUNN: I seek leave to make a brief explanation before asking the Minister of Agriculture a question about fires in the Hincks National Park.

Leave granted.

The Hon. H.P.K. DUNN: On Wednesday 26 October it was widely reported in all sections of the media that a fire burnt out of a landholder's property into Hincks National Park, burning a considerable area of the park. The Minister for Environment and Planning quickly came to the fore and said that he would proceed to prosecute the person who caused the fire in the park. Did the landholder infringe the Country Fire Service Act? If not, does the Minister for Environment and Planning still intend to prosecute the landholder responsible, as was reported?

The Hon. FRANK BLEVINS: As this matter has been the subject of legal action, I think that it would be quite improper for me to comment on it.

TOBACCO ADVERTISING (PROHIBITION) BILL

The Hon. C.M. HILL: My question, which is directed to the Minister of Health, concerns a matter that was raised earlier. The Minister's colleagues in the other House have obviously deserted him regarding the tobacco advertising legislation. What action does the Minister believe is now available to him to ensure that Government policy regarding this legislation is carried out in the Parliament so that he might save some face in the situation in which he now finds himself of having said in this Council that this Bill is Government policy, and with no Government member in the other place having a bar of it.

The Hon. J.R. CORNWALL: I am very laid back about this whole thing. It is not causing me any distress whatsoever. I feel entirely comfortable. Unfortunately I have a touch of distemper, today but, apart from that viral condition, I am comfortable and happy. I have already answered this question in response to a question asked by another Opposition member, and far be it for me to take up the time of this Council by elaborating further.

GOVERNMENT POLICY

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a question about Government policy.

Leave granted.

The Hon. M.B. CAMERON: As a result of the occurrence today involving the Tobacco Advertising (Prohibition) Bill and last night's happenings, and the rather violent language used towards the Opposition for daring to show any opposition to this Bill, the strange situation now exists that one can read Government policy before an election, legislation concerning that clearly laid out Government policy can be introduced into this Parliament (not just by a member of the Government but by another member), a policy which was declared as such by the Minister of Health, and then that legislation can be thrown aside.

Will the Attorney-General say whether or not this means that in future any matter, introduced into this Parliament by any member, that fits in with the policy of the Government prior to an election and is declared by either a Government Minister or member as being part of the Government's policy, even if it passes this House, will be thrown aside because of lack of desire on the part of Government members in the other place to take up the fight for that legislation on behalf of the Government? I must say that if this is so it leaves us with a very strange situation indeed in this Parliament.

The Hon. C.J. SUMNER: I am not sure what the honourable member's question is designed to elucidate.

The Hon. C.M. Hill: They are treating the Minister of Health like the plague.

The Hon. C.J. SUMNER: Not at all. The Minister of Health is a very well regarded and a very good Minister of Health.

The Hon. C.M. Hill: There has been no evidence of confidence today.

The Hon. C.J. SUMNER: As the Minister of Health has indicated, he does not feel unduly upset or agitated. What I find surprising is that honourable members opposite seem most agitated about this matter. I would have thought that they would be quite pleased with the result. It seems rather strange that members opposite spent so much time filibustering in this House on this Bill and giving the Hon. Mr Milne what can only be considered as a very unjustified hard time over the matter, and voted against the Bill at the third reading stage, yet when they now find that for some reason the Bill has lapsed in the House of Assembly they are agitated and upset.

The Hon. C.M. Hill: It is the Government's disunity that is upsetting us.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I can assure the honourable member that the Government is not upset about the situation. I can also assure the honourable member that the Hon. Dr Cornwall is not upset about this matter.

The Hon. C.M. Hill: He is finished.

The Hon. C.J. SUMNER: That is not right. The Hon. Mr Hill is way off beam on that point. What I do find somewhat amusing, if not somewhat peculiar, is that honourable members opposite seem to be a bit agitated about the fact that, having fought for about two months to defeat this Bill in this Council, on finding that it lapses in the House of Assembly they become upset.

The Hon. J.C. Burdett: We want to know the honesty of your position.

The Hon. C.J. SUMNER: That is something which I find difficult to understand.

The Hon. R.I. Lucas: What—the honesty of your position?

The PRESIDENT: Order!

The Hon. C.M. Hill: This has never happened before in the past 50 years.

The PRESIDENT: Order!

The Hon. J.R. Cornwall: It wasn't the Liberal Party lunch today, was it?

The Hon. C.J. SUMNER: I am not sure. I suggest that honourable members opposite calm down and reflect upon their attitude to the Bill when it was in this Council and that they accept graciously what has happened in the House of Assembly.

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a further question about Government policy.

Leave granted.

The Hon. M.B. CAMERON: The Attorney seemed to avoid the import of my question by attempting to ridicule the Opposition when, in fact, if anybody will be subjected to ridicule over this matter it will be the Goverment, not the Democrats, because the Democrats' position has been quite clear while the Government's position has not. We have had a situation in this Council for the past two months where the Hon. Dr Cornwall, the Minister of Health, has continually made rather vicious and snide remarks about the Opposition's attitude to this Bill implying that we, as a Party—

The Hon. J.R. CORNWALL: I rise on a point of order, Mr President. I cannot turn my mind to the Standing Order concerned, but the honourable member is reflecting injuriously on another member. The words 'vicious' and 'snide' I suggest are quite inappropriate words to use in this Council.

The PRESIDENT: I do not think much of it, either. The other point I make is that the honourable member has sought leave to explain his question and not his opinion of other members. I suggest that he does so.

The Hon. M.B. CAMERON: That is quite correct. When the question comes out it will show that that is exactly what I am doing. I was not implying that the Minister is vicious and snide but was saying that his remarks were, and that is a totally different matter. We have been subjected to a campaign by the Minister in an attempt to imply that in some way we were not concerned about the young children of the State and that we had a very irresponsible attitude towards the people of this State.

The Hon. R.I. Lucas: The Attorney said that we were—

The Hon. M.B. CAMERON: Yes. We find that after all this time the Bill, which was the subject of all this derision from the Opposition and the remarks to which I have alluded, on going to the lower House with declared Government support, was not taken up.

Therefore, can the Attorney-General explain to this Council, following the passage of that Bill through this place and the explanation and strong support for it given by the Minister of Health, why no member of the Government, when it was Government policy, took up the Bill in the Lower House?

The Hon. C.M. Hill: We wasted all our time.

The Hon. C.J. SUMNER: We continued to advise the Opposition that they were wasting time. What the Hon. Mr Hill says by way of interjection is quite correct, he was wasting time—he was filibustering.

The Hon. C.M. Hill: We were trying to improve the Bill.

The Hon. C.J. SUMNER: You were filibustering. I am glad that the honourable member has admitted that he was wasting time.

The Hon. M.B. Cameron: Are you saying that during the whole time the Bill was being debated you had no intention of taking it up?

The Hon. C.J. SUMNER: That is not so. What honourable members seem to forget is that Parliament comprises two Houses.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Members opposite insist on telling us—

The Hon. C.M. Hill: How many caucuses are there?

The PRESIDENT: Order! It is quite stupid that someone should be suspended in Question Time, particularly over nothing of importance, but if this situation continues someone will be suspended, and I do not mean maybe.

The Hon. C.J. SUMNER: What members opposite seem to forget when it suits them is that there are two Houses of Parliament. Members opposite insist on asserting the rights of the Legislative Council as being a separate House, a House that can give separate consideration to legislation as distinct from consideration in the House of Assembly, yet when it actually happens they seem to get agitated about these things on two fronts. First, having spent the past two months trying to oppose this Bill, members opposite now find that the Bill has lapsed in the House of Assembly, but they get upset. I would have thought they would be quietly pleased about the matter. Secondly, having spent the best part of this century talking about the virtues of two Houses and a two-House system, we then find that, when something happens in this House that does not happen in the other House, they again get agitated. All I can say is that—

The Hon. Barbara Wiese: They are exhibiting double standards.

The Hon. C.J. SUMNER: Yes. It would be a different matter had honourable members not had these attitudes towards Parliament, had they had a different attitude to this Bill. The question of what has happened to this Bill in the House of Assembly is a matter for that House.

The Hon. L.H. DAVIS: I wish to ask a supplementary question. Is the Attorney-General saying that members of the Upper House when voting in support of Mr Milne's Bill last night were unaware that their Lower House colleagues would not support the Bill when it came before that House?

