LEGISLATIVE COUNCIL

Wednesday 27 February 1985

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

PETITIONS: CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

Petitions signed by 76 residents of South Australia praying that the Council either reject the Bill or amend the Bill to ensure that responsibility for consent to the medical and dental treatment of minors lies with the parent or guardian for minors below the age of 16 years and jointly with both the minor and the parent or guardian for minors of or above the age of 16 years were presented by the Hons K.L. Milne and K.T. Griffin.

Petitions received.

PETITION: SIMS BEQUEST FARM

A petition signed by 56 residents of South Australia praying that the Council support the retention of the Sims Bequest Farm intact to fulfil the wishes of the late Mr Gordon Sims, to improve the existing Cleve Certificate in Agriculture course and to establish residential facilities that will cater for the present and future requirements of country students, was presented by the Hon. Peter Dunn.

Petition received.

PETITION: BHP

A petition signed by 369 electors of South Australia praying that the Council urge the Government to legislate so that the BHP Company's steelworks are declared inside the council area that contains their activities so that they are subject to rates was presented by the Hon. I. Gilfillan.

Petition received.

MINISTERIAL STATEMENT: PATIENT TRANSFER

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a statement.

Leave granted.

The Hon. J.R. CORNWALL: Members will be aware that on Friday last, 22 February, the President of the South Australian Branch of the Australian Medical Association, Dr Richard Kimber, announced that he was urging country doctors to observe a moratorium on patient transfers or any industrial action that prejudiced patient care. In a joint statement with me, Dr Kimber said he was recommending that country doctors accept a moratorium until 30 April because of the Australian Medical Association's primary concern for the welfare of patients. I applaud that statement because it reflects our joint concern that the care of South Australian patients must not be prejudiced as a result of industrial action by members of the medical profession. I take this opportunity to restate my belief that patients must not, under any circumstances, be used as pawns in a medico-political dispute and to call upon country doctors to heed the advice of their State President.

Another extremely important point of agreement reached in the talks with Dr Kimber was that it had become clear that the dispute in South Australia could not be resolved at a State level and, accordingly, must be referred to the Federal Minister of Health, Dr Neal Blewett, and the Federal AMA negotiating team for consideration along with other issues. The purpose of this Ministerial statement is to advise the Council of action following that agreement and to inform members of a number of steps undertaken by the Health Commission to protect South Australian patients.

In line with the decision taken jointly with Dr Kimber, I have sent a telex to my colleague, Dr Blewett. The text of that message is as follows:

It is now increasingly clear that the ongoing dispute with doctors providing services in South Australian country recognised hospitals on a fee-for-service basis is about matters central to Medicare, which cannot be resolved between South Australia and the AMA (South Australian Branch).

The AMA State President, Dr R. Kimber, last week indicated to me that negotiations being conducted between the South Australian Health Commission and the AMA concerning the percentage of the scheduled fee to be paid as modified fee-for-service was not the primary issue.

Some South Australian country doctors are demanding that the number of private hospital patients be maintained at the pre-Medicare level by restricting public hospital services to pensioner health benefit card and health card holders. These demands go to the heart of the Medicare agreement.

At the same time they are seeking 100 per cent payment for public hospital patients in lieu of the 85 per cent paid since 1975. South Australian Health Commission officers estimate that payment for public patients at 90 per cent of the schedule fee would financially compensate doctors for any loss of income due to the changed ratio of public to private hospital patients. This has been publicly acknowledged by South Australian Branch officials of the AMA.

However, the South Australian Branch of the AMA has rejected our offer to go to either independent arbitration or accept the findings of an independent financial assessment. Dr Kimber and I have now agreed that the dispute must be resolved at the Federal level in the context of your current negotiations with the Federal AMA.

To ensure patient care in country recognised hospitals pending the resolution of the dispute, Dr Kimber and I have jointly called for a moratorium until 30 April 1985 on industrial action by doctors which is detrimental to patient care. I would be pleased if we, or our officers, could meet at the earliest time to further the consideration of these matters.

