LEGISLATIVE COUNCIL

Tuesday 8 May 1984

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 11.30 a.m. and read prayers.

PUBLIC WORKS COMMITTEE REPORT

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

Lyell McEwin Community Health Service (Redevelopment).

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Rules of Court—District Court—Fisheries Act, 1982—Review of Licence.

Friendly Societies Act, 1919—Amendments to General Laws—Manchester Unity; Independent Order of Odd Fellows Grand Lodge of South Australia; United Ancient Order of Druids Friendly Society; National Health Services Association of South Australia.

Industrial Relations Advisory Council—Report, 1983.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Corporation of the City of Elizabeth—By-law No. 10—Ice Cream and Produce Carts.

By the Minister of Agriculture (Hon. Frank Blevins):

Pursuant to Statute—

Roxby Downs (Indenture Ratification) Act, 1982—Regulations—Borefield Road, Olympic Dam Project.

QUESTION

STATUTORY AUTHORITIES

The Hon. L.H. DAVIS (on notice) asked the Attorney-General: Which statutory authorities, required to report annually to the Parliament and/or a Minister of the Crown, have not as at Monday 9 April 1984 reported for the year ending:

1. 30 June 1982;
2. 31 December 1982;
3. 30 June 1983?

The Hon. C.J. SUMNER: The reply is as follows:

1. Nil
2. Pest Plants Commission; Teachers Registration Board; South Australian Institute of Technology.
3. Country Fire Services Board; Coast Protection Board; Alcohol and Drug Addicts Treatment Board; South Australian Health Commission (tabled 1-5-84); Builders Licensing Board; Roseworthy Agricultural College; Vertebrate Pest Control Authority; Advisory Committee on Soil Conservation; Meat Hygiene Authority; History Trust of South Australia; Adelaide Festival Centre Trust; Regional Cultural Centre Trust—Eyre Peninsula, Northern, Riverland, South-East; Corporate Affairs Commission (tabled 18-4-84); Registry of Building Societies (tabled 1-5-84); South Australian Ethnic Affairs Commission (tabled 10-4-84); South Australian Government Financing Authority (tabled 2-5-84); Registry of Credit Unions (tabled 1-5-84).

SELECT COMMITTEE ON LOCAL GOVERNMENT BOUNDARIES OF TOWN OF GAWLER

The Hon. ANNE LEVY: I move:

That the Select Committee on Local Government Boundaries of Town of Gawler have leave to sit during the recess and to report on the first day of next session.

Motion carried.

SELECT COMMITTEE ON ST JOHN AMBULANCE SERVICE IN SOUTH AUSTRALIA

The Hon. J.R. CORNWALL (Minister of Health): I move:

That the Select Committee on St John Ambulance Service in South Australia have leave to sit during the recess and to report on the first day of next session.

Motion carried.

SELECT COMMITTEE ON REVIEW OF THE OPERATION OF RANDOM BREATH TESTING IN SOUTH AUSTRALIA

The Hon. G.L. BRUCE: I move:

That the Select Committee on Review of the Operation of Random Breath Testing in South Australia have leave to sit during the recess and to report on the first day of next session.

Motion carried.

JOINT COMMITTEES ON THE PARLIAMENT

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

That the members of this Council appointed to the Joint Committee on the Law, Practice and Procedures of the Parliament and the Joint Committee on the Administration of Parliament, have power to act on those Joint Committees during the recess.

Motion carried.

SELECT COMMITTEE ON TAXI-CAB INDUSTRY IN SOUTH AUSTRALIA

The Hon. BARBARA WIESE: By leave, I move:

That the Select Committee on Taxi-Cab Industry in South Australia have leave to sit during the recess and to report on the first day of next session.

Motion carried.

HIGHWAYS ACT AMENDMENT BILL

Second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I move:

That this Bill be now read a second time.

This Bill amends the principal Act by increasing the contribution made from the Highways Fund to the Police Department for road safety services from 12 per cent of motor registration fees to a percentage fixed by the Minister or, where the Minister has not fixed a percentage, to 15.4 per cent of those fees. The amendment is to have effect from 1 July 1983.

When the contribution was first introduced in 1971 it represented about 75 per cent of the costs incurred by the Police Department for road safety services at that time. When the Act was amended in 1983 to provide for the current 12 per cent contribution, Parliament was informed

that it was desirable to restore the contribution over the next few years to approximately 75 per cent of police costs. The increase in the contribution from 12 per cent to 15.4 per cent from 1 July 1983 will provide a total contribution of $8 million, which represents 66 per cent of police costs.

The contribution made from the Highways Fund to the Police Department should be adjusted annually if the real level of the contribution is to be maintained, having regard to the fact that registration fees are not always adjusted annually to keep pace with inflation and the level of fuel tax has a bearing on the level of registration fees. Therefore, rather than amend the Act yearly, which is cumbersome, it is considered that the Minister should determine the contribution payable from time to time as required and publish the determination in the *Government Gazette*. I seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the Act from 1 July 1983. Clause 3 amends section 32 of the principal Act. Paragraph *(a)* makes a consequential change. Paragraph *(b)* inserts two new subsections. Subsection (2) defines the 'prescribed percentage' and subsection (3) empowers the Minister to prescribe the percentage by publication of a notice in the *Government Gazette* and to vary or revoke the percentage by the same means.

The Hon. PETER DUNN secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2) (1984)

In Committee.

(Continued from 3 May. Page 3993.)

Clause 4—'Transitional provisions.'

The Hon. C.M. HILL: Honourable members will recall that when we were debating these amendments last Thursday night and into the early hours of Friday morning, the Committee dealt with the quite major issue of pecuniary interests. In the amendment that we are now considering, we deal with another major issue which involves not only this amendment to clause 5, page 7, lines 32 and 33, but also includes the proposed new section 47, page 26, lines 15 to 21.

With your permission, Mr Chairman, I will tie the two amendments together as was done concerning pecuniary interests. The change proposed in the two amendments is that the term of local government in future will be four years, with half the members of a council standing for election every two years. Honourable members know that the present system for councillors is a two-year term, with elections every year. The major thrust of this amendment is to retain the principle of periodical alternate elections. The Government proposes in this Bill to have all members of a council coming up for election at the end of the term and it is dispensing with this very old established principle in local government of half the council coming out at each election.

In this Chamber we have the principle, as members will acknowledge, of continuity of service by some sitting members while other new members join their ranks, which is a means of continuing a very stable approach to legislation, not only here but also in local government. My Party is very keen to retain this principle of half the council coming out alternately and opposes the principle imposed by the Government in this Bill of all councillors coming out at the end of the one term.

Having dealt with that, I come to the actual term of office which, in the amendment before us, involves four-year terms. There has been criticism from local government that the present system of annual elections are proving both costly and very time consuming for council staff. Accepting the point that local government in the field and the Local Government Association say that the present system is proving difficult because of the costs and unnecessary use of resources annually in the arranging and holding of elections, counting of votes, and so on, and still wanting to apply the alternative approach, my Party has decided that a four-year term is the next point that flows from those arguments. So, these amendments involve a four-year term with half the members of a council coming out every two years.

In accordance with the amendment, the four-year term with elections every two years is supported very strongly by the Adelaide City Council. Research by my colleague, the shadow Minister of Local Government, Dr Eastick, at about the time of this matter being debated in the other place revealed that there was quite a strong body of opinion amongst councils favouring this four-year term and the half the council out every two years approach. For those reasons I have moved this amendment incorporating, as I said, the second amendment in regard to section 47.

The Hon. DIANA LAIDLAW: I support the remarks made by the Hon. Mr Hill. In doing so, I confirm that there is no disagreement between members of this Parliament, as I understand it, in respect to all members of council retiring at the one time at the next election following this Bill's passage, whether that be in October or May. The argument concerns the term of office from that time on. I accept, as the Hon. Murray Hill has indicated, that there is a need to change the present situation from the two-year term with half the council going out on an annual basis. Councils have found that this atmosphere of perpetual elections is not conducive to either long-term planning or stability of local government.

If one dismisses the present practice, one is left with three options: a two-year term and all out; a three-year term and all out; or a four-year term with half the council facing the electors on a biennial basis. After taking an objective view of all these options and their ramifications, the Liberal Party has opted for the third option, that is, four-year terms with half the council retiring every two years.

There are two basic reasons for that approach. The all-out option is considered to have the potential to be disruptive for local government. There is the potential also for the loss of experienced members in regard to a local issue that is at boiling point at the time of the election. Also there is the potential to encourage a high degree of factionalism on a specific issue. A futher point that I have not seen covered by many people is that there is potential to allow the bureaucracy in local government to increase its influence over the voluntary members.

The Hon. Mr Hill indicated that in the other place the shadow Minister of Local Government invited comments from all councils on this point of staggered elections and four-year terms. It is interesting that the replies he received indicated that 66 of the 125 councils in the State opted for a system of half-in half-out elections. The matter of three-year terms is the other reason why the Liberal Party has moved the amendment now before the Committee. We consider that a three-year term is too long between elections for electors to democratically exercise their rights to vote. We believe that three years is too long a time between

elections in regard to elected members remaining sufficiently accountable to the people at local level.

It is an important point that local government prides itself on being the level of government closest to the people, and attuned, it often claims, to local electors' needs. The argument for local government to follow the example of both State and Federal Governments in having three-year elections holds no validity so far as I am concerned because those two forms of Government certainly have a very different purpose for their being. The distinction between these three tiers of government must be reinforced. However, I believe that the three-year term would make that distinction hazy. The Local Government Association, which I respect, has opted for a term of office of three years all out. This decision was reaffirmed at its annual general meeting last month. I consider that decision, and its reconfirmation at the annual general meeting, as remarkable, because it seems to me to run counter to all the arguments that local government presents in respect to the strength of local government.

I will quote from the policy manual of 1983-84, which was reaffirmed at the Local Government annual general meeting. In its charter of local self-government in South Australia, under the heading 'Preamble', the charter notes the following:

> The right of citizens to participate in the conduct of public affairs is one of the democratic principles that are assured by all the member States of the Australian Commonwealth. It is at the local level that this right can be best exercised. The existence of local authorities with real responsibilities makes possible an administration which is both effective and in close proximity to the citizen.

Further references are also made to the closeness of local government to the citizen, and to the need for accountability. I object to the three-year term of office on those grounds.

Finally, I make the point that I do not envisage that a four-year term of office is too much of a hardship for any councillor when one considers that the average term of councillors is presently between six and 12 years. To fulfil the laudable goal of accountability that the Local Government Association and local government in general have confirmed in their policy manual, I believe that we require a combination of four-year elections with half the council going out every two years. This will add to the long-term interests and accountability of local government in this State.

The Hon. K.L. MILNE: I rise to oppose this amendment because, after considering the various options, particularly the options that were the subject of a brief survey (perhaps effective but possibly not official) by a member of Parliament in another place, I find that the one option that I prefer has not been canvassed at all: that is, the two-year term all-in all-out. I think that the four-year term suggested by the Liberal Party is too long a period for people to commit themselves to serve as councillors. I note that what the Hon. Diana Laidlaw says is quite true, that the usual term for a councillor once elected is quite lengthy when he finds that he can cope and that he enjoys that work immensely. But, when making a decision to go into council—and many people have to be approached and asked whether they will do this because a council is short of people (which happened to me)—

The Hon. Diana Laidlaw: How long did you stay?

The Hon. K.L. MILNE: I would have stayed there for quite a long time, I think, but I was sent to England to look after the State's interests, which was a very rewarding exercise for us both. Having got into council work, and into the local government scene, I found it very rewarding, indeed. I think that people are inclined to stay on when this happens. However, when one is making a decision to start serving in local government then the prospect of a four year term is too much. I have not found people to be very fussed, really, about the all in all out suggestion, as I and many councils were to begin with. However, I believe that a great number of councils have now got used to this idea. Again, I think that all in all out every three years is too long a period because it does not give people time to remove a councillor if they want to.

The term for a councillor is two years. Half the council members go out each year, which means annual elections. I agree that that is no longer sensible. We would like to see a greater gap between elections. I think that we ought to take this matter in stages. I am not saying that the Government is necessarily wrong in relation to this matter, although I believe that it is. I would like, therefore, to reach the stage that it is suggesting in two bites, if one likes. Therefore, I am strongly in favour of the term of office for councillors being two years all in all out. The Opposition is making a great fuss about the dangers of all in all out elections. However, the fact is that there have been only two cases in the whole history of the Eastern States and New Zealand councils, which are on this system, where a council has been entirely removed at an election. I do not think that that is likely to happen and, as I have said before and will say again (perhaps when new section 94 is debated, in relation to which I have an amendment on file), where a council has been tipped out there has probably been a very good reason for that happening. However, were the entire membership of a council to be removed, then these days there are town clerks who are more highly trained, health officers, engineering officers, planning officers—

The Hon. C.M. Hill: Planners.

The Hon. K.L. MILNE:—planners, and all sorts of people who can come to the rescue if that ever happens. I say again, it is most unlikely that that will happen. The survey that was conducted by a member of Parliament in another place indicated to me that council members are confused, especially as they were not asked if they would like a two year option. The various replies, some of which came directly from the chairman or mayor, showed that they have not made up their minds at all, although the vote of the Local Government Association at the annual general meeting indicated that they had. However, having been given a chance to have second thoughts, they have stated clearly, 'We are not sure.'

The Hon. C.M. Hill: What does your amendment do on this matter?

The Hon. K.L. MILNE: My amendment would simply result in two-year terms all in all out. I do not like three year terms all in all out because I think that they would be too long.

The Hon. C.M. Hill: That's what the Government wants.

The Hon. K.L. MILNE: That is what the Government wants, but I want a compromise that will leave the terms for councillors at two years because the all in all out question does not bother a great number of people. I have surveyed as many groups as I could, so—

The Hon. Diana Laidlaw: Are all councils aware of your proposition?

The Hon. K.L. MILNE: No, I do not think so. I found that making an unofficial survey was not very popular. Therefore, I have not dared to do it and will not have time now to do so. However, I will try to persuade the Government that this is a fair compromise and that it is particularly useful for mayors, especially the Lord Mayor of Adelaide. It is unlikely that one would get a Lord Mayor to tackle a four-year term. If he or she were in a position to do that I think it would be a rare case. I believe that four-year terms will prevent a lot of people who would wish to be Lord Mayor standing for that position.

From my experience, although one year is supposed to be the term for a Lord Mayor, a large number prefer to do two and two is probably a fair answer. It would help mayors, particularly of other metropolitan councils—some of them very big metropolitan councils where it is nearly a full-time job—so that they would not have to resign because the term was too long. There are all sorts of benefits in the two year term all in all out. It meets more than half the Government's proposal and it leaves the term for councils much the same, as the people would expect. I hope that I will be able to persuade my colleagues that that is the better compromise in the circumstances. Unfortunately, they have to make a decision now because my amendment will be to new section 94, which would include the matter of bringing the voting date back to October and for the intervals of elections to be two years instead of three.

The Hon. J.R. CORNWALL: The Government opposes the amendment. The Local Government Association has a clear policy on this matter for a three year term. We had a clear Government commitment prior to the last election which spelt out clearly our position that we support three year terms. We can say that we have a mandate to introduce that. It seems peculiar to me, as someone said to me recently, that when members opposite support the Local Government Association they say that they are being sensitive and statesmanlike; when they oppose it they say that they are doing it in the public interest. That is a very pragmatic position that they adopt frequently.

The Government does not accept the four years half and half. We believe that three years is about right. There are councils interstate which have four year terms and, although that may well be a little long, I will not canvass the matter because it is not before the Parliament, anyway. Certainly, anything other than three years does not give the degree of certainty and accountability that increasingly we would like to find in local government and in Parliament. People would have very brief memories, indeed, if they did not remember the tremendous backlash in 1979 generated by the decision of the then State Government to go early. I remember it with great clarity and much sadness. There is no doubt a general community move towards a degree of stability in the three year term. We will not get it with this strange half and half proposition that the Opposition is putting up. The Government opposes that.

I also flag that I am not particularly attracted to the Hon. Mr Milne's amendment. He says that it goes two-thirds of the way; that is a fairly simplistic approach. Presumably, if one has two years instead of three years, that is two-thirds of the way. The arithmetic might be right, but the logic is not particularly compelling in this instance. Having said that, our position is clear: we have three-year terms in the Bill and as a Government we would like to see three-year terms in the Bill as it eventually emerges from the Parliament.

The Hon. C.M. HILL: I will not debate the alternative systems because two of them will be debated when the Hon. Mr Milne moves his amendment. I want to say only how disappointed I am that the Hon. Mr Milne has not seen fit to support this amendment. As the honourable member has indicated that he and his Party will not support it, obviously I have not got the numbers and I do not intend to divide the Committee.

The Hon. R.C. DeGARIS: I will be brief but, really, we are looking at alternative systems. In examining this system we are looking to see whether we will finally get two-year terms all in all out or three-year terms all in all out, or whether we will preserve the principle that has been associated with local government in South Australia since its inception; that is, in an election campaign only half the council goes out. I believe that that is an important issue and that that system should be retained. If one looks at local government throughout the world based on Western democratic principles, one finds that most countries usually have half the council going out.

The reason for changing from two to four may be a good reason. Elections being held every year in local government is a matter of some concern to local government itself. Certainly, I support strongly the principle that in elections for councils half the council should be re-elected while the other half should remain to complete the term. Therefore, I support strongly the amendment moved by the Hon. Mr Hill.

Amendment negatived.

The CHAIRMAN: A number of clerical corrections are necessary throughout the Bill and, in accordance with Standing Order 326, I propose to make those corrections where necessary. Therefore, I make the following correction:

Page 4, line 43—Leave out 'to be elected to fill' and insert 'as candidates for election to'.

Page 5, line 30— insert the word 'an' before 'appointment'.

Clause passed.

Clause 5—'Interpretation.'

The Hon. C.M. HILL: As the amendment on file under my name to this clause was consequential on the amendment that I just moved and lost, I will not proceed with it because of the failure of my earlier amendment.

The Hon. DIANA LAIDLAW: I refer to paragraph *(e)*, which refers to 'Chief Executive Officer'. A number of people have asked me how this term is to be used in a local government context. I appreciate that it may have been introduced simply as a means by which it will not be necessary throughout the Act to refer to 'Town Clerk' and 'District Clerk' on each occasion. Later in the Bill, new section 66 allows councils the right to use their discretion in respect of the terms 'Chief Executive Officer', 'Town Clerk' or 'District Clerk'. However, the question has been raised with me as to which term would be correct in respect of official communications with councils. Will it be necessary to call that person 'Chief Executive Officer', or will what councils determine stand as the formal title? If the latter is the case, will there not be considerable confusion between councils and the public in the manner in which people address the town clerks and the district clerks?

The Hon. J.R. CORNWALL: I understand that that will be optional. The term 'Chief Executive Officer' was principally inserted at the request of the Institute of Municipal Management. As someone who encounters chief executive officers in hospitals all around the State, I think that there are certain circumstances in which the title is more than a trifle pretentious. In local government matters we have learnt to live with a Secretary-General, so I suppose that we can learn to live with chief executive officers. Obviously, 'City Manager', 'Town Clerk', and so on are terms that can still be used at the discretion of a council, so it is not a matter of great moment. I move:

Page 8, lines 10 to 15—

Leave out subclause (7) and insert subclause as follows:

(7) For the purposes of this Act, a reference in relation to a council—

(a) to the conclusion of periodical elections is a reference—

(i) where the number of candidates nominated to contest each of the elections for the council does not exceed the number of persons required to be elected—to the first Saturday of May of the year of the elections;

or

(ii) in any other case—to the time at which the last result of the periodical elections is certified by the returning officer under Division IX of Part VII;

or

(b) to the conclusion of a supplementary election is a reference—

(i) where the number of candidates nominated to contest the election does not exceed the

number of persons required to be elected—to the time at which the nominated candidate or candidates are declared elected by the returning officer under Division V of Part VII;

or

(ii) in any other case—to the time at which the result of the election is certified by the returning officer under Division IX of Part VII.

This amendment was intended purely as a technical correction. However, the Hon. Mr Milne and the Hon. Mr Hill both intend moving amendments to change the election date to the third Saturday in October. Therefore, it might be of value to ask the Committee to treat this as a test amendment. The change to May is introduced because of widespread local government concern that an election date in October follows a council budget too closely, and therefore forces judgments to be made based on the fear of an election. That is not a new proposition: it has been canvassed in great detail over many years. Originally, the change was mooted specifically for that reason.

The second point, which is perhaps even more compelling, is that the first Saturday in October clashes with the football grand final (although the third Saturday in October would not). An October date has been awkward for several reasons. There is a long weekend in October, coinciding with the Labor Day holiday, and it is the end of the football season. Further, from October onwards it is a busy time generally in the rural areas of South Australia: there is a round of annual agricultural shows, and harvesting is beginning, particularly in some of the more northern areas.

In many ways an October election date is quite unsuitable and unsatisfactory from the point of view of rural councils in most parts of the State. The changes are being made at the almost unanimous request of local government—and I do not mean only the Local Government Association, although I certainly have due regard and respect for that body. The requests have come from councils throughout the State. I am told that the Department of Local Government knows of only one council in the entire State that has sought to retain an October election date, although I concede that there may be two or three others. However, it is certainly a small minority of councils that is interested in retaining an October election date. In summary, I make it clear that the Government completely opposes any change to an October election date.

The Hon. K.L. MILNE: There are points for and against an October election date, and there are points for and against a May election date. I dare say that, whatever date is fixed, there will be some objection. We must consider the new councillors coming in.

It is unfair for new councillors to have to make a decision on the budget so soon after being elected to office, although all the councillors will not be new councillors. However, it will be impossible for new councillors to understand the significance of the nuance of local government accounting with all its tricks and, by the time they have to prepare a budget in June and July and submit it in August, they should be prepared. I believe that sitting councillors should be required to face the music and the results of their budgeting and administration in October, after presenting a budget in August, and, if people did not like what they were doing, they could say so.

The Hon. J.R. Cornwall: That is terrible financial planning.

The Hon. K.L. MILNE: Not necessarily.

The Hon. J.R. Cornwall: Yes it is.

The Hon. K.L. MILNE: That is one argument. It is much better to make councillors face what they are doing rather than say that they can do what they like and leave it to the next group coming in—that is not fair. I suggest that the election be held on the third Saturday in October when there is no question of a football final being held and when the cricket has not started. From my knowledge of these matters, and according to the views of a number of people with whom I have canvassed these issues, the football final does not do a lot of damage, although it is awkward for those who are helping in an election: voters can vote on their way to the footy. Weighing up all the evidence, and as the first Saturday in October was the original choice (the correct choice), I believe that the election date should be moved by two weeks to the third Saturday in October.

The Hon. C.M. HILL: I noted that the Hon. Mr Milne had an amendment on file altering the day of the election to the third Saturday in October, and I agreed with that amendment. In fact, I have taken the matter one step further in an amendment that I have on file: not only do I support that date but also my amendment would allow a council the right to postpone the date to a further Saturday if the council, for one reason or another, believed that it was in the best interests of that local government body that the election be held on a day later than the third Saturday in October. My amendment would provide that the election must be held in that calendar year.

The Hon. Diana Laidlaw: And it would require the approval of the Minister for a change of day.

The Hon. C.M. HILL: I believe that is so. The main thrust of the issue is the most appropriate day for local government. The Minister interjected on the Hon. Mr Milne, but I believe that the points made by the Hon. Mr Milne were very sound. A new member in local government should be given the optimum period to settle into the council before he or she is asked to vote on the budget and the fixing of the rate for that council. If the election is held in October, the rate having to be fixed in August or perhaps the end of July, new councillors are given a long period in which to understand their role and the business affairs of the council. Similarly, I agree with the Hon. Mr. Milne that councillors who fix their rate should be prepared to face electors in case of challenge on that very big issue. Of course, if the rate is fixed in July or August there would be an opportunity for citizens in October to either challenge or show their approval for their councillors on the rate issue.

I think that that reasoning is quite sound. Some years ago I took some part in changing the date to October, and naturally I waited to hear from those who are sometimes a little reactionary and opposed to change. The main criticism that was levelled at that time concerned the issue of the football grand final. I have had some experience in local government serving a ward to the south of Adelaide. We welcomed South Adelaide's playing on the Adelaide Oval on the Saturday when the election was being held because we knew that a lot of the people would come out on that day to go to the football. Indeed, on one occasion in the ward of Young my opponent had as one of his supporters a very famous footballer, who gave out pamphlets urging people to be sure to vote before going to see South Adelaide play at the Adelaide Oval (which is where South Adelaide had its headquarters at that time). So, the football match was a means by which people were encouraged to vote, and it was not looked upon as any disadvantage—the very opposite was the situation.

The Hon. L.H. Davis: I didn't think that politics and sports mixed.

The Hon. C.M. HILL: This was very local politics.

The Hon. R.I. Lucas: If he was a South Adelaide supporter I hope he lost!

The Hon. C.M. HILL: No, as a matter of fact I lost on that occasion, and the late Mr Morris won—that's life; one must take the ups and downs in all forms of it.

The Hon. R.C. DeGaris: What you might call a drop kick!

The Hon. C.M. HILL: Yes. When people say to me that we must not have council elections on the day of the football grand final, I can see no logic in that at all. However, the Hon. Mr Milne has even avoided that date in October—he has nominated the third Saturday in October. I propose to support the Hon. Mr Milne on this matter. I oppose the Government's altering the date. I have not heard what I deem to be sound arguments to support the Government's proposed change. I think that aspect is very important. I would not like the date to be later than October or earlier in the year, because over the years it has been the case that most State and Federal elections are held during the two or three months before or after Christmas. I know that when the change to a date in October was mooted in 1980 we made every endeavour to avoid clashes of that kind. I believe that the proposal for the third Saturday in October certainly fits in with that aspect. I oppose the Government's proposition in this regard.

The Hon. J.R. CORNWALL: I will be brief. Quite frankly, the question of the football grand final, while important, is fairly peripheral to this debate, as maybe even the question of harvests in the country.

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: I am a Port Adelaide supporter and have been an Essendon supporter since the days of the late and great John Coleman, so I am going pretty well this season. The principal reason, and the most compelling reason for the holding of the elections in May is that there will not be this sword of Damocles hanging over the heads of councillors with regard to the budget. In those circumstances we will not get fully responsible financial decisions made and taken. If one looks at the logic of the matter, I think it is quite foolish indeed to talk about October elections. However, it was the late Pat Keneally who said, I believe, 'Never mind the logic—give me the numbers.'

The Hon. L.H. Davis: Have you got them?

The Hon. J.R. CORNWALL: On this occasion I have tons of logic, but quite clearly I do not have the numbers. So, I do not intend to divide, since the Hon. Mr Milne, it appears, is going to line up with the Opposition on this one.

The Hon. DIANA LAIDLAW: The reason why I want to speak briefly to this matter is that during the second reading debate I indicated that I supported the May date. I believe that that requires some explanation at this stage of Committee proceedings.

I supported the May date following remarks in that second reading speech that I supported staggered terms. With staggered terms, one of the objections from local councils and the Local Government Association has been that it allowed only part of a council to face the voters after the striking of a rate or the bringing down of a budget. I felt that that grievance by the Local Government Association and local councils had some basis and because of that I was in favour of the May election date. However, as it appears that staggered elections will not have the support of the Committee, I would see no objection in having an October date because it would mean that all councillors (as I believe it should be) should face the electors and be equally responsible for the decisions made by their council and equally accountable for those decisions. The remark made by the Hon. Mr Milne in regard to the May election and then the June budget formation is a legitimate one, and one that could be well upheld. I take this opportunity to explain my position now in relation to the remarks that I made during the second reading speech.

The Hon. J.R. CORNWALL: I make clear that, at the inevitable conference of managers which will arise from this Bill, it will be necessary for this technical amendment or something similar to it to be reinstated.

The Hon. C.M. Hill: This is the issue as the Government wants it that we are voting on.

The Hon. J.R. CORNWALL: Using the May test case.

The Hon. C.M. Hill: We are voting on May as against October.

The Hon. J.R. CORNWALL: Yes.

Amendment negatived; clause passed.

Clause 6 passed.

Clause 7—'Repeal of Parts II to IXAA and substitution of new Parts.'

The CHAIRMAN: Clause 7 constitutes a major portion of the Bill and, as it is inserting numerous proposed new sections in the principal Act, I intend calling upon each proposed new section in its turn. At the completion of clause 7 I will put the question that clause 7, as amended or otherwise, stand as printed.

New section 20—'Constitution of Commission.'

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

Page 13, line 32—Leave out 'five' and insert 'seven'.

My amendment proposes that there be seven members on the Commission. As there are only two trade unions involved, Parliament could spell out that they be represented, rather than one person being nominated by the United Trades and Labor Council of South Australia. It is not fair to the UTLC or the trade unions concerned because, from my observations, it would be better to have one member nominated by the Municipal Officers Association, South Australian Branch (the inside staff) and one member nominated by the Australian Workers Union (the outside staff). The balance would be upset by the person to be appointed by the Governor. At the moment, one person may be nominated by the Local Government Association and one by the United Trades and Labor Council. If there are to be two members from trade unions, I think that there should be two members from the Local Government Association, which would mean increasing the Commission from five to seven members.

The Hon. J.R. CORNWALL: The Government opposes the amendment. It has been said on occasions that the best commission is a commission of one, and the best board of directors is the one where I am able to take decisions under the shower in the morning—as one of my colleagues put it.

The Hon. C.M. Hill: Do you agree with that concerning the Health Commission?

The Hon. J.R. CORNWALL: Heavens no. I am a true democrat in the best sense.

The Hon. C.M. Hill: You said that the best commission is a commission of one.

The Hon. J.R. CORNWALL: I said that it has been said (that is clearly on the record). It was not said by me. Heavens no—I am far too sensitive and too sensible to say anything like that.

Members interjecting:

The CHAIRMAN: Order!

The Hon. J.R. CORNWALL: Mr Chairman, they have not had their daily dose of interjections yet. Perhaps you should let them get it out of their system.

The Hon. L.H. Davis interjecting:

The CHAIRMAN: Order!

The Hon. J.R. CORNWALL: I have had some experience with boards of management of more than 20 members; it gets to be like a public meeting. They do not tend to manage or take decisions very well. The United Trades and Labor Council is well able to nominate the right person. To suggest that it is unable to take a sensible decision at that sort of level is a gratuitous insult. For that reason the Government opposes the amendment. Five members on the Commission is close to an ideal number and the composition is as close

to an ideal composition as one could reasonably get for this sort of advisory Commission.

The Hon. C.M. HILL: I acknowledge the point made by the Hon. Mr Milne when he said that there possibly might be a need for a larger Commission. But, when I look at the next step as to those nominees that the honourable member proposes I think that his argument is not as strong as that of the Government in regard to this matter. It is a fact that the United Trades and Labor Council is a very responsible body. It is well organised and capable, in my view, of making a wise decision as to a nominee that it will select for this Commission.

I think that the Hon. Mr Milne really, in endeavouring to extend union membership to two, has forced himself into a position where he had to find another one from somewhere to give some sort of balance. Then he did not go into wider representation than the Government had already established on the Commission; he simply increased from one to two the number of representatives from the Local Government Association. So, whilst I have sympathy for his approach to the matter, I really think that on the point of numbers on the Commission the representation that the Government has suggested in its legislation is, on balance, the better approach.

The Hon. K.L. MILNE: In that case, as the Minister would say, the logic might be all right but the numbers appear wrong. But, would it be wise from the point of view of the Government of the day to have the one member of the Local Government Association and one member from the United Trades and Labor Council selected by the Governor from a panel of three names submitted to the Minister?

The Hon. C.M. Hill: I have amendments to that effect on file.

Amendment negatived.

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

Page 13, line 38—After 'council' insert 'selected from a panel of three persons'.

We come now to two amendments in regard to this Commission which I view as very important indeed. In fact, I want to stress to the Committee that the general status and importance of this Local Government Advisory Commission, as the Government has envisaged it in the Bill, is very great indeed by comparison with other institutions and is very great indeed in the local government area.

I have some fears as to the Government's approach in implanting within the Local Government Act a Local Government Advisory Commission with such wide powers as the Government has given this Commission in the Bill before us. It worries me considerably that this Commission could become the most important group within local government. After all, the Minister has his own departmental officers to whom he can and should turn for advice. They are extremely capable officers, well experienced in local government. Dr McPhail, who is the Director, is considered by some to be the foremost local government officer in Australia. Some matters which I am sure the Minister will refer to this Commission should be referred, in my view, to his Department.

Secondly, the Local Government Association itself is an extremely responsible body with which the Minister should keep in very close contact and from which the Minister should seek advice from time to time on issues as they arise and as they affect local government. But, despite the fact that that is a first class Department and that local government itself is marshalled, in that all councils hold membership of the Local Government Association, the Minister seems to want this very powerful different group—this Commission—to be there and to be available so that he can refer matters to it.

I explain to honourable members the extent of these powers that the Commission is being given. New section 25 on page 15 provides that it will have the powers of a Royal Commission. New section 27 on page 17 provides:

The Minister may refer any matter affecting local government to the Commission for advice.

As an example of the quantity of work with which this Commission will be involved, new section 28 (6) on page 18 provides that proposals concerning the necessity for all councils to hold reviews in regard to boundaries shall be referred—not might be referred—to the Commission. There is another amendment on file that these reviews of boundaries have to be held within three years of the Bill's coming into force.

If there are 125 councils in the next three years considering the question of boundaries, all those reports must be referred to this Commission and, after that initial review, within seven years further reviews have to be held by councils of their boundaries. The work this Commission will be doing will be immense. In Division XII, under the heading 'Indicative Polls,' new section 29 on page 18 provides that matters in regard to polls that the Minister may carry out or arrange to be carried out can be referred generally to the Commission. I could go on page after page with the powers of investigation and so forth of this Commission. The Commission has been operating for many years. My experience with the Commission was that, unfortunately, it simply did not have the time available to carry out its investigation with the expedition that from the viewpoint of local government it should have been carrying out.