The Hon. C.J. SUMNER: It is not correct for the honourable member to entertain that assumption or indeed any other assumption about the actions of members in this Council in relation to how they voted on that Bill. All I can say is in accordance with what members opposite have already said about this Parliament. A vote was taken on a private member's Bill—not a Government measure, I should add.

The Hon. C.M. Hill: It was supported by the Government.

The Hon. C.J. SUMNER: It was voted for by members of the Government Party in response to a private member's Bill. That happened in the Legislative Council, which is a separate House of Parliament. When the measure went to the House of Assembly, something else happened, and that does not seem to me to be necessarily all that surprising.

The Hon. C.M. HILL: I wish to ask a question—

The PRESIDENT: Order! It is 14½ minutes past 3. Call on the Orders of the Day.

The Hon. C.M. HILL: I rise on a point of order. On your own admission, Mr President—

The PRESIDENT: Notwithstanding what Standing Orders provide, the honourable member would not have had time to ask a question.

The Hon. C.M. HILL: It is the democratic right that this House has one hour for Question Time. My question would have taken only 10 seconds.

The PRESIDENT: I am sorry about that. I call on Orders of the Day. Honourable members should not have wasted time during Question Time.

Members interjecting:

The PRESIDENT: Order! The Council must come to order. I ask the Attorney-General to proceed with Orders of the Day. If the Hon. Mr Hill wishes to move a motion, he may do so.

CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Classification of Publications Act, 1973. Read a first time.

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

That this Bill be now read a second time.

It is one of three to be introduced as part of the recent Australia-wide agreement of Ministers administering classification and censorship laws to implement uniformity of procedures and similar standards. The others relate to films for public exhibition in theatres and to penal clauses in the Police Offences Act.

Until about 10 years ago all jurisdictions in Australia relied on Police charging vendors with selling indecent matter to control the sale of pornography. That was unsatisfactory in that decisions in court varied considerably and, even when asked, no police officer or public servant could advise shopkeepers etc. in advance as to whether material could be legally sold. Under the auspices of the Commonwealth Attorney-General (Senator Murphy) and the Premier of South Australia (D.A. Dunstan) a proposal for an optional uniform system of advance classification was suggested and, indeed, implemented in this State. Changes in portfolios in Canberra and other States, however, resulted in the project being shelved elsewhere. In due course, gradually Tasmania, New South Wales the Northern Territory and Victoria adopted the South Australian system of classification of publications by a board although standards have not been quite uniform.

In 1981 the Commonwealth Government, faced with greatly differing standards in their Customs Department and A.C.T. administration, yielded to suggestions to promote uniformity again and a meeting of responsible Ministers agreed to officers trying to find a solution acceptable to all States, Territories and the Commonwealth. A recommendation to adopt the South Australian system with a consolidation of the variety of restrictions available was accepted and the South Australian Attorney-General agreed to provide draft legislation.

In the event it proved impossible to get Senator Durack to convene another meeting of censorship Ministers and the South Australian Government unilaterally amended our Classification of Publications Act in accordance with the draft as from 1 October 1982. In consequence, there will be relatively few amendments needed in this State. With the election of Labor Governments in Melbourne, Canberra and Perth, a further national conference of censorship Ministers was able to meet in Brisbane in July when the successful South Australian measures were approved for implementation in most States and Territories. (Queensland will not amend its system for written material.)

Also on the Ministers' agenda were recommendations to clarify and implement controls over the sale of videotapes and films for home use. There has been disquiet over videotape sales and two recommendations were considered in the light of Customs Department advice that there is no way in which they could screen all tapes entering Australia. An offensive tape can come in a bulk shipment of innocuous tapes, can be carried in by passengers or be received through the post in packets and, once in, can be easily copied. Furthermore, videotapes can obviously be made in Australia also. Under these conditions, it was obvious to Ministers that control could best be imposed at the point-of-sale: at the same time, it was recognised that no system of control will prevent a black market in grossly offensive tapes. In the absence of a perfect system, cost and relative inconvenience to the trade became significant factors. On these grounds, it was decided to accept a compromise voluntary proposal for the sale of 'home use' videotapes on the same basis as has applied to publications.

The proposal approved by the interstate conference in relation to uniform classification of printed matter is really the successful South Australian method of controlling the sale of pornographic and other undesirable magazines. That is a scheme whereby publishers, distributors or vendors make their own decision whether to submit a magazine to the Classification of Publications Board for a classification upon threat of prosecution under section 33 of the Police Offences Act if they sell offensive material inappropriately. The guidelines as to what types of material fall into the various grades of classification are freely available and the publishers of magazines such as *Australian Women's Weekly*, obviously, are quite able to judge that they may sell such a magazine freely without the eye of officialdom being involved beforehand. Where perhaps a restricted distribution may be warranted under the issued guidelines, the publisher or vendor can either submit the magazine for prior official judgment or he can choose to sell the magazine according to the restrictions which obviously would be imposed if it were submitted for official classification. In the latter case, if he misjudges the restrictions which would be required, or sells it regardless, then he runs the risk of prosecution under section 33 of the Police Offences Act which carries a substantial penalty.

The significant variation proposed in relation to printed material is that Commonwealth officers will undertake the classification into unrestricted, restricted category 1 and restricted category 2 material. They will also refuse to classify some material. The standards will not be quite uniform in that South Australia, Western Australia, Victoria and Tasmania will wish to continue refusal to classify certain material which is acceptable elsewhere. In such cases the Commonwealth will flag titles concerned and that material will not be covered by the uniform arrangements. The classification of Publications Board in South Australia will make separate decisions in such cases. The Board will also retain the right to supervene if other Commonwealth decisions seem inappropriate.

Although films and videotapes for sale for home use may be classified under the existing South Australian system, there have been relatively few classified. One difficulty has been the lack of a sanction in the form of an offence relating to the sale of indecent tapes and that will be addressed in another Bill. The other difficulty has been popularity of hiring tapes. This latter practice will be caught up by this Bill. It has also been difficult for individual States to provide staff and facilities to examine tapes independently.

In the case of videotapes and films for home use, a distributor will still be able to decide whether or not to submit his material for prior assessment by the Film Censorship Board or by regional staff to be appointed in various capitals. In the case of home use videotapes, the Film Censorship Board may classify them as G, PG, and M (which are, of course, only advisory classifications on films for public exhibition) as well as R (which is a classification requiring observance of rules in relation to public exhibition). For the purpose of home use sale or hire, films and videotapes of the G, PG (formerly NRC) and M class will be 'Unrestricted'. The R class will be restricted category 1. Currently there is a class of film (or videotape) which has been available for the past decade in restricted circumstances. The Commonwealth propose to classify these as X and they will be sold or hired in South Australia in restricted publications areas which may be set up in video outlets, newsagencies and sex shops. There will be some material which will be rejected of course. If any rejected tapes are offered for sale, a section 33 of the Police Offences Act prosecution will be instituted as for certain magazines. In addition to classification of the tapes, it will also be necessary to consider containers if they are unsuitable for display.

The Classification of Publications Act requires material classified 'restricted, category I' to be displayed and sold in sealed packages whilst that classified 'restricted, category II' may only be displayed, advertised, sold or hired in the restricted publications areas which may be set up in certain

types of premises. Regulations will in due course require restricted publications that are films to bear the R in a diamond and X in a square markings that will be adopted elsewhere in Australia. Where classifications have been obtained for films they will have to be shown even if they are only in the advisory classes of G, PG and M. There will be an amendment to ensure that none of these provisions for sale or hire of videotapes will affect the provisions of the Classification of Films for Public Exhibition Act in relation to public exhibition.

In consultation with other Australian Governments, the opportunity has been taken to widen the range of objectionable material which may be classified. It will now include the manufacture, acquisition, supply or use of instruments of violence and cruelty and instruction in crime. This is necessary because of the advent of material containing instructions for making and using weapons suitable for terrorists.

The Commonwealth authorities will be making their decisions in relation to printed matter, films and videotapes pursuant to an A.C.T. ordinance which will be introduced shortly. This Bill provides that classifications made pursuant to a corresponding law, which will be the ordinance, shall be deemed to have been assigned a corresponding classification by the South Australian Classification of Publications Board. The South Australian Classification of Publications Board will, however, be able to vary decisions.

