LEGISLATIVE COUNCIL

Tuesday 4 December 1984

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

ASSENT TO BILLS

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

Administration and Probate Act Amendment, (No. 2),
Aged and Infirm Persons' Property Act Amendment (No. 2),
Artificial Breeding Act (Repeal),
Bulk Handling of Grain Act Amendment,
Canned Fruits Marketing Act Amendment,
Criminal Investigation (Extra-territorial Offences),
Criminal Law Consolidation Act Amendment (No. 2),
Election of Senators Act Amendment,
Evidence Act Amendment (No. 3),
Juries Act Amendment,
Justices Act Amendment,
Magistrates Act Amendment,
National Crime Authority (State Provisions),
Prisons Act Amendment,
Road Traffic Act Amendment (No. 3),
Soil Conservation Act Amendment,
Tobacco Sales to Children (Prohibition),
Valuation of Land Act Amendment,
Wheat Marketing.

DEATH OF Mr J.S. CLARK

The PRESIDENT: I take this opportunity to express my profound regret at the recent death of Mr J.S. Clark, a former member of the House of Assembly. As President of the Council I express the deepest sympathy of members of the Council to Mr Clark's family in their sad bereavement, and I ask honourable members to stand in silence as a tribute to his memory and his meritorious public service.

Members stood in their places in silence.

PETITION: VIDEO TAPES

A petition signed by 276 residents of South Australia praying that the Council will ban the sale or hire of X rated video tapes in South Australia was presented by the Hon. K.T. Griffin.

Petition received.

PUBLIC WORKS COMMITTEE REPORTS

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

Aberfoyle Hub Primary School,
Naracoorte College of Technical and Further Education—Multi-purpose Workshop (Construction),
Parafield Poultry Research Centre—New laboratory.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Children's Court Advisory Committee—Report, 1983-84.
Classification of Publications Board—Report, 1983-84.
Country Fire Services Board—Report, 1983-84.
South Australian Film Corporation—Report, 1983-84.
S.A. Industrial and Commercial Training Commission—Report, 1983-84.
South Australia Jubilee 150—Report, 1983-84.
S.A. Metropolitan Fire Service—Report, 1983-84.
State Bank of South Australia Act, 1983—Regulations.
Supreme Court—Supreme Court Act, 1935—Rules.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Corporate Affairs Commission—Report, 1983-84.

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

Pursuant to Statute—

Chiropractors Act, 1979—Regulations—Accepted Institutions.
Department for Community Welfare—Report, 1983-84.
Food and Drugs Act, 1908—Regulations—
  Advisory Committee Attendance Fees.
  Packaged Perishable Foods—Date Marking.
Health Act, 1935—Regulations—Pesticides.
Local Government Act, 1934—Regulations—Proceedings of Councils—Amendment.
Planning Act, 1982—
  Regulations—
    Development Control.
    Roadside and Township Vegetation.
  Planning Appeal Tribunal—Report, 1983-84.
  Crown Development Reports by S.A. Planning Commission on proposed—
    Relocation of classroom at Coorara Primary School.
    Suspension of 12 mm cable over River Torrens, Castambul.
    Development by Engineering and Water Supply Department, Yorketown.
    Concrete water tank, Aberfoyle Park.
    Radio tower, Hundred Adelaide.
    Erection of radio mast on E.T.S.A. property at Magill.
    Additions to plant nursery, Brookway Park Horticulture Centre.
    Land division, Hundred of Mann.
    Construction of maintenance shed, Lake Butler, Robe.
    Concrete water tank, Reynella.
    Single classroom, Eyre High School.
    Additions at Strathalbyn High School.
    Development by Department of Lands at Berri.
Public Parks Act, 1943—
  Disposal of land, Aberfoyle Park.
  Disposal of land, Thebarton.
  Disposal of land, Hove.
  Disposal of land, Athelstone.
South Australian Health Commission Act, 1975—Regulations—
  Incorporated Health Centre Fees.
  Incorporated Hospital Charges.
South Australian Planning Commission—Report on the Administration of the Planning Act, 1983-84.
Supply and Tender Board—Report, 1983-84.
District Council of Kimba—By-law No. 27—Repeal of By-laws.
District Council of Robe—By-law No. 26—Street Traders and Hawkers.

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

By Command—

S.A. Council on Technological Change—Technology Appraisal—Automated Fuel Systems.

Pursuant to Statute—

Teachers Registration Board of S.A.—Report, 1982.
Education Act, 1972—Regulations—Book and Materials Grants.
Metropolitan Milk Supply Act, 1946—Regulations—Prices for Two Litre Cartons.
S.A. Teacher Housing Authority—Report, 1983-84.
State Transport Authority—Report, 1984.
The University of Adelaide—Report and Legislation, 1983.
Director-General of Education—Report, 1983.
Motor Vehicles Act, 1959—Determination by the Third Party Premiums Committee.

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

Pursuant to Statute—

Fisheries Act, 1982—Regulations—

Aquatic Reserves, Upper Spencer Gulf.

Investigator Strait Experimental Prawn Fishery—Fees.

Upper Spencer Gulf.

MINISTERIAL STATEMENT: SCHOOL DISCIPLINE

The Hon. FRANK BLEVINS (Minister of Agriculture): I seek leave to make a statement.

Leave granted.

The Hon. FRANK BLEVINS: Discipline in schools is a vexed question which is repeatedly raised in school and community groups and through the media. The community agrees, in fact demands, that schools provide the security, care and organisation to ensure the right learning environment for students.

How schools set about achieving this is the issue which can often polarise a school community. It was in the interest of coming to grips with various concerns and developing a coherent response that the Minister of Education asked the Department of Education to prepare a public discussion paper raising issues about the appropriate setting for learning in our schools and the management of student behaviour.

It is the second policy development paper issued by this Government to encourage the community to contribute to development of important educational policies. This is the first South Australian review of the ways in which student behaviour is managed in our schools. The Minister of Education suggests that it is not before time. Vast changes in the attitudes of the community have occurred over the years. These changes are, of course, reflected in our schools and in the behaviour of students.

There are many different areas of change. First, circumstances outside student's school life obviously influence their behaviour within the school. With increased changes in the structure of families, increases in violence in the home, poverty, drug abuse, alcoholism and unemployment, the effects of these factors are displayed through student behaviour in school hours. There is also a general sense of gloom about the future which many teenagers have. They know that steady attention to school work does not necessarily mean steady employment prospects, and consequently can feel angry and rebellious. A change in the way youngsters react to adult authority also has emerged in recent times.

Finally, over the years, significant changes have occurred in parent and community attitudes, particularly in relation to the responsibilities of the school. The school today is expected to be involved in areas once the preserve of parents, the extended family and the church. All these factors and others raised in the discussion paper have mounted strong pressure on the traditional means of ensuring that schools are productive, supportive places for students. The paper outlines some of the measures used now to assist this aim and points to some possible areas for review. For example, it points to:

- The benefits in terms of student interest and co-operation through schools constantly examining curriculum, teaching methods and student/staff relationships to meet the changing needs of students and demands of parents and community.
- The benefits of involving students in decision making to enhance understanding and, therefore, acceptance.
- A possible need to increase teacher training to cope with rebellious and difficult students.
- A need for parents and teachers to review their attitudes on some basic and traditional areas if schools are to be secure learning environments and, at the same time, social settings appropriate for the 1980s.
- The need for strong communications, that is, students, parents and teachers being involved in school policy formulation, thoroughly understanding what has been agreed to and what the consequences are of not meeting expectations.

The paper also highlights legislative deficiencies. There are at present only four sanctions against disruptive behaviour which are legally defined and set out in regulations under the Education Act. They are detention, suspension, corporal punishment or expulsion.

There are many other strategies, including counselling with students and/or parents, loss of privileges, referral to guidance officers or Department of Community Welfare/Child, Adolescent and Family Health Service panels which are more regularly used. The paper's principal recommendation is that, rather than a central departmental policy on disciplinary measures, each school work up its own school-based policy.

The Minister of Education believes that this is an issue which requires thorough public discussion and examination. He is therefore urging strong community input, inviting public submissions until 30 March 1985. It is through this process that the Minister hopes a new, constructive approach to and support for schools in relation to school discipline can be achieved.

WINE TAX

The PRESIDENT: On Wednesday 22 August 1984 the Council passed a resolution concerning sales tax on wine. Part 5 of that resolution requested that the Attorney-General communicate the contents of the resolution to the Premier and the Prime Minister. I have been advised by the Attorney-General that the resolution was drawn to the attention of the Prime Minister and that the Minister assisting the Prime Minister (Senator Susan Ryan) responded as follows:

The Prime Minister has asked me to thank you for your letter of 23 August 1984 in which you brought to the attention of the Government the motion of the Legislative Council concerning the sales tax on wine.

The decision to introduce a sales tax of 10 per cent on alcoholic grape wine was made after careful consideration of a range of factors. The Government was concerned principally that the previous tax regime discriminated heavily against other beverages, both alcoholic and non-acoholic.

I note here that wine consumption increased by about 50 per cent per capita in the past six years, compared to beer consumption which fell by 10 per cent per capita. The absence of a tax on wine had been a continuous and glaring anomaly in the face of these trends.

Any new tax is unpopular, but the rate of sales tax on wine needs to be kept in perspective. It compares favourably to the 20 per cent sales tax on carbonated soft drinks, the 66 cents per litre excise on ordinary strength beers and the higher excises, ranging between $17.37 and $20.90 per litre of alcohol, on spirits.

The Legislative Council's concern about the South Australian wine industry is recognised. Members can be assured that the independent inquiry into the grape growing and grape product industry which was announced by the Treasurer in the Budget speech will investigate all aspects of the structure of the industry and the problems of producers, including those in South Australia. I am pleased to note that Mr Noel Dimech, a grape grower in the McLaren Vale, has agreed to serve as a member of the inquiry.

The recommendations of the inquiry will assist the development of Government policies to help the industry overcome its economic and regional problems. The inquiry has been asked to report by early next year.

DEATH OF INDIAN PRIME MINISTER

The PRESIDENT: I have a letter from the Acting High Commissioner for India in reply to the resolution passed

by the Legislative Council on Thursday 1 November 1984. The letter states:

Dear Hon. Whyte,

Thank you for your message of condolence on the death of Prime Minister Mrs Indira Gandhi, which has since been forwarded to New Delhi. We do appreciate your thoughtfulness and gesture.

Yours sincerely, S. Kipgen

QUESTIONS

GRAND PRIX

The Hon. M.B. CAMERON: Does the Attorney-General have a reply to the question I asked on 30 October about the Grand Prix?

The Hon. C.J. SUMNER: A plan of the route will be published within the next week. (I understand that has now happened.) It is not anticipated that any trees of a historic or heritage nature in Victoria Park and surrounding areas will be lost as a result of staging the Grand Prix.

The Hon. R.C. DeGARIS: Does the Attorney-General have a reply to the question I asked on 1 November about the Grand Prix?

The Hon. C.J. SUMNER: A Bill has been introduced to: establish an Australian Formula One Grand Prix Board; and provide for the establishment of a motor racing circuit. The powers of the Board will allow wide-ranging involvement of the private sector in many aspects of staging the Grand Prix. It is important that the public and private sectors work together in a complete and co-operative manner to ensure that the image and presentation of South Australia is at its best when telecast to the international television audience. At this stage, it is not envisaged that the Government would hand over the organisation of this prestigious event to the private sector.

The Hon. M.B. CAMERON: My question is directed to the Attorney-General, representing the Premier. Has the South Australian Government signed the final contract to enable the Australian Formula One Grand Prix to proceed in Adelaide in 1985? If not, is the Government aware that Monaco, having lost its round of the world championships, is involved in court action against the Formula One Constructors Association? Should this action be successful and Monaco be reinstated as a Formula One world championship venue, is there any possibility Adelaide will be deleted from the world championship?

The Hon. C.J. SUMNER: The contracts have not yet been signed, to my knowledge, at least. As to the second question asked by the honourable member, I do not have any details of the material that he has put before me, but I have no information to suggest that the information that he has provided will affect staging the Grand Prix in Adelaide.

The Hon. K.T. GRIFFIN: Does the Attorney-General have an answer to the question that I asked on 30 October about the Grand Prix?

The Hon. C.J. SUMNER: The answers are as follows:

1. As a result of negotiations, formalisation of the 50/50 revenue sharing, the naming rights, the term of the contract and other revenue generating arrangements are currently being written by Crown Law. Other standard details of the contract are also being finalised. It is expected that the contracts will be signed before Christmas.

2. No.

3. Mr L. Owens (Crown Law), Dr M. Hemmerling (Director of Cabinet Office) and Mr T. Plane (Premier's staff).

4. Yes.

5. Yes.

BREAD

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about bread prices.

Leave granted.

The Hon. J.C. BURDETT: Honourable members will recall that as a result of problems in the bread industry in relation, mainly, to discounting at the retail level, in the last session of Parliament a Bread Industry Authority Bill was introduced to provide controls over the industry. Honourable members will recall that the second reading of the Bill was adjourned for six months, which meant that it did not proceed and that members who supported that position indicated that they would not be opposed to some steps being taken to try to overcome the problems in the industry by legislation if necessary, but not in the form of such a heavy handed Bill, as they saw it to be. My questions will be directed to whether the Government proposes to do anything about the subject now.

One of the principal problems which was disclosed during that debate and which was quite clear was the question of rebate being granted for unsold bread. This was an illusory procedure and, in effect, was a form of price support by the wholesalers to some sectors of the retail industry because unused bread is not allowed to be sold under health laws, anyway. Does the Minister intend to introduce legislation to prohibit or control this practice of rebates on unsold bread and, if so, when does he propose to introduce that legislation?

The Hon. C.J. SUMNER: I thank the honourable member for that question. His information and contacts seem to be as good as those of the *Advertiser* journalists with respect to certain other legislative initiatives which I intend to introduce this week and which were featured prominently in this morning's *Advertiser*. With respect to bread prices, the honourable member asks whether the Government—

An honourable member: Got you rattled a bit?

The Hon. C.J. SUMNER: Not at all.

The Hon. C.M. Hill: You were on Saturday.

The Hon. C.J. SUMNER: No; Saturday provided a good result. I understand that the Hawke Government was returned with a comfortable majority.

The Hon. L.H. Davis: Will you talk about Makin?

The PRESIDENT: Order! The Attorney-General will talk about bread prices, and I ask members not to interject.

The Hon. C.J. SUMNER: I cannot understand where the independent member of the Legislative Council, who sits next to the Hon. Diana Laidlaw, is. When I last saw him he was enjoying himself at the Australian Hotels Association gathering.

The Hon. C.M. Hill: Where is the Hon. Mr Bruce?

The Hon. C.J. SUMNER: We are talking about independents, not the Hotels Association. The Hon. Mr DeGaris, I understand, is an independent because he refused to serve with the Hon. Mr Cameron and still does not attend Party meetings.

The Hon. M.B. Cameron: That's a bit unkind.

The Hon. C.J. SUMNER: That is what the honourable member said, as I recall.

The Hon. C.M. Hill: He has 'independence' on his mind; another one is coming up in Whyalla.

The Hon. C.J. SUMNER: Whom are you running in Whyalla?

The Hon. C.M. Hill: You know that the independent is Mr Murphy. They say they are going to form an independence league.

The PRESIDENT: Order! The honourable Minister.

Members interjecting:

The PRESIDENT: If honourable members want to have a real argument, let us have it straight away. I call for order. I ask the Attorney-General to address himself to the question, and I ask honourable members to stop interjecting. Let us get on with the questions.

The Hon. C.J. SUMNER: Hear, hear! That was a very supportive little speech, Mr President. I appreciate the question that the honourable member asked. As members know, the Government introduced legislation to deal with certain problems that had been outlined in the bread industry. That was defeated by members opposite. It is interesting to note, and I note for the benefit of the Chamber and the public, that the Hon. Mr Burdett has pledged his support for some measures to deal with the problems that he has outlined in the bread industry. He has referred to discounting at the retail level; he has referred to the problem of credits being given by wholesalers to retailers for unsold bread. I understand from what the honourable member said that he has pledged his support for any legislation that will correct those problems. In view of that indication from the honourable member I can say to him that the Government intends this very week to introduce legislation to deal with those two problems outlined by the honourable member. I am pleased to see that he and no doubt his Party will give wholehearted support to that legislation.

Members interjecting:

The Hon. C.J. SUMNER: The legislation will deal with those problems that the honourable member has outlined. I am pleased that by way of his explanation to the question the honourable member has pledged his support to those measures. All I can say to members is that I expect a Bill to be introduced this week to give effect to certain reforms relating to the sale of bread and to overcome some of the problems that have existed in the industry. It will address the question of credits for unsold bread. It has been estimated that this causes more than $1 million of waste in the industry a year. As the honourable member pointed out, once bread has been delivered to the retailer it cannot then be returned to the manufacturer. Therefore, there is a significant amount of waste and that waste is exacerbated, not because of that rule, but because the supermarkets insist on manufacturers giving credits for the unsold bread. This means that much more bread is delivered by the manufacturers.

The supermarkets demand that bread be delivered so that at all times their shelves are filled with bread. Bread that is not sold is wasted, but the supermarket does not lose by it because the supermarket insists in its negotiations with manufacturers that credits be given for bread supplied that is not sold. That problem has been identified. I hope this week that legislation can be introduced to address that situation. I look forward to the honourable member's contribution on the topic.

POLICE OFFENCES ACT

The Hon. K.T. GRIFFIN: Does the Attorney-General deny that the proposed Bill to amend the Police Offences Act in relation to police powers and penalties has now been shelved by the Government?

The Hon. C.J. SUMNER: I have indicated to the Council previously that amendments to the Police Offences Act are now being considered: I have indicated in this Council and publicly that consideration is still under way and that, when the Government has concluded its deliberations on this Bill, it will be introduced into Parliament. Until that time the honourable member will have to wait like everyone else. When the Bill is introduced the honourable member will be able to make his usual contribution, no doubt a learned and considered contribution, on the Government's measure.

NATURAL GAS PRICES

The Hon. K.L. MILNE: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Mines and Energy, a series of questions about negotiations being undertaken at present on the price of natural gas.

Leave granted.

The Hon. K.L. MILNE: As honourable members will know, in recent statements I criticised the previous Labor and Liberal Administrations, including Mr Roger Goldsworthy, on this whole matter of natural gas prices. Since then, Mr Goldsworthy has 'had a go' at me in a good natured sort of way, which is right and proper, and we now have the record reasonably straight. Never mind what happened in the past—that is behind us—and I am not prepared to say what I would have done had I been Minister during those negotiations. It is easy to be wise with hindsight, but the problem to be addressed now is present and future gas prices.

The Hon. L.H. Davis interjecting:

The Hon. K.L. MILNE: The honourable member might listen to this, because he had some responsibility in the matter. He should not get too funny. It is obvious to me that, whichever Minister was negotiating, and either a Labor or Liberal Government, the producers managed to get him at a disadvantage and make it appear as if the Opposition would attack his Government unless it did what the producers demanded.

The PRESIDENT: Order! I ask the honourable member to explain his question and not to talk about the basis of the situation.

The Hon. K.L. MILNE: This is no atmosphere for Governments to negotiate major contracts which affect everybody in South Australia, especially two major public utilities producing energy. For this purpose, I believe that the Minister of Mines and Energy should take Parliament into his confidence and that he should have the support of Parliament. This should apply, even if the Minister decides that legislation is necessary.

As you will see from my questions, Mr President, when you come to think of it, the plural portfolio of Mines and Energy involves an inherent and dangerous conflict of interest. Obviously, the two portfolios should be quite separate. This has never been more obvious than during these gas negotiations, where the interests of the miners or producers, and thus a department of mines as distinct from a department dealing with energy and the interests of the energy users or customers are not the same. In fact, their interests conflict very badly, and this must place any Minister holding these portfolios in a difficult position.

The PRESIDENT: Order! I must ask the honourable member to relate his remarks to the explanation.

The Hon. K.L. MILNE: My questions are as follows:

1. Does the Minister still believe that the Cooper Basin producers have found enough natural gas to supply South Australia as well as New South Wales to the year 2000 as he announced in October 1983, no doubt based on information produced by the Department of Mines and Energy?

2. Have the producers found more gas since that date and, if so, how much, and for how long beyond 1987 will it extend the supply of gas for South Australia?

3. In view of the fact that the price paid to the producers for gas has increased 164 per cent in four years from January 1981 (that is, an average of 41 per cent per annum) and in view of the fact that this increase of over $1 per gigajoule is costing the South Australian public over $100 million per annum extra for electricity and gas, will the Minister inform Parliament what further increased prices are in store for us, if any?

4. According to the Stewart Report published in April 1984, the producers are aiming for a price of $3 per gigajoule. As New South Wales is paying about $1 per gigajoule and South Australia will shortly be paying $1.62 per gigajoule, will the Minister inform Parliament what action is being taken to prevent this happening?

The Hon. FRANK BLEVINS: I did not catch all of the questions, but will make as good a fist of the matter as I can, refer them to my colleague in another place, and bring back a reply.

PARTICIPATION AND EQUITY PROGRAMME

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

Leave granted.

The Hon. ANNE LEVY: I am sure that everyone is aware of the Participation and Equity Programme initiated by the Schools Commission and funded by the Federal Government, as this programme has been one of the major achievements of the first Hawke Government in education. I would be grateful if the Minister could provide information as to the use of PEP funds in Government schools in South Australia during the 1984 calendar year. In particular, will he indicate what proportion of the funds has been spent on particular programmes and, especially, what proportion of the funds has been used on programmes to benefit girls in schools? Has he any information about the rumour that some of these funds will not be spent and may, in fact, be in danger of being returned to Canberra?

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

ANTI DISCRIMINATION LEGISLATION

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about anti discrimination legislation.

Leave granted.

The Hon. R.J. RITSON: My explanation is largely medical, but the question is purely legal. That is why I direct it to the Attorney-General, hoping that he will not parry it off sideways with an answer to a question I am not asking. I expect that he will be able to give me a clear 'Yes' or 'No' answer, because my question relates to the anti discrimination legislation that went through this Council recently. The Attorney explained the meaning of that legislation at great length. However, a problem has arisen over the matter of AIDS.

Current medical literature indicates that whilst this disease is still a rare one in South Australia serological evidence of an AIDS related agent is somewhat more widespread. It appears to be uncertain whether or not this represents a pool of recovered subclinical cases, of people who may be incubating the disease, or of people who may be carriers of the disease. It is, I guess, a matter of waiting to ascertain what course this disease follows in Australia. However, a number of medical personnel who carry out regular surgery, and, indeed, people working in the health professions dealing with blood and blood products, have expressed concern to me that they may be particularly at risk in relation to this disease.

It is not possible to be a regular practising surgeon or assistant without pricking one's finger during the course of an operation several times a year. It has been put to me that some practitioners may either abandon surgery, if they feel that their own health and lives are at risk, or may refuse to operate electively upon the group of people known to be at risk in the community. My question to the Attorney-General is: would the anti discrimination legislation passed through this House give rise to successful action against a doctor who, as a matter of policy, refused to operate electively on people on the basis of their sexuality?

The Hon. C.J. SUMNER: The honourable member seems to have got into Mr Sinclair's syndrome with respect to this matter. All I can say to the honourable member is that the Anti Discrimination Bill has nothing to do with AIDS and, if the honourable member is trying to suggest that it has, then that is utterly irresponsible and is something that he should carefully consider before he tries to raise that sort of fear in the community by way of the sort of question he has just asked. The question had a long preamble. However, there is no doubt that the matter can be looked at with respect to the anti discrimination legislation. I would have thought that, in any event, a doctor who acted in that way would have some difficulty with the Medical Board.

I may be wrong, and it may be that the ethics of the medical profession are such that a doctor can refuse to provide treatment to a patient. However, I would have thought that that is not consistent with the ethics of the medical profession. Were that to occur, it would be a matter for the medical practitioner concerned to consider as part of his professional responsibility and perhaps a matter for the medical profession generally to consider. I do not believe that the Anti Discrimination Bill had anything to do with the question that the honourable member has raised.

GREAT ARTESIAN BASIN

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in the Council, a question in relation to the water supply to Roxby Management Services from the Great Artesian Basin.

Leave granted.

The Hon. I. GILFILLAN: I have been advised that the granting of a water licence to Roxby Management Services is imminent. Before permission is granted, in compliance with conditions of the indenture and the environmental impact statement, certain work is required to be carried out. I have a copy of a letter from the Minister for Environment and Planning in which it is stated that an extensive study programme undertaken proposed to 'gather baseline data, assess the impact of the borefield development, provide a basis for future monitoring and recommend any necessary mitigation measures or modifications to the proposed borefield development'. The letter also states that those studies are now complete and have been submitted in a report.

The two reports are the 'Olympic Dam Project, Supplementary Environmental Studies Mound Springs' and 'Olympic Dam Water Supply—Wellfield A Investigations'. I, with several thousand others, share a concern about the Great Artesian Basin. There is public curiosity in relation to the contents of these documents and also serious concern regarding the effect on Mound Springs and other consequences of substantial extraction of water by Roxby Management Services.

It is essential that the public have access to these two documents. However, after endeavouring to obtain copies of the two reports, the Parliamentary Library staff rang the Department of Environment and Planning and was told that the reports were available but that it did not have a copy; the Department suggested that the Library ring Kinhill Stearns or Roxby Management Services. Kinhill Stearns said that it had a copy, but could not make it available. However, it was available from either the Department of Environment and Planning or Roxby Management Services. The Librarian rang Roxby Management Services and was told that the reports could be released only with the permission of the Minister. It seems to me that there is an extraordinary lack of availability of important public information, of which other members of the public of South Australia and I are being deprived, when the Government is apparently granting Roxby Management Services leave to take substantial amounts of water from the Great Artesian Basin.

Why have these two reports, which are clearly identified and recognised by Roxby Management Services as important background information in relation to water supply, not been released? Have the joint venturers and the Minister of Water Resources agreed on the dimensions and location of the wellfields in the Roxby area as required in section 13(8)A of the indenture? Has an area been designated pursuant to section 13(8)B(i) of the indenture? Have the joint venturers proposed a designated area pursuant to section 13(8)B(ii) of the indenture? What data has been supplied to the Minister of Water Resources pursuant to section 13 (8) B (iv) of the indenture? Why is a licence for Roxby Downs being considered before the feasibility study has been completed?

As required by the indenture, before the granting of any permission to withdraw water, have the joint venturers and the Minister of Water Resources reached agreement as defined in the first schedule of the indenture, under Terms and Conditions clause 2, as provided for in section 13(8)*(c)* of the indenture and, quoting from the indenture, paragraph *(d)*? Although paragraph *(d)* is listed in the schedule, there is no paragraph *(d)* in section 13 of the indenture. This will make it difficult for the joint venturers and the Minister of Water Resources to come to an agreement. Has the anomaly in these two sections been identified and addressed?

The Hon. C.J. SUMNER: I will attempt to obtain the information for the honourable member and bring back a reply.

SECONDARY MORTGAGE MARKETS

The Hon. L.H. DAVIS: Has the Attorney-General a reply to a question I asked on 18 September concerning secondary mortgage markets?

The Hon. C.J. SUMNER: Stamp duty on transfers of mortgages is one of the taxation imposts which the Government removed when financial institutions duty was introduced in January this year. In introducing the relevant amendments to the Stamp Duties Act to the Legislative Council on 15 November 1983 I referred to the prospects of the development of a secondary market in mortgages and mortgage backed securities but at that time the exemption of stamp duty on the transfer of mortgages was the only practical step which could be accomplished because the terms of the specific exemption required to encourage a secondary market in mortgages could not be defined. At that time only New South Wales had introduced legislation to exempt transfers of mortgages. Queensland had introduced somewhat more restrictive legislation which was subsequently expanded in April 1984.

We understand that the means of exempting mortgage backed securities from stamp duty are still under consideration in the Eastern States. In resolving the technical difficulties which are involved and to ensure that the measures adopted will, in fact, encourage participation in a secondary mortgage market, interstate Governments have sought and are continuing to seek advice and assistance from appropriate financial and legal organisations. As the honourable member has indicated, the development of a secondary mortgage market will require some co-operation between the States, and this is taking place. South Australian Treasury and State taxation officers have continued since 1983 to review developments and to maintain contact with interstate authorities. South Australia has offered to assist in finding a satisfactory legislative solution and we have sought to have our officers involved in discussions on the technical issues.

Thus, far from 'trailing' in this field, as the honourable member has suggested, South Australia is as far advanced legislatively as any other State and has made arrangements to remain in touch with developments as they occur. In keeping with our business-like approach to new initiatives we will not be rushing into legislative change but we will introduce an amending Bill as soon as it is appropriate to do so.

PAY-ROLL TAX

The Hon. L.H. DAVIS: Has the Attorney-General a reply to the question I asked on 25 October about State pay-roll tax?

The Hon. C.J. SUMNER: The question asked by the honourable member is based on a false premise. There is no inconsistency between the application of pay-roll tax and income tax with respect to amounts paid on a per kilometre basis to employees for use of motor vehicles. Such amounts are regarded as an allowance for income tax purposes and are taxable under section 26 *(e)* of the Income Tax Assessment Act. Such amounts are also part of taxable wages by virtue of section 3 of the Pay-roll Tax Act.

Payments made to employees for use of motor vehicles as reimbursement for expenditure actually incurred are subject to neither income tax nor pay-roll tax. If an employer records payments to employees for use of motor vehicles as reimbursement for actual expenditure when in fact he is paying on a per kilometre basis, he is attempting to avoid payment of tax and is liable to be penalised under section 41 of the Pay-roll Tax Act.

It is also incorrect to suggest that tax inspectors are devoting significant time to the collection of puny amounts. There has been a general increase in inspection activity for pay-roll tax purposes in recent months which has revealed, in a relatively few cases, discrepancies in the manner of dealing with motor vehicle expenses. Where these discrepancies have come to light the Commissioner has carried out his statutory responsibility to apply the provisions of the Pay-roll Tax Act.

SEXISM IN SCHOOLS

The Hon. ANNE LEVY: Has the Minister of Agriculture a reply to the question I asked on 29 August about sexism in schools?

The Hon. FRANK BLEVINS: The original project was established with three terms of reference:

(1) to provide an indication of the extent to which schooling in South Australia is non-sexist;

(2) to identify areas in schooling where sexism is evident and needs to be addressed;
(3) to identify and document examples of good non-sexist education.

A research officer was given the brief to devise and carry out the survey, and a steering committee was established. Some considerable time was spent on the development of an instrument which would seek out areas of sexism in schools and determine the effectiveness of non-sexist teaching. The schedule was piloted at a metropolitan high school but was unsatisfactory and found to render inconclusive results. Consequently, a brief survey or questionnaire was distributed to all schools. This was designed to give an indication of the number of schools involved in:

(1) the development of policies in the areas of equal opportunities, sexism, education of girls, or affirmative action;
(2) the professional development of staff in the above issues;
(3) the development of programmes or courses which address the above issues.

The report suggests that a number of schools believe that:

(1) equal access is sufficient guarantee to equalising outcomes;
(2) sexism is not apparent in the school;
(3) if a specific course (for example, Transition Education) exists in a school then sexism is being dealt with;
(4) adequate changes are being made through a general curriculum revision and there is no need for major curriculum change in the area of non-sexism.

These views correspond with the four major issues outlined in the policy statement 'Equal Opportunities—The Education of Girls in South Australian Government Schools':

(a) similar treatment of people who are different does not achieve equality;
(b) sexism and good education are incompatible;
(c) non-sexist education is not a subject but is an across the curriculum concern;
(d) the content of the curriculum and the organisation of schools should be gender inclusive.

The findings of the survey clearly indicate a need for the continuing work on the implementation of this policy document. Although matters of attitude change are not easily nor quickly addressed, the Education Department will continue to have a concern for the implementation of the policy by the appointment of appropriate persons and the dissemination of examples of good practice.

TANKS AND DAMS

The Hon. PETER DUNN: Has the Minister of Agriculture a reply to the question I asked on 24 October about tanks and dams in remote areas?

The Hon. FRANK BLEVINS: All gazetted water mains in the Kimba district will continue to be maintained by the Engineering and Water Supply Department. All of the water conservation supplies proposed to be leased are self-contained and not connected to any gazetted water mains. However, there are varying amounts of pipework connecting the various reservoirs to the respective tanks and standpipes, for example. It is intended that such pipework should be included in the proposed leases and therefore maintained by the respective lessees.

The Hon. PETER DUNN: Has the Minister of Agriculture a reply to the question I asked on 31 October on the same subject?

The Hon. FRANK BLEVINS: The replies are as follows:

1. No specialised equipment has been developed by the Engineering and Water Supply Department to maintain the dams and tanks. Work carried out on water conservation reserves involves grading catchments and drains, desilting of reservoirs, weedspraying and general maintenance on tanks, fences and other appurtenances. This work can be carried out using machines such as graders, backhoes and weedsprayers.

2. It is anticipated that trust members would have ready access to the necessary machinery, either on their own farms or by hiring it locally. It is not intended to hire out departmental equipment to them.

3. The criteria to be used for determining the price of water to the public from these dams is still under consideration.

4. In such a case, the lease or sale of the reserve to any interested party would be considered.

WASTE MANAGEMENT

The Hon. M.B. CAMERON: Has the Minister of Health a reply to the question I asked on 23 October about waste disposal?

The Hon. J.R. CORNWALL: The reply is quite lengthy. Therefore, I seek leave to have it incorporated in *Hansard* without may reading it.

Leave granted.

Reply to Question

My colleague, the Minister of Local Government, is glad that the honourable member has raised the matter so that the position can be clarified. The answers to the three specific questions are as follows:

1. In 1965 Bosisto Consolidated Contractors was given approval by the Department of Mines, the Department of Public Health and the Salisbury council to dispose of acid waste on the site. The depot had therefore been operating for a considerable time prior to the establishment of the South Australian Waste Management Commission. The company applied for a licence from the Commission in 1981. Approval of the licence was deferred pending the submission of information regarding previous approvals and details of its mode of operation, that is, the management plan.

This latter information was not received. The company has been approached on a number of occasions since then to provide a management plan, but has not co-operated. Following advice from its staff, the South Australian Waste Management Commission decided at its meeting on 27 September 1984, to license the depot to enable follow up action to be taken under the provisions of the General Conditions of Licence.