I think that one of the problems, particularly a problem that will loom in the future, is that, if as in accordance with the Bill the Chairman is a judge of the District Court, that judge whoever he might be will not have the time to do the job. What I am suggesting in the first amendment is that the Chairman should be, in lieu of a judge, a legal practitioner of not less than seven years standing. The legal practitioner in the office of Chairman could do the work as part of his ordinary professional duties, but to expect a judge of the District Court to give the time to the task that will be required under this legislation is quite unfair on the judge involved, and the legislation is poor in that respect.

The Hon. K.L. Milne: Are you forecasting that it might be nearly a full-time job?

The Hon. C.M. HILL: This all depends on the matters that the Minister refers, plus the legislative requirements of this Bill that state that certain matters must be referred. I doubt that it would be a full-time job, but it will certainly be a task that I do not think any judge will have the time to perform. One hears from time to time that the Chief Justice is somewhat concerned that members of the bench have not the time to perform duties other than their judicial work, and I would think that from that viewpoint the Government ought to have second thoughts in regard to this matter.

Simply from the point of view of efficiency and of the need of Parliament to see to it that the Commission that is established in this legislation will be the most efficient group possible it is necessary to ensure that the Chairman will have the time. I have suggested a legal practitioner of seven years standing because that would conform with some precedents in which governments seek people who are experienced in the law for important positions of this kind. I will deal with my second amendment in a few moments.

The Hon. J.R. CORNWALL: I would be interested to hear what the Hon. Mr Milne thinks of this amendment: in fact, it might even influence me as to whether I call a division or not; if I do not know, I shall have no option but to call a division. The Government is fairly enthusiastic about having a judge to head the Commission, because it

gives the authority and status to it that only a member of the judiciary can. It is one thing to appoint a lawyer of not less than seven years standing, and there are many members of the profession who would no doubt perform this job wisely and discharge their duties in a most proper and sensible way, but we cannot get away from the fact that members of the legal profession are not in most circumstances, at least, appointed to the judiciary unless they have been outstanding in the law, and therefore a judge would bring an authority and a status to the Commission that would not be available simply by appointing a legal practitioner, senior and experienced though that legal practitioner might be. I would be interested to get some brief indication from the Hon. Mr Milne as to how he intends to move on the amendment.

The Hon. K.L. MILNE: I thank the Minister for that opportunity. I do not think that the functions of this Commission are of a judicial nature that would require a judge to be in charge of the Commission. I would much prefer to have somebody with legal experience, but at a lower level than a judge. Otherwise, it will get out of proportion and be too high-powered altogether. It is very high-powered now. It may well transpire that the choice of a judge will be necessary according to how things go, but I would much prefer to play it in a lower key at present and leave the matters to the Minister. Putting a judge in charge of this Commission takes too much from the Minister and too much from the Commission itself. A judge would tend to overwhelm some of the other appointed members of the Commission, and I would prefer to see it at a lower key. I will support the Hon. Mr Hill's amendment.

The Hon. L.H. DAVIS: I am pleased to hear that the Hon. Mr Milne has indicated his support for the Hon. Mr Hill's amendment. The Hon. Mr Hill's experience as Minister of Local Government is obviously to the fore in the argument that he has presented to the Committee. Anyone who has served on a Select Committee considering local government boundaries knows that the work is time consuming and applies to matters in which practical experience is an advantage. I would have thought that the proposal to have a legal practitioner of not less than seven years standing would certainly enable an appropriate person to be selected to serve on the Commission.

I can understand why the Hon. Mr Milne suggested in an earlier amendment, which has been defeated, that the Commission should have perhaps seven members rather than five members, because there is no question, if one looks at the powers granted to the Local Government Advisory Commission under Division 10, Part 2, that they are very broad and wide ranging. It could well be that although it would not require full-time work, there certainly would be a considerable amount of sitting time involved in looking at proposals that are put forward for consideration by the Commission. Therefore, I support the amendment moved by the Hon. Mr Hill and supported by the Hon. Mr Milne. It is a practical proposal that makes good sense.

Amendment carried.

The Hon. K.L. MILNE: As the next amendment on file under my name at line 37 is consequential to the amendment that I lost, I shall not proceed with it.

Progress reported; Committee to sit again.

[*Sitting suspended from 12.53 to 2.15 p.m.*]

ASSENT TO BILLS

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

Gas Act Amendment,
Health Act Amendment,
Industrial Conciliation and Arbitration Act Amendment (No. 4),
Planning Act Amendment,
Planning Act Amendment (1984),
Renmark Irrigation Trust Act Amendment,
Road Traffic Act Amendment (No. 2) (1984),
Sewerage Act Amendment,
Small Business Corporation of South Australia,
Waterworks Act Amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2) (1984)

Adjourned debate in Committee (resumed on motion).
(Continued from page 4052.)
New section 20—'Constitution of Commission.'

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

Page 13, line 38—
After 'council' insert 'selected from a panel of three persons'.

This amendment conforms with a point that was made in the debate earlier today by the Hon. Mr Milne, who stated that perhaps three names should be brought forward for consideration by the Government for representation on the bodies named in the Bill.

Line 38 deals with the nominee of the Local Government Association. My amendment provides that the Local Government Association should be asked to forward the names of three suitable people as its representatives on the Local Government Advisory Commission. The Government would then have the right and opportunity to choose one of those three. This approach is not new; historically, in most Bills that procedure was adopted. Only in recent years has there been a tendency to curtail the procedure of asking groups to submit three names. This gives a little flexibility to the Minister and the Government of the day, and I believe that it must not be looked upon by those institutions as any criticism of their ability to find the right person, so to speak, but rather as a matter in which the Government has a chance to choose a person who might well fit in to the particular committee or commission as being ideally suited for the job and who, of course, would be one of a team, deliberating and making decisions.

The Hon. J.R. CORNWALL: The Government opposes this amendment. The Local Government Association and the Trades and Labor Council are both senior and sensible bodies, well able to nominate a suitable person to represent them on the Commission. Frankly, I do not believe it is acceptable, and it certainly should not be acceptable to those bodies. Indeed, it is almost a gratuitous insult to ask them to submit a panel of three when in fact only one name is required. I know the arguments and they tend to vary according to whether one's Party is in Government or in Opposition. That has some effect on the thinking in some of these matters. However, as we are dealing with the LGA and the TLC, neither of which is exactly a fly by night organisation or could be considered in any way other than as being completely responsible, it really should be available to those bodies to nominate the person whom they would like to represent them on the Commission.

The Hon. K.L. MILNE: There is no question of criticism being levelled at the organisations concerned, but each organisation is not aware of what the other is doing or of what the Minister is doing when it appoints its representative. It is much more sensible for those bodies to select three people. Surely, they are capable of selecting three representatives if they are capable of selecting one representative.

That gives the Minister a better opportunity to balance the Commission as a whole.

We are not criticising those bodies by suggesting this system. This is the usual procedure: it is used over and over again and, frankly, I do not know why it has not been used in this case. The serious nature of the duties of the Commission makes it imperative that the Minister can select one person from the panel of three who will be most suitable for his purposes and who will be able to look after local government. This is in no way a criticism of the organisations concerned.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, I. Gilfillan, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, and K.L. Milne.

Noes (6)—The Hons Frank Blevins, G.L. Bruce, J.R. Cornwall (teller), Anne Levy, C.J. Sumner, and Barbara Wiese.

Pairs—Ayes—The Hons R.C. DeGaris, Peter Dunn, and R.J. Ritson. Noes—The Hons B.A. Chatterton, C.W. Creedon, and M.S. Feleppa.

Majority of 3 for the Ayes.

Amendment thus carried.

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

Page 13, line 41—After 'person' insert 'selected from a panel of three persons'.

We are now dealing with the nominee of the United Trades and Labor Council of South Australia. My amendment requires that body to provide the names of three persons rather than the name of a single nominee for appointment to the panel. One further point I add to my previous argument in relation to this principle is that it provides a Government with the opportunity to ensure that women are appointed to commissions such as this. This might appeal to the Hon. Ms Levy, who quite properly makes points about this issue from time to time. It is possible that if three names are provided by groups such as the UTLC and the LGA one of the names of those three people—

The Hon. R.I. Lucas interjecting:

The Hon. C.M. HILL: I do not want that laid down in legislation or books of rules. When women's names are put forward it gives a Government a chance to ensure that there is representation by women on Commissions of this kind. That point should be made in favour of the amendment.

Amendment carried.

The Hon. R.I. LUCAS: Concerning new section 20 and the whole concept of the Local Government Advisory Commission, I place my personal reservations on record regarding the whole concept envisaged in the Bill and many other Bills we have been asked to vote on in recent months. Under this Division there will be a Local Government Advisory Commission with widely increased powers and responsibilities. Before lunch the Hon. Mr Hill covered it very well and I will not cover ground he has already covered. In a whole range of other Government Bills we have seen the establishment of new statutory authorities: the Controlled Substances Advisory Commission; assorted other advisory commissions; and new statutory corporations—for example, the Small Business Corporation.

The provision for the Local Government Advisory Commission shows the general trend in Government. It is not just the establishment under new sections 20 and 21 of a statutory authority with widely increased powers; there are the attendant costs covered under new section 21, where members of the Commission will be entitled to allowances and expenses as most, if not all, other commissions, authorities and boards are entitled to. There is power to appoint a secretary under new section 22, whose terms and conditions will be under the Public Service Act. A whole range of costs and expenses will need to be incurred in supporting the expanded Local Government Advisory Commission. The Hon. Mr Hill's comments before lunch were a very good summation of some of the possible problems that might be involved with this Commission and, in my view, some of the problems we will see as a Parliament with the whole range of similar commissions being established by the Government. I record my personal reservations and, in principle, opposition to the whole concept.

The Hon. K.L. MILNE: My proposed amendments to lines 38 to 42 and page 14, lines 8 to 10, were contingent on other amendments being passed, but they were not passed. So, the amendments will no longer be relevant.

The CHAIRMAN: In line 44, the letter 'O' in office will be altered to a lower case 'o'.

The Hon. L.H. DAVIS: In new section 20 (3) reference is made to a member of the Commission appointed under subsection 1 *(b)* being appointed for a term of office not exceeding four years. Is the Minister in charge of the Bill in a position to advise the Committee whether the intention would be for all members of the Local Government Advisory Commission to be appointed for the same time?

The Hon. J.R. CORNWALL: The normal practice, which I am confident would be followed in this instance, is for the first set of appointments to be staggered, but for the subsequent appointments to be for the full period, so that one has continuity. That is a sensible administrative way of going about it, and I am assured that that is the way that it will happen.

New section as amended passed.

New sections 21 to 23 passed.

New section 24—'Quorum and decisions of Commission.'

The Hon. K.L. MILNE: My suggested amendment to section 24, page 15, line 9, was contingent, too. It was brought in because I was recommending that the number on the Commission be increased. That was lost; so, the amendment is no longer relevant.

The Hon. DIANA LAIDLAW: I commend the Government for new section 24 (2) because, as the quorum on the Commission is three, subsection (2) ensures that one or two members alone—a minority—cannot make a decision on behalf of the whole Commission. I am pleased to see that inserted. Does subsection (2) preclude the issuing of any minority reports by the Commission?

The Hon. J.R. CORNWALL: No.

New section passed.

New section 25 passed.

New section 26—'Reference of proposals to the Advisory Commission.'

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

Page 17, after line 8—Insert subclause as follows:

(12) The Commission shall, in the performance of its functions under this section, act as expeditiously as is possible.

This amendment requires that the Commission must act as expeditiously as possible in its work. It is proper that the Government of the day should be assured that the Commission is acting as expeditiously as possible, and this will require that to be done.

Amendment carried; new section as amended passed.

New section 27—'General advisory function of the Advisory Commission.'

The Hon. DIANA LAIDLAW: The Hon. Mr Hill referred to this new section when speaking about the enormous responsibilities that could be undertaken by the Commission, and certainly this is one further instance where the powers of the Commission have been drastically increased in this Bill. My reservation about this new section is that it appears to be supplanting the advice that has been traditionally provided by the Local Government Department and the Local Government Association. That is a most unfortunate introduction in this Bill. What matters does the Minister

envisage would be referred by the Minister to the Commission and, further, in referring back to new section 24, to which I referred a little earlier in speaking about the quorum being three, would the advice that is provided by the Commission to the Minister under new section 27 require a quorum of three or could it be simply the advice of one member of that Commission?

The Hon. J.R. CORNWALL: It is almost as if that question should be put on notice.

The Hon. Diana Laidlaw: There were only two questions.

The Hon. J.R. CORNWALL: In fact, there were four. The question concerned the quorum.

The Hon. Diana Laidlaw: I wanted to know whether, in providing the advice to the Minister, a quorum of three would be required or whether it would be sufficient to be the advice of one member.

The Hon. J.R. CORNWALL: A quorum of three would be required. Another of the questions concerned what weight the Minister had to put on the advice tendered. That involves Ministerial discretion. I point out that subsections (1) and (2) of section 27 have existed (from memory) since 1975-76. In this provision at least there is no increase in the powers of the Commission one way or the other; there is neither a decrease nor an increase and, in fact, those powers have existed for about eight years.

New section passed.

New section 28—'Periodical reviews.'

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

Page 18, line 21—After 'period' insert '(commencing not earlier than the expiration of three years from the commencement of this section)'.

This new section deals with the review that local government will be forced to make if the Bill passes in relation to the composition of councils, in regard to ward boundaries, council boundaries and like matters. It is a new step in forcing local government to look at these questions rather than leaving it to the voluntary actions of the councils as has been the case in the past. My amendment seeks to give local government a further three years before the strong hand of centralism comes down upon it and tells local government when it has to set about this task.

Not only does the Bill involve that requirement, at the pleasure of the Minister, but thereafter, I point out, in periods of less than seven years, further reviews have to be made. I accept that changes must come in this area to a certain extent, but I am a great believer and have great faith in local government to act as it sees fit in its own voluntary way rather than being forced to do too much by the State Government. My amendment seeks to give councils a further three years in which to look at these questions if they so wish. If they do not wish to do it and are waiting for that little nudge (as some people argue at times: they are waiting to look at the question of their boundaries, ward boundaries and so forth), then certainly after a period of three years they might prefer to wait and expect to get a letter from the Government telling them that they have to carry out a review. I would like to see them have another few years in which they could, on their own initiative, have a look at their boundaries and see whether improvements could be made. True, the amendment is not really a nation-rocking one, but it does respect the rights and initiatives of local government to put its own house in order before the heavy hand of the State Government comes down upon local government and tells it what it should do. My amendment will help local government and will uphold the principles to which I have referred.

The Hon. L.H. DAVIS: Division XI provides for councils to have the power to review their composition periodically, to enable councils to examine the ward system that they may use, to vary that system if they so wish, or to swing away from the ward system if they so wish. In addition to the power of the council to vary its composition, it should be said that other powers within the legislation give the Government the powers to alter the composition of the councils.

Divisions V and VI, for example, clearly provide that the Governor may, by proclamation, alter the boundaries of an area of a council and increase or decrease the number of councillors for an area or ward. Nevertheless, although the Minister does have powers to act if a council does not use the powers under Division XI, I believe that the Hon. Mr Hill's proposal has merit. We have before us a situation where there could well be a change in the nature of voting for councils, and a change in the length of the term of office for councillors. In turn, this may require councillors to examine more closely the nature of their council and the composition of their council. Without wanting to pre-empt the debate on the method of voting, this will clearly be a matter of some concern to councillors and councils. I hope that they are given the opportunity to examine the impact of the changes envisaged in these far reaching amendments. I support the amendment proposed by the Hon. Mr Hill.

The Hon. J.R. CORNWALL: The Government opposes the amendment. The Hon. Mr Hill talked about the heavy hand of State Government.

The Hon. M.B. Cameron: Socialism!

The Hon. J.R. CORNWALL: No, he did not mention socialism on this occasion. No doubt he is keeping that up his sleeve in case the going gets a little rough. The Hon. Mr Hill also talked about councils being ruled by the strong hand of centralism. That is most unfortunate and extravagant rhetoric and I regret that it has been used in this Chamber in the course of this debate. Councils will be dealt with by the quiet and sensitive hand of the Minister and his Department. It is also a fact that some boundaries need urgent attention.

The idea of allowing councils to have three years grace, as it were, to scratch their heads and contemplate their navels while they think about it really is not practical, to put it mildly. In order to ensure that it was not perceived as the strong hand of centralism, or the heavy hand of anyone else, councils are being given the option under the proposed legislation to initiate the reviews themselves. I submit to the Committee that it is a very reasonable clause as it stands and in no need of amendment. Indeed, the Hon. Mr Hill's amendment would not be in the best interests of local government bodies.

The Hon. K.L. MILNE: I think there is a misunderstanding, because councils will be exactly the same after the passage of this Bill as they were before. In other words, they have had plenty of time to think about their boundaries and they do not need three years grace. There will be no difference to a council boundary just because of the passage of this Bill. I do not think that the amendment will help councils or the system, and I propose to support the Government.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner, and Barbara Wiese.

Pairs—Ayes—The Hons Peter Dunn and R.C. DeGaris. Noes—The Hons C.W. Creedon and M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. DIANA LAIDLAW: I support the Government's amendments in relation to new section 28, as it is a positive advantage for local government that there are peri-

odic reviews of council boundaries. Certainly, undemocratically drawn up boundaries do not reflect well on the council involved or local government in general. One would question what the Government envisages in regard to 'adequately and fairly represented'. Those words are certainly open to considerable interpretation. Under new subsection (4), the Commission may, at the request of a council, furnish advice on any matters arising in the course of a review under this section.

What advice can be sought by a council in these instances? Depending on the advice sought, I would suggest that possibly the Commission could be involved in a conflict of interest if new subsection (4) was read in conjunction with new subsections (6) and (7). Under new subsection (6), the Minister is required to refer to the Commission a proposal contained in a report of a council under this section, and under new subsection (7) the Commission shall, after making such inquiries as it thinks fit, report to the Minister on the proposal. It has been put to me that there could well be a conflict of interest within the Commission depending on the advice that a council can seek under new subsection (4).

The Hon. J.R. CORNWALL: I am just trying to write down the six questions.

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: The Hon. Miss Laidlaw is trying to 'out-Lucas' the Hon. Mr Lucas, I think. However, they are intelligent and sensible questions—

The Hon. Diana Laidlaw: Perhaps Mr Lucas can—

The Hon. J.R. CORNWALL: I will not comment on that. The honourable member's questions are quite germane to the matters under discussion.

Regarding the expression 'adequately and fairly represented', the Hon. Miss Laidlaw is quite right. To some extent, it is wide and vague, and that is not coincidental. The Government and successive Governments, hopefully, will rely on the Commission to interpret this provision sensibly. We realise that there will have to be some degree of flexibility. In regard to some councils, if areas are to be represented it will not always be possible to achieve equality of numbers exactly as we insist that there should be, and as the Constitution has insisted there should be since the mid 1970s in both Houses of this Parliament. That is rather different, of course, because we are dealing with 1.4 million people or thereabouts. However, in some council areas, where there are relatively few people, particularly in regard to smaller rural councils, it will not always be possible in practice to stick with that principle.

So, the expression 'adequately and fairly represented' is presented in that way on purpose. The Commission can advise a council under new subsection (4), and that takes in the interrelationship between the Commission and the council. What we are looking for in practice as well as in the legislation is a co-operative arrangement between the Commission and the council and not coercion: coercion would not be within the spirit or intent of this Bill.

The Hon. DIANA LAIDLAW: The Minister sees that a conflict of interest within the Commission need not arise because a council seeks advice under new subsection (4) where the Commission will review a whole proposal and could recommend against that council's proposal under new subsection (7).

The Hon. J.R. CORNWALL: That would be a very unlikely situation if the council accepted the Commission's advice. It is true that under new subsections (6) and (7) there is provision for coercion, but that is only after all other things have failed and would arise only at the end of a long and hard period of advice and negotiation. Certainly, it is not the intent of the Bill that the Commission should wave a big stick.

New section passed.

New sections 29 to 32 passed.

New section 33—'Declaration of council as a defaulting council.'

The Hon. K.L. MILNE: The amendment that I have on file to page 20, lines 38 to 43 is not quite what I intended. The way in which it is drafted gives the Minister power to declare the council to be a defaulting council, to declare members of the council suspended and all offices vacant, and to appoint a suitable person as administrator. I intended that the administrator be appointed first, and only after the appointment of the administrator would the Minister be able to do those things. In fact, I doubt whether the Minister would know whether or not to do those things if he had no report from the Minister. Therefore, the drafting is not what was required. I would ask the Committee not to vote on the amendment but rather to consider the amendment that will be moved by the Hon. Mr Hill, or a combination of the two, which would require recommittal or discussion in a conference.

If complaints were wrongly administered and the administrator backed up that action strongly, it would be foolish if, when the administrator moved out, the councillors went back to their place and the council went on as usual. The Minister should have the power to declare all seats vacant and to cause an election, especially if there is about a year of the term of the council still to go. I am afraid that I am in a rather difficult position. I will have to go for the next best thing, which is the Hon. Mr Hill's amendment.

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

Page 21, after line 30—Insert subclause as follows:

(11a) The Minister shall, as soon as practicable after his receipt of a report under subsection (11), forward a copy of the report to the person (if any) for the time being suspended from the office of mayor or chairman of the defaulting council.

The matter to which the Hon. Mr Milne referred does not apply to this amendment. Therefore, we should deal with this amendment and, under the next group of amendments, I will relate directly to the matter raised by the honourable member.

This amendment will simply provide an additional subsection to new section 33 of the Bill which deals with the declaration of a council as a defaulting council. The Government has laid down in the Bill, in step by step stages, the procedures to follow when this situation arises. My amendment simply adds a further stage to those procedures. The procedure, in broad terms, as set out in the Bill, is that a council may be declared a defaulting council after which the Minister may appoint an administrator to do the work of the suspended council, and that administrator will report to the Minister. My amendment provides that the Minister shall, as soon as practicable after his receipt of a report under new subsection (11), forward a copy of the report to the person (if any) for the time being suspended from the office of Mayor or Chairman of the defaulting council. In other words, it is a machinery measure under which the Minister must give a copy of the administrator's report to either the Mayor or the Chairman of the suspended council. This amendment is moved in the hope that involving the Mayor or Chairman in the problems associated with such an area may in some way ultimately assist in solving those problems as speedily as possible.

The Hon. J.R. CORNWALL: The Government opposes this amendment. In the event that an administrator is put into a council by the Minister of the day, that is done, in most cases, in very serious circumstances. The Hon. Mr Hill was the Minister who intervened at Victor Harbor and appointed an administrator. That was done not lightly but responsibly. No Government, or Minister, would make such an appointment flippantly. Once such an administrator is appointed, as the Hon. Mr Hill would know better than

anyone else, reports that may be highly critical of the council, individual councillors or one or more of the professional officers of the council must be prepared. They are documents and reports that are almost exclusively intended for the information of the Minister, his advisers and senior officers so that they are able to make sensible decisions about the situation based on all the facts and to asssess the gravity or otherwise of a particular situation.

Such reports should not, in our submission, be *quasi* public documents. Of course, once one starts distributing such documents (as the Hon. Mr Hill's amendment contemplates) one may well find oneself in a position where, potentially at least, one is defaming or finding people guilty without trial. The Government does not believe that it is desirable that such reports should go into additional circulation, as proposed by the Hon. Mr Hill. I therefore oppose strenuously the proposed amendment.

Amendment negatived.

The CHAIRMAN: The Hon. Mr Hill has an amendment to page 21, lines 33 to 40 and the Hon. Mr Milne to lines 35 to 40. Do both members wish to speak to their amendments?

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

Page 21, lines 33 to 40—Leave out subclause (13) and insert subclauses as follows:

(13) The Governor may, upon the recommendation of the Minister made not earlier than the expiration of three months from the date on which the council was declared to be a defaulting council, by proclamation, declare the offices of all the members of the defaulting council to be vacant.

(14) A council shall cease to be a defaulting council under this Division—

(a) upon the making of a proclamation revoking the proclamation by which the council was declared to be a defaulting council;

(b) where a proclamation is made declaring the offices of all members of the defaulting council to be vacant—upon the conclusion of the elections to fill the vacant offices; or

(c) unless a proclamation referred to in paragraph *(a)* or *(b)* is sooner made—upon the expiration of twelve months from the date on which the council was declared to be a defaulting council.

I think that the Hon. Mr Milne's amendment relates to the matter to which he referred a moment ago regarding procedures within a defaulting council and that, therefore, my amendment is the one that he believes will achieve the same purposes as his. There has apparently been some misunderstanding about this matter at the instruction stage.

My amendment relates to procedures regarding defaulting councils. I make the point that the Bill states that a council is first declared a defaulting council, secondly is suspended, thirdly has an administrator appointed and, lastly, that administrator reports and ultimately must be removed from office. This means that the suspended council returns to office and resumes its formal responsibilities. My amendment pursues the principle of suspension and of an administrator being appointed and reporting. However, once the administrator has reported (and I am making this addition in my amendment), the Minister then has the right to declare the council offices vacant and to call for a new election for the balance of their term.

The Hon. K.L. Milne: Where does it say that?

The Hon. C.M. HILL: Paragraph *(b)* of my amendment states:

... where a proclamation is made declaring the offices of all members of the defaulting council to be vacant—upon the conclusion of the elections to fill the vacant offices;

I am concerned that the trend in the Bill, and in discussions on amendments, involves the extension of the terms of councils. Indeed, although this Committee rejected the principle of four-year terms this morning, the Government's Bill stands at a three-year term with an amendment by the Hon. Mr Milne to two years. If the three-year term is considered in a situation where the administrator reports back to the Minister that the situation in a particular council is, in his opinion, very bad, the citizens of an area ought then to have a say as to who the members of their council ought to be. That is not an unreasonable expectation.

It is not a question of advocating abolition: it is a pursuance of the principle of suspension and only if, on the advice of the Administrator, the affairs of that local government area are in a real mess. In those circumstances the local people of the area should have an opportunity to cast their votes and vote in a council for the balance of the term—not a full term, simply a balance of the term. It might well be that such a position would never occur, that those eligible to vote might return the original defaulting and suspended council or that they would return new names and faces for the balance of the term because of the fact that good government was not achieved by the council which became the defaulting council.

It is proper procedure for that to occur. I stress that I hope it will never occur. The suspension at Victor Harbor (I think I am right in saying) was the first suspension in the State's history. It is not the sort of thing I like to be involved in and I know that councils generally do not like it to occur in their area of activity. I recognise that the Local Government Association is against suspension and abolition but, in the interests of people living in council areas, a machinery amendment of this kind is necessary just in case that unfortunate situation might at some time arise.

I stress that we are reforming the Act. The last major reform was about 50 years ago and it might well be another 50 years before another major reform takes place. We have to cast our vision very long and wide when we endeavour to anticipate situations that might occur. For these reasons I ask the Committee to support my amendment.

The Hon. J.R. CORNWALL: The Government might have a problem here: it starts to look as though we do not have the numbers again. The Government opposes this amendment. No matter what way one looks at it or how one describes it, it amounts to the power to sack councils. The Bill does not go that far and the Government did not propose to have it go that far. We were looking at suspension which, as I said earlier, is a serious step for any Government, local government Minister or department to take or recommend. On behalf of the Government I submit that that is as far as we should go. The notion of sacking popularly or democratically elected local government bodies—

The Hon. C.M. Hill: But defaulting bodies.

The Hon. J.R. CORNWALL: Of course. That is what you said about Gough Whitlam, I suppose. There seems to be a certain notion amongst Conservatives that you should be able to sack popularly elected bodies whenever the whim comes into your head. Defaulting they may be on all the advice that is available. Nevertheless, we submit that putting in an Administrator and suspending that council while things are tidied up and the councillors are given a chance to get their act together is sufficient power for the Minister to have. I do not believe in creeping centralism any more than the Hon. Mr Hill normally does. This amendment it seems to me, while it is not a socialist amendment, is certainly a major contribution to creeping centralism and I must reject it.

The Hon. C.M. HILL: I think the Minister's criticisms were a little harsh. I am saying that a council must be a defaulting council, that the Government must suspend the council and that an Administrator must be put in to handle the council's affairs—only after those procedures am I advocating what the Minister calls abolition. In other words, if the Administrator says that there is something very seriously

wrong in the area or that, in the interests of good local government, the position for the balance of the term of the current suspended council is hopeless, then in those circumstances the Minister should have this final power. I am not advocating the principle of abolition compared with the principle of suspension.

The Hon. K.L. MILNE: Since this amendment is very much the same as what I was proposing, I will certainly support it. The Hon. Mr Hill has crystallised what I feel. I see no sense in going to the trouble of suspending a council, appointing an Administrator (with all the expense that that means) to go to a great deal of trouble to produce a report that proves that the council is dishonest, incapable, contrary, or whatever, and then for the Administrator to walk away and the councillors resume their seats. There are circumstances where that would be sensible and I am sure that the Minister will recognise it. This is simply a safety valve for the Minister to take the appropriate action where a council had, in fact, proved that it is thoroughly dishonest or incapable. It would be a very good addition to the Local Government Act.

Amendment carried; new section as amended passed.

New section 34—'The Local Government Association of South Australia.'

The Hon. R.I. LUCAS: Will the Minister say whether or not there is a similar provision in the existing Act recognising the Local Government Association? If there is not, what is the rationale for new section 34 being included in the Bill?

The Hon. J.R. CORNWALL: Yes, there is. The simple purpose is to give it statutory recognition for the purpose of sales tax, as I understand it.

The Hon. R.I. LUCAS: Under the South Australian Government Financing Authority Act, I think that the LGA was defined as a prescribed local government body for the purposes of that Act. Having a quick whip through it, I could not see whether there was provision for it in that Act or in this Bil which exempts the LGA from possible inclusion in the South Australian Government Financing Authority Act. There may be a provision I did not pick up. Is the Local Government Association, as a body corporate under this provision, therefore technically able to be picked up within the ambit of the South Australian Government Financing Authority Act? If it is not, under what provision would it be exempt?

The Hon. J.R. CORNWALL: The Bill that is before us does not make the Local Government Association a semi-government statutory authority and, therefore, it would not be picked up under the South Australian Government Financing Authority Act.

The Hon. R.I. LUCAS: I do not have the Act in front of me, but, recollecting once again, I think the SAGFA Act has a provision in which it defines certain bodies. There is another provision that says that a semi-government authority is any body that is proclaimed to be a semi-government authority. There is a provision that such a body has to be a body corporate, and certainly the LGA, by definition here, qualifies on that ground as a body corporate.

There is certainly a very wide provision under the SAGFA Act that says a semi-government authority is a body corporate that is proclaimed by the Government to be a semi-government authority. The reason that I am aware of that is that there are some bodies that do not really think of themselves as statutory authorities; that is, the universities, which within that provision could be proclaimed by Government to be semi-government authorities. With that explanation, is the advice to the Minister still that the LGA could technically come within the ambit of the SAGFA Act?

The Hon. J.R. CORNWALL: The South Australian Government Financing Authority Act provides:

'semi-government authority' means a body corporate—

(a) that—

(i) is constituted of a Minister of the Crown;

(ii) has a governing body comprised of or including persons or a person appointed by the Governor or a Minister or other instrumentality of the Crown;

or

(iii) is financed wholly or in part out of public funds;

and

(b) that is declared by proclamation to be a semi-government authority for the purposes of this Act, . . .

The LGA is not a semi-government authority for the purposes of that Act. It would be ludicrous for the LGA to be considered in such a category. The LGA relatively has no assets other than perhaps owning its building and a bit of equipment and so forth. It has no real assets in the sense that local councils would have, and it is in no way an active finance authority. It is not in the business of borrowing or lending; so, it really does not meet any of the rules as laid out in the South Australian Government Financing Authority Act.

The Hon. R.I. LUCAS: I will not pursue it much further other than to say that I accept that currently, from what the Minister is saying based on his advice, it is not proclaimed, but I still maintain that under paragraph *(b)* it could be a semi-government authority proclaimed by the Government to be a semi-government authority. That is a decision that the the Government of the day can take, and if the Government chose to do so—the Minister is saying that clearly this Government does not choose to do so—it could declare it to be a semi-government authority by proclamation and leave it at that. I do not intend to pursue the matter any further.

The Hon. J.R. CORNWALL: The Hon. Mr Lucas would be very wise not to pursue it any further because, if he takes the trouble to get hold of the South Australian Government Financing Authority Act of 1982 (and I recommend strongly that he does that), he will see that under section 4 (1) *(a)* and *(b)* there is no way that the Local Government Association could satisfy all the criteria to be a semi-government authority.

The Hon. R.I. Lucas: That is an 'or' clause; there is an 'or' in there.

The Hon. J.R. CORNWALL: No; it is 'and'.

The Hon. R.I. Lucas: But then it is 'or *(b)*'.

The Hon. J.R. CORNWALL: No, it is 'and *(b)*'. I read it out once and the honourable member will find it in *Hansard* tomorrow. It is not 'or', but 'and'; so it cannot meet all of those criteria. Therefore, frankly, the question does not arise.

New section passed.

New sections 35 to 42 passed.

New section 43—'The mayor or chairman.'

The Hon. C.M. HILL: My proposed amendment to page 25, line 6, refers to a situation in which two-year terms of office would apply. As I understand it, the Hon. Mr Milne has an amendment to be considered very soon, which applies the two-year term, with elections at the end of the two years. Really, I want to wait until the result of that amendment is known before I go back. My amendment alters the length of term of a chairman or a deputy chairman from three years, as the Bill states, to what would be two years. Until we know whether we will have two or three-year terms for local government there is no point in my trying to move amendments altering the terms of appointments for chairmen and deputy chairmen from three years to two years. We have a difficulty here.