That is the end of the telex. Notwithstanding the negotiations now under way at a Federal level, which I fervently hope will lead to a resolution of what I regard as a totally unnecessary and debilitating dispute in South Australia, it has been necessary for the South Australian Health Commission to review the position with respect to patient care and the responsibilities of hospital boards. Honourable members will recall that in my Ministerial statement last week I outlined the actions of a doctor who transferred a number of frail, aged patients from Riverton Hospital to Adelaide. I indicated that those actions had been referred to the Medical Board of South Australia for urgent consideration under the provisions of the Act relating to unprofessional conduct. I regret to say that a number of other cases have come to light in which doctors have transferred acute care patients in circumstances which were prejudicial to their care and which, in some cases, may have potentially involved life-threatening situations.

One case, in particular, caused disquiet because the patient appears to have been subjected to unnecessary risk. This involved an 18-year-old patient in early labour whose diagnosis was pre-clamptic toxaemia and foetal distress and who was transferred from Port Augusta Hospital to the Queen Victoria Hospital by road ambulance. The transfer was made on the authority of a general practitioner, without seeking the opinion of specialist obstetricians available in Whyalla and Port Augusta. This case, along with 15 others, has been referred to the Medical Board by the Health Commission for investigation and appropriate action. The 16 cases involve six Port Augusta general practitioners. They appear to have been related to industrial action being taken at that time at the Port Augusta Hospital.

While the actions of individual doctors in individual cases can—and will—be referred to the Medical Board where the Health Commission feels that their conduct warrants such a course, hospital boards must exercise their ongoing responsibilities in relation to the quality of patient care. As a matter of information and advice, the Health Commission Chairman has written to the Chairpersons of country Hospital Boards of Management in some detail. For the benefit of honourable members I propose to read the text in full. Under the heading 'Re: Visiting Medical Officers in Country Hospitals' he writes:

As you will be aware, the ongoing negotiations between the South Australian Health Commission and the AMA concerning the provision of medical services to hospital patients [that is, public patients] by visiting medical officers have not yet resulted in an acceptable agreement.

I appreciate that the protracted nature of these negotiations, and the fact that there have been a series of propositions put to the AMA during this time, has meant the hospitals have been uncertain as to the current position and consequently their most appropriate course of action when faced by industrial action on the part of visiting medical staff. I believe that it is now appropriate for me to review the situation with you so that your board is able to exercise its proper authority and responsibility in dealing with these issues. The current position in the negotiations is that the Minister has proposed the following:

- The modified fee for service rate be increased to 90 per cent of the scheduled fee operative from 1 February 1985.
- That a mutually accepted professional accountant be appointed to undertake a review of the effect on doctors' income derived from hospitals of the shift in the proportion of patients electing to be private patients when admitted to recognised hospitals.
- Should this review indicate that the 90 per cent offer was insufficient to cover lost income consequent upon the introduction of Medicare, a greater proportion of the schedule fee would be acceptable to the Government, retrospective to 1 February 1985.

In addition, during negotiations the Commission has agreed:

- That election forms could be completed in the doctor's rooms prior to hospital admission, provided these forms were jointly signed by the patient and the doctor. In the case where a patient changed his or her mind and subsequently switched from private to [public] hospital it was agreed that the hospital would at that point become responsible for the patients' continuing medical care. Any understanding between the patient and doctor previously applying in regard to treatment as a private patient would no longer apply. The hospital would then arrange for provision of treatment, with the doctors providing services within the hospital on the agreed fee-for-service basis.
- In principle, that allowances to cover appropriate travel and accommodation costs would be introduced according to agreed guidelines to compensate visiting specialists where appropriate.

The South Australian Hospitals Association has supported this offer. However, it has been rejected by the doctors. It has become increasingly clear that the real issues relate to the principles of Medicare rather than a concern about the percentage of the schedule fee.