2. The company has been operating outside a number of the General Conditions of Licence for Liquid Waste Depots. However, it should be pointed out that:

(a) As far as the potential for groundwater pollution is concerned, the Water Resources Branch, Engineering and Water Supply Department, has indicated that the depot is well sited.
(b) Prior to granting a licence, the South Australian Waste Management Commission established seven groundwater monitoring wells in the area and had samples analysed. The results indicated that there was no significant contamination of groundwater from any of the waste disposal sites in the area.
(c) The company has been directed by the Commission to provide a management plan. As indicated

previously, it is not the first time a request has been made. However, the Commission considers that it is in a better position to enforce an upgrading in the standard of the operation by licensing the depot.

(d) The Commission has been receiving levies from the company. This situation is not extraordinary as many other depots have operated under similar circumstances. Section 36 of the Act requires that the occupier of a depot shall pay contributions to the Commission. It is not a prerequisite that the depot be licensed.

ARCHIVES

The Hon. M.B. CAMERON: Has the Minister of Health a reply to the question I asked on 25 October about the Archives?

The Hon. J.R. CORNWALL: Once again, the reply is quite lengthy. Therefore, I seek leave to have it incorporated in *Hansard* without my reading it.

Leave granted.

Reply to Question

The State Librarian has reported to my colleague, the Minister of Local Government, on the effectiveness and safety of the carbon dioxide fire suppression system in the Archives. The system has also been inspected by an officer of the Public Buildings Department Fire Call and the Acting Chairman of the Building Fire Safety Committee. The system has all the necessary features to ensure safety of staff working in the Archives. In the event of a fire, visual and audible alarms are activated and staff have 30 seconds, not 15, to evacuate the area. At the end of the 30-second warning period, discharge of the gas commences and the doors, which are normally held in the open position, are automatically closed. However, it must be emphasised that the doors do not lock and remain openable from either side at all times. The staff will not be trapped in the area. There is also a safety switch adjacent to the main door of each area of the Archives. The operation of this switch will cause the discharge of the gas to cease immediately.

The Library is also provided with a battery emergency power supply which will ensure lighting in the Archives in the event of a mains power failure. Carbon dioxide is considered to be just as effective as Halon gas for extinguishment of a fire in applications such as this. It should also be noted that Halon gas is considered toxic and evacuation by staff is still required even with Halon gas systems.

The safety and effectiveness of the existing system are considered adequate. However, changes in regulations and codes which have occurred since the system was originally installed indicate that some additional building work may be warranted. This work relates to the replacement of the sliding fire doors with hinged fire doors and upgrading the identification of paths of travel leading to exits. These matters are being investigated by the Public Buildings Department.

FLUOROSIS

The Hon. J.C. BURDETT: Has the Minister of Health a reply to the question I asked on 13 November about fluorosis?

The Hon. J.R. CORNWALL: The answers to the honourable member's two specific questions are as follows:

1. The study conducted by the S.A. Dental Service suggested that 4.5 per cent of children in fluoridated areas of South Australia had at least one blemish on an adult tooth which may have been the result of fluoride. The majority of these blemishes were of the mildest category consisting of white spots less than 2 mm in diameter and were not considered to be of any aesthetic significance. It should be noted that most tooth blemishes are unrelated to fluoride and, even in non-fluoridated areas of South Australia, 85.2 per cent of children had at least one blemished adult tooth.

2. The prevalence of mottling is consistent with that expected from fluoride.

PARLIAMENTARY STANDING COMMITTEE ON PUBLIC WORKS

The Hon. C.W. CREEDON: I move:

That, pursuant to section 18 of the Public Works Standing Committee Act, 1927, the members of this Council appointed to the Parliamentary Standing Committee on Public Works, under the Public Works Standing Committee Act, 1927, have leave to sit on that Committee during the sittings of the Council this week.

Motion carried.

QUESTIONS ON NOTICE

REST HOMES

The Hon. R.J. RITSON (on notice) asked the Minister of Health: With regard to the Health Commission Task Force investigating problems associated with rest homes:

1. Can the Minister assure the House that the Task Force Report will be completed by 30 November?

2. Will the report be tabled in Parliament?

3. Is the Task Force evaluating types of residents in rest homes to identify numbers of people who really qualify for nursing home treatment?

4. Is the Task Force attempting to quantify and cost the various nursing and paramedical requirements of the rest home population?

5. What does the Minister understand to be the correct interpretation of the statutory definition of rest homes and nursing homes?

6. Is the Task Force examining apparent discrepancies between the medical status of rest home residents as defined in legislation and the medical status of rest home residents as they actually are?

The Hon. J.R. CORNWALL: The replies are as follows:

1. Yes.

2. This will be determined by Cabinet at the appropriate time.

3. Yes.

4. Yes.

5. The essential difference between the statutory definitions of a 'nursing home' and a 'rest home' is that a nursing home provides nursing treatment whilst a rest home provides care applicable to the treatment of aged, infirm, helpless or partially helpless persons.

6. The medical status of rest home residents is not defined in legislation; it is diagnosed by the resident's general practitioner. The Task Force will review the difference, if any, between the condition of residents as stated by the officer in charge of each rest home and the condition as observed by an assessment team.

NATIVE VEGETATION CLEARANCE

The Hon. PETER DUNN (on notice) asked the Minister of Health:

1. Does the Department of Environment and Planning notify an applicant who wishes to clear native vegetation that his plans have been received?

2. If so, does the Department notify the applicant how soon the physical inspection by an officer of the Department of Environment and Planning will take place?

3. How long is the minimum and maximum period between lodging of applications and their approval?

4. How many applications have been approved to date?

5. How many applications have been rejected to date?

6. How many applications have had to be modified because of the insistence of the Department of Environment and Planning?

7. How many applications are still to be processed to finality?

The Hon. J.R. CORNWALL: The replies are as follows:

1. Yes.

2. No exact date is given. However, applicants are advised that a scientific officer will contact them to arrange a mutually agreeable time for the site inspection.

3. Minimum period has been two hours for a particularly urgent but straight-forward application lodged directly with the Department of Environment and Planning, with phone advice from council. Normal, urgent and straight-forward applications generally take three to four weeks (providing council comment is received and no field inspection is necessary). The maximum period to date has been 17 months, involving complex negotiation with landholders. However, these applications are exceptional.

4. 548 as at 31 October 1984.

5. 60 as at 31 October 1984.

6. None. However, many applications are modified as a result of negotiations with the applicant. No statistics are retained to monitor the negotiation phase.

7. 506 as at 31 October 1984.

SAFA ADVERTISING

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. What percentage of the advertising budget for the current South Australian Government Financing Authority campaign will be spent on television?

2. Was the current campaign based on any market research commissioned by the Government and, if so, which company conducted the research?

3. Which advertising agency has been commissioned to run this campaign?

4. Was the South Australian Government Financing Authority requested by the Premier, or any person representing the Premier or the Government, to conduct this campaign?

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

1. SAFA's current advertising campaign is designed to increase public awareness of its existence and activities so as to enhance the success of a public loan that it anticipates undertaking early in the New Year, depending on market conditions. Just over half the budget for this 'launch' phase has been allocated to the production and broadcast of the television commercial.

2. The campaign was based on market research commissioned by, and at the expense of, SAFA's advertising agency. Ian McGregor Marketing Pty Ltd, Adelaide, conducted the research.

3. The Authority appointed George Patterson Pty Ltd, Adelaide, to develop and run the campaign after considering presentations from four local advertising firms.

4. No. It was the Authority's decision to develop the campaign and to launch it at this time. In accordance with the requirements of the Government Financing Authority Act, 1982, and with established practices in all policy matters related to SAFA, the Authority sought, and obtained, the Treasurer's approval to this decision.

PAROLE OFFENCES

The Hon. K.T. GRIFFIN (on notice) asked the Minister of Correctional Services: Of those prisoners released on parole to the present time since the amendments to the Prisons Act came into force in December 1983:

1. How many have committed offences?

2. What offences have been committed?

3. For what crimes were those prisoners who have committed offences while on parole originally imprisoned?

The Hon. FRANK BLEVINS: The replies are as follows:

1. 422 prisoners have been paroled from 20 December 1983, until 30 June 1984. Forty-nine parolees have committed offences while on parole.

2. and 3. The attached list provides the new offences committed and the corresponding details of original offences for which the parolee was imprisoned and was subsequently released on parole.

New Offence	Original Offence
1. DUI	Unlawful possession
	Common assault
	False pretences
2. Illegal use	Burglary
DUI due care	Club break and larceny
Assault police	Drive m/v w/o consent
Resist arrest	
3. Illegal use	Drive w/o consent (2)
	Larceny
4. Assault	Larceny, assault
	Breach of recognizance
5. Abusive language	Forcible abduction
	Rape
6. DUI, escape custody	House break
Wilfully damage police car	Enter and larceny
	Wilful damage
Assault police (2)	
Illegal use	
7. Shop break and larceny	A/sell drugs
	Administer drugs to self
	Possess drug implements
	Surgery break w/i
	School break w/i
	Shop break and larceny
8. Prescribed concentration of alcohol	Abduction
	Common assault
9. Larceny (2 counts)	Larceny
Wilful damage	Drive disqualified
	Larceny
10. Break with intent	Unlawful sexual intercourse with person under 12 years
	Indecent assault (3 counts)
11. Fail to comply with lights	Armed robbery
12. Garage break/larceny	Manslaughter
	Unlawful wounding
	Breach recognizance
13. Driving offence	Shop break/larceny
	Breach recognizance
	False pretences
	Breach recognizance
14. (1) Attempted house break	Shop break/larceny
	Accessory after the fact
(2) Possess implements	Attempted escape
15. False pretences (4 counts)	Forgery (17 counts)
	Uttering (17 counts)

New Offence	Original Offence
16. (1) Escape police custody	Break/larceny (2 counts)
	Armed robbery
(2) Unlawful possession	Possession house/B imp
	Break/larceny (3 counts)
	Unlawful sexual intercourse
	Use m/v w/o consent
17. Unlawful possession of motor vehicle	Steal motor vehicle
	Fraud
18. Assault	False pretences (7)
Indecent language	Forgery and uttering
Assault police	Receiving
Resist arrest	Larceny
Larceny (3)	Assault
No licence	
19. (1) Possession Indian hemp	AOABH
	Attempted rape
(2) Being a suspected person	Robbery with violence
	AOABH
	Common assault
	Riotous assembly
	Resist arrest
	Assault police
20. Illegal use and larceny	Robbery
21. 12 counts, Break, enter and larceny	Drive disqualified (4)
	Assault police
22. Break, enter and larceny	Break, enter and steal
	Breach of recognizance
23. A/Break, enter w/i	House break w/i to steal (2)
Assault police (2 years imprisonment to commence at the expiration of the parole period not yet served)	House break and larceny
24. Illegal interference	Rape
25. Larceny	Break, enter and larceny
	Post office
26. A/Shop break and larceny	Rape (3)
Possession house break implement	
Rape	
27. Motel break and larceny (3)	Flat break and larceny
	Burglary
	House break and larceny (2)
	Flat break and larceny
28. Disorderly behaviour	False pretences (2)
Resist arrest	Shop break and larceny
Assault police	Surgery break w/i
29. Theft, burglary	Drive w/o consent
Fail to appear on bail	Larceny, breach of recognizance
	% suspended sentence revoked
30. Drunk (2)	Breach of recognizance
31. DUI	Possess heroin for sale
	Possess LSD
	Breach of recognizance
	Drive disqualified
32. Wilful damage	Rape
Disorderly behaviour	Attempted rape
Assault police	
33. DUI	Rape
Drive offences	Burglary
34. (1) Driving offence—prescribed concentration of alcohol	Indecent assault
	Assault (2 counts)
	Resist police
(2) Prescribed concentration of alcohol and drive disqualified	Escape custody
35. (1) Larceny	Store room break/larceny
(2) Assault	
36. Wilful damage	Being a suspected person
	Possession of house break implement by night
37. Drive disqualified (3 counts)	Receiving
38. Assault OABH	False pretences (11 counts)
	Forgery (5 counts)
	Uttering (4 counts)
	Larceny
	House break/larceny
39. Drive disqualified	Armed robbery
40. Disorderly manner	Rape
Resist arrest	
41. Unlawful possession of m/v	Fraud (2)
	Larceny
	Shop break
	Enter and steal
	Possession of stolen property
42. Illegal use of bicycle	Break, enter and larceny (5)
43. House break and larceny	Office break and larceny
44. Possession of marijuana	Manslaughter
Possession of a utensil	
45. Warehouse break and larceny	Flat break and larceny (2)
46. Resist police (2)	Assault (2)
Assault police (1)	
47. Office break and larceny	Office break and larceny
48. Break, enter and larceny	Kiosk break and larceny
	Robbery with violence
49. Suspected person	House break and larceny
Repeated thief	

HEALTH COMMISSION ADVERTISING

The Hon. R.I. LUCAS (on notice) asked the Minister of Health:

1. Did any advertising agencies, other than the successful applicant, make presentations to officers of the Health Commission for the Health Commission advertising account?

2. On what dates were those presentations made?

3. Which officer, or officers, of the Health Commission are responsible for making the appointment of advertising agencies?

The Hon. J.R. CORNWALL: The replies are as follows:

1. Yes, two other advertising agencies.

2. Thursday 12 April 1984.

3. Within financial delegations, appointment of advertising or other agents has been the responsibility of the appropriate divisional director.

ANSWERS TO QUESTIONS

The Hon. R.I. LUCAS (on notice) asked the Minister of Health: When will the Minister provide answers to questions asked on 24 October 1984, relating to:

1. The Health Commission advertising account;

2. Supplementation payments to teaching hospitals;

3. Ovum freezing programme; and

4. Patient advice office?

The Hon. J.R. CORNWALL: The replies are as follows:

1. and 2. Answers will be available shortly.

3. and 4. Further answers are not necessary. Refer to *Hansard*, 24 October 1984, at pages 1445 and 1446.

TOBACCO ADVERTISING

The Hon. R.I. LUCAS: I ask the Attorney-General:

1. Did the Premier's recent discussions in the United Kingdom for the Grand Prix event in Adelaide include discussions on the possibility of legislation in South Australia such as the Tobacco Advertising (Prohibition) Bill introduced by the Hon. K.L. Milne?

2. Does the Premier agree that such legislation would affect adversely the conduct of such an event in Adelaide?

3. Did the Premier give any undertaking that he would not introduce or support such legislation during the period Adelaide would be hosting a Grand Prix event?

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

1. No. However, the matter of restrictions on advertising of tobacco products has been discussed with Mr Ecclestone

on previous occasions and restrictions on advertising have been accommodated in other parts of the world where Grand Prix events are held.

2. No. It would not significantly affect the conduct of the event. However, it could seriously affect the financial aspects of the race.

3. No.

AUSTRALIAN FORMULA ONE GRAND PRIX BILL

Second reading.

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

That this Bill be now read a second time.

The purpose of this Bill is twofold. First, it establishes an Australian Formula One Grand Prix Board to undertake, on behalf of the State, the promotion of an Australian Formula One Grand Prix (hereafter 'the event') to be held in Adelaide in October 1985 (and thereafter up to a further six years). Secondly, the Bill provides for the establishment of a motor racing circuit, inserts provisions relating to the conduct of races held on the circuit, and provides for the commercial and financial management of the event.

South Australia was awarded the right to stage a Grand Prix series commencing on 13 October 1985, by the Fédération Internationale du Sport Automobile (hereinafter FISA), which is the controlling body of world motor sport. The next stage in securing the Grand Prix involved the Government's entering into negotiations with the Formula One Constructors' Association (hereinafter FOCA), which is the umbrella body for the racing car teams, with a view to signing a contract to ensure the participation of the racing teams and to deal with the commercial and financial management of the event.

It has been decided that the most effective manner in which to stage and promote the event is the creation of a permanent statutory Board. The Board will have an onerous task as the first race is less than 12 months away and, in that limited time, it must attend to preparing the circuit, arranging sponsorships and advertising, entering into contractual arrangements, constructing stands, barriers, etc. It is imperative that a co-ordinated approach be developed if the project is to be successful and this can be best achieved by creating a permanent single statutory body to assume overall responsibility on behalf of the State.

The Bill provides for the Board to be a body corporate having the usual statutory powers of acquiring and disposing of real and personal property, of suing and being sued, etc. The Board is to consist of not more than nine members appointed by the Governor. Two members are to be nominated by the Corporation of the City of Adelaide and one member is to be nominated by the Confederation of Australian Motor Sport (the Australian representative of FISA). The other members are to be Ministerial nominees. The Board is to be presided over by a Chairman, appointed from one of the members, and the day-to-day affairs of the Board will be managed by an Executive Director. The Bill also provides for the Board to appoint staff and, with the approval of the relevant Minister administering a department of the Public Service, to utilise the services of any officer or use the facilities of the department.

The Bill inserts the usual mechanical provisions dealing with matters such as the terms and conditions of office, procedure at meetings and validity of acts of the Board. Clause 7 of the Bill inserts a provision requiring a member of the Board who may be directly or indirectly interested in a contract, or proposed contract, to be made by the Board to disclose the nature of his interest to the Board and further provides that he is not to take part in any actions of the Board relating to the contract. Failure to disclose an interest attracts a penalty of up to $5 000. When such an interest is disclosed, provision has been made to ensure that any contract is not void, or voidable, and the member is not liable to account to the Board for any profits derived from the contract.

Clause 10 of the Bill sets out in detail the functions of the Board which include such matters as the care, control and management of public roads and parklands on a temporary basis, carrying out construction works, regulating admission to the circuit and the range of other matters to which the Board will be required to attend. The Board will also have power to grant permission to persons who may wish to record the event on film or video to do so and the ability to charge a fee if it deems it appropriate; however, it is not intended that a fee will be charged to any licensed broadcasters who have been given rights to record the event or to persons who record the event for their own private use. Clauses 14 to 18 of the Bill deal with financial matters. The Board is required to establish a banking account and to pay all moneys received by it into the account. Any moneys not immediately required by the Board are to be lodged on deposit with the Treasurer. Clause 15 provides for the establishment of a trust fund by the Board, to be maintained separately from its other banking accounts. The Board is given power to borrow money from the Treasurer or, with his consent, from any other person. Any liability incurred by the Board under this provision is to be guaranteed by the Treasurer and is to be met out of the general revenue of the State.

The Board is to keep proper accounts of its financial affairs and an annual audit is required. Clause 18 requires the Board to present an annual report on its operations, on or before 31 December in each year, relating to the period up to the preceding 31 October. The annual report of the Board is to be laid before each House of Parliament. Part III of the Bill provides for the establishment of the race circuit and the conduct of races. The Government has decided on a street circuit in the City of Adelaide which will include part of the parklands. The event is expected to be televised to anything up to 250 million people worldwide and the promotional benefits for the State should be significant, particularly in terms of tourism and potential investment. This impact will be significantly greater than if the race were staged on a closed circuit. The State will also benefit in the short-term through employment generated by the event such as road works, accommodation, construction of fencing and production of souvenir items.

The Bill provides that the Minister may, by notice in the *Gazette,* declare an area (consisting of public road or parklands) to be a declared area for a year specified in the notice and further declare that a period, not exceeding five days, be a declared period for a year specified in the notice. This provision gives effect to the Government's contractual obligations to provide an area for the staging of the event.

The staging of the event in the City of Adelaide attracts several existing legal requirements. While, in some cases, steps could be taken to comply with those requirements, this is not possible in many instances and could only be achieved at considerable expense. Therefore, the Bill provides for several existing legal impediments to the staging of the race to be overridden. This will also ensure that the Government is able to honour its contractual obligations associated with the staging of the race. The Government has taken this step only after careful consideration of its full implications and impact upon the people of this State, particularly those who live or work near the proposed circuit. It is important to remember that the race and its associated practice sessions, and any other activities to be provided by

the Board, will occur over a limited period of not more than five days. All works and operations associated with the race will be carried out as expeditiously as possible with a view to causing minimal disruption in the circuit area and its surroundings. It is intended that the circuit be created and dismantled as quickly as possible before and after the event so that the area is restored to its normal state without creating undue interference for those persons living and working in the area or those who normally use the roads and parklands affected. While necessary roadworks will need to be commenced and concluded well before the race, temporary structures such as fencing, guard rails, stands, advertising hoardings, will not be erected on the circuit until near the event but allowing a reasonable time to complete the operation.

The Government is mindful of the existing rights of the people of South Australia to have access to and enjoyment of the parklands and, while the Bill enables the Board to have power to enter and carry out work on the declared area on a temporary basis, it acknowledges that the rights of other persons are involved and affected. The street circuit for the race will include part of the Victoria Park Racecourse which will enable utilisation of existing facilities (thereby reducing costs) and reduce the impact of the race on nearby residents. The use of part of the racecourse will be subject to thorough consultation with both the Adelaide City Council, which presently has the care, control and management of the land, and the South Australian Jockey Club which leases part of the land from the council. The Bill reaffirms the Government's commitment to considering existing legal rights, first, by providing in clause 21 that, while the Board is to have unrestricted access to land in the declared area, it is to comply with any terms or conditions reached by agreement between the Board and any person having an interest in the land. If agreement cannot be reached the Minister may determine the terms and conditions which are to apply. The terms and conditions contemplated by the Bill include the determination of fair and reasonable compensation for any damage or loss that may be suffered by any person having a right of occupation of any part of the land. Secondly, clause 22 provides that the Board must consult and take into account the representations of persons affected by the staging of the event.

Clause 24 lists the legislation which is not to apply in the declared area during the period of the event, for example, the Road Traffic Act, 1961; the Motor Vehicles Act, 1959; and the Noise Control Act, 1977. The event is to be staged for up to seven years with either the Government or FOCA having the right to terminate by giving two years notice in writing. Clause 27 inserts a sunset provision for the legislation to expire on 31 December 1992, which is 12 months after the anticipated final race. On the expiration of the legislation all real and personal property of the Board is to vest in the Crown, as well as all rights and liabilities of the Board. Clause 28 inserts the usual regulation-making power. I commend the Bill to the Council. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 provides definitions of terms used in the measure. 'Australian Formula One Grand Prix' is defined as meaning a motor car race that takes place in Australia and that is approved by the Federation Internationale du Sport Automobile, is entered in the International Calendar of the Federation Internationale de l'Automobile and counts for the Formula One World Championship. The term is to include any other motor race or practice held in conjunction or connection with the Grand Prix. Part II (comprising clauses 4 to 19) provides for an Australian Formula One Grand Prix Board.

Clause 4 provides for the establishment of the Australian Formula One Grand Prix Board. The Board is to be a body corporate with the usual corporate capacities. Clause 5 provides that the Board is to have a membership of not more than nine persons appointed by the Governor of whom two shall be persons nominated by the Corporation of the City of Adelaide, one shall be a person nominated by the Confederation of Australian Motor Sport and the remainder shall be persons nominated by the Minister. The clause provides for the appointment of a chairman and deputy chairman from amongst the members and for the appointment of deputies for members. Clause 6 provides for the term and conditions of office of members of the Board. Clause 7 requires a member who is directly or indirectly interested in a contract or proposed contract of the Board to disclose the nature of his interest to the Board and to refrain from taking part in any deliberation or decision of the Board with respect to the contract. Failure to comply with this requirement is to be an offence punishable by a fine not exceeding $5 000. Clause 8 fixes a quorum and provides for the procedure at meetings of the Board.

Clause 9 provides for the validity of acts of the Board and certain immunity from personal liability for members of the Board. Clause 10 provides for the functions and powers of the Board. The general function of the Board is to undertake on behalf of the State the promotion of an Australian Formula One Grand Prix in Adelaide during 1985 and each succeeding year up to and including 1991 and to establish a motor racing circuit upon a temporary basis and do all other things necessary for or in connection with the conduct and financial and commercial management of each Australian Formula One Grand Prix promoted by the Board. The clause goes on to list specific powers of the Board—to assume the care, control, management and use of public road and parkland upon a temporary basis (as provided under clause 21); to carry out works for the construction, alteration or removal of roads, track, grandstands, fencing, barriers, etc.; to carry on advertising and promotional activities; to regulate and control admission to any motor racing circuit established by the Board and charge and collect admission fees; to grant for fee or other consideration any advertising or sponsorship rights or any other rights, licences or concessions in connection with motor racing events promoted by the Board; to publish or produce books, programmes, brochures, films, souvenirs and other things in connection with motor racing events; to restrict, control and make charges for the use of the official title and official symbol for the Grand Prix; to take out policies of insurance; to acquire and hold any licence under any other Act; to deal with property, receive moneys and gifts, delegate any of its powers, etc. The clause requires ratification by the Board of any contract or agreement entered into by any person acting or purporting to act on behalf of the Board. Any delegation of the Board is revocable at will and does not prevent the Board from acting itself in any matter.

Clause 11 provides for the control of commercial filming of motor racing events from outside any circuit at which they are held by the Board. Subclause (1) provides that, except with the consent of the Board, no person is entitled to make for profit or gain, at or from a place outside the circuit, any sound recording or television or other recording of moving pictures of a motor racing event or part of a motor racing event promoted by the Board. Under the clause, the Board may charge a fee for giving its consent

or, if a person proceeds to act without the consent of the Board, the Board may recover a fee fixed by regulation as a debt due to it.

Clause 12 provides that the Board is to be subject to the general control and direction of the Minister. Clause 13 provides for the appointment of an Executive Director of the Board and for the staff that will be required by the Board. Clause 14 provides that the Board may make use of public servants and Public Service department facilities with the approval of the relevant Minister. Clause 15 provides for the dealings with moneys of the Board. Under the clause, the Board is required to pay all moneys received by it into a banking account established by the Board. Any such account is to be operated by cheque signed and countersigned by persons appointed by the Board for the purpose. The clause provides that moneys not immediately required by the Board may be lodged on deposit with the Treasurer or invested in a manner approved by the Treasurer. No moneys are to be expended by the Board except in accordance with a budget approved by the Treasurer.

Clause 16 provides that the Board is to establish a trust fund. All moneys that represent income from the Board's commercial operations are to be paid into the trust fund and are to be held on trust by the Board for the State and such other persons as may be appointed by the Minister in accordance with a declaration of trust to be made by the Board with the approval of the Minister. Any such declaration of trust may be varied by the Board with the approval of the Minister. Under the clause, no moneys may be applied from the trust fund except in accordance with the terms and conditions of the declaration of trust as for the time being in force. Clause 17 empowers the Board to borrow money from the Treasurer or, with the consent of the Treasurer, from any other person. Any such borrowing is to be supported by the guarantee of the Treasurer.

Clause 18 provides for the keeping of accounts by the Board and for auditing of the accounts by the Auditor-General. Clause 19 requires the Board to produce an annual report and provides for the tabling of the annual report before Parliament. Part III (comprising clauses 20 to 26) deals with the establishment of a motor racing circuit and the conduct of races.

Clause 20 provides that the Minister may, upon the recommendation of the Board, by notice published in the *Gazette,* declare that an area (consisting of public road or parkland, or both) shall be the declared area for a year specified in the notice and declare that a period (not exceeding five days) specified in the notice shall be the declared period for a year specified in the notice. The clause provides for the revocation or variation of any such notice. Clause 21 provides that the care, control, management and use of the land comprising the declared area for any year shall vest in the Board for the declared period for that year and that the rights or interests of any other person in the land shall be suspended for the declared period. Any land that is public road within the declared area shall cease to be public road for the declared period for the particular year, but shall revert to public road upon the expiration of the declared period. Clause 22 empowers the Board to enter and carry out works on the land within the declared area for any year. These powers are to be exercised subject to any terms and conditions agreed with any relevant council and any person having right of occupation of part of the land. Where agreement cannot be reached, the Minister may determine terms and conditions governing the exercise of the powers. The terms and conditions contemplated by the clause include terms and conditions limiting or preventing unnecessary interference with or damage to the land or anything growing upon or built upon the land; limiting or preventing unnecessary interference with activities lawfully carried out on the land; providing for reimbursement of costs or expenses that may be incurred by any relevant council; or providing for fair and reasonable compensation for loss or damage suffered by any person having a right of occupation of any part of the land.

Clause 23 requires the Board to take all reasonable steps to consult with any relevant council or person having occupation of part of the declared area for a year, any person occupying land immediately adjacent to the declared area or any person whose business or financial interests might, in the opinion of the Board, be adversely affected by the operations of the Board. The Board is required by the clause to take into account and, to the extent reasonably consistent with the performance of its functions, give effect to the representations of any such person. The duties imposed by the clause are not to give rise to any right or cause of action against or any liability in the Board. Clause 24 empowers the Board to fence or cordon off the declared area for the declared period for any year. In addition, the Board may, where it is reasonably necessary to do so for the performance of its functions, fence or cordon off part of the declared area for a period not falling within the declared period. Under the clause, land that is fenced or cordoned off is to be deemed to be in the lawful occupation of the Board.

Clause 25 provides that the Road Traffic Act, the Motor Vehicles Act, the Noise Control Act, the Places of Public Entertainment Act, and regulations and by-laws under the Local Government Act are not to apply to or in relation to the declared area for the declared period for any year. The Planning Act is not to apply to or in relation to works carried out or activity engaged in by or with the approval of the Board in the declared area for any year. No activity carried on by or with the permission of the Board within the declared area during the declared period for any year is to constitute a nuisance. Clause 26 provides for the removal of vehicles left unattended in the declared area during the declared period for any year.

Part IV (clauses 27 to 29) deals with miscellaneous matters. Clause 27 provides that proceedings for offences are to be disposed of summarily. Clause 28 provides that the measure is to expire on 31 December 1992. On the expiration of the measure, all property and rights and liabilities of the Board are to vest in the Crown. Clause 29 provides for the making of regulations dealing with access to the declared area, trespass upon the declared area, admission fees, consumption of alcohol and disorderly behaviour within the declared area and the parking and driving of motor vehicles within the declared area.

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

CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 1794.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of the Bill because, to a large extent, it reflects the scheme of compulsory classification that the Opposition sought to establish 12 months ago. At that stage the Government introduced amendments to the Classification of Publications Act to introduce a voluntary system of classification of video tapes being sold or hired, and on behalf of the Liberal Party I proposed then to move amendments to alter that scheme from one of voluntary classification to one of compulsory classification.

The compulsory classification scheme, broadly speaking, requires a person who is selling or hiring a video to sell or hire a video only if it has been classified and bears the classification ascribed to it by the Classification of Publications Board, and that the sale or hire of any video without that classification would be an offence, leaving the retailer open to prosecution under the Classification of Publications Act and not merely under the provisions of the Police Offences Act.

Broadly speaking, the voluntary system of classification allowed a retailer to sell or hire a video tape subject to the conditions that that retailer believed would be appropriate to a classification that he or she assessed would apply to that video cassette. If subsequently some challenge was made as to the assessment of that retailer of the potential classification of the video cassette, it would be submitted to the Classification of Publications Board and, if it was given a formal classification no stricter than the assessment of the retailer, no offence was committed but, if it was given a tighter classification, it might be that the retailer had committed an offence.

In any event, there were difficulties in that the police in launching prosecutions for the sale of unclassified video tapes had to rely on the provisions of section 33 of the Police Offences Act in establishing that material was obscene or indecent. In relation to video tapes in particular it is correct that until November last year there was some doubt as to whether or not video tapes were included in the material covered by section 33 of the Police Offences Act. As a result of legislation which the Government introduced and which the Opposition supported, the position has been clarified and put beyond doubt.

The Liberal Party called for compulsory classification of videos for a number of reasons, one being the greater measure of control over the sale and hire of that material particularly because of the easy access to that material, the ease with which it could be copied, the proliferation of video cassette recorders (at that time I indicated that about 10 000 a week were being sold in Australia), and the ease with which minors could operate video cassette recorders and have access to material which might be classified and which might be either deliberately or inadvertently left around the home.

In addition, I did not believe that voluntary classification gave adequate guidance either to retailers or to those who were seeking to hire or purchase videos, because the information on the cassette was limited. It was certainly not easy for the police to prosecute successfully for a sale or hire in breach of the provisions of the Police Offences Act. As well, it must be recognised that television is a powerful medium and, while it may be that printed material of a pornographic nature could be made available subject to certain restrictions, printed material is not as powerful as the moving medium of television. There is no doubt that television has a very powerful impact not only on children but also on adults. Therefore, the Liberal Party believed that it was appropriate to impose a greater level of control over the availability of material that certainly ought not to be either directly or indirectly finding its way into the hands of minors.

As I have indicated, the Government's Bill introduces a system of compulsory classification, and moves away from the category 1 and category 2 classifications, which were introduced into the legislation in respect of printed material by the Liberal Government. I support the movement away from the category 1 and category 2 classifications to some extent, because there is no scope in those two categories to fully encompass the variations in the sort of material that is available on video. Broadly speaking, the Government's Bill will adopt the classifications applying to videos and films under the Classification of Films for Public Exhibition Act. Those classifications will be assessed by the Commonwealth film censor and, generally speaking, adopted without change in South Australia under the reciprocal arrangements that the Classification of Publications Act allows in addition to the reciprocal arrangements that exist under the Classification of Films for Public Exhibition Act.

The Government has indicated that the criteria for classification of the G and NRC or PG categories are to correspond to the criteria for such classification under the Classification of Films for Public Exhibition Act, and that the criteria for an M film will allow less violence than has been the practice in recent years. There will be an R classification, which will be somewhat tighter than it previously was, and there will be an ER category, which in effect will contain about 95 per cent of the videos presently included in the X category. The Government has also indicated that the X rating will no longer be permitted, and the Bill contains a transitional provision which suspends the ER category until that is in place in the Australian Capital Territory ordinance. When that occurs it will be included in the South Australian scheme of classification.

The G rating will mean that material is suitable for general viewing; PG or NRC will indicate that material is suitable for viewing by a person under the age of 15 years subject to parental guidance; M will indicate that material is not recommended for viewing by a person under the age of 15 years; R will relate to material for restricted exhibition, with minors being prohibited in theatres and not being able to see the material even in private unless a parent, guardian or person acting with the authority of a parent or guardian so exhibits it; and the ER category will relate to material for restricted exhibition in private only, being unsuitable for viewing by a minor, although there is a provision in the Bill that minors can see the material only if it is exhibited by a parent or guardian, but I will comment about that later. The ER category involves the same conditions that apply to category 2 for printed material, and I will deal with that shortly.