The CHAIRMAN: We have a difficulty because yours is the next amendment.

The Hon. C.M. HILL: Would you suggest that I do not move it at this stage, that we proceed, and that when that major issue is resolved I seek the Bill's recommital at the

end of the Committee stage so that we can go back and look at those amendments then?

The CHAIRMAN: That appears to be the only course.

The Hon. C.M. HILL: I shall adopt that course. The same situation applies to my next proposed amendment.

New section passed.

New sections 44 and 45 passed.

New section 46—'Councillors.'

The CHAIRMAN: There is another clerical amendment, page 26, line 3—the whole of line 3 is to be moved out so that it appears in line with 'or' in the succeeding line.

New section passed.

New section 47—'Term of office.'

The Hon. C.M. HILL: My proposed amendment to page 26, lines 15 to 21, is one with which I will not proceed because it deals with the four years, half-in half-out, the principle of which was defeated in an earlier debate. I am looking forward to speaking to the Hon. Mr Milne's amendment when he moves that, in which he advocates the two-year term and the end of the two-year term.

New section passed.

New section 48 passed.

New section 49—'Allowances and expenses.'

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

Page 27, lines 5 to 14—

Leave out subclauses (1) and (2) and insert subclauses as follows:

(1) There shall be payable—

(a) to the mayor or chairman of a council an annual allowance fixed under this section;

and

(b) to each member of a council reimbursement of expenses of a prescribed kind incurred in carrying out his official functions.

(2) Each council shall, at its first ordinary meeting held after the third Saturday of October in each year (but not, where periodical elections are held in that year, before the conclusion of those elections), fix the rate of the annual allowance to be payable to the mayor or the chairman (as the case may be) of the council.

We now deal with new section 49, which deals with allowances. I am a little mystified that that matter of the Hon. Mr Milne's amendment in regard to the two-year term of office does not seem as yet to be resolved. I thought that it ought to be considered when we were looking at section 47.

The CHAIRMAN: The only way in which it could be adjudged would be if someone should move it. We have no amendment to that effect.

The Hon. C.M. HILL: We will look at that on recommittal. The current amendment deals with the question of allowances in local government. The Bill introduces a major change relative to allowances for members of councils. Throughout the history of local government, local government service has been voluntary. The question of reimbursement of members' expenses incurred in their local government service is one which the present Act covers. The Government has continued that aspect in this Bill. However, it has included that local government service should carry with it a remuneration in the form of allowances.

I oppose the principle of allowances. I support the need for councillors to be reimbursed for costs and expenses incurred in their work. That is the burden of my song on this issue, and I do not want to delay the Committee unduly in long arguments. It is a black and white issue as far as I am concerned. History has proved that voluntary service in this form of community work has been most fruitful and certainly beneficial to people at the local level; people whom we now call citizens but whom we once called ratepayers. They are people living in their respective council areas throughout the length and breadth of the State who have been served well by volunteers who have chosen this form of service as their voluntary contribution to their respective communities. That is the situation which I believe should continue. My amendment seeks to retain the present position; that is, that the mayor or chairman is entitled to an annual allowance. I do not have any quarrel with that.

The Hon. K.L. Milne: That is an entertainment allowance, more or less.

The Hon. C.M. HILL: The word 'entertainment' in that sense is used fairly loosely. It is a means by which the mayor of a council, for example, not only entertains but promotes his municipality in the eyes of those people he may be hosting or be with on a particular occasion. He is committed to do much more work than members of his council, and all this does involve costs. So, although it could be said to involve entertainment, I do not believe that that is a wise definition of the allowance. Therefore, my amendment retains the allowance for the head of the council. It retains the reimbursement of expenses of a prescribed kind for any member of a council carrying out work in his or her official capacity as a member of that council and provides that at the first meeting after the election the council shall fix that rate for its mayor or chairman. My argument rests at that.

Once we open the door and give remuneration in the form of allowance in local government there will be continuing pressure for that allowance to be increased more and more. I do not think that the people at large, who are served by their local councillors, want that. I do not believe that the Government is going to get any better standard of service from people on that basis, yet it is the thin end of the wedge towards what the Government said quite frankly when it introduced its Bill. It said we should model local government more and more on State and Federal Government lines. In other words, move it up and up over the years from what might be a moderate allowance in the initial stages to a salary ultimately. The Government has a precedent for this because, for instance, a salary applies in the Greater Brisbane Council to aldermen who serve in that tier of government. Therefore, I oppose strenuously the principle of an allowance.

The CHAIRMAN: Because of the complex nature of the amendments on file, I wish to ascertain whether the Hon. Mr Milne intends to proceed with his amendment on file.

The Hon. K.L. MILNE: I certainly want to go on with my amendment. What is the nature of the Minister's amendment to be moved at this stage?

The Hon. J.R. CORNWALL: My amendment is purely technical. It has nothing to do with the matters being canvassed about allowances. We are faced with accepting what is in the Bill or with accepting the amendments of the Hon. Mr Hill or of the Hon. Mr Milne, or part thereof.

The Hon. K.L. MILNE: I can say at this stage that I am not going to support the amendment before the Chair.

The Hon. C.M. HILL: I believe that we are in a slight predicament. I have had a close look at the Hon. Mr Milne's amendment. I think I heard him say that he would not support my amendment. If he does not do that, we would not support his amendment, although we might have to give further consideration to that. The Hon. Mr Milne has a principle in mind which one finds difficult to argue against, yet I do not believe his amendment explains adequately how it will be put into effect. The Hon. Mr Milne is trying to wrap up the question of an allowance and the question of reimbursement for expenses into one amount, under one heading, something on the same lines as an electoral allowance that applies for members of Parliament. I would like to hear some explanation from him before my amendment is put so that we can have some debate about how his amendment will be put into effect.

The Hon. K.L. MILNE: If that is the wish of the honourable member, I can do that. We have to be frank about the fact that under the Government's drafting of the provision, new section 49 (1) provides:

Subject to this section, each member of a council shall receive from the council—

(a) an annual allowance;

That is not an allowance in any sense really—it is a salary, and there is no question about that. It is a salary and it would be taxable. That would be on top of the earnings they had already. I am saying that to give members of councils a small salary such as this is quite ridiculous. About 50 per cent of middle income earners (those earning $400 a week or more) will pay 46c in the dollar in tax, or 60c in the dollar if they are earning over $35 500. That is simply handing money back to Canberra. It is quite stupid. I agree with the Government's explanation of the Bill. These days expenses such as those incurred for telephones, petrol, motor car maintenance, and entertainment have increased and are a burden if a councillor, alderman or mayor is to do his job properly. I think that reimbursement of some sort is sensible, and I support it in principle.

I believe that the annual allowance should be equivalent in principle to the electoral allowances of members of Parliament. Those allowances are shown at the beginning of an MP's tax return and are fully deductible at the end. The Hon. Mr Hill asks how this will be put into practice. It is not terribly difficult. When a mayoral allowance is fixed, councillors' allowances can be fixed at the same time. Those allowances would be variable, because councillors living a long way from the council chambers, particularly in the country, might require more reimbursement in the form of travelling expenses and perhaps accommodation expenses. I do not think that it is possible or sensible—indeed, I think it is clumsy and embarrassing—to ask councillors to list their expenses in a docket. They may have bought someone dinner for, say, $25, or they may have entertained a group of people who were giving trouble at a cost of, say, $55.30. The councillor would have to go to the Town Clerk, seek an authority, and so on. That system would create a great deal more work.

I think it is far better to use the same principle used for members of Parliament, that is, an estimation. A councillor could estimate his expenses for the coming year, work it out with the Town Clerk or the accountant, and then have it approved. The councillor could then receive his allowance quarterly or annually, and whether or not he spends more or less is up to him. However, in that situation none of the allowance would go to Canberra, because it would be a tax-free allowance, and that should be made clear.

The Hon. C.M. Hill: But it's not clear—is it?

The Hon. K.L. MILNE: It would be clear, because it would be a reimbursement allowance similar to that for members of Parliament. Where does it say that a member of Parliament's allowance is tax free?

The Hon. C.M. Hill: What you want will not be achieved. Do you mean that the allowance will be equivalent to expenses incurred?

The Hon. K.L. MILNE: No, it is to go towards expenses. It is reimbursement for all or part of the expenses. The draftsman said that it should be worded in this way so that it would not attract income tax.

The Hon. C.M. Hill: You can't be sure of that until it is referred to Canberra.

The Hon. K.L. MILNE: That may be so, but the way that it is presently worded in the Bill it is a dead certainty that it will be taxed.

The Hon. C.M. Hill: I agree. I hope that we are both opposed to that.

The Hon. K.L. MILNE: We are both opposed to that. The second part of the amendment perpetuates the system of claiming for expenses actually incurred. Once one claims for expenses actually incurred, any other allowance must be in the form of income and, therefore, it will be taxed. For many people in local government it would be taxed at the rate of 60c in the dollar. Therefore, it is not really reimbursement—it is being sent to Canberra. As I have said, anyone earning up to about $20 000 a year pays 30c in the dollar in tax and anyone earning between $20 000 and $35 000 pays 46c in the dollar.

I repeat: a system where one must go cap in hand to a town clerk, who is an employee, and ask for $45 spent on a dinner party is unacceptable. If anything will cause trouble, it is someone saying that, say, councillor Joe claimed $120 for his dinner party. It causes the most untold difficulty. I think that it is much better to fix an overall figure for the allowance, because that would make it quite clear. The Local Government Association or the State Government could then immediately apply to Canberra that it be non-taxable. The allowance will be in the form of reimbursement for expenses; it will be an annual allowance towards expenses incurred in carrying out one's duties. That is similar to the allowance for members of Parliament—an annual electoral allowance. When it is increased by the tribunal there is no argument from the Tax Department, because it is reimbursement of expenses incurred by an MP doing his job.

Bearing in mind that it was the Government's principle to make local government more like State Government, of which I disapprove, providing councillors with an annual allowance is a very dignified way of doing it, and it will not result in money going to Canberra. However, the Bill is presently worded in such a way that the allowance amounts to a salary. I agree with the Hon. Mr Hill: once we start paying these little salaries, people will say that they should be indexed and increased. That will then apply an additional expense on taxpayers in the form of a third tier of paid government. With the utmost respect, I think that the State Government is wrong and that the Minister of Local Government must be out of his mind in trying to put another imposition on taxpayers. They already have to pay towards the Federal Parliament and the State Parliament, and they will also have to pay for thousands of local government members. There are only about 100 Federal and State MPs for South Australia, but there are about 1 200 councillors in South Australia alone and they will receive about $1 000 each. That amounts to $1.2 million, of which $600 000 will go to Canberra. You would have to be off your rocker to agree to that!

The allowances will be variable. I think that we should do away with the expenses provision of the Bill and look again at the reimbursement of expenses by making a claim. I think that that system is thoroughly undignified and shows lack of trust in a councillor to do the right thing. The Government is concerned, as I have been, that there is a tendency for representatives in local government to be predominantly other than those people receiving wages and salaries. If they are people receiving salaries, they are usually senior people and those on executive salaries. There should be some arrangement whereby people receiving wages can become a part of local government more easily.

I suggest that within certain limits people on salaries and wages could go to the boss and say, 'I have been invited to stand for local government, but I will be reimbursed for any wages lost up to a certain amount. It will not cost you anything, and I will not lose anything. How about it?' That does two things—it makes it easier for that person to go to his employer and ask whether he may stand, and it makes it easier for the employer to decide, because it is not creating an extra cost for shareholders and it does not put an undue

imposition on the rest of the staff. I suggest that up to some sensible point, which could be prescribed by regulation, lost wages or salary should be reimbursed. I do not disapprove entirely of what the Hon. Murray Hill is suggesting, but I want to ensure that councillors are not paid a salary but that they receive a councillor's version of an electoral allowance that would be non-taxable. Any salary or wages that are lost should be reimbursed. If the amendment is lost, I will move an amendment to ensure that.

The Hon. L.H. DAVIS: Having listened to the Hon. Mr Milne's argument, I believe that there is not a great deal of difference in terms of intent between the amendment standing in his name and that in the name of the Hon. Mr Hill. There is mutual agreement that the allowance as proposed in the legislation will attract taxation. It will mean that anyone earning an income in excess of $4 500 will pay a minimum of 30c in the dollar for every dollar that is earned by way of allowance. The Hon. Lance Milne has quite rightly pointed out that this will be another burden on the taxpayer. One only has to look at the precedent in other States to see that these allowances rapidly amount to four figures.

We on this side accept the importance of the voluntary nature of local government, but at the same time it is incumbent on us to find a way to ensure that members of the community who wish to serve in local government are not precluded from doing so because of lack of income. The possible expenses associated with the office should not preclude participation in local government. The Hon. Mr Hill's amendment suggests a way around that by providing that each member of a council be reimbursed expenses of a prescribed kind that are incurred in carrying out official functions. There can be no question, to my mind, that that provision would not attract taxation.

The Hon. Mr Milne's proposal is that there be an annual allowance towards expenses incurred by the member in performing the duties of his office as written into the legislation. If one has to make a judgment between the two amendments, as we are being forced to do, one would certainly favour the proposition put forward by the Hon. Murray Hill, because it more clearly identifies the nature of local government as we would like to see it, retaining the voluntary nature while at the same time recognising that expenses, such as motor vehicle and telephone expenses, will necessarily be associated with it. The Hon. Mr Hill's solution is cleaner and neater, and it does not seek to pick up the suggestion that an allowance, which is taxable, be paid. As the Hon. Mr Hill rightly observes, the Hon. Lance Milne's proposition seeks to go down the middle between expenses and allowances and does not reach the goal that I am sure the Hon. Mr Milne seeks.

In considering this very important issue, we should be mindful of what the councils have said. The Hon. Dr Eastick, as shadow Minister of Local Government in another place, put forward a very comprehensive table of local government attitudes to the important measures in the Bill. Only seven of the 26 city councils were in favour of the payment of allowances, and none of the municipalities agreed to the proposition, even on a qualified basis; and only 15 of the 88 district councils agreed to the proposal. So, there can be no doubt that local government over all is very strongly against the introduction of allowances.

The Hon. K.L. Milne: Of a salary.

The Hon. L.H. DAVIS: Yes, of allowances.

The Hon. K.L. Milne: Of allowances which are equivalent to a salary.

The Hon. L.H. DAVIS: Of allowances, which will be taxable. Local government and the Opposition clearly support the payment of expenses, which will overcome any barriers that may exist to entry into local government. Of course, that should be the primary concern of this Parliament—we should be removing any barriers to entry to local government. The Hon. Mr Hill's amendment overcomes that financial difficulty, and I would hope that the Hon. Lance Milne will reconsider the proposal and support the Opposition's amendment.

The Hon. J.R. CORNWALL: The Democrats and the Government are not terribly far apart in this matter, but the Democrats and the Government are a long way from the Opposition, the pained expressions of some members opposite notwithstanding. The Hon. Mr Milne talked about pressure, the thin end of the wedge, the first step towards fully salaried councillors and aldermen, and so on. He said that this raised a spectre (or words to that effect) of all councillors being paid and sorts of mini-State Governments arising all around the State. He even compared us to the greater Brisbane council area, which of course caters for in excess of one million people. That is quite ludicrous as applied to South Australia and typical South Australian patterns. If councils were amalgamated at a very rapid rate, there would still be literally dozens or scores of councils all around the State. Of course, there is no proposal whatsoever to finish up with all councillors and aldermen being paid salaries and allowances.

It is very interesting that when these things come up the Opposition always jumps up and down and says, 'Keep politics out of local government. We must keep politics out of local government.' What they mean, of course, is that they must keep Labor politics out of local government, because the Liberal Party, as a former Lord Mayor told me, ran things very happily in the Adelaide City Council for generations. It is only in more recent days that a bit of common sense has prevailed. It is a nonsense, of course, to say that we want everyone to be able to serve and that everyone should be able to make his contribution as he sees fit—provided, of course, that he has an independent income and can attend day-time meetings. That is really what the Opposition says: it is very hot on 5 o'clock meetings, but I will say more about that later. I freely recognise and acknowledge the difficulties for many country councils. However, I cannot for the life of me believe that that is a sustainable argument with respect to city councils, whether in provincial cities or in suburban Adelaide.

However, they are related because we are saying that people who serve on local government should not be out of pocket because of that service. If there is an ordinary battling family of husband, wife and two or three children on a single income, and either the husband or wife wishes to give service to local government, he or she should be able to do so.

The Hon. Diana Laidlaw: Then your position is not much different from that of the Liberal Party.

The Hon. L.H. Davis: Aren't we saying that?

The Hon. J.R. CORNWALL: No.

The Hon. L. H. Davis: Tell us what we are saying, then, if you do not understand it; come on!

The Hon. J.R. CORNWALL: When the honourable member has finished I will proceed, Mr Chairman. I never respond to that particular member any more. If he wishes to enter the debate in a gentlemanly and proper way then he is entitled to do so like any other member. What the Hon. Mr Milne is trying to achieve in part *(a)* of his amendment is probably very sensible, although I must say (with no disrespect) that he did not explain it very well. It is, as the amendment says, 'an allowance towards expenses'. I understand, from legal advice I have taken in the past few minutes, that it would mean that individual councils would set that figure based on something just below the expenses of members of that council (the councillors), and in those circumstances I have been assured that it would

be extremely unlikely to attract income tax—it would be literally 'an allowance towards expenses'.

The Hon. C.M. Hill: Did you say 'just below'?

The Hon. J. R. CORNWALL: Yes.

The Hon. C.M. Hill: You are not even going to give them expenses.

The Hon. J.R. CORNWALL: It would be just below actual expenses as estimated by a particular council. Whether that should be $1, $5 or whatever amount below is a matter for greater financial brains than mine to work out. The whole matter is not too difficult at all; in fact, it is quite simple. I believe if we get together with the Hon. Mr Milne we can work out a satisfactory arrangement, and quite quickly. I anticipate that when this Bill goes to the inevitable conference of managers this matter can be hammered out satisfactorily. The point that the Hon. Mr Milne makes is an entirely valid one: we should ensure to the greatest extent possible through the legislation that this does not become a taxable arrangement of some description. It would be quite foolish to give councillors some sort of a straight allowance that could be interpreted as a salary and then find that it attracted between 30 cents and 60 cents in the dollar by way of taxation, depending on income. The phraseology specifically included here by greater legal minds than those of the Hon. Mr Hill or any of his colleagues opposite specifically includes the term 'allowance towards expenses' to ensure that the Commissioner of Taxation is not allowed too much discretion.

The Hon. C.M. Hill: You must justify expenses.

The Hon. J.R. CORNWALL: I will respond to that interjection, although I try not to respond to interjections nowadays. The Hon. Mr Hill says 'You have to justify expenses.' I wonder when he last justified the full expenditure of his electorate allowance to the Commissioner of Taxation.

The Hon. C.M. Hill: We have an arrangement with Canberra about that. Can you guarantee that local government can get an arrangement like that?

The Hon. J.R. CORNWALL: We cannot guarantee that at this time, at all, but in using the expression 'allowance towards expenses' I am trying to help the Hon. Mr Milne who knows a deal more about this than the Hon. Mr Hill, because he is a distinguished accountant and often advises me on financial matters.

Members interjecting:

The Hon. J.R. CORNWALL: I did say the other day that I was a poor man. However, on the advice that I have been given, the expression 'allowance towards expenses' is important, and whether it is set at $1, $5, $10 or $25 below actual expenses as estimated for council members is beside the point. It can be done, and will be done sensibly so that we are not paying money back to Canberra via local government and so that local government is not paying 30 cents or 60 cents in the dollar to Canberra on that money, which would be extremely foolish. I am not attracted at all to the other part of the Hon. Mr Milne's amendment, namely, paragraph *(b)*, which states, in part:

> Subject to prescribed limits, reimbursement of wages or salary lost by the member where he is absent from employment in order to perform the duties of his office . . .

That throws a burden on the council. It does not overcome the problem of an employer not wanting to let an employee go to a day-time meeting, anyway. I am not attracted to that proposition, but think that we are close with paragraph *(a)* and hope that at a subsequent meeting of managers something along those lines can be sensibly hammered out in relation to this matter. In summary, the Government opposes the Opposition's amendment and the Democrat amendment in its present form, but is certainly very attracted to part *(a)* of the Democrat amendment. I hope that we can hammer out something sensible at a subsequent conference of managers rather than try to do that now.

The Hon. C.M. HILL: It is rather unusual for a matter that is in the form of the Government's Bill to be raised at a conference. If we want a matter raised in conference we must pass an amendment to which the Government objects. If this Council wants this matter to be ironed out in conference, it must amend this legislation. It has two amendments before it, one moved by me and one moved by the Hon. Mr Milne. It is quite clear that my amendment, which is a case of black and white, removes the allowance but continues the present system of reimbursement of expenses.

The Hon. Diana Laidlaw: And nobody's out of pocket that way, are they?

The Hon. C.M. HILL: Nobody is out of pocket, not even below the expenses, as the Minister just said. He wants to prescribe some allowance below expenses incurred.

The Hon. K. L. Milne: Don't confuse matters with that remark; you know perfectly well that that is a saying.

The Hon. C.M. HILL: The Hon. Mr Milne says that he said it but did not mean it.

The Hon. K.L. Milne: It's not really what—

The Hon. C.M. HILL: Very well. I will now come to the nitty gritty of the matter. First, there is a procedural issue to which the Hon. Mr Milne objects. He says that it is a little undignified for council members to have to put in a chit to the Clerk listing expenses incurred. That argument has merit to a degree, but I point out that the Hon. Mr Milne takes his telephone account to an office in this building periodically and receives reimbursement for part of it, as other members and I do. That is a rule here and I do not think that there is anything very undignified about that happening. However, my amendment is quite clear.

I now come to the Hon. Mr Milne's amendment. As I said at the start of this debate, I appreciate the principle that he has in mind. He is wanting to call the reimbursement an 'allowance'; that is really what he wants. The honourable member knows as well as I that if the allowance exceeds the expenses of the councillor the balance will be subjected to taxation. I say quite openly that, unless the Government has an arrangement with Canberra on that point, that is the situation. If he stands and says that I must avoid the question of taxation, the only way in which that can be done is to support reimbursement of actual expenses; that is a very important point. The Hon. Mr Milne goes on to talk about allowance towards expenses and says that the council will fix the allowance. One councillor's expenses might be $50 and another's $100. Will he have a different allowance for each councillor?

The Hon. K.L. Milne: Yes.

The Hon. C.M. HILL: That will have to be prepared and arranged by the councillor's producing details of expenses. So, he has to produce them anyway and go through this undignified procedure.

The Hon. Diana Laidlaw: Otherwise they would not be accountable.

The Hon. C.M. HILL: Yes, otherwise they would not be accountable. There will be a situation where one council will say that the average allowance for council members in the neighbouring council is higher, and it will say, 'We want to boost ours a little.' It is not the principle behind the Hon. Mr Milne's amendment, but the impracticality of it that makes it most unfortunate. If the Hon. Mr Milne had wanted to call it an allowance and said 'an annual allowance equivalent to expenses'—and that is really what he said by way of interjection—why did he not say that in his amendment? Indeed, if he would not support my amendment and wanted 'an allowance equivalent to expenses incurred by the member performing the duties of his office', I would give serious consideration to supporting it because it would

go to conference, as the Minister said, and we could there do some ironing out and have a long discussion which perhaps—

The Hon. J.R. Cornwall: Not too long.

The Hon. C.M. HILL: It will be a very long conference. That doesn't matter, it is in the future.

The Hon. J.R. Cornwall: I want to fix up the Dentists Bill, too.

The Hon. C.M. HILL: I know there will be another conference on the Dentists Bill and I know that some members want to go overseas very quickly.

The Hon. J.R. Cornwall: On Government business.

The Hon. C.M. HILL: On Government business. However, we have the balance of the week to work. If the Hon. Mr Milne provides for an allowance higher than the actual expenses it will involve the taxation aspect. One cannot avoid it unless this Government makes arrangements with the Federal Government. I now come to the second part of the Hon. Mr Milne's amendment concerning the reimbursement of wages and salaries lost by a member. I agree with the Minister that this is a very difficult matter, as members of councils who have their own family companies or work for their own business operations will claim a loss of salary and seek reimbursement for that.

The Hon. K.L. Milne: It has to be an employee.

The Hon. C.M. HILL: Most directors are employees of their own companies.

The Hon. K.L. Milne: No.

The Hon. C.M. HILL: Yes, they are. Most directors are employees of their own companies. I am not talking about the big public companies: I am talking about the little man in his engineering operation in Edwardstown who is a member of the Marion council. He draws a salary from that company and will claim reimbursement. Again, I accept the principle involved, but where does one get when one tries to put it into practice? The Hon. Mr Milne and I are relatively close in what we are trying to obtain: we are trying to improve the legislation. We are saying that an allowance equivalent to salary is out. My amendment certainly makes that perfectly clear. The Hon. Mr Milne's amendment moves into a grey area, because he calls it 'an annual allowance towards expenses'. So, it is a very confused situation that the Hon. Mr Milne has created in introducing this amendment.

I ask the honourable member whether, in view of the trend in this debate, he would have, first, second thoughts about supporting my amendment for the purpose of getting an amended form into the conference so he can further explore the principle he wants to achieve or, alternatively, would he apply considerable surgery to his amendment by dropping off subsection *(b),* which deals with the reimbursement of wages or salary; and, further, will he hold hard to the word 'allowance', which is dear to his heart, but making it an annual allowance equivalent to expenses incurred, rather than an annual allowance towards expenses incurred?

The Hon. L.H. DAVIS: Before the Hon. Mr Milne replies, I inject another point into the debate. The annual allowance will be payable in advance. In other words, it will be set at the first meeting of the new council based on the previous year's expenses.

The Hon. K.L. Milne: Not necessarily.

The Hon. L.H. DAVIS: It may not be based on the previous year's expenses, although one would imagine that that would be some guide. The Hon. Mr Milne, by way of interjection, has said that his intention, if this amendment is carried, would be that each member may well have a different allowance because expenses will vary for motor vehicles, telephones and so on. I put this proposition to the Hon. Mr Milne. Given that one has an all-in all-out basis for election to a council, one may well, after two years, have quite a dramatic change in the composition of the council. If one is seeking to set expenses for an individual councillor who has been newly elected, it will be a difficult task to set an allowance which will be, in the words of the Minister, just below the expenses that have been incurred in the previous year. I cannot see how any council can make a judgment as to what those expenses will be for a future 12-month period. It will be impossible to set a figure a few dollars below the expected expenses. I cannot see how the Hon. Mr Milne or even the Hon. John Cornwall—who, in his more modest moments admits he has some ability in most areas—can possibly devise a formula which will develop a close nexus between the annual allowance and the expenses incurred for a future 12-month period.

The Hon. K.L. Milne: I think you could do it.

The Hon. L.H. DAVIS: I certainly would not attempt to do it, because I do not believe it is possible. I raise this matter because it is of some importance. For example, if the council sets a fee of $1 500 as an allowance towards expenses and, if those expenses turn out to be only $900, that remaining $600 will be taxable and the council will be paying out more than it was required to do. It does not pick up the principle that the Hon. Mr Milne is seeking to enunciate, namely, to compensate people for the expenses they have incurred in serving on their local council.

So, I am concerned about this amendment as it now stands, because the Hon. Mr Milne says there may be a different allowance for every local councillor, newly elected or otherwise, given that one is attempting to put a figure on what an allowance will be for a future 12-month period. I believe that that is an impossible task, not good legislation and I simply cannot support the amendment put by the Hon. Mr Milne.

The Hon. DIANA LAIDLAW: I agree with the Hon. Mr Hill's amendment. In this whole argument there appears to be no disagreement by anyone in the Chamber concerning the allowance to be fixed for a mayor or chairman. The disagreement comes in respect of aldermen and councillors.

The Hon. R.I. Lucas: Alderpersons.

The Hon. DIANA LAIDLAW: Or alderpersons, yes. I do not accept the principle or practice that councillors or aldermen should be eligible for an allowance. There are a variety of reasons for this, which I outlined in my second reading speech and do not intend to go back over now. It really escapes me in respect of the Hon. Mr Milne's arguments against the Hon. Mr Hill's amendment why being accountable for one's expenses should be an undignified exercise. I would have thought that with the budgets that councils have and the difficulties that they are always pleading in respect to balancing those budgets the councils themselves would be insisting on accountability, especially in respect to what appears in the Hon. Mr Milne's amendments to be a very open-ended form of annual allowance. I find his objection on the basis of an undignified action to insist on accountability absolutely puzzling. I can accept, however, that an allowance is much easier to administer than a reimbursement of expenses, but that is not the matter that the Hon. Mr Milne has raised.

In respect to the amendment moved by the Hon. Mr Milne, first, both the Government's amendment in the Bill and the Hon. Murray Hill's amendment indicated that expenses to be reimbursed should be of a prescribed kind. I am disappointed that the Hon. Lance Milne has not seen fit to limit the annual allowance that he proposes to a prescribed time. Because it is so open-ended, I would not wish to be associated with supporting subsection *(a).*

It would be extremely difficult and it would be an unpleasant experience for councillors to determine what they believe their expenses may be. I cannot see why, if this annual allowance comes about, it should not be on the basis

of the average of expenses or whether the Hon. Mr Milne is envisaging that it should be the highest of the estimates of expenditure. I can only envisage that to have members eligible for such a varying range of reimbursement for expenses would not only distinguish between members but bring in a great deal of disharmony within the council. That hardly would be a sound step forward for local government.

I have not heard anyone address subsection *(b)* of the Hon. Mr Milne's amendment other than when he himself introduced it, but I could not support it because I find it completely discriminatory in favour of people in paid employment. Many people on councils, whether retired persons or women who are working full-time at home, are not in paid employment. I do not see why we in this Council should pass an amendment that would simply allow members of councils who are fortunate enough to have jobs to be reimbursed for expenses, and why we should discriminate in favour of them, giving them a monetary advantage over the unemployed, pensioners or whoever is at home looking after children and family. As the Local Government Association itself in the papers that it has forwarded to all members has indicated, there are very few examples where anyone in its experience have ever been excluded from councils. I quote from its paper, which was forwarded to the Minister of Local Government in the other place and also to members:

> Based on experience, there is no reason to suggest that significant numbers of people have been disadvantaged by council meeting times.

Therefore, if they have not been disadvantaged, if they have been in paid employment, allowances have clearly been made by the employers to permit those people to participate fully in council. So, on those grounds, I strongly oppose the Hon. Mr Milne's amendments.

The last reason for my opposition would be again that there is no option for a council to accept this annual allowance or this reimbursement of wages and salaries. As with the Government's amendment, it is compulsory for councils to grant these reimbursements and allowances. I find that compulsion, or the lack of option being provided to council to determine in its own circumstances whether it wishes these allowances or reimbursements to be paid, to be totally unsatisfactory.

The Hon. K.L. MILNE: First, we are all talking about much the same thing—the reimbursement of expenses. This problem has become more onerous over the years, particularly the past 10 years or so, and we all want to do something about that. The reimbursement of expenses is legal now; it is in the Act if people want to use it. I have never seen anyone who did.

The Hon. Diana Laidlaw: Why force them to in your amendment? You are saying that each member of a council 'shall' receive.

The Hon. K.L. MILNE: The honourable member is telling them to do it as well.

The Hon. Diana Laidlaw: No, I am saying that they should have the option.

The Hon. K.L. MILNE: I really do not think that it would be an unpleasant experience discussing what one's allowance should be. It was a perfectly normal experience when we went before the tribunal and discussed what our electoral allowances should be; that was not very unpleasant, except when Mr Millhouse made if difficult. The distinction between people in employment and women at home is not quite relevant either, because if the wife is not working she would certainly not be having lost time. The honourable member would understand the words 'lost time' rather than, perhaps, the way that we put it before.

The Hon. Diana Laidlaw: Why should those in paid employment receive extra?

The Hon. K.L. MILNE: That lady would get an allowance under my system, particularly for child centres, although I expect that responsibility would fall on the poor, tired husband as he came home after work and had to do an extra hour's—

The Hon. R.I. Lucas: No, he would charge his wife for it and get reimbursed.

The Hon. K.L. MILNE: Yes. I do not think that there is anything unusual or difficult in having these allowances variable because, after all, there are variable electoral allowances in the House of Assembly. What I am frightened of is that, if one has a voluntary system of claiming expenses, one immediately will put a rift in council between those who spend money and claim it, those who spend money and do not claim it on principle, and those who do not spend money at all.

That is why I want to get rid of this. If one applied the system recommended by the Opposition to this Chamber, for example, the allowances or the amount paid to each member would be entirely different and would change from year to year. Sometimes I may pay more than another member and sometimes less. It is fixed and, on average, if one is doing one's job properly, that is what it ought to be. I cannot see any reason why the extension of the mayoral or chairman's allowance cannot be extended to councillors and aldermen.

Further, I would like to move my amendments in two parts because I can see that there are greater difficulties (there may be difficulties with the whole of it) in paragraph *(b)*, and I signal that now, but I still wish to continue with the first part of my amendment after we vote on the Hon. Mr Hill's amendment.

The Hon. C.M. HILL: I am sorry that the debate has reached this form of impasse. In an effort to resolve the matter I make the following suggestion. However, first, I would like to be clear that the Hon. Mr Milne is still opposed to my amendment.

The Hon. K.L. Milne: Yes, but not violently.

The Hon. C.M. HILL: It does not matter much whether it is violently or non-violently. The crucial point is to which side of the Chamber the honourable member will move when he votes. That leaves me in a predicament. I think the only way to resolve the matter, if the Hon. Mr Milne would agree, would be this: I will not move my amendment if the Hon. Mr Milne will not move paragraph *(b)* of his amendment. I would be willing to support his amendment in relation to the insertion of paragraph *(a)* on the clear understanding that it is moved so that it can be further discussed, fashioned and forged into something much better in conference.