The Hon. K.T. Griffin: Will you give details of what is in each category?

The Hon. C.J. SUMNER: That can be made available. It is the same as what currently applies and what applied under the previous Government. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 4, the interpretation section. The clause inserts a new definition of 'display' that limits the term to display for sale (whether or not sale of the publication displayed), this being a limitation that is implicit but not properly spelt out in the Act in its present form. The clause amends the definition of 'publication' by removing words that exclude films classified under the Films Classification Act. This amendment will enable the Act to operate so as to regulate the sale, delivery and display of video-tapes that have been classified as R films under the Films Classification Act. The clause also amends the definition of 'sell' so that it is limited to sale by retail but includes letting on hire. Clause 4 inserts a new section 4a providing that nothing in the Act prevents the exhibition of a film in accordance with the provisions of the Classification of Films for Public Exhibition Act (the proposed new title of the present Films Classification Act). This clause is consequential upon the amendment proposed by clause 3 to the definition of 'publication'.

Clause 5 amends section 13 of the principal Act which provides for the process of classification of publications. The clause substitutes for the present statement of criteria for classification the words adopted in the new section 33 of the Police Offences Act proposed by the Statutes Amendment (Criminal Law Consolidation and Police Offences) Bill. The effect of the amendment is to extend and clarify the matters that may justify assigning a restricted classification to a publication. In particular, the clause makes it clear that a publication may be assigned a restricted classification if it deals with the manufacture, acquisition or supply of drugs (in addition to misuse of drugs) in a way that is likely to cause offence to reasonable adult persons, or if it deals with the manufacture, acquisition, supply or use of instruments of violence or cruelty or instruction in crime in a way likely to cause offence to reasonable adult persons. In general terms, the clause is designed to cater for the 'manuals' or 'guides' that have recently appeared dealing with matters related to terrorism, crime or harmful drugs.

Clause 6 inserts a new section 13a. The effect of the proposed new section 13a (1) is that where a classification is assigned to a publication in pursuance of a law of another State or Territory specified by regulation, that classification shall, unless the publication has already been classified by the Board, automatically apply in South Australia to that publication. The effect of proposed new section 13a (2) is that containers for classified video-tapes automatically have the same classifications as the video-tapes to which they relate. Proposed new section 13a (3) provides that the Board may, by notice published in the *Gazette*, declare that a publication that is classified by virtue of the operation of proposed section 13a (1) or (2) shall not be so classified, but shall, in that event, have such other classification as is assigned to it, or, if the Board refrains from classifying it, be deemed not to be classified under the Act. Clause 7 amends section 14 of the principal Act which provides for the conditions that apply in relation to the sale, delivery or display of restricted publications. The clause makes amendments to subsection (1) which remove an inconsistency in the present wording under which a category 1 restricted publication is required by paragraph *(a)* not to be displayed to a minor although paragraph *(b)* contemplates the display of such a publication in a public place if the publication is contained in a sealed package. The clause removes references to the 'exhibiting' of a publication, but instead refers to 'display', a definition for which is provided by clause 3. The clause also amends the section so that it permits sale, delivery or display of a restricted publication to a minor by a parent or guardian of the minor and not, as is presently the case, by a parent or guardian or a person acting with the authority of a parent or guardian.

Clause 8 makes an amendment to section 17 that is consequential upon the insertion of proposed new section 13a. Clause 9 amends section 18 of the principal Act which sets out the various offences under the Act. The clause amends subsection (1) so that it prohibits only the sale, delivery or display of a publication in contravention of a condition imposed under the Act, thereby making the wording consistent with the wording used in the provisions imposing such conditions. The clause rephrases the provision providing for the marking of publications so that it requires certain marking of restricted publications and also regulates the marking of publications that are films classified under the Classification of Films for Public Exhibition Act. The new provision also makes provision in relation to the marking of packages, containers or wrapping in which such publications are sold, delivered or displayed. The clause inserts a new subsection (4) designed to ensure that the making of any alteration or addition to a publication after it has been assigned a classification under the Act is brought to the attention of the Board so that the publication may be reclassified or, if appropriate, refused classification. Finally, the clause makes amendments relating to subsection (5) which prohibits the exhibition of images from a film that is a restricted publication in any place in which restricted publications are sold or in any associated place. The amendments are designed to make it clear that the reference to the exhibition of images from such a film is a reference to exhibition by means of a projector.

Clause 10 makes a consequential amendment to section 22 relating to the power to make regulations relating to the

marking of publications and packages, containers or wrapping for publications. Clause 11 repeals section 23 of the principal Act which is now otiose.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

STATUTES AMENDMENT (CRIMINAL LAW CONSOLIDATION AND POLICE OFFENCES) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act, 1935, and the Police Offences Act, 1953. Read a first time.

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

That this Bill be now read a second time.

It repeals section 33 of the Police Offences Act relating to the publication of indecent matter and also the child pornography subsections from section 58 of the Criminal Law Consolidation Act. It enacts a new section 33 of the Police Offences Act with somewhat wider provisions than the repealed legislation. The provision in section 58 of the Criminal Law Consolidation Act relating to the taking, distributing, possession or publishing pornographic photographs of children are repealed and pornographic photography of children is now covered by the new section 33. The Criminal Law Consolidation Act provisions applied only to photographs of children engaged in acts of gross indecency. The new provisions apply to photographs of children which are of an indecent, immoral or obscene nature.

These new provisions together with the new section 58a in the Criminal Law Consolidation Act Amendment Bill (No. 3) ensure that children cannot be photographed for sexual gratification. The new section 58a prohibits the taking of photographs when, while there may be nothing objectionable about them *per se*, the circumstances and reasons for taking the photographs may be objectionable. Section 33 applies to photographs which are inherently objectionable.

The present section 33 of the Police Offences Act has been amended a number of times, yet legal opinion has been that it does not cover some of the material which the Classification of Publications Board wishes to refuse to classify. In particular, it has not extended clearly to magazines containing detailed descriptions of methods of manufacturing and using terrorist type weapons and devices. Neither has it specifically covered videotapes of an offensive nature. Recently a court decision in Victoria ruled that the electronic charges of a videotape did not constitute indecent matter in themselves; the images produced through an exhibition device might be indecent, but a prosecution of a dealer in videotapes for selling indecent material must fail. That decision has hampered police and the Classification of Publications Board in this State, where our legal position is similar.

This Bill now ties in the definition of 'offensive material' with the proposed provisions of the Classification of Publications Act and gathers up videotapes, video-discs and any similar methods of reproducing images. With the advent of widespread hiring of videotapes, the definition of 'sell' has been extended to include 'let on hire'. That, too, overcomes a current impediment to prosecution of persons who hire out offensive tapes.

A new provision is the creation of an offence if a person deposits indecent or offensive material in a public place or, except with permission of the occupier, in or on private premises. This practice has been the subject of complaint in relation to public parks and also in regard to catalogues left at the residences of unwilling recipients. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends section 58 of the Criminal Law Consolidation Act by deleting subsections (3), (4), (5) and (6), these being the present provisions directed against child pornography.

Clause 4 substitutes for existing section 33 of the Police Offences Act a new section prohibiting indecent or offensive material. 'Indecent material' is, under the new provision, material of which the subject matter is, in whole or in part, indecent, immoral or obscene. 'Offensive material' is defined as being material of which the subject matter is or includes violence or cruelty, the manufacture, acquisition, supply or use of instruments of violence or cruelty, the manufacture, acquisition, supply, administration or use of drugs, instruction in crime, or revolting or abhorrent phenomena and, in any case, being material that would, if generally disseminated, cause serious and general offence to reasonable adult members of the community. 'Material' is defined in the new provision so that it clearly includes films, videotapes, and other objects from which images may be reproduced.

Subclause (2) provides that it shall be an offence if a person produces or takes any step in the production of indecent or offensive material for the purpose of sale, sells such material, exhibits it in a public place or so as to be visible from a public place, deposits it in a public place or, except with the permission of the owner, in or on private premises, exhibits it to a person so as to offend or insult the person, or delivers or exhibits it to a minor of whom the person is not parent or guardian. The new section provides that, where a child (that is, a person under, or apparently under, the age of 16 years) was physically involved as the subject, or one of the subjects, of the indecent or offensive aspects of the material, the offence shall be a minor indictable offence punishable, in the case of a first offence, by imprisonment for a term not exceeding three years or, in the case of a subsequent offence, by imprisonment for a term not exceeding five years. In any other case, the offence is to be a summary offence punishable by a fine not exceeding two thousand dollars or by imprisonment for a term not exceeding six months.