The Commission is bound by the agreement enacted between the State and Commonwealth Governments which embody the principles of Medicare and cannot enter into any negotiations which would result in inconsistency or contradiction of the fundamental provisions of the Medicare agreement. As the doctor's position appears to be irreconcilable with the intent and spirit of Medicare, no further progress can be made in negotiation at State level and the matter is to be formally referred to the Federal Minister.

In the meantime, as you will be aware, a variety of industrial actions have been proposed by doctors, and these actions were initially endorsed by the AMA Industrial action has resulted in a number of instances where the good care and welfare of patients has been seriously jeopardised. It is the Commission's firm view that such instances cannot be condoned in any way.

The President of the AMA, in keeping with recent pronouncements by the Association's Federal President, has himself most strongly urged that no industrial action should be taken by a doctor which in any way prejudices patient care. The AMA has urged country doctors to apply a moratorium on industrial action which might be detrimental to patient care at least until 30 April and stressed the need for doctors to observe the basic principles of the practice of medicine.

Where any action by a doctor who exercises admitting privileges at your hospital is such as to raise concern about the proper care and management of patients, you are asked to immediately refer such instances to the Executive Director of your sector. Your hospital's responsibilities in these circumstances are clear and I urge decisive action be taken to ensure that privileges are not exercised by any doctor who is unable to provide unqualified assurance that he or she will always act in the best interests of patients under their care.

The Commission's view is that where a doctor takes any action which places his or her patients at risk the [hospital] board should move to suspend that doctor's admitting privileges pending the outcome of a full inquiry into the circumstances. If there was any indication of unprofessional conduct in terms of the Medical Practitioners Act it would be expected that the matter would be referred to the South Australian Medical Board for appropriate action.

I acknowledge that in this dispute hospital boards may be required to make difficult decisions. The Commission asks that before making these decisions you advise the Commission of the local situation and seek the advice of your Executive Director. For its part, the Commission will further advise boards when the negotiations at Commonwealth level are at a more advanced stage.

Professor Andrews has addressed the specific circumstances at Port Augusta in a separate letter to the Port Augusta Hospital Board. That letter reads:

I refer to your previous correspondence to the Commission concerning the transfer of hospital patients from Port Augusta Hospital to hospitals in Adelaide by certain visiting medical officers with admitting privileges at Port Augusta. The actions of these doctors in transferring those patients has been referred by the Commission to the Medical Board of South Australia for appropriate action.

The PRESIDENT: Order! I draw the attention of honourable members to the fact that their conversation makes it almost impossible to hear the Minister.

The Hon. J.R. CORNWALL: Thank you, Mr President. The letter continues.

The Commission is also writing to the boards of management of all country hospitals advising them of the present state of negotiations with the AMA in this dispute. This letter also outlines the responsibilities of hospital boards when confronted by industrial action which jeopardises the good care and welfare of patients. In your specific circumstances I would ask that you seek assurances from all visting medical officers with admitting privileges at Port Augusta Hospital, whether they have been involved in the transfer of patients or not, that they will comply with the moratorium on patient transfers or any other industrial action which prejudices patient care as recommended by the AMA.

If any of the visiting medical officers are unable to give such an assurance, the Board of Management should consider suspending those doctors admitting privileges at the hospital.

I ask that the Board give these matters their careful consideration, and advise the Commission of any further development in this dispute.

Yours faithfully,
G.R. Andrews, Chairman of the S.A. Health Commission

It is the Health Commssion's view that hospital boards have a duty to act decisively and responsibly, and withdraw admitting privileges of any doctor whose actions place patients at risk. While I share that view—and I believe most South Australians do also—the current dispute has raised a number of issues regarding the legal position of that State legislation, or indeed any other area of the law which may apply, in relation to the provision of hospital and health related services. Accordingly, I have made a formal request to the Solicitor-General for advice on these matters, particularly as to what action can be taken if recognised hospitals and doctors with admitting privileges at those hospitals act in such a manner as to adversely affect the State and the South Australian Health Commission's rights and obligations.