According to the second reading explanation and the Bill, the conditions attaching to the sale or hire of videos are as follows: G, PG, NRC, and M categories are not to be subject to any restriction. R videos are to be subject to conditions: that the films shall not be sold or delivered to a minor or otherwise than by a parent or guardian or a person acting with the written authority of a parent or guardian of the minor; and that images from the film shall not be exhibited to a minor otherwise than by a parent or guardian or by a person acting with the authority of a parent or guardian of the minor. Every ER film is to be subject to conditions, namely, that the publication or film shall not be sold, displayed, delivered, or exhibited to a minor otherwise than by a parent or guardian of the minor; that the publication or film shall not be sold, displayed, or delivered on sale or exhibited in a place to which the public has access unless the sale, display, delivery, or exhibition takes place in a restricted publications area; and that the publication or film shall not be delivered to a person who has not made a direct request for the publication or film.

Further conditions are that the publication or film shall not be delivered to a person unless wrapped in plain, opaque material, and that the publication or film shall not be advertised except in a restricted publications area in another category 2 restricted publication or ER film, or by way of printed or written material delivered to a person at the written request of the person. The penalty for selling or hiring a video that has not been classified is $5 000 or imprisonment for three months. Again, the question of penalty is something to which I will direct a few remarks later. I am pleased to see that the M and R categories are to be tightened. I think that that is in the interests of parents

and children particularly, but also of the community at large.

I recognise that certain material has now been excluded from the X category and that other material will also be excluded; namely, material depicting child pornography, beastiality, detailed and gratuitous acts of considerable violence and cruelty, explicit gratuitous depictions of sexual violence against non-consenting persons, sexual bondage, rape, sexual activity with significant violence, and material concerned with mutilation and painful torture, and other acts of gratuitous and unnecessary violence, most terrorist material, and material relating to serious drug abuse.

The second reading explanation indicated that that material will all be refused classification. A large amount of it was already refused classification under the previous standards set by the Classification of Publications Board in the context of printed material that did have an application to videos and to home movies such as 8mm movies, and so on. Therefore, to a large extent what is proposed to be excluded and refused classification is already so excluded and refused. In his second reading explanation the Attorney-General suggested that there has been a lot of confusion about X rated videos. I dispute that.

Certainly, there was concern about some of the aspects of violence depicted in X rated videos, but I do not believe that all those people who have signed petitions, and all those people who have expressed concern about it, were only concerned about acts of explicit violence in the context of sexual activity. They were also concerned about the explicit sexual acts that were depicted in graphic form and often in a distorted manner conveying a totally unbalanced attitude towards sexual relations. It was that that created as much concern as the acts of explicit violence related to that sexual activity.

People were particularly concerned that that sort of material would fall into the hands of children, and would convey to them a most unhealthy attitude towards sexual activity. I agree with and share that concern. According to the Attorney-General the new ER category is only an amendment to the present X rating where some 5 per cent of material has been excluded and where 95 per cent of that material will continue to be available not in the X category but now in the proposed ER category. I think that the public ought to recognise that there has only been that relatively minor change in the attitude of the Government towards the classification of this material.

Honourable members should remember that the Attorney-General did, in fact, at an earlier stage indicate that he was in favour of the X rated material being available, albeit subject to some controls. This Bill reflects the availability of that material, except for some 5 per cent of it, which will now be refused classification. I think, also, that it is important to recognise that the new ER category contains material that could equally raise concern among members of the community, having been previously available in category 2 for printed material and thus in the X rated videos.

I remind honourable members that the ER or extra restricted category is to contain material that includes explicit depictions of sexual acts involving adults but does not include any depiction suggesting non-consent or coercion of any kind. The first observation I make is that the question of consent or non-consent is largely irrelevant, because many people who will do anything for money and the fee for participating in sexual acts for the purpose of making pornographic material will certainly be an incentive for many people to participate willingly in such videos.

There is also, of course, the pressure that is exerted on persons who are sought to be depicted in the ER videos where, on the face of it, it may not display any coercion or non-consent but may, in fact, result from some form of undue influence, undue pressure, blackmail or some other pressure that, in effect, reflects non-consent, but not in the depictions that appear on the screen. In the Classification of Publications Act the material that is allowed in the various categories has been set out by the Classification of Publications Board and I think it is important, certainly in relation to pictorial material, that those provisions relating to category 2 be incorporated in *Hansard*.

The Hon. C.J. Sumner: I presume that is what you had when you were a Minister.

The Hon. K.T. GRIFFIN: I am talking about printed material only. I was about to say, before that interjection, that I can only presume that because category 2 is on a par with the ER category that the acts allowed in category 2 for printed material will, in fact, be allowed for video material, except in that extreme end of extreme violence and coercion. Category 2 standards in relation to printed material which, as I say, I presume will also apply to ER videos, allows the following: fellatio; cunnilingus; foreign objects in genital or anal orifice; anal intercourse; ejaculations; fetishism; bondage without cruelty; urolagnia; necrophilia; coprophilia; masochism; mild sadism; and sexual activity associated with mild violence.

The Hon. C.J. Sumner: You are wrong.

The Hon. K.T. GRIFFIN: Well, you can answer that.

The Hon. C.J. Sumner: They are the standards that you had for three years as Attorney-General.

The Hon. K.T. GRIFFIN: I am not criticising them in relation to printed material. I made representations to the Board in relation to what should be refused classification and as a result of the representations the Board amended the standards and tightened them up. But, in relation to category 2, that applies to printed material, and what I am saying is that I understand that they will now also apply to videos.

The Hon. C.J. Sumner: You are wrong.

The Hon. K.T. GRIFFIN: If it is wrong, then the Attorney-General can correct it. In the Bill he applies the same conditions to ER videos as he is applying to category 2 as to availability.

The Hon. C.J. Sumner: That is not right.

The Hon. K.T. GRIFFIN: It is right: it is in the Bill. The conditions that are being attached to the ER category are going to be the same as those in relation to category 2. If the Attorney-General does not accept that, he should note that clause 6 of the Bill, which provides for new section 14a states:

> (3) The following conditions are imposed in relation to every category 2 restricted publication and every ER film.

So, the Attorney-General is wrong, unless he has brought in a Bill that does not reflect the Government's intention. The conditions specified in new section 14a (3) are, in fact, imposed both in relation to category 2 and in relation to ER films, and 'films' include videos. So, the conditions are the same for category 2 and for ER films. My presumption is (and if I am wrong in my presumption the Attorney-General can correct me when he has a chance to reply) to a very large extent, if not completely, that the standards in relation to category 2 printed material will apply in relation to ER films and videos.

If that is the case, then the material I have read out that is allowed in relation to printed matter is the sort of activity that will be allowed in ER films. If that is not right, I would like some clarification of it, and if it only relates to sexual acts *per se*, then the Attorney-General should give us an indication of the extent to which those acts will be depicted, and the nature of those acts. Does it relate only to what one would regard as normal or usual heterosexual acts or—

The Hon. C.J. Sumner: What is normal?

The Hon. K.T. GRIFFIN: The Attorney-General can make his own judgment. Or, does it extend to anal or oral sexual acts? Does it extend to any of the other items that are already in the standards in relation to printed material for category 2? I express concern about the potential availability of ER material to children and the effect on children. I think that that has to be the principal objective of this legislation: to provide adequate protection for children. To that extent I will be moving an amendment to remove the category of ER films for sale or hire from the Bill.

There are a number of other issues to which I want to refer. The conditions attaching to the display, exhibition and delivery of R films provide that images from the film shall not be exhibited to a minor otherwise than by a parent or guardian or a person acting with the authority of a parent or guardian of the minor. I want to raise some questions with the Attorney-General in relation to the extent to which a person, other than a parent or guardian, will be able to exhibit those images from an R film to minors. What is the nature of the authority which may be granted either before or after the event by a parent or guardian of a minor to some other person who has displayed those images from an R film to a minor?

In relation to an ER film, if my amendment is not successful, I want to focus particularly on that condition that the film shall not be sold, displayed, delivered or exhibited to a minor otherwise than by a parent or guardian of the minor. I presume that the mere fact that that is a condition is not limited to the condition on sale, but extends to any other breach of the condition by any other person. I would like the Attorney-General to confirm that. I draw the Council's attention to representations that have been made to me that with ER films not even a parent or guardian should be permitted to exhibit or display an ER film or images from the film to a minor on the basis that the community prohibits child abuse and physical violence towards children and that the showing of an ER film depicting explicit sexual acts which may be of some variety and perhaps of some unusual nature to children is, in fact, undesirable and is likely to create an undue impression and an unhealthy attitude in such minors and can be effectively equated to child abuse.

If my amendment in relation to the ER film not being permitted to be sold or hired is not accepted, then I would want the Council to give further consideration to banning the display of such films even by a parent to a minor. The question of penalty is important. I proposed to move amendments last year to increase penalties for breaches of the Act, particularly in relation to the sale or hire of a video that may be unclassified, and I wanted to increase the penalties to $10 000 and six months imprisonment. Of course, they are maximum penalties and I will be seeking to do that on this occasion. I also believe that there should be a more significant penalty imposed on those who may be regarded as retailers. Again, to accord with proposals I made last year, I would want the court to have a power to impose an additional penalty on a retailer, namely, that the court may suspend the carrying on of business by a person who sells or hires a video tape when a video tape is sold contrary to the provisions of the Act.

One of the concerns expressed by the Attorney-General is that, if the ER category is not used, it will force it underground. I think everyone will recognise (and I certainly made this position clear when speaking last year) that no-one can hope ever to totally eliminate the trade in pornography. All we can hope to do is impose some bottlenecks on its availability. This was particularly relevant in relation to the Costigan and other Royal Commissions which have clearly indicated that organised crime uses pornography as one of its very substantial money making activities and, in terms of the legitimate sale and distribution of that material, uses such outlets for the purpose of laundering its funds gained from organised criminal activity.

Last year I referred to a *National Times* article which indicated that something like $130 million profit was made in 1982 from the pornography industry. Of course, that did not include a substantial part of the illegal activity which is the activity of organised crime. So, there are substantial profits to be made in the area of pornography, and those who breach the legislation ought to be subject to quite substantial penalties. I think the mere $5 000 and three months imprisonment sought to be imposed by the Government in its Bill are quite inadequate.

One of the problems drawn to my attention in relation to retail video outlets is the way in which the various categories of videos are all scattered about the shelves in no particular order so that parents and children looking for a suitable video will be confronted not only by G, NRC and M videos on the same shelf but also by R videos. Some of the depictions on R video casette covers are not particularly suitable for children and provide a source of embarrassment for parents with their children in those retail outlets. I propose that an obligation be placed on retailers to segregate R videos from G, NRC and M videos—not in a separate and segregated area but at least on a separate shelf and easily identified as R videos. I propose an amendment to the legislation to require that to be done.

I also want to ensure that the details of the classifications of videos and the conditions attaching to their sale or hire are prominently displayed in every retail outlet and are available upon request by customers. My understanding of the Classification of Publications Act and the regulations is that a minimum size of the particular classification symbol is prescribed. However, there is not a specific reference to the details of the classification system and the conditions attaching to it being made available to members of the public. I recognise that the detail of that cannot be incorporated in the principal Act, but it can be covered by regulation. I want to ensure that the public has adequate information about the classification system and is able to gain access to that information quite readily in retail outlets in a form which is prescribed by regulation.

There are three other matters which I think are probably adequately covered in the Bill, but I will give them further consideration and when replying perhaps the Attorney-General can comment on them. First, I refer to trailers. I still receive complaints that video tapes carry trailers of a tighter classification than the video tape itself: for example, a G video tape may contain an M trailer. That is certainly not consistent with the spirit of legislation enacted by the Liberal Party whilst in Government or, I believe, in the context of the debate last year. If that is not adequately covered in the principal Act or the amendment, I would certainly want to ensure that it was included before the compulsory classification system becomes law.

I also want to ensure that, where a video cassette contains printed material and depictions, that printed material and those depictions have no tighter classification than the video itself. I think that is probably adequately covered in the legislation, but again the Attorney-General might give it some attention. The other area is the review of the M and R films that have already been classified. The Classification of Publications Board has power to review a classification. I am not exactly sure what the Government has in mind for those videos that have already been classified M and R.

The Hon. C.J. Sumner: That is explained in the paper, isn't it?

The Hon. K.T. GRIFFIN: I appreciate that the need to reclassify all M and R films would be perhaps an extensive job. However, it may be that in those areas where there was

perhaps a full censorship board decision or where the matter was taken on appeal to the board of review they could be automatically reviewed if not by the Chief Commonwealth Film Censor perhaps by the Classification of Publications Board on advice from the Chief Film Censor. The Attorney-General interjected and said that the details of the review of current classifications would be included in the paper which he kindly made available to me. That is so. I think there was something like 100 or more out of something like 900 which might have to be reviewed, but I do not have those details at my fingertips. Nevertheless, I think it is an important issue to address in the context of this debate and I would like him to give it some consideration.

As I have already said, I recognise the difficulties in determining where the border should be drawn in relation to material which should be available for sale and hire. I recognise that the Government has reached a decision which allows an ER category—a very substantial proportion of the present X rated videos—to be available. I also recognise that there are very great concerns in the community about the availability of that material to minors in one way or another and the impact it will have on minors.

The problem is that it will be difficult to police once the ER video becomes available publicly. Certain people who have made representations to me have suggested that maybe the solution to that is to allow them to be shown under very strict controls in cinemas where the availability to minors can be adequately policed. That is a matter that I understand one of my colleagues will raise during the course of the debate, and I express no view on that at present except to show some concern about it, but reserving the position until I have had an opportunity to consider that point of view.

As I have indicated, I support the second reading of this Bill. It largely reflects the compulsory scheme of classification that the Liberal Party was proposing at the end of last year, and I am pleased that the Government has moved so far away from the voluntary system to a compulsory classification system. Except for the matters to which I have referred, we will certainly support the second reading of the Bill and its progress in Committee.

The Hon. R.I. LUCAS: I support the second reading of the Bill. I do not intend covering the breadth of the Bill that the shadow Attorney (Hon. Trevor Griffin) has covered. I will confine my remarks to a handful of topics within the Bill. First, I support, naturally, the concept of compulsory classification as opposed to voluntary classification. This Bill providing for compulsory classification is useful testimony to the worth of the work of this Legislative Council. It was not that long ago that those on this side of the Chamber argued long and hard about the merits and the need for compulsory classification and were greeted, at least initially and at least in this Chamber, with strident opposition from members of the Government.

Whilst I have not turned up the *Hansard* record of the debates, I well remember the Hon. Anne Levy's contribution (I was not criticising the Attorney on this occasion), in which she talked about what a disaster it would be if we introduced compulsory classification: how the system would resort to chaos, how we would have to spend inordinate amounts of time on Margaret Fulton cooking videos, and assorted other examples that the Hon. Anne Levy gave us, in trying to convince us that compulsory classification was not workable.

I recall that on that occasion the major point that I tried to put was the need to assist parents in their responsibilities with respect to the selection of videos for viewing by their families. The point that I raised on that occasion was, in particular, the problems for parents in distiguishing between M, PGR and G categories in that, as I recall, the Government's scheme would not have provided, in effect, consumer information to me as a parent to distinguish between the sorts of material that might be available in an M category as opposed to a PGR category.

Certainly, the Attorney and others members suggested that if we were concerned we as parents ought to sit down and peruse the whole video before we allowed our children to look at it. I am sure that the Attorney used that only as a debating point and that he certainly would concede that that really was not a workable proposition. One of the reasons why I strongly support this change of heart is that we will now be able to provide parents with consumer information with respect to the sorts of material that might be available within the various classifications.

As I indicated, this change is testimony to the worth of this Chamber and also to the worth of one State's standing up against what is sometimes dropped on a State as complementary legislation on a national basis. Frequently, as a small State we are confronted with complementary national and State legislation being dropped on our heads, and therefore the scope supposedly is restricted in our ability to say, 'We do not really think that this is appropriate for South Australians and it ought not to operate in South Australia.'

This is, at least, one solid example where we were confronted as a Parliament with that situation and collectively (or at least a majority of us) refused to accept the collective wisdom of the Attorneys-General of the States and the Commonwealth and stood out for what we believed in here in the Parliament and in South Australia. As I said, it is a good example of the change that can be achieved by members of Parliament sticking to their principles and views on this matter.

Turning now to the classification system, I agree with the Attorney-General in that my personal concerns with respect to the types of material that are available by way of video are more related to the violence-related aspects of videos rather than to the erotica aspects. I support the Attorney-General's intentions outlined in his second reading explanation concerning the tightening up of the classifications with respect to violence. He has indicated that he will seek to tighten up the violence-related aspects of the M and R categories. The Hon. Trevor Griffin touched on this point; I will certainly pursue with the Attorney-General exactly how that is to be achieved.

The Attorney referred to a document that he had given to the Hon. Trevor Griffin, but I have not had the opportunity of seeing that. I would be interested to hear from the Attorney what procedure is followed for him to implement those changes with respect to the M and R categories in removing what the Attorney sees as being too much emphasis on violence and, as I said, I agree with that view.

I indicated in the last debate, whenever that was—and I have said subsequent to that debate—that I opposed the X rated video classification being available. I continue in that view and therefore support at least that aspect of the Attorney's second reading explanation to the Bill that we have before us.

The controversial aspect, if there is one, to this Bill relates to the new classification ER. I certainly have no personal or moral objection to adults having access to what I understand from the Attorney's statements and explanation are the sorts of material that would be available in the ER classification; that is, as I understand it, all the violence and non-consent related aspects of the X rated videos will be removed and the ER classification will substantially be explicit sex acts being performed between consenting adults. I repeat: I have no personal objection to adults having access to that sort of material. I stress that I refer to adults and not to minors or children. I am concerned about that aspect

of the Attorney's Bill which, in my view, would allow this ER category to become available for minors to see in the home.

An honourable member in the earlier debate indicated that about 30 per cent or 35 per cent of homes in Australia and South Australia now have access to video recorders. I believe that in five years or 10 years the percentage will be similar to the present percentage penetration of colour television into the market, that is 70 per cent, 80 per cent or 85 per cent or whatever the figure is. Almost all homes have access to colour television, and I believe that that is what is going to happen over the next five to 10 years. That trend is probably irreversible.

More and more people and children, in particular, will be exposed to videos being displayed on video recorders. Those honourable members who have a video recorder and who have children will know that access to the video recorder by children is almost impossible to police by parents or the adult responsible for the children. The video recorder is on top of or next to the television set, which is almost always in an accessible place, whether it be the family, sitting or lounge rooms, and the video recorder is plugged and tuned into the television set. It is not an easy matter to remove a video recorder from the television set and lock it away in the family vault when one is not using it. It is not done, because of tuning problems and because of the convenience of families.

The experience with most families is that tapes, whether they are owned or hired, are generally located in that easily accessible part of the house next to the video and the television set. Not too many homes have vaults in which to lock away ER classification videos, and they are not likely to be locked away in the majority of homes.

The Hon. C.M. Hill: They might put them in a separate drawer.

The Hon. R.I. LUCAS: That is possible. I am sure that as with *Penthouse, Post* or *Playboy* of the past, many a child has soon found out where father or mother has hidden the *Post, Playboy* or *Penthouse,* underneath the socks or wherever—and really there is no way, especially with teenage children, to prevent this.

I am not talking about my four-year old who has access to our video recorder and who puts on his Muppet show or whatever he is into now—Star Wars—and that is not a major problem for me as a parent yet. Certainly, with teenage children there is little likelihood that someone trying to be a responsible parent will be able to conceal within the family home the ER video tape. Whilst one might impose certain restrictions and guidelines in one's own home according to one's own morals, philosophy and principles, one is not able to influence the parents of one's children's friends, who may well have a different approach to access to ER classified material.

That must be tied in, as we have discussed on many other issues, with the tremendous amount of peer group pressure that exists amongst teenage children. Such peer group pressure encourages children to try smoking, drinking, swearing, sex and a whole range of other things that teenagers of yesteryear and today are confronted with. It is extraordinarily difficult for a teenager who might not want to be dragged along and who might not have any intention of having a look at an ER classified video, when half a dozen of his or her mates are watching, to break that pressure. Perhaps someone has found such a video in the parent's drawer and has put it on while the parents are away at a party or straight after school when both parents are out working. There could be half a dozen of them watching and peer group pressure is such that it is unlikely that many teenagers would have the strength of character at that stage to say, 'I am not allowed to watch this sort of material. I do not want to watch this sort of material.'

As a result of peer group pressure they are likely to go along with the crowd and the tide because that is the easiest thing to do. That is my major objection to what the Government is proposing. Whilst I accept that adults—and the Classification of Publications Act uses the term 'reasonable adults'—ought to have access to adult type material, as the Government has recommended it, I see major problems with respect to preventing minors from gaining access to adult classified material in the home.

I cannot support that position. I have asked the Parliamentary Counsel to look at an alternative or compromise position, that is, the concept of adult cinemas. If there are adults in the community—and I know that there are—who wish to look at adult classified material, whether it be on video or film, they ought to be allowed to look at that sort of material in a thoroughly supervised adult cinema and in that way minors and children will not be able to gain access to the adult classified ER material that will be shown in the adult cinema.

The compromise, as with all compromises, is not the perfect compromise in that many adults have said to me—those who wanted the X classification and now who want the ER classification—'We are consenting adults and we would like to see this sort of material in the privacy of our own home.' Their views will not be catered for by the compromise that I have suggested.

However, the alternative or the advantage of the compromise as opposed to the disadvantage for those people is that parents in the community who do not want their children to be exposed to ER classified adult material can at least be slightly more confident that their children will not be exposed during their formative years, that is, their adolescent years.

The Hon. C.J. Sumner: We made it an offence.

The Hon. R.I. LUCAS: The Attorney says that we will make it an offence. If ER video material is hidden by the parent and if the parent goes out to work and the child finds the material and displays it, who is penalised? Is the Attorney saying that in that instance—

The Hon. C.J. Sumner: It is not an offence for a parent or guardian to show the material to a minor: under the legislation it is an offence for a third party to show the material to a minor.

The Hon. R.I. LUCAS: That is right, but the problem remains that a child may gain access to that material and display it to his or her mates. There will be no penalty—

The Hon. C.J. Sumner: Of course there will—on the child.

The Hon. R.I. LUCAS: The Attorney is saying that in that circumstance the child may be thrown in the clink or fined. That is thoroughly unsatisfactory. The Attorney is suggesting that, if a 14 year old in his home or in another home slots an ER classified video into a recorder and shows it to his or her mates, the full weight of the law will be brought down upon that 14 year old.

The Hon. C.J. Sumner: In the Children's Court.

The Hon. R.I. LUCAS: He would be subject to the full weight of the law in the Children's Court.

The Hon. C.J. Sumner: It is just like when a minor pinches a block of chocolate from a supermarket.

The Hon. R.I. LUCAS: Frankly, I do not see that happening. We are still left with the situation where 14 year olds will be gaining access to ER adult material. I would have thought that the intention of the provision was more likely to refer to an adult, rather than a parent or guardian—

The Hon. C.J. Sumner: That is whom it is primarily aimed at, but it is not restricted to those people.

The Hon. R.I. LUCAS: Sure—who would supply restricted ER material to minors. That is a problem, but the circum-

stance I have been canvassing relates in effect to kids who gain access to parents' ER classified material and display it to their friends. As I said, the compromise would involve an adult cinema house. I have asked Parliamentary Counsel to consider amendments and, being frank, Parliamentary Counsel has said that he is under enormous pressure in trying to draft the sort of amendment which I want and which I want the Committee to at least discuss. I am told that amendments to the Classification of Films for Public Exhibition Act would also be required.

I am not positive that the amendment I propose is entirely consistent with the one aspect of the position to which the Hon. Trevor Griffin has referred, in that I understand that the Hon. Trevor Griffin will move an amendment to provide that ER classified material is banned from sale or hire. My proposal would mean that, if a person wanted to show ER classified material in a cinema, he would have to comply with whatever restrictions and guidelines applied. However, that person would also have to be able to gain access to ER classified tapes. If the Hon. Mr Griffin's amendment was passed, I do not know where an adult cinema proprietor would buy those tapes. I guess that they could be bought interstate, but I would like the Attorney in Committee to respond to the question: if the Government's Bill is successful, is there anything to prevent South Australians purchasing ER material from outlets in Victoria, New South Wales, or Western Australia and bringing it to South Australia?

The Hon. C.J. Sumner: There could be some provision for them to get access to the films and display them in a public cinema.

The Hon. R.I. LUCAS: That is the sort of amendment that Parliamentary Counsel will have to try to come up with.

The Hon. C.J. Sumner: He will need an instruction, too.

The Hon. R.I. LUCAS: Yes. The other point is that, even if the Government's Bill goes through, I take it that there is nothing to prevent me or anyone else from buying ER classified material from Victoria, New South Wales, or Western Australia and bringing it into South Australia so that, if ER material was banned in South Australia, there would be nothing to stop—

The Hon. C.J. Sumner: That depends on the extent of Mr Griffin's amendment. If he makes possession an offence—

The Hon. R.I. LUCAS: If it relates only to the sale or hire in South Australia, it would enable that.

The Hon. C.J. Sumner: It is only in Victoria at this stage.

The Hon. R.I. LUCAS: Is it likely to be New South Wales or Western Australia?

The Hon. C.J. Sumner: I don't know.

The Hon. R.I. LUCAS: If the Hon. Mr Griffin's amendment is successful, I would want to know whether mail orders would be involved. If sale or hire was banned in South Australia, where is the point of sale if one writes away to Victoria for ER material? I would be interested in the Attorney's response to that question. Finally, in regard to adult cinemas, I would imagine that some well known cinema houses around Adelaide may well see a market for themselves in this area. Equally, I would imagine that local football clubs which, I am informed, sometimes have blue movie nights—

The Hon. C.J. Sumner: They are illegal now.

The Hon. R.I. LUCAS: They are currently illegal.

The Hon. C.J. Sumner: And they still would be.

The Hon. R.I. LUCAS: Under my amendment? As long as the local hall met with all the requirements applying to cinemas, would it not be possible under the amendments I envisage for a football club, quite legally rather than illegally as in the past, to have an erotica night to raise funds for the club or whatever?

The Hon. C.J. Sumner: It is your amendment—you should know.

The Hon. R.I. LUCAS: Well, the Attorney answers quite correctly. I believe that that will be the result of my amendment, if we are not able to have a look at it. That is all I want to say at this stage. I hope to pursue the amendments and a number of other questions on certain aspects of the Bill in Committee.

The Hon. DIANA LAIDLAW: I wish to speak very briefly to this Bill, first to acknowledge, like the Hon. Trevor Griffin and the Hon. Robert Lucas, that I too am very pleased that the Government has concluded that a compulsory system to classify videos for sale and hire should be implemented in this State. I found it extraordinary when the Bill was being debated last year that this Government, which professes to be so concerned about freedom of information legislation and which has an equal obsession with consumer protection legislation, was not prepared to accept compulsory classification of these videos.

I am also pleased to see that the issue of violence in these films has been given such weight by the Attorney-General in discussions that he has had at the Federal level and with other Attorneys-General.

The Hon. C.J. Sumner: You would have been proud of me.

The Hon. DIANA LAIDLAW: I have heard from friends interstate that the Attorney has worked hard and well in respect of this Bill and, in fact, has been commended for his efforts. I do not mind publicly acknowledging this. I welcome the compulsory scheme of classification and also the attention given to violence but am in a bit of a dilemma about how to respond to this Bill. I, like many feminists, share an abhorrence of the way pornography subordinates and degrades women. I also believe that pornography can cause considerable social harm. I also share my colleagues' concerns and the concern expressed particularly by the Council for Children's Film and Television about access by minors to this material.

I think that this is a particular problem as we advance rapidly into an age of technological development of satellites and the like. I wonder whether parents, no matter how well meaning they are, will in future have any control over what their children watch on television, or on videos and the like. Having outlined those dilemmas, I must also remark that I find it equally difficult to accept the Hon. Trevor Griffin's suggestion that sale and hire of ER category videos should be banned. I say that because I find it difficult to accept that prohibitions on the use of marihuana or alcohol, or on the sale of cigarettes to minors, have ever been successful in restricting such access to minors or to members of the community in general. In addition, I would make mention of an article 'Covering up Sex' written by Annette Ruhn, the author of 'Women's Pictures—Feminism and the Cinema'. In relation to this subject she says:

> Pornographic materials proliferate because in one way or another they make money. Legal restriction does nothing to alleviate this harm. On the contrary, as long as demand exists, illicit underground trade in pornography makes it all the more attractive and profitable. The State cannot reach those areas that create the demand for pornography in the first place.

I totally agree with that concluding paragraph by Miss Ruhn and for that reason at this stage I cannot entirely accept the Hon. Trevor Griffin's amendment, although I can see its merits. So, I will withhold my judgment on this issue at this time.

The Hon. C.J. SUMNER (Attorney-General): In concluding this debate I must say that honourable members

opposite, while accepting the parts of the Bill that ban X rated videos, have decided to ban the new ER category—or at least those speakers who have contributed to the debate have done so. Therefore, to some extent, the propositions put forward by honourable members opposite are undermining the Bill put forward by the Government. I would still argue that the ER category is a valid proposition. I should say at the start that this category has been accepted in Victoria, which is the only State so far to pass legislation to give effect to the ER category. Their legislation was, in effect, very similar to that proposed by this Government. The Victorian legislation banned category X but will automatically pick up an ER category once the Commonwealth Government has, through an Australian Capital Territory ordinance, legislated for an ER category.

That legislation was passed in the Victorian Parliament, I understand with the support of both Parties. The Liberal Party in Victoria supported the ER category, which has now become law subject to the Commonwealth Act. With respect to the other States, it is clear that Queensland and Tasmania will not accept an ER category: they will ban X and ER. Indeed, it is interesting to note that there was a proposal in Tasmania to ban R rated videos, as well. I understand it was defeated. The situation in New South Wales is that Cabinet has not yet made a decision on the ER category and is not expected to make a decision until early next year. In Western Australia (and I will confirm this during the Committee stages of the Bill) the Government has decided to stick with the complete banning of X rated material including the new proposed ER category.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is my understanding, but I will check that before the Committee stages of the Bill. It is true to say that there is no uniformity on this particular point in Australia. However, I believe that the proposition for an ER category, as it is a category for non-violent sexual acts between consenting adults, is a reasonable compromise. This is a difficult area between, on the one hand, the rights of adults to see, hear, and view what they wish without giving offence to other people and, on the other hand, the obvious community concern about the effects or potential effects of some of the videos that might have been allowed to circulate in the community. The proposition for an ER category I believe was a reasonable compromise, although it is true to say that it is not accepted, and has never been accepted, uniformly throughout Australia because Queensland and Tasmania have never accepted this category.

With respect to the standards that will apply in the paper that was made publicly available following the last meeting of Ministers responsible for censorship, the ER category was outlined. Briefly, it was material that includes explicit depictions of sexual acts involving adults, but which does not include any depictions suggesting non-consent or coersion of any kind. The comment on that in the paper was:

> Because the upper limits of depictions of sexual violence are those as defined in R (that is, discreet, not gratuitous and not exploitative), explicit depictions of sexual acts would be specifically limited to acts which are non-violent.

That is what it is in general terms. The Hon. Mr Griffin drew the comparison between the classification of publications and the category 2 classification of the publications, which has been in existence in this State now for some 10 years or so. He raised the question of whether the standards that are applied by the South Australian Classification of Publications Board with respect to category 2 publications would be the same as the ER standards for videos. That is not, as I said by way of interjection, the situation.

The category 2 restrictions under the Classification and Publications Act have, in fact, recently been amended. If the honourable member refers to the latest report, which has just been tabled, he will see that it has been amended to some extent. He listed a number of fetishes that have now been taken out of the classification category 2. Category 2 now reads fellatio (detailed), cunnilingus (detailed), foreign objects in genital or anal orifices, anal intercourse, ejeculations, fetishism, bondage without cruelty, masochism, mild sadism, sexual activity associated with mild violence, and now incest between adults.

The Hon. K.T. Griffin: Is incest still in it?

The Hon. C.J. SUMNER: No, it is not in the current guidelines, although I understand the Board has given attention to that issue in the report. I can address that issue later. If the honourable member asks me a question I can give him an up-to-date report of the Board's decision on that topic. It is not dissimilar to what it decided last year, as I understand it. At this stage they are the category 2 criteria. I believe that with respect to videos, all those matters mentioned after fetishism, namely, bondage without cruelty, masochism, mild sadism, and sexual activity associated with mild violence, would not be permitted under the ER category. They would all be refused classification, as I understand the way the new ER category will operate.

With respect to the fetishes, the somewhat unsavoury ones that the Hon. Mr Griffin mentioned, that were part of the category 2 guidelines until recently, I do not believe that those fetishes would be allowed classification under the ER category. Obviously, some fetishes would be allowed. The effect of the ER category is to allow fellatio, cunnilingus, foreign objects in genital or anal orifices, anal intercourse, ejeculations and fetishism in a consenting situation involving adults, but not in a situation where there is any suggestion of coersion or violence. So, it is a purely erotic category: it is not a category that involves any violence. As I understand it, that would be the effect of the ER category and its comparison with the current category 2 criteria which operate for publications and have operated, more or less, for the past 10 years or so, with some amendments that I have just outlined.

I make it clear that that is the extent of the category; that if it went beyond that it would not have my support. In fact, it is probable that there would be potentially more violence in the R category than there would be in the ER category in some circumstances. If an R film was a particularly violent film or an R video was a particularly violent video, being the *Turkey Shoot* or the *Deer Hunter* or something of that kind, then there would be more extreme violence in an R category video than there would be in the ER category video. So, ER concentrates on sexual acts between consenting adults. There are a number of other questions raised in relation to the Bill, and I would certainly be prepared to explore some of those issues further during the Committee stage unless there are any particular matters for which answers are required at this stage.

The Hon. R.I. Lucas: What is the procedure for tightening the M and R violence classifications?

The Hon. C.J. SUMNER: They have, in fact, been tightened. They were tightened as a result of three meetings that I had with Ministers responsible for censorship over the past six months (since April), when I argued for tightening of the classifications in the M and R category.