Subclause (4) provides that the circumstances of the production, sale, exhibition or delivery of the material are irrelevant to the question whether or not the material is indecent or offensive material. Subclause (5) provides that no offence is committed where material is produced, sold, exhibited or delivered in good faith and for the advancement or dissemination of legal, medical or scientific knowledge, or where the material forms part of, or constitutes, work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on its indecent or offensive aspects.

The new section provides that proceedings for an offence may only be commenced with the consent of the Minister, who, in deciding whether or not to consent, is to have regard to any relevant decision of the Classification of Publications Board. Provision is made for the forfeiture of indecent or offensive material where a person is found guilty of an offence relating to the material. Finally, the new section provides that it does not derogate from the provisions of the Classification of Publications Act or the Film Classification Act now proposed to be retitled the 'Classification of Films for Public Exhibition Act'. Clause 4 also makes an amendment to section 84 of the Police Offences Act that is

consequential upon the new proposed provision for a minor indictable offence in relation to child pornography.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

FILM CLASSIFICATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Film Classification Act, 1971. Read a first time.

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

That this Bill be now read a second time.

There have been representations from the cinema industry for many years seeking to substitute a different name for the Not Recommended for Children (NRC) classification. They have favoured Parental Guidance (PG) or Parental Guidance Recommended (PGR) after the style used in the United Kingdom and United States of America and in television classifications.

The recent meeting of censorship Ministers agreed to consider a change, and subsequently Parental Guidance (PG) has been accepted unanimously. This Bill contains a suitable amendment in conformity with the Commonwealth, States and Territories' intentions and will be proclaimed to come into force on a date suitable to all. Where obtained, the classification will carry over as an advisory marking in the 'Unrestricted' class of videotapes for sale or hire.

In order to eliminate confusion with the Classification of Publications Act, the title of the Film Classification Act is to be changed to 'Classification of Films for Public Exhibition Act'. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 changes the short title of the principal Act from the 'Film Classification Act' to the 'Classification of Films for Public Exhibition Act'. Clause 4 amends section 4 of the principal Act which provides that a film shall not be exhibited in a theatre unless one of certain specified classifications has been assigned to the film. The clause amends the section by substituting for the classification 'Not Recommended for Children' the classification 'Parental Guidance Recommended'.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

BILLS OF SALE ACT AMENDMENT BILL

In Committee.

(Continued from 9 November. Page 1544.)

Clause 19—'Bills of sale to be void in certain circumstances'—reconsidered.

The Hon. K.T. GRIFFIN: I have already explained in detail the reasons for this amendment. I wonder whether the Attorney-General has had an opportunity to give consideration to that matter.

The Hon. C.J. SUMNER: I think that the Hon. Mr Griffin has overstated the problems which may arise if his amendment is not accepted. The fact is that any minor misstatement or omission in terms of the name, address or occupation of a person party to a bill of sale would not render the bill of sale void as against the Official Receiver. It would have to be under the existing Act and be a material omission. The honourable member seems to have overlooked that and made much of the fact that perhaps a minor omission or misstatement could cause problems in terms of voiding the bill of sale as against the Official Receiver.

I do not accept that the problem is quite as dramatic as the honourable member has made it out to be. My concern yesterday—and I still have some concern about it—was that maybe there are situations in which there are in fact material omissions or misstatements which should be such as to render a bill void as against the Official Receiver. One could envisage certain situations, perhaps even verging on the fraudulent, which might be assisted by the current enactment. So, I would like the honourable member to address those two points, at which stage I will give it further consideration.

The Hon. K.T. GRIFFIN: I did not overlook the reference to a material omission in the statement. Let me put this case to the Attorney-General. If the grantor grants a bill of sale, that is, the owner of the property grants a bill of sale to a finance company or some other lender and the grantor uses an alias, the grantor may in fact be the owner of the property but has not used his or her correct name. I suggest that that is probably a material misstatement, but why should the grantee (the lender), the person who is seeking priority as against the Official Receiver, be prejudiced by that fact?

That situation can create problems if the words I am seeking to delete are left in. If there has been fraud on the part of either the grantor or the grantee, that will not be obvious from the limited particulars now mandatory to be included under section 9. Under section 9 the only particulars which must be included are the name, address and occupation of the grantor, the owner of the property, the grantee and the attesting witness. The bill of sale does not have to include any of the other matters in section 9 which have been removed by an earlier amendment. I suggest that there is no prejudice to either party or to the Official Receiver or trustee in insolvency, if we determine the priority-

The Hon. C.J. Sumner: Have you had representations about this?

The Hon. K.T. GRIFFIN: Yes.

The Hon. C.J. Sumner: From whom?

The ACTING CHAIRMAN (Hon. C.M. Hill): Order! There must be no interjections. The Minister knows Standing Order No. 181, which states that repeated interjections are out of order. The Minister can make his point in due course.

The Hon. K.T. GRIFFIN: Concerning the decision as to whether or not a registered bill of sale is void as against the Official Receiver in bankruptcy, so far as the Bills of Sale Act is concerned, the only question is whether or not it has been registered. If it has been registered it is a valid bill of sale, but priority is determined according to its terms. If it has not adequately described the chattels, considerations or interest which may be payable, then that is a question which goes to the nature of the priority which the registered grantee obtains and not to the validity of the bill of sale as against the Official Receiver. All that this Bill is concerned with is whether or not a bill of sale is registered. If it is registered, it is not void against the Official Receiver, but other questions arise concerning the scope and effect of the registered bill of sale as against the Official Receiver.

I have had discussions with a practitioner in this field and am happy to disclose that this practitioner is Mr Wicks, who has had extensive practice in the field. From what the Attorney-General has said, I knew that the Law Reform Committee had received a reference on the substantive question of bills of sale, so I took this up with Mr Wicks.

He believed that this created no problem at all and, in fact, corrected something that had concerned him. He did say—

The Hon. C.J. Sumner: The Law Reform Committee has not looked at this.

The Hon. K.T. GRIFFIN: I am not saying that at all. I do not want to mislead in any respect. I have not discussed it further with other legal practitioners. I sought some responses but did not receive them in time. If the Attorney-General is still concerned about it I am happy to make further inquiries and to gain something in writing from people practising in the field. I do not want to propose an amendment about which the Attorney-General might have some uncertainty concerning its consequences. I am pursuing this because I think it is relevant to the sort of conclusion we are seeking to obtain.

The Hon. C.J. SUMNER: I thank the honourable member for his further explanation. I agree that the example he gave in his contribution is such that there could be an injustice visited on the grantee of a bill of sale in certain circumstances if the amendment were not accepted. In view of the other comments made by the honourable member, I am happy to agree to the amendment on the understanding that, if the honourable member receives further representations which might alter in any way his opinion from people to whom he has made the bill available, then we can discuss the matter and have a look at it when the Bill is in the House of Assembly. I am largely convinced, from what the honourable member has said, and by his assurances, that if there are any difficulties then, clearly, it is a matter he would want to ensure is cleared up.

The Hon. K.T. GRIFFIN: I will endeavour to pursue the matter. If there is any difficulty presented to me before the Bill passes through the House of Assembly I will draw it to the Attorney-General's attention. I do not expect that the Bill will have a rapid passage in the other place. I want to ensure that this Bill achieves the objective that I believe it ought to be achieving.

Amendment carried; clause as amended passed.

Clause 21—'Fees'—reconsidered.

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

Page 5—Leave out this clause and insert:

21. Section 35 of the principal Act is repealed.

The new clause has the effect of removing the outmoded provision in the present Bill setting the scale of fees in the schedule which has not been observed for 40 years.

The Hon. C.J. SUMNER: The Bill contains a provision for striking maximum fees for preparation of bills of sale. The Hon. Mr Griffin wishes to remove that provision of the Bill and leave it to the market. In effect, legal practitioners will be subject to certain scrutiny in relation to costs for the preparation of bills of sale, by virtue of the general provisions for cost scrutiny in the Legal Practitioners Act. The amendment will enable brokers to charge what they like without any scrutiny, unless a broker is found guilty of discreditable conduct, at which time the Land Brokers Board could take action against him. Unless it was extraordinarily high, I doubt whether excessive charging comes within the category of disreputable conduct.