The Hon. L.H. Davis: As long as he does not move his paragraph *(b)*.

The Hon. C.M. HILL: That is what I said. The Hon. Mr Milne's paragraph *(a)* would be written into this Bill as it leaves this Chamber. The Government has indicated that it is unhappy about that but that it may be possible for something to be thrashed out at the conference. Certainly, it would be opposed by members on this side if it came back from the conference in that same form, but I am sure that it will not. At least the Hon. Mr Milne will see that paragraph leave this Chamber in that form. I am sure that members on this side of the Committee could not countenance his paragraph *(b)* in respect of reimbursement of wages and salaries and, if the honourable member will not put that provision to a vote, I will not put my amendment to a vote. From my point of view, this arrangement is on the clear understanding that this matter will be discussed further with him and by him and with and by the Government when the whole matter is dealt with by the conference between the Houses.

The Hon. K.L. MILNE: I am willing to do that to shorten the debate here but, if there is a conference, I reserve my right to raise the matter of reimbursement for discussion by the conference. Certainly, I am willing to withdraw paragraph *(b)*, especially in view of what the Minister has said, that the Government does not like it at all. There is a misunderstanding somewhere and I am possibly wrong, but I am sure that we all want to find a solution as to how employees on wages and salaries can play a bigger part. That is part of what I am trying to achieve. I will not move that part of my amendment but I reserve the right to discuss the matter at the conference. Does that suit the Hon. Mr Hill?

The Hon. C.M. HILL: Yes. Similarly, I will be bringing up my amendment at the conference. I withdraw my amendment to lines 5 to 14 but not lines 28 to 33, on which the Hon. Mr Milne and I share common ground.

The CHAIRMAN: The Hon. Mr Hill has withdrawn his amendment to lines 5 to 14.

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

Page 27, lines 7 to 10—Leave out all words in these lines and insert:

(a) an annual allowance towards expenses incurred by the member in performing the duties of this office;

and

The Hon. J.R. CORNWALL: I will be brief, as I have tried to be all day. I would sound a note or two of caution. I remind honourable members that I said that in general terms we found this matter attractive. I am not accepting it word perfect on behalf of the Government, and I am sure that the Hon. Mr Milne and the Hon. Mr Hill understand that. It is the spirit of the thing. It seems that we have come a fair way towards the middle, and I hope that in conference something can come out of this track that we have adopted that would see honour satisfied and Government policy implemented at the same time so that Parliament will be happy with the result.

Amendment carried.

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

Lines 11 to 13—Leave out 'and at its first ordinary meeting held during the month of May in each succeeding year' and insert 'held after the third Saturday of October in each year (but not, where periodical elections are held in that year, before the conclusion of those elections)'.

Amendment carried.

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

Lines 28 to 33—Leave out subclauses (7) and (8).

We are involved in a situation where, if there is going to be some form of allowance, payment, remuneration, reimbursement, or whatever, and members are entitled to receive it, the situation should stand at that. All sorts of bother is created when some people can say that they do not want it, they want half of it, or they will give some of it to charity. A classic example occurred in this Parliament, one which will go down in history, when a member wanted to give away, defer or do something with part of an increase in salary.

It is a matter of looking into the future and establishing whether or not it is wise for a member of a council to give notice in writing, addressed to the Chief Executive Officer or Town Clerk, declining to accept. I also oppose new subsection (8) which provides:

The question of whether or not a member intends to give or has given such notice shall not be discussed or made the subject of comment at any meeting of a council.

The mere fact that the Government has seen the need for that to be included in the Bill touches on the very sensitivity that I am attempting to avoid completely. It is a fact that it may not be the subject of comment in council, but it may be in a local newspaper, given to it either by the person concerned or by someone else. I think the principle should be that, if some form of payment arises out of this Bill, there should be no need for the law to include provisions that some can decline to take it by way of notice.

The Hon. K.L. MILNE: As the Hon. Mr Hill said, we have both filed the same amendment. I think that it is a genuine attempt to stop any rift in a council. I am strengthened by the fact that we have passed an amendment which in effect shows that in principle we all agree that there should be an allowance which is a refund of expenses. We are now removing from the Bill clauses that are no longer necessary, because they are of no advantage to an individual. An individual does not help by refusing the money, because it is only a reimbursement of expenses. I agree with what the Hon. Mr Hill says and I support his amendment because it is the same as mine.

The Hon. J.R. CORNWALL: The Government opposes the amendment. I am rather surprised to see the Hon. Mr. Milne not only supporting the amendment but putting on file an amendment identical to the Opposition's.

The Democrats always want to give their lot back. There seems to be a remarkable inconsistency between the Hon. Mr Milne's public position as a member of the South Australian Parliament and what we are trying to do for those councillors who, for one reason or another, want to give back their allowance. That option should be available, so we must oppose the amendment.

The Hon. R.I. LUCAS: If this provision is removed, as appears likely, is there anything to prevent an individual councillor, having received the annual allowance, immediately donating the money back to the council?

The Hon. J.R. CORNWALL: The council can receive donations from a wide variety of sources.

The Hon. R.I. LUCAS: In clarification, an individual councillor who felt very strongly about the matter could, if this provision was removed, make a donation to the council and therefore, whilst technically having received the allowance for one second, could donate it back and have a clear conscience on the matter.

The Hon. J.R. CORNWALL: And probably get a good deal more publicity.

Amendment carried; new section as amended passed.

New sections 50 to 53 passed.

New section 54—'Disclosure of offence against this Division, and it appears to the court by which that interest.'

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

Page 29, line 34—Leave out 'Five' and insert 'Ten'.

This amendment endeavours to increase the penalties from $5 000 or imprisonment for one year to $10 000 or imprisonment for one year. It deals with the question of a member having to disclose his interest to the council or to a committee of the council. Earlier in the debate the Government's tightening up the disclosure of interest procedure was referred to, and I support that change wholeheartedly. Members can see from the provisions that a member must disclose his interests; he must not take part in that council or committee debate, he must withdraw his chair, leave the room (if it is a council committee meeting) and, indeed, leave the council chamber. He must not take any further role in that debate.

This is a very important matter, and I believe that it should carry a very severe penalty. We are dealing with maximum penalties. The court would assess the penalty within the parameters laid down by the legislation, but we are dealing with matters that might involve interests of considerable value and therefore, based on the value of money and the severity or otherwise of penalties, I believe that a penalty of $10 000 is more appropriate than $5 000.

The Hon. K.L. MILNE: In clarification, why are we not moving the same amendment to line 21?

The CHAIRMAN: We are dealing with line 34.

The Hon. K.L. MILNE: I agree that the penalties should be increased, but I would go further if necessary.

The CHAIRMAN: The only reason why we are not dealing with line 21 is that there is no amendment on file.

The Hon. K.L. MILNE: Should not this provision apply also to line 21 and, if it does not, should we not make some arrangement?

The Hon. C.M. HILL: My amendment deals with an offence against the whole procedure that must take place concerning a member of council. The first part to which the Hon. Mr Milne referred deals with the first stage, in the event that a councillor does not disclose his interest in the matter before council. The offence for continuing default, as explained in the Bill, is a more serious offence than the offence committed in the first instance.

The Hon. K.L. MILNE: With the utmost respect, I believe that the most important provision is in new subsection (1) whereby a member of a council who has an interest in a matter before the council or a council committee of which he is a member shall disclose the fact. His having not done that, a disclosure under new subsection (1) shall be recorded in the minutes. That is not very important. However, subject to new subsection (4), no member of a council who has an interest in a matter before the council or a council committee of which he is a member shall take part in discussion or vote in relation to that matter. With the utmost respect, new section 54 (1) is very important. A decision must be made in relation to the first stage. I will move to leave out 'five' in line 21 and insert 'ten'.

The Hon. C.M. HILL: It certainly is serious if a person does not disclose his interest, but, if he does that and in some way talks himself into obtaining a vote, the final casting of his vote is, in my view, a more serious offence than his not making the first disclosure. I still believe that there is a difference, but if the honourable member wishes to move a further amendment I will be prepared to consider it. In my view, the most serious point in time in the whole procedure is when the person who should not vote does so. At that point, if he is offending, the penalty should be increased from $5 000 to $10 000.

The Hon. J.R. CORNWALL: I will clarify the Government's position in this matter. I would find it amusing if it was not so serious. The first issue on which the Government Bill was rolled (and the very first issue, as referred to at the outset of this debate—which now seems to be a very long time ago) in this place was on the question of declaration of pecuniary interests. We wanted to ensure from the outset that the citizenry of any local government area would be able to find out, in a responsible way, just what were in broad terms (not in specific money terms) the interests of individual members. Of course, that was very important and in many ways central to the good name of local government and local councillors. The Opposition and the Democrats rejected that suggestion—they threw it out. Now they come along vying with one another to insert a penalty to ping someone who has to be proven to be acting in a pretty bad sort of way. If the pecuniary interest register was in place, the likelihood of that happening would be reduced enormously.

In other words, one is talking about preventive medicine in the Government's proposals versus trying to chop something out at one minute to midnight. I think that there is a great inconsistency (even a grave inconsistency) in throwing out a register of pecuniary interests on the one hand, which the Opposition and the Democrats have done, while shedding crocodile tears at this late stage of the debate and with one another to see how large they can make the penalties to be imposed in the unlikely event that a councillor was found not to have declared his conflict of interests in a particular debate and voted on it.

The Hon. K.L. MILNE: I think that the attitude adopted about discarding a register of interests was quite different from that adopted in relation to this matter. I think I said that I was voting against the introduction of a register of interests but that I would make sure that the penalties for non-disclosure were increased. I wanted both such penalties increased. I thought that that was what the Opposition would move to do. It was on the condition that such penalties were increased considerably that I said we could do without a register. I do not think that a register would solve this problem; however, a high penalty for non-disclosure would. I ask the Committee to consider allowing me to move an amendment to line 21 to delete 'five' and insert 'ten'.

The Hon. C.M. HILL: I do not think the Minister helps the debate by trying to score points or by dragging back into the debate the question of pecuniary interests. If we start trying to score points off of one another we will be here until early tomorrow morning.

The Hon. J.R. Cornwall: You have done most of the talking. You should get back to consensus.

The Hon. C.M. HILL: That was a stupid remark, if I may say so. The less stupid remarks that are made by the Minister, the better off we will be. I now have to answer the question relating to pecuniary interests, as the Hon. Mr Milne has done. We stressed the point during the debate on the pecuniary interests issue that the real toughening up ought to take place in the area of disclosure of interests. During that other debate the Government wanted a councillor from metropolitan Adelaide to disclose that he had a beach shack at Moonta Bay. What has that to do with the local council? However, if he had a shack alongside the council chamber—

The CHAIRMAN: I think that we have already had this debate.

The Hon. C.M. HILL: And the Minister has raised it again.

The CHAIRMAN: The honourable member should get back to the clause before the Committee.

The Hon. C.M. HILL: I will not press the matter, in deference to you, Mr Chairman. I stress the point, because of the concern expressed by the Government in relation to local government, that this is where the toughening up should take place. The Government took a step in that toughening up process with its new procedural approach to councillors who have an interest in a matter. I am saying that there is a necessity to ensure that penalties are in proportion to the seriousness of the offence involved. I have had a few minutes to think since the Hon. Mr Milne raised this issue of the penalty being increased in new section 54 (1), which deals with a member having to disclose to the council or committee that he has an interest in a matter. Whilst I had not altered that figure from 'five' to 'ten' for the reasons that I have given, having had a few moments to consider the matter, I can say that if the Hon. Mr Milne moves the amendment that he says he will move I will be prepared to support that amendment.

The CHAIRMAN: For that to occur, the Hon. Mr Hill will have to temporarily withdraw the amendment that he has moved so that we can allow the Hon. Mr Milne to move his amendment.

The Hon. C.M. HILL: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

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

Page 29, line 21—Leave out 'Five' and insert 'Ten'.

I thank the Hon. Mr Hill for his consideration in this matter.

Amendment carried.

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

Page 29, line 34—Leave out 'Five' and insert 'Ten'.

Amendment carried; new section as amended passed.

New section 55 passed.

New section 56—'Bribes.'

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

Page 30, line 38—Leave out 'Five' and insert 'Ten'.

Here, again, I am moving to increase penalties from $5 000 to $10 000. This penalty relates to offers of bribes to members of council. In other words, a person who offers a bribe to a member of a council is guilty of a serious offence. I think that, considering the value of money today, and because of the precedent that we have just set, that the amount of $5 000 should be increased to $10 000.

Amendment carried.

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

Page 30, line 41—Leave out 'Five' and insert 'Ten'.

This, again, increases from $5 000 to $10 000 the penalty that can be imposed on a member of a council who accepts a bribe, which is a very serious offence. Again, I think that the amount involved should be increased.

Amendment carried; new section as amended passed.

New section 57 passed.

New section 58—'Meetings of a Council.'

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

Page 31, lines 34 and 35—Leave out all words in these lines.

The Government has included in the legislation for the first time a provision that councils shall meet after 5 p.m. and not before 5 p.m. This proposition has met with almost universal disapproval from councils, members of council and, I understand, the Local Government Association. This is because they fear that this unduly interferes with something that should be a council's own prerogative and because they do not believe it will do a great deal, if any, good and will probably hurt as many people as it is meant to help.

Country councils particularly want the right to meet in the daytime as councillors do not like going home late at night very tired on those dark roads. I understand that point of view. Other councils—metropolitan and big councils—want the right for their committees to meet at a time selected by the council or committee and do not want to be told by anyone what time they must meet. If a council consulted the Minister in this matter the Minister would understand that there must be varying times, and times change with the seasons for some councils.

We all know what the Government is aiming at: it is again trying to make it easier for people on wages and salaries to serve on councils. I know of no instance where a person has been precluded from serving on a council because the council meets at the wrong time. The vast majority of metropolitan councils, I believe, meet at night time. I understand that councils in other cities meet at night, but that the city council in Adelaide meets during the day. There may be some sort of compromise necessary there. Unless I hear strong arguments to the contrary, I see no reason why councils should be told that they are not permitted to meet until 5 o'clock.

The Hon. C.M. Hill: Big brother.

The Hon. K.L. MILNE: It is an attempt by big brother to assist those people. If one is going to make it 5 o'clock, one should make it 6 o'clock because, if people stop work at 5 o'clock, they cannot get there by 5 o'clock and will be late anyway. So, what one is really referring to is people on wages who frequently stop at 3 o'clock or 4 o'clock. One should not forget that many people on wages are on shift work and might go on night shift at 3 o'clock or 4 o'clock to do their eight hours or whatever. I think that one will find this new section will preclude another group of people, if there is a group already, from serving on councils. I do not believe that the Government is helping those sorts of people who are on wages to serve on councils. I suppose that the Government's argument will be that it will not know until it does something to find out. I would like to know whether there are any people known to the Government who have said that they would have loved to stand for election to councils but could not do it because councils met during the day.

I do not believe there are but it is because of this possibility I raise the question of reimbursement of wages. I am not going to debate it here because I have promised not to, but these things link together and the general principle of whether or not people on wages can serve on councils is affected by several subsections in the Bill which eventually must be taken together. For the time being I am very much opposed to the idea of not meeting before 5 o'clock. If I am not supported in my amendment I will certainly move that time be 7 o'clock, to give people time to get home. The new section would not suit a lot of salaried people—the teachers and the public servants (of course, there is flexitime, which is another matter, and teachers stop early). This is particularly directed towards people on wages who stop work early. I believe that, if such a person was elected and could not come to council meetings, the council would meet at another time. The council at Mount Gambier meets at lunchtime because it suits one or two members who are on wages and are employed in the town. I know what the Government is trying to do. I do not believe that this new subsection does it. It is best to leave it at the option of the council. Councils know that the Minister disapproves of a council meeting at a time when any one member cannot attend.

The Hon. C.M. HILL: I have similar amendments on file. I oppose the Government's measure with all the intensity I can muster. Local government throughout the length and breadth of the State is up in arms over this issue. There is even talk afield in local government that, if the Government gets its way on this issue and stops those councils meeting before 5 o'clock who wish to meet before 5 o'clock, they will hold a mass meeting in the Festival Centre, will advocate civil disobedience—

The Hon. L.H. Davis: John Cornwall's rubbish will not be collected.

The Hon. C.M. HILL: That will follow, and there will be areas—

The Hon. J.R. Cornwall: The AWU fellows will pick up my rubbish, no problem.

The Hon. C.M. HILL: I do not know about the AWU. I would think that that union is fairly responsible and might have second thoughts about the Hon. Dr Cornwall, but, I do not want to pursue that. As a result of the meeting proposed to be held in the Festival Centre, some council meetings may not be held until the Government sees good sense—

The Hon. K.L. Milne: There will be mass resignations.

The Hon. C.M. HILL: That will also flow. People will get out of it because of the strength of their feelings. The Government has to realise that the most successful local government is local government that is given optimum initiative by the State Government, which we know is its master, because the State Government legislates the Bible under which local government lives—that Bible, of course, is the Local Government Act. It is very important that Governments give councils this optimum flexibility so that they can use their own initiative and run local government as it best suits the particular local community. Local government will revolt against the State Government, as the master, bringing out political policy matters such as this and saying that councils must knuckle under to this new rule. Local government will not knuckle under to this new rule in this case. It is very unkind that the State Government would ever dream that they would; it should know local government better than this.

That is one of the problems of the present State Government: it does not know local government as it should. On the principle that local government should have optimum autonomy, for goodness sake let local government decide when it opens its doors for its meetings. The Government should not impose a restriction like this. People in the country for generations have been setting aside whatever day it may be—the fourth Monday in the month—when they organise their routine and business affairs so that at 2 o'clock in the afternoon they can voluntarily attend to their community affairs. Now this big brother Government is trying to say to these volunteers, 'Keep up the good work but you must not open your doors before 5 o'clock'. That is the new rule. It is ridiculous for such an imposition to be considered by the Government. I totally support the intense feeling that has developed in local government on this issue. It is simply bringing this Government's Party policy into the realm of the laws under which local government must operate.

A point that should be stressed more than it has been is that in the world in which we live (with flexitime, as the Hon. Mr Milne mentioned, and with other mutual arrangements which, generally speaking, exist between employer and employee today) employers let their employees off for certain hours for certain activities, naturally, on the basis that the time is made up at some stage during the week.

In nearly all instances of employee-employer arrangements that situation applies, even if it is not formalised on a flexitime principle. The situation as it applies locally is best worked out, as the Hon. Mr Milne said, by the local council. If there are some examples where people might be willing to stand and yet cannot meet during the day, I believe that that trend would be reflected by decision of the council and that it, on its own initiative, would change the meeting time. Local government will not accept this heavy hand and be told what it can and cannot do in regard to the time at which it starts its meetings. I very strongly oppose this principle which the Government has introduced. It is indicative of the strength of opposition that the Australian Democrats and the Liberal Party both have moved amendments accordingly.

The Hon. J.R. CORNWALL: Our position is quite simple and very sensible. The question is entirely one of accessibility; it is entirely one of the democratic process; it is completely designed to implement a long standing Party policy, which was canvassed at great length before the last election, and of which everybody was aware.

One cannot have wage and salary earners attending council meetings during the day. Employers are not philanthropists; in some cases they are not even co-operative to the extent that they would be prepared for people to be away from work during the normal hours of employment even if they were forgoing their wages for that period. That is a sacrifice that we should not ask of anyone, more particularly if they are ordinary wage and salary earners. Councils should not be the preserve of the self-employed; that very largely is what happens at the moment. Something like three quarters of the working population work between the hours of 9 and 5. It means that a very large number of otherwise very competent, intelligent, compassionate and sensible people in the community, who have a great deal to contribute to local government, are denied that right. If the Opposition and the Democrats have their way, they will continue to be denied that right. That is outrageous.

The Mount Gambier council—we do not know whether it was the district council or the city council—was said by the Hon. Mr Milne to meet at lunch time. They certainly must be lightning meetings for someone to get into the council chamber and get back to their work and have a quick meeting, talking about a multi million dollar budget in the meantime. They would certainly qualify for the title of the fastest council in the east or the west or the South-East or anywhere else.

The Hon. K.L. Milne: I did not say that.

The Hon. J.R. CORNWALL: The honourable member said that they overcame the problem by meeting at lunchtime. They are very good in Mount Gambier, but I do not believe that they could dispatch their business in 30 minutes, and even the Hon. Mr Hill would not go along with that suggestion.

The Hon. Mr Milne also asked whether any specific cases had been brought to our attention where people were disadvantaged by daytime council meetings because of the nature of their employment. There have been such cases. There have been a couple of notable cases in which pharmacists were elected to councils; I will not name the pharmacists or the councils, but they are clearly documented and I would be prepared to give the Hon. Mr Milne the names of the councils and the individuals in confidence. Pharmacists are not allowed to leave their premises during the period in which they are open for business. There has to be a qualified pharmacist on the site. It is usually a single pharmacist activity. The overwhelming majority of pharmacies are family or individually owned. In one case the problem was overcome by the council changing the time of its meeting. In another case the council was not prepared to change the time of its meeting, and the pharmacist, (having been elected through the democratic process as a councillor, with a lot to contribute in a country town—where the local community pharmacist is normally a well respected and leading member of the community) was denied an input into his local council.

We do not believe that that is good enough. I and the Government do not believe that in the longer run (and I am referring particularly to city councils with big budgets which are making decisions involving the expenditure of a lot of money and planning decisions that involve sometimes multi million developments) we should exclude up to three quarters of the working population from participating on those councils. That is what the Hon. Mr Milne and the Opposition are putting to us.

I would be prepared to be a little flexible, if the Hon. Mr Milne in particular were eventually to come up with something that would suit country councils. I take the point that where there are long distances to be travelled in difficult weather—whether it be in the height of summer or the middle of winter—maybe we ought to make allowances, but there is no room for manoeuvre as far as the Government is concerned with regard to city councils, whether they be in the provincial cities, in the city of Adelaide or in the suburbs, because there is a very basic, fundamental democratic right at stake here.

The Hon. L.H. DAVIS: I likewise oppose with some force the proposal of the Government to compel councils to meet after 5 o'clock. I find it extraordinary that a Party that preaches consensus should compel councils to meet after a certain time. Where is the autonomy that is to be provided to local government under this Bill? Where is the freedom to make decisions as to the time of meeting?

The intensity of opposition in this Chamber is also mirrored by the local councils themselves. In the Hon. Dr Eastick's very comprehensive survey that was tabled in another place it is on record that 83 of the 100 councils that replied to the survey opposed the time of meeting being after 5 o'clock. In fact, only seven of those 100 councils agreed either fully or in a qualified way with the requirement that meetings of councils should be held after 5 p.m. When one has that level of opposition—83 per cent of councils against the proposal, only 7 per cent for it, and some of those only partially, and 10 per cent with no comment—

that really underlines the force of the opposition to this measure.

We had a remarkable statement made by the Minister of Local Government reported in this morning's *Advertiser*, where he said that to debate the merits of this proposed legislation to compel councils to meet at night was premature. He said that he did not want to argue about the matter before the final form in which the Bill passes is known. What sort of nonsense is that? The Minister of Local Government is responsible for the passage of this legislation through Parliament and is saying that we should not be talking about it, whether it be in public or in Parliament. This is a matter of some importance. It is a matter of great moment to councils as to when they meet. Indeed, in the other place we had the Minister of Local Government saying (*Hansard* page 3414) the following:

> I know how difficult and inconvenient it is for members of country councils to change their traditional working hours. I know that meetings are held at 9 in the morning so that families can have a day in town shopping and making social contacts: . . .

That is the sort of understanding of the Minister of Local Government about the role and process of local government in country areas. Quite frankly, I find that disappointing and alarming coming from a member who purports to serve a country area. Several large councils conduct all-day meetings. Of course, the Hon. Mr Milne would be aware of that. I am not sure whether the Hon. Dr Cornwall is aware of that.

The Hon. J.R. Cornwall: Mount Gambier council does not—

The Hon. L.H. DAVIS: The Minister did admit that lunch-time meetings in Mount Gambier involve stretching a long bow. I understand that that is not correct and that the Mount Gambier council like many councils in many other large cities have lengthy meetings, many of them during the day. The Hon. Dr Cornwall would be less than honest if he did not admit that there are several large country councils which meet for several hours during the day. If one takes into account that proposition and requires or compels them to meet at night, the Government will have people meeting well into the night and perhaps into the early morning.

Instances were given in another place of country councils which meet for six or seven hours during the day. No doubt there will be occasions where country councils will be required to go on field inspections and make site inspections and, certainly, that will not be done at night. It is useless to try to defend this proposition if one looks at the distance involved for country councillors and if one looks at the length of the agenda of many country councils.

Does the Hon. Dr Cornwall really believe that some of these smaller country areas covering hundreds of square kilometres in South Australia will accept the requirement that they meet after 5 p.m., that people who travel hundreds of kilometres to meetings will be happy that the Government has demanded they change because of some Labor Party policy requiring meetings to be held after 5 o'clock? Really, that is at the nub of this proposal. On the admission of the Minister, this has been long-standing Party policy. Never mind about practicality; never mind about common sense; never mind about the attitude and overwhelming opposition of councils: let us just stick with good old Party policy. It is a nonsense to say that this is part of the democratic process, to compel councils to meet at a time not of their choosing. What is democratic about that?

The President of the Local Government Association, Mr Des Ross, has said that councils felt so strongly about this provision that they might refuse to comply with it. Is the Government determined to press on with this provision in the face of the Local Government Association, which represents the views of 125 councils? Is the Government so hell bent on implementing its policy that it will do that? I am appalled to think that this Bill, which is really the child of the Hon. Mr Hill who, as the undoubted architect of it, set it in motion about three or four years ago when he came into office, will be twisted and turned by this Government to destroy the goodwill that has been developed through the long period of consultation between councils, Government and Ministerial officers.

The Hon. C.M. Hill: I certainly did not have this clause in my Bill.

The Hon. L.H. DAVIS: The Hon. Mr Hill rightly interjects that was certainly not part of the model Bill proposed by him as Minister of Local Government. It flies in the face of the politics of consensus which this Labor Party Government claims to practise. I oppose it and I am delighted to see that the Australian Democrats also have an abhorrence of this proposal and will join the Opposition in ensuring that it does not pass in this Council.

The Hon. DIANA LAIDLAW: It is my firm belief that as long as councils in this State meet their obligations under the Local Government Act every council should be entitled to choose when and where it meets and how often it meets, as long as it has regard in each instance to all the local factors and circumstances. It is on that basis that I find, as my colleagues have expressed earlier, this insistence by the Government that all meetings be held after 5 p.m. quite abhorrent in respect of a level of government which is recognised in our State Constitution. I do not believe that local government should be dictated to in this manner.

The Local Government Association's submission to the Minister indicated that any adverse reaction caused by council decision in this regard should be dealt with through public pressure manifested in public opinion, and I support fully that argument. There have been few instances, as I indicated earlier in the debate, where people have been excluded from standing for local government because of the times that councils meet. It does not surprise me that councils are entirely united in their resolve that they will not accept this proposition put forward by the Government. In his second reading speech the Minister stated that the after 5 p.m. provision was vital to ensure that local government was accessible to everyone in the community. That is a most laudable aim and it is one that I and, I am sure, all members in this Chamber, support. However, the argument clearly comes down, if one listens to the Minister's remarks on this clause, as a king hit for the Adelaide City Council. If one considers the situation in metropolitan councils and provincial councils throughout South Australia, one finds that only two councils meet before 5 p.m.

I refer to the Adelaide City Council, which meets in the afternoon, and the Noarlunga council, which meets at 4 p.m. For the information of the Committee, I will detail the composition of the Adelaide City Council to indicate clearly that even though it meets during the day, that certainly does not preclude an enormous range of professions and interests from being represented and contributing to the council. Those professions represented on that council include a laundrette proprietor, travel agent, retired businessman, shopkeeper, wholesale distributor, advertising executive, solicitor, doctor, public servant, retailer, State registered nurse, investor, another public servant, a solicitor, insurance broker, restaurant proprietor, another retailer, retired teacher, architect, and a company director. I strongly challenge the Minister to suggest that that range of people on the council shows that a council meeting during the afternoon did not allow for a full range of interests to be represented.

I dwell on city councils because many members who spoke before me specifically dealt with country councils.

There is no doubt that the Government's requirements in this provision would impose immense burdens on them. I think that those members before me dwelt insufficiently on metropolitan and provincial councils, and that is why I will speak to them further. It is a fact that 82 per cent of all South Australians live within the greater metropolitan area. Technically, they have full access to council meetings at this time with the exclusion, as I indicated earlier, of Adelaide in the afternoon and Noarlunga, which meets at 4 p.m. All other metropolitan councils happen to meet after 5 p.m.

It is very interesting that they are equally adamant with all but seven other councils in this State that councils should not be dictated to by the Government. They have expressed equally their strong opposition to the Government's proposals. I believe that it is important in this regard that councils should have a choice of when they can meet. The major city councils in Victoria and New South Wales certainly meet in the evening. I acknowledge that, but they do so by choice and not by the Government's dictatorial hand.

My final point, which I raised at considerable length during the second reading debate, is that I believe that insisting that all council meetings, and this argument will apply equally when we discuss committee meetings, be held after 5 p.m. will be specifically harsh on women's opportunities to serve on councils. Notwithstanding the fact that prescribed items for reimbursement would include child care expenses, many parents do not favour that option for the care of their children. Even if they do not mind using child care for their children, in many areas such care is not available in the evenings at a convenient location for their use. I oppose the provision for a number of reasons, including the fact that I believe that it will reduce the opportunity for women to serve in local government.

The Hon. K.L. MILNE: The Government is aware that reforms in local government are always unpopular, as the Hon. Geoff Virgo has cause to remember. I simply cannot understand why the Government perseveres in making more enemies than necessary. The Minister just said that 75 per cent of employees work from 9 a.m. to 5 p.m. Factory workers, for example, would stop work at 5 p.m., according to those figures. They would have to go home, clean up, change, have a meal and then get to the council. Therefore, 7 p.m. would be the earliest that they could attend a council meeting.

Public servants on flexitime could get to a council meeting by 5 p.m., quite easily; teachers could get to a council meeting by 5 p.m.; and white collar bank officers and clerks could often get time off much more easily than people working in a factory, so they could get to a council meeting by 5 p.m. This rule is not made for the group of people that the Government says that it has in mind, that is, those people who are members of the UTLC group of unions. It is not made for them, yet it is they who have supported the ALP over the years, year in and year out for generations. The blue-collar workers have supported the ALP, but the Government is now making a rule, as it often does, that does not suit that group of workers.

The Hon. J.R. Cornwall: The Bill provides that a council shall not meet before 5 p.m. It could be at 8 o'clock at night.

The Hon. K.L. MILNE: It will not help them. It is helping other people. This is another example of the Government's habit of biting the hand that feeds it, just to kiss the hand of those groups that supported it at the last election—the teachers and the public servants. The Government cannot say that teachers and public servants did not support it at the last election. They spent thousands of dollars supporting the Government.

The Hon. Diana Laidlaw: And they have been handsomely repaid since then.

The Hon. K.L. MILNE: That is another matter. The Government is taxing beer and cigarettes and allows 17.5 per cent loading on high salaries, which hurts those people on low salaries and wages.

The Hon. J.R. Cornwall: Don't you agree with the cigarette tax?

The Hon. K.L. MILNE: That is a different matter. Do not distort it; that is what the Government has done. The Government allows penalty rates in hotels at weekends when a family man wants to take out his family. The Government keeps on hurting those people who support it. I could go on, but I will not. I want to prove that this idea of not meeting before 5 p.m. does not really help people. It is the wrong approach and I would much prefer that the Government gave further thought to the question of reimbursement for time lost or a tax deduction for those employers with employees who serve on a council. It should be something radical, not this idea, which is not radical at all—it is just discriminatory. I do not think that that is what the Government is after. I ask the Government to reconsider the question of what can be done in the way of tax deductions or benefits for employers and employees who want to serve in this third and very valuable tier of government.

The Committee divided on the amendment:

Ayes (9)—The Hons M.B. Cameron, L.H. Davis, I. Gilfillan, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (6)—The Hons Frank Blevins, G.L. Bruce, J.R. Cornwall (teller), Anne Levy, C.J. Sumner, and Barbara Wiese.

Pairs—Ayes—The Hons J.C. Burdett, R.C. DeGaris, and Peter Dunn. Noes—The Hons B. A. Chatterton, C. W. Creedon, and M.S. Feleppa.

Majority of 3 for the Ayes.

Amendment thus carried; new section as amended passed.

New sections 59 and 60 passed.

[Sitting suspended from 6 to 7.45 p.m.]

The CHAIRMAN: Before dinner, the Committee was dealing with clause 7, in respect of which the Hon. Mr Hill and the Hon. Mr Milne have identical amendments on file. The Hon. Mr. Milne!

New section 61—'Meetings of Council committees.'

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

Page 33, lines 9 and 10—Leave out subclause (2).

The same arguments apply in support of this amendment as applied to the amendment in respect of the same principle operating in a council. To provide that committee meetings may not be held before 5 p.m. does not solve the problem facing the Government.

The Hon. C.M. HILL: There is no point in reiterating the arguments enunciated earlier concerning the prevention of the holding of council meetings before 5 p.m. The same principle applies to committee meetings, to which this amendment relates. I ask the Committee to support the amendment, which strikes out the provision stating that meetings of a council committee may not be held before 5 p.m.

The Hon. J.R. CORNWALL: The Government's position has not changed, so, for the reasons that I outlined before the dinner adjournment, and in the interests of democracy, the Government supports the amendment.

The Hon. K.L. MILNE: It is not a question of democracy. One has to remember that as many people will be disadvantaged as will be advantaged. When are council inspections to be made if council meetings are held after 5 p.m.? In some big councils these inspections occur several times a year and have to be made in daylight.