The Hon. R.I. Lucas: How did you achieve that?

The Hon. C.J. SUMNER: By laying down tighter guidelines under which the Commonwealth Film Censor and the Commonwealth Film Board of Review would operate. We have tightened the guidelines relating to violence. I understand that *Turkey Shoot* was originally classified M and clearly now would be classified R. *Blood Sucking Freaks*, which was originally classified R would now be refused classification. They are some of the examples of how there has been a tightening up on violence. Obviously, there will

still be violent scenes in films. One was *Straw Dogs*, for instance, which by all accounts—

The Hon. Diana Laidlaw: You see it on the television news every night anyway.

The Hon. C.J. SUMNER: That is right. It was a very good film classified R and would still be classified R.

The Hon. R.I. Lucas: Can anyone get those guidelines?

The Hon. C.J. SUMNER: I have them here. The Hon. Mr Griffin has received details of them. If the honourable member wishes, during the Committee stage, to ask me more questions, I will certainly indicate the sorts of things, with reference to some of the films that we saw, as to how the guidelines would be tightened up.

I will attempt to answer some of the other questions during the Committee stage. The Hon. Mr Lucas raised the question of mail orders and whether or not, if the Hon. Mr Griffin's amendment is passed, South Australians could still have access to ER rated videos by bringing them in from interstate or by ordering them by mail from interstate. I have not seen the honourable member's amendment. However, if the amendment merely prohibits the sale or hire of ER rated videos, clearly someone could buy them in, say, Victoria (although they are still banned there until the Commonwealth acts) or, if they are available in another State, someone from South Australia could buy them and bring them into this State, provided that is the effect of the honourable member's amendment. However, if the honourable member's amendment makes possession an offence, that is a different matter. By mail order, I believe that, if a South Australian ordered an ER rated video by mail, the point of sale would be interstate and it would not be caught by the legislation.

I have no doubt that that sort of activity will occur, if the ER classification is refused. It will certainly occur in Tasmania and Queensland. Actually, while talking about the States that have accepted the proposition, it is interesting to note that the Northern Territory, unlike its political confreres in Tasmania and Queensland, has been a very strong supporter of an X category and, indeed, will go along with the ER category if it is introduced by the Commonwealth.

In relation to cinemas, that is something to which I have not given any serious thought. I understand that it is a term of reference of the Commonwealth Select Committee to look at a number of issues in this area. Perhaps some guidance may be obtained from the deliberations of that Select Committee. That is something that we will have to consider if the Hon. Mr Lucas moves an amendment to that effect. I am not sure that it really is particularly desirable. I suppose we are really turning the argument around. Generally in this area the argument has been that people are entitled to read or view what they wish in their own homes. We are now saying there is a category of material which people should not be able to see in the privacy of their own homes but they can see it publicly. That seems to me to be a complete reversal of the debate that has traditionally taken place in this area of censorship.

I will reserve my position on the question raised by the Hon. Mr Lucas, depending on the fate of the Hon. Mr Griffin's amendment to delete the ER category. There is one other matter that needs to be looked at and, again, I will make the paper available to honourable members if they wish. I refer to the paper that was prepared following the last meeting of Ministers and which dealt with the reclassification of existing video tapes, as follows:

As at 19 October 1984 the following number of video tapes had been classified as from 1 February 1984: category M, 899; R, 579; X, 1 256.

Therefore a total of 2 734 videos have already been classified under the voluntary system. That probably indicates that the voluntary system has in fact been quite effective in ensuring that videos are classified and brought under some control.

The Hon. I. Gilfillan: Didn't you want compulsory classification?

The Hon. C.J. SUMNER: I was happy to argue for compulsory classification following the debate in Parliament last year. I did argue for it and it was achieved.

The Hon. I. Gilfillan: You didn't want it.

The Hon. C.J. SUMNER: The original Bill provided for voluntary classification in accordance with the decision taken in 1983 by Ministers to bring videos under some control for the first time ever in Australia. The system which was originally agreed to and which I tried to give effect to in December last year was a voluntary system, but it was not acceptable to the Council.

The Hon. K.T. Griffin: They were already covered by the voluntary system, but as I said in my second reading speech there were some difficulties.

The Hon. C.J. SUMNER: They were covered under the Classification of Publications Act, but there was no effective enforcement method. That was the problem. There was doubt about whether section 33 of the Police Offences Act covered them. Furthermore, section 33 of the Police Offences Act did not cover violence. Even though there could be classification of a video under the Classification of Publications Act and a prosecution for pornography might have been possible, there could be no classification for violence that did not have any pornography related to it. What was introduced last year was a comprehensive package to bring videos under control. I am not trying to retrace that. It was the interjection of the Hon. Mr Gilfillan that led me on.

I am quite happy with the compulsory classification system. There is no question of that. I was happy to argue for it following the debate last year. The figures I have given indicate that there were 2 734 videos classified under the voluntary system, which has been operating for the past 12 months. I think that indicates that the voluntary system, at least at the bottom end of the market in the M, R and X areas, would have been effective. The report continues:

The Acting Chief Censor, Mr Ken Barton, has examined the reports on these tapes in light of the proposed tighter guidelines contained in parts B and C of this paper. He estimates that the number of tapes likely to need review and possible reclassification are of the following order:

Category	Likely No.
M	24
R	47
X	60
Total	131

Existing Power for Review: Currently the ACT Classification of Publications Ordinance 1983 allows for the review and revocation of classifications by the Films Board of Review under two sections:

(i) Section 30 provides that the Attorney-General may apply to the Films Board of Review at any time for a review of a decision.

(ii) Section 36 provides that the Films Board of Review may of its own motion revoke a classification or a decision after the expiration of 12 months from the date on which the classification or decision came into effect. This date is set down in section 29 (2) as being the date on which the notice of the decision is given in writing.

Accordingly, if the guidelines proposed in this paper are accepted by Ministers the following sequence of events is likely:

(a) Amendment to the ACT Ordinance to delete the X classification and to institute the ER classification.

(b) The Chief Censor would communicate to the Attorney-General and the Chairman of the Films Board of Review a list of those titles previously classified which due to the altered guidelines require review.

(c) The Attorney-General would require review of those video tapes he deems necessary.

Further Options for Review: At such time as the ACT Ordinance is amended, to delete the X classification and to institute the ER classification, it would be possible to provide the Censorship

Board with a power of review, with regard to decisions and classifications on video tapes. The arguments for such amendment may be summarised as follows:

For

such a power would avoid a bulge of work being transmitted to the Films Board of Review, which is a part-time organisation of five members as presently constituted;

the review of video tapes (estimated at 130) would be achieved very quickly.

Against

providing the Censorship Board with a power of review would lessen the authority of the Films Board of Review;

the Films Board of Review may have up to six members and with six members can meet in two groups of three, effectively doubling its capacity. It should then be able to handle the additional workload without too much difficulty.

The question of the review of those videos which may require reclassification has been addressed by Ministers and one or other of those procedures will be adopted once the Commonwealth has acted to introduce its ER category.

I refer to the Select Committee which was established by the Senate earlier this year and which deals with a number of issues that are the subject of debate today. One of those terms of reference is whether cinemas should be permitted to screen for public exhibition material classified above R, subject to prohibition of entry of persons under the age of 18 years. So, the Select Committee that has been set up would be looking at the issues that have been raised by the Hon. Mr Lucas, as well as a large number of other issues relating to this topic.

I hope that the Council can see its way clear to accept the ER category; it is a reasonable compromise. I am confident that it will be accepted in the ACT by way of the Commonwealth Government. It has already been accepted in Victoria, although it is clear that it is not acceptable in Queensland, Tasmania and Western Australia, and may not be acceptable in New South Wales; that has yet to be determined.

Bill read a second time.

The Hon. R.I. LUCAS: I move:

That Standing Orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

The PRESIDENT: Before the Hon. Mr Lucas proceeds to move the instruction to the Committee to consider amendments to the Classification of Films for Public Exhibition Act, I point out that Standing Order 422 states that an instruction can be moved to make an amendment to a Bill that is relevant to the title of that Bill. Considerable difficulty has been experienced in the past in determining how far the Council should go in permitting the widening of the scope of Bills. However, the practice of the Chair has been to leave it to the Council itself to decide whether or not the instruction shall be agreed to. I propose to follow that procedure on this occasion.

The Hon. R.I. LUCAS: I move:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider an amendment to the Classification of Films for Public Exhibition Act.

Motion carried.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

SECOND-HAND GOODS BILL

Adjourned debate on second reading.

(Continued from 31 October. Page 1626.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. Its major purpose is to transfer jurisdiction from the courts to the Commercial Tribunal and also to remove some anachronistic provisions from the existing Act (Second-hand Dealers Act). The Commercial Tribunal is an appropriate tribunal to exercise jurisdiction in this area and was set up by a Liberal Government. In regard to this jurisdiction concerning second-hand dealers, I have always considered that the courts were strange forums in which to license second-hand dealers. Doubtless the court procedure was used only because there was no other appropriate tribunal. Now there is one, it is appropriate to use that tribunal.

The Bill also places the administration of the Act in the hands of the Commissioner of Consumer Affairs. Previously, the Act had been administered by the Chief Secretary's office. The transfer to the Commissioner of Consumer Affairs, who is the normal contact with the Commercial Tribunal, is logical. It must be remembered that not all the States have a Second-hand Goods Act: in some States it is not necessary to hold a licence at all. The body having the more principal interest in the Act is the Police Force, which by the present Act is given assistance in tracking down stolen goods. Whilst I believe in deregulation and note that in other States there is no control over second-hand dealers, we are looking at the prevention of crime. The police consider that the existence of a licensing system over second-hand dealers provides them with some means of detection of the sale of second-hand goods.

I acknowledge that, particularly with the mobility available these days and the ability to send goods interstate and so on. The facility the Act gives to the police to detect the sale of second-hand goods will be by no means perfect, but it is an assistance to the police in the detection of crime and, as such, I consider that the licensing system ought to be retained.

As I have said, I consider that it is proper to transfer the licensing jurisdiction from the courts to the Commercial Tribunal and the administration from the Chief Secretary's office to the Commissioner of Consumer Affairs because the proper licensing authority is the Tribunal and the proper administrative authority in regard to licensing is the Commissioner of Consumer Affairs. However, it will be necessary for the Commissioner of Consumer Affairs to co-operate with the Police Force in regard to the administration of the Act, and I am confident that that will happen.

In his second reading explanation, the Minister said that he had had extensive consultation with various industry and other interested groups. I have undertaken such consultation myself and I can confirm that there was extensive consultation by the Government, although some of the organisations considered that they were simply told what the Government intended to do. However, they have all been aware of the Bill and perused various drafts of it, and they have had the opportunity of making their representations.

There is a question which I raise and which was mentioned by the Minister in his second reading explanation. He referred to the question of garage sales and trash and treasure markets. He referred to people who wished to sell their own goods at functions such as these but also made it clear that there are other people who acquire goods for the purpose of selling at these functions. He said that these people fell into two categories, and that is a fair observation. I refer to page 1624 of *Hansard* where the Minister states:

There are those who do not hold a dealers licence but who attend auctions and other sales outlets to purchase goods (both new and used) at low value for the purpose of resale at a market.

The Minister is referring there to people who really to a limited extent are operating as secondhand dealers, because they purchase the goods for the purpose of resale. In regard to the second category, the Minister states:

. . . there are those persons who do not purchase goods but acquire them by scavenging at dumps and other places of aban-

donment. Usually these people repair or restore the goods before attempting to sell them. Again, regard must be had to the purpose of the Act and it is seen as unnecessary intrusion to control the activities of the latter category. A suitable exemption will be granted to exclude them from the operation of the Act.

I accept that in regard to the second category, because those people are not in any sense dealers. They scavenge the goods and usually restore them and want to sell them at a garage sale or trash and treasure market. However, I believe that there is some need to control or at least scrutinise the activities of garage sales and trash and treasure markets in regard to the first category: those people who purchase the goods for the purpose of resale and who sell them in that way.

I have received some suggestion that garage sales, particularly, are a principal market for stolen video recorders. Many video recorders are stolen at present and it is a common practice for nefarious people at night to drive around in a truck to purloin pot plants from trees and walls in private gardens.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Yes. They drive the truck next day into the trash and treasure market and dispose of the pot plants. In asking a question of the Minister I hope that he will reply to it in his second reading comments. I understand that, as the Minister will exempt the second category (the scavengers), I take it that people in the first category will not be exempt, that is, people who purchase goods for the purpose of resale and who sell them at garage sales and trash and treasure sales. As the Minister said in his second reading explanation, there is a provision in the Bill that where a person buys and sells goods on six occasions in a year they are deemed to be dealers and, therefore, are committing an offence if they do not acquire a licence.

I trust that it is the Minister's intention in regard to people in the first category that those people who buy goods for resale, even if it is by way of a garage sale or a trash and treasure market, will be caught by that provision. If they do that more than six times they will be deemed to be dealers and will be committing an offence if they are not in possession of a licence. The Minister has explained in regard to the second category that people who scavenge goods and restore them will be exempt and will be outside the provisions of the Act and that the six time rule will not apply.

I am happy with that but I seek an assurance in regard to the people described by the Minister as being in the first category that they will have to comply with the six time rule and that they will not be exempt from the Act. In some of the previous drafts that have been distributed and circulated amongst industry groups there was a clause providing in regard to what were there referred to as secondhand goods markets—trash and treasure markets and so on—that there was to be a requirement on the organiser of the market to provide to the Commissioner of Police prescribed information, and that they committed an offence under penalty if they did not provide the prescribed information.

I am informed that it was decided that that would be too difficult and onerous and perhaps not very effective, so that clause has been dropped from the earlier drafts and is not present in this Bill. After some discussion, I do not intend to do anything to try to restore that clause in any form, but I ask the Minister in his reply to undertake to monitor the activities of garage sales and trash and treasure markets. The industry generally supports the Bill. Some aspects are things that they have been seeking for some time. However, they have raised the question that the obligations placed on them are quite severe, that under pain of penalty or other disciplinary proceedings they may lose their licence.

They have a fairly onerous obligation put upon them and, in effect, the people who sell goods at garage sales or trash and treasure markets are competing with them. They say quite correctly that they have no objection to the original intent of these kinds of outlets, that if one has one's own surplus goods and disposes of one's own goods in a garage sale there is no objection to that. If one has one's own surplus goods and takes them to a trash and treasure market, they have no objection to that.

However, in regard to people who purchase new goods cheaply or who purchase secondhand goods for the purpose of disposing of them for a profit at a trash and treasure market or garage sale, they really are competing with licensed dealers, who feel put out to some extent that, whereas the licensed dealers have to comply with these obligations, people who sell goods at trash and treasure markets or garage sales, even though they have purchased them for the purpose of making profit by sale, do not have to comply. That is why in the first place I have asked for the assurance that the six time rule will apply to people who purchase goods for the purpose of sale in a garage sale or trash and treasure market.

Secondly, I ask that the Minister give an assurance that the activities of garage sales and trash and treasure markets will be scrutinised. If the result of the scrutiny is that there is no danger of stolen goods being sold, well and good. However, it has been suggested to me, as I have indicated before, that these outlets are a common method of disposing of stolen goods and, in fairness to the people who are licensed, are subject to discipline and have to pay fees and comply with obligations, I ask that the activities of these other outlets that compete with licensed dealers be scrutinised. Subject to those comments, I support the second reading.

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

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 31 October. Page 1627.)

The Hon. J.C. BURDETT: I support the second reading. This Bill is complementary to the Second-hand Goods Bill and it makes the same provisions apply in regard to second-hand motor vehicles.

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

LAND AND BUSINESS AGENTS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 1 November. Page 1720.)

The Hon. J.C. BURDETT: I support the second reading. The principal purpose of the Bill is to transfer jurisdiction from the Land and Business Agents Board to the Commercial Tribunal. The Liberal Government set up the Commercial Tribunal, the object being simplification and deregulation. It was intended that there be a single tribunal with a common chairman and secretariat but with provision for specialist expertise to administer certain areas of occupational licensing. When the previous Government introduced the Bill for the Commercial Tribunal it intended that eight boards would be abolished initially and replaced by the Commercial Tri-

bunal. One of the boards that that Government intended to abolish, transferring its jurisdiction to the Tribunal, was the Land and Business Agents Board. Therefore, this Bill simply completes that intention.

Other quite important areas are addressed by the Bill, one being the control of what are referred to in the Bill as rental referral agencies, commonly called letting agencies. A client pays a fixed fee to these agencies as a rule and receives a list of premises that are said to be available for letting. The premises involved are usually flats and other, generally speaking, low rental residential premises. People have complained that often the list of premises said to be available for letting is carelessly prepared and quite often the premises are not available.

It has been said (and I believe it has been verified) that very often, but by no means always, the most disadvantaged and desperate people are those who seek the services of such agencies. The unemployed and other people who for various reasons find it difficult to obtain residential rental accommodation in desperation often eventually go to these agencies. However, the services are not confined to those people by any means, and I must say that on one occasion I used the services of an agency such as this and obtained complete satisfaction: I was able to obtain accommodation of the kind I needed after about two or three phone calls.

When we were in Government and when I was Minister of Consumer Affairs there were complaints about the matters to which I have just referred, namely, that the lists were worthless and deficient and that many of the premises had already been let and were not available for letting. Initially I declined to take any action, because the number of complaints to the Department was very small indeed, and it remained very small—a mere handful. However, in the light of further pressures and questions (and I recall that the then member for Brighton was one who raised the matter, and the present Minister also raised the matter) I commissioned a survey by a recognised commercial agency. The survey indicated that the great majority of users of the service who were mainly disadvantaged people expressed dissatisfaction with the service. It appeared that the reason why there were so few complaints to the Department was that people in that category were loath to complain to a Government agency: the Department of Public and Consumer Affairs was an agency with which they did not want to deal.

Therefore, I set up a working party to liaise with the industry with a view to putting in place a negative licensing system, and I personally interviewed some of the operators in the industry. At that time there were only about four operators and I believe that there are not a great many more now. When we lost government we were well down the track to setting up a negative licensing system, that is, a system whereby these agencies would not be required to be licensed or registered but where a code of conduct would be given the force of law, the agencies being subject to disciplinary proceedings before an appropriate tribunal (now the Commercial Tribunal) if it was alleged that they were in breach of the code of conduct. This Bill, albeit after a considerable time since we lost government, puts such a system in place.

As I believed that this was the appropriate way in which to control these agencies, I am pleased that the Government has elected to do it in this way, that is, by a negative licensing system rather than by a heavy-handed, full licensing system, which I do not believe is warranted in this industry.

The Bill also seeks to amend sections 89, 90 and 91 of the parent Act in so far as they relate to the sale of small businesses. The amendments require that appropriate information be provided relating to the site upon which the business is conducted, the vendor's interest therein, and the financial state of the business. It is perhaps this latter provision that is the most important. There is no doubt that a person who is purchasing a business is entitled to know the financial state of the business: he is entitled to know the income and the outgoings in detail over a considerable period. The Bill provides a cooling off period, which is designed to ensure that the information must be provided at least five business days before the sale.

In regard to the sale of a business, the Bill provides for a sliding or flexible cooling off period, but the effect is that the information must be provided at least five days prior to the sale and not at the time of the sale. This is eminently reasonable. It is necessary that the purchaser has the opportunity to assess information of this kind. I do not think that this requirement is unduly heavily regulatory: it is quite reasonable. The Bill also increases the penalties substantially, and there is a provision for standard procedures that are common to all the jurisdictions exercised by the Commercial Tribunal. There are some other minor and subsidiary provisions. For the reasons I have outlined, I support the second reading.

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

The Hon. K.T. GRIFFIN: I support the second reading of this Bill. There is only one matter to which I will refer and that is the qualifications of directors of a company licensed to carry on business under the Act. This relates to a matter to which my attention has been drawn by constituents who have expressed concern about the requirements of section 16 of the principal Act. Before 1979 or 1980 when amendments were made to the then Companies Act it was necessary for a proprietary limited company to have only one director. It was sufficient in respect of carrying on the business of a licensed land agent for that director to be a fit and proper person to be licensed as a land agent under the Act.

When the Companies Act was amended to require all companies, whether proprietary limited or public limited companies, to have a minimum of two directors it created a problem, particularly for companies carrying on business as land agents, because not only was the principal director of the company required to be licensed but so was the other director. The Land and Business Agents Board has, however, granted exemptions to the second director where that director is not otherwise involved in the business. However, a complication arises where the second director is also carrying on some aspects of the business but is not a licensed land agent but is perhaps a licensed land salesman. The particular instance that has been drawn to my attention is one in which the board granted an exemption for five years, that period expired and the board, interpreting its obligations under the Act, required the second director to be a director who is licensed as a land agent under the Act.

This created a problem because the company in question (and I know that there are others in the same situation) is a family company and the husband and wife are presently directors. The husband is a licensed land agent and the wife is not but carries on some part of the business. Frankly, the family does not want to involve some person from outside the family as a director. I think that members will accept that and appreciate that wish not to involve an outsider in the business. All the family wants to do is carry on the business in accordance with the provisions of the Land and Business Agents Act. The husband and wife run the business as a small family company, but the obligation now being placed on that company will require somebody from outside the family, possibly an unqualified person if an exemption is to be sought but most probably a licensed land agent, becoming involved in the business.

It also places obligations on the person who becomes a director, because under the companies code there are now more onerous obligations on company directors, even of a small company such as the one to which I am referring. What I would like to happen, having raised this matter, is that it be given further consideration by the Attorney-General. I know that this matter has been dropped on him without notice and he may need to take advice and to consider it. I urge him to sympathetically consider this problem, which has just come to light. It would involve amendment to section 16 of the principal Act, which deals with corporations being entitled to hold a licence. The corporation has to prove the following to the satisfaction of the board:

(a) the general manager or other principal officer of the corporation;
(b) the directors of the corporation;
and
(c) any other person who in the opinion of the Board substantially controls, or could substantially control, the affairs of the corporation,

are fit and proper persons to manage, direct or control the affairs of a corporation licensed under this Act.

The board does have the power to exempt upon such conditions as it thinks fit if, under subsection (4) of section 16:

(a) the corporation is, in the opinion of the Board, carrying on business as a stock and station agent, or is listed upon a Stock Exchange in Australia or is the subsidiary of a corporation so listed and the person who is, or will be, in control of the business conducted, or to be conducted, in pursuance of the licence, is licensed or registered as a manager under this Act;
(b) the Board is satisfied that the business conducted or to be conducted in pursuance of a licence forms an inconsiderable part of the whole of the business of the corporation and no director or other officer of the corporation who is not licensed or registered as a manager under this Act will actively participate in the business conducted in pursuance of the licence;
(c) the corporation held a licence at the commencement of this Act and the directors were then, and are, husband and wife, one of whom is licensed or registered as a manager under this Act;
or
(d) the corporation is entitled, in pursuance of the regulations, to be exempted from the provisions of that subsection.

Paragraph *(c)* has application to the particular set of facts to which I have referred, but the Land and Business Agents Board believes that it does not any longer have authority or power to continue the exemption that was granted five years ago and is now insisting on the wife also being licensed as one of those persons who are fit and proper to be licensed under the Act in their own individual capacity. It may be that there is an appropriate amendment that will overcome that particular problem. In my view it will not hurt the industry, the consuming public or anyone else if, in the circumstances to which I have referred, the corporation having two directors is entitled to have one who is not fully qualified as a licensed land agent, but is otherwise qualified under the Act, say, as a salesman, and the principal director is a person who is a fit and proper person to be licensed under the Act as an agent.

All that the family wishes to do, and there are others as I have indicated, is to carry on business according to the terms, conditions and obligations laid down by the legislation, but not to have to be concerned about some independent person coming into the business and introducing a new element to what is otherwise a happy and well run family corporation. That is the problem I raise. I believe that before we go into Committee I may need to move to give an instruction to the Committee, to be on the safe side. To ensure that that is done, I will need the Attorney-General's co-operation, which I will seek at the appropriate time, for the suspension of Standing Orders because previous notice has not been given. I believe it is a matter which, while the Act is before us for amendment, should be resolved once and for all. I support the second reading.

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

STATUTES AMENDMENT (COMMERCIAL TENANCIES) BILL

Adjourned debate on second reading.
(Continued from 18 October. Page 1243.)

The Hon. J.C. BURDETT: I support the second reading of this Bill with some reservations. When one is in the commercial area and one businessman is dealing with another or with a commercial tenancy I believe that ordinarily there should not be any restraints or statutory interference. Usually it is not necessary to protect one party from the other. The Residential Tenancies Act has been operating for some time and, generally speaking, has been found to be satisfactory; that is an entirely different situation. Even in the residential area it does not always follow that the landlord is in a very much stronger bargaining position than the tenant, although it does apply in many cases. In many cases the landlord has a large number of flats, houses, or whatever to let, has considerable financial resources and forms and documents to be signed and so on, and quite often the tenant is a person at some disadvantage, maybe unemployed, a sole supporting mother and so on.

In the residential area I believe that the Residential Tenancies Act was necessary. In its original form it needed some amendment that was provided during the Liberal Party's term in Government. That situation is quite different. When one is in the commercial arena where one businessman is dealing with another, one certainly cannot assume that the tenant is not in a proper and equal bargaining position; one cannot assume he needs protection or is unable to negotiate the lease in accordance with his wishes and have discussions with the landlord.

While the Liberal Party was in Government questions arose about shopping centre leases. It was alleged that there were standard forms required to be signed by the landlord; that there were oppressive terms in the leases required to be entered into—terms relating to a proportion of the profits to be included in the rent and a proportion of the goodwill to be paid to the landlord on the sale of the business, and a number of other oppressive terms. While I was Minister of Consumer Affairs I set up a working party to inquire into this. A significant factor in the resulting Hill Report was that more submissions, which were invited by advertisement, were made by landlords than by tenants.

To sum it up, I point out that the report contained very small suggestions for change but suggested at that time (some years ago) that legislative interference was not necessary. More recently there has been another working party, on which this Bill is based. In regard to that working party it is significant that the number of submissions made by tenants was not great. It has now become clear, as time has developed and doubtless practices have changed, that there are some oppressive practices exercised by landlords of commercial premises against tenants. As one usually finds, these practices are few.

The majority of landlords of commercial premises are honest and want to support their tenants so that they will make a good living, be able to pay the rent and be good tenants. Certainly, one finds some cases where oppressive conditions are insisted on. Generally speaking, it seems to me that where one finds oppressive terms in shopping centre leases it is more in relation to strip shopping centres than

the very large shopping centres. Concerning the large shopping centres, the landlords, generally speaking, seem to be prepared to see that the centre as a whole flourishes so that the premises will be valuable and they will get good tenants who are able to pay good rentals.

Concerning some of the smaller strip shopping centres, certainly many cases have come to my notice where there are oppressive practices. So, I am prepared to support the second reading of the Bill because I believe it has been established that there are oppressive practices in regard to some commercial shopping centres and other commercial premises. It must be remembered that this Bill applies to all commercial premises, not only those in shopping centres.

As always, when one introduces a Bill in the private sector which interferes with dealings between private citizens, I believe that the operation of the Bill should be restricted to cases where there is something wrong. I do not believe it should apply across the board to other cases where there is no evil to remedy. I believe that it should be restricted to tenants who are not in an equal bargaining position. I do not believe that it is proper that the Bill should apply as it does to any tenant at all, even though he may be in quite a strong bargaining position. As I understand it, in its present form the Bill will apply to banks which are tenants of shopping centres (and frequently they are) and to building societies which are tenants of shopping centres. Of course, banks and building societies will probably be much stronger, more financial organisations and in a much better bargaining position than some of the smaller landlords.

Very often, I believe that doctors, lawyers, land agents and other people of that kind who frequently occupy commercial premises—because that is what the Bill applies to—are in a strong bargaining position, know what it is all about, are able to assess the lease, make up their minds whether or not to sign it, are able to negotiate, are able to go somewhere else if it does not work out, and so on. I have the reservation that this Bill, while it is based on shopping centres, applies to all commercial tenancies.

I think we should have regard to the effect of the Bill on investment in South Australia. In the past, new shopping centres and other commercial premises to which the Bill applies have comprised a large part of investment in South Australia. Some of the investment has come from within South Australia and some has come from outside. I believe that this Bill may well inhibit investment in South Australia, that landlords may consider, if they are going to be subjected to these kinds of controls, not making any investment. I think we should have regard to that matter.

The Hon. C.J. Sumner: It's unlikely.

The Hon. J.C. BURDETT: I do not think it is unlikely at all. As a matter of fact, I think it is very likely.

The Hon. C.J. Sumner: Why are you supporting it?

The Hon. J.C. BURDETT: I said that I have reservations, and this is one of my quite serious reservations. I am not grooming this up, and it is not my own idea. It has been suggested to me by people who invest in commercial premises that they are unlikely to invest or invest to the same extent in the future. That is quite a serious matter which I do not think the Attorney should take lightly. Because there have been problems and because I am satisfied—

The Hon. C.J. Sumner: There is legislation like this in just about every State. Where are they going to go?

The Hon. J.C. BURDETT: I do not think the legislation in most of the other States is as far reaching as this.

The Hon. C.J. Sumner: I think it is.

The Hon. J.C. BURDETT: I do not think it is. If the Attorney would like to check that and make some comment during his reply, I will be interested to hear it. As I understand it, I do not think the legislation in most other States is as far reaching or, I suggest, as Draconian as this Bill.

The Hon. C.J. Sumner: It's not Draconian.

The Hon. J.C. BURDETT: I think it is. It interferes between people in an ordinary commercial situation, between businessman and businessman. That is quite a different thing from intervening between a commercial landlord and a private residential tenant. As I have said, because there have been some cases where I am satisfied some tenants have been disadvantaged, I am prepared to support the second reading of the Bill. There are some matters which I believe will have to be considered in the Committee stage. I have placed amendments on file and I may wish to vary one of them before moving it. The first matter that I think will have to be dealt with is the prescribed limit. In its present form the Bill leaves this to regulation.

The limit is the limit as to the amount of rental. Above the prescribed limit the Bill will not apply; below the limit the Bill will apply. I think it is necessary to have such a limit. This is some recognition on the part of the Government that there are some people who pay a large rental, who are likely to be large organisations which are quite capable of looking after themselves, obtaining their own legal advice and negotiating with a landlord on an equal footing. However, the Bill leaves this amount to be prescribed by regulation. I think too often the Government leaves too much to be prescribed by regulation, to be dealt with by the Government of the day in regulations instead of being written into the relevant Bill by Parliament and being under the control of Parliament. I believe that the limit ought to be written into the Bill. I certainly intend to address that matter in the Committee stage.

Another matter that I intend to address relates to the matters where the Commercial Tribunal has jurisdiction. I think it is very important that, where the lease itself sets out a mechanism for the resolution of disputes as to rental on renewal or any other matter where there is a proper and sufficiently certain mechanism set out in the lease itself, the Commercial Tribunal should not have jurisdiction but the matter should be resolved by means of the mechanism set up by the parties themselves and spelt out in the lease agreement. I propose to move an amendment to provide that the Commercial Tribunal shall not have jurisdiction where a mechanism is set up in the commercial tenancy agreement, unless it appears that there is some substantial reason why it cannot or should not be decided in the manner contemplated by the commercial tenancy agreement. For example, I believe that, where in the right of renewal the amount of rental is to be determined by agreement or, failing agreement, to be determined by arbitration or by reference to a licensed valuer or other expert, that ought to be adhered to.

It is what the parties agreed in the first place and in those cases I believe the Tribunal should not have jurisdiction but the method of resolving the dispute set up by the parties themselves in the agreement ought to be followed. I will not canvass this at any length at this stage, but I intend to move amendments in regard to the period within which a copy of the lease has to be provided to a lessee. For the reasons I have stated and with very substantial reservations, I support the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member for his support, albeit, as he says, with reservations. I assume that his colleagues in marginal seats have given him a reasonable lecture about supporting a Bill of this type. The honourable member has indicated that in his view the Bill will cause some decline in investment in shopping centres in South Australia.

I cannot accept that. Legislation similar to this has been suggested in other States: indeed, in Queensland, where I understand that legislation has been passed. To suggest that

the legislation is Draconian really does not indicate that the honourable member has read it. It is reasonable legislation: it is not an excessive regulatory regime by any means. It provides a mechanism for the reasonable and speedy resolution of disputes and some guidelines on some of the practices that have been considered to be unsatisfactory in the past. It does not impose any rent control or anything of that kind. It is not true that the legislation is Draconian. The industry has been consulted fully about it. The Building Owners and Managers Association has been given draft copies of the Bill.

The Hon. R.I. Lucas: Is it opposing it?

The Hon. C.J. SUMNER: It is not opposing it, no.

The Hon. C.M. Hill: It is not very happy with it.

The Hon. C.J. SUMNER: My indication is that it is not opposed to the Bill. That may be one reason why the honourable member is not opposing it.

The Hon. J.C. Burdett: It has grave reservations.

The Hon. C.J. SUMNER: It has not indicated that to the Government in those terms. It has been consulted about the Bill fully and I understood that it was reasonably contented with the outcome of the working party and the Bill that flowed from that. I have addressed it about it and have not had any complaints about the proposition.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: The Government has not been given the benefit of the honourable member's information on this topic. It may be that it is not satisfied with every aspect of the Bill, but certainly there has not been any broad opposition to it. I certainly was given the impression that it was reasonably happy with the proposal that arose out of the working party report. In any event, as I said, I do not think that it can be described as Draconian by any means. I do not believe that it should have any effect on investment in South Australia, given that my understanding is—and I will certainly obtain more information on that prior to the debate in Committee—that most other States, including Queensland, are moving in a similar direction.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1847.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill, without any amendments. The Bill has the support of the Law Society. It has been in the stage of negotiation, as I understand it, between the Attorney-General and the Law Society for some time. It seeks to amend the Legal Practitioners Act, 1981, for which I was responsible and which introduced a significant number of changes to the regulation of legal practitioners.

I understand that there have been some technical difficulties with some aspects of the principal Act and that this Bill seeks to overcome those difficulties. One relates to the power of inspectors appointed under the Legal Practitioners Act to gain appropriate access to documents, papers and records of a legal practitioner who is the subject of investigation. The difficulty as I understand it is that an inspector has had some difficulties in gaining access to documents and papers which may not necessarily be in the possession of the practitioner under investigation but may be with another practitioner, a bank or some other body. I am happy to allow the widening of the power of inspectors so that the wider access to books, accounts, documents or writings becomes more readily available.