The amendment will create a slightly anomalous situation in that legal practitioners will be subject to some cost scrutiny, but not land brokers. I am happy to accept the honourable member's amendment. I am happy to take up with the Land Brokers Board the question of whether or not there is any case for a similar provision in land brokers legislation. If, as a result of the discussions, I consider that a further amendment is necessary, the legislation can be amended at a later stage. If there is any scope for abuse (and I accept the honourable member's opinion that that is not the case at the moment), that matter can also be addressed at a later stage.

The Hon. K.T. GRIFFIN: I appreciate the Attorney's remarks. If the Attorney's discussions with the Land Brokers Board point up a problem, I would like to be informed. I think that, generally, legal practitioners have resigned themselves to the fact that they are under constant scrutiny in relation to the fees they charge. Notwithstanding the anomalies mentioned by the Attorney-General, I do not believe that the removal of present section 35 will create any problem for the public at large or for legal practitioners.

Existing clause struck out; new clause inserted.

Bill read a third time and passed.

[Sitting suspended from 3.58 to 4.38 p.m.]

MAGISTRATES BILL

In Committee.

(Continued from 9 November. Page 1550.)

Clause 20—'Payment of monetary equivalent of leave to personal representative, etc'.

The Hon. K.T. GRIFFIN: I have some amendments on file relating to this clause but there are later amendments on file from the Attorney-General. The Attorney-General's proposed amendments achieve what I was seeking to achieve with my proposed amendments but provide some flexibility that I understand the Attorney is anxious to have, enabling payment to be made of an accrued entitlement for long service leave to the dependants of a deceased magistrate. Therefore, I am prepared to withdraw my amendments and seek leave to do so.

Leave granted; amendments withdrawn.

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

Page 9—Line 31—Leave out 'paid to his personal representative or next-of-kin' and insert 'payable as if it were a debt that had become payable to the stipendiary magistrate immediately before his death'.

Lines 35 and 36—Leave out 'paid to his personal representative or next-of-kin' and insert 'payable as if it were a debt that had become payable to the magistrate immediately before his death'.

After line 36—Insert subclauses as follows:

(3) The Attorney-General may, in his discretion, direct that the whole or a part of an amount payable under subsection (1) or (2) shall be paid to a dependant of the deceased magistrate or shall be divided between persons who are dependants of the deceased magistrate.

(4) The Attorney-General may refuse to give a direction under subsection (3) unless such indemnities or undertakings as he thinks necessary are given.

(5) No action shall lie against the Crown, the Attorney-General or any other person representing the Crown in respect of a payment made pursuant to subsection (3).

(6) Nothing in this section shall relieve a person receiving money paid pursuant to subsection (3) from any liability to account for or apply such money in accordance with law.

(7) In this section—

'dependant' means a person who is wholly or in part dependent upon the earnings of the stipendiary magistrate at the time of his death.

I thank the honourable member for the concession he has made with regard to his amendments. My amendments will result in the monetary equivalent of leave to be paid following the death of a magistrate being paid to the personal representative of a magistrate, which is what the Hon. Mr Griffin wanted, but without the opition of it being paid to the next of kin. The Hon. Mr Griffin believed that that option to pay such moneys to the next of kin should be removed, but I believe that there should be some discretion following the death of a magistrate to pay such money to a dependant. The reason for that is that there may be some delay in the granting of probate and the dependant may be in financial difficulty.

My amendment asserts the right of the personal representative and enables payment to be made in accordance with the will made by a magistrate and enables the Government, through the Attorney-General, to make a payment to a dependant in the meantime. However, that dependant will subsequently have to account for that money in terms of the will or intestacy. It will provide an option for the Government to relieve any situation of hardship that exists following the death of a magistrate by enabling the monetary equivalent of accrued leave to be paid to a magistrate's widow or other dependant who has a need for that money.

The Hon. K.T. GRIFFIN: I support the amendments which have an added safeguard that, where the Attorney-General determines that he will pay entitlements to dependants, he may require certain undertakings and indemnities to be given. Presumably they might include reimbursement to a trustee or the Attorney-General, or adjustment of benefits when a will is proved. Therefore, they contain adequate safeguards and, accordingly, I support the amendments.

Amendments carried; clause as amended passed.

Remaining clauses (21 and 22) and title passed.

Bill recommitted.

Clause 18—Special leave'—reconsidered.

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

Page 9, line 12—Leave out 'Attorney-General' and insert 'Governor'.

This amendment enables the Chief Magistrate to grant special leave to a magistrate with or without remuneration. If the Chief Magistrate grants special leave without remuneration the amount of that leave is unlimited. If he grants more than three days special leave with remuneration it has to be approved by the Governor-in-Council.

If special leave without remuneration is granted by the Chief Magistrate, it is then a matter for determination as to how much of that special leave without remuneration should be attributed to the magistrate as service for the purpose of determining entitlement to superannuation, long service leave and recreation leave. The Bill provides that the Attorney-General may determine how much special leave without remuneration is to count as service.

My amendment provides that the Governor-in-Council, which is in effect the whole Cabinet, should make that decision. That is consistent with the provisions under the Supreme Court Act with respect to judges of the Supreme Court and under the District Criminal Courts Act in relation to judges of the District Court.

Where magistrates are now to be appointed by the Governor, it is appropriate that any period of special leave without remuneration which is to be counted as service, for the purpose of consistency and for the other reasons that I have already outlined, should be determined by the the Governor-in-Council, not by the Attorney-General of the day.

The Hon. C.J. SUMNER: I still think that this involves bureaucratic rigmarole for no good purpose, but, as I am in a more easy going mood today than I was last evening, I will not raise massive objection to the honourable member's amendment.

Amendment carried; clause as amended passed.

Clause 19—'Determination of rights on transition from other employment'—reconsidered.

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

Page 9—

Line 14—Leave out 'Attorney-General' and insert 'Governor'.

Lines 20 and 21—Leave out 'Attorney-General' and insert 'Governor'.

Line 27—Leave out 'Attorney-General' and insert 'Governor'.

These amendments have the same effect as the previous amendment—to remove from the Attorney-General and give to the Governor the responsibility for determining how much of a magistrate's service prior to his or her appointment should be attributed for the purpose of determining future entitlements. There have been instances where judicial officers have been appointed from the ranks of the Crown and for the purpose of pension, long service leave, recreation leave, but more particularly for superannuation purposes, periods of prior service have been attributed to those judicial officers to enable them to gain more benefits under the Judge's Pensions Act.

Quite substantial amounts can be involved, and it would seem to me that it is more appropriate that the Governor-in-Council, that is the full Cabinet, rather than one Minister, has the responsibility. This removes from one Minister potential criticism that can easily arise in these sorts of sensitive issues. The amendments would make the Bill consistent with the present provision under the Supreme Court Act and the Local and District Criminal Courts Act.

The Hon. C.J. SUMNER: What I said in relation to the previous clause applies also to this clause. In relation to this clause, as in relation to the carrying over of recreation leave, long service leave, and sick leave, at present the Board makes determinations regarding public servants, including magistrates, and for that reason this clause refers to the Attorney-General instead of to the Board. Now that magistrates will be out of the Public Service, there is a distinction between this clause and clause 18, because in relation to clause 18 the Board would recommend to the Governor matters relating to special leave with pay under the Public Service Act, whereas under this clause the equivalent Public Service Act section provides that the Public Service Board can make that determination.

The Act is to provide that where the Public Service Board made determinations when magistrates were in the Public Service, it should be the responsibility of the Minister, and, where it was the Government in relation to the Public Service Act, it should be the Governor in this Act. I accept that in relation to other judicial salaries, such as for the Supreme Court and the District Court. What rights should accrue to a judge when he takes that appointment is a matter for determination by Cabinet. I would not have thought it was necessary, quite frankly, to extend that in this case to magistrates, because they have been used to dealing in this sort of area with the Public Service Board and I feel that they could equally be at home with determinations being made by the responsible Minister. I really do not see that the honourable member's amendments are necessary.