The Hon. J.R. Cornwall: They are not official meetings.

The Hon. K.L. MILNE: It does not matter; somebody has to get leave to be there. I am saying—

The Hon. J.R. Cornwall: They are not prohibited, though.

The Hon. K.L. MILNE: No, they are not, but the same sorts of people have to get time off or lose wages to attend council inspections. I do not think that matters have been thought through.

Amendment carried; new section as amended passed.

New section 62—'Meetings to be held in public subject to certain conditions.'

The CHAIRMAN: I call members' attention to page 33, line 18. There is a significant drafting alteration to insert 'other' before 'professional', that will be made in accordance with Standing Orders.

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

Page 33, after line 32—Insert paragraph as follows:
(ia) matters relating to actual or possible litigation involving the council or an officer or employee of the council;.

This amendment deals with meetings of councils being held in public subject to certain exceptions. I support the concept of council meetings being held in public. Quite properly, the Government has provided for some exceptions and these are listed. In other words, council meetings will be held in public, except under certain conditions when such meetings should be held in camera: for example when councils are considering tenders for work, appointments, suspensions or dismissals of staff and matters of that kind. I think that the number of exceptions to this rule should be limited. However, it is obvious that there are some circumstances when the public should not be present at meetings. My amendment simply adds another situation to the list compiled by the Government in relation to that matter. This matter was brought to my notice by the Adelaide City Council and I think that their case, in this instance, is worthy of the support of this Council.

The Hon. J.R. CORNWALL: The Government accepts this amendment.

Amendment carried; new section as amended passed.

New section 63—'Meetings of electors.'

The CHAIRMAN: I draw members' attention to clerical corrections on lines 7, 8, 16 and 20 on page 34, that will be made in accordance with Standing Orders.

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

Page 34, lines 28 and 29—Leave out subclause (4) and insert subclauses as follows:
(4) A meeting of electors under this section shall not proceed unless at least one member of the council is present at the meeting.
(4a) Where the mayor or chairman is present and available to preside at a meeting of electors held under this section, he shall preside at the meeting.

This amendment deals with meetings of electors. I commend the Government for introducing this concept into the legislation. It provides that meetings of electors on any issue relative to a council can be arranged by the council. Of course, this is a means by which a council can consult with and involve members of the public in community matters upon which the council is deliberating. My amendment simply tidies up the matter concerning a member of the council, or the mayor or chairman of the council being present and presiding at such meetings. My amendment is a substitute for the stipulation currently in the Bill which provides that:

The mayor or the chairman of the council shall preside at a meeting of electors held under this section.

With my amendment I am following what the Government has provided in the Bill, namely, that the mayor or chairman shall preside at such meetings, but am further providing that a meeting of electors shall not be held unless at least one member of the council is present. That overcomes problems of misunderstanding that can easily occur if a meeting of electors called by the council is held but when no-one from the actual membership of the council is present, at which time things might be said or decisions might be made which really ought not be made unless a member of the council is there personally to hear debates, and, if called upon, to contribute.

The Hon. J.R. CORNWALL: The Government accepts this amendment.

The Hon. K.L. MILNE: I would prefer that two members of the council be present. I do not see any reason why it should be the mayor or the chairperson. I would feel a lot happier if in regard to matters that may be serious to an area concerned there is a stipulation that two councillors are required to be present, and, of course, the chairman would need to be elected. Accordingly, I move to amend the amendment as follows:

Leave out 'one' and insert 'two'.

The Hon. C.M. HILL: I appreciate the Hon. Mr Milne's point, and it is deserving of support, on the face of it. However, when one thinks a little more deeply about the matter, one recognises that in metropolitan Adelaide there are two councillors for a ward. If there is an issue within each ward, which is the subject of an electors meeting being held by the council, then in practice both councillors of that ward most surely would be present, not only because it is their duty to be there but because they would want to be present as part of their job. If they were not present they probably would not get support at the next election and would deserve their fate. If the subject of a meeting was an issue affecting more than one ward, then that would mean that there were probably two or more councillors present. This is not taking into account aldermen who might well attend.

The Hon. K.L. Milne: 'Two members of the council' could be a mayor and another one, an alderman and a mayor, or whatever combination. It ought to be two.

The Hon. C.M. HILL: The amendment that I moved says, 'The meeting shall not proceed unless at least one member of the council . . .' That envisages a situation when seldom would there be only one member. I wonder whether it is really necessary to specify legislatively that this should be increased to two. I know the honourable member's point, but on reflection I would come down slightly on the side of leaving it as it is. I do not know what the Government thinks about it.

The Hon. J.R. CORNWALL: We think that the Hon. Mr Hill, in this matter at least, is showing the wisdom that sometimes comes with long experience. I support his remarks.

The Hon. Mr Milne's amendment negatived.

The Hon. Mr Hill's amendment carried.

The CHAIRMAN: Some further clerical adjustments will be made in accordance with Standing Orders:

Line 38, delete 'such' and insert 'a'; insert after word 'member' second occurring the words 'so appointed'.

New section as amended carried.

New section 64—'Minutes.'

The CHAIRMAN: The following clerical adjustment will also be made:

Line 17, delete 'a' at the beginning of subclause (3) and insert 'subject to subsection 6 *(a)*', and also in line 40.

New section passed.

New subsection 65 passed.

New section 66—'Chief Executive Officer.'

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

Page 36, line 19—
After 'deputy' insert 'or he is absent'.

This is purely a technical amendment. If the deputy is not there it allows someone else to be appointed in his absence. It is not a policy matter, but purely a technical matter.

Amendment carried; new section as amended passed.

New section 67 passed.

New section 68—'The Local Government Qualifications Committee.'

The Hon. R.I. LUCAS: Every few pages in this Bill we stumble across another statutory authority. In new sections 68 and 69 we have the Local Government Qualifications Committee, which consists of seven members, who will be entitled to allowances and expenses. Will the Minister explain under new section 68 in a little more detail the precise functions of the Local Government Qualifications Committee and, in particular, whether some of the courses that appear to be envisaged under the regulation making power of subclause (4) are being offered by other existing institutions at the moment?

The Hon. J.R. CORNWALL: The answer to the last question is 'No'. I point out to the Hon. Mr Lucas that in this case we are replacing two committees with one; so it should be a cause of some joy to him as he beavers away. There was formerly an engineers committee and a clerks committee. There is now this Local Government Qualifications Committee proposed, which will supervise all professional and sub-professional employees' qualifications, whether they be building inspectors, engineers and so forth—a plethora of people who are rightly and appropriately employed by local government. The only people that it will not cover are health surveyors, who will remain under the Central Board of Health/Health Commission umbrella.

New section passed.

New sections 69 to 72 passed.

New section 73—'Local Government Superannuation Board.'

The Hon. C.M. HILL: The Division for superannuation beginning with new section 73 going through to new section 78 includes the provisions which were passed in legislation recently concerning the superannuation scheme for local government. These provisions in this Bill are identical to those in the Bill passed in the Council establishing machinery under which a local government superannuation scheme State-wide could be introduced. If this remains in this Bill, it will mean that there will be two Acts of Parliament with the same provisions, and that would clutter up the Statute Book in quite a ridiculous way. Should we at this stage delete this Division from this local government Bill and let the other stand, or is it the Government's intention not to proceed, and presumably proclaim, the other Act so that it will appear only in the Local Government Act in future?

The Hon. J.R. CORNWALL: The Bill recently passed on local government superannuation in this Council has been proclaimed. It was a matter of some urgency and was regarded as such at the time. It will be repealed upon proclamation of this new local Government Act and will be incorporated accordingly.

The Hon. C.M. HILL: I accept that.

New section passed.

New sections 74 to 80 passed

New section 81—'Bribes.'

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

Page 42, line 41—Leave out 'Five' and insert 'Ten'.

This is a further proposed increase in the penalties for offences under this new legislation. It deals with any person who offers a bribe to an officer or employee of a council, and that would be a very serious offence. I propose that the penalty, which is $5 000 or imprisonment for one year, should be increased to $10 000 or imprisonment for one year, in line with the increases which were passed earlier when we were dealing with people offering bribes to members of council. This is a maximum penalty and it is up to the court to actually fix the sum.

Amendment carried.

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

Page 42, line 44—Leave out 'Five' and insert 'Ten'.

This deals with the question of the offence of an officer or employee in those same circumstances who accepts the bribe. That also is in local government an extremely serious offence and should carry the same penalty of a maximum of $10 000.

Amendment carried; new section as amended passed.

New section 82—'Authorised persons.'

The Hon. R.I. LUCAS: New sections 82 and 83 empower councils to appoint authorised persons. New section 83 provides:

> . . . an authorised person may—
> (*a*) require a person who is reasonably suspected by the authorised person of having committed a breach of this Act to state his full name and address;
> (*b*) after giving such notice as may be reasonable to the owner or occupier of premises, enter the premises for purposes related to the enforcement of this Act;
> (*c*) if so authorised by warrant of a justice, break into premises for purposes related to the enforcement of this Act.

Will the Minister explain the potential situations that are envisaged and which require these powers to be given to authorised persons?

The Hon. J.R. CORNWALL: I suppose that dog control wardens would involve one area that comes to mind immediately. Under the existing Act, local government has the power to appoint constables, who have very considerable powers. The Hon. Mr Lucas said that they can break and enter premises with a warrant. First they have to go to a justice or a magistrate to obtain that warrant. So there are actually more safeguards under the new—

The Hon. R.I. Lucas: Is dog control the major factor?

The Hon.J.R. CORNWALL: Dog control is one area that comes to mind immediately. I refer to building inspectors and health surveyors. There are many inspectorial functions which local government carries out ranging from dog control wardens to health surveyors (both of which areas are very close to my heart) through to building inspectors, and so forth. It will be these people to whom this series of amendments will apply. I can assure the Hon. Mr Lucas and other members of the Committee that it is not the intention, nor is it in fact the practice, to give these people excessive power to allow them unecessarily to harangue or harass people.

New section passed.

New sections 83 to 90 passed.

New section 91—'Qualification for enrolment.'

The CHAIRMAN: Another correction is required, as follows:

Page 45, line 33—Leave out 'assuming' and insert 'taking up'.

There are a number of corrections that we have not bothered to read out, but that was a more significant correction.

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

Page 45, lines 38 and 39—Leave out 'the sole owner or the sole occupier of that ratable property' and insert:

> '—
> (A) the sole owner of the ratable property;
> (B) the joint owner with one other natural person of the ratable property;
> or
> (C) the sole occupier of the ratable property;'.

This matter now relates to the qualifications for enrolment for local government. In the second reading debate I indicated that in the 1970s the Labor Government of the day introduced considerable change to the question of enrolment for local government. It placed the emphasis much more on people who were residing in a council area rather than in the traditional property base which historically formed the basis

of local government enrolment. At that time those changes, although they were feared in some quarters, were accepted as quite proper, particularly because at about that time the Commonwealth Government started to channel funds into local government.

Those funds, as honourable members will recall, being a percentage of personal income tax collected by the Federal Government from the people at large. So, the people at large within a council area were contributing income tax which came back, one could say, to that council area and, therefore, those people were entitled to enrolment. That carried with it, of course, the right to vote and the right to stand for council, and so forth.

What has happened in practice since then is that there have been some serious queries as to whether the pendulum went a little too far. No one has seriously questioned changes such as companies having three votes being reduced to one vote, and so forth. I am not dealing with that, but there are one or two instances where, in endeavouring to implement its policy, the Government has perhaps gone a little too far.

One such issue I am trying to correct by this amendment involves the situation in which a couple have a holiday, beach or second house in their joint names, and only one person is entitled to enrolment. If their principal place of residence is in the suburbs of Adelaide both the husband and wife are entitled to vote—one as the agent for the property, irrespective of whether it is in the man's name or joint names, and the other (let us say the wife) is entitled to vote because she is on the House of Assembly role in that region.

Years ago people had these holiday or beach houses that they visited at certain times, but not for very long periods. Times have changed considerably. We now have much more leisure time. Early retirement gives people in their mid-fifties or early sixties ample time to stay at these second homes. Added to that is the fact that in such holiday resorts holiday house owners tend to play a considerable role in community affairs in the region. Let us take an example of people who have a house in joint names at Aldinga Beach, yet their principal place of residence might be at Prospect. Many people spend months of a year at places such as Aldinga Beach. They take an interest in conservation in those areas and in council activity as it applies to recreational facilities, amenities, and that sort of thing.

The Hon. K.L. Milne: Supervising Maslins Beach!

The Hon. C.M. HILL: Yes, supervising Maslins Beach if that requires a great deal of supervision! I do not know much about it. The Hon. Mr Milne might contribute to the debate and produce some colourful facts for us upon which to base further opinions. He could give us some statistics on the subject. But, there is the question of beach and foreshore control. These people do play a much greater role in, as I have said, community affairs in those areas than was the case years ago when perhaps for two weeks at Christmas time they went to their holiday houses and for the rest of the year the little houses were closed up.

It has been brought to my notice by such a person—and this is only one example of many—that those two people who own such a beach house have been very offended by the fact that whilst they jointly pay rates to a beach council only one of them is entitled to enrolment. They claim that because of these circumstances both of them should be entitled to vote in the same way as the permanent resident a little further along the street at Aldinga Beach where a husband and wife are living, both of whom have the right to vote, one as agent for the ownership and the second because that person is on that particular Assembly roll. I do not think it is too much to expect, in the flexibility and elasticity that ought to be brought to bear by a Government in dealing with these situations, that, understanding the tradition of local government (which, in this case, is that if a person has an interest in property there, is involved in community activity, is very interested in the progress of that particular area and wants to contribute at the local grass roots area of government in that area), a woman—a housewife—in that situation should be entitled to vote.

Apart from that example, of course, there is the overall question of women having the right to vote, anyway. The present law, which I am trying to improve, must preclude many women in similar circumstances all over the State from voting in an area in which they own second houses or shacks.

Perhaps it might be a very good thing if those women in those local affairs were given the opportunity to enrol and to cast a vote in local government elections. I hope that the Government appreciates the example that I have used and what I am trying to do and that it will look with some sympathy on this situation, which concerns a considerable number of South Australians.

The Hon. J.R. CORNWALL: That was a wonderful plausible story! If the Hon. Mr Hill had not been successful in real estate earlier in his career, I am sure that he would have made a wonderful used car salesman. It never fails to amaze me that some of the old troglodytes cannot help reverting to type. We have had these arrangements in the Local Government Act—

The Hon. C.M. Hill: Who was talking about getting personal earlier?

The Hon. J.R. CORNWALL: I generalised the reference to troglodytes. I thought they were a dying race, but occasionally even people like the Hon. Mr Hill who over the years have shown glimpses of small 'l' liberal tendencies slip back.

The Hon. Frank Blevins: And revert to type.

The Hon. J.R. CORNWALL: Yes. What the Government proposes in the Bill is exactly the same as has been in the Local Government Act for almost eight years. It underpins and underwrites the whole move towards citizens' voting rights. It is not the old property franchise where those who owned one property were better than those who owned none, and those who owned two properties were better than the rest. The amendment is quite extraordinary. I cannot speak for the entire Government, and at this moment I have not conferred with my colleague, the Minister of Local Government. However, I suspect that this provision is so fundamental, so important and so basic to the democratic freedoms and the democratic rights of South Australian citizens that we may well have to lose the entire Bill if this amendment passes. I appeal to the Hon. Mr Milne. He should not chuckle, because we are talking about a very basic democratic right.

The Hon. K.L. Milne: I can't understand it.

The Hon. J.R. CORNWALL: I will explain it to the Hon. Mr Milne very slowly. The Hon. Mr Hill referred to a charming middle-aged couple living in Prospect who buy a home at Victor Harbor, Goolwa or wherever one likes. He said that the poor woman—the spouse—is disfranchised. The husband, who has the house—the weekender—in joint names, is allowed to go off and vote, but the poor little spouse is not. She is disfranchised; she is set upon and disadvantaged in the community. What a lot of nonsense! The fact is that that woman and her husband can vote at Prospect, St Peters, Norwood, West Lakes, Woodville, or wherever their principal place of residence is located, in the same way as any other citizen who is on the electoral roll can vote in the ward or council area in which they have their principal place of residence. No-one is disfranchised. That is a lot of emotional nonsense, which is entirely misleading.

Once they purchase a second property, whether at Victor Harbor, Moonta Bay or anywhere else, one or the other is entitled to vote. In that way they are getting 'overs' to some extent. They have already had one vote each in their principal council area. One or the other, under the proposals in the Bill, has an additional vote in the area in which their holiday home or weekender is located. If the Hon. Mr Hill is so concerned, posing as someone who is concerned about democratic rights, he could nominate his spouse as his agent. I am not trying to personalise the debate, but if the Hon. Mr Hill or anyone else owns a second residence and they are so inclined to support the rights of women and equality in our society, with the stroke of a pen they can nominate their spouse as their agent.

She can vote all right; there is no trouble at all about that. However, we do not accept, and will never accept it, given this whole thrust for more than a decade in this State, dragging it out of the 19th century. We did it in the Legislative Council in historic circumstances in the early 1970s. We then moved it into local government to a significant extent. We did away with the property franchise and the notion of second class citizens. Every citizen in South Australia these days, whether it is at the Federal level, the State level or in local government elections, is just as equal as any other citizen, with this one exception where, because of the local interest and because if one has one's weekend holiday home or whatever the second property might be, we take the very reasonable line that, 'Yes, you are entitled to one vote.'

That is a very reasonable and indeed almost small 'c' conservative line, but not one millimetre further will we go, and I reject this amendment completely on behalf of and with the full authority of the Government.

The Hon. Diana Laidlaw: Although you haven't consulted the Minister.

The Hon. J.R. CORNWALL: Yes, I have.

The Hon. C.M. HILL: When you started your speech you hadn't consulted your Government and now, when you end it, you are speaking with its full authority.

The CHAIRMAN: Order!

The Hon. C.M. HILL: A point which I want to make to the Minister relates to his saying that we base our franchise on citizenship. In my example, the woman involved deems herself a citizen at Aldinga Beach.

The Hon. J.R. Cornwall: She wants to vote early and often in your submission.

The Hon. C.M. HILL: No, she does not. The Minister should not argue in a stupid way. She wishes to have the right to vote in a council which is 20 miles away in Prospect because she is a citizen there also. If that woman spends considerable time at Aldinga Beach and if she involves herself in local grass roots government affairs there, as I explained, I think that her claim that she is just as much a citizen at Aldinga Beach as she is in Prospect is quite strong. The Minister will say to me, 'Well, one cannot be a citizen in two places.' Of course, dual citizenship is something of which I can quote many examples the world over. The Minister has some cockeyed idea that she can have only one vote, irrespective. I am not asking for two votes in Prospect: I am not asking that she has two votes at Aldinga Beach.

The Hon. Frank Blevins interjecting:

The Hon. C.M. HILL: No, she cannot. The Hon. Mr Blevins is speaking quietly and trying to help the Minister. The situation is that if the woman in question is in the circumstances as I have explained them she has a strong case for a right to vote in the council at Aldinga Beach, and I remain unconvinced by the Minister's reply. If the Committee passes this amendment, she will be given that opportunity. I think that the Minister said in his reply that the Government would lose the Bill if this was carried. Let him lose the Bill as far as I am concerned. We do not yield to threats from him for the Government.

The Opposition takes a considered view on all these issues because we are trying to get the best possible legislation for local government in this State and the best possible legislation to suit the community of South Australia. If there are circumstances as I have explained them, let us take them with a little humanity and understanding rather than the broad brush principle that this woman is entitled to only one vote and must decide whether she wants to vote in the council of Willunga at Sellicks Beach or whether she has to vote for the Prospect council, where she has lived for 30 or 40 years but where she may be spending now only about eight months of the year. The case still remains strong, and I am not affected at all by the reply that the Minister just gave.

The Hon. J.R. CORNWALL: Let us examine the proposition that the Hon. Mr Hill has now tried to expand even further. He referred to a little woman who goes to Aldinga on a regular basis. She operates at the grass roots level, participates in working bees, and is a splendid citizen generally. She has a vote at Prospect and dashes off down to Aldinga and has another vote. What would be the position with a similar woman who might perhaps be a generation younger and who goes to Maslins, or to any number of popular beaches, on a regular basis?

The Hon. Diana Laidlaw: Is she paying rates?

The Hon. J.R. CORNWALL: That is the nub of the issue. The honourable member is trying to create first and second class citizens, and that is precisely why we reject the proposal. People may visit these areas on a regular basis, each weekend, and they may have a particular interest in the place, but they do not own property. Even the Hon. Miss Laidlaw, who on occasions has shown a glimmer or two of small 'l' liberalism, and who has occasionally given some indication that she might be moderately progressive, has demonstrated that when it comes to the old property franchise a conservative is a conservative—as conservative as possible. That is where members opposite give themselves away.

We reject the notions of a property franchise and of there being two classes of citizens. We give a significant concession—if a person owns a second property, not only the principal place of residence, he is entitled to a vote and to some say in the local government in that area. However, to extend the provision fully so that both owners are franchised in regard not only to the second property but also to the principal place of residence frankly is just not on.

The Hon. K.L. MILNE: It is perfectly simple. If I was living in Victor Harbor, where many people have second homes, I would resent the owners of those properties having a say in what went on when they were living in the area only part of the year. I can recall that not so very long ago such a person did not get a vote at all. This is a big concession, and I believe that the husband should continue to have the vote in that case. I cannot believe in all this nonsense about women getting the vote in these circumstances. That is carrying things much too far.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

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

Pair—Aye—The Hon. M.B. Cameron. No—The Hon. M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived; new section passed.

New section 92—'The voters' roll.'

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

Page 47, line 3—Leave out 'second Thursday in March' and insert 'fourth Friday in February'.

This amendment and the following one deal with the dates on which the voters' roll is to be revised. They are associated with the periods prior to the election date. Because the Committee has already agreed that the election date in future shall be the third Saturday in October, whereas the Bill provides for a date in May, this amendment conforms to the change already agreed to by the Committee.

The Hon. J.R. CORNWALL: The Government opposes this amendment and the following amendment as it opposed the previous amendments. However, I shall not call for a division on these amendments as the Government has not adequate support to defeat them.

Amendment carried.

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

Page 47, line 5—Leave out 'second Thursday in September' and insert 'fourth Friday in August'.

This amendment is consequential on previous amendments.

Amendment carried.

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

Page 47, line 8—Leave out 'first Thursday' and insert 'third Friday'.

Amendment carried; new section as amended passed.

New section 93 passed.

New section 94—'Date of elections.'

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

Page 48, lines 9 to 12—Leave out subsection (1) and insert subsections as follows:

(1) Elections shall be held to fill vacancies in the membership of each council on the third Saturday of October in 1985, on the third Saturday of October in 1987, and so on at intervals of two years.

(1a) Notwithstanding the provisions of subsection (1), the Minister may, upon the application of a council, by notice published in the *Gazette*, postpone the day for the holding of elections under subsection (1) for that council to a subsequent day in the same year fixed in the notice.

(1b) The office of a member of a council shall be regarded as being vacant for the purposes of elections under subsection (1) if the terms of the office expires at the conclusion of the elections.

The Hon. Mr Milne and I both propose to amend the new section so that the time of elections will be two years with the election day being the third Saturday in October, a point that has already been decided. My amendment goes on to provide that a council can postpone the day of holding the elections to a subsequent date in the same year. I certainly do not want the question of a possible postponement to rupture our thinking.

The Hon. K.L. Milne: It is a good idea.

The Hon. C.M. HILL: Right. The Committee has already decided that the date of elections will be the third Saturday in October and that the actual elections will not be staggered but shall be held all at the one time. Faced with the possibility of that situation, as I was when compiling these amendments, one had to then look at the most appropriate period of service for local government. I now accept that the Committee has decided that it will be an all-out principle, that is, the whole council will face the people at the end of its term. The point then arises as to whether one should adopt the Government's approach in the Bill of a three-year term and then have all-out elections or whether an alternative period would be better. Previously, I supported the question of a four-year term with alternate dates. As two-year terms tend to be favoured by many people to whom I have spoken, I came down with the view that the most appropriate period of service would be two years, with an election at the end of each two-year period.

Then there is this rather innovative issue embodied in the amendment, namely, that if for some reason or other a council believes that the fixed date for elections, that is, the third Saturday in October, is not a suitable date and that a Saturday a few weeks after that might be more suitable, then, under this amendment, a council will have the right to apply to the Minister for a postponement. It might well be that in regard to a country council a calamity might have occurred, such as severe flooding throughout the district after which clearing up work and rehabilitation work and so forth might have accounted for all the council's resources for the month and possibly for months to come: obviously, in those circumstances it would not be easy for the council to arrange a well planned election for a fixed and known date. In a situation like that I believe that a council ought to have the right to be able to endeavour to postpone its election for a few weeks. The amendment does not change the dates in regard to calling of nominations. There is no awkward and complex difficulty in that respect.

I think this tends to give local government a little more initiative and a little more autonomy to use its own abilities in certain circumstances to fix a more appropriate date than the third Saturday in October. I do not know whether this new proposal applies anywhere else in Australia. I do not think it does, and I have not had a chance to formally check up on that. However, it does not matter whether or not it applies elsewhere in Australia. Why should we not be the first? Why should we not be innovative? As I said earlier today, it has been 50 years since a major reform of the Local Government Act was achieved. This Bill is the first of five reform measures in that quite gigantic task. Why should we not look ahead and recognise that we ought to provide framework of legislation which at least will stand the test of time over the next 50 years? If we are to do that and to act in a bold way, we should grasp proposals such as the one I have suggested and give this little flexibility to local government while at the same time recognising that the Minister has the final say, anyway. I suggest that it is not asking too much of the Government to accept a proposal of this kind.

The Hon. K.L. MILNE: I do not know what proposed subsection (1b) is all about.

The CHAIRMAN: The Hon. Mr Milne has an amendment on file also in regard to new section 94. I shall give both honourable members the opportunity to speak to their amendments. We shall take as a test case the first two lines of the Hon. Mr Hill's amendment. Does the honourable member wish to speak to his amendment?

The Hon. K.L. MILNE: I congratulate the Hon. Mr Hill on his amendment providing for intervals of two years, as I am glad that that provision is there. I have discussed the matter with the honourable member. That is the only alternative that had not been canvassed but has turned out to be the one that is most popular. I agree entirely with the Hon. Mr Hill's proposed new subsection (1), which is virtually the same as my proposal, and with proposed new subsection (1a) which gives the council the opportunity to alter the date, which I think is a very sensible thing—very modern and very progressive. I wish I had thought of it myself. However, I do not understand proposed new subsection (1b), and I would like an explanation of that. I am sure it is a quite simple matter.

The Hon. C.M. HILL: It is only a machinery measure dealing with the term of office expiring at the actual conclusion of the elections.

The Hon. J.R. CORNWALL: The Government opposes the Hon. Mr Hill's amendment, which is at best silly and at worst awful. It really creates a situation where, the matter having been decided by legislation and duly passed by both Houses of Parliament, the whole thing is suddenly turned into a bit of a joke by the polling day being declared a movable feast. Just at a time when the trend throughout Australia at least is to fixed terms, particularly at the State level where there is a general move in that direction, the Hon. Mr Hill wants to give individual councils the power to apply to have their elections changed all over the place. Quite frankly, that is just plain foolish. However, there may be some virtue in the Governor's having a general power to defer in circumstances where there has been some sort of natural disaster or some tremendous problem that has beset the State.

The Hon. C.M. Hill: Football final.

The Hon. J.R. CORNWALL: No, we canvassed that earlier in the day, but there is no virtue at all in having every council around the State individually having the right to apply to have a series of movable feasts, virtually at individual discretion. If the Hon. Mr Hill indicated that he would consider the Governor's being given this general power on a Statewide basis in special circumstances then there would be some virtue in the amendment. However, there is no virtue in the amendment as it is currently presented, so the Government opposes it.

The Hon. DIANA LAIDLAW: In regard to subsection (1) of the amendment, my views in respect to a council or part of a council facing the electors every two years were canvassed earlier. I see that as a highly desirable move. Although I would have preferred that only half the council faces that possibility, that proposal has now been defeated. I still hold the view that two years and not three is the desirable term to ensure accountability at the local level. Therefore, I fully endorse new subsection (1). In respect to subsection (2) of the amendment, the Mininster's—to put it kindly—insensitive response really is an indication of the approach that the Government has adopted in a number of areas of this Bill. He certainly has a habit of exaggerating and colouring a situation quite dramatically because he has distorted—

The Hon. L.H. Davis interjecting:

The Hon. DIANA LAIDLAW: Yes. He has conveniently distorted the intention that was outlined by the Hon. Mr Hill in this amendment. If he reads the amendment carefully he will notice that it is only with the consent of the Minister; that it would have to be published in the *Gazette*; and that any decision to delay the holding of that election could be only to a date within that same year. No council would want to hold an election very close to Christmas. If that happened, one would envisage a delay of a month or so. In circumstances like those of the fire we witnessed on Ash Wednesday, or the floods that followed in the Barossa, it would have been an affront to the people who had suffered in those catastrophes if their councillors had been rushing around trying to drum up support for themselves for an election rather than trying to positively help the people in those areas.

We feel that it is only in exceptional circumstances such as those major catastrophes that a council would consider applying to the Minister, and it is certainly only in exceptional circumstances that the Minister would ever grant the council's application. I would agree that it is desirable that all councils hold their elections on the one day and the Local Government Association has been most positive in its publicity in recent years highlighting the fact that an election is being held and encouraging people to vote. That has been rewarded in an increase in turnout of electors and certainly one witnesses in by-elections that the turnout is greatly reduced. We are not advocating by new subsection 1a that there be a whole flood of council elections scattered over a period of time other than the set day for that election. We are talking about exceptional circumstances and this amendment shows great sensitivity to a council and the people who would be afflicted by a major catastrophe if that did occur in the area. I wholeheartedly support the Hon. Mr Hill's amendment.

The Hon. C.M. HILL: I have had an opportunity to read the Hon. Mr Milne's amendment in detail and, as his wording is better than mine, I seek leave to withdraw my amendment and I yield to him in regard to the first part of it. That part deals with the fact that there shall be two-yearly elections with elections on the third Saturday in October, the first one being in 1985. If the Committee carries Mr Milne's amendment, then I shall move a further amendment concerning this question of postponement.

The CHAIRMAN: The Hon. Mr Hill seeks leave to withdraw the amendment that he has just moved.

Leave granted; amendment withdrawn.

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

Page 48, lines 10 and 11—Leave out 'first Saturday of May in 1985, on the first Saturday of May in 1988, on the first Saturday of May in 1991, and so on at intervals of three years' and insert 'third Saturday of October in 1984, on the third Saturday of October in 1986, on the third Saturday of October in 1988, and so on at intervals of two years'.

Thank you, Mr Chairman, and I thank the Committee because I think, whether everyone agrees with what we are doing or not, that the wording is clearer. The more I think about the October date the more I like it because it keeps well away from Easter and the May school holidays. There are very good reasons to consider this very seriously.

The Committee divided on the amendment:

Ayes (11)—The Hons J.C. Burdett, L.H. Davis, R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne (teller), and R.J. Ritson.

Noes (8)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, Anne Levy, C.J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. M.B. Cameron. No—The Hon. M.S. Feleppa.

Majority of 3 for the Ayes.

Amendment thus carried.

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

Page 48, lines 9 to 12—Leave out subsection (1) and insert subsection as follows:

(1a) Notwithstanding the provisions of subsection (1), the Minister may, upon the application of a council, by notice published in the *Gazette*, postpone the day for the holding of elections under subsection (1) for that council to a subsequent day in the same year fixed in the notice.

This amendment deals with the question of postponement. I have explained the matter in full and the Minister has replied. I was rather amused by that section of his reply that said maybe there is a case that can be made out for postponement but, of course, the Governor or the Government (as the Minister meant) ought to have the right to do it. He would not give any opportunity or credit to local government to show any initiative. It was as if Big Brother thought it should be postponed. He wanted the Government to have that power. That displayed two things. First, the high regard that the Minister does not have for local government, its autonomy that it ought to be able to enjoy and its rights of initiative and, secondly, it was an admission

that the principle involved in the amendment was right and proper.

The Hon. J.R. CORNWALL: I thought the Hon. Mr Hill had done all the work on this Bill. I have had to come in with an enormously busy schedule. I am working my normal 14 or 15 hours a day caring for the enormous complexities and administering the enormous complexities of my own portfolio as well as handling Bills in this Chamber for four of my colleagues, including the Minister for Environment and Planning, the Minister of Local Government, the Minister of Housing and so forth. I am enormously busy and, because of that, I have not had the opportunity as the Hon. Mr. Hill and his colleagues have had to sit down and go through the Bill with a fine tooth comb over the past several weeks. This has been a real moment of glory. We have been sitting here since 11.30 a.m. going through this Bill under the premise that the Hon. Mr Hill and presumably the Hon. Mr Milne had done their homework. The Hon. Mr Milne is presumably something of an expert in local government as a former distinguished Mayor of Walkerville and as a former President of the Local Government Association.

They put their heads together on this one so that the autonomy of local government could be preserved and individual councils could have a moveable and flexible situation with regard to their elections. But, they apparently did not read new section 120, so I will take the trouble to read it to them. It provides:

(1) If for any reason it becomes impracticable to proceed with the conduct of an election or poll on the day appointed under this Part, the returning officer may adjourn the election or poll.

(2) Subject to subsection (3), any votes cast prior to the adjournment shall be disregarded and the taking of votes shall be recommenced.

(3) The returning officer may, in his discretion, retain for the purposes of the election or poll advance voting papers received prior to the adjournment.

The Hon. Diana Laidlaw: You said this was a stupid suggestion 10 minutes ago.