There is also a provision in the Bill that will allow the Supreme Court to refuse to renew a practising certificate of a practitioner who fails to submit an auditor's report as required by the principal Act. I again support that because the Supreme Court should have that power as an effective sanction against a practitioner who fails to submit an auditor's report, which is an integral part of the accountability of a practitioner for the funds of others held on trust by the practitioner.

The Bill also allows the Registrar of the Supreme Court to exercise some of the minor powers of the Supreme Court under the Act, but I am pleased that that exercise of power is to be subject to rules made by the Supreme Court, with a right of appeal to a judge by the aggrieved solicitor. I find that a little curious because when we were restructuring the courts in 1981 the Chief Justice was anxious that the Registrar should not exercise any judicial function at all and that the Masters should be the judicial officers exercising certain functions that were allocated to them under rules of court by the judges, and the Registrar was to be purely an administrator and not exercise any judicial-type power at all.

It is interesting to note that now the Registrar is to have some minor judicial power and that he will, of course, be subject to appeal to a judge, who will maintain an oversight of the exercise of power by the Registrar. I wonder whether that signals a departure from the principle that was established in 1981. The Attorney-General may care to reflect on that when he is replying because it seems to be somewhat unusual that a person such as the Registrar, appointed as an administrator, should now be invited to undertake some judicial responsibilities.

There has also been a difficulty in passing information from the Legal Practitioners Complaints Committee to the Law Society Council, which has responsibility for inspectors. The Legal Practitioners Complaints Committee is an independent body, which was divorced from the Law Society in the 1981 Act. Previously it had been a part of the Law Society and responsible to the Law Society Council.

It is now independent and apparently there are some difficulties in passing information from one to the other. Again, I am pleased to be able to support an amendment that overcomes that difficulty. The other area to which the Bill directs attention, and it is probably the most significant area, is the legal practitioners trust accounts.

Most banks now pay interest on the combined solicitors trust account and that money is allocated between the Legal Services Commission and the Guarantee Fund. The Bill will result in additional funds being available through the payment of interest on solicitors trust accounts by banks so that that money will be available for an expansion of the Legal Services Commission's work and the Community Legal Aid Centres, as well as making special provision for a foundation that the Law Society intends to establish for the purposes of undertaking legal research.

That is an important development for the Law Society and the legal profession: that is, to have what will largely be an independent foundation with some independent funding that can be applied towards legal research, not just on law reform matters but on the way in which the law affects citizens. They have a foundation in New South Wales and I think also Victoria and, provided the foundation has a responsible membership—as I believe it will—it seems that the application of funds from the legal practitioners trust account towards the work of that foundation will be money well spent and will benefit a whole range of people within South Australia.

Of course, it has to be recognised that lawyers do not collect money on their own trust accounts—they never

have—and until the combined solicitors trust account was established in the 1970s all of the interest on trust accounts was collected and retained by the banks. The clients did not get it; the lawyers did not get it, and it is appropriate with such a large amount of money being held on trust that there be some benefit outside the banking system from the use of that money. Now, 40 per cent of the moneys coming from the investment of trust accounts will go to the guarantee fund and, under the principal Act, that money can be used to pay not only for claims by clients suffering as a result of the defalcation of a solicitor but also the cost of recovering, investigating, prosecuting and pursuing a defaulting legal practitioner. That is an appropriate use of the guarantee fund.

In so far as the Legal Services Commission is concerned, a substantial amount of money was received last year from the investment of solicitors trust accounts. I recollect that it was about $350 000, but the Attorney may have a more accurate figure. I presume that 50 per cent of the income from solicitors trust accounts will far exceed that amount. I am interested to note the proposal that portion of that money will be expended on legal community centres. I think in the current budget $90 000 is allocated for community legal centres to be funded through the Legal Services Commission. Will the Attorney comment on whether that $90 000 will be in addition to the moneys paid through the Legal Services Commission through the investment of solicitors trust funds or whether the $90 000 is in fact to be reimbursed to the Government from the Legal Services Commission's share of interest on trust accounts?

Also, I would like to know from the Attorney whether the increased percentage of funds to the Legal Services Commission is going to mean a commensurate reduction in funds available from the State for the Legal Services Commission or for that matter from the Commonwealth, or whether the money received from the solicitors trust accounts is to be in addition to any allocation of funds made by the State Government in the State Budget.

The Bill is one about which I have no quarrel. It is important to rectify any technical difficulties in the principal Act passed in 1981, as well as to ensure that there are additional funds available from the investment of trust accounts of solicitors for the purposes that have been identified in the Bill. The Attorney might also care to comment on whether any other guidelines are proposed to be established for the Legal Services Commission in respect of the use of the moneys other than those guidelines that presently prevail. I support the second reading.

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

CO-OPERATIVES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1848.)

The Hon. K.T. GRIFFIN: I support the second reading of the Bill. As I understand it, the Bill results from a review by the Government of the Co-operatives Act, which honourable members will remember was introduced by me as then Attorney-General, but it did not pass because of the intervention of a State election in 1982. It was then reintroduced by me as a private member's Bill and, after amendment, was adopted by the Government and its passage through the House of Assembly was facilitated by the Government. That was in 1983.

The principal Act envisaged a significant number of regulations being promulgated to deal with the implementation of the principal Act and, as I understand it, in the course of drafting those regulations the Government has been advised to seek some amendments to the principal Act prior to the promulgation of those regulations.

I certainly have not seen the regulations. At the time of the passing of the Co-operatives Act the Attorney did indicate that it was expected that there would be widespread consultation on the co-operatives legislation and the regulations before they were promulgated, and that the regulations would be exposed for public comment. It may be that the Attorney has had some consultation with the Co-operatives Federation, accountants and others who have a special interest in the administration of co-operatives. If that is so, it is certainly worth while and is to be encouraged. If the regulations have been drafted but consultation has not yet taken place on the proposed final draft, is the Attorney willing to make that information available to me and others in the co-operative industry with a view to making comment on them before they are finally promulgated?

The Bill seeks to do a number of things. The principal Act provides for a special resolution of a co-operative to be a resolution passed by not less than two-thirds of the members present and voting. The Bill provides that three-quarters of those present either in person or by proxy carry a special resolution. The provision of three-quarters is consistent with the provisions of the Companies (South Australia) Code where in respect of companies a special resolution is one that is passed by not fewer than three-quarters of the shareholders present and actually voting in favour of the resolution.

The principal Act makes some provision for proxy voting, but the definition of 'special resolution' does not, so the amendment brings the definition of 'special resolution' into line with the other provisions of the Act. The only question I raise in that regard is whether the provision for proxy voting is to be subject to the rules of the co-operative. If the co-operative deems it inappropriate for there to be proxy voting, can the rules of the co-operative provide that proxy voting is not allowed? I suppose that I should have considered this matter before the question was raised with me, but I know that the Attorney's officers are very capable and they can assist in the consideration of that point. If the Act overrides the rule so that, regardless of the wishes of the members of the co-operative, the co-operative is saddled with proxy voting, I would like the Attorney to consider a possible amendment, namely, that the proxy voting right should be subject to the rules of any co-operative, because it seems to me that a co-operative, being a gathering together of persons engaged in a common enterprise for their mutual benefit, ought to be able to determine whether or not it wants to recognise proxy voting.

The Bill also provides for the report of the Corporate Affairs Commission as to its administration of the Co-operatives Act to be provided to the Minister as soon as possible after 30 June each year for tabling in Parliament. The Bill introduces a concept that the Government has been seeking to include in other legislation recently, namely, that the Commission in this instance is to provide its report to the Minister on or before 31 December in each year prior to its tabling in Parliament. The Hon. Robert Lucas will undoubtedly comment more fully on that aspect, but it is interesting to note that there is a difference of approach between the Attorney-General in respect of those Acts and Bills that are his responsibility and those under the Minister of Correctional Services, the Minister of Agriculture and even the Minister of Health, where in this session provisions have set 31 October rather than 31 December as the due date for reporting. There is a difference, but I do not propose to move an amendment in that regard: I will leave that to my colleague, who has a passion for a particular reporting

date and who will undoubtedly speak at greater length on that subject.

The name of a co-operative may be allowed for registration if it complies with the requirements of the Act, if it is not likely to be confused with the name of any other body corporate or registered business name, and if it conforms with any direction of the Minister relating to the names of registered co-operatives. That is already provided in the principal Act, and the Bill seeks to include an additional qualification, namely, that the name is not undesirable as a name for a registered co-operative. That is a decision for the Corporate Affairs Commission, it is consistent with the companies code, and I support it. I would be interested to know, however, whether the Commissioner has experienced any difficulty regarding names of co-operatives which would prompt the inclusion of this provision or whether it is included as a matter of caution in anticipation of some problem arising in the future.

The principal Act provides that a director who has an interest in a contract where there is a conflict of interest may not take part in any deliberations or decision of the committee of management with respect to that contract. The Bill seeks to provide that the director may take part in the deliberations but may not take part in any decision with respect to the contract. While I tend to the view that, if there is a conflict of interest, the director should not even participate in any deliberations or the decision, as provided in the principal Act, I can see that there may be difficulties on occasions in regard to co-operatives particularly in the case of fruit growers or vegetable growers co-operatives. The grower member who may be a director or member of the committee of management may have an interest in a number of contracts with which the co-operative is involved. Therefore, I am prepared to accept that, provided the interest in the contract is identified, as is the usual practice with companies, and provided the director does not participate in the final decision, that should be adequate protection against conflicts of interest that work to the prejudice of the co-operative.

There is one matter about which I have special concern, and that is in relation to the age of directors. There is no limit on the age of the members of the committee of management under the Co-operatives Act or its predecessor legislation. The Bill seeks to introduce the provisions of the Companies (South Australia) Code as they apply to public companies, and to that extent to equate co-operatives with public companies. It may be that some of those co-operatives are as large as if not bigger than some public companies, but by far the majority of them, according to my information, are relatively small organisations. I have heard no criticism in all the discussions I have had with representatives of co-operatives about any difficulty with recalcitrant directors who may be of the age of 72 years or more refusing to stand down from the committee of management. The companies code provides that a director who is of the age of 72 years may not be reappointed as a director unless a vote is taken for re-election each year, supported by a vote of three-quarters of those at the annual meeting (of which not less than 14 days notice is given) of shareholders of the company.

That is a fairly strict requirement upon companies and company directors that I do not believe can be justified in relation to co-operatives. That is a provision I will not support. The other major provisions of the Bill relate to the adoption of some parts of the Companies South Australia Code and applying them to co-operatives through adoption within the Co-operatives Act. Those sorts of provisions relate to schemes of arrangement, accounts, winding up and a variety of other areas. I have no objection to that.

The Act provides that the provisions of the code apply subject to such changes as may be prescribed by regulation. I recognise that that would have meant quite extensive regulations to deal with minor changes to translate the companies code provision to co-operatives. The Bill provides for those parts of the companies code to extend to co-operatives with such modifications as may be necessary for the purpose, or as may be prescribed. That will mean less detail having to be dealt with by regulation. It will mean a common-sense approach to the translation of companies code provisions to co-operatives and will mean that only a minimal number of matters will have to be dealt with by regulation. I would like the Attorney-General to address the extent to which regulations are proposed in translation of companies code provisions to co-operatives and what the areas of regulation may be.

I have had discussions with a number of people who have an interest in a co-operative and with a number of representatives of co-operatives. They did not raise any particular problems in relation to the provisions of this Bill. They do make some comments about the need for caution in certain amendments but express no outright opposition to them. There is one matter that has been raised that I think is important. When the Government promulgates the regulations, hopefully after a period of public exposure of them, and consultation—

The Hon. C.J. Sumner: They have been consulted for months.

The Hon. K.T. GRIFFIN: I asked the Attorney, who was not listening, if he would respond later. The Attorney-General interjects that they have been consulted for months. That may be so, but he was not listening to my earlier comment when I was asking whether or not there had been public exposure of the regulations because I certainly had not seen them. I was not aware of the extent to which there had been consultation with the Co-operatives Federation and others and I would appreciate receiving some information as to the extent of consultations. If the draft regulations have been made available, I ask if it would be possible for the Attorney to make a draft copy available to me, or to any other member who might be interested in considering them before they are promulgated. This is in the interests of ensuring that there are no difficulties when they are finally promulgated.

A matter to which I was going to address several comments before the Attorney interjected related to the fact that one of the persons from whom I sought comment about this matter raised the subject of the Co-operatives Advisory Council, which is set out in section 11 of the principal Act. That person made the point that it is important that there be on it persons who are familiar with co-operatives and their philosophies. It is a field, of course, that is not widely understood as is the area of administration of companies and company law. Co-operatives are unique and it would be in the best interests of the co-operative movement if the Government were to appoint to the Co-operatives Advisory Council persons who had more than a passing involvement with co-operatives. I ask the Attorney-General whether he has considered who might be appointed to the Co-operatives Advisory Council.

The other area of some interest to me relates to the growing interest in co-operatives by unemployed groups. I noticed recently that there was a seminar held by unemployed groups on the way in which co-operatives can be established and used by those persons to obtain cheaper produce, material and goods. I am not sure that those groups were, in fact, talking about registration under the Co-operatives Act. However, I would appreciate getting from the Attorney-General any information as to whether or not it is envisaged that those sorts of small groups are likely to take advantage of and be regulated by the co-operatives legislation, or whether they are more of an informal body that does not

have a particular legal structure that is to be regulated by the Co-operatives Act. I hope that after these amendments are passed the principal Act can be proclaimed to come into effect at the earliest opportunity, because the co-operative movement is anxious to have some updated legislation within which to carry on its affairs.

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

CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

Adjourned debate on second reading.
(Continued from 14 November. Page 1853.)

The Hon. J.C. BURDETT: I support the second reading of this Bill with considerable reservations.

The Hon. C.J. Sumner: Again?

The Hon. J.C. BURDETT: Yes. I have been quite clear about those Bills I have supported without reservation and those I have supported with reservations. Where I have reservations I express them and make no apology for doing that. This Bill replaces the Emergency Medical Treatment of Children Act and follows in part the intention of a previous private member's Bill, the Minors Consent to Medical and Dental Treatment Bill introduced by the Hon. Anne Levy. The Bill is based upon the recommendations of a two person working party on consent to treatment.

The first thing that the Bill does is treat a minor at or above the age of 16 years as being able to give consent as if he or she was of full age. So, that is the first quite separate step in the Bill: it makes clear that a minor above the age of 16 years can give consent just as if he or she was an adult.

One of the most controversial parts of the Bill provides that a minor below the age of 16 years may consent where, in the opinion of a medical practitioner or dentist, supported by the written opinion of one other medical practitioner or dentist, the minor is capable of understanding the nature and consequences of the procedure and the procedure is in the best interests of the health and well-being of the minor. This means that without any bottom age limit a minor below the age of 16 years may consent to medical and dental treatment in those circumstances that I have just set out.

I have some doubts as to whether the Bill is necessary at all. In his second reading explanation the Minister said that the medical profession should not have to operate in a legal vacuum. I suspect that the legal vacuum has existed because there have been no problems. There have not been many cases before the courts to establish whether or not there is consent. Representatives from the medical profession to whom I have spoken have not expressed any real opposition to the Bill, but have said that they have not found any problems and do not really know why the Bill is necessary.

I suspect that the Bill is intended to operate, in regard to minors below the age of 16 years, largely in matters of contraceptive treatment, abortions, perhaps cosmetic surgery, transplantation of kidneys or other organs, and so on. I suspect that that is the area that largely gave rise to the Bill, and particularly this part of it. Of course, the Bill is not restricted to those cases: it applies right across the board to all medical and dental procedures. These professions have addressed themselves to the effect the Bill may have on them.

It has been suggested to me by representatives from the medical profession that they do not really see that the requirement of the opinion of another medical or dental practitioner, as the case may be, is very much protection for them. In any case of consent, the issue will be whether or not the minor was capable of understanding the procedures and consequences and whether or not they were explained to the minor. In some respects the Bill imposes a great obligation on the medical or dental profession, as the case may be, because in cases where they accept the minor's consent, albeit with the opinion of another medical or dental practitioner, they have to establish that the minor was capable of consenting, that he had a sufficient level of understanding and could understand the nature and consequences of the procedure, and so on.

For example, looking at the question of an abortion for a girl below the age of 16 years—and this is a controversial area—the girl may not wish her parents to know and, if she does not wish her parents to know, then there seems to me to be some difference in accordance with the situation in which she is living. If it were a case where the parents could not be located or where the parent/child relationship had completely broken down, then that would be one thing. But, if the child were living at home in a stable relationship with her parents and wanted to give consent to an abortion without her parents knowing, that to me is quite a different thing. Especially on the matter I have been referring to, of the onus thrown on the doctor and the ability of the minor to understand the procedure and the nature and consequences of the procedure, the case of abortion is very much in point.

For a 14 year old girl, or whatever the age may be, it may be very difficult for her to contemplate, appreciate and understand the medical consequences, but even more particularly the psychological consequences, of having an abortion, and what she may feel at a later stage. Those representatives from the medical profession that I have spoken to have a point when they say that they have cast on them a very grave onus in that they have to certify, in effect, that the minor was capable of understanding the nature and consequences of the procedure, and did appreciate the explanation given.

The Bill also makes it explicit that the consent of a parent of a minor who is less than 16 years of age shall have the same effect as if the minor had consented and was of full age. I do not believe that there will be any objection to this provision. It is presently not clear; the parent does not explicitly in law have the power to give that consent which will be deemed to be consent, and the Bill makes that clear. The Bill also provides that, where a medical procedure is carried out in prescribed circumstances by a medical practitioner on a minor who is less than 16 years of age, the minor shall be deemed to have consented in certain circumstances. These are as follows, and must all apply: first, that the minor is incapable for any reason of giving effective consent; secondly, that no parent of the minor is reasonably available in the circumstances or has failed or refused to consent; thirdly, that the medical practitioner carrying out the procedure is of the opinion that the procedure is necessary to meet the imminent risk to the minor's life or health; and fourthly, unless it is not reasonably practicable to do so, having regard to the imminence of the risk of the minor's life or health, the opinion of the medical practitioner referred to in paragraph *(c)* is supported by the written opinion of one other medical practitioner.

A new concept that is quite reasonably introduced is the concept of health, as well as of life. In the past it has been accepted in regard to various sorts of emergency procedures that they may be carried out where it is not practicable to obtain what otherwise would be necessary as consent, where it is necessary to preserve the life of the patient.

Quite reasonably, this also extends, if I may put it this way, to the limb of the patient—to the health as well as just the life. Clause 6 contains similar provisions in regard

to a person over the age of 16 years. A number of people and organisations have expressed concern particularly with that area where I mainly express my concern, that is, the provisions which enable a minor under the age of 16 years to consent in the circumstances set out in the Bill. One of the concerns has been, as I have said, the onus which is thrown on the medical profession; and another, which I have also mentioned, is that it enables children to go behind their parents' back as it were to give consent without consulting their parents, without informing their parents, particularly in some circumstances where many people would think it proper for the parents to know.

Many people would think it proper that parents ought to have at least some knowledge of what is going on, even if they were not given the power to give or withhold consent. For these reasons, because I think the Bill is important (and there is no question about that) and because I believe it is controversial and it contains quite a number of complex elements which need careful consultation and thought, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

NURSES BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1856.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. Some comment was made earlier about my having supported Bills with reservations on two occasions today. I pointed out when that comment was made earlier that I make it clear when I do and when I do not have reservations. In this case I am very pleased to say that on matters of principle at any rate I have no reservations whatever. There is one small amendment which I foreshadow, but it is not on a matter of principle. I strongly support this Bill, which has been long awaited by the nursing profession and which is very well deserved by it.

The present Nurses Act was first introduced in 1920. The Act is quite antiquated by present standards when dealing with the registration and disciplinary procedures for a profession. I believe that for many years now nurses have been pressing for a modern Bill which provides a proper system of registration, maintenance of standards and disciplinary procedures. This Bill does just that. In general terms, it is similar to other modern legislation providing for the registration and discipline of other professions. The nursing profession is just that—it is a profession and it deserves the same kind of mechanics for its registration, maintenance of standards and discipline as do other professions.

I think the nursing profession quite properly has the highest respect and regard in the community, and it certainly has that from me. For a long time the profession has worked very well and very hard in a very devoted manner in the service of sick people and in looking after sick people. I suppose in the area of humanity one cannot do much more than that. The profession has been well regarded by patients, by the medical profession, by hospital administrations, and by other people in the health field. I am very pleased that it is now to have an Act to regulate its practice which is in accord with and along the same lines, broadly speaking, as legislation which regulates the operation of other professions.

An important aspect of the Bill is that it makes provision for complaints to be laid against nurses and for the complaints to be investigated. The powers of the Board include cancellation, suspension, reprimand and the imposition of conditions. There are cases where it is appropriate for nurses to continue to practise but where conditions need to be imposed to ensure that they are under proper supervision. The Minister and the Government have consulted the people who ought to be consulted, as I have done. The Royal Australian Nursing Federation is most anxious for this Bill, and it has put to me very strongly this final matter. At the present time where complaints are made about nurses and where there are circumstances where perhaps conditions ought to be imposed nothing much can be done about it.

There may be nurses who suffer from alcohol or drug abuse or something similar and who may be quite competent to continue their duties under proper supervision, but not unless it can be ensured that they come under proper supervision. There is no practical ability to do that at the present time. However, the Bill will provide the ability to do that. The Australian Medical Association has strongly supported the Bill and, as I have suggested, so has everyone else who is concerned in this area. I have suggested that I will move one small amendment in regard to the method of appointment of the medical practitioner to the Board. That is a fairly minor matter and certainly not one of principle. There is one other matter that I will discuss with the Minister in the Committee stage. In regard to the matters of principle, the Bill does do what the Minister says it does. It does set out a worthy method of regulating this great profession. It has been long overdue and I have very great pleasure in supporting the second reading.

The Hon. L.H. DAVIS: I join with my colleague, the Hon. Mr Burdett, in expressing support for this important measure. As my colleague has observed, the keystone of this Bill is to provide effective self-regulation of the profession of nursing. It is easy for us to forget how significant the nursing profession is within the health sector and, indeed, within the community. At present some 16 500 general nurses and 8 500 enrolled nurses are registered with the Nurses Board. I am not sure how many of those nurses are in fact working, but that total of 25 000 nurses certainly represents a significant percentage of the total work force of South Australia of some 555 000 people.

As the second reading explanation notes, the original legislation was introduced in 1920 and the Minister, in introducing it, said that one of the reasons that led to the legislation was the difficulty in obtaining a sufficient number of probationary nurses to meet the increased demands for trained nurses, particularly in country districts. The Bill specifically provided for part-time training in country hospitals and incentives built in to that part-time training to encourage people to pursue nurse training in country districts. At that time the Minister noted that the Board, which was established under that Bill in 1920, had followed similar legislation that had dealt with medical practitioners, dentists and opticians. So, we see some 60 or 70 years later history repeating itself. One of the concerns in the 1920s was the fact that South Australia still allowed unregistered midwives, whereas nearly all other States and European countries had insisted on their registration. It is interesting to look back and study the debate of that time.

One of the main concerns in the debate on the original Nurses Registration Bill of 1920 concerned the composition of the Board. The Nurses Board of South Australia, as it was then called, had seven members, and was established to control the registration of nurses, mental nurses and midwives; its composition at that time was: one to be appointed by the Minister, one appointed by the Royal British Nurses Association, one by the Australasian Trained Nurses Association, one by the South Australian Branch of the British Medical Association and three by the South Australian Hospitals Association. As the Minister would probably guess, there was some debate as to the composition of the board and, in particular, the number provided by the

South Australian Hospitals Association. In that Bill, power was given to the Nurses Board of South Australia to establish guidelines for registration, and this is the basis of the Bill that is now before us.

The nursing profession has come a long way since those days in terms of both the responsibility that it now has and the professionalism that now exists. We have had debate in recent times about the education of nurses, and the introduction of tertiary education for nurses has been with us for some little time and will become even more widespread in the near future. It is, therefore, entirely appropriate that the status, responsibility and professionalism of nurses is recognised in this Bill, which provides for a large measure of self-regulation of nurses by the Nurses Board, which is established under Part II of this legislation.

The Hon. Mr Burdett has already flagged an amendment, which is of a minor nature and which is best left to the committee. I am pleased to be associated with this measure. I take this opportunity also of complimenting the Minister on a very full second reading explanation. That is not always associated with Bills that are brought into this Council. It is most helpful, not only to members opposite but to the community who may read *Hansard*, to have a very full background that goes a long way to explaining the reason for the Bill and the detail within it. I support the second reading.

The Hon. I. GILFILLAN: I take this opportunity to put into *Hansard* and to bring to the Minister's attention a submission that I have received from Mr John Bailey, who represents the South Australian Hospitals Association. He contacted me first by telephone with some concern. Then he wrote me a letter, which I will read into *Hansard* and which is addressed to me. It states:

> The South Australian Hospitals Association as one of the originators of the Nurses Board of South Australia has had two representatives on the Board since its inception. These two persons have represented the boards of managements of hospitals, and thus can be seen as consumer representatives and as employer representatives at one and the same time. The present Hospitals Association representatives are Mr Angas Sargent, of the Crystal Brook Hospital, and Mr Frank West of the South Coast Hospital (Victor Harbor), both of whom are eminently respected in the Hospital field.
>
> The new Bill reduces the representation of the Association to one. Of the 11 members proposed there would be seven nurses, two doctors and two other persons. Of these three are nominations by the Minister and one is a nomination of the Health Commission; the Minister also has the right of nominating the Chairman. Thus of the 11, the Government has the effective appointment of four members in additional to the Chairman.
>
> To our knowledge there has never been any criticism of the standard of the representation by our appointees, and to lose one place on the Board to a Ministerial nomination requires some explanation which has not been forthcoming, thus not allowing an opportunity to respond if the action is as a result of criticism. We are left to wonder why the Minister would wish to have an additional nominee on the Board and, further, whether the Parliament wishes, in effect, to censure the Association.
>
> (Signed) John Bailey

I invite the Minister to comment on this letter in his reply. I do not have any reason to put this forward as a complaint on my own behalf; I do so on behalf of the South Australian Hospitals Association and Mr John Bailey, who has approached me.

The Hon. J.R. CORNWALL (Minister of Health): I thank honourable members for their contributions. The Hon. Mr Burdett has obviously been through the processes of consultation with the appropriate people and, in particular, with the RANF. His was a very positive contribution. The historical context in which the Hon. Mr Davis placed the whole matter I found very interesting. It is nice to be part of history and it is interesting to see how history repeats itself in cycles. This Bill is a very positive step in the right direction for the profession. Despite the complimentary remarks from the Hon. Mr Davis in particular, which I am happy to receive, I have to pay a tribute to the very many people who have worked hard over a very lengthy period to bring this comprehensive Bill to its presentation in the Council.

It is for that reason and because much homework has been done, and because there has been much consultation, with the exception of one or two matters that have been raised, we are able to give the Bill a speedy passage. The two matters relate, first, to what representation the medical profession should have on the Board, if any. That is a matter on which we have a foreshadowed amendment, and I shall be happy to deal with that question in Committee. There is nothing to be gained at this stage by canvassing it at any length. The question is appropriate for Committee debate.

The other matter was raised by the Hon. Mr Gilfillan in response to a letter that he received from the South Australian Hospitals Association. True, the SAHA had two representatives on the Nurses Board for a long time. The point is made in that correspondence and elsewhere that those two representatives are there looking after the interests of the boards of management of the hospitals, as the principal employers. Whether there is any merit in that argument at all is a matter for debate. We do not find the Association represented on the Medical Board—it has never asked for representation and has never been given it despite the fact that boards of management of hospitals, particularly teaching hospitals, are very large employers of doctors, both on a salaried basis and on a sessional basis.

It is a happy compromise for us in this legislation to ensure that the Association is still represented: it will have one representative and, frankly, I think that is adequate. It is not a criticism of any performance of the SAHA on the old Nurses Board: it is more a reflection of the fact the nursing profession is now very much that—it is a profession in the best sense of the term and has come of age. It is increasingly an area of great skills in technological fields as well as being a profession that is extending its skills into areas such as community nursing, occupation health and so forth.

So, it is involved very much in a whole range of non hospital areas. It is involved very appropriately in a whole range of health maintenance areas and not just the narrow field of nursing the sick in hospitals; albeit that that remains the most significant and an extremely important part of a very noble profession. I contend strongly that the representation by a nominee of the SAHA on the new Board is certainly a very modets and reasonable compromise, and I ask the Council to support it accordingly.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Membership of the Board.'

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

Page 4, line 1—Leave out paragraph (e) and insert the following paragraph:

(e) one shall be a medical practitioner selected by the Minister from a panel of three medical practitioners nominated by the South Australian Branch of the Australian Medical Association Incorporated;

The amendment relates to the method of appointment (that is all) of the medical practitioner on the Nurses Board, which is the registration and disciplinary board. Under the present Act one medical practitioner is on the board and is nominated by the Australian Medical Association, South Australian Branch. The Bill makes that medical practitioner nominated by the Minister. In his second reading reply the

Minister canvassed these matters generally and I do not believe that we are far apart in principle. It seems to me that as it is accepted that there shall be a medical practitioner on the Board—as is provided in the Bill—the Australian Medical Association, South Australian Branch, ought to have some say in the appointment of that member.

It would be possible for some Minister—not necessarily this Minister—at some time to appoint a medical practitioner who was quite out of step with the AMA, quite out of step with medical practitioners generally, and I believe it proper to ensure that the medical practitioner has the general confidence of his peers. Instead of going along with the present Act and saying that that practitioner should be nominated by the AMA as at present, in the amendment I have provided that he shall be nominated by the Minister, selected by the Minister, but from a panel of three medical practitioners nominated by the South Australian Branch of the Australian Medical Association Incorporated.

Selection from the panel of three is commonly accepted and is used in other Acts. The reason is that if the organisation—the AMA in this case—puts up someone who is quite unacceptable to the Minister, it would not be a proper situation. It is better in this case, as has been found in other Acts, to provide for this panel so that the Minister can ensure that that situation does not happen. It is proper here to refer to the second reading contribution of the Hon. Mr Gilfillan when he made a plea for the retention of two nominees of the South Australian Hospitals Association as at present, instead of one, as proposed by the Bill.

Certainly, I have some sympathy with what the Hon. Mr Gilfillan and the Association have said. It is probably a matter of prestige and the like, too, as to whether the Assocation has two members or one member. It does not seem to me that this is the kind of situation where it is a numbers game— it is not that kind of body. We are dealing with the Nurses Registration Board, which deals with the registration and discipline of nurses. I was interested to hear the Minister's comments in his reply when he said, for example, that there is no representation on the Medical Board from the Hospitals Association. Those were valid comments but it is reasonable, as provided in the Bill, that people very closely associated with nurses ought to have some representation on the Board.

The medical profession with which they are constantly working should have some representation in the form of one medical practitioner and the Royal Australian and New Zealand College of Psychiatrists should be represented by a person who is nominated by the Minister. It is proper that the hospitals, which are the main employers of nurses, should have representation. However, it seems to me that representation is all that is required. It is not a numbers game: there should be one representative as a watchdog, someone who is capable of putting forward the view of the hospitals as the employers, and there should be someone who is capable of putting forward the point of view of the medical profession and the psychiatric practitioners.

While I do not believe that the Minister would abuse his position, it seems to me proper that not everyone should be nominated by the Minister. The Minister should not exercise control: other people should be capable of exercising some control. There is not much point in having people represent other interests, such as the Hospitals Association or the medical profession, if they are all nominees of the Minister. It is much more sensible to allow the body that is being represented (in this case the medical profession) to have a say in who that person should be. I suggest that this amendment is very moderate and modest. It does not follow the present Act: it does not say that the AMA should have the power of appointment but it provides that one representative shall be a medical practitioner selected by the Minister from a panel of three medical practitioners nominated by the South Australian branch of the Australian Medical Association Incorporated.

The Hon. L.H. DAVIS: I support the amendment and I hope that the Minister will accept it. It is not unreasonable, if one looks at the composition of the Board as set out in clause 6. The general nurse is nominated by the Health Commission and I understand that the nominee has usually been a nurse administrator. One representative is a psychiatric nurse chosen at election, one is a mental deficiency nurse chosen at election, four are nurses nominated by the RANF, and so on. It is only in the case of the medical practitioner, of all the professional groups that are set out under clause 6, that the Minister has the power to nominate the representative on the Board. I would not like to think that the AMA would play politics or dirty pool when it came to the appointment of a representative to such an important board, and I believe that the Hon. Mr Burdett's amendment is sensible and practical. I hope that the Minister will accept it.

Regarding what the Hon. Mr Gilfillan said, I have some sympathy with the view of the South Australian Hospitals Association Incorporated. Obviously, the Association has an interest: in fact it had an interest right from the time the Nurses Board was first established in 1920, and the Minister would no doubt be interested in the fact that even then it was in the wars. Of the original Board of seven members, the Minister at the time proposed that three would come from the South Australian Hospitals Association. The then Opposition said that that was too many, the number was knocked back to two, and the Minister went along with it. I am reluctant to act on the wishes of the South Australian Hospitals Association albeit that I have some sympathy with the argument, because there seems to be such a widespread consensus in respect of the composition of the Board. Once we alter one piece of the jigsaw, we will affect another part. For that reason I would be disinclined to move in any direction to affect the representation of the South Australian Hospitals Association, but I feel strongly about the recommendations contained in the amendment proposed by the Hon. Mr Burdett. I am sure that the Minister, having been so affable in the proceedings of the Committee, will accept this reasonable amendment.

The Hon. J.R. CORNWALL: Unfortunately, the fragile consensus has been dented slightly for the moment: I cannot accept this amendment and I will explain why. I know that the Hon. Mr Gilfillan will give due weight to what I have to say. This is a Nurses Board, I hasten to point out, although I hardly need to do so because in the contribution this evening everyone has been glowing in praise of the nursing profession. As it is a Nurses Board it is entirely appropriate that the nurses representative be nominated either by the RANF or elected by the psychiatric nurses and the mental deficiency nurses. Those provisions were included after long and sometimes arduous but always friendly negotiation.