The Hon. K.T. GRIFFIN: I appreciate the Attorney's response. The questions to be resolved under this clause are questions that occur either at the point of appointment of a magistrate or at some time during a magistrate's period of service as a magistrate. Questions could be raised about preference, and those questions are less likely to be raised in respect of a Cabinet decision than a decision of one Minister. While I have no desire to shield the present Attorney-General from responsibilities that this may confer, removing this particular responsibility from the Attorney-General is nevertheless desirable. Therefore, I maintain that, because magistrates are now to be appointed by the Governor, their terms and conditions of employment or engagement should equally be in the province of the Governor and not with the Minister, whether the Attorney-General, an acting Attorney-General, or any other Minister.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

STATUTES AMENDMENT (MAGISTRATES) BILL

In Committee.

(Continued from 9 November. Page 1550.)

Clause 3—'Amendment of Industrial Conciliation and Arbitration Act.'

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

Clause 16, page 9, line 31—Leave out 'Minister' and insert 'Governor'.
Clause 17—
Page 9—
line 33—leave out 'Minister' and insert 'Governor'.
line 41—Leave out 'Minister' and insert 'Governor'.
Page 10, line 2—Leave out 'Minister' and insert 'Governor'.

The amendment is similar to the amendment carried in the Magistrates Bill in that the determination of how much special leave without remuneration should count as service for the purposes of determining other entitlements of an industrial magistrate is to be made by the Minister. Under my amendment the determination is to be made by the Government. It is unnecessary to repeat the reasons for the amendment.

The Hon. C.J. SUMNER: I agree with the Hon. Mr Griffin and, in view of the resounding defeat that was suffered when these matters were considered in regard to the Magistrates Bill, I will graciously concede.

Amendments carried.

The CHAIRMAN: The Hon. Mr Griffin also has amendments on file to clause 18 of the second schedule, page 10, lines 7 and 8 and line 14.

The Hon. K.T. GRIFFIN: I do not intend to move the amendments to this clause on file under my name. Instead, I defer to the Attorney-General's amendments that are on file. They are identical to the amendments considered in regard to the Magistrates Bill and provide an effective mechanism for dealing with the monetary equivalent of accrued leave entitlements at the date of death of a magistrate. Accordingly, I am willing to support those amendments.

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

Second schedule, clause 18, page 10—
Lines 7 and 8—Leave out 'paid to his personal representative or next-of-kin' and insert 'payable as if it were a debt that had become payable to the magistrate immediately before his death'.
Lines 13 and 14—Leave out 'paid to his personal representative or next-of-kin' and insert 'payable as if it were a debt that had become payable to the magistrate immediately before his death'.
After line 14—Insert subclauses as follows:
(3) The Attorney-General may, in his discretion, direct that the whole or a part of an amount payable under subsection (1) or (2) shall be paid to a dependant of the deceased magistrate or shall be divided between persons who are dependants of the deceased magistrate.
(4) The Attorney-General may refuse to give a direction under subsection (3) unless such indemnities or undertakings as he thinks necessary are given.
(5) No action shall lie against the Crown, the Attorney-General or any other person representing the Crown in respect of a payment made pursuant to subsection (3).
(6) Nothing in this section shall relieve a person receiving money paid pursuant to subsection (3) from any liability to account for or apply such money in accordance with law.
(7) In this section—
'dependant' means a person who is wholly or in part dependent upon the earnings of the stipendiary magistrate at the time of his death.

Amendments carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Magistrate may be authorised to exercise jurisdiction of District Court Judge for temporary purposes.'

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

Page 10, lines 41 to 44.
Page 11, lines 1 to 8—Leave out paragraph *(a)*.

This clause amends the Local and District Criminal Courts Act. My amendment is to delete part of the clause which empowers the Chief Justice by instrument in writing to authorise a special magistrate to exercise the jurisdiction of a judge of the District Court on a temporary basis. I have already spoken at some length about that, and I doubt that I need to repeat the arguments which I have put in favour of my amendment. Suffice it to say that I do not believe it is appropriate for this responsibility to be placed with the Chief Justice or any other judicial officer and that the powers of appointment of acting judges of the District Court presently in existence are adequate to deal with any temporary problems of inadequate judicial staff to cope with problems in the Local and District Criminal Court.

The Hon. C.J. SUMNER: I am not completely convinced by the honourable member's argument, but he has raised sufficient queries about this proposal for me to believe that it should be looked at again. As the clause is drafted, it could mean that the Chief Justice could engage a magistrate in the District Court for a temporary period to hear cases which normally a judge of the District Court would hear. The problem that I see is that the matter of what may be considered to be 'temporary' is really fairly open ended. While I do not wish to rake over old coals, I remember a dispute in 1975 about the meaning of 'temporary purposes' in regard to a more significant matter.

One opinion at that stage indicated that 'temporary purposes' may mean a period considerably longer than a few days or weeks. So, if 'temporary purposes' without specific time limit or without further definition went forward in the Bill it could be used by the Chief Justice to make appointments for some months and possibly for up to 12 months. Of course, if the Government of the day disagreed with what was happening, a fairly unseemly procedure would have to be adopted to challenge whether or not the Chief Justice was acting in accordance with the Act in terms of whether the appointment was for a temporary purpose.

That puts the situation at its worse, and I am not suggesting for one moment that that was the intention of the present Chief Justice in putting forward this reform suggestion. In considering legislation, we must consider all possibilities.

The Hon. K.T. Griffin: You remove personalities.

The Hon. C.J. SUMNER: Yes, not in regard to personalities, but in regard to principles. There are problems with the current drafting, as the Hon. Mr Griffin has pointed out. I do not necessarily agree with the honourable member when he says that it is objectively completely in principle for this to happen. I had toyed with the idea of placing a time limit of, say, one month in the legislation, or of saying that such an appointment would have to be made with the consent of the Attorney-General. That might have overcome the problem but, on further reflection, I believed that it was probably better to allow the Bill to pass without this clause and to enter into further discussions to see whether the sort of problems that the Chief Justice was hinting at could be overcome in some more precise way.

What the Chief Justice had in mind was that, for instance—in relation to using a District Court judge in the Supreme Court, which is a subsequent Bill that we have—there may be a District Court judge on circuit who had the spare capacity and could fill in for a Supreme Court judge over a period, not necessarily for a trial but maybe to assist in trials as determined by the Chief Justice or in some of the more pedestrian matters of sentencing. That is where it is envisaged that it could be used, or a magistrate—again in the country areas—could hear certain cases that would normally have to be heard by a judge.

So, I can see that the proposal of the Chief Justice, which was endorsed by the Committee that did a report for me on the Magistrates Bill, could have some merit. I would certainly like to examine it further, but in the meantime I accept that there is some concern about it and prefer to see the clause which gives effect to the situation deleted from the Bill.

The Hon. K.T. GRIFFIN: I welcome the Attorney-General's indication that he will review this matter. There may

well be some advantages in that. I do not want to prejudice the flexibility of the administration of justice. If there are problems in circuits, for example, there may need to be a mechanism for allowing District Court judges to deal with some of the matters that might otherwise have to wait for a much longer period for the Supreme Court circuit at Port Augusta or in the South-East.

I also am prepared to consider any proposals if they are brought before the House. I recollect that when I was Attorney-General some suggestions were made for District Court judges to exercise some of the jurisdictions of a Supreme Court judge in the northern and the south-eastern circuits, where otherwise a long period would elapse between visits of the Supreme Court circuit judges. I did not reach any decision on that. It is a difficult matter which, obviously, may profit from some further review. I welcome the Attorney-General's indication, for the reasons that he has expressed, that the amendment will be supported to enable the Bill to otherwise proceed.

Amendments carried.

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

Page 11, lines 12 to 17—Leave out paragraph *(d)*.

This is consequential upon the amendment which has just been passed.

Amendment carried; clause as amended passed.

Clause 6 and title passed.

Bill read a third time and passed.

SUPREME COURT ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 8 November. Page 1456.)

The Hon. C.J. SUMNER (Attorney-General): I move:

That Order of the Day No. 8 be discharged.

In moving this motion, I indicate that this Bill was designed to give the Chief Justice the same power to cloak a District Court judge with authority to hear matters within the jurisdiction of the Supreme Court as the Statutes Amendment (Magistrates) Bill gave to the Chief Justice to cloak a magistrate with power to hear cases otherwise within the jurisdiction of the District Court. As we have in relation to the Statutes Amendment (Magistrates) Bill resolved this matter of the principle for the moment (namely, that we do not intend to proceed), I am therefore moving that this Order of the Day be discharged, and I will seek leave to withdraw the Bill.