The relevant legislation includes the Health Insurance Act 1973 and the Medicare Agreement signed between the Commonwealth and each State Government under which there is provision for hospitals to be recognised for the purposes of the agreement. A further complication is the fact that country hospitals in this State can be recognised in a number of different ways, some under the South Australian Health Commission Act, some under the Hospitals Act, 1934, and others under the Associations Incorporation Act, 1956. Without presupposing the Solicitor-General's opinion in any

way, it is worth noting that clause 6.1 of the Medicare Agreement provides:

The State shall ensure that the care and treatment provided by recognised hospitals in the State are available without charge to all eligible persons.

Clause 6.2 defines 'care and treatment'. Clause 6.3 requires the State to endeavour to ensure that certain things occur, for example:

. . . . that care and treatment is accessible to patients, that patients can elect to be private, and that a person's intention to be a hospital or private patient is not taken into account in determining admission of the person to a recognised hospital.

South Australia has long enjoyed medical and hospital services in country areas that are among the best in the world. The standard of care, even in relatively remote regions, is generally excellent, and the clinical expertise of the vast majority of country GP's is beyond question. Nevertheless, it must be said that some recent episodes constitute regrettable examples of poor ethics and bad medicine. I do not believe they are representative of the South Australian medical profession or of country doctors in this State. The State branch of the AMA, like the officials at the Federal level, have acted honourably to bring a halt to a situation that was getting out of control. It is now time for a period of constructive negotiation and conciliation. For my part, as South Australian Minister of Health, I will do anything I can to assist that process.

QUESTIONS

ADVERTISING

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

Leave granted.

The Hon. M.B. CAMERON: Honourable members would recall that both the Hon. Mr Lucas and I have raised questions about the cost and purposes of extensive advertising by the South Australian Financing Authority on both television and in the newspapers. To date that advertising campaign, which features the Premier, has cost the South Australian Financing Authority and therefore the South Australian community, tens of thousands of dollars.

The Hon. K.T. Griffin: It might be even hundreds of thousands the way they have been advertising.

The Hon. M.B. CAMERON: It could well be, because television advertising is not cheap. We will attempt to establish that and perhaps the Government will come clean about the actual costs.

The PRESIDENT: Order! The Hon. Mr Cameron was about to make an explanation.

The Hon. M.B. CAMERON: Yes, I was. Now the Electricity Trust of South Australia appears to have come into the Act with an extensive promotion of their State power interconnection announced by the Premier earlier this week. In Monday's *Advertiser* a half page advertisement appeared from the Electricity Trust featuring the Premier in one corner. This was obviously an expensive advertisement which was aimed more at promoting the Premier than anything else. For the life of me I do not understand why we need to promote the fact that we will have a power interconnection with another State.

It is interesting to note that in the past the Government has divorced itself from the Electricity Trust altogether and has attempted to say that anything to do with it has nothing to do with the Government because it is an independent authority. Members will recall the occasions when the Electricity Trust increased charges and the Premier washed his hands of the increases by arguing that it was an independent statutory authority.

The Hon. R.C. DeGaris interjecting:

The Hon. M.B. CAMERON: Yes. Now the Premier wants to take some credit, and is prepared to be associated with the Electricity Trust. Two different advertisements have appeared extensively, one being the big magpie feeding its young which is seen on television.

The Hon. L.H. Davis: It is called 'The big mag'.

The Hon. M.B. CAMERON: It is in the paper as 'The big magpie'. The big magpie is costing ETSA $12 million a year. So, it is not a benefit. It has been suggested to me that the nest should have eggs in it and a cuckoo should be pinching the eggs out of the nest rather than a magpie feeding its young; that advertisement should be run backwards on television to show that is taking food out of the mouth of ETSA, not putting it back in.

One advertisement States 'South Australia could save up to $25 million over the next five years of interconnection due to reserve efficiencies'. The difference is that the first advertisement is costing $12 million a year, but this one will put $5 million back in. So, after two separate advertisements ETSA will be $7 million down the drain a year, plus the cost of the advertisements.