The fact is that the RANF sees itself as the professional body representing the nursing profession across the spectrum, but it is also true that, like the AMA, in addition to its professional activities it is also the nurses trade union. Increasingly it is active in matters of industrial negotiation and in that sense it sometimes comes into friendly rivalry with the Australian Government Workers Association, which traditionally has represented the psychiatric nurses and the mental deficiency nurses. It was not felt desirable that the legitimate trade union element of the RANF be imposed as the sole body, and it was specifically for that reason that the psychiatric nurses came to me and my colleagues and said, 'We would like to be represented separately'. The mental deficiency nurses did likewise.

There were long discussions and it was eventually agreed by all parties that the last thing we wanted to do was to introduce an element of industrial representation to the Nurses Board, which is strictly (and I repeat 'strictly') a board for professional registration. Everyone, including the RANF and the AGWA, came to see the logic and the force of that argument, which was put forward very strenuously and eloquently by, among others, the Chairperson of the Nurses Board, who was also the Principal Nursing Officer in the South Australian Health Commission. Having arrived at that position with regard to the nursing representation on the Board, I did not believe it was appropriate, indeed it would be anacronistic, for us to say that the AMA (which is the professional organisation of the medical profession but also is increasingly involved in at least quasi trade union activities and appropriately, albeit sometimes in a difficult way, is involved in representing the industrial interests of its members) should be the body that represents the medical profession.

The Hon. L.H. Davis: Why have you allowed the Australian Hospitals Association—

The Hon. J.R. CORNWALL: The Australian Hospitals Association is an employer organisation: it is certainly not an employee organisation. Therefore, I see no conflict at all in the argument I am developing.

The AMA represents a little less than 60 per cent of the profession in this State, so although I would not cavel or quarrel with the proposition that it represents the majority of the profession, it certainly does not represent a very significant minority. There is the Doctors Reform Society, for example. There is also SASMOA. Some members of the South Australian Salaried Medical Officers Association, like members of the DRS, do not see fit to be members of the AMA, for a variety of reasons. I acknowledge freely that the AMA is the principal body representing the profession in this State and the body with which I deal as Minister of Health over a whole range of issues concerning the profession. However, it does not represent the total profession.

I think, also, we ought to look at just what the Nurses Board is doing. The principal things it is responsible for are, first, professional registration, which involves, among other things, the validation of qualifications. It is concerned very importantly with protection of the profession. It is involved in disciplinary matters as they affect individual members of the profession and, of course, it is involved—again, importantly—in consumer protection. I repeat that it seems to me to be an anachronism to have nurses who are either elected or nominated to this board as the majority membership going on it purely on the basis of professional representation without regard to the industrial background and yet, on the other hand, to restrict the Minister of the day in his choice to a panel of three names put forward by the AMA. Since the average life span of Ministers of Health in this State is not very long, let us not personalise it to the present incumbent. It seems to me to be inappropriate that the Minister of the day, whoever he or she might be, should be restricted in their choice to a panel of three names put forward by the South Australian branch of the AMA. For that reason I believe that it is far better to leave the field and the scope open so that the Minister of the day, after consultation which must inevitably occur in these matters, particularly with members of the existing board, is able to look at the complete spectrum and, in consultation with members of the nursing profession, select and recommend to his Cabinet colleagues the most appropriate person available to fill this position from amongst registered medical practitioners in this State. The proposition that I am putting is not put to denigrate the AMA in any way at all, because it is a highly professional body in very good standing, but I do not believe that in this case it is the appropriate body to nominate a panel. I submit strongly that the Minister of the day should be free to choose from registered members of the profession in good standing right across the spectrum in this State.

The Hon. J.C. BURDETT: I point out that the Minister has referred at some length, and quite properly, to the situation with regard to the nursing profession and their professional body. When I met the RANF I specifically put this amendment to it and it made very clear that it was entirely neutral about the matter. It felt that it was a matter not for that federation but for the AMA. It was made very clear that it did not oppose the amendment in any way, so it has no objection to it. As the Hon. Mr Davis interjected—what about the person nominated by the South Australian Hospitals Association? That provision is in the Bill: it is not a panel of three and the person is nominated by the South Australian Hospitals Association.

The Minister pointed out that that is an employer association. However, he previously referred to the industrial position. Both employers and employees are involved in an industrial situation, so we have one person actually nominated by an industrial body. I do not propose that position with regard to the medical practitioner: I propose the very modest and moderate course that he should be selected by the Minister, and not by anybody else, from a panel of three. I cannot see any reasonable objection to that course. It seems to me that there is no reason why that medical practitioner should be nominated by the Minister as he could be quite unrepresentative of the profession. If he is selected from a panel of three he is likely to be representative of the profession at large and, of course, need not come from the AMA itself, anyway, but could be selected from the panel of three nominated by the AMA while not being a member of the AMA. It seems to me to be a perfectly modest and moderate proposition and in keeping with general legislative practice. For those reasons I adhere to my amendment.

The Hon. I. GILFILLAN: Can the Minister or the Hon. Mr Burdett say whether the AMA has expressed the desire to have a nominee on this board? Has it taken that initiative, or is the suggestion, which appears to have merit, sponsored by the Opposition only? Has it been asked by the AMA to take this step? I am persuaded that the argument for a panel of three and a selection from that panel has advantages because the AMA appears to be a body that has a vested interest in the responsibilities of the board. It may not be that appointment of a nominee by the Minister or a person selected from the panel of three results in either one doing a better or worse job than the other.

If it is the aim of the AMA to be represented and that is accepted in the general ethos of the Board in its sense of responsibility it seems sensible that this amendment be accepted. We have not received the representations about this matter and have not had a chance to discuss it with anyone. Because of that, and because of our respect for the Minister and the Government, we will, by preference, be led by the Minister's opinion, but I would like to hear his comments about whether the AMA should be represented and whether he has received representations from it. Perhaps the Hon. Mr Burdett has other information on that point, also.

The Hon. J.R. CORNWALL: I have received no representations from the AMA one way or the other, either during the drafting of the Bill or since it was introduced into this place three weeks ago and allowed to lay on the table. It is true to say, on the other hand, that I have not consulted with the AMA. I did not believe that, in this matter, it was something that required consultation. I come back to the point I made initially that this is a Nurses Board. One could in fact argue that it is not appropriate to

have a doctor on it in the same way that the Medical Board could argue that it is not appropriate to have a nurse on that board, or in the same way that occupational therapists did indeed argue very strongly when the former Minister appointed a physiotherapist to their board that that was an inappropriate appointment. I have no strong views on that one way or the other. It has been traditional, because of the way in which the nursing profession has grown in stature and developed, and because of its intimate association with doctors, both in the hospital situation and increasingly outside the hospital situation, that there has always been medical representation on the board.

I do not believe that it is essential. I am told that the presence of a psychiatrist on the board has been extremely useful over the years. As to whether or not it is essential for a doctor to be on it, quite frankly, is a matter about which we could enter into some debate. Suffice to say the AMA has not made any representations to me, as Minister of Health, at any stage. Without repeating at length the arguments I put up before, I just think it is better to have that degree of flexibility—for the Minister of the day to be able to choose from any one of 3 600 registered doctors throughout the State.

If there were some very good and valid reasons to put one of the salaried specialists from the Flinders Medical Centre on the Nurses Board, who did not happen to be a member of the AMA, then I most certainly would not wish to be constrained, as the present Minister, in the exercise of my prerogative or to be constrained in having to say, 'Well, I know that Dr X in a particular situation would be absolutely ideal, based on his or her history over the past 20 years, but there are valid reasons, conscientious or otherwise, why that particular person is not a member of the AMA'.

It is most likely, in practice, that the person who would be nominated by the Minister, accepted by the Cabinet after due consideration, and confirmed by the Governor in Executive council would, of course, be a member of the AMA. This is not some ideological thing; it is not Cornwall versus the AMA, and most certainly should not be seen in that light at all. I do not believe that it is the great democratic socialist initiative of the 1980s. I do not contemplate for one minute that I would be prepared to lose the Bill if the amendment were carried, nor indeed do I think that I would be looking to set up a conference of managers to sit through the night on the matter. However, I believe on commonsense balance that I would prefer, and the Government would prefer, for the legislation as proposed to stay in the way it came into this Chamber.

The Hon. J.C. BURDETT: I do not propose to debate the matter all over again but simply to answer the Hon. Ian Gilfillan's question as to how the amendment came about. It came about in this way: I contacted the AMA and asked whether representatives would like to see me and my health committee concerning the Consent to Medical and Dental Procedures Bill and the Nurses Bill. They said that they would be delighted to make representations and they sent representatives who duly met the health committee. They made representations at some length in relation to the Consent to Medical and Dental Procedures Bill, and we had a discussion with them about that. Concerning both Bills, I asked them whether they had any representations to make and I made it clear that the purpose of the meeting was that we wanted to know the views of the AMA. I made it clear that we would not necessarily go along with them and that it was a matter for the Party to consider, but that we did not want to deal with the Bills in ignorance of their views; we wanted to know their views.

Concerning the Nurses Bill, the one point they made was that they wanted to be able to appoint the medical practitioner on the Board. They pointed out that that was the present position. They felt that that was proper and that it should not be a matter of Ministerial appointment because it could be abused at some time and could be someone who was quite out of step with the profession. I pointed out to them the difficulties that I felt were there if it was simply a person appointed by the AMA and I suggested that the panel procedure that had been used in regard to other Acts was a better procedure, and they said that they were quite happy with that.

I do not propose to redebate the issue but, to answer the Hon. Ian Gilfillan's question, that is the way it came about. We invited the AMA to express any views on this and the other Bill. That was the view it expressed and the request it made. That is why I put forward this amendment.

The Hon. I. GILFILLAN: It was on the tip of my tongue to interject a question to the Minister and ask whether he intended to consult with the AMA before making an appointment. Maybe his answer would have been significant. In fact, he may answer it now. Unless I have misinterpreted what the Minister said (and I use the word advisedly) he is gracious enough to accept, if it is the majority wish in this place, that it be an appointment from a panel of three and that he is not going to be unduly upset and thinks the Government will be able to live with that.

As I indicated earlier, I personally am persuaded that the amendment has some advantage, but I was hesitant (with our general ignorance of the area) to contradict the Government's wish in this matter. I am assuming from the discussion I have heard that we can have the luxury of following our own judgment in this without upsetting the Government and, subject to my colleague being led by my advice in this place, it will be our intention to support the amendment.

The Hon. J.R. CORNWALL: Senator Pat Kennelly first said, 'Never mind the logic; give me the numbers'. I certainly have the logic in this matter but it seems that I may not have the numbers, and that is a great pity. I am loath, and indeed I do not intend, to canvass particular doctors by name, but I could certainly do that privately. There are some splendid people at the Flinders Medical Centre who come readily to mind, and some splendid salaried medical specialists at the Adelaide Children's Hospital who are well known for their progressive and extremely intelligent views on a range of issues, including their attitudes to nursing. If this amendment goes through they are automatically excluded from appointment to the Nurses Board. I would have thought that some of those people are so intelligent they might even be active members of the Democrats. If the Hon. Mr Gilfillan in his wisdom wants to exclude the possibility of the appointment of one of these particular individuals, then so be it.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. R.J. Ritson. No—The Hon. Frank Blevins.

Majority of 3 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 7 to 12 passed.

Clause 13—'Committees.'

The Hon. R.I. LUCAS: Is the Minister in a position to indicate what committees might have been established by the Board under the existing Act, in what areas do they operate and what functions do they carry out?

The Hon. J.R. CORNWALL: To the best of my knowledge no committees are established under the existing Act. This Bill is a carbon copy of the new Medical Practitioners Act and the Dentists Act. It gives the Board significant flexibility in establishing such things as a peer review commitee, which is the one thing that comes immediately to mind. Peer review is part of a quality assurance programme whereby the Board can not only appoint a committee but co-opt people to it who have certain expertise so that peer review mechanisms can be put in place for the profession. In that sense we are simply following the precedents that have been set with the Medical Practitioners Act and the Dentists Act, to name two that readily come to mind. In that sense I believe it is highly desirable and certainly unexceptional.

The Hon. R.I. Lucas: Can you check and see whether there are any?

The Hon. J.R. CORNWALL: I can check to see whether there are any existing, but I do not know whether any provision is made under the existing legislation for that to happen. I will certainly check and, if there are any existing currently, I will advise the honourable member by letter during the pleasant Christmas break to which I am looking forward so much.

Clause passed.

Clauses 14 to 20 passed.

Clause 21—'Report'.

The Hon. R.I. LUCAS: I move:

Page 8, line 40—Leave out 'as soon as practicable' and insert 'within fourteen sitting days'.

This clause deals with the reporting provisions of the Nurses Board. There are three subclauses. I am pleased to see that in subclause (1) the Minister has imposed a three month reporting provision on the Nurses Board: that is, the report will have to be delivered to the Minister by 30 September. In his legislation I think the Minister of Health is certainly more rigorous with respect to reporting provisions: he ensures that reports at least get to him (the first stage of placing them before Parliament) a lot more quickly than they get to some other Ministers, and I instance the Attorney-General with respect to the Commissioner for Equal Opportunity because we recently had a little debate over a six month reporting provision for the Commissioner. Nevertheless, we need not go over that old ground.

I congratulate the Minister of Health on that. However, my amendment deletes the traditional Parliamentary Counsel phrase 'as soon as practicable' and provides a definite maximum period which gives the Minister of the day more than sufficient scope. It is a 14 sitting day provision, which means that it could take up to five weeks or more. I have indicated previously that that is perhaps more generous than we should allow. However, it is a provision that is common in many Bills that we debate. In the recent month I think the Legislative Council has agreed to change the provision to a 14 sitting day provision in three Bills. I think the Commissioner for the Ageing legislation—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I would support a tighter one. The other two were the Commissioner for Equal Opportunity legislation and the State Lotteries Commission legislation. I urge the Minister to support what I think is a sensible provision which has been supported by the Council on three occasions in the past month.

The Hon. J.R. CORNWALL: In defence of my friend and colleague the Attorney-General, I point out that the insertion of the 30 September provision in legislation may certainly result in our receiving a prompt report, but it would not always be a very good one. If the honourable member wants a reasonably dramatic example of that during his beavering while we are not sitting between now and February, he might have a look at the Medical Practitioners Board Report which I believe, quite frankly, was of very poor quality indeed. I subsequently drew that fact to the attention of the Board and it agreed with me. The other thing is that these Boards have registrars. In the case of the Nurses Board it is a full time registrar so there is not the same sort of difficulty in having a report prepared.

Members interjecting:

The CHAIRMAN: Order! I am sure the Minister of Health can handle this without any great assistance.

The Hon. J.R. CORNWALL: Yes, Mr Chairman, they should not be nasty to the Attorney-General at this hour of the night. This routine amendment that is coming up in all the legislation where there is a requirement for the Minister to produce the report in the Parliament as soon as practicable after it has been delivered to him is being replaced with great consistency by the amendment, 'And insert "within 14 sitting days" '. It may be that the Hon. Mr Lucas should speak to Parliamentary Counsel so that it might drafted accordingly in the first instance. I do not have any great difficulties with this because of the type of Bill; nor should I because 14 sitting days in practice is almost five weeks. It is in practice, I hope, a deal longer than 'as soon as practicable'. However, I accept the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (22 to 54), schedule and title passed.

Bill read a third time and passed.

PRISONS ACT AMENDMENT BILL (No.2)

Adjourned debate on second reading.

(Continued from 15 November. Page 1941.)

The PRESIDENT: It is not the role of the Council just to hold a matter in abeyance until someone gets up to speak. Surely someone can speak on this Bill. I take this opportunity to point out that really it was my place to put the motion that the Bill be read a second time. If we just go on for ever taking our time about who is going to speak we shall be in a shambles before the session is finished.

The Hon. K.T. GRIFFIN: With respect, I do not believe that we will be in a shambles because this Bill will go through all stages by agreement after consultation. It is appropriate that the amendments be considered by the Council. I have the responsibility for a number of Bills tonight and it is a bit difficult to keep pace with all of them.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Yes, if you want to comment, do so because I will make sure that things will not get to a shambles, if that is what you are suggesting.

The Hon. K.T. GRIFFIN: I am not suggesting that at all, I am just putting to you, Mr President, that I have had a number of Bills on the table tonight and I am trying to assist the Council to make sure that we get through them as quickly as possible. The Opposition supports the Bill, which originated from a letter that the honourable Chief Justice wrote to the Attorney-General at the time the Prisons Act Amendment Bill (No. 1) was before the Council. The consideration of that letter did not conclude until after the Prisons Act Amendment Bill (No. 1) had passed through the House of Assembly.

For that reason this short Bill comes before us. It arises from a difference of opinion between members of the Court of Criminal Appeal as to the interpretation of certain provisions of the Prisons Act, namely, sections 42a and 42nf. I am pleased, therefore, to be able to support the amending Bill for the purposes of resolving that difficulty.

Basically, the Bill relates to a situation where a person is in prison serving a sentence and is further sentenced to imprisonment, whether for an offence committed before or

after his admission to prison, and also to a situation where a person has been released on parole and is subsequently sentenced for an offence committed during the period of his release on parole.

Some difficulty was experienced by the Court of Criminal Appeal in working out exactly what was intended by the principal Act as to the calculation of the non-parole period. This Bill seeks to provide that in circumstances where the prisoner is sentenced to a further period of imprisonment for a subsequent offence while serving a period of imprisonment, the non-parole period that is imposed for the second offence is not to exceed the period of the further sentence of imprisonment, recognising that a non-parole period is fixed in relation to the first sentence and will be complied with, and the subsequent non-parole period is also to be satisfied for a period up to the period of that further sentence of imprisonment.

Where a person has been released on parole and is sentenced to imprisonment for an offence committed during the period of release on parole and the total period of imprisonment exceeds one year, that is, the balance of the previous sentence and the new sentence together make a period of more than one year, the court is to fix a non-parole period.

The length of that non-parole period is really a matter of discretion for the court. In fact, the Bill limits that non-parole period to no more than the period of the further sentence of imprisonment but, after discussions with the Minister of Correctional Services and Parliamentary Counsel, it has been agreed that that part of the clause be deleted. The other provision of the Bill relates to a new section 42nea dealing with the situation where a person is released on parole and is later sentenced to imprisonment for an offence committed before release on parole or for non-payment of a pecuniary sum. In that instance the parole is suspended for the duration of the imprisonment actually served in prison. It deals with the parole position after release from prison.

It also provides in clause 7 for the automatic cancellation of parole where there is a sentence or imprisonment imposed for a subsequent offence. As I said, the Bill is introduced to cope with difficulties expressed by the Court of Criminal Appeal and, subject to the amendments on file in the Minister's name, with which I agree, I support the second reading of the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Court shall fix or extend non-parole periods.'

The Hon. K.T. GRIFFIN: The amendments on file are in the Minister's name, but after discussion with the Attorney-General it is probably appropriate that I move the amendments in the absence of the Minister of Correctional Services. I move:

Page 1, lines 32 and 33—Leave out 'the non-parole period so fixed, or'.

This still provides a limit on the non-parole period a court may impose for the period of imprisonment for the subsequent offence; that is, where a prisoner is in prison serving a sentence on which a non-parole period has been ordered or fixed and is sentenced to another period of imprisonment on top of that. The court can then fix a non-parole period for that other sentence, and it provides that it may be no more than the period of that further sentence. In effect, one has the non-parole period on the first offence, which is to be extended, and one has a non-parole period for the second offence, which is not to exceed the length of sentence imposed for that second offence. The amendment tidies it up.

Amendment carried.

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

Page 2, lines 16 and 17—Leave out ', but in no case shall exceed the period of the further sentence referred to in paragraph *(a)*'.

This amendment is similar. It deals with the situation where a person has been released on parole and is sentenced to imprisonment for an offence committed during the period of release on parole and the balance of the first term of imprisonment is brought into operation by the provisions of the principal Act and the total period of the balance of that term and the new sentence of imprisonment exceeds one year; in those circumstances the court is to fix a non-parole period.

I have been informed that if the limitation is placed on the non-parole period so that it does not exceed the period of the further sentence, the court is inclined not to fix a non-parole period anyway, which is one of the options that it has, on the basis that to fix a non-parole period would release the prisoner at a much earlier time than the court would otherwise wish. We are really allowing the court to exercise its discretion as to the length of the non-parole period in those special circumstances to which I have referred.

I have spoken to the Minister of Correctional Services about the amendment. In fact, I raised it with him initially by letter and I understand from my discussions with him that he has taken advice and is happy to accept those amendments. If there is a difficulty, as the matter still has to go through the House of Assembly, the Attorney can pick it up in another place.

The Hon. C.J. SUMNER: The Minister of Correctional Services has advised me that these amendments are acceptable and accordingly I support them.

Amendment carried; clause as amended passed.

Remaining clauses (4 to 7) and title passed.

Bill read a third time and passed.

EVIDENCE ACT AMENDMENT BILL (No. 2)

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 4, page 3, line 14—After 'made' insert ', on the application of any of the persons entitled to make submissions by virtue of subsection (3) *(b)*'.

No. 2. Clause 4, page 3, after line 24—Insert new paragraph as follows:

(ba) a representative of a newspaper or a radio or television station, who—

(i) appeared before the primary court; or

(ii) did not appear before the primary court, but satisfies the appellate court that his non-appearance before the primary court is not attributable to any lack of proper diligence on his part;.

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

That the House of Assembly's amendments be agreed to.

The first amendment makes clear that a supression order may be varied or revoked by the court by which it was made on the application of any person who is entitled to make submissions by virtue of subsection (3) *(b)*, which ensures that not only the applicant for the suppression order or the parties to the proceedings but also a representative of a newspaper, radio or television may make application for variation or revocation of the suppression order.

The second amendment is consequential upon an amendment that was moved by the Hon. Mr Griffin when this Bill was last before the Committee—to make clear that a representative of a newspaper, radio or television station could make submissions to the court on a suppression order. That was the original intention of the Bill, and the honourable member felt that it was not completely clear so he included a specific reference to a representative of a newspaper, radio or television station. That was acceptable to the Government.

The amendment we are now considering deals with those people who may institute an appeal against the granting of a suppression order or refusal to grant a suppression order, and it makes clear that a representative of a newspaper, radio or television station can institute an appeal or can be heard upon an appeal that is brought against any suppression order or failure to make a suppression order. That is consistent with other provisions of the Act. It merely clarifies that the right of appeal as well as the right to appear in the primary proceedings exists in regard to the media.

The Hon. K.T. GRIFFIN: I support the amendments. They are largely consequential upon the amendments that I moved to the Bill earlier.

Motion carried.

STATE LOTTERIES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 10.42 to 12.55 p.m.]

CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2010.)

Clause 2 passed.

Clause 3—'Interpretation.'

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

Page 1, lines 19 and 20—Leave out all words in these lines.

The words I am moving to leave out are the definition of an ER film:

A film classified as an ER film by the Board in pursuance of this Act.

To some extent the amendment is consequential on later amendments but it probably would be appropriate to regard it as a test case as to whether or not ER films are to be included in the legislation as films that are available for sale or hire to members of the public, even under the conditions set out in a later part of the Bill. To some extent whether or not it is a test will depend on the Attorney-General's reaction to that proposition. I have already spoken at length about the scope of ER films and the material that is likely to be depicted in those films and I do not intend to repeat the arguments in favour of prohibiting the sale or hire—

The Hon. C.J. Sumner: What is the basis of your argument?

The Hon. K.T. GRIFFIN: You should have been listening to the second reading speech.

The Hon. C.J. Sumner: I did. What is the basis of the prohibition of ER? There is no evidence of harm to the community.

The Hon. K.T. GRIFFIN: We will go through it all again then if that is what the Attorney-General wants.

The Hon. C.J. Sumner: I have heard all that you have said. What is the real objection? What is the evil you are trying to get at?

The Hon. K.T. GRIFFIN: I will go over it again and put it into context. The ER category is, in fact, 95 per cent of the old X rated category and, on the Attorney-General's statement, the 5 per cent that has been removed by the proposition to allow ER films is that which contains acts of violence of a non-consensual nature or some other form of coercion. That means that what we have in the ER category is material which includes explicit depictions of sexual acts involving adults and which does not include any depiction suggesting non-consent or coercion of any kind. As I indicated earlier, the question of whether or not there is consent is largely irrelevant to the acts that are depicted because there are a variety of circumstances in which a person may, in fact, consent, but for say a substantial consideration which qualifies that consent.

It is all very well to talk about the persons who are depicted consenting or not consenting, but the fact is that it is the acts which are depicted which should be the subject of scrutiny. With the ER category I have already referred to the sort of material that, according to the Attorney-General's statements and the report of the Classification of Publications Board, is likely to be included: it is material that will involve, quite obviously, anal and oral sexual acts and a variety of other acts referred to in category 2, although as the Attorney-General indicated, it perhaps will not include those acts in category 2 for classification of printed material which involves masochism, and there were several others he indicated would not be included.

Nevertheless, there are acts depicted which, if available to minors inadvertently or deliberately, notwithstanding the conditions that are imposed on the availability of ER material, would undoubtedly have an unhealthy and detrimental effect on those minors. That is one of the principal concerns which have been expressed to me and which I share about the availability of the ER material. The Attorney-General said that in Victoria this material will be available. He indicated that the decision in Western Australia has not been concluded, but it is by no means clear that it will be available there. It will not be available in Tasmania or Queensland. In New South Wales, as I understood what the Attorney-General had to say, it is likely to be allowed, but that has not yet been finalised. The ordinances which will be proposed by the Commonwealth Government in respect of the Australian Capital Territory have not yet been drafted, and it is not expected that anything is likely to be in place there until 1985.

The Hon. C.J. Sumner: The Commonwealth is going to do it this year.

The Hon. K.T. GRIFFIN: I thought the Attorney said February 1985. For the reasons I have given, I have moved my amendment; and for those same reasons I do not believe that the material ought to be available for sale or hire. The Attorney has claimed that this will push the material underground. I have indicated that whether or not the ER category is allowed there will be a black market for certain sorts of pornographic material. All that one can hope to do is create a bottleneck which will at least slow down the flow of the material and limit its availability with stiff penalties for those who breach the provisions of the law relating to the availability of this material through sale or hire.

The amendments which I am proposing do not in any way impinge upon an individual's right to possess this material; they seek to provide a restriction upon the availability of material for sale or hire. In the light of the ready availability of video cassette recorders, the ease with which videos can be copied, the ease with which video recorders can be operated by minors and the harm which can occur to minors having access to ER material containing the sorts of acts to which I have already referred, I have moved my amendment.

The Hon. ANNE LEVY: I find the reasoning of the Hon. Mr Griffin rather extraordinary in this matter. As far as I know, there is no evidence whatsoever that the depiction of sexual matter which does not contain violence has ever been demonstrated to be harmful to anyone of any age. It might be undesirable for young people to see some of this matter, but there are strict penalties in the legislation for

showing this material to young people. It seems to me rather extraordinary that the material which I can view in my own home by myself is to be determined by what is regarded as suitable for 10 year olds. This strikes me as absolutely incredible. I am not aged 10, nor is any—

The Hon. K.T. Griffin: You have a responsibility to children, don't you?

The Hon. ANNE LEVY: I have no children in my home. There is a large number of households in this country which do not have children present.

The Hon. K.T. Griffin: As a legislator you have a wider responsibility.

The Hon. ANNE LEVY: The Hon. Mr Griffin had his turn; it is my turn now. It just seems to me incredible to suggest that in the privacy of my own home, where there are no children present, what I may view is to be determined by what some people consider suitable for 10 year olds. We are adults and surely adults in the privacy of their own homes can view what they wish. To take the standards applicable for 10 year olds and apply them to all members of the community in the privacy of their own homes strikes me as the most extraordinary reasoning. I repeat: there are very many homes which have no children in them, and that is probably true for a very large number of the homes of members of this Chamber.

There are no young children present in these homes and for what we can see and read in the privacy of our own homes to be determined by what some people consider suitable for 10 year olds strikes me as absolutely extraordinary and quite beyond the bounds of reasoning. Surely, we are not some 19th century puritan wowser community, where the standards for individuals are set by some group which knows best what is best for other people, refusing to allow them to exercise their own freedom of choice as to what they may see and read. The suggestion that there is some group which will not be harmed themselves if they see this material but which rules that other people will be harmed if they should see it strikes me as very patronising and totally unacceptable. I find it absolutely extraordinary that what I and other adults can see and read in our own homes is going to be what the Hon. Mr Griffin and some of his colleagues consider is suitable for 10 year olds.

The Hon. R.I. LUCAS: I find myself in a very difficult situation as a result of the procedures of the Committee stage. I ask for the forbearance of the Chair and the Attorney to explain my dilemma. The series of amendments that I have on file relate to one concept, that is, as I indicated during the second reading debate, the concept of allowing ER films in what I have termed adult cinemas—areas where children can be precluded. I will not go over the arguments again, because they are detailed in the second reading debate. My amendments are to that end and they are all related. I intended using clause 1 as the test for my concept. If my argument is lost and I do not have the numbers, my position would then be to support the Hon. Mr Griffin with respect to his amendment to clause 3.

Because I was unable to move my amendment to clause 1 and the Hon. Mr Griffin's amendment to clause 3 has come up first, I find myself in a difficult situation in that, if my concept of ER adult cinemas is to be supported, I cannot support the Hon. Mr Griffin's amendment because it seeks to remove the whole concept of ER from the Bill. That is my dilemma at the moment. A possible way out would be for me to indicate that I will oppose the Hon. Mr Griffin's amendment and his next ER related amendment to clause 6. I would then use my amendment to clause 6 as a test for my concept of adult cinemas. If that concept is defeated, I would then want to change positions on the two ER clauses already voted on and ask for the concurrence of the Committee for a recommital.

The Hon. C.J. SUMNER: I suggest that the Council adopt this approach: that the honourable member does not move any of his amendments at this stage; that we proceed through the Hon. Mr Griffin's amendments. Depending on the results of those, the Hon. Mr Lucas could reconsider his position and then we could recommit the whole Bill for the purposes of considering the Hon. Mr Lucas's amendments. That seems to be the most sensible way of dealing with the matter.

The Hon. R.I. LUCAS: What I am suggesting is slightly different. I would support the Government and oppose the Hon. Mr Griffin's ER-related amendments as he works through them so that I can get to the stage of moving—not worrying about recommittal—my substantive amendment (to clause 6, page 5, subclause (4)), which I will use as a test case for my adult cinema concept. If I lose that I would ask the Council to recommit so that I could go back and support the ER-related clauses of the Hon. Mr Griffin.

The Hon. C.J. SUMNER: If the Hon. Mr Griffin's amendments are defeated that would permit ER in the home. Presumably, the honourable member could still recommit. If the Hon. Mr Griffin's amendments have not been defeated there may still be a case for an adult cinema as well. If the Hon. Mr Griffin's amendments are carried and, therefore, ER is excluded from the home, if the honourable member wishes to, at that point we could recommit and start on his series of amendments. In other words, I suggest to the Council that they be treated as two separate packages.

The Hon. R.C. DeGaris: Why don't you just leave these clauses alone and do your clauses first?

The Hon. C.J. SUMNER: Because the Hon. Mr Lucas does not know what to do until he knows the result.

The Hon. I. GILFILLAN: I think that the Hon. Mr Lucas has a gentle obsession to having ER material shown in the cinemas, regardless of whatever else goes through.

The Hon. R.I. LUCAS: I agree that I want an adult cinema house, but that is in lieu of having them in the home, not in addition to.

The CHAIRMAN: If the Hon. Mr Griffin is successful with his amendments then most certainly the amendments that the Hon. Mr Lucas has on file would not fit into what would virtually be a new Bill; so he would have to consider that if the Hon. Mr Griffin is successful in deleting the ER provisions of the Bill he will be speaking to virtually a different Bill when he reconsiders it.

I have been advised that if the further clauses were to be postponed and taken into consideration after a reconsidered clause 1 it would put us back to first base, which would allow the Hon. Mr Lucas to make his test case on clause 1 and put us into a proper perspective.

The Hon. I. GILFILLAN: My assessment of the numbers is such that the Hon. Mr Griffin's amendments are more likely to be successful than the Government's position. In that case I am inclined to support the Hon. Robert Lucas's amendments. If that is a reasonably accurate prediction, perhaps progress can be based on that.

The Hon. C.J. SUMNER: It seems to me that the fundamental question initially is to get the Hon. Mr Griffin's amendments determined, and we can move from there to look at the next issue—public cinemas. Until we have the Hon. Mr Griffin's position determined we are attempting to do something in the dark. I maintain that the best way of doing that is to deal with the Hon. Mr Griffin's package of amendments and then come back in some other way by some test case, which initially we could do fairly easily, and determine the question of the Hon. Mr Lucas's amendments.

The Hon. K.L. MILNE: I wish to clarify the position. I admire the Attorney's attempts to be fair in this matter. I

will be supporting the Hon. Mr Griffin and in any case would disapprove of the Hon. Mr Lucas's proposal.

The Hon. I. GILFILLAN: Could the definition be the test case for the Hon. Mr Griffin's amendments? In that way we would not have to go right through the procedure of all of his amendments. We could test the first amendment, which deals with the definition of ER. I understood the Hon. Mr Griffin to suggest that it be taken that way. The debate on the one clause would determine for the Attorney's satisfaction whether the Hon. Mr Griffin's amendments will get up.

The Hon. C.J. SUMNER: I still believe the proposition that I put forward is a valid means of going about the matter. We should proceed with the Hon. Mr Griffin's package of amendments. Whatever happens to them, the Hon. Mr Lucas can then consider whether he wants the Bill recommitted. On that recommittal, if the ER provision has been taken out, the Hon. Mr Lucas can move that it be reinserted on that basis and it will be taken as a test case—the test case being that it is reinserted, not to get back to the position where the Bill is as it is now but to get to a position where there can be public displays of ER. That seems the sensible way of proceeding. So much is preconditioned on the result of the Hon. Mr Griffin's amendments. Therefore, it seems sensible to determine that issue first and to allow the Hon. Mr Lucas's amendments to be recommitted. That is the logical way of going about it.