The Hon. K.T. GRIFFIN: I support the motion. I have already expressed my appreciation of the Attorney-General for accepting an amendment on the previous Bill in respect of a similar matter. I again say that I welcome the motion that he is moving and support the review of powers which the Bill sought to give. If at some later time a matter is presented to us which in any way revives this in relation to the form or some other form, I will certainly again give it careful consideration.

Order of the Day discharged.

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

That the Bill be withdrawn.

Motion carried.

MARKETING OF EGGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 1340.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. I am sure that the Minister would not claim that it is a very horrendous Bill. It makes small changes to the constitution of the South Australian Egg Board. At present, the constitution of that Board is three producer members and three non-producer members, and the Chairman is a non-producer member and has a casting vote, so that the non-producer members already have the balance of power.

The Bill seeks to increase the membership of the Board to seven members and, if the Bill is passed, the Board will comprise three producer members and three non-producer members. In his second reading explanation the Minister said:

> The egg industry is anxious to ensure that the Egg Board should not be regarded by the public as a body dominated by producers. Accordingly, the Government has been requested to legislate to provide for a clear majority of non-producer members by appointing four members to a Board of seven.

What the Minister says is clear: he regards clause 3 as being a clear majority. I point out that the non-producer members already have a majority because of the casting vote of the Chairman. The Opposition took note of a press release from the Minister of Agriculture dated 27 September 1983 headed 'Consumer representative for Egg Board'. The first two paragraphs of the press release state:

> The South Australian Egg Board may soon have its first member specifically appointed to represent consumers. 'This will enlarge the membership from six to seven initially although some adjustment may be made at an appropriate time in the future to restore total membership to six while retaining a consumer nominee,' the Minister of Agriculture, Frank Blevins, said today.

Of course, that is not in the Bill. The Bill does not specifically provide for a consumer member and there is no suggestion that the membership may eventually be restored to the existing six. That was the reason I placed on file the amendment which sought to do what the press release stated: first, to provide for a member specifically to represent the consumers and, secondly, to retain a membership of six, the Chairman having a casting vote.

The Opposition has had discussions with the Minister and he acknowledges that the press release, to say the least, could be misinterpreted. But, it refers to a member specifically appointed to represent consumers and to the possible reversion of membership from seven, as stated in the Bill, to six. The Minister has assured the Opposition that this was not what he intended.

Concerning a member specifically appointed to represent consumers, the Minister has said, and the Opposition accepts, that the three non-producer members on the Board already consider themselves to be consumer members. This makes sense as there are three producer members. It is logical that the non-producer members would consider themselves as having a responsibility, as part of their total responsibility, to represent consumers.

The Minister provided the Opposition with a copy of a letter dated 9 November 1983 signed by Mr Malcolm McIntosh, the President of the egg section of the United Farmers and Stockowners of South Australia Inc. The relevant paragraph of his letter states:

> Let me categorically state that the egg industry having had full discussions with the Government and the industry on the proposal, fully understands the intent of such amendments and unequivocally supports the Government in moving to amend the relevant legislation to provide for an additional non-producer member to be appointed by the Government to the South Australian Egg Board and in no way is it suggested by the industry that upon retirement of any non-producer member, the composition of the Board will revert to its current structure.

So, it is clear that the industry supports the Bill and supports the concept of three producer and four non-producer mem-

bers. It is not contemplated that there will be a reversion from seven members to six members at some future date.

As I have said, this matter is not very important. The Opposition was motivated by the press release of the Minister of Agriculture. The Opposition has been reassured, by the letter from Mr McIntosh, that the industry, through the United Farmers and Stockowners of South Australia Inc, supports the Bill. Therefore, I will not be moving the amendment placed on file. I support the second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank the honourable member for his contribution on behalf of the Opposition. This is not a very momentous Bill but, in its own way, it can be considered important. The origin of the Bill, as I explained in the second reading, was that a couple of months ago the Bureau of Agricultural Economics brought out a report that was critical of the egg industry. Following discussions regarding that report it was stated that, by and large, egg boards were dominated by producers. On examining the Egg Board in this State I found that that, technically, was not the case, and that, of the three non-producer members, the Chairman had a deliberative vote as well as a casting vote. To put the issue beyond doubt, if any member of the public is not happy with it, then they can clearly see that that is not the case and, when this Bill becomes law, it will be clear that there will be four non-producer members sitting around the table with three producer members during meetings.

I also understand the misapprehensions that arose from the wording of the press release. When the Government contemplated putting an additional person on the Board that person was specified as a 'consumer representative'. It was quickly brought to our attention that the three non-producer members also considered themselves as working in the interests of the consumers of South Australia. Further, if one put a person on the Board who was designated as the 'consumer representative', one could argue that the Board would then consist of seven people, six of whom were not there to represent consumers as one person was specifically designated to do so. While that is a nice argument, it does not interest me enough to pursue it.

I believe that this Bill puts the issue beyond doubt; there will be a clear majority of non-producers on the Egg Board. The four non-producer members will look after the interests of consumers. I do not know who appointed the three present members, whether it was the previous Government or the previous Labor Administration, but I am confident that whoever appointed those members did so to look after the interests of the community as a whole, which interest includes consumers. I have every confidence in those members carrying out that role.

Concerning the question of reducing the board from seven members to six members at some time in the future, this arose from a proposal to amalgamate the Marketing of Eggs Act with the Egg Industry Stabilization Act. At some time in the future that could be done. If, at that time, it was thought that the Board was too large and, after discussions with the industry, that may then be the appropriate time to restructure the entire Board (which may mean a reduction). The press release indicated that that was by no means certain, by saying that that adjustment may be made, not will be made.

I am pleased that the Opposition acknowledges the merit in the Bill, even though it is not of momentous consequence. Again, I thank the Hon. Mr Burdett for his contribution.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Constitution of board.'

The Hon. J.C. BURDETT: I rise to indicate briefly that, as I have said before, the Minister had the courtesy to make available to the Opposition a letter dated 9 November that he received yesterday from the United Farmers and Stockowners. The letter categorically states that the U.F. & S. supports the proposal for the move from six to seven members: three producer members and four non-producer members. It is quite clear that the U. F. & S. accepts responsibility for the change and acknowledges that it thoroughly supports the Government. I do not foresee any difficulty arising from what has been done. We have said several times that it is hardly a momentous change. I make the point that the U.F. & S., on behalf of the industry, accepts responsibility for the change. I trust that the change will not cause any future problems.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

TERTIARY EDUCATION AUTHORITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 1454.)

The Hon. R.I. LUCAS: The Opposition supports the Bill, which seeks to make four changes. First, it increases the number of members of the authority from five to not less than seven and not more than nine; secondly it removes the authority's standing committee on accreditation; thirdly, it improves the efficiency of the authority's reporting to Parliament; and, fourthly, it makes a minor change to alter the name of Department of Further Education to Department of Technical and Further Education, under the third schedule of the Act.

Much of the Bill seeks to implement the recommendations of a committee of review established by the previous Minister of Education, the Hon. Harold Allison. The committee comprised Dr Corbett, Professor Mills, Mr Greer, and Mr Gilding, and it reported in March 1982. The first change made by the Bill, to increase the membership of the authority, presented me with some doubt about the merits of such an increase. However, on balance, the Opposition and I accept the committee of inquiry's view and the Minister of Education's argument that such an increase will add much needed expertise to TEASA. The Minister's argument was that five members of the authority was not a large number to provide the degree of expertise needed for a body such as TEASA, which has responsibility to co-ordinate post secondary institutions in South Australia.

The only other change that I will refer to in any detail relates to accreditation. The current accreditation procedures for post-secondary institutions are decided in a document from TEASA entitled, 'Report on Delegation of Responsibility for Course Assessment to Advanced Educational Institutions in South Australia'. Page 8 of the document states:

- the institution provides preliminary notification of proposals for new courses or substantial modifications of existing courses. The Authority indicates whether any proposal is consistent with that institution's general role in the system and whether it considers the proposal merits further development;
- the institution then submits a more comprehensive statement of the need for the course and how it would be mounted;
- if the proposal is finally approved for implementation a fully detailed course document is prepared and accreditation procedure commences as soon as possible.