The Hon. J.R. CORNWALL: No, it seemed to me that the whole idea of individual councils from all around the State going to the Minister to apply on an individual basis was foolish. It was silly. I am amazed. I am dumbfounded, because even the Hon. Mr Lucas did not discover new section 120.

The Hon. C.M. Hill: He has discovered quite a few things.

The Hon. J.R. CORNWALL: Indeed! He is a real beaver, isn't he!

The Hon. C.M. Hill: Yes, he is.

The CHAIRMAN: Order! I am not interested in beavers at this time of night.

The Hon. J.R. CORNWALL: Sir, if members opposite continue to engage—

The CHAIRMAN: Order!

The Hon. J.R. CORNWALL: —in self stimulation they are likely to do themselves some harm. They should desist.

The CHAIRMAN: Order!

The Hon. J.R. CORNWALL: You are quite right, Sir, and you should control them, too, Sir, as I remind you occasionally.

The CHAIRMAN: And you also, Minister.

The Hon. J.R. CORNWALL: Of course, new section 120 covers in a much better way what the Hon. Mr Hill is trying to do. We do not see the necessity for his amendment. The Government does not support it.

The Hon. C.M. HILL: When I studied the Bill I assumed that new section 120 applied to situations where elections were, one might say, under way and some unexpected occurrence appeared. Some emergency situation could even occur the day before an election. It certainly could occur after the advance voting process had commenced. The Government covered itself for that eventuality quite properly in new section 120. But, I am not concerned with new section 120. I am concerned about a situation which might occur several weeks before the election when it becomes apparent that a postponement would be in the best interests of the local people involved. My amendment would apply in that situation. I seek the Committee's support for it.

The Hon. K.L. MILNE: I am now confused, having taken advice. I believe that new section 120 does the same thing as the Hon. Mr Hill wants to do, but it does not mention that the election must be held in the same year—that is by the end of the year—and I think that it should. If the Hon. Mr Hill cared to move an amendment to that effect when we come to new section 120 I would certainly support it. I think it might be tidier to do it in that way rather than introduce another clause which would have a similar effect.

The Hon. C.M. HILL: But the returning officer is given power under new section 120. However, if there was an emergency situation almost on the day of the election when the returning officer was half way through the process, that would not be the same.

The Hon. L.H. DAVIS: I support the Hon. Murray Hill's observations. If one looks at new section 120, under Division VIII, one sees that it relates to voting at polling places. New sections 112 to 120 relate to polling on the actual day of a council election. New section 120 (2) provides:

any votes cast prior to the adjournment shall be disregarded and the taking of votes shall be recommenced

Quite clearly, on my construction, that relates very much to the situation as described by the Hon. Mr Hill; namely, a situation where voting was about to commence or had just commenced and a natural disaster or some other extraordinary event had occurred. That would lead a returning officer, who by then would be in charge of the election, to use the powers vested in him under new section 120 to abandon the election. The situation before us at the moment is quite different to that.

It may be a natural disaster which occurred some three weeks prior to the scheduled polling date, and it is agreed that the situation will not be corrected in time for the council election to take place on the scheduled date. Under the provisions put forward by the Hon. Mr Hill, an adjustment can take place to overcome an unfortunate occurrence, whether it be a natural disaster or some other extraordinary event. I would not like the Hon. Mr Milne to be deceived by the smoke screen, thin though it may be, that has been cast over this amendment by the Hon. Dr Cornwall.

The Hon. J.R. CORNWALL: Well, I cannot let that pass without saying a few words. The returning officer is actually in charge from the time of his annual appointment each year. In fact, he is not simply in charge on polling day when the creeks are running over the banks or when the fires are all about us. He is in charge of the whole process of an election in any council district from 8 o'clock on the Saturday morning of the election throughout the year. He has very extensive powers indeed. On the expert information that has been provided to me, those powers are more than adequate to do what the Hon. Mr Hill is trying to achieve, provided that there are *bona fide* emergency circumstances or disaster circumstances in which the returning officer may wish to exercise his powers. As I understand it, there is no doubt at all that the returning officer has this power throughout the course of the year.

The Hon. K.L. MILNE: Does the Hon. Mr Hill's amendment to new subsection (1) *(a)* relate to a council wanting to more or less change its election date permanently? If that is not the situation, what is the difference between what the Hon. Mr Hill is saying and what the Minister is saying? I do not think that the Minister is putting up a smoke screen,

and I do not think it is fair to say that. The Minister has received advice about the situation. We now know that the returning officer is elected for the whole year and has these powers. Could a returning officer, simply because the weather was bad or because a council decided to change an election date, simply do that? Would the Minister be happy for that to occur, even when the Minister felt that a returning officer did not have sufficient excuse to make a change?

The Hon. C.M. HILL: A gentleman who first suggested this course of action to me came from the country and has had a lifelong involvement in rural activities. He said that on the third Saturday of October in his council area they were in the middle of shearing.

The Hon. K.L. Milne: Is everyone on the council in the middle of shearing?

The Hon. C.M. HILL: Of course, in a rural council in an area where wool, fat lambs and so forth are produced, sheep carrying is extensive throughout the region. As the honourable member knows, in some rural councils people on the land are by far the majority of people serving on that council. I have a lot of respect for them—more than I have for the Government, which tried to put the boots into them with that five o'clock amendment that the Committee threw out earlier. However, people of that nature express an opinion for which I think the Government of the day should show some respect. Again, it is not up to the returning officer in those circumstances to say, 'It would be better for the people of this region to have the election two or three weeks after the set day.'

That is not the job of the returning officer: it is the job of the council to cast that opinion, because it is considered by that opinion to be more convenient for the citizens of that particular rural area to hold their election and concentrate on and give all their time to the matter of council elections, which are very important to them, on a day subsequent to the set day. I think that that situation was never dreamed of in new section 120, so these are circumstances which I think warrant support for new subsection (1a). We would then have a situation in which the councils themselves in some circumstances could endeavour to convince the Minister of the need for postponement. At the same time there is the second leg in the proposed new section 120 where, in the event of an unexpected emergency I would think very close to the day if not on the day, the returning officer is given the power under this legislation to act and so cause the same result.

The Hon. R.I. LUCAS: The many provisions in this section of the Local Government Act in relation to elections are based in part on the State Electoral Act, and in other discussions that we will come to later, including discussions with the Electoral Commissioner (Andy Becker), that has been made quite apparent. For that reason I have considered similar provisions in the Electoral Act and once again it appears a little ambiguous, as I believe that new section 120 of this Act is ambiguous. Clearly, the intent of the Electoral Act under old sections 114 and 115 which were repealed by a 1980 amendment referred to the returning officer adjourning the polling from day to day if it is interrupted or obstructed by riot or open violence.

It is in the sections of the Act relating to polling on the day, and by inference new section 114 (I will not go into the full explanation of the provision) of the Electoral Act refers to adjournment by the returning officer on the day. I must say that the provisions in the Electoral Act would appear to be more sensible than the ones here, because in the Electoral Act there is a period of adjournment not exceeding 21 days.

One other honourable member has referred already to the possible open-ended nature of this provision. When we get to new section 120, I will seek a response from the Minister as to why no limit is placed on the adjournment such as in the Electoral Act. There are also other sensible provisions with respect to public notices of adjournments being taken out by the returning officer.

It would seem that certainly, while it appears a little ambiguous, new section 120 (1) in particular, in regard to its being practical to proceed with the conduct of an election or poll on the day appointed under this Part, can be interpreted as the Hon. Mr Hill has interpreted it. That is, as talking only about a riot, open violence or sudden natural calamity or disaster that occurs on polling day causing the returning officer to decide that there is not much point in continuing with the poll on that day and seeking an adjournment, and not involving the situation that the Hon. Mr Hill and the Hon. Mr Milne were originally talking about, that is, some weeks prior to the election deciding that that day is not the appropriate day for a certain reason.

Amendment carried.

The Hon. C.M. HILL: I will withdraw the amendment that I had on file regarding new subsection (1b). There is no need to proceed now that a previous amendment has passed.

New section as amended passed.

New section 95 passed.

New section 96—'Nominations.'

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

Page 49 line 8—Leave out 'first Thursday in April' and insert 'third Friday of September'.

This deals with the need to change the dates for nomination now that the October date has been agreed upon by the Committee. The amendment is consequential upon a previous decision.

Amendment carried.

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

Page 49, line 37—Leave out 'second Thursday of March' and insert 'fourth Friday of August'.

This amendment is consequential upon the change in the election date.

Amendment carried.

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

Page 50, lines 6 and 7—Leave out 'their receipt' and insert 'the close of nominations'.

This amendment falls under the general heading of nominations for local government. The result of the amendment would be that the returning officer would have to wait until all nominations closed before he could display, for all the world to see, the names of those who had nominated. Each person nominated would also see the list. The way in which the Government has approached this issue means that a person contemplating nomination would be able to check up on who had and who had not already nominated, and that might cause a 'doubting Thomas' to decide whether or not to nominate. It is rather like Rafferty's rules in those circumstances. If a person wishes to nominate it is that person's job to nominate and, after nominations have closed, everyone can see who has nominated.

The Hon. J.R. CORNWALL: The Government opposes the amendment. Presumably, it has been moved because that situation now applies at State elections, but there is no comparison between a State election and a local council election. It is a matter of the old game played in local government whereby no-one wishes to show his or her hand until the last moment. However, because the major Parties and even the Democrats preselect candidates for Federal and State elections months and even years in advance, everyone knows who will be the candidates a long time before the election. Even now, candidates already selected by the Parties are working in the new State districts even though a State election may not be held until 8 April 1986.

It is different in local government. The contention is (and I believe that it is a good one: it has been embodied in the Bill) that, as people submit their nominations, those nominations should be publicly displayed. Although the Hon. Mr Hill might have a certain nostalgia from the days of his distinguished service on the Adelaide City Council, I believe that to encourage the old cat-and-mouse game is by and large not good. I urge the honourable member to reconsider his amendment, because it would destroy precisely what we are trying to do in the Bill—to overcome the election roulette game that goes on in local government.

The Hon. K.L. MILNE: I support the Government on this matter.

Amendment negatived.

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

Page 50, lines 23 and 24—Leave out 'on the first Saturday of May of the year in which the declaration is made' and insert 'at the conclusion of the periodical elections for the council'.

This amendment is consequential on the October date being fixed by the Council.

Amendment carried; new section as amended passed.

New section 97 passed.

New section 98—'Failure or avoidance of supplementary election.'

The ACTING CHAIRMAN (Hon. G.L. Bruce): There are clerical corrections to page 45, line 33, delete 'assuming' and insert 'taking up' and to page 50, line 43, delete 'statutory', and line 44, delete 'being'.

New section passed.

New section 99—'Ballot-papers for elections.'

The Hon. R.I. LUCAS: I support new subsection 99 (4). Hopefully the days of the Cornwalls, Chattertons, Camerons and Davises having the advantage over the Lucases and Laidlaws of the world are long gone.

The Hon. L.H. Davis: This is going to be a conscience vote!

The Hon. R.I. LUCAS: I suspect that if it is a conscience vote the C's and D's will win by a streak. Certainly, it is a good reform, but a small one. It has just been done in the Commonwealth legislation. I hope that the State Government will look at this in the State scene as well. However, under subsection 99 (5) why, under most other provisions in the Bill, are there provisions for scrutineers on the basis that whatever the Returning Officer does in the conduct of the poll ought to at least be open to scrutiny?

I appreciate that this is really only at the end of nominations, so we probably are not at the stage where scrutineers can be formally nominated, but I wonder why there is a stipulation for just these two electors, I presume therefore just at the choice of the returning officer, and why there is not some other possibility for someone nominated by either the candidate or by a councillor. I wonder whether this is enough of a safeguard. I am sure that on virtually all occasions we do not need these safeguards of scrutineers with respect to the operations of returning officers. However, all electoral Acts make allowance for scrutineers as a necessary safeguard. We ought not to kid ourselves that the drawing of lots is not a significant part of the polling process.

Whilst certainly an argument could be made that with compulsory voting the donkey vote may be more imporant than is the case in regard to voluntary voting, nevertheless, most commentators would agree that even with voluntary voting the donkey vote, or the position on the ballot paper, provides an important advantage for a candidate. So, this drawing of lots is certainly not an unimportant part of the polling process.

The Hon. R.C. DeGaris: Can you tell me how it is that the donkey vote can be of assistance?

The Hon. R.I. LUCAS: How the donkey vote is of assistance to a candidate at the top of the ballot paper?

The Hon. R.C. DeGaris: Yes.

The Hon. R.I. LUCAS: A number of studies have been conducted over the years, details of one or two of which I have in the files in my office. If at any stage the honourable member would like to look at them, I will certainly obtain them for him. If the inference is that possibly there is not an advantage, I would certainly dispute that. I would indicate that most independent commentators would dispute that it is not an advantage going down the ticket. There is, possibly even some marginal advantage, although not much, if one is at the bottom of the ticket, and therefore going back up the ticket. But everyone would agree that, if one is in the middle of the ticket, one is in the worst possible position with respect to donkey down voters or donkey up voters.

The Hon. R.C. DeGaris: How about a circular ballot?

The Hon. R.I. LUCAS: That has been suggested before, too. The provision that occurs in Tasmania of course is that the positions are rotated on different ballot-papers: that is, candidate DeGaris might be on top of candidate Lucas on the ballot paper, so to speak, on 50 per cent of the papers, with the reverse situation applying on the other 50 per cent. In that way the positions are rotated. Nevertheless, that is not what we are considering with respect to this provision. All I am saying is that that is an important part of a poll. Why is the provision simply for the returning officer and two electors, whom obviously the returning officer can call in at his or her discretion?

The Hon. J.R. CORNWALL: This was done on a 'keep it simple' principle. Unlike State or Federal elections, it would not be anticipated that scrutineers would be appointed at the time of the drawing by lot, or anything else. In fact, normally the scrutineers do not come into the whole business until polling day for local government elections. It would also be anticipated that candidates would be present. They are certainly entitled to be present, and in most circumstances where there is a contest in a ward, the candidates would be interested enough to be present. In addition, of course, there is the simple provision that there must be at least two electors present. So, I do not think there is any strange plot. If one thinks about it, I do not think this comes off second best *vis-a-vis* what happens under State electoral laws. The fact is that we are not dealing with that level of sophistication, in that this is done in council offices around the State.

We still have at this stage 125 councils in South Australia; so it is quite small. It is really a matter of keeping it simple and putting in something that works and ensures that at that important stage of the election there is no chance of rorting the drawing of the names for the order in which they will appear.

The Hon. R.I. LUCAS: This is really only a provision that I picked up as we have been going through it; therefore, I have not had a chance to discuss it with my own Party. Would the Minister and his advisers be opposed to a provision which said, 'In the presence of at least two electors nominated by the candidates'? Clearly, when we are talking about the drawing of lots we must be talking about at least two candidates and an elector nominated by each of the candidates or by at least two of the candidates. Whilst they are not technically scrutineers, if we added those words, would the Minister and his advisers be strongly opposed to that provision? I repeat the general concern that I have that it is an important part of the poll process. We make allowances for the scrutiny of the other parts of the poll process.

The Hon. R.C. DeGaris: Make it a public drawing.

The Hon. R.I. LUCAS: That is basically what I am envisaging. I see the merest chance that a returning officer could pull in two close friends of the returning officer, possibly, or of one group and conduct the drawing of the lots in a situation where there is not proper scrutiny. It is a small point, and I am wondering whether the Minister

might be prepared to consider it. As I said, I have not discussed it with any other members.

For the benefit of the Hon. Mr Hill, who has returned from a brief moment away from the Chamber, I am suggesting that under new section 99 (5), when the returning officer is drawing lots the only protection that we have for this important part of the process—obviously if one draws the top part of the ballot-paper one will have an advantage of some sort—is that it should be done in the presence of at least two electors. Other parts of the polling process are covered by scrutineers appointed by the candidates. I am wondering whether the Minister would comment—and I am asking the Hon. Mr Hill also for his comment—on the proposition that if we add after the words 'in the presence of at least two electors' the words 'nominated by the candidates' so that at least the candidates have some possibility of having an elector present at the drawing of the lot that will determine whether they are lucky enough to draw the top position on the ballot-paper.

The Hon. C.M. HILL: As the Hon. Mr Lucas has explained the situation, it might have to be more than two electors. If one has three, four or five candidates one would have to have one elector for each candidate. There is a lot of merit in the point of the Hon. Mr Lucas. The positioning of the candidates on a ballot-paper where those candidates are arranged by the system of drawing of lots is a very important element to those candidates in the whole election.

I would not like to see a situation in which one candidate felt that he should have had at least a scrutineer or elector there, yet that might be overlooked if this new subsection passes in its present form. That is my first reaction to the Hon. Mr Lucas's suggestion. There may be some other aspect that the Minister has in mind in relation to the matter, but I would think that the Government ought to be prepared to consider allowing each candidate to have at least one scrutineer or elector present at that important part of the election process.

The Hon. J.R. CORNWALL: The Government would be amenable to some sort of sensible amendment here. While the debate rages on voting systems, which it will do in the next few minutes, it might be wise for the Hon. Mr Lucas to confer with Parliamentary Counsel to see if he can draw something up for our consideration. The general principle that he is espousing seems all right to me and I have no fight with it at all. However, I hope that he does not make it too complex or complicated because we have to consider the small country councils for whom, if we do not keep it simple, there could be the potential for creating inordinate difficulties. If Mr Beaver will confer with Parliamentary Counsel while we go on with the great debate, I am sure that we can move to have this new section recommitted, I hope in the near future.

The Hon. C.M. HILL: I support that proposal. The Bill will have to be recommitted for some adjustments, anyway, and the Hon. Mr Lucas's proposed amendments could be included in that consideration at the end of the main debate.

New section passed.

New section 100—'Method of voting in elections.'

The Hon. C.M. HILL: This amendment really is consequential upon the passing of the next quite major amendment dealing with the voting systems because it will be observed that the second part of the amendment in my name (it is the same amendment in the Hon. Mr Milne's name) deals with the method of voting for proportional representation. The next major amendment to which I just referred deals with the question of p.r. and therefore this amendment ought to be held over if possible until a decision is reached upon the following major one which deals with the voting systems.

The CHAIRMAN: I agree. It seems since this is consequential on the next major amendment that this should be left for recommittal.

New sections 101 to 119 passed.

New section 120—'Adjournment of election or poll.'

The Hon. R.I. LUCAS: This new section was alluded to earlier in relation to what would happen if a riot or the like occurred, but certainly if something occurred to prevent a poll on an election day. The interpretation of this new section that I and other Opposition members took was that it referred to something happening on polling day, and it is to such situations that I address my comments now. In the relevant section of the State Electoral Act there are some sensible precautions included in the wording. One is that if, for whatever reason, the returning officer cannot continue with the polling, the returning officer can adjourn the polling for a period not exceeding 21 days. That is a sensible provision whereby the returning officer has that power, but the poll can be adjourned only for a period not exceeding a set limit, which is 21 days under the State Electoral Act. Under this new subsection (1) the returning officer may adjourn the election or poll but no time limit is set on the extent of the adjournment.

I am sure that the Government does not intend that the election can be adjourned for ever and a day or months. Obviously, the intention would be to have the election conducted reasonably soon after the day of adjournment. I am seeking support for an amendment providing that (I am thinking on my feet) the returning officer may adjourn the election or poll for a period not exceeding 21 days. That would be the amendment I would move and, if the Minister wanted me to discuss it with Parliamentary Counsel to ensure the correctness of the wording (that is, if the Minister is amenable to supporting it), I would be pleased to do so. Perhaps I could discuss the matter with Parliamentary Counsel and the Committee can consider the matter when we recommit the Bill later. I seek the Minister's response to an amendment which would merely place a sensible limit on the time of the adjournment.

The Hon. J.R. CORNWALL: I must say that the Hon. Mr Lucas' forensic amendments get tiresome at this stage in a lengthy debate. I cannot understand, since the Bill has been in this Council for about three weeks, why he could not have been like the rest of we common members and examined it at some length before he thought on his feet (as he put it) and browsed through, picking bits and pieces. That is not really the way that we do business in this Chamber and really I am getting tired of his leaping up as he plucks bits out of the air. I might tell the Hon. Mr Lucas that the normal procedure is that amendments are placed on file and members are given a chance to consider them. I hope that that will continue to be the way that we conduct affairs in this Council. I think that the growing practice in which the Hon. Mr Lucas is engaging of plucking amendments out of the air, thinking on his feet, grabbing clauses out of Bills at random, is something that we should all abhor and discourage.

The Hon. C.M. Hill: That is going too far, talking about abhorring it. He has a perfect right to do it.

The Hon. J.R. CORNWALL: He has a perfect right to do it, but it is a practice which we should not condone or encourage. Mr Hill has been here for a long time. He knows very well that if everyone were to get into this sort of situation the whole system would break down.

The Hon. J.C. Burdett: Oh, rubbish!

The Hon. J.R. CORNWALL: The Dickensian lawyer mumbles and says, 'Oh, rubbish'. He knows it damn well would break down. But, can honourable members imagine the situation if Mr Hill had been leaping to his feet throughout what is now a 7½ hour debate and canvassing the

possibility of amendments and if the Government accepted them without having had the amendments on file? The Opposition knows that that is not the way that the Westminster system or the Parliament works. It was never intended to work in that way.

Having said that and I hope that Mr Lucas pays good attention to it—he is a young man who may learn with the passage of time, although I am sometimes pessimistic about that—we could consider an amendment if he placed it on file. Let him talk to Parliamentary Counsel and draw up a written amendment for our consideration. Then we will give some thought to it. But, this whole business of conducting our affairs like the Fire Brigade, making up amendments on our feet, must cease.

The Hon. R.I. LUCAS: Now that the Minister has got that off his chest, vented his spleen, got his blood pressure down or up whatever it is, I am pleased to hear that after all that rhetoric he is at least prepared to look at the logic of the proposal that was made. I am sure that the Minister, from his long time in this Chamber, is aware that there are certain provisions that only come to light in the fine print when one closely considers the Bill in the Committee stages.

It was only earlier this evening that we looked at some other provisions that the Minister decided we might tidy up later on 'in conference', which was his phrase. He said, 'Let us leave this in here and we will tidy it up later in conference.' I do not see too much distinction between what was said by the Minister and what he himself advocated earlier. Nevertheless, I will not descend to the Minister's level of abuse. I am happy to take up his reasoned acceptance of at least considering the point I have made, and I will have some discussions with Parliamentary Counsel.

New section passed.

New section 121—'Procedure to be followed at close of voting at elections.'

The CHAIRMAN: We are considering new proposed section 121 page 57, lines 34 to 39, amendments of the Hons Messrs Hill, Gilfillan and Milne. I propose that each member has the right to speak to his amendment at this stage.

The Hon. K.L. MILNE: I withdraw my amendments. They have been superseded by the amendments drawn up by the Hon. Mr Gilfillan in consultation with Parliamentary Counsel.

The Hon. I. GILFILLAN: I look forward with enthusiasm to support for proportional representation by members in this Chamber. I lean with confidence on what have been public statements of support for proportional representation as a means of democratic election by such eminent Labor politicians as Senator Geitzelt. In fact, the Leader of the Government in this Chamber has put some very worthwhile arguments forward in support of proportional representation. I read from a South Australian Government submission to the Joint Select Committee on Electoral Reform, July 1983, at page 5:

> Given that the Government says its intention is 'to move to a position where the method of voting and the conduct of elections is similar at both the Federal and State and local levels,' proportional representation must be used where there is more than one representative to be elected in local government.
>
> . . . Where multi-member electorates occur at the State and Federal levels (for the Legislative Council and the Senate), proportional representation is used to elect the members. If the Government is sincere in its aim of consistency between elections, then proportional representation should also be used for local government elections where there is more than one candidate to be elected.

There is no need to deviate from the accepted and proven electoral method now used in multi-member electorates to a new method never previously used in Australia, as far as I know, which is relatively untried and of dubious merit. The report continues:

> Proportional representation (or more correctly, the quota-preferential method of proportional representation) is currently used in local government elections in both New South Wales and Tasmania. Proportional representation not only allows all electors the maximum choice, but ensures that nearly all who vote will find they are represented by the candidates of their choice. With proportional representation, to get elected a candidate must win a quota of votes. This means in effect that each elected member represents the same number of electors. Under the Government's proposed 'bottom-up' distribution of preferences, popular candidates could gain large numbers of votes while unpopular candidates could also be elected with minimum support. If we are to aim for equality of representation, surplus votes also need to be distributed.
>
> The proposed system has the potential for unfair campaigning by encouraging electors to vote for popular candidates, thus tying up the majority of votes, and hence allowing unpopular candidates a better opportunity to be elected. The underlying aim of the proposed changes in the Local Government Act, is in part an attempt to exclude political parties from local government. The present first-past-the-post method does not stop grouping from occurring, and it is doubtful if the proposed method will be able to stop party politics from getting involved. The present first-past-the-post voting method in multi-member electorates ensures the majority of the votes gets all positions with minority groups getting no representation. On the other hand, the "bottom-up" distribution of preferences could allow for such minority groups to get a majority of the positions.

Incidentally, I have examples which illustrate several of the distortions that I believe could occur in the method proposed by the Government. The report continues:

> In constrast, proportional representation offers safeguards against party politics. The representations of views are in proportion to the voting strength of their supporters. It is therefore relevant for clubs, unions, business organisations and even local government—in fact, any body which wants a representative committee to conduct its affairs.
>
> Proportional representation is continually being considered for local government elections. The latest example appears in the publication *New directions: South Australia 2001.* As a result of the deliberations of the New Directions Conference for South Australians (sponsored partly by the State Government), the future leaders in the State suggest that regional forums should become the third tier of government with proportional representation as the method of election of the regional forum representatives from constituant local communities.

This Bill is an ideal time to begin implementing the recommendations of that Conference. There is a precedent for proportional representation in local government, and that is in New South Wales where there is quite a lot of evidence of the way that it has performed. I will provide some statistics from the New South Wales scene.

In New South Wales, legislation provides that where there are three of more vacancies proportional representation is to be used unless a poll of voters is held and the result chooses a different form of voting. The Albury City in the Hume Shire has held polls and has changed to majority preferential voting. Of the municipalities and cities, the total number 62, there are currently 58 using proportional representation. This gives in total 145 out of 175, or 83 per cent. That has been supported in New South Wales by a succession of Australian Labor Party Governments.

Although New South Wales has compulsory voting, we believe that proportional representation and optional preferential voting is even more important where voting is voluntary as in the amendment that I have moved. If electors have taken the trouble to vote, it is more important that a method of voting is used that allows the electors to see that their votes are effective. Proportional representation does this. The method of elections in local government should be designed to ensure the election of a group of people representing the voters accurately. This principle is more important than, say, the time taken to count votes, which may be one criticism, or the difficulty for voters, which may be another criticism.

I would like to point to a criticism which I expect may come forward in this debate: that the actual difficulty by voters was studied by a world authority on proportional

representation, Dr George Howatt, and delivered in a report to the New South Wales Minister of Local Government in April 1957. I will read that page because I think that it is very significant to have it recorded for people to refer to. Headed 'Local elections, New South Wales', it states:

Comparison of number of invalid ballots before and after adoption of PR. and preferential voting (In percentage of total votes).

It stipulates in Sydney the figures for a series of three elections. The ones that I will read are the comparisons between before and after proportional representation was introduced. In 1950, there were 7.4 invalid votes; in 1953, which was the first proportional representation ballot, there were 10.9 invalid votes and in Sydney suburbs the figures were from 7.2 to 7.6. Other municipalities which are covered by these categories, for all practical purposes, could be considered as representing plurality voting in 1947-48 and 1950 and PR in 1953. Actually, the total invalid votes for all municipalities in 1953 using PR was 8.2 per cent and using preferential 5.2 per cent.

That note is significant in understanding this figure, but the figure is actually from 6.8 invalid votes in 1950 to 7.8 in 1953. It then gives the total of all municipalities as 7.3 going up to 8 per cent, and the total in all shires from 5.8 down to 4.6. The total in all elections goes up from 6.8 in 1950 to 7.2 per cent in 1953. There are some other subnotes to this, which I think I had best read so that they are there for the full record. Subnote *(a)*, which refers to preferential voting, states:

Percentages taken from figures provided in the annual reports of the Department of Local Government, New South Wales.

Subnote *(b)*, which relates to 1947-48, states:

Some of the triennial elections normally due in 1947 were held in 1948.

(c) voting was by numbers in 1953; crosses were used except in Armidale and Newcastle, in the elections of 1947 and 1950.

(e) Shires embraced both preferential voting and PR in 1953, but used plurality voting in 1947 and 1950. The total invalid vote in shires in 1953 using PR was 5.7 per cent and using preferential 2.3 per cent.

I had already referred to subnote *(d)*. I think that that is a worthwhile inclusion in the material that I am presenting as an argument for proportional representation because a lot of people do have serious misgivings about the difficulty of its implementation and concern that a lot of votes may well be wasted as a result of proportional representation. I point out that those statistics relate to the first year in which New South Wales had substantially adopted proportional representation in local government, and I expect (although I do not have it before me) that that number of invalid votes would diminish rather than increase.

I would like to outline briefly a couple of examples which I think probably put the point better than a verbal argument for the potential distortion from the Government's so called bottoms-up preferential voting system. To do that I will read these examples, which may be similar to the election of, say, five aldermen in the Marion City Council. Example *(a)* is the possibility of a majority of voters failing to win a majority of the seats in a five member election, and this is how it can be shown. For this assumption I am bracketing together five candidates and four further candidates, making a total of nine candidates for the election of five successful aldermen.

In this case I am assuming that the five first group of candidates receive 65 votes and the four second group of candidates receive 35 votes. If first preference votes are distributed in the following way:

	Candidate	First preferences
65	A	38
	B	9
	C	7
	D	6
	E	5
35	F	15
	G	10
	H	8
	I	2

there will be an exclusion from the bottom up. Candidate I is excluded and two votes transferred to H, because that is the group in which I is presenting for election. Candidate E is excluded and the five votes transferred to A. Candidate D is excluded and the six votes transferred to A. Candidate C is excluded and the eight votes transferred to A. The remaining candidates, A, B, F, G and H, are elected.

This result shows that only two members would be elected from a majority group and three from a minority group. In example B, with the same total group votes but a slightly different distribution of first preferences among the candidates in each group, the result could be different. I want to emphasise that we have statistically the same voting strength shown for two groups of voters but the actual first preference is slightly varied from the list I have just given. The first preferences would be distributed as follows:

	Candidate	First preferences
65	A	20
	B	15
	C	14
	D	13
	E	3
35	F	15
	G	10
	H	8
	I	2

Candidate I is excluded and the two votes transferred to F. Candidate E is excluded and the three votes transferred to D. Candidate H is excluded and the eight votes transferred to F, and candidate G is excluded and the 10 votes transferred to G. As a result of that, the remaining candidates, A, B, C, D and F, are elected. That means that four from one group, the majority group, are elected and only one from the minority group is elected.

I know that I am going too fast, but the point is being made almost irrefutably (those who doubt it may look at *Hansard*). Regarding proportional representation, regardless of the distribution of first preferences among the candidates in each group, but with the same total group votes, the result will always be the same when proportional representation is used. Three from the majority group and two from the minority would be elected. The quota in the calculation of the proposal that I am putting forward would be 17 votes, and, using the second set of figures, candidate A is elected, and the three vote surplus is transferred to B. Candidate B is elected, and the one vote surplus is transferred to C. Candidate I is excluded and the two votes transferred to F. Candidate F is elected. The fourth candidate considered is candidate E. That candidate is excluded and the three votes transferred to D. Candidate H is excluded and the eight votes transferred to G. Candidate G is elected. Candidate C is excluded and the 15 votes transferred to D. Candidate D is elected. The same result would be obtained from the first set of figures, and I would suggest that those who are curious or who doubt it should do this simple exercise that I have just gone through.

The other example that I briefly mention is the case of distortion where there can be a preponderence of votes for

the top candidate or candidates on the list. This example comprises five candidates, A, B, C, D, and E, with the first candidate receiving 70 per cent and teaming with candidate E, receiving only 3 per cent of the vote. Candidate B receives 20 per cent, teaming with candidate C, who receives 5 per cent, and poor little candidate E has only 2 per cent. In that case, first past the post would elect candidates A and B, those with 70 per cent and 20 per cent, as would the bottoms-up method. It would also elect the first two, 70 per cent and 20 per cent, which means that the 50-odd votes, actually the balance over the surplus of candidate A, would be of no consequence.

Proportional representation would ensure that the votes of those voting for candidate A, who got 70 per cent, which was well above the number required to elect candidate A, would be transferred to that candidate's running partner, candidate D, and thus get candidate D elected. That, of course, expresses the true wish of those voting. The bottoms-up method can distort and can be in error in reflecting the wishes of those voting for local government as in any other voting. Proportional representation is a guarantee against that happening.

True, proportional representation might have teething problems in its introduction, but the New South Wales experience has proved that it can work, and surely our returning officers would be at least as competent as those in New South Wales. If the aim of an election procedure is just to get a result quickly and simply, we are insulting the value and integrity of local government elections. A bad result obtained quickly and easily is still a bad result. If it is worth holding elections it is worth taking the trouble to get the result that reflects as nearly as possible the wishes of the voters and my amendment to introduce proportional representation is aimed at just that. I therefore recommend it to the Committee.

The Hon. J.R. CORNWALL: I wonder whether the Hon. Mr Gilfillan would like to come with me to Carrieton, Bute or Hawker, to get out into the bush, to talk to the people there about candidates A to K, and to go through this simple exercise with them. If he does so, they will die with their legs in the air. In many wards in those council areas a fair turnout would be between 20 and 25 voters, and it is not feasible in those circumstances to use proportional representation, because the quota in some wards in some council areas would be less than 2.5 votes.