I do not know how the Government justifies this type of advertising, and I cannot understand the reasons for it. It will not raise more money for the South Australian Financing Authority. It makes no difference that we know about the right connection—no-one will argue with that. My questions are: 1. What is the total cost of the South Australian Financing Authority advertising campaign to date? 2. What was the cost of advertisements in the media promoting the three State power interconnection that feature the Premier? 3. Is it true that the Premier requested the advertisements to be placed and that he appear in them? 4. Are additional advertisements featuring the Premier anticipated or planned for these or any other statutory authorities? If so, what authorities are involved and what will be the cost of these advertisements?

The Hon. C.J. SUMNER: I provided the honourable member with an answer relating to the South Australian Financing Authority and the reason for that advertising campaign—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I fully explained why the authority took that action. With respect to the—

The Hon. L.H. Davis: Where is open government? Why don't you tell us the cost?

The Hon. C.J. SUMNER: The honourable member asked a question about costs. My recollection is that it is the first time that the honourable member has asked those questions, and I will refer them to the Premier and bring back a reply. I have already answered the question relating to the South Australian Financing Authority and why it considered that the advertising campaign was necessary—that is, to ensure that what it was doing in the money markets was well known.

The Hon. L.H. Davis: It is only people in the money markets, and they know that anyway.

The PRESIDENT: Order! We get into this bind every Question Time and today I ask members to ask questions: if they are not satisfied with the answer given by the Attorney-General, please ask another question. Let the Attorney-General answer this question.

The Hon. C.J. SUMNER: Thank you, Mr President. I invite honourable members to peruse the previous answer

I gave with respect to the South Australian Financing Authority. However, with respect to the other questions that the honourable member asked today, I will refer them to the Premier and bring back a reply.

The Hon. M.B. CAMERON: I have a supplementary question. Will the Attorney-General tell me whether or not he believes that people involved in the money market do not understand what the South Australian Financing Authority is and what it is intended to do?

The Hon. C.J. SUMNER: Obviously many people would know what the Financing Authority does, but it is a new and important institution in South Australia, particularly with the greater sophistication of financial institutions that now exist in South Australia and Australia. There is much greater competitiveness and much greater interchange and interconnection of money markets with other parts of Australia and overseas. I have previously indicated to the Council why the Authority wished to embark on the advertising campaign. I have answered the honourable member's first question with respect to SAFA on a previous occasion; he is now asking for further information in relation to the advertising campaign and ETSA. I will obtain further information on those matters and bring down a reply.

The Hon. L.H. DAVIS: I desire to ask a supplementary question.

The PRESIDENT: We have had one supplementary question.

'FAMILY LIVING'

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about Family Living.

Leave granted.

The Hon. J.C. BURDETT: The Inquiry into Mental Health Services in South Australia (known as the Smith Committee Report) contains the following comment:

> Family Living, containing 25 beds for long-term drug-free rehabilitation, was one of the most stimulating services we visited. They were keen to expand and transfer their philosophy and ideas to a farm project remote from Adelaide to serve primarily adolescent addicts. We find this an interesting concept. However, in view of the substantial capital and operating costs involved, the project warrants low priority.

Later in the report it is recommended:

> Government funding for Family Living to continue but responsibility for administering the services be transferred to a voluntary agency.

Over quite a period, particularly immediately following the release of the report, and on a continuing basis, I have received representations from persons, mainly from those who had formerly been residents in Family Living and from their families, saying what an extremely good project it was; and that they were very distressed about the suggestion that it may be transferred to a voluntary agency and may perhaps lose the effectiveness that it has at present.

In view of the recommendation that its funding be continued but that it be transferred to a voluntary agency, and in view of the representations that have been made to me stating how very effective it is, what is the Minister's intention with regard to Family Living? Does the Minister intend to accept the recommendation to transfer Family Living to a voluntary agency? Does the Minister intend to continue funding it? What is the intention of the Minister and the Government in regard to Family Living?