The CHAIRMAN: I agree that that is one way of going about it. The point I made is that the Hon. Mr Lucas will have to have a new set of amendments drafted in order to reinstate the ER provision. Conversely, if these clauses are postponed and clause 1 is considered first, the amendments as drafted would be valid.

The Hon. C.J. SUMNER: On clause 1 the Hon. Mr Lucas will support the retention of ER, which will not truly reflect the position of the Committee, because he wants to oppose ER for private consumption but support it for public consumption. Whichever way one does it, one is involved in a recommittal exercise.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I.Lucas, and K.L. Milne.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. R.J. Ritson. No—The Hon. Frank Blevins.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Page 2, line 4—Leave out 'or an ER film'.

This amendment is consequential on the vote just taken.

The Hon. C.J. SUMNER: On the debate on the procedural matters previously I did not actually respond to what the Hon. Mr Griffin said. Although recognising the inevitability of the vote, I wish to make the following points. First, the Liberal Party in Victoria accepted the proposition of an ER category. A Bill was passed by the Victorian Parliament giving effect to that. Secondly, I point out that no honourable member opposite raised the problem of the X category last December when the issue was debated in this Chamber.

The Hon. K.T. Griffin: You check *Hansard.*

The Hon. C.J. SUMNER: It was a debate primarily about compulsory classification.

The Hon. L.H. Davis: I did raise it last time.

The Hon. C.J. SUMNER: The matter might have been raised, but there was certainly no move last time to amend the legislation by removing the X category. That could well have happened, but it did not happen. Twelve months ago no member moved to remove the reference to the X category from the legislation.

The Hon. K.T. Griffin: It wasn't in the legislation last time.

The Hon. C.J. SUMNER: Yes it was.

The Hon. K.T. Griffin: The legislation referred to voluntary classification.

The Hon. C.J. SUMNER: Yes, but category 2 was provided in the legislation. There could easily have been an attempt to ban it if that is what the honourable member wanted.

The Hon. K.T. Griffin: You check the *Hansard.*

The Hon. C.J. SUMNER: The honourable member might have raised the matter. All I am saying is that last December no amendments were moved to take out category 2 classification for videos. The only substance of the amendments was with respect of compulsory classification. The third point I make is that there appears to be a double standard. Some members opposite have been involved in government in preventing printed material from being sold in circumstances that are similar to those now being advocated for videos. The fourth point I wish to make is that for some reason the obsession seems to be with sex and not with violence. Honourable members are prepared to allow quite considerable violence in R rated films, such as *Turkey Shoot, The Deer Hunter,* and the like, but they are not prepared to allow sexual acts between consenting adults. That seems to me to be a somewhat curious stand to adopt. In fact, if we look at the evidence we see that it is quite possible (and again the evidence in this area is very, very fuzzy) that explicit depictions of violence may have a greater effect on behavioural patterns than depictions of sexual acts between consenting adults.

It seems to me (and this has been the position that I have put) that there has been an obsession with sex whereas members opposite have allowed quite explicit violence to go through. That would still be the effect of the honourable member's amendment. In effect, members opposite ban explicit sex but they allow quite explicit violence to proceed: there seems to be a significant double standard in that respect.

In regard to children, as far as I am aware there have been no complaints about these videos being shown to minors. While we will debate the question of the access of videos to minors later, I believe that the legislation deliberately contains quite strict controls on the showing of ER and R rated videos and 'refused classification' videos. There are very strict controls in this legislation against the showing of that material to minors. We now have the very curious situation where members opposite who continue to espouse the values of the family and parental control and the importance of the State's not involving itself in the home are advocating that the State in fact interfere directly with the relationship between the parent and the child. That is quite a reversal of the philosophical position that has generally been taken by members opposite. In general they have said that the State should not interfere in family relationships, that the State should keep out even with respect to rape in marriage. Their very strong argument was that that should not be an offence: if people are married there should not be an offence of rape in marriage, because it is a family situation.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That was the argument put by members opposite in this Council when the rape in marriage proposition was put in 1976. All I am saying is that this is a reversal of the argument that was put previously. Generally members opposite have said that the State should not inter-

fere in the home and in family relationships, and yet in this one case they argue that, yes, the State should step in and that parents are incapable, in effect, of adopting a responsible attitude in regard to their children in this area.

I merely wish to make those points to place on record my position in this matter. I suspect that in the subsequent debate I will not have to repeat those arguments, and it would appear that the Hon. Mr Griffin's scheme in any event—the complete abolition of an ER category—has the support of the Committee. There is a significant danger. The Commonwealth film censor has put most forcibly to Ministers that there is a danger of a massive black market in this material and therefore there is a greater danger that criminal elements will be involved in the handling of this material than if it is out in the open. That has certainly been the experience that the Commonwealth film censor obtained from information, from visits overseas and studies of this problem overseas. However, those arguments have been put to members opposite on previous occasions and apparently they are unable to accept them at this stage at least, but I believe that they should be fully aware of the consequences of their actions.

The Hon. K.T. GRIFFIN: The Attorney-General is now thrashing around like a shot turkey, trying to dredge up all sorts of material to smear the Opposition in one way or another. The fact is that in November and December last year I made specific reference to the X rated category and I expressed a concern about it being available, but at that stage in the form of the legislation that was before us I recognised that it would be difficult to talk specifically about preventing the sale or hire of X rated material.

The Hon. C.J. Sumner: Why didn't you move to delete category 2?

The Hon. K.T. GRIFFIN: We were talking about a system of voluntary or compulsory classification and I expressed concern about the possible availability of X rated material. In fact, we did not get to the final debate on that question, because the Attorney-General decided that he would pick up with Ministers the question of whether or not a compulsory scheme would be suitable to the Commonwealth. Therefore, we did not get to a stage of considering a possible mechanism for dealing with X rated videos except in a context of voluntary or compulsory classification as though videos were printed material, falling into the printed material classification system. There is no double standard in relation to the Opposition's concern about the ER category or even the X category, because I clearly indicated that the medium of television is much more powerful than the printed medium. The fact is that although certain material might be available in printed form in category 2 there is a different impact if that sort of material is depicted in moving pictures on television and is readily acceptable to minors. In answer to the Hon. Anne Levy, I point out that we are not talking only about 10 year olds but also about minors—persons who under our law have not yet attained the age of 18 years. There is no obsession with sexual activity on this side to the exclusion of concern about violence in R movies. Is the Attorney-General suggesting that we even ought to be talking about further restrictions on R rated videos? We are certainly not talking about that. If he is so concerned about eliminating violence from the ER category, he ought to be consistent in eliminating it from the R category.

The Hon. Anne Levy: There is no violence in the ER category.

The Hon. K.T. GRIFFIN: Then the Attorney's argument is inconsistent in throwing up the R category.

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: And the acceptance of the R category by the Opposition—

Members interjecting:

The Hon. K.T. GRIFFIN: I have already made my position clear in relation to the sort of explicit sexual acts which are depicted in the proposed ER category and my concern in relation to that material being readily accessible to minors. The Attorney-General said that on this side of the Council we have always expressed a concern for the family, and we have. We have always argued for the State to stay out of family relationships, and we have done that to a significant extent. However, we have recognised that there are areas where the law needs to be promulgated by the Parliament to ensure that the families are protected, and this is one area where at the ER end of the scale it is appropriate for laws to be expressed which will assist in the protection of the family.

The Hon. John Burdett has, in the context of discussions about child abuse, also recognised the need for the State to have some responsibility for intervention in circumstances where child abuse is suspected. So, it is rather trite for the Attorney-General to start to suggest that we, on the one hand, support the family strongly as opposed to the State being involved and, on the other hand, do not recognise that there are circumstances which we have supported where the Parliament has a responsibility to become involved to ensure the protection of the family and the individual members of it.

We even legislated as a Government in the area of domestic violence and we took some very positive action which would intervene in not only family relationships but *de facto* and other relationships to give added protection against domestic violence. So, there are clearly occasions where it is necessary for the Parliament, representing the State, to become involved. There are no double standards in the context of which I put the amendments relating to the ER category.

Amendment carried.

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

Page 2, lines 21 to 24—Leave out subclause (3).

This amendment is consequential on the earlier vote.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Classification of publications.'

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

Page 2, line 40—After "shall" insert ", subject to subsection (3),".

Page 3—

Lines 5 to 8—Leave out paragraph *(d)* and insert paragraph as follows:

"(d) in the case of a film—as an 'R' film".

Lines 9 to 13—Leave out subclause (1a).

After line 30—Insert:

(b) by inserting after paragraph *(b)* of subsection (3) the following paragraph:

or

(c) in the case of a film—that the film is, by reason of its emphasis on or explicity depiction of prescribed matters, unsuitable for classification as an 'R' film.;

and

(c) by inserting after subsection (3a) the following subsections:

(3b) For the purposes of subsection (3) *(c)*, a film—

(a) that is not classified under a corresponding law and—

(i) that has been refused classification under the corresponding law;

or

(ii) that has had a classification that has been revoked under the corresponding law;

or

(b) that is classified under a corresponding law otherwise than as a 'G' film, 'PG' film, 'M' film or an 'R' film,

shall be deemed to be unsuitable for classification as an 'R' film.

(3c) In subsection (3b)—
"corresponding law" has the meaning assigned to the expression by section 14 (5).

All the amendments in relation to this clause are related to the ER category and the amendment I moved earlier which went to a division. They basically provide for the elimination of the ER category and the interdependence between the South Australian legislation and a corresponding law which is defined in clause 6, that is, new section 14 (5). I do not need to explain it in any detail.

Amendments carried; clause as amended passed.

Clause 6—'Publications deemed to have been classified or to be unclassified in certain cases.'

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

Page 4, after line 29—Insert paragraph as follows:
(ab) a condition that the film shall not be displayed except in a space set apart for the display of 'R' films;

There are two areas of amendment. The first is not consequential. The second series of amendments are consequential on the earlier deletion of ER films and to that extent they should be treated separately. The first amendment relates to what I referred to in the second reading speech and, that was, a concern expressed by persons who made representations to me that in a video retail outlet cassettes were mixed up on the shelves, so that one had R, NRC or PG, M or G categories together, and those who were searching for a video suitable for the family would be confronted with the R category and the depictions which were often quite explicit on the cassette cover.

The proposition was made that it would be desirable in some way to be able to require the R films to be set out separately from all the others in the lesser categories. That does not mean a separate area, but a separate shelf perhaps. The amendment is designed to achieve that objective, that the film shall not be displayed except in a space set apart for the display of R films, which is within the retail outlet but where the R films for those who are concerned about it, can be easily identified.

The Hon. C.J. SUMNER: The Government opposes this amendment. It really is going overboard. In effect, it is suggesting that what applies now to category 2 videos should also apply to category 1 or R videos, namely, that there should be a separate section for the sale or hire of R videos. As I understand it, R films, along with other categories, are placed on the shelves by video retailers generally in alphabetical order so that the titles can be easily picked up by those people who wish to obtain them. I cannot see any justification whatsoever for separating out all the R films and videos and placing them in a separate section. I am not sure whether the honourable member envisages that there would be no access to that section by minors.

The Hon. K.T. Griffin: I tried to make that clear.

The Hon. C.J. SUMNER: Then it seems to me that the honourable member is drawing attention to R videos in a more specific way.

The Hon. K.T. Griffin: That is the whole idea.

The Hon. C.J. SUMNER: It may well be. If minors are allowed in there then they are more likely to be able to get hold of R material because they know where it is. It seems to me that surely there cannot be any great harm in having R videos. The videos are not being shown. In fact, it is probably only the empty covers of the video tapes being placed on the shelves in alphabetical order for customer convenience. The honourable member says that the R tapes should be displayed separately. I cannot see the justification for that.

The Hon. K.T. Griffin: It's a separate space.

The Hon. C.J. SUMNER: All right, a separate space. I cannot see the justification for separating R films in that way. The R films are not being shown; it is the cover of the cassettes that is being shown. Surely no great harm can come to any individual, adult or minor, who might happen to pick up the cover of an R rated video cassette, whether it be *Turkey Shoot*, *The Deer Hunter* or whatever. The cover will not cause any harm to an adult or a minor. I cannot really see why the additional imposition should be placed on the industry.

The Hon. R.I. LUCAS: I do not want to prolong the debate, but I point out that some video outlets already follow this practice, although not all of them. A video outlet on Glynburn Road separates all videos into an R category at one end, comedy at the other end with varying classifications in between. I think that is a very useful consumer aid. If one wants to obtain, say, a comedy film, one does not have to, as is the practice at Focus Video, go through virtually walls and walls of material trying to find comedies containing the latest Woody Allen feature or whatever. Some video stores assist consumers. My support for the provision is not on the basis of trying to place greater restrictions on proprietors. I think the amendment is a useful consumer aid and will help people who want to go to a video shop and purchase or hire a comedy or an R rated video. I think it is a consumer aid.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and K.L. Milne.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. R.J. Ritson. No—The Hon. Frank Blevins.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Page 4—
Line 35—Leave out "and every 'ER' film".
Line 36—Leave out "or film".
Line 39—Leave out "or film".
Line 45—Leave out "or film".
Line 47—Leave out "or film".
Page 5—
Line 1—Leave out "or film".
Line 4—Leave out "or film".
Lines 7 and 8—Leave out "or 'ER' film".

This is consequential upon the earlier decision to remove ER films from the Bill.

Amendment carried: clause as amended passed.

Clauses 7 and 8 passed.

Clause 9—'Offences.'

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

Page 5, lines 32 and 33—Leave out "five thousand dollars or imprisonment for three months" and insert "ten thousand dollars or imprisonment for six months".

There are a number of amendments to this clause in relation to penalties. My first amendment seeks to increase the maximum penalty from $5 000 or three months imprisonment to $10 000 or six months imprisonment. Those penalties are consistent with the amendments that I proposed to move last year to the Classification of Publications Act Amendment Bill. I believe that the penalty of $5 000 or three months imprisonment is not sufficient to give courts an adequate range of penalty which can be imposed for differing sorts of breaches of the Act. This penalty relates to breaches of the compulsory classification scheme so that, if videos are sold or hired not in accordance with the compulsory classification system, there ought to be a substantial penalty.

That, honourable members must recognise, is not just selling a video of one classification that bears a different

classification but, more particularly, refers to the sale or hire of videos without any classification at all, including those that are refused classification. That is the area to which the maximum penalty ought to be directed because one of the objects of this compulsory scheme is to avoid the necessity to establish a breach of section 33 of the Police Offences Act, which bears a similar penalty of $10 000 and six months imprisonment. Because of that the higher penalty is appropriate.

The Hon. C.J. SUMNER: The problem with the honourable member's amendment is that the person may sell a G film that has not been classified, by inadvertence or a number of other reasons in a fairly innocent scheme of things. Under the honourable member's amendment the penalty will be $10 000 or imprisonment for six months. While that may be an appropriate penalty in circumstances where classification has been refused (that is, beyond the R category), this penalty provision applies to the sale, hire or display of any film that has not been classified. In fact, those penalty provisions that the honourable member wishes to insert could apply to *The Sound of Music*, which had not been classified by the Commonwealth Film Censor. That would seem to be a fairly heavy-handed way of going about enforcing the legislation. I oppose the amendment, but in the light of the numbers that seem to be here I will not divide.

The Hon. K.T. GRIFFIN: It is equally heavy-handed to talk about penalties of $5 000 and three months imprisonment, but I appreciate what the Attorney-General is putting. It may be that in his review of this Bill after it passes the Council he would be prepared to consider some other system of penalty so that the lesser penalty applies to the relatively minor sort of offence to which he refers and the higher penalties, including my next amendment, to the sale or hire of videos which have been refused classification or which would not be granted a classification if submitted. I am certainly prepared to consider that later if he is also prepared to consider it when the Bill passes.

One has to remember that the courts have a great deal of flexibility: where there is an inadvertent and innocent breach of legislation of the sort of minor nature to which he has referred, if there is ever a prosecution—which would probably be a remote occasion, anyway—the courts would be likely to either dismiss the complaint as one that is trivial, dismiss it under the Offenders Probation Act or in some other way relieve the defendant from the penal provisions of the section. The courts exercise a great deal of judicial discretion and leniency in appropriate cases. In the light of the Attorney's intimation, I will certainly call loudly in the hope that this part of this amendment will be carried so that we can look at it at some later part of the proceedings during this week.

The Hon. C.J. SUMNER: I still consider that the penalties that the honourable member is proposing are excessive. While it may be possible to look at them again, it is an important issue and we will divide on it.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett,. M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and K.L. Milne.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. R.J. Ritson. No—The Hon. Frank Blevins.

Majority of 1 for the Ayes.

Amendment thus carried.

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

After line 33—Insert subclause as follows:

(3a) A court convicting a person of an offence against subsection (3) may, in addition to imposing any other penalty in respect of the offence, order that the person shall not engage in the sale of films for a period not exceeding 12 months specified in the order and a person who fails to comply with such an order shall be guilty of an offence and liable to a penalty not exceeding $10 000 or imprisonment for six months.

Again, it is consistent with the amendment that I had on file last year to impose some additional penalties. The Attorney-General will undoubtedly respond to this as he responded to the last one: that it applies to some (what may appear to be) relatively minor offences. I acknowledge the difficulty in that, but I make the same intimation that I made on the previous amendment: I am certainly prepared to give some further consideration to the application of it to certain types of offences because the court ought to have power to suspend a business for up to 12 months in circumstances where there is a serious and blatant breach of the legislation.

It is directed more towards those hard cases recognising that there may be a significant profit in pornography, there are persons who will exploit that and will either under the counter or in some other way seek to avoid the constraints of the legislation. Perhaps a mere fine or a period of imprisonment is an insufficient punishment to be imposed by the court. In that context I move the amendment and I hope that it will pass, but I indicate a preparedness to discuss it further in its application in the light of the earlier comments that the Attorney has made.

The Hon. C.J. SUMNER: The original penalty was adequate. I oppose the ammendment, but on this occasion I will not divide in view of the previous determination.

Amendment carried.

The Hon. K.T. GRIFFIN: The next amendment on file under my name is to line 41, but after some consultations and reflection I have decided not to proceed with it. The amendment sought to increase the maximum penalty from $2 000 to $4 000 for what could have been a relatively minor failure to comply with the packaging requirement. In this instance $2 000 is a sufficient maximum. I turn now to my next amendment on file. I move:

Page 5, after line 41—Insert subclause as follows:

(4aa) A person who sells films shall ensure that signs of a prescribed kind containing the prescribed information relating to the classification of films under this Act are displayed in accordance with the regulations in any premises in which he sells or displays the films. Penalty: Two thousand dollars.

The amendment on file is amended to the extent that the penalty is $2 000 and not $4 000 as set out. I wish to be consistent with the information that I have just given in respect of the previous amendment on file. Under this amendment I seek in this subclause to require a person who sells or hires video films to ensure that there is available within the outlet information about the classification of films and the conditions attaching to those categories. It is important to have that information available. It is not technically required to be available. I cannot see that it would be an onorous responsibility but it is one that is consistent with the nature of the business carried on by the outlet. The Committee will notice that the information is to be prescribed by regulation; that leaves the matter to the Government to determine, after consultation, the appropriate form of that information.

The Hon. C.J. SUMNER: I will not object to the amendment, other than to say that the penalty is out of all proportion to the harm that would come from non compliance with the provision. The honourable member's amendment requires that information be displayed in the video store relating to the classification of films as to what is G or R, and a penalty of $ 4 000—

The Hon. K.T. Griffin: It is $2 000.

The Hon. C.J. SUMNER: Even $2 000 seems to be fairly excessive for such an offence. It is not a serious offence. I oppose the penalty provision as being excessive in regard to the offence created by the amendment.

Amendment carried.

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

Page 6—
After line 8—Insert "or".
Lines 11 to 16—Leave out all words in these lines.

These two amendments are consequential upon the earlier decision in regard to ER films.

Amendments carried.

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

Page 6, line 18—Leave out "five thousand dollars or imprisonment for three" and insert "ten thousand dollars or imprisonment for six".

This amendment increases the penalty consistently with the earlier amendment that I moved.

Amendment carried.

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

Page 6, lines 23 and 24—Leave out all words in these lines.

This amendment is consequential upon the earlier amendment involving the ER category.

Amendment carried.

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

Page 6, after line 41—Insert:

or

(c) a film that is classified under a corresponding law otherwise than as a 'G' film, a 'PG' film, an 'M' film or an 'R' film.

This amendment is consequential upon removal of the ER category.

Amendment carried.

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

Page 6, line 45, to page 7, line 1—Leave out 'Or a film of the kind referred to in subsection (7) *(c)*.

This amendment is consequential on the removal of the ER category.

Amendment carried; clause as amended passed.

Remaining clauses (10 and 11) and title passed.

Bill reported with amendments.

Bill recommitted.

Clause 1—'Short title.'

The Hon. R.I. LUCAS: I move:

Page 1, lines 10 and 11— Leave out "Classification of Publications Act Amendment Act" and insert "Statutes Amendment (Classification of Publications and Classification of Films for Public Exhibition) Act".

We have now returned to where we were some time ago. I move this amendment as a test amendment in regard to the concept of adult cinema houses being able to exhibit ER material.

I use this as a test for the series of amendments. If this first amendment is negatived, as the rest are consequential, I will not proceed with them. I do not intend to canvass in great detail the reason for this series of amendments as I gave enough detail in my second reading contribution. I see this amendment as a compromise between the Government's original position, which would allow the ER classification for videos in the home, and the position put by the Hon. Mr Griffin to ban completely the ER classification on videos in South Australia.

I freely accept that this compromise will not be acceptable to everyone—most compromises are not—because clearly those who want access to the ER classification in the privacy of their own home will not be satisfied. The advantage in the compromise as I see it is that we could be assured that to the greatest extent possible we can keep ER classified material away from minors. That is the major reason for this series of amendments. I must thank Parliamentary Counsel for the enormous amount of work done in drafting the amendments at such short notice. I requested that they be drafted only today, and I place on record my thanks to Parliamentary Counsel.

As was explained to me, this series of amendments will mean that in effect some wellknown cinema houses in Adelaide could move themselves into the ER classification or the adult cinema category if they wanted to, but equally the local football club that currently quite illegally holds blue movie nights to raise funds would be able quite legally to hold ER movie nights in the local hall or the clubrooms as long as they comply with the restrictions with respect to preventing access of minors and a range of other restrictions. The amendment does not limit it just to some of the well-known cinema houses in Adelaide that like to call themselves adult cinema houses: it will mean that clubrooms and halls could be used for this purpose.

I am advised (and the Attorney is probably getting the same advice) that the amendment cannot really be extended to the home being used as a theatre. Legal advice has been provided to the Government in the past indicating that it is unlikely that a home could be classified as a theatre for the purposes of my amendment. Not being a lawyer, I do not profess to understand the basis of that legal opinion, but for what it is worth I place it on the record. The amendment involves a compromise concept, allowing the exhibition and display of ER classified material in adult cinemas.

The Hon. DIANA LAIDLAW: In the second reading stage I indicated that I had some doubts about both the course proposed by the Government and equally the amendments proposed by the shadow Attorney-General. In the end I supported, although with considerable unease, the amendments moved by the Hon. Trevor Griffin to restrict the sale and hire of ER videos in this State. I acknowledge that I still remain unconvinced about the effectiveness of any measure to prohibit the availability of this material. Equally, prohibition on alcohol has been proved ineffective in the past, and the prohibition on marihuana is a further example. I fully concur with the arguments presented by the Hon. Anne Levy earlier in Committee about the right of adults to watch in the privacy in their own home material that they wish to view. Having made those points in the second reading stage, late this afternoon I received material that I had requested from the Chief Film Censor, and it was on the basis of this material that I finally decided to support the position of the shadow Attorney-General.

The Hon. C.J. Sumner: The Chief Film Censor doesn't support his position.

The Hon. DIANA LAIDLAW: I had requested this material from the Chief Film Censor.

The Hon. C.J. Sumner: But the Chief Film Censor doesn't support the Hon. Mr Griffin.

The Hon. DIANA LAIDLAW: I did not say that. I said that I was awaiting material that I had requested in relation to queries, and that I received that material after I spoke in the second reading stage. I want to refer to the material briefly. It was edited by David Scott and it comes from a symposium on media violence and pornography 'An International Perspective—Proceedings Resource Book and Research Guide' on the subject of media pornography and violence. In the introduction to the paper it is stated:

The past decade has been a golden age in laboratory and field research relating to aggression and violence and its portrayal in the mass media. Over 100 research centres in the United States, Canada, England and Australia have undertaken over 1 000 laboratory and field studies on over 100 000 subjects concerning the effects of media depicted aggression. Recent findings are unequivocal. No serious research scientist today questions that the portrayal of violence in the media contributes to subsequent antisocial attitudes and behaviour by its viewers. He/she asks only how much antisocial behaviour, and under what conditions.

The Hon. C.J. Sumner: That is violence.

The Hon. DIANA LAIDLAW: Let me finish. It continues:

Today, research scientists are engaged in the systematic investigation of the aspects of violent behaviour that have the most powerful and deleterious effects on viewers, and the conditions under which they are most facilitated.

The same is true for research into sexual violence, particularly the sexual violence depicted in aggressive or violent pornography. The portrayal of sexual violence leads to subsequent laboratory aggresion toward women and, under certain conditions of arousal, viewing sexual violence causes male subject to be even more violent toward women than when they view non-sexual violence.

The following paragraph is the one I find most relevant to the circumstances we are debating in respect to ER. It states:

Moreover, there is some evidence that so called 'non-violent' pornography which subordinates and degrades women can also affect male attitudes toward women and rape, though less intensely than the portrayal of sexual violence.

The paper goes on to talk about—

The Hon. C.J. Sumner: That is a very controversial conclusion. It is not supported by the Williams Committee or the US committee into sexual pornography.

The Hon. DIANA LAIDLAW: This paper refers to the Presidential Commission, and says that this research is subsequent to that of the Presidential Commission on Obscenity and Pornography and the like. It goes on to define certain areas such as non-aggressive pornography, increasing aggression and the like and, under 'Aggressive Pornography and Sexual Arousal', states:

While it was once believed that only rapists would show any form of sexual arousal to depictions of rape and other forms of aggression against women recent research by Malamuth and his colleagues [in 1981] indicates that even in a non-rapist population there can be increased sexual arousal to media presented images of rape.

This increased arousal occurs primarily to depictions of rape in which the female victim shows signs of pleasure and arousal, the theme most commonly presented in pornography. In addition, male subjects who indicate that there is some likelihood that they themselves would rape display increased sexual arousal to all forms of rape depictions, similar to the reactions of known rapists. . .

I repeat: where the female victim shows signs of pleasure and arousal. These words are relevant to the ER category we are debating.

The Hon. C.J. Sumner: That was not going to be in the ER category. Is that a rape situation?

The Hon. DIANA LAIDLAW: I was not talking about a depiction of a coercive situation, but merely one in which a female victim shows signs of pleasure and arousal, which is a distinction—

The Hon. C.J. Sumner: In a rape situation?

The Hon. DIANA LAIDLAW: —to those earlier situations you have been referring to.

The Hon. C.J. Sumner: That is in a rape situation, isn't it?

The Hon. DIANA LAIDLAW: Yes, in depictions of rape.

The Hon. C.J. Sumner: That will be refused classification under the ER situation.

The Hon. Anne Levy: It is non-consenting.

The Hon. DIANA LAIDLAW: How can you show it is non-consenting when it shows that there is pleasure and arousal.

The Hon. C.J. Sumner: If it is a rape, it is not consent.

The Hon. DIANA LAIDLAW: I cannot believe that if there is pleasure and arousal that you are actually talking of the same subject.

The Hon. C.J. Sumner: That is not the argument. It is not a question of whether the act is consenting to what has happened. It is a question of what is depicted. It is a consenting situation.

The Hon. DIANA LAIDLAW: What you are talking about is what is depicted. When you are talking about what is depicted this is talking about showing signs of pleasure and arousal, which is the theme most commonly presented in pornography. It is on that basis that I decided that I would not support the Government.

The Hon. C.J. Sumner: You have it mixed up. If it is a rape situation it would not be allowed under ER. It is not allowed now.

The Hon. DIANA LAIDLAW: This is the material that has been sent to me by the Chief Film Censor in answer to my requests. As far as I am concerned it answers my query and was certainly sent by the Chief Film Censor because I have the 'with compliments' slip here. If she has sent me the wrong information, I can hardly help that. But, it was sent in answer to my specific queries and dilemmas with this Bill. As I said, I cannot accept that prohibition will totally work, but I feel in these circumstances that the next best alternative is the one proposed by the Hon. Robert Lucas, notwithstanding the fact that he acknowledged that it is a compromise and, as in the case of all compromises, they certainly will not please everyone.

The Hon. K.T. GRIFFIN: I briefly want to say that I have some concerns about the proposal and will not be supporting it. In the representations that have been made to me with respect to this Bill there are some people, who are reasonably prominent, who believe that this is an appropriate compromise, if ER category films are to be available, because of the great measure of control that can be exercised over those who have access to them, particularly placing emphasis on the protection of minors. It is important that, those representations having been made to me, I make them known to the Committee. There are prominent people who believe that it is a compromise which is preferable to the readily accessible material available through sale or hire.

The Hon. C.J. SUMNER: The honourable member has not really thought through his amendment in any great detail. I understand that if the amendment is passed it will mean that an ER film can be shown in any cinema, public hall, football or any other clubrooms, or can be the fund-raiser for the rowing club, unless the Attorney-General (the Government) prescribes certain cinemas. I am not sure, from the point of view of the honourable member's originally stated position how what he is proposing really fulfils what he wants to do. It seems to me that the original proposition put forward by the Government would be more acceptable than what he has contained in his amendment, which is virtually open slather for anyone to display ER material in any public circumstance.

Presumably under his amendment an ER film could be shown in Victoria Square on a portable screen provided that minors were not able to look at it. He is suggesting, I think, almost a situation where ER would be available even more readily than R films are presently available. Quite frankly, I do not see how that achieves what he wanted to do and I would have thought that it would be preferable, if the object of the exercise was as he indicated, if he had allowed the private viewing of ER rated material.

The honourable member says that children are his concern and that if there is ER material in the home there is a chance that children will see it. I dealt with that in my legislation by providing quite significant penalties for the display of this material to children. It may be that children will have access to ER material through public viewings, if they were to be as broad as apparently envisaged by the honourable member. I am not sure what he envisages but, as it is outlined in his amendment, it appears that ER viewing would be permitted in any public place or any theatre unless some additional restriction were placed on it by the Government.

The Hon. R.I. LUCAS: I am always happy to sit down with the Attorney if he has some proposals that will head in the direction of providing for adults who want to look

at ER material at adult cinema houses. I agree with the Attorney in relation to the way the legislation has been drafted. My advice is that the amendment is not quite as silly as the Attorney has extrapolated in his example. Basically, a football clubroom, a community hall or whatever could be turned into an adult cinema house, as long as they comply with the restrictions with respect to the access of minors to the film or video being shown. There could be a situation similar to that which exists at the moment with the very successful films *World Safari I* and *World Safari II*, which are being shown around South Australia and Australia in halls, clubrooms and whatever.

The amendments before the Committee at this stage certainly go down that path. With respect to a matter raised earlier, which I did not mention in my first contribution, I am advised that there is another provision within the Classification of Films (Public Exhibition) Act which provides the Minister of the day with power to prevent the open display of ER classified material at drive-in theatres. It would be the Attorney's decision, I presume, if the amendment got through, to prevent ER material being displayed at drive-in theatres. A similar argument was being put by the Attorney in relation to the public display of ER material on a giant video screen in Victoria Square and closing every minor's eyes to its passing glories.

Having said that and agreeing that that is the path I am heading down I reiterate that, if the Attorney is prepared to look at this compromise, I am happy to look at further refinement of my amendments. Very quickly, the Hon. Mr Griffin has suggested a concept of places of public entertainment. I am not sure what that concept entails. I must confess that when I originally intended moving this amendment I thought there was some sort of registering or licensing system for cinemas. That was my mistake and Parliamentary Counsel soon put me straight. Basically, the definition of 'theatre' in the Act is extraordinarily broad and can cover football clubrooms, community halls and whatever. My original intention certainly was for what I have termed adult cinemas, which we all know exist in Adelaide. Having been shown the error of my ways by Parliamentary Counsel, I concede that the amendment as has been drafted is as the Attorney suggested, that is, it includes places such as football clubrooms, community halls and so on as long as they comply with the restrictions with respect to access to minors.

As I have said all along, that is the reason why I looked for a compromise on this matter. I hope we do not get too caught up in the detail of this matter. If the Attorney is prepared to accept the general principle and he is concerned about the specific proposal before the Committee, let us look at a refinement of the proposal if he is concerned about the extent of the provisions.

The Hon. ANNE LEVY: I appreciate what the Hon. Mr Lucas is attempting with his amendment, but I do not think he has thought through its consequences. If ER material can be shown only in public places, it will mean that erotic material will be shown in boozy, raucous all male football-type gatherings.

The Hon. R.I. Lucas: That's sexist.

The Hon. ANNE LEVY: That is the practical result.

The Hon. R.I. Lucas: There are as many all female gatherings at you know where at the moment. That is a sexist attitude.

The Hon. ANNE LEVY: I am stating the practical consequences. These erotic films will be shown in all-male environments or, alternatively, they will be shown in little dark cinemas to the grubby raincoat brigade.

The Hon. Diana Laidlaw: Your Bill doesn't preclude that happening, anyway.

The Hon. ANNE LEVY: Our Bill does preclude that happening.

The Hon. Diana Laidlaw: Does it?

The Hon. ANNE LEVY: Yes. Under the legislation erotic films cannot be shown publicly; they can only be shown privately. Under the amendment, if a young couple wish to view an erotic film either for educational purposes or for their private pleasure in the privacy of their own home, they will not be able to do so. They will certainly not wish to join either the raucous footballers or the grubby raincoat brigade to watch this sort of material. By preventing this material from being viewed in one's own home its availability will be limited to these rather sleazy circumstances. It is forcing a sleazy approach to something which should not be approached in this way. If one can view such material in the privacy of one's own home, it removes the unpleasant overtones which will always be associated with it under the Hon. Mr Lucas's proposal. Whatever he says in theory, that will be the practical consequences of his proposal.