Maybe something is to be said for proportional representation in the larger metropolitan councils, and I believe that that is the way it is used in another State. Indeed, if that were canvassed here the Government might take a more sympathetic view of it. However, to suggest that proportional representation should be imposed on the 125 councils in South Australia is to talk absolute nonsense. The Government rejects proportional representation: in practice it would not work with small councils; it is complex, and it is difficult for ordinary people to understand. It may be all right for the pundits and the mandarins who pore over these things for days, weeks and even months at a time. There are figures men in every Party. Indeed, some of them are trained in Party offices before coming into Parliament. There is no virtue in the application of the Gregory system or any other system of proportional representation when it is to be applied to 125 councils around the State. We cannot, even in the kindness and good charity of our heart at this time, even remotely consider the amendment moved by the Hon. Mr Gilfillan.

The Hon. C.M. HILL: I thank the Hon. Mr Gilfillan for his lengthy explanation of the advantages of the system. At the same time I think that the Minister has put his finger on the nub of the problem of the amendment and that is that it deletes the Government's form of voting, namely, the rather simple bottom-up form. The Hon. Mr Gilfillan is endeavouring to impose the proportional representation system he has explained as the method of counting votes for local government. Of course, there are some instances where it would not be in the best interests of some councils to have this condition imposed on them. By the same token, the Government scheme has its weaknesses, as the Hon. Mr Gilfillan worked out, because it can noticeably bring home relatively unpopular candidates simply through the method of counting.

I do not want to debate with the Hon. Mr Gilfillan at length, but I cannot support proportional representation as the sole method of counting votes for local government. There are certainly trends towards this in local governmnent on the Australian scene. The Hon. Mr Gilfillan mentioned that it is imposed in Tasmania, used to a large extent in New South Wales, and I think that some parts of Victoria will soon be using the system. The honourable member certainly has that thrust behind his argument that it has some momentum throughout Australia.

Nevertheless, some councils in South Australia would object to it very strongly. In stating that I oppose the honourable member's amendment, I point out that I have a subsequent amendment which retains the Government's proposal of the method of voting, namely, from the bottom up and, at the same time, provides for a council to have the option to adopt proportional representation if that particular council so desires. In view of what has been said, I think that that approach is better than endeavouring to achieve solely proportional representation as the method of voting in local goverment.

The Hon. R.I. LUCAS: Having been very reserved in my contributions to the debate thus far, I intend to take a little time of the Committee to explore these provisions. As other members have done, I will cover the range of systems that have been envisaged in various amendments. First, I am delighted that my Party is not supporting the first past the past voting system. Personally, I believe it is an iniquitous system fraught with much danger, in not only State and Commonwealth elections but also local government elections. Many instances of problems in the United Kingdom have been well documented. Voting systems are a difficult area, and I think that the simplest way is to look at examples. One can take the example of the Woodville council with two strongly opposed groups, one which might be deemed pro-lights and the other anti-lights, with the pro-lights group being represented by one candidate and the anti-lights group being split.

In this event there would be a number of people wishing to represent the anti-lights opinion, with the electors being unable to decide on one particular candidate. What we would then have would be the pro-lights group represented by one candidate who might poll only 30 per cent of the vote, and the anti-lights group split amongst five or six candidates, none of whom polling more than 30 per cent. Yet, the total of five or six anti-lights candidates would be strongly opposed to the views put by the 30 per cent represented by the pro-lights group. So, in effect, there would be 30 per cent supporting the pro-lights stance, or whatever the faction is, and 70 per cent supporting the anti-lights stance—but with the 70 per cent being split. What the first past the post system throws up is that the views of that 30 per cent will hold sway, and the fact that the opposing views did not get themselves organised does not come into it. This is particularly the case when it is combined with a system of non-compulsory preferential voting, that is, optional preferential voting in some form, where the preferences do not flow on. The Government's system, the bottom-up optional preferential system, as the Hon. Mr Gilfillan has described it can have a distorting effect as well.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: Yes, there are problems with all systems. Let me point out those in the system that the Government has recommended. Certainly it is simple, although it is not as simple as the first past the post system, but it is simpler than the proportional representation system as proposed by the Hon. Mr Gilfillan. So, it is a halfway house with respect to simplicity for the understanding of returning officers, in particular, but the distortion effect can easily be seen. Let me take as an example an election for the six alderpersons for the Adelaide City Council. I note that the Hon. Miss Levy is in the Chamber. Let us say, for example, that a very popular candidate, perhaps Graham Cornes, or someone of his ilk, stands for the position of alderperson, and he drags in a considerable percentage of the vote, say, 60 per cent or 70 per cent of the vote. All the people who wanted to get Graham Cornes up in that position would not know how many people were going to support him on the day and would have voted for him in numbers too great for his own use.

The result of that on the other five positions needing to be filled on the Adelaide City Council would be that the percentage required by those five candidates would become very small and, in regard to the last couple, possibly an extremely small percentage. The possibility then arises in regard to support being received by a very well organised but small extremist group (let us take the local Nazi Party faction, for example) able to muster 75 hardcore votes in the Adelaide City Council and able to ensure that all 75 go out and vote. In regard to the 70 per cent voting for Graham Cornes, their second and third preferences would be wasted, under the Government system as proposed. Let us say that those voters were violently opposed to the views espoused by the Nazi faction, while at the same time wanting to get Graham Cornes elected, but in the process of supporting him he receives more votes than he needs.

What is clear in this problem in the Government system is that there is no way of preventing that sort of distortion in an election. I have taken extremes, which is evident from the views that I have put, but, nevertheless, the distortion factor is clear from the example; that is, votes for one candidate can be wasted and those votes that are wasted and not directly used in electing that candidate cannot be further used in ensuring that the second, third and fourth preferences of those voters are used to elect members to the council and not someone to whom they are violently opposed, such as, in my example, the Nazi faction.

We could get ourselves into the situation where the fifth and sixth people being elected are elected by very small numbers. That distortion is a major problem in the Government's system. My personal preference for a voting system for the council would have been the majority preferential system that exists as an option in the New South Wales local council elections. The New South Wales Government gives its councils two options: majority preferential or proportional representation. The reason why 80 per cent or more have chosen PR is the fact that the Act is worded that their voting systems shall be PR unless they choose otherwise—unless they choose the majority preferential.

The advantage of the majority preferential over the Government system of optional preferential in bottom-up counting is that the preferences of the Graham Cornes' surplus, in the example that I was using, have some effect so that if too many people elect Graham Cornes those extra or surplus votes are not wasted in the local council count.

The Hon. I. Gilfillan: They are not wasted in PR.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan says that they are not wasted in PR. At this stage I am not criticising proportional representation: what I am criticising is the optional preferential system that is in the Bill at the moment. My criticisms of PR come in a moment. The majority preferential system has that advantage that Graham Cornes' surplus can be used to keep out that Nazi minority, in my example, from the Adelaide City Council.

The Hon. Anne Levy: It is a 'winner take all' situation.

The Hon. R.I. LUCAS: It can be interpreted that way if one has Parties. It is not a 'winner take all' situation. What it says is that it may well be that the voters have strong views for Graham Cornes but they have almost as strong views for, say, Legh Davis as alderperson for Adelaide City Council.

The Hon. I. Gilfillan: What system does the National Trust use in its elections?

The Hon. R.I. LUCAS: The National Trust voting system is a matter that we could go into in greater detail; there are many weaknesses in that, too, I can assure honourable members, but that is not in this provision and we will not explore it. The majority preferential system will mean that those voters who very strongly want Graham Cornes and get him elected and then nearly as strongly want Legh Davis can get Legh Davis up in second position, and their votes can be utilised.

The Hon. Anne Levy: Winner take all.

The Hon. R.I. LUCAS: It is not necessarily winner take all. The Hon. Ms Levy puts a perspective on it, and I can see that it is a possible perspective that one can put on it, but even the Hon. Ms Levy would agree that that is not necessarily the case. In local councils it may well be—

The Hon. Anne Levy: In the Legislative Council it was 16 to 4.

The Hon. R.I. LUCAS: If the Hon. Ms Levy wants to explore the old Legislative Council voting system she would well know that the old 16 to 4 was not solely as a result of the counting system; it had something to do with the franchise.

The Hon. Anne Levy: It also had something to do with the 'winner take all' system of counting.

The Hon. R.I. LUCAS: But the Hon. Ms Levy in her well informed moments would readily concede that if we had resolved that 'winner take all' provision in the old Legislative Council days it would not have solved completely the 16 to 4 provision.

The Hon. Anne Levy: No, but it could have done something.

The Hon. R.I. LUCAS: Thank you. That is the only point I am making. The Hon. Anne Levy is making a point but equally, a group of electors can hold the view strongly that it wants to have Graham Cornes and they may want another candidate from a different faction. Graham Cornes might have a running mate—someone else from the football club for example—but those people who voted for Graham Cornes need not go down the Graham Cornes ticket. There is no blocking in the local council system and they may well go to another group, a pro-residents group, for example, a residents action group. They might strongly support Cornes as an individual but nearly as much they support the pro-residents or residents action group, and they will transfer their votes to the residents action group. That is equally as strong a possibility, and equally it is a possibility for which the Government's Bill does not allow. It allows for well organised minorities, the 75 voters, the Nazi minority, big business development factions, or whatever—a small minority that might be able to be organised can get up under the Government system. The majority preferential system as used in New South Wales allows those preferences to flow through. The proportional representation system that the Hon. Mr Gilfillan has outlined does have some advantages, which I readily concede, but equally it has some problems. The Hon. Mr Gilfillan, being a proponent of proportional representation did not spend much time with

respect to its problems. The first one quite clearly is the complexity involved in the system that he is recommending: complexity not only for the individual electors who need to vote in the system but also for the returning officers (in most cases it will be the town clerks of the particular councils) who will have to implement the Hon. Mr Gilfillan's proportional representation system.

Under the system being advocated by the Hon. Mr Gilfillan let us look at a reasonable size metropolitan council that may have, say, 10 wards and might elect two members per ward. It also has one of the alderpersonic elections and also has mayoral election. If that particular council inflicts on the town clerk proportional representation, the town clerk must then conduct 10 separate proportional representation elections for each of the wards. The town clerk must conduct another separate proportional representation election for the alderpersonic elections and must also conduct a count for the mayoral position. What we are saying to the returning officer at the end of his 8 a.m. to 6 p.m. day, or whatever it is, is that he or she should sit down and then conduct 12 elections, 12 counts. The length of time involved for that returning officer and his or her staff will be considerable. Let me hasten to say that in one respect I do not disagree with the Hon. Mr Gilfillan: what we ought to be looking at in election systems is fairness first and simplicity/complexity comes after, in my view, the fairness of the system.

The complexity of the voting system will mean that the Local Government Association, together with the Electoral Department, will have to be extraordinarily active in training programmes for returning officers. There is no doubt that returning officers, when presented with a copy of the Local Government Act with the relevant provisions, as is likely, will not make head or tail out of the respective provisions. It has taken some days toing and froing for the Electoral Commissioner, members of Parliament, Parliamentary Counsel, statisticians and other electoral experts to come up with the amendments in their present form, and there have been at least four or five changes to the drafting in the last few days.

One other problem in my view with the proportional representation system which the Hon. Mr Gilfillan is recommending is tied up with the general question of Party politics being involved in local government. I must confess that I was not overly convinced with the arguments presented to us about fears of certain provisions in the Government Act necessarily meaning that Party politics will become more involved than their present state of involvement in local councils.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Hon. Anne Levy readily concedes and I am sure she has some knowledge of the recent events involving the Ross Smith Labor Party branch, but I will not go into that.

The Hon. Anne Levy: What about matters in respect of Mitcham Council, Adelaide City Council—

The Hon. R.I. LUCAS: I will be delighted to listen to the Hon. Anne Levy after I sit down. Whilst I give the proviso that I was not convinced on the evidence presented to me about the possible involvement of Parties, or greater involvement of Parties, I point out to the Hon. Mr Gilfillan and those honourable members in this Chamber who have been active proponents of proportional representation that, in my view, one of the results of proportional representation in local councils will be the attraction for people or groups, factions or Parties, to band together as Parties do for proportional representation elections in the Senate and this Council.

The proportional representation system in my view will encourage groups to circulate ballot-papers with the ordering of preferences listed on them and there are people who believe that there is some concern about encouraging political Parties to become more involved in local government, and that the proportional representation system may well force us down that path.

The other problem with proportional representation is covered in some of the amendments by the Hon. Mr Gilfillan. In effect, they relate to small elections. The Hon. Mr Hill has referred to them in general, but clearly the problem with small elections can be quite significant when we are using a proportional representation system rather than the system advocated by the Government.

There is a provision in subsection (3) *(b)* of the amendment moved by the Hon. Mr Gilfillan that is being used in some small elections in Tasmania at the moment. Where the total number of first preference votes is less than 150, or another number that might be at a later stage prescribed, the returning officer is directed to multiply up by a factor of 100 all the first preference votes in the count. The reason that that needs to be included is the problem with small counts experienced in Tasmania. With our system, or that which the Hon. Mr Gilfillan advocates and the Hon. Mr Hill will move at a later stage, there is a problem of a specific provision in the Act which says that certain fractions of votes shall be discarded. That is part of the Gregory method of transferring surplus votes. When one has a large number of votes with which to play around the losses by these fractions are not significant. However, when one gets down to a very small number of votes it may well be that the numbers lost by this discarding of fractional votes will be significant.

The reason for subsection (3) *(b)* being included in the Hon. Mr Gilfillan's amendment is to cover that situation and so that everything is multiplied up by 100 thereby removing the problem of perhaps discarding too many fractions and thus affecting the final result. The specific proportional representation system, suggested by the Hon. Mr Gilfillan's amendment, is in some small respects the first of its kind in Australia. Certainly, in essence, it is very close to the Tasmanian and the Senate voting systems. Also, in some respects, it is close to our Legislative Council voting system. However, it is distinctive in two or three very important areas. I have already referred to one such area, that of the 150 small votes provision, which is taken, as I said, from the Tasmanian situation. The other difference relates to how surplus votes for elected candidates are transferred. In the Legislative Council voting system and, I might add, in the original draft of the Hon. Mr Gilfillan's amendments, the method of transferring surplus votes was to have been by the random sample method. Until recently that method was a feature of the Senate voting system.

The problem with the random sample method was soon made apparent to the Hon. Mr Gilfillan. By the sheer nature of chance, the sheer randomness of the sample of the surplus votes, different candidates could have been thrown up as the victors in proportional representation elections. In fact, in New South Wales, where the proportional representation system has been used, in the 1980 elections candidates who lost appealed for recounts on various grounds. They were able to get a new random sample in the new count and some were thus able to achieve victory through the sheer fact that a different random sample was used in that recount from that used in the original count.

That loophole in New South Wales has been closed in a different way. An Equity Court decision was that the random sample should be put aside at the first count and if there was to be a recount the random sample first used would be used in the recount. Nevertheless, the problem of the random sample, even with that safeguard, remains, because what one is guessing at or relying on is that a particular selection of votes chosen to be transferred as surplus votes is repre-

sentative of all the first preference votes with remaining preferences for a particular candidate.

Instead of random sampling, the Tasmanian electoral system has the original form of transfer of surplus votes known as the Gregory Exact Procedure. The new Senate voting system, which has only just been instituted, takes a form of the Gregory Exact Procedure as used in Tasmania. It is not exactly the same form of transfer of surplus votes as used in Tasmania. The system that the Hon. Mr Gilfillan is proposing is the Senate system of transfer of surplus votes as opposed to the Tasmanian system of transfer of surplus votes. It is an important distinction, particularly with respect to the work load of returning officers.

The Electoral Commissioner, Andy Becker, and his advisers have advised me that the Senate system and the system that the Hon. Mr Gilfillan has now included in the Bill is simpler for returning officers than the Tasmanian system. Those people who might seek to criticise the Hon. Mr Gilfillan's system on the basis of the work load required of returning officers in Tasmania will be a little wide of the mark. The system proposed by the Hon. Mr Gilfillan is as yet untried in Australia, to my knowledge. As yet, there has not been a Senate voting system using the new provision. This form of PR for returning officers will be an improvement on the form in Tasmania.

I refer to those aspects of the Hon. Mr Gilfillan's provisions that are different from the new Senate provisions. I will not refer to the exact subclauses. I believe that there is one small problem in subclause (j) of one of the clauses of the new Commonwealth legislation. It looks at the possibility of what might happen at the end of the count and the last vacancy. Under the Commonwealth legislation for the Senate, allowance is made for what might happen if there are two remaining candidates, every preference has been distributed, there is nothing else that the returning officer can do, yet neither of the two remaining candidates has a quota. The provisions in the Commonwealth legislation deem that the victor shall be the candidate with the greatest number of votes. Clearly, that is a sensible provision. However, the problem with the Senate system, one which the Hon. Mr Gilfillan in his wisdom based on good advice has catered for, is that in the ballot for the last vacancy there may well be a situation where more than two remaining candidates remain.

Where the returning officer has distributed every available preference and there is nothing more that the returning officer can do, the returning officer is left with three remaining candidates. The Hon. Mr Gilfillan's various amendments will cater for that situation as distinct, I believe, from the Senate provision and allow the returning officer to declare elected the remaining candidate with the greatest number of votes. I summarise by saying that, if we are to have proportional representation (and it would appear that the numbers are such that it will possibly be at least an option), the system that the Hon. Mr Gilfillan in the end has suggested is quite distinctive from other proportional representation systems in Australia in a number of important areas.

I believe that in those areas the Hon. Mr Gilfillan's proposed proportional representation system is an improvement on other proportional representation systems existing in Australia. For those reasons I will certainly not support the Hon. Mr Gilfillan's amendment to make it in effect compulsory for all councils in South Australia to have proportional representation, but I will support the amendment to be moved by the Hon. Mr Hill, which will provide proportional representation as an option for councils in South Australia.

The Hon. L.H. DAVIS: I also intend to support the amendment that has been foreshadowed by the Hon. Mr Hill. I concede the merit of the argument that has been put forward by the Hon. Mr Gilfillan. Proportional representation has gained increased support around Australia in council elections. The Hon. Mr Gilfillan spent some time elaborating on the system as it operated in New South Wales. I am sure that honourable members will be interested to know that the Labor Government in Victoria is looking to introduce proportional representation to local government elections. Indeed, less than five weeks ago the Minister of Local Government in that State (Mr Wilkes) announced that he was introducing legislation in September for proportional voting for local government to replace the preferential system.

I do not have precise details of that. That was from a report in the *Age* in early April, but he argued very strongly against the preferential system, believing that it was biased in favour of groups running on a ticket. Mr Wilkes made the point that it was possible for one person with 49 per cent of the primary vote to be tipped out by three people with 51 per cent of the vote if preferences were distributed for maximum effect between the three. The Minister of Local Government in Victoria has foreshadowed that the Labor Government is introducing proportional representation in that State.

I suspect that that trend will follow perhaps shortly after in Western Australia, because it does seem very much that Labor Governments around Australia have similar views on important pieces of legislation. It comes as some surprise to see that they have not advocated proportional representation in this major re-write of the Bill, given the support that proportional representation obviously has in New South Wales and Victoria. Nevertheless, the point that the Hon. Dr Cornwall made earlier, namely, that for smaller councils especially in country areas proportional representation would not be appropriate, has some merit. Of course, that point has been picked up by the Hon. Murray Hill, which is designed to give the option to the council to select either proportional representation or the preferential system.

So, I believe that that is a satisfactory solution, and it will have the acceptance of councils, although one must admit that it was not initially an option that was canvassed at great length in the many months that preceded the Bill's being debated in this Parliament.

The Hon. I. GILFILLAN: Several points were made in, I suggest, mild criticism of the amendment regarding proportional representation and, rather than detail my response, I will summarise by saying that the system can be adapted to small numbers of voters and for simple election procedures, where there may be only two people to be elected. It may be more complicated in those circumstances in regard to the written instruction, but with experience in small council areas or in wards where there are only perhaps two candidates the election procedure would still be quite adequate and certainly as democratic as any method that we can offer.

Party politics is something about which people are concerned. The argument has already been addressed satisfactorily and any fears that it is more likely to be introduced should be allayed. I would only say that the results in this place perhaps show that the PR system distributes the representation away from what may be majority number power groups. I recognise that the Hon. Murray Hill has on file an amendment which gives this option and, if my amendment as it stands is lost, I will have no difficulty in supporting the Hon. Mr Hill's amendment. It is probably easier for local government in South Australia to gradually be eased into accepting PR if it is introduced in a voluntary manner, so that it can be chosen by an individual council. It will catch on and spread through the local government scene.

I acknowledge the very effective and constructive cooperation that I have enjoyed with the Hon. Murray Hill

and the Hon. Robert Lucas in particular in getting together this amendment. It has been a joint effort, and I would like to commend the patience and diligence of the Parliamentary Counsel, John Eyre, and the Hon. Rob Lucas, who showed an admirable knowledge and sensitivity of PR in relation to local government. He might perhaps offer his services as a roving consultant or a lecturer. That is one of the ways in which South Australia could more readily take on PR and I recommend this amendment as being a major step forward in democratising the election system for local government in South Australia. I move:

Page 57, lines 34 to 49—

Pages 58, lines 1 to 20—Leave out all words in these lines and insert:

(3) The returning officer shall then, with the assistance of any other electoral officers who may be present and in the presence of any scrutineers who may be present, proceed to count the votes according to the following method:

(a) the number of first preference votes given for each candidate and the total number of all such votes shall be ascertained and a quota shall be determined by dividing the total number of first preference votes by one more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by one, and, where any candidate has received a number of first preference votes equal to or greater than the quota, the returning officer shall make a provisional declaration that the candidate has been elected;

(b) notwithstanding the provisions of paragraph *(a)* or any other paragraph of this subsection, where the total number of all first preference votes does not exceed—

(i) one hundred and fifty; or

(ii) where a different number is prescribed for the purposes of this paragraph—that number,

the number of votes of any kind contained in the ballot-papers shall, for the purposes of any counting or calculation under paragraph *(a)* or any other paragraph of this subsection, be taken to be the number obtained by multiplying the number of votes of that kind contained in the ballot-papers by one hundred;

(c) unless all the vacancies have been filled, the surplus votes of each elected candidate shall be transferred to the continuing candidates as follows:

(i) the number of surplus votes of the elected candidate shall be divided by the number of first preference votes received by him and the resulting fraction shall be the transfer value;

(ii) the total number of the first preference votes for the elected candidate that are contained in ballot papers that express the next available preference for a particular continuing candidate shall be multiplied by the transfer value, the number so obtained (disregarding any fraction) shall be added to the number of first preference votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate,

and, where any continuing candidate has received a number of votes equal to or greater than the quota on the completion of any such transfer, the returning officer shall make a provisional declaration that the candidate has been elected;

(d) unless all the vacancies have been filled, the surplus votes (if any) of any candidate elected under paragraph *(c)*, or elected subsequently under this paragraph, shall be transferred to the continuing candidates in accordance with paragraph *(c)* (i) and (ii), and, where any continuing candidate has received a number of votes equal to or greater than the quota on the completion of any such transfer, the returning officer shall make a provisional declaration that the candidate has been elected;

(e) where a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under paragraph *(c)* or *(d)* of the surplus votes of a particular elected candidate, no votes of any other candidate shall be transferred to the continuing candidate;

(f) for the purposes of the application of paragraph *(c)* (i) and (ii) in relation to a transfer under paragraph *(d)* or *(h)* of the surplus votes of an elected candidate, each ballot paper of the elected candidate that was obtained by him on a transfer under this subsection shall be dealt with as if any vote it expressed for the elected candidate were a first preference vote, as if the name of any other candidate previously elected or excluded had not been on the ballot paper and as if the numbers indicating subsequent preferences had been altered accordingly;

(g) where, after the counting of first preference votes or the election of a candidate and the transfer of the surplus votes (if any) of the elected candidate that are capable of being transferred, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and all his votes shall be transferred to the continuing candidates as follows:

(i) the total number of the first preference votes for the excluded candidate that are contained in ballot papers that express the next available preference for a particular continuing candidate shall be transferred, each first preference vote at a transfer value of one, to the continuing candidate and added to the number of votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate;

(ii) the total number (if any) of other votes obtained by the excluded candidate on transfers under this subsection shall be transferred from the excluded candidate in the order of the transfers on which he obtained them, the votes obtained on the earliest transfer being transferred first, as follows:

(A) the total number of votes transferred to the excluded candidate from a particular candidate that are contained in ballot-papers that express the next available preference for a particular continuing candidate shall be multiplied by the transfer value at which the votes were so transferred to the excluded candidate;

(B) the number so obtained (disregarding any fraction) shall be added to the number of votes of the continuing candidate;

(C) all those ballot-papers shall be transferred to the continuing candidate;

(h) where any continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under paragraph *(g)* or (i) of votes of an excluded candidate, the returning officer shall make a provisional declaration that the candidate has been elected, and, unless all the vacancies have been filled, the surplus votes (if any) of the candidate so elected shall be transferred in accordance with paragraph *(c)* (i) and (ii), except that, where the candidate so elected is elected before all the votes of the excluded candidate have been transferred, the surplus votes (if any) of the candidate so elected shall not be transferred until the remaining votes of the excluded candidate have been transferred in accordance with paragraph *(g)* (i) and (ii) to continuing candidates;

(i) subject to paragraph *(k)*, where, after the exclusion of a candidate and the transfer of the votes (if any) of the excluded candidate that are capable of being transferred, no continuing candidate has received a number of votes greater than the quota, the continuing candidate who has the fewest votes shall be excluded and his votes shall be transferred in accordance with paragraph *(g)* (i) and (ii);

(j) where a candidate is elected as a result of a transfer of the first preference votes of an excluded candidate or a transfer of all the votes of an excluded candidate that were transferred to the excluded candidate from a particular candidate, no other votes of the excluded candidate shall be transferred to the candidate so elected;

(k) in respect of the last vacancy for which two continuing candidates remain, the returning officer shall make a provisional declaration that the continuing candidate who has the larger number of votes has been elected notwithstanding that that number is below the quota, and if those candidates have an equal number of votes the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine which of the candidates is to be elected;

(l) notwithstanding any other provision of this subsection, where, on the completion of a transfer of votes under this subsection the number of continuing candidates is equal to the number of remaining unfilled vacancies, the returning officer shall make a provisional declaration that those candidates have been elected;

(m) for the purposes of this subsection—

(i) the order of election of candidates shall be taken to be in accordance with the order of the count

or transfer as a result of which they were elected, the candidates (if any) elected on the count of first preference votes being taken to be the earliest elected; and

(ii) where two or more candidates are elected as a result of the same count or transfer, the order in which they shall be taken to have been elected shall be in accordance with the relative numbers of their votes, the candidate with the largest number of votes being taken to be the earliest elected, but if any two or more of those candidates each have the same number of votes, the order in which they shall be taken to have been elected shall be taken to be in accordance with the relative numbers of their votes at the last count or transfer before their election at which each of them had a different number of votes, the candidate with the largest number of votes at that count or transfer being taken to be the earliest elected, and if there has been no such count or transfer the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine the order in which they shall be taken to have been elected;

(n) subject to paragraphs *(o)* and *(p)*, where, after any count or transfer under this subsection, two or more candidates have surplus votes, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative sizes of the surpluses, the largest surplus being transferred first;

(o) subject to paragraph *(p)*, where, after any count or transfer under this subsection, two or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first, but if there has been no such count or transfer the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine the order in which the surpluses shall be dealt with;

(p) where, after any count or transfer under this subsection, a candidate obtains surplus votes, those surplus votes shall not be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer;

(q) where the candidate who has the fewest votes is required to be excluded and two or more candidates each have the fewest votes, whichever of those candidates had the fewest votes at the last count or transfer at which each of those candidates had a different number of votes shall be excluded, but if there has been no such count or transfer the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine which candidate shall be excluded;

(r) where a candidate is elected by reason that the number of first preference votes received by him, or the aggregate of first preference votes received by him and all other votes obtained by him on transfers under this subsection, is equal to the quota, all the ballot-papers expressing those votes shall be set aside as finally dealt with;

(s) a ballot-paper shall be set aside as exhausted where on a transfer it is found that the paper expresses no preference for any continuing candidate;

(t) for the purposes of this subsection, a transfer under paragraph *(c)*, *(d)* or *(h)* of the surplus votes of any elected candidate, a transfer in accordance with paragraph *(g)* (i) of all first preference votes of an excluded candidate or a transfer in accordance with paragraph *(g)* (ii) of all the votes of an excluded candidate that were transferred to him from a particular candidate shall each be regarded as constituting a separate transfer.

(3a) In subsection (3)—

'continuing candidate' means a candidate not already elected or excluded from the count:

'election' of a candidate means the making by the returning officer of a provisional declaration that the candidate has been elected, and 'elected' has a corresponding meaning:

'surplus votes' of an elected candidate means the excess (if any) over the quota of the elected candidate's votes.

(3b) In subsection (3), a reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer under that subsection.

The Hon. J.R. CORNWALL: Despite the lateness of the hour and the fact that we have had some extraordinary performances tonight, with 40-minute speeches in Committee which, under Standing Orders, I admit, is permissible in the interests of truth, freedom, justice and the South Australian way and all that sort of thing, it is still extraordinary that we have been on this Bill now—

The Hon. C.M. Hill: Get on with the job.

The Hon. J.R. CORNWALL: The Hon. Mr Hill has personally taken up about four hours of the Council's time today.

Members interjecting:

The CHAIRMAN: Order!

The Hon. J.R. CORNWALL: We have been on this Bill continuously now for eight hours. I do not intend to take up the time of the Committee by calling for another division. The Government opposes the Hon. Mr Gilfillan's amendment and what the Opposition is proposing and will call against both amendments. I do not propose to divide, because obviously there is an alliance in these matters, albeit I hope temporary, between the Opposition and Democrats wich means that I am faced with Uncle Pat Keneally's dilemma again—I have all the logic but not the numbers.

The CHAIRMAN: The question is that the words proposed to be struck out stand part of the clause.

The Committee divided on the question:

Ayes (8)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, Anne Levy, C.J. Sumner, and Barbara Wiese.

Noes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, I. Gilfillan (teller), K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Pair—Aye—The Hon. M.S. Feleppa. No—The Hon. R.C. DeGaris.

Majority of 3 for the Noes.

Question thus negatived.

The CHAIRMAN: The question now is that the words proposed to be inserted by the Hon. Mr Gilfillan be so inserted.

Question negatived.

The Hon. C.M. HILL: I will now proceed with my amendment. I have to consider whether I have to go into a full explanation of the PR system. I remind honourable members that that detail has already been given to the Council by the Hon. Robert Lucas, whose enthusiasm I commend and whose deep knowledge of the PR system is something for which he should be congratulated, because I know that he has been spending a great deal of time studying the system not only as it applies to this Council but also in regard to all the refinements which were included in the amendment just defeated and which are now included in my amendment, so that the best possible form of PR is now before the Council in regard to local government.

The amendment provides for local government to have an alternative system, that is, it will be able to opt for the Government's method of counting, namely, that which we are now calling the bottom-up approach, or local government may opt for the proportional representation system, as set out in the amendment. I think that that is a very satisfactory answer to the points that have been made in the last hour of discussion in this place. I do not suggest that local government in any way will rush into accepting PR, but it will have the opportunity to investigate it, and if it is attracted to it and thinks that it is a better system than the Government's approach then the opportunity for it to choose that option will be available to it. Accordingly, I move to insert the following new subsections in lieu of the words struck out on page 58, lines 1 to 20:

(3) Where the council has so determined under section 121a, the returning officer shall, with the assistance of any other

electoral officers who may be present, and in the presence of any scrutineers who may be present, conduct the counting of the votes according to the following method:

(a) the returning officer shall exclude from the count the candidate who has the fewest ballot papers in his parcel and place each ballot paper that was in his parcel in the parcel of the candidate next in order of the voter's preference, or, if the voter has not indicated a preference for another candidate, set the ballot paper aside as finally dealt with;

(b) if the number of candidates not excluded from the count equals the number of candidates required to be elected at the election, the returning officer shall make a provisional declaration that the continuing candidate or candidates have been elected;

(c) if the number of continuing candidates does not equal the number of candidates required to be elected at the election, the candidate who then has the fewest ballot papers in his parcel shall be excluded from the count: and each ballot paper that was in his parcel shall be placed in the parcel of the continuing candidate next in order of the voter's preference, or, if the voter has not indicated a preference for a continuing candidate, the ballot paper shall be set aside as finally dealt with;

(d) if the number of continuing candidates then equals the number of candidates required to be elected at the election, the returning officer shall make a provisional declaration that the continuing candidate or candidates have been elected, but, in any other case, the process referred to in paragraph *(c)* shall be repeated until the number of continuing candidates equals the number of candidates required to be elected at the election, and, in that event, the returning officer shall make the provisional declaration that the continuing candidate or candidates have been elected;

(e) if during the process of counting two or more candidates have an equal number of ballot papers in their parcels and one of them has to be excluded from the count, the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine which of the candidates is to be excluded.