With particular regard to accreditation, the Authority acts in accordance with the procedures, criteria and award nomenclature of the Australian Council on Awards in Advanced Education and does so through its Accreditation Standing Committee (formally established by the TEASA Act) whose assessment normally takes the form of scrutiny of course documents, inspection of college

facilities and discussions with college staff by a course assessment committee which usually includes appropriate employing organisations and professional bodies as well as academic staff from universities and other advanced education institutions. An interstate member is normally included.

That is a brief description of the current accreditation procedures. Honourable members should note that section 19 of the TEASA Act restricts the authority's powers in this respect to prescribed post secondary institutions prescribed in the third schedule of the Act. It is important to note that there are only four prescribed post-secondary institutions: Roseworthy Agriculture College; South Australian College of Advanced Education; Institute of Technology; and the Department of Further Education. The two universities, Adelaide and Flinders, are not included as prescribed post-secondary institutions. Therefore, the powers of the authority in this respect do not cover the operations of those two universities.

The new situation envisaged by this amendment is that the institutions will have responsibility for assessment of courses, but the full authority will retain that ultimate responsibility for approval and accreditation so that a Standing Committee for accreditation is no longer needed. The complete authority, TEASA itself, is not a standing committee which will be responsible for approval and accreditation and the institutions themselves will be responsible for assessment procedures. That change, as envisaged by the Bill, is supported by the Committee of Inquiry's report which states at page 13:

> The main change proposed in the relationship between TEASA and the Colleges of Advanced Education is that TEASA accelerates the devolution of detailed assessment of courses. The institutions or their predecessors have now had 10 years of external assessment and have well-established procedures for course development and evaluation. Less emphasis on external assessment and greater reliance on the internal processes of institutions would be a more efficient way of conducting assessments.

I interpose there that I think that that is an important point and that the major reason for this change is that in a more efficient way it will reduce overlap and possible duplication between procedures that might well be adopted by institutions and procedures that previously or currently may have been adopted by the Standing Committee or TEASA itself. The report continues:

> However it will be necessary for TEASA to satisfy itself in each instance that the institution has adequately assessed the course concerned through procedures approved and periodically reviewed by the Authority. The Committee therefore supports this approach as soon as practicable for experienced institutions with a good record of accreditations under the present system, and for others within one or at most two years.

This Bill distinguishes between experienced institutions and others. It seems that post-secondary institutions are 'experienced institutions' and it gives them the power advocated by this Committee of Inquiry. I repeat that the proposed changes will not affect the operations of the two universities as current accreditation procedures have no coverage of those universities. The proposed approval and accreditation procedures will not affect the operations of Flinders or Adelaide Universities. The debate in another place made it clear that these new provisions for delegating assessments to institutions will certainly apply to undergraduate courses.

However, the question of what happens with postgraduate diploma courses, commonly referred to in the jargon as PG 1 courses and what happens to masters courses, PG 2, was a little hazy after the Bill left the other place. I quote the response given by the Minister as recorded at page 1425 of *Hansard:*

> As I understand it, the Authority intends to delegate assessment not only in respect of undergraduate courses but in respect of postgraduate diploma courses within institutions. I believe that they are called PG1 courses. However, the Authority is to retain entire assessment and accreditation of masters degrees, known as PG2 courses. Will the Minister clarify that situation?

The Hon. Anne Levy: They do not really want the CAE's to have much in the way of PG2 courses.

The Hon. R.I. LUCAS: Clearly, what the Minister was saying in the other place was that TEASA, the authority, would retain that complete control and responsibility with respect to masters degrees for approval, assessment and accreditation. The Minister was suggesting that for undergraduate courses and the PG 1 courses it would be delegated to the particular institutions. I, like most people involved in this debate accept that it is not possible in legislation to distinguish between undergraduate courses, PG 1 courses and the PG 2 courses in the particular amendment we need to look at. The Opposition accepts that. The Minister has given an indication about what he believes will happen under the new procedures. However, the Minister will concede, as the Minister in charge of the present debate will concede, I am sure, that as an independent statutory authority TEASA can decide, in effect, what it wants.

The Minister is not really in a position to say that this is what TEASA will do. He has given an indication that he believes that this is what would happen. Therefore, I am seeking from the Minister in charge of the debate in this Council any information he might have directly from TEASA as to how it intends to interpret the operations of the new assessment procedures, in particular in respect of PG 1 and PG 2 courses.

In conclusion, I want to make some brief comments about my personal view on the future of TEASA as an independent statutory authority. I think members are aware that since the decision was taken to amalgamate the four colleges of advanced education into one college there have been a number of suggestions that perhaps there is no need for an independent statutory authority like TEASA. In effect, we really have only six post-secondary institutions if one includes the two universities. And, in reality, TEASA's powers over the two universities are extremely limited. Therefore, in effect, it is controlling at most four authorities whereas in the mid-seventies it was controlling nearly ten post-secondary institutions. On page 10 and 11 of the report of the Committee of Inquiry to which I referred previously the Committee considers one other option for co-ordination of post secondary institutions and looks at whether TEASA ought to continue as it was or whether the responsibilities of TEASA could be more adequately covered by another undertaking, perhaps instituted by the office of the Minister of Education. I would like those remarks recorded in *Hansard.* They state the following:

> The advantages of this option would be:
> - better access and input to State Government thinking on policies, priorities and funding;
> - improved liaison with other parts of the education portfolio;
> - one less agency to be consulted or listened to;
> - more efficient use of professional and support services.

It further listed the disadvantages of such a proposal, as follows:

> - The move would be seen as placing the universities and colleges under direct Ministerial control;
> - The Office of the Ministry would forfeit its independent perspective if it had a heavy operational involvement in a particular field of education;
> - The additional functions and staff in the office would inhibit it from concentrating on priority issues across the education portfolio;
> - The wider inputs and accountability provided by the members of an independent authority such as TEASA would be lost.

The committee believed that the disadvantages outweighted the possible benefits and therefore recommended that TEASA should continue, with some changes, and with the provision in regard to the Minister's having responsibility not being pursued. It further recommended slightly greater controls

over universities, and at page 15 three suggestions are made, as follows:

- Universities are not to proceed with representations to the C.T.E.C. for a stated period of time after notifying the Authority (30 days in Western Australia and Victoria);
- TEASA can defer implementation by a university of a proposed new course or major modificatioin for a period of time where there are particular problems or intersectoral implications;
- universities can be required to consult the Authority.

I understand that those recommendations have not been pursued, but clearly they are being pursued in this Bill. I am sure that, if those proposals were to be pursued, honourable members would receive representations from the university. It would be an interesting debate.

I believe very much that the authority of TEASA over the universities may not be as great as perhaps that committee of inquiry thought might be the case. To a large extent, it would still depend on the willingness or otherwise of the universities to go along with those arrangements. I need to be persuaded that there is a need for a statutory authority such as TEASA, but that is not the position of the Opposition. I do not have a closed mind on the matter and I canvassed it briefly this evening as it was a possibility. A persuasive case could perhaps be made for retention of TEASA, and I would certainly be happy to listen to the arguments. I will certainly consider this matter over the coming months. The Opposition supports the second reading but raises one question, to which I have referred.

The Hon. FRANK BLEVINS (Minister of Agriculture): I would like to thank the Hon. Mr Lucas for his contribution on behalf of the Opposition. I concede that the point he raised was valid and certainly worthy of a considered response. I am happy to be able to inform the Hon. Mr Lucas and the Council that the Authority decided at its October meeting to inform the colleges of advanced education that it is prepared to delegate to them the power to assess their own courses, with the exception of those courses leading to Masters degrees, using the procedures which each college has proposed subject to a number of qualifications concerning final agreement on those procedures and the implementation of the new arrangement. I hope that that extract from the October meeting of the authority clears up the final question in the mind of Opposition members regarding the proposals. I thank the Hon. Mr Lucas and the Opposition for their co-operation in assisting the speedy passage of this Bill.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Repeal of ss. 17 and 18'.

The Hon. R.I. LUCAS: I thank the Minister for the information he has conveyed to me, and for his co-operation.

Clause passed.

Remaining clauses (7 and 8) passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 5.52 p.m. the Council adjourned until Tuesday 15 November at 2.15 p.m.