The Hon. K.L. MILNE: I think it would be cowardly for me not to make my position quite clear. I cannot imagine the consequences of what the Hon. Mr Lucas is proposing. We need a new boat at the rowing club, so I give up this proposal with some regret because we could raise quite a bit of money.

The Hon. C.J. Sumner interjecting:

The Hon. K.L. MILNE: I have never heard of one or seen one at the rowing club or anywhere else.

The Hon. C.J. Sumner: Do you know what you're voting on?

The Hon. K.L. MILNE: Yes, I do know what I am voting on, and so do you. I hope that the Attorney will not accede to the Hon. Mr Lucas's request. It is quite outrageous because it will lead to the most muddled and sleazy situation. I agree with the Hon. Anne Levy and the Attorney-General completely.

The time may come when this legislation should be brought up again, but I do not like it at all. I am really disappointed in the whole discussion. I am disappointed at the amount of nonsense that we have been talking on sexual legislation during this session altogether—hours of it, when people are on the breadline and when there are tonnes of other things that we should be discussing for the community, and we are bogged down with this sort of nonsense. I disapprove of it in principle.

The Hon. C.J. SUMNER: I am not sure what the Hon. Mr Milne means in saying that he is upset that we are bogged down with sex when people are on the breadline. The honourable member apparently forgets that videos are circulating in the Australian community with which Governments for the past 18 months or so, and this Government in particular, have been trying to come to grips in what is a new situation with which we have been confronted (namely, the wide availability of videos) and trying to bring them under some kind of control, but sensible, rational and workable control.

I do not think that that exercise is one in which we should not have been engaged since June last year when I first became involved in it. I believe that it is something that the community has demanded, that the Government has responded to, and that it is quite reasonable for the Parliament to address. For the Hon. Mr Milne to say that we have become bogged down in sex—that happens to be what we are discussing—videos, a new form of entertainment in Australia—is ridiculous.

I have some difficulties with the Hon. Mr Lucas's proposition. He has put to me that if I have practical difficulties he is happy to discuss them with me if I am prepared to accede in principle to his position. Having heard some of the debate, I do not believe that I can at this stage. I still believe that the proposition put forward by the Government

is the position that is to be preferred, for reasons partly outlined by the Hon. Anne Levy.

If one has situations—the public viewing of ER material, whether in the so called adult cinemas (the small sleazy outlets for the public viewing of this material) or even the football club fund raiser—I would have thought that the private viewing of this material was more likely to be conductive to at least some equal participation by males and females. I understand that for some couples this material has a therapeutic effect in their sexual relationships.

I must confess that, having viewed some of it myself as part of this exercise over the past 18 months, I do not find it on the whole particularly exciting, but if it is to be available surely it is preferable that it be available in the privacy of a person's home, not in public where the football club or the Hon. Mr Milne's rowing compatriots can engage in raucous laughter about males and females engaging in sexual acts.

I would have thought that, given that this material is available in the community, it was better to restrict it to private viewing situations, with adequate and strong controls in relation to children, which were introduced in the original legislation. It is a difficult area. I do not believe, however, that prohibition works, It will force this material underground into the hands of criminal elements, and therefore I would, as I say, prefer to go back to the proposition put forward by the Government originally.

At this stage I will oppose the Hon. Mr Lucas's amendment. However, if during the course of the progression of this piece of legislation in the House of Assembly and back in the Legislative Council there appears, following further discussion by me with my colleagues, to be any support for his position, I certainly will give it further consideration, but I do not believe that it is the preferred position. I still believe that the privacy of the home is the area to which this material should be restricted and that to open it up in the manner outlined by the Hon. Mr Lucas is not really desirable.

I further point out, as I did before, that whether this material should be available in public cinemas is a specific term of reference of the Senate Select Committee that has been established at the Federal level. I would also have to concede that there are other terms of reference of the Select Committee as well that cover some of the issues that we have been debating today. I suppose that the honourable member could turn the argument back on me and say that the whole debate is premature in the light of that. I do not believe that it is, because we still have an existing situation that has to be dealt with, and I believe that we have come up with a reasonable compromise.

In the Hon. Miss Laidlaw's contribution, she says that she has received material from the Chief Film Censor. Miss Strickland supports the ER category. She supports the legal availability of a 'beyond R' category of sexual erotica. She argued very strongly for the compulsory syustem of classification. I know that the Hon. Mr Gilfillan, when this matter was debated on the last occasion, talked to her about the compulsory classification system and that she argued strongly in favour of it. But she also said that in that compulsory classification system there ought to be a 'beyond R' or ER, category. That was the result of her experience recently when she went overseas to a conference on this topic. I think that that is where some of the material that she sent the honourable member came from. As a result of that she still advocates an ER system, as I understand it, and believes that, by prohibiting it, it will go underground and will find its way into the criminal elements in our society.

To comment on what the Hon. Miss Laidlaw was saying, from what she read to me (that is, a rape situation showing a female enjoying the rape) that is precisely the thing that would be, even now under the voluntary system, refused classification, and certainly that would not be part of the ER category. It would be refused classification. Coercive violence pornography is not part of the ER guidelines. I suppose that if it is clearly a rape, made in circumstances where it appears that the woman is enjoying it, that being part of the myth that women enjoy rape and really like it once it gets going (if I can be colloquital about it), that sort of thing would not be permitted under the ER category if it was clearly a coercive situation. A rape, even though it showed the woman apparently enjoying it, would not be permitted. I want to make that clear.

I am willing at some stage to give further consideration to the Hon. Mr Lucas's proposition, but I do not believe it has been properly thought out. I still prefer the proposition put up by the Government and, as the matter will have to be considered by the House of Assembly and considered here again if it is to get any further, I still oppose the amendment.

The Hon. I. GILFILLAN: I indicate my reaction to the Hon. Mr Lucas's amendment, because I believe he has sincerely tried to be constructive. I find it confusing that there seem to be distinctly inconsistent reactions from both members in this place and perhaps certain sections of the public in regard to the sensitivity of explicit sex compared to explicit violence. For some reason or other the exposure of people to a physical act that a high percentage of the population themselves take part in is regarded as being corrosive of our moral structure and conducive to all sorts of extraordinary reactions.

Yet, we cheerfully expose all our age groups at varying forms and times to depictions of quite unacceptable social behaviour. I refer to young children's viewing time and the shooting of human beings and killing them. It may not appear particularly dramatic to us, but that is because of our conditioning. We accept as part and parcel this development of new members of our society, yet to encourage them to accept sex as a normal procedure with some variations which are not going to turn their hair grey or make them drop dead produces horrific reactions.

I find it inexplicable but I believe that we are progressing along the track towards being more understanding, mature and sophisticated in accepting the proper role of sex in a society which cares about the full expression of the potential of humanness. Part of that is a wide ranging tactile sensitivity and in varying degrees a caring use of sex in various relationships. In all other forms we allow entertainment and various other forms of impact on members of society to embrace practices and activities that are not necessarily the recommended norm for all people.

Everything that we view and see is not necessarily didactic—teaching us how to behave. We seem to have picked explicit sex for unique treatment, both politically and to a certain extent in certain sections of our society. For that reason I believed the Government's Bill had much merit. Certainly, once the ER category was defined as it currently is, it is far less detrimental in my opinion to the public than are the R and M, which will still be tolerating high degrees of violence. However, that issue is no longer before us. The issue is whether the amendment of the Hon. Mr Lucas gets our support.

To me at least there is this much to its credit—because I believe the way forward is for wider acceptance of erotica and sex as a more acceptable part of the way that society can communicate and be entertained, it would have had that advantage. I am concerned that the Committee seems uncertain about it. There seem to be misgivings as to how it will be implemented.

I agree that it does have some connotations that go almost in reverse to the result that I would like to see—if one is

almost to be ashamed of going to see this material in the lurid circumstances described by other speakers before me. I join with what I understand the Attorney to be saying; I have sympathy for the intention and I do not believe that we have enough accurate planning in the amendment for me to decide in favour of it. However, I indicate to the Hon. Mr Lucas that my voting against it is not a rejection of the idea, and I have sympathy with what he is trying to do.

The Hon. C.M. HILL: I want to make the comment that, in the responses from the Government to the proposal of the Hon. Mr Lucas, insufficient weight has been placed upon the need to prevent children from viewing this proposed ER classification. True, the Hon. Mr Sumner stressed that penalties were to be increased for adults who permitted minors to view such films, but if such films are permitted in the home it will mean that young people will see them, whether the penalties are left as they are or increased to even higher levels than the Government proposes in the Bill. The Hon. Mr Lucas's approach is a more watertight method of preventing young people from viewing such films, providing of course that such proposed theatres are controlled and the definition of them and so forth is refined to a greater degree than appears to be the case in the Hon. Mr Lucas's amendment at present.

My point is that if the Government still wishes to proceed with this form of ER film classification and wishes to allow adults to view it, the safest approach, if the Government really wants to prevent children from seeing it, is to have it shown in some form of theatre where controls will keep out young people. If one allows such material into homes, irrespective of the fines proposed, we will not prevent children from seeing it in my view. If we place that aspect of the need to prevent children from viewing it a little higher in our minds and in the debate we would come down on the side that, providing the matter can be looked at in a little more detail in regard to some form of public screening venues, it is a far safer means of achieving that intention than allowing such material into homes.

The Hon. R.I. LUCAS: I want to respond to the two matters raised. The Hon. Mr Gilfillan referred to some honourable members and some groups being uptight about sex when perhaps they should be more uptight about violence. I agree with that attitude and I believe that that is in effect what I and a number of other honourable members have said. The Attorney said that as well. I support the removal of certain aspects of violence in M and R categories, and the concept of ER as opposed to X. The X category was going to include violence and ER was not going to include violence. Let me dismiss that view.

The second matter concerns the Hon. Miss Levy's reference to sleazy cinemas. The attitudes of people in the 80s to sex is markedly different, as I am sure the Hon. Mr Gilfillan will agree, from the attitude of the '50s and '60s, when one would never see what we are seeing now: hordes of middle class women going on Wednesday or Thursday night to male strip clubs and, from all reports, having an extraordinarily interesting and vibrant evening.

I do not think that we would have seen that sort of openness in the 1950s and the 1960s in relation to some of the adult night clubs that exist in Adelaide in the 1980s. The attitude that adult cinema houses are sleazy is a throwback to the 1950s and the 1960s. Sure, there are sleazy cinema houses but with the open attitude that prevails in the 1980s there could be more high-class ER night entertainment theatres and cinemas. The trend in regard to night entertainment these days involves a whole range of public entertainment—not just cinemas but also perhaps adult games and other things. I do not accept that argument.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Well, the Government's Bill and the Attorney's insistence regarding the use of the word 'private', according to my reading of the word 'private', would mean that a person could invite the whole football club to his home if he wanted to. How does he stop his friends from coming to his home to look at the ER videos?

The Hon. Anne Levy: But you don't have to view it.

The Hon. R.I. LUCAS: I am not saying that. I am saying that I cannot see how the Attorney in this Bill can prevent what I am talking about in relation to privacy. If we are talking about a man and a woman in the privacy of their own bed watching a video for educational purposes, that may be one aspect, but equally under the Government's proposal the football club could go to a house or we could still have the raincoat brigade or the boozers in our homes if we wanted to. The Government's proposal has hairs on it too.

Finally, the Government has indicated through the Attorney and the Hon. Anne Levy that it will not support this proposition: the Democrats and the Hon. Mr Griffin have indicated that they will not support it. One thing I have learned, as the Hon. John Cornwall has said, is to count and so I do not intend to call for a division. I would imagine in any case that if the Government wants anything at all it must think seriously, before it brings the measure back here, about some sort of compromise along these lines. The indication tonight has been that, either the Government comes to some sort of compromise on these lines, on reflection, or it ends up with nothing.

Amendment negatived; clause passed.

Remaining clauses (2 to 11) and title passed.

Bill read a third time and passed.

GOLDEN GROVE (INDENTURE RATIFICATION) BILL

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

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

That this Bill be now read a second time.

As the second reading explanation is quite lengthy and in view of the lateness of the hour, I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill seeks to ratify the Indenture setting out the arrangements for the Golden Grove joint venture development. The Golden Grove project constitutes a major urban development intitative in this State. In the 15 years or so of anticipated development activity, some 25 000 to 30 000 people occupying 8 000 to 10 000 dwellings will be attracted to the area. The scale of projected investment in land development, housing, retail, industrial, commercial and public facilities and services will be of the order of $1.36 billion.

Market conditions require that the project should commence as soon as possible and, to this end, the Government has undertaken exhaustive negotiations with a major private developer—the Delfin Property Group—to ensure the continuing supply of developed land under terms which protect the community interest. Our objective is to have developed allotments available for sale by November next year, and to ensure a continuing supply thereafter. This Government is indebted to former Governments in providing for the genesis of this project. A major joint venture development agreement is achievable now because of the foresight and commitment of the Dunstan Government in the early 1970s, to procure and assemble a large broadacre land parcel in a

location suited to a comprehensive development. That foresight has ensured that the Golden Grove area will be free of many of the pitfalls which often beset fragmented development in new urban areas.

In securing this project, a prime motive of this Government has been the belief that South Australia's future prosperity depends on a creative and energetic partnership between public and private enterprise. The Golden Grove project, as we have negotiated it, is a good example of how private sector expertise, experience and investment can be harnessed positively with public objectives, resources and capital. Delfin Property Group Ltd, which has been selected as the Urban Land Trust's partner in the Golden Grove project, has accumulated considerable experience in working with Governments, principally through its involvement in the West Lakes project. Members will be aware of Delfin's achievements at West Lakes and of that project's reputation as an outstanding example of urban development.

Obviously, the Golden Grove development will have a major impact on our local economy, both in terms of direct and spin-off employment. Apart from our economic and housing objectives, the Government is concerned to ensure this most attractive part of the north-east region is developed according to the best planning principles, and in an environmentally sensitive way. Furthermore, the Government must ensure that the development of new urban areas like Golden Grove must be matched by effective community development—in terms of health, welfare, education and other people oriented services.

The area is ideally suited to urban development. It is a high priority growth area in terms of the Government's metropolitan staging strategy, which aims at achieving an efficient and economic extension of public utilities and services. It is a most attractive area physically, with an interesting landform, excellent views and natural vegetation. In addition, the area has close functional links with the available facilities and services in the adjoining north-eastern suburbs, including the Tea Tree Plaza regional centre, Modbury Hospital complex and the industrial areas of Salisbury. Existing transport, utilities and human services can all be readily extended into the area.

The Government's objectives for the development have been incorporated in the indenture to act as the paramount focus for the joint venture's activities, and to ensure adequate protection of the public interest. These objectives are contained in the third schedule to the indenture. In essence, the objectives provide for:

(a) the orderly planning of development and its integration with broader regional planning requirements;

(b) a wide range of land and housing opportunities, including a public housing involvement of 25 per cent to 30 per cent of total dwellings;

(c) systematic release of developed land, according to an economic staging programme for public works;

(d) an adequate land supply at fair and reasonable prices;

(e) a cost-conscious approach to development;

(f) creation of a safe, pleasant and convenient urban environment containing adequate community facilities and services;

(g) an environmentally sensitive development approach, coupled with an effective system of planning administration; and

(h) scope for a comprehensive range of builders to be involved in the project.

The indenture also contains a 'State preference' provision, which promotes the use of South Australian-based skills, labour, materials and businesses in the development of Golden Grove. Local employment should benefit significantly from this measure. Of course, in seeking to achieve these objectives, the joint venture will need to conduct its operations according to sound commercial principles and this is recognised in the indenture.

The Government is conscious that the physical development of new urban areas needs to be matched with delivery of human services and a community development programme which assists new residents. The indenture provides for appropriate planning and consultation processes, plus the basic land resources to allow this to occur. It also creates a 'Communities Fund', which derives its funds from joint venture contributions and matching council grants. The Fund will assist in the provision of community facilities and services. This measure, when coupled with the open space requirements in the indenture, is a significant innovation in terms of promoting effective community development.

Members will be aware that the previous Government called for registration from private developers to ascertain their interest in the project. Following review of future options for development, this Government decided to place the project in a firm position to proceed, by taking certain positive actions, including:

(a) amending the powers of the Urban Land Trust to allow it to enter into joint venture developments with private enterprise;

(b) selecting Delfin Property Group Limited as a joint venture partner, because of its financial, management, planning development and marketing capabilities and its proven track record with a major development project of this type;

(c) conducting detailed negotiations culminating in a proposed indenture and joint venture agreement;

(d) giving a commitment to meeting the necessary infrastructure associated with the project; and now,

(e) introducing the Golden Grove (Indenture Ratification) Bill into Parliament.

The proposed formal arrangements between the Government, Urban Land Trust, Delfin Property Group Limited (and its subsidiaries, Delfin Management Services Pty Limited and Delfin Realty Pty Limited) are contained in three inter-related documents, namely:

(a) A joint venture agreement between the Trust and Delfin Property Group Limited which provides for the Urban Land Trust to make its land available (in stages) to the joint venture and for the Urban Land Trust and Delfin to contribute to the costs of development in equal proportions. Over the life of the development programme, the Trust receives a payment for its land, plus one half of the project profits.

The joint venture committee directing the joint venture will consist of three representatives appointed by the Government and three representatives appointed by Delfin, with an appropriately qualified and independent Chairman mutually agreed by the parties. The Chairman will have a casting but not a deliberative vote. The paramount focus of the committee's decision-making will be the Government's paramount objectives set out in the indenture.

(b) A management agreement between the Urban Land Trust and Delfin Property Group Limited, on the one hand, and Delfin Management Services Pty Limited on the other, whereby Delfin Management manages the project on behalf of the joint venture partners under the direction of the joint venture committee.

(c) An indenture to be ratified by a special Act of Parliament, between the Premier (for and on behalf of the State), the Urban Land Trust and Delfin Property Group. The terms of the indenture require the Premier to introduce into Parliament legislation providing for ratification of the indenture and authorising the State and any Minister to act as necessary to give effect to the indenture.

Although the indenture defines in detail the cost-sharing, administrative and other arrangements, it is useful to highlight several key elements:

(a) Public works—The cost-sharing arrangements for sewer, water, electricity, roads and other services have been based on the normal charging policies administered by the various authorities. The basic works programme has been negotiated with authorities to ensure economies of scale and cost-effective programming.

(b) Housing—The Government's objective is to ensure housing opportunities are provided for a broad spectrum of the housing market, particularly first home buyers. The joint venture will have the flexibility to involve a range of housing suppliers in the construction of alternative types of housing, from detached dwellings to medium density and other forms of accommodation (including rental accommodation).

The indenture provides for the Housing Trust to achieve an involvement of between 25 per cent to 30 per cent of the total housing programme at Golden Grove. This is one of the most significant and innovative components of the project—a process aimed at fully integrating a large proportion of public housing into one of Australia's largest planned community developments. Indeed, the Government believes this arrangement to be a break-through in urban planning whereby integration of public and private housing on a scale never before attempted in Australia can be achieved through a positive relationship between the Housing Trust and the joint venturers. Participation of a wide range of local builders will be an important element in the success of this approach as will be the Housing Trust's leading role in setting pace-setting standards for public housing.

The indenture requires full consultation at the planning stage between the joint venture and the Housing Trust on all matters of planning, development and pricing related to the Trust's requirements. The indenture provides that the joint venture should perform in making appropriate serviced land available to the Trust. The Housing Trust will be able to utilise a variety of development methods (for example, purchase of completed allotments, design/construct, purchase from builders medium density housing) to secure its housing programme.

(c) Planning—The planning system is in the main to be based on the normal requirements of the Planning Act, 1982. However, given that the Government objectives are the paramount focus of the project, given that the Government through the Urban Land Trust has a direct role in the management of the project, and given the unique planning opportunities provided by a comprehensive development project of this nature, it is appropriate that certain variations apply. These are as follows:

(a) Supplementary development plans are to be prepared in full consultation with council and with a Golden Grove Advisory Committee. This committee is a unique arrangement, providing a vehicle for Government, council and other views to be considered in the planning process. As Minister, I will be the approving authority for all plans.

(b) An arbitration process is to operate in lieu of the Planning Appeal Tribunal system which normally applies in relation to land division decisions.

(d) Role of the local government authority—As demonstrated in the indenture, the city of Tea Tree Gully (being the relevant local government authority for the area) is to have a major role in the provision of certain works, in providing planning input, in the administration of development control and in ensuring that an effective community facilities programme is achieved. The Government shares the council's aim of ensuring Golden Grove develops as an integrated part of the existing Tea Tree Gully area, in addition to being an innovative and attractive place in which residents will be proud to live.

The indenture contains other provisions of an administrative nature to ensure the efficient implementation of this major project. I commend the Bill to the House as a ratification of a worthwhile partnership between the Government and private enterprise, directed at the achievement of an important set of community objectives for planned urban expansion in the north-eastern sector of Adelaide.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 defines the expression 'the indenture' as meaning the Golden Grove indenture (including the schedules of the indenture) a copy of which is set out in the schedule to the Bill. The expression is to include the indenture as varied, amended or replaced from time to time. Clause 4 provides that the ratifying Act and the indenture bind the Crown.

Clause 5 provides that the indenture is ratified and approved. It requires the Crown, public authorities and local government authorities to do all things necessary or expedient to give full effect to the indenture and provides against actions that may frustrate the implementation of the indenture. Clause 6 provides for the repeal of the Tea Tree Gully (Golden Grove) Development Act, 1978. Clause 7 provides for the modification of the law of the State to the extent necessary to give full effect to the indenture. The schedule to the measure sets out the terms of the Golden Grove indenture. The provisions of the indenture are as follows:

Clause 1 provides definitions of expressions used in the indenture. Clause 2 requires the Government of the State to endeavour to secure the passage of the Bill and to have it come into operation prior to 31 December 1984. Under the clause, the indenture is to lapse unless the Bill is passed and brought into operation as an Act before that date or such later date as the parties may agree in writing.

Clause 3 requires Delfin Property Group Limited ('Delfin') and the South Australian Urban Land Trust ('SAULT') to progressively develop the land owned by SAULT in the Development Area (which is depicted in the first schedule to the indenture) in accordance with the joint venture agreement. This is to be done in an ethical and commercial manner that is consistent with the Paramount Objectives set forth in the third schedule to the indenture. The clause

also sets out the general obligation of the State to do all things to facilitate the purposes of the indenture.

Clause 4 deals with planning, the division of land and environmental impact statements. The fourth schedule to the indenture contains a supplementary development plan which under clause 4A1 is to operate under Part IV of the Planning Act to amend the development plan as it applies to the city of Tea Tree Gully. The clause then provides that section 41 of the Planning Act shall apply in relation to the development area in a modified manner, that is, so that the joint venturers (Delfin and SAULT) are put on the same footing under the section as a council. This means that either the Corporation of the City of Tea Tree Gully or the joint venturers would be able to prepare another supplementary development plan to further amend the development plan in relation to the development area as depicted in the first schedule to the indenture. Where a supplementary development plan is received by the Minister from the joint venturers, the Minister must either:

(*a*) approve the plan;

(*b*) amend the plan (after consultation with the joint venturers and any council affected) having regard to any submissions of the Golden Grove Advisory Committee constituted under Division 5 of the indenture, and approve it as amended; or

(*c*) reject the plan.

This procedure is to replace the procedure for public submissions and public hearing set out in section 41 (5) to (11). Upon approval by the Minister, the plan may be referred to the Governor and declared by the Governor to be an authorised supplementary development plan. It will not be subject to scrutiny and disallowance by the Joint Committee on Subordinate Legislation as would normally be the case under section 41 (13), (14) and (15). No supplementary development plan affecting the development area is by virtue of clause 4A4 to be submitted to the Minister without the prior written consent of the joint venturers.

Clause 4B deals with the division of land within the development area. The joint venturers are required—

(*a*) to consult with the public authorities nominated by the Minister as to their land purchasing requirements;

(*b*) to supply a copy of each approved plan of land division to the Minister indicating the allotments sold or to be sold to public authorities;

(*c*) to supply on a quarterly basis reports detailing negotiations and transactions with public authorities;

(*d*) to show in each plan of land division the areas to be set aside for reserve for local community purposes as provided for under Division 9.

Clause 4B2 prevents the Tea Tree Gully council from consenting to a development under section 47 of the Planning Act without the prior written concurrence of the joint venturers. Clause 4B3 fixes a time limit of 60 days within which the council or the Planning Commission must issue any statement of requirements under Part XIXAB of the Real Property Act in relation to any plan of land division submitted by the joint venturers. If such a statement is not issued within that period, the plan is to be deemed to be approved. Disagreements between the joint venturers and the council or the Commission as to the division of land are to be referred to arbitration under the arbitration provisions of the indenture.

Under clause 4C, the joint venturers are not to be required to prepare a draft environmental impact statement in relation to any development, but, instead, any such statement is to be prepared by the Minister under section 49 (1) *(a)* of the Planning Act. A draft impact statement relating to a development proposed by the joint venturers is not to be subject to public advertisement and public submissions under section 49 (2) to (4). Any technical correction of an officially recognised impact statement is only to be made after 28 days notice to the joint venturers. Clause 4D provides that the State is to endeavour to ensure that no declaration is made under section 50 of the Planning Act that relates to the development area unless the joint venturers have first been consulted and afforded a reasonable opportunity to make representations.

Clause 5 provides for the establishment by the State of a Golden Grove Advisory Committee. The committee is to have five members, one being nominated by the Tea Tree Gully council and another (who is to be chairman) being the chairman of the joint venture committee established pursuant to the joint venture agreement. The clause provides for a two year term of office and for the committee to be provided with staff by the Minister. The joint venturers are to consult with the committee during preparation of any supplementary development plan and to refer any such plan to the committee for comment not less than two months (or such lesser period as may be approved by the committee) before submission to the Minister. The committee or any of its members may report to the Minister upon a supplementary development plan prepared by the joint venturers.

Clause 6 deals with public housing and requires the joint venturers:

(a) to confer with the Housing Trust on planning, development and pricing of developed land;

(b) prior to submitting any plan of land division, to ascertain any requirements of the Housing Trust;

(c) to offer to the Housing Trust at fair market value sufficient land to enable it to provide 25 per cent to 30 per cent of the total dwelling units in the development area.

The State and the Housing Trust are required under the clause to take up that proportion of the land and to develop it for public housing in accordance with standard development requirements imposed by the joint venturers on a uniform basis and so that (in accordance with clause 3 of the paramount objectives set out in the third schedule of the indenture) the public housing is integrated with the private housing and is not provided in separate identifiable public housing estates.

Clause 7 deals with the public works to be carried out in the development area. The public works to be constructed by the joint venturers (including all public streets and ancillary services) are to be maintained by the venturers for not less than six months after completion. The venturers are to remedy any latent defects in such works appearing within 12 months after completion of the works. Arterial roads as set out in the fifth schedule are to be designed, constructed and maintained by the State in accordance with a programme to be prepared by the Commissioner of Highways. The Tea Tree Gully council is to design and construct collector roads (and related screening reserves and fencing) as set out in the fifth schedule. The joint venturers are to design and construct all other collector roads (and related screening reserves and fencing) according to a schedule agreed with the council (or failing agreement—as fixed by the Commissioner of Highways), with the council contributing 40 per cent of the cost of the first 13 kilometres of such roads.

Contracts for the collector roads, the responsibility of the joint venturers, are to be given to the council or its nominee if the council or such nominee makes competititve tenders. SAULT is required by the clause to transfer at no cost to the Commissioner of Highways or the council the land required for road purposes. The roads (other than arterial and collector roads) to be constructed by the joint venturers need not exceed 7.4 metres in width and need to be paved only to the ordinary standards appropriate for the type of

traffic to be carried. Clause 7B deals with sewerage and water supply. Under the clause, the State is required to design, construct and install specific major or large scale sewerage and water works involved in the development according to a programme prepared by the joint venturers and a nominee of the Minister of Water Resources. The joint venturers are required to construct and install other sewerage and water works under the supervision of the Minister of Water Resources or his nominees and to pay all normal fees and charges in connection therewith.

Clause 75B provides that the Minister of Water Resources may request the joint venturers to contribute to any excess over the normal costs involved in providing electric power connections to any pumping station. Clause 7C deals with the supply of electricity. Under the clause the council is to cause the development area to be designated an underground mains area in relation to mains of 11KV or less, but with lines to supply substations being overhead. The State is required by the clause to cause all improvements within the development area to be supplied with an appropriate supply of electricity, while the joint venturers are required to provide the Electricity Trust with appropriate land for the purpose. This work is to be done in accordance with the programme prepared by the joint venturers and the Electricity Trust. Clause 7D deals with stormwater drainage and creek diversion. Under the clause, the drainage for the area is to be reviewed by a consulting engineer at the cost of the joint venturers and a strategy for drainage in the area is to be prepared as part of the review.

Stormwater drainage works within the 40 hectares of uppermost elevation of all catchment areas and subdivision stormwater drainage works are to be at the cost of the joint venturers while other stormwater drainage works and flood control structures are to be paid for by the council and the State in accordance with the requirements of the stormwater drainage subsidy scheme. All drainage works are to be constructed by the joint venturers (unless otherwise agreed with the relevant drainage authorities) in accordance with a programme prepared by the drainage authority and the joint venturers. The council, the drainage authority or its nominee is, if its tenders are competitive, to be given the contracts for the construction of those drainage works to be constructed by the joint venturers at the cost of others. The joint venturers are empowered by the clause to divert or vary watercourses in the development area.

The State is required by clause 7E1 to assist the joint venturers in obtaining telecommunications and other services not within the ambit of the State Government's functions. The clause provides that the Public Works Standing Committee Act, 1927, shall not apply to or in relation to works carried out under clause 7.

Clause 8 deals with the provision of reserves. Under the clause, SAULT shall provide 240 hectares as reserve or similar open space to the State or the council. Not less than 25 per cent of the land is to be provided for active recreation or community purposes. The land provided for community purposes (other than for sports grounds) is to be prepared and landscaped by the joint venturers. The council is to assume responsibility for the maintenance of the reserves 12 months after completion. Under the clause section 223li of the Real Property Act (developers to vest portion of land in council for open space) is not to apply in relation to the division of land owned by SAULT within the development area.

Clause 9 provides for the establishment by the council of a controlling body to manage a 'Golden Grove Community Fund' and reserve lands that the council places under its management. The controlling body is to consist of three persons (or such other number as the council and the Minister may agree) appointed by the council, one being nominated by the joint venturers and one by the Minister. The chairman is to be a member of the council. The Fund and the lands under the control of the controlling body are to be managed, applied and used for the purpose of benefiting communities within the development area. The joint venturers must, under the clause, pay into the Fund .45 dollars per centum of the selling price of each residential allotment created by subdivision within the development area. The council may with the agreement of the Minister vary the powers of the controlling body or abolish the body.

Clause 10 provides that the Governor may, by proclamation, vary the boundaries of the development area so as to increase the area. The joint venturers may, under the clause, recommend that land held by the Crown, or owned by or under the control of the council, or owned by Delfin be included within the area. Land included within the area is to be available for purchase by SAULT. Land held by the Crown adjacent to the area is not to be developed for residential purposes without SAULT having an opportunity to acquire it for the purposes of the joint venture agreement.

Clause 11 requires the joint venturers to ensure that proper steps are taken to ensure that the heritage items (the buildings known as Surrey Farm, Ladywood Farm and Petworth Farm) are maintained and reserved for ultimate community use. Clause 12 provides for road closures by the Commissioner of Highways at the written request of the joint venturers. Any road so closed is to vest in SAULT for an estate in fee simple. These provisions are to operate to the exclusion of the provisions of the Roads (Opening and Closing) Act.

Clause 13 protects works carried out in pursuance of the joint venture from an action in nuisance. The joint venturers must nevertheless take reasonable action to prevent any nuisance. Under the clause, the joint venturers may mine or quarry for sand, gravel, clay or rock. The Mining Act is not to operate in relation to any such mining or quarrying. Land within the development area is to be exempt from other mining operations notwithstanding the provisions of the Mining Act. Clause 14 provides for cancellation or variation of the indenture by agreement of the parties. Any such cancellation or variation is to be subject to disallowance by resolution of either House of Parliament.

Clause 15 provides for State preference. Under the clause, the joint venturers are required as far as reasonably and commercially practicable to use the services of South Australian professionals and South Australian labour; to give South Australian suppliers, manufacturers and contractors an opportunity to tender or quote; and to give, where possible, preference to South Australians when letting contracts or placing orders where price, quality and other factors and commercial considerations are equal to or better than those obtainable elsewhere.

Clause 16 provides for arbitration of any question, difference or dispute arising in relation to the indenture. The provisions of the Arbitration Act (other than section 24a (1) of that Act) are to apply in relation to any such arbitration. Section 24a (1) renders void any provision of an agreement requiring arbitration as a condition precedent to any right of action. Clause 17 makes it clear that there is not any relationship of partnership between the State and joint venturers.

Clause 18 requires the joint venturers to consult with the State and to keep the State informed on a confidential basis of action taken under the indenture that might significantly affect the overall interest of the State under the indenture. Clause 19 provides that only the State, the Minister and the joint venturers are to have any right to enforce compliance with any provision of the indenture. Clause 20 provides a right for either of the joint venturers to terminate the indenture and obtain compensation if legislation of any kind

comes into operation that materially modifies the rights or liabilities of the joint venturers. Clause 21 provides for termination of the indenture upon termination or expiration of the joint venture agreement or by 90 days notice by the State upon material default by the joint venturers.

Clause 22 provides for the service of notices. Clause 23 provides that the law of South Australia is to govern the indenture. The first schedule to the indenture contains a plan of the development area. The second schedule more particularly describes the land delineated in the first schedule. The third schedule sets out the paramount objectives of the indenture. The fourth schedule sets out the City of Tea Tree Gully—Golden Grove supplementary development plan which under clause 4A is to operate as an amendment to the development plan under the Planning Act.

The Hon. J.C. BURDETT secured the adjournment of the debate.

FAMILY RELATIONSHIPS ACT AMENDMENT BILL

The House of Assembly intimated that it did not insist on its amendments to which the Legislative Council had disagreed and had agreed to the alternative amendments made by the Legislative Council in lieu of amendment No. 2.

ADJOURNMENT

At 2.25 a.m. the Council adjourned until Wednesday 5 December at 12 noon.