(3a) Where the council has so determined under section 121a, the returning officer shall, with the assistance of any other electoral officers who may be present and in the presence of any scrutineers who may be present, conduct the counting of the votes according to the following method:

(a) the number of first preference votes given for each candidate and the total number of all such votes shall be ascertained and a quota shall be determined by dividing the total number of first preference votes by one more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by one, and, where any candidate has received a number of first preference votes equal to or greater than the quota, the returning officer shall make a provisional declaration that the candidate has been elected;

(b) notwithstanding the provisions of paragraph *(a)* or any other paragraph of this subsection, where the total number of all first preference votes does not exceed—

(i) one hundred and fifty; or

(ii) where a different number is prescribed for the purposes of this paragraph—that number,

the number of votes of any kind contained in the ballot-papers shall, for the purposes of any counting or calculation under paragraph *(a)* or any other paragraph of this subsection, be taken to be the number obtained by multiplying the number of votes of that kind contained in the ballot-papers by one hundred;

(c) unless all the vacancies have been filled, the surplus votes of each elected candidate shall be transferred to the continuing candidates as follows:

(i) the number of surplus votes of the elected candidate shall be divided by the number of first preference votes received by him and the resulting fraction shall be the transfer value;

(ii) the total number of the first preference votes for the elected candidate that are contained in ballot papers that express the next available preference for a particular continuing candidate shall be multiplied by the transfer value, the number so obtained (disregarding any fraction) shall be added to the number of first preference votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate,

and, where any continuing candidate has received a number of votes equal to or greater than the quota on the completion of any such transfer, the returning officer shall make a provisional declaration that the candidate has been elected;

(d) unless all the vacancies have been filled, the surplus votes (if any) of any candidate elected under paragraph *(c)*, or elected subsequently under this paragraph, shall be transferred to the continuing candidates in accordance with paragraph *(c)* (i) and (ii), and, where any continuing candidate has received a number of votes equal to or greater than the quota on the completion of any such transfer, the returning officer shall make a provisonal declaration that the candidate has been elected;

(e) where a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under paragraph *(c)* or *(d)* of the surplus votes of a particular elected candidate, no votes of any other candidate shall be transferred to the continuing candidate;

(f) for the purposes of the application of paragraph *(c)* (i) and (ii) in relation to a transfer under paragraph *(d)* or *(h)* of the surplus votes of an elected candidate, each ballot paper of the elected candidate that was obtained by him on a transfer under this subsection shall be dealt with as if any vote it expressed for the elected candidate were a first preference vote, as if the name of any other candidate previously elected or excluded had not been on the ballot paper and as if the numbers indicating subsequent preferences had been altered accordingly;

(g) where, after the counting of first preference votes or the election of a candidate and the transfer of the surplus votes (if any) of the elected candidate that are capable of being transferred, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and all his votes shall be transferred to the continuing candidates as follows:

(i) the total number of the first preference votes for the excluded candidate that are contained in ballot papers that express the next available preference for a particular continuing candidate shall be transferred, each first preference vote at a transfer value of one, to the continuing candidate and added to the number of votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate;

(ii) the total number (if any) of other votes obtained by the excluded candidate on transfers under this subsection shall be transferred from the excluded candidate in the order of the transfers on which he obtained them, the votes obtained on the earliest transfer being transferred first, as follows:

(A) the total number of votes transferred to the excluded candidate from a particular candidate that are contained in ballot-papers that express the next available preference for a particular continuing candidate shall be multiplied by the transfer value at which the votes were so transferred to the excluded candidate;

(B) the number so obtained (disregarding any fraction) shall be added to the number of votes of the continuing candidate;

(C) all those ballot-papers shall be transferred to the continuing candidate;

(h) where any continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under paragraph *(g)* or (i) of votes of an excluded candidate, the returning officer shall make a provisional declaration that the candidate has been elected, and, unless all the vacancies have been filled, the surplus votes (if any) of the candidate so elected shall be transferred in accordance with paragraph *(c)* (i) and (ii), except that, where the candidate so elected is elected before all the votes of the excluded candidate have been transferred, the surplus votes (if any) of the candidate so elected shall not be transferred until the remaining votes of the excluded candidate have been transferred in accordance with paragraph *(g)* (i) and (ii) to continuing candidates;

(i) subject to paragraph *(k)*, where, after the exclusion of a candidate and the transfer of the votes (if any) of the excluded candidate that are capable of being transferred, no continuing candidate has received a number of votes greater than the quota, the continuing candidate who has the fewest votes shall be excluded and his votes shall be transferred in accordance with paragraph *(g)* (i) and (ii);

(j) where a candidate is elected as a result of a transfer of the first preference votes of an excluded candidate or a transfer of all the votes of an excluded candidate that were transferred to the excluded candidate from a particular candidate, no other votes of the excluded candidate shall be transferred to the candidate so elected;

(k) in respect of the last vacancy for which two continuing candidates remain, the returning officer shall make a provisional declaration that the continuing candidate who has the larger number of votes has been elected notwithstanding that that number is below the quota, and if those candidates have an equal number of votes the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine which of the candidates is to be elected;

(l) notwithstanding any other provision of this subsection, where, on the completion of a transfer of votes under this subsection the number of continuing candidates is equal to the number of remaining unfilled vacancies, the returning officer shall make a provisional declaration that those candidates have been elected;

(m) for the purposes of this subsection—

(i) the order of election of candidates shall be taken to be in accordance with the order of the count or transfer as a result of which they were elected, the candidates (if any) elected on the count of first preference votes being taken to be the earliest elected; and

(ii) where two or more candidates are elected as a result of the same count or transfer, the order in which they shall be taken to have been elected shall be in accordance with the relative numbers of their votes, the candidate with the largest number of votes being taken to be the earliest elected, but if any two or more of those candidates each have the same number of votes, the order in which they shall be taken to have been elected shall be taken to be in accordance with the relative numbers of their votes at the last count or transfer before their election at which each of them had a different number of votes, the candidate with the largest number of votes at that count or transfer being taken to be the earliest elected, and if there has been no such count or transfer the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine the order in which they shall be taken to have been elected;

(n) subject to paragraphs *(o)* and *(p)*, where, after any count or transfer under this subsection, two or more candidates have surplus votes, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative sizes of the surpluses, the largest surplus being transferred first;

(o) subject to paragraph *(p)*, where, after any count or transfer under this subsection, two or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first, but if there has been no such count or transfer the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine the order in which the surpluses shall be dealt with;

(p) where, after any count or transfer under this subsection, a candidate obtains surplus votes, those surplus votes shall not be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer;

(q) where the candidate who has the fewest votes is required to be excluded and two or more candidates each have the fewest votes, whichever of those candidates had the fewest votes at the last count or transfer at which each of those candidates had a different number of votes shall be excluded, but if there has been no such count or transfer the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine which candidate shall be excluded;

(r) where a candidate is elected by reason that the number of first preference votes received by him, or the aggregate of first preference votes received by him and all other votes obtained by him on transfers under this subsection, is equal to the quota, all the ballot-papers expressing those votes shall be set aside as finally dealt with;

(s) a ballot-paper shall be set aside as exhausted where on a transfer it is found that the paper expresses no preference for any continuing candidate;

(t) for the purposes of this subsection, a transfer under paragraph *(c)*, *(d)* or *(h)* of the surplus votes of any elected candidate, a transfer in accordance with paragraph *(g)* (i) of all first preference votes of an excluded candidate or a transfer in accordance with paragraph *(g)* (ii) of all the votes of an excluded candidate that were transferred to him from a particular candidate shall each be regarded as constituting a separate transfer.

(3a) In subsection (3)—

'continuing candidate' means a candidate not already elected or excluded from the count:

'election' of a candidate means the making by the returning officer of a provisional declaration that the candidate has been elected, and 'elected' has a corresponding meaning:

'surplus votes' of an elected candidate means the excess (if any) over the quota of the elected candidate's votes.

(3b) In subsection (3), a reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer under that subsection.

The Hon. I. GILFILLAN: We enthusiastically support this amendment. It is quite a happy consolation after having lost my amendment to recognise that the actual content of the Hon. Murray Hill's amendment is an exact duplicate of the PR system embodied in my amendment.

The Hon. R.I. Lucas: A coincidence!

The Hon. I. GILFILLAN: Yes, these coincidences do occasionally happen through communication. I believe that it is the role of those who want to see this system introduced to explain to councils that it is worth considering this step. Therefore, we support the amendment.

Amendments carried.

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

Page 58, lines 36 and 37—leave out "make out a return to the council" and insert "forthwith make out a return to the chief executive officer".

These are technical and consequential amendments.

Amendment carried.

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

Page 58, line 45—Leave out "make out a return to the council" and insert "then forthwith make out a return to the chief executive officer".

This is a consequential amendment, also.

Amendment carried.

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

Page 59, line 3—Insert subclause as follows:

(9) Where the returning officer certifies the result of an election under subsection (6) or (7)—

(a) in the case of a supplementary election—the election of the candidate or candidates shall take effect forthwith;

(b) in the case of a periodical election—the election of the candidate or candidates shall take effect at the conclusion of the periodical elections for the council.

This is a technical drafting amendment which simply tidies the matter up and makes common sense out of it.

Amendment carried; new section as amended passed.

New section 121a.

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

Page 59, after line 3—Insert new provision as follows:

121a. (1) Subject to this section, a council may determine that the method of counting votes to apply at elections for the council shall be—

(a) the method set out in section 121 (3) rather than the method set out in section 121 (3a); or

(b) the method set out in section 121 (3a) rather than the method set out in section 121 (3).

(2) The following provisions shall apply in relation to a determination under subsection (1):

(a) the determination may be made only within the period of two months following the commencement of this section or following the conclusion of any periodical elections for the council;

(b) the council must forthwith, upon the making of the determination, cause notice in the prescribed form

to be given to the Minister and to be published in the *Gazette*;

(c) the determination shall have effect to determine the method of counting to apply at subsequent periodical elections and at supplementary elections occurring after the periodical elections next following the making of the determination;

(d) the method of counting votes at elections for the council applying at the time of the making of the determination shall continue to apply until the determination comes into effect.

(3) Where no determination by a council has come into effect under this section, the method of counting votes at elections for the council shall be the method set out in section 121 (3).

This amendment is consequential on the amendment that the Council just carried. It gives the council that option to which I referred of either the method that the Government has written into the Bill of counting of votes from bottom up or the new method, namely, proportional representation.

The Hon. R.I. LUCAS: I point out quickly for the benefit of those involved in perhaps using the proportional representation system that the provision in the Hon. Mr Hill's amendment ensures that councils must decide within a set period after an election what form of vote counting and voting will be used for the next election. They have a two month period, from my recollection, in which to make that decision. Because of previous amendments, we are to have a two year period between elections; so, within two months of an election a council will decide what the form of counting and voting will be used for the next election and for any supplementary elections that might occur along the way. Therefore, councils need to look ahead and cannot chop and change during their term in office. They need to make that decision and must abide by that for that period.

New section inserted.

New sections 122 to 124 passed.

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

New section 125—'Dishonest artifices.'

Page 61—

Line 18—Leave out 'five' and insert 'ten'.

Line 21—Leave out 'five' and insert 'ten'.

These two amendments in which I leave out 'five' and insert 'ten' in lines 18 and 21 respectively deal with the subject involved in the next amendment, which concerns tick boarding. If I can explain the three amendments at the one time it might be more satisfactory. I am opposed to the Government's provision in new section 129, which prevents in future the practice that I understand is called tick boarding. That practice is a procedure in which a candidate's scrutineer may remain in a polling place, hear the name and roll number of a person voting, make a note of that information and, periodically through the day, feed that information back to the candidate's campaign room where on a copy of the roll a mark is made against the name of the elector who has cast his or her vote.

That is a practice which applies in large councils. It certainly applies in the Adelaide City Council. It is part of the organisation involved in a voluntary system of voting. There is nothing improper about it whatsoever. It gives an active campaign group an opportunity to make some contact with people who it thought might have been supporting its candidate yet up to certain periods of time throughout the day had not cast their votes. Sometimes a reminder is passed to those people that they might have overlooked the fact that the election was on a particular day.

I have been searching for the reason why the Government is taking some objection to this procedure. The only answer I can find to date is that it leads to a very improper practice in which a person might assume the name of an elector who has not voted, go into the poll and give that false name and obtain a voting paper and cast a vote. That sort of action if it does occur (and I might say I have not had any experience with it, although I have heard stories over the years that it might have happened—these stories usually originate from a defeated candidate) would be a very serious offence. Because of that fact, I am increasing the penalties in these amendments from $5 000 to $10 000. That is the manner in which these three amendments are somewhat tied together. The penalties should be increased for this kind of practice if ever anyone was guilty of it. I come to the main thrust of this group of amendments and that is to leave out the new section 129 so that this organisational procedure can continue as it has done in the past.

The Hon. J.R. CORNWALL: The Government opposes the amendment moved by the Hon. Mr Hill. There is a grave inconsistency between the attitude taken by the Opposition in the House of Assembly and that taken here by the Hon. Mr Hill, presumably on behalf of the combined Opposition. It is quite amazing to see the difference.

The Hon. C.M. Hill: You don't understand the situation.

The Hon. J.R. CORNWALL: No, it has nothing to do with it at all.

The Hon. C.M. Hill: Yes it has.

The Hon. J.R. CORNWALL: Perhaps the honourable member should have a word with Dr Eastick, the member for Light, who is the Opposition spokesman on local Government matters in the lower House and I think in general is he not? He specifically moved amendments in the House of Assembly to strengthen the provisions against tick boarding and that is a fact: it is on the record. The Bill comes here and the Hon. Mr Hill for reasons best known to himself—apparently something to do with the traditions of tick boarding that operated in the Adelaide City Council in his day—wants to strike them out.

On balance, I do not think that there is any doubt that tick boarding is a practice that can lead to certain abuses. I urge members, and particularly those members who sit on the cross benches, to resist the Hon. Mr Hill's amendment, because I believe that this is a practice that we should not tolerate. It is not an illegal practice, but it is a practice which at its best is rather sharp and at its worst is more than a little devious in the hands of manipulators.

Members interjecting:

The Hon. J.R. CORNWALL: I was about to say, before I was rudely interrupted by the old bear with the sore head, that I would like an indication of which way members on the cross benches are likely to go on this matter, because it would save the necessity for a division. Perhaps I can best ascertain their intention by allowing them time and by making a further intelligent contribution. It is interesting to study the events involving the Adelaide City Council over the past 50 years because it was during that period that the Hon. Mr Hill gave his distinguished service. It is perfectly true that support groups were enormously well organised. To a significant extent they are still enormously well organised. As I have said, there is nothing illegal about that but it had and to some extent it still has a certain odour about it. It certainly belonged to the days when people consistently said, 'Keep politics out of local government.' As I said earlier, this meant, 'Keep Labor politics out of it.' I understand that our friends on the cross benches have conferred and have decided to support the Government.

The Hon. K.L. MILNE: It is not a question of my changing my mind because, if it is true that the Opposition in another place wanted this legislation to remain and in fact strengthened it (I am assured that is so), there is nothing else that we can do. We have no choice.

The Hon. R.I. LUCAS: The contribution by the Hon. Mr Milne is quite illogical. Irrespective of what his view might have been previously, for him to say that because Dr Eastick, on behalf of the Liberal Party in another place, took a position on a provision that ties his hands as a member not

of our Party but as a member of the Australian Democrats, and more importantly as a member of this Chamber which has a role as a House of Review and which would not even bind members of Dr Eastick's own Party, let alone members of the Australian Democrats, is really quite illogical.

Whilst I appreciate that my speaking on this occasion is probably not going to change the Hon. Mr Milne's view on this occasion, nevertheless I think it needs to be said that his hands are not bound at all by what Dr Eastick does in another place; his hands are not tied by what the Hon. Mr Hill does in this place. The Hon. Mr Milne is an independent member of this Chamber and he can vote according to how he thinks fit on a particular provision, not because Dr Eastick has taken a decision in another place.

The Hon. K.L. Milne: Thank you very much.

The CHAIRMAN: The Hon. Mr Hill has moved two amendments—one is to line 18 and the other to line 21.

Amendments carried.

The CHAIRMAN: The Hon. Mr Milne and the Hon. Mr Hill have amendments to page 61, lines 33 to 41.

The Hon. C.M. HILL: Obviously the penalties were the test case. Having won those penalties, I assume that I will win this amendment.

The CHAIRMAN: We will test that.

The Hon. J.R. CORNWALL: We will divide, if necessary.

The CHAIRMAN: The Hon. Mr Milne has an identical amendment, if he wishes to speak.

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

Page 61, lines 33 to 41—Leave out this proposed new section.

This matter was really decided earlier. The Hon. Mr Lucas is quite right. What he said did not make any difference. Perhaps I should not have said that we had no choice, but it certainly has a big influence on me if the Opposition in another place wants to back up the Government in legislation. I did not realise that. I really do not know of any place where this is undertaken other than in the City Council. I have taken part in that myself. I was not completely happy about it. I admit that there are little undertones in it.

The Hon. J.R. CORNWALL: The penalties apparently went through on the voices. I was not keeping as close an eye on things as I might have been. The only way I could have reversed that at the time was to have called for a division, anyway. Is it possible to recommit that?

The CHAIRMAN: A number of matters will be recommitted.

The Hon. C.M. HILL: I put this amendment on file after receiving strong representations from some people in larger councils, particularly the Adelaide City Council, who simply felt that the practice should be continued and that there was nothing wrong with it.

With due respect to the Hon. Mr Milne, I have no doubt that he also received representations and as a result placed the same amendment on file. The Hon. Mr Milne placed an amendment on file, but a moment ago he spoke against it. The Hon. Mr Milne has given me my test case with higher penalties.

The Hon. K.L. MILNE: The situation now is that I should seek leave to withdraw my amendment.

The CHAIRMAN: That is so, if the Hon. Mr Milne wants to follow up what he said a moment ago.

The Hon. K.L. MILNE: That is correct, Mr Chairman. I seek leave to withdraw my amendment.

The CHAIRMAN: The Hon. Mr Milne seeks leave to withdraw his amendment. Is leave granted?

The Hon. C.M. Hill: No.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

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

Pair—Aye—The Hon. R.C. DeGaris. No—The Hon. M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived; new section as amended passed.

New sections 126 to 144 passed.

Part VIII—'Register of Interests.'

The Hon. C.M. HILL: I believe that new Part VIII on pages 65 to 68 should be deleted. This deals with the long debate that we had late on Thursday night and early on Friday morning dealing with the deletion of the whole issue of pecuniary interests from the legislation. It has been debated already, decided on and it is consequential.

New Part VIII negatived.

Clause 7 as amended passed.

Clauses 8 to 25 passed.

Clause 26—'Power of Governor to make regulations.'

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

Page 71, line 33—After 'subsection (1)' insert 'and substituting the following paragraph:

(*f*) regulating the procedure to be observed at meetings of councils.'

This is a technical amendment and I commend it to the Committee.

Amendment carried; clause as amended passed.

Remaining clauses (27 to 47) and title passed.

The Hon. K.L. MILNE: I point out that the title of new section 54 does not make sense.

The CHAIRMAN: The Bill is to be recommitted, and we will consider those matters later.

Bill recommitted.

Clause 5—'Interpretation'—reconsidered.

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

Page 7 lines 32 and 33—Leave out 'by section 94 (1)' and insert 'under section 94 (1) or (1a)'.

This amendment is consequential upon new sections 94 (1) and 94 (1a) which have now been passed.

Amendment carried.

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

Page 8, lines 10 to 15—Leave out subclause (7) and insert subclause as follows:

(7) For the purposes of this Act, a reference in relation to a council—

(*a*) to the conclusion of periodical elections is a reference—

(i) where the number of candidates nominated to contest each of the elections for the council does not exceed the number of persons required to be elected—to the first Saturday of May of the year of the elections; or

(ii) in any other case—to the time at which the last result of the periodical elections is certified by the returning officer under Division IX of Part VII;

or

(*b*) to the conclusion of a supplementary election is a reference—

(i) where the number of candidates nominated to contest the election does not exceed the number of persons required to be elected—to the time at which the nominated candidate or candidates are declared elected by the returning officer under Division V of Part VII; or

(ii) in any other case—to the time at which the result of the election is certified by the returning officer under Division IX of Part VII.

This amendment was used originally as a test case for the May *versus* October election issue. In the event, October had the numbers. As a consequence, to make sense of the Bill, it is highly desirable that, where the amendment originally referred to the first Saturday in May in the year of

the elections, it should be amended to read 'to the third Saturday of October of the year of the elections'. I will then seek to recommend the whole amendment, so that it will make consequential sense.

Amendment carried; clause as amended passed.

New section 43—'The mayor or chairman'—reconsidered.

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

Page 25—
Line 6, leave out 'three' and insert 'two'.
Line 13, leave out 'three' and insert 'two'.

There is a necessity to alter these words as the new section deals with the terms of a chairman and deputy chairman of a council. As the Committee has now provided for two year terms and not three year terms of service, both the chairman and deputy chairman will have not three year terms but two year terms of service.

Amendments carried; new section as amended passed.

New section 94—'Date of elections'—reconsidered.

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

Page 48, line 19—After 'elections' insert 'as provided in subsection (1)'.

This is simply a consequential amendment.

Amendment carried; new section as amended passed.

New section 99—'Ballot-papers for elections'—reconsidered.

The Hon. R.I. LUCAS: I move:

Page 51, line 18—Leave out 'at least two electors' and insert 'two electors and such other persons who may wish to be present'.

I discussed this proposed amendment earlier. Parliamentary Counsel has come up with a form of words and pointed out that the drawing of lots shall be done forthwith on the close of nominations, which means that all candidates and anyone else who might be interested will be aware of the time and I guess can surmise the place, which will be wherever the clerk is, one presumes, although it is not technically laid down in the Bill. So, people can assume that that will be the place, time and date of the drawing of the lots.

The amendment makes quite clear that anyone who wishes to be present (and this includes candidates or persons nominated by candidates) can be present for the drawing of the lots. Earlier in the debate the form of words that I suggested to amend this provision, namely, someone nominated by the candidate, would have precluded the candidates themselves from being there, which is not what I intended. The form of words used in the amendment now before the Committee will ensure a public forum for drawing lots and ensures that there will be a returning officer and two electors present, assuming that no-one else from the general public wishes to be present.

Whilst we have not come to the ridiculous situation of candidates appointing scrutineers and involving returning officers in that degree of work, I think that at least this provides a definite laying down of the possibility of public scrutiny of the drawing of lots, which I think is an important part of the polling process, and I hope that the Minister will view the suggested amendment favourably.

Amendment carried; new section as amended passed.

New section 100—'Method of voting in elections'—reconsidered.

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

Page 51, lines 23 to 27—Leave out all words in these lines and insert:
his vote on the ballot paper—
(a) where the method of counting votes applying at the election is the method set out in section 121 (3)—by placing the number 1 in the square opposite the name of the candidate for whom he votes as his first preference and by continuing, if he so desires, his votes for other candidates by placing consecutive numbers beginning with the number 2 in the squares opposite their names in the order of his preference for them; or
(b) Where the method of counting votes applying at the election is the method set out in section 121 (3a)—by placing consecutive numbers beginning with the number 1 in the square opposite the names of the candidates for whom he votes in the order of his preference for them until he has indicated his vote for a number of candidates not less than the number of candidates required to be elected.

This amendment was left until this stage in the proceedings because the matter of the options available for council voting methods had to be decided first. Now that that has been decided, this amendment simply provides that, where a council has opted for the optional preferential system, a voter must place the number 1 in the square of the candidate of his first choice and then as he so desires he may or may not continue with marking numbers. Secondly, it provides that, if a council opts for a PR system, the voter must place the figure 1 in the square opposite the name of the candidate of his choice and then must proceed to place numbers in the squares at least equal to the number of candidates required. If a voter wishes to leave the balance of the squares empty, he can do so.

The Hon. R.I. LUCAS: I support the Hon. Murray Hill's amendment. Under proposed paragraph *(b)* of new section 100, the significant difference that will exist with the Legislative Council form of PR and the local government council form of PR is that in the Legislative Council we do deem as being formal votes that might have a number 1 preference in one square and then, say 10 number 2s in the other ten squares of the ballot-paper. Personally, I think that is a strange system. Equally, the Legislative Council accepts as formal votes which might have number 1 and then numbers 46, 47, 48, and so on. The system recommended in the Hon. Mr Hill's amendment will not recognise those sorts of inadequacies which in my view are inherent in the Legislative Council system. Quite simply, the form of votes will be as one would normally think, that is, if a council needs to elect five people, the votes showing consecutive numbers of 1 to 5 against the candidates will be declared as formal votes.

[*Midnight*]

Amendment carried; new section as amended passed.

New section 120—'Adjournment of election or poll'—reconsidered.

The Hon. R.I. LUCAS: I move:

Page 56, line 28—After 'poll' insert 'for a period not exceeding twentyone days'.

We have already debated this; so I will restate very briefly that under new section 120, as it exists in the Government Bill, the returning officer could adjourn the election or poll for an indeterminate period. My amendment adds the phrase that exists in the State Electoral Act.

Amendment carried; new section as amended passed.

New section 125—'Dishonest artifices'—reconsidered.

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

Page 61, lines 18 and 21, leave out '10' and insert 'five'.

It is now logical that we should withdraw the amendment that was passed with regard to the penalties.

Amendment carried; new section as amended passed.

Bill read a third time and passed.

PUBLIC INTOXICATION BILL

Returned from the House of Assembly without amendment.

SOUTH AUSTRALIA JUBILEE 150 BOARD ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

Members will be aware of the great importance to South Australia of the Jubilee celebrations in 1986. Soon after coming to office, the Government introduced legislation which had been prepared by the previous Administration to incorporate the South Australia Jubilee 150 Board, which is charged with the responsibility of organising and promoting programmes, functions and celebrations for the 1986 anniversary. That legislation established the Board of 14 persons which was an appropriate size for the work of planning and organising which the Board then had before it. The Board also has the responsibility of involving as many people as possible in the jubilee celebrations. For this reason the Government now believes that it is appropriate to expand the size of the Board from 14 to 19 to allow for a wider representation from all sections of the community. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 6 of the principal Act which provides for the membership of the South Australia Jubilee 150 Board. The clause amends the section so that the membership of the Board will be a maximum of 19 persons appointed by the Governor rather than as is presently provided a maximum of 14. Clause 3 amends section 9 of the principal Act which provides for the procedure at meetings of the Board. The clause increases the quorum for meetings of the Board from seven to 10 members.

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

CITRUS INDUSTRY ORGANISATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SEEDS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

EGG INDUSTRY STABILISATION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

LICENSING ACT AMENDMENT BILL (1984)

Returned from the House of Assembly without amendment.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (1984)

Returned from the House of Assembly with an amendment.

STATUTES AMENDMENT (OATHS AND AFFIRMATIONS) BILL

Returned from the House of Assembly without amendment.

POLICE OFFENCES ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 18 April. Page 3719.)

Clause 2—'Being unlawfully on premises.'

The Hon. C.J. SUMNER: I indicated in the second reading debate that the Government supported the principles contained in the Bill that was introduced by the Hon. Mr Griffin. It was directed mainly towards overcoming problems that may be in the law relating to squatters. However, I also indicated that I wished to give further consideration to the precise formulation of the honourable member's Bill. Having done that, I believe that I should move an amendment to the Bill. I therefore move:

Pages 1 and 2—Leave out clause 2 and substitute new clauses as follow:

2. Section 17 of the principal Act is amended by striking out from subsection (1) the passage "One hundred dollars" and substituting the passage "Two thousand dollars".

3. The following sections are inserted after section 17 of the principal Act:

17a. (1) Where—

(a) a person trespasses on premises;

(b) the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier; and

(c) the trespasser is asked by an authorised person to leave the premises,

the trespasser shall, if he fails to leave the premises forthwith or again trespasses on the premises within twenty-four hours of being asked to leave, be guilty of an offence.

Penalty: Two thousand dollars or imprisonment for six months.

(2) In proceedings for an offence against this section an allegation in the complaint that a person named in the complaint was on a specified date an authorised person in relation to specified premises shall be accepted as proved in the absence of proof to the contrary.

(3) In this section—

"authorised person", in relation to premises, means—

(a) the occupier, or a person acting on the authority of the occupier;

(b) where the premises are the premises of a school or other educational institution, or belong to the Crown or an instrumentality of the Crown, the person who has the administration, control, or management of the premises, or a person acting on the authority of such a person:

"occupier" in relation to premises, means the person in possession or entitled to immediate possession of the premises:

"premises" means—

(a) any building or structure;

(b) any land that is fenced or otherwise enclosed;

(c) any land (whether or not fenced or enclosed);

(d) any aircraft, vehicle, ship or boat.'

The amendment has two parts, the first of which is to increase the penalties in section 17 of the principal Act, which deals with the offence of being unlawfully on premises. The second part of the amendment revamps new section 17a, sub-section (1) of which provides that:

Where—

(a) a person trespass on premises;

(b) the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier; and

(c) the trespasser is asked by an authorised person to leave the premises,

the trespasser shall, if he fails to leave the premises forthwith or again trespass on the premises within twenty-four hours of being asked to leave, be guilty of an offence.

The difference between that formulation and the provision in the Hon. Mr Griffin's Bill is that it provides for there to be more than just a trespass. The Mitchell Committee drew the distinction between trespass, which of course at the present time is a civil offence or a civil wrong, and when considering that came down with the firm recommendation that trespass should not as such be covered by the criminal law.

On considering the honourable member's Bill, I believed that it did go too far in almost making trespass a criminal offence. For that reason, my amendment introduces the notion of interfering with the enjoyment of the premises by the occupier. So, that would clearly cover the situation of squatters in a residence or on rural properties, for instance, if that squatting interfered with the enjoyment of the premises by the occupier.

But it would not extend, for instance, to casual trespass, walking across farmland, perhaps mushrooming, or some of the sorts of things that many people do engage in in the country at present. It was felt that to have the situation as outlined in the honourable member's Bill was too strict a position as far as the criminal law was concerned. My amendment loosens that up a little but still copes with the evil with which the honourable member's Bill is designed to deal.

When I first placed an amendment on file I had, in fact, deleted the existing section 17, dealing with being unlawfully on premises. The reason for that was again in accordance with the Mitchell Committee recommendations, because that committee recommended that that offence be abolished on the ground that it was difficult to define 'unlawful' in that sense. But on further consideration, I believe that section 17 should stay. One situation that would not have been covered had I not changed my amendment to retain section 17 is that people being on premises for the purposes of peeping (peeping Toms and the like) would not have been covered by the law. That is one situation where people are unlawfully on premises under the existing law.

The alternative was to abolish section 17 and replace it with another section dealing with peeping or prying to cover the situation of the peeping Tom. But, on reflection, I felt that section 17 can remain and be reinforced now by a new section 17a dealing with trespass, and trespassers being asked to leave by an authorised person, and thereby commiting an offence if they did not. It would further cover the situation of a member of the Police Force asking a person to leave premises if that officer believes that person had entered or was present on premises for the purpose of committing an offence.

The Hon. K.T. GRIFFIN: I suppose that in Opposition one has to be grateful for small mercies. I acknowledge that, if the amendment is not accepted, the Bill will not be considered in another place. Without wanting to be ungracious about it I do, therefore, accept the amendments moved by the Attorney-General. I am pleased to see that section 17 is now retained and that, in fact, the monetary penalty is increased from the present amount of $100 to $2 000. Although the period of imprisonment remains at six months, which is less than that which I had in my Bill, I am nevertheless prepared to accept that an increase in monetary penalty goes part way towards achieving the objective that I set.

I doubt whether the amendment moved by the Attorney-General is as powerful as the provision in the Bill, but I do acknowledge that there is a reasonable prospect that it will deal with the particular evil I was seeking to address in the Bill—squatting. There will be no doubt that the ingredients of the offence under the new section 17a will be established in those circumstances, namely, that there will be a person trespassing on premises, that the nature of the trespass will be such as to interfere with the enjoyment of the premises by the occupier and that the trespasser is asked to leave by an authorised person.

There may well be some debate about whether or not the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier, but I suppose that is something that we will have to monitor as section 17a is used to deal with offences of squatting. I merely draw attention to what I see as a potential difficulty with that requirement. I would have thought that the provision in the Bill was much clearer, and while it would not be likely to catch mushroomers unless they refused to leave premises upon being asked to leave, nevertheless I am prepared to accept the amendment.

The only other major change is in respect of 'authorised person' in relation to educational institutions, schools and properties belonging to the Crown or an instrumentality of the Crown. My Bill provided that a member of the Police Force was such an authorised person in the absence of any other person who had the administration, control or management of the premises, or a person acting on the authority of such a person. I suppose the amendment will now require that, if the principal of a school, as the person who has the administration, control or management of a school, wishes to have appropriate police surveillance after school hours, particularly in circumstances where the premises may be subject to vandalism or even arson, the principal may request the police and give a general authority to police officers to act on behalf of the principal in respect of the exercise of any power granted by section 17a. That will probably mean some more administrative requirements, but is likely to have ultimately the same sort of effect as the provision in the Bill that I introduced.

I would have thought that it was unnecessary for the amendment to eliminate the authority of the police but, again, recognising that if that is not done the Bill is unlikely to pass, I think it is in the best interests of everyone that we allow it to pass and monitor the operation of the Bill as amended.

The only other matter relates to section 17b, to which I referred during the second reading debate. Again, I recognise that this will not necessarily preclude the police from taking action against intruders if an offence has been committed. Section 17b provides a mechanism for a member of the Police Force who has reasonable grounds for belief that a person has entered or is present on premises for the purpose of committing an offence to order that person to leave the premises. If the person does not leave the premises, an offence is committed.

Provided that the member of the Police Force has reasonable grounds for that belief and the order is not complied with, an offence is committed, notwithstanding that some other offence may also have been committed by the person who is on the premises. In the interests of having some change made to the present law relating to persons unlawfully on premises, and in the interests of combating the difficulties

associated with squatting, I am prepared to accept the amendment subject to the qualifications that I have mentioned.

Existing clause 2 struck out; new clauses 2 and 3 inserted.

Title passed.

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

That this Bill be now read a third time.

The Hon. C.J. SUMNER (Attorney-General): To explain to the Council what is going on, I point out that the Government is prepared to make time available for this Bill in the Lower House. It passes here as a private member's Bill but will be picked up in the Lower House before the end of the session.

Bill read a third time and passed.

ADJOURNMENT

At 12.28 a.m. the Council adjourned until Wednesday 9 May at 11.45 a.m.