The Hon. J.R. CORNWALL: I must commend the shadow Minister for his diligence in having read the Smith Report 18 months after it was published. With specific reference to Family Living, and with far more general reference to the extremely comprehensive drug strategy that is being developed for me and for the Government, members would be aware that as part of the re-organisation and major upgrading of our drug and alcohol services generally, the Alcohol and Drug Addicts Treatment Board was abolished and the Act was repealed in September last year. In its place we appointed a Drug and Alcohol Services Council, which comprises seven members. It is incorporated under the Health Commission Act and has been drawn into the family of the health services.

The first task that I gave that seven person council was to constitute it as a Ministerial task force to consider all aspects of drug and alcohol services in South Australia, and the needs in areas ranging from education (as it affects health professionals, children, school children and the community generally) through to treatment and rehabilitation, along with the facilities and policies that should apply in those areas (particularly the additional facilities that may be available), and including prevention, which is enormously important. I am happy to say that the task force will report to me tomorrow.

The task force has completed its work. Its report, which has been completed, will be assessed and taken to Cabinet in the very near future. I anticipate that it will be a public document sometime before the middle of March. Therefore, there has been an enormous amount happening in the planning processes for the much revamped drug and alcohol services area. Specifically with regard to the Family Living Centre, I am not attracted to the idea of transferring it to a voluntary agency in general terms. I believe that its work, tremendously difficult though it is, is very good. Quite obviously, when there is a drug free living resource like that in an inner suburban area, and there is a known recidivism rate, which, regrettably, with any hard drug addiction is distressingly high, it is almost impossible to guarantee that such a facility will be drug free at any time. Nonetheless, the Family Living Centre which, I might say, was established and supported by my predecessor (Hon. Jennifer Adamson), has done a very worthwhile job. However, I think the time has come when we need a much greater diversity in the range of rehabilitation services that are available to drug addicts in South Australia.

CRIMINAL INJURY COMPENSATION

The Hon. K.T. GRIFFIN: I seek leave to make a brief statement before asking the Attorney-General a question about criminal injury compensation.

Leave granted.

The Hon. K. T. GRIFFIN: Last month the *Sunday Mail* carried a report that the Attorney-General had indicated that the Government was concerned at the growing cost of criminal injury compensation and was looking at alternative methods of providing funds. The report states that the Attorney-General hinted at possibly increased rates of compensation because of the larger sums paid out in vehicle accident claims. The Attorney is then quoted as saying:

> The major problem is that only a very small amount is recovered from offenders of about $1 million paid out every year.

I think that is meant to mean that, of the $1 million paid out every year, only a small proportion is recovered. My recollection from the Budget Estimates Committees is that that was something like $34 000 or thereabouts for the current financial year. The Attorney-General is also reported as saying:

> People often draw a comparison between someone injured in a criminal assault and a motor vehicle accident who gets much more because of unlimited third party insurance.

Obviously, with criminal injury compensation being a maximum of $10 000 per person per claim, depending on the

sort of criminal injury that has been suffered, $1 million is a fairly substantial amount as a charge on the Budget, because criminal injury compensation is essentially a system by which out of Consolidated Revenue victims of criminal injury are paid by the State an amount awarded by the court.

I am interested to see that the Attorney-General is reported to have expressed some concern about the growth in the pay-out and that he is looking at alternatives as well as reviewing the Criminal Injuries Compensation Act. In the light of that report I ask the Attorney-General whether he has reviewed the Criminal Injuries Compensation Act and, if he has, what decisions the Government has taken. Secondly, is the Attorney-General proposing to increase the maximum $10 000 compensation? What alternatives is he investigating for the compensation of victims other than those available under the Criminal Injuries Compensation Act? If he has conducted a review, what other changes does he propose to the system?

The Hon. C.J. SUMNER: The review has been conducted by an officer of the Attorney-General's Department. The review involves looking at the Criminal Injuries Compensation Act and reassessing the report that was done in 1981 on the rights of victims of crime in South Australia to see what progress has been made on the implementation of that report and whether anything further needs to be done. In conjunction with this, the Attorney-General's Office is also working with the Victims of Crime Service and its President on developing a draft declaration on the rights of victims, which is to go to the United Nations at some future stage and which will be discussed, I understand, at the United Nations Congress on the Prevention of Crime, to be held in Milan in August this year. That Congress will consider this draft declaration on the rights of victims, which subsequently will be presented to the United Nations. I have raised the matter with the Standing Committee of Attorneys-General and sought Federal Government support for this declaration.

So, there has been a review of the Criminal Injuries Compensation Act and a review of the services that currently operate in South Australia and of the law relating to victims. I have also asked the officer (the Director of Policy and Research, Ms Doyle) in the Attorney-General's office to liaise with the Crown Prosecutor with a view to preparing a set of guidelines for prosecutors, both Crown prosecutors and police prosecutors, in the manner in which the problems of victims should be dealt with in and brought before the courts, particularly with regard to sentences that might be imposed.

There is a particular concern, for instance, in the area of domestic violence, and I will also ask the police to make sure that any penalties imposed in domestic violence cases are brought to the attention of the Crown Law Office if there is any suggestion that those penalties are too lenient or that appeals should be lodged to ensure that a proper level of penalty is imposed in certain domestic violence cases. That is also proceeding and I hope that that list of guidelines will be available reasonably soon.

I have not yet had the opportunity of assessing the review that has been done by Ms Doyle, but I hope to do that fairly soon. That review is looking at alternative methods of funding criminal injuries compensation. As the honourable member has pointed out, this is a very difficult area because criminal injuries compensation is a direct charge on the taxpayer at present, with the right for the Government to recover from the offending party. But, unfortunately—historically, not just recently—that has been a very difficult path to pursue. One of the amendments that I am looking at to the Criminal Injuries Compensation Act is to try to facilitate the registration of the award that is made in the local courts so that they can be more readily and speedily pursued than they are at the moment.

The Government does not have any proposition before it to increase the $10 000 compensation at this stage. Obviously, there are problems with that because of its being a direct charge on the revenue. The point that I was making in that newspaper article was that people see it as unjust that when injured in a criminal act, a maximum of $10 000 is permitted under the law, whereas a person with similar injuries from a motor vehicle or industrial accident can receive a substantially greater amount of money. The problem with that is that insurance is involved in the one case, but in the criminal injuries compensation situation that is a direct charge on the taxpayer and, since it was introduced in 1969, it has been seen in effect as a remedy of last resort. Any increase in that amount would have budgetary implications that need to be carefully considered.

Some options have been put up to try to increase the fund of moneys available in this area. One is that there should be a levy on all the fines that are imposed throughout the State. That, superficially, has some attractions, but again it would have some inequities in it because those people who are subject to fines would be subsidising the people who are involved in violent offences and it would still not attack the problem of recompense from those who commit the offences. It would shift the burden from the general taxpayer to a more limited group of people within the community—those who get before the courts and are fined—but it still raises the question of equity as to whether or not the general taxpayer should pay for criminal injuries compensation or whether it is more equitable and legitimate for a person who is fined for a speeding offence to recompense a person injured by a violent criminal act. That is one of the difficulties involved in that proposition, which has been put forward and which operates in some States in the United States of America.

Another matter that has been looked at is the possibility of confiscation of assets of people involved in criminal offences, to assist victims. Again, nothing is firmed up on that, but it is another matter that is being looked at as part of the review. It follows a suggestion in a report that was done recently in the United Kingdom on funding of schemes to assist victims of crime. The whole matter could be resolved if there was a comprehensive no-fault accident scheme throughout Australia.

There have been some discussions on this topic, the first attempt at this having been in the 1972-75 period when Mr Justice Woodhouse presented a very comprehensive report on this topic. It would have provided security for all people, no matter how they were injured, in terms of receiving compensation. Obviously, criminal injuries would come within any comprehensive no-fault scheme of that kind, but that is some considerable way down the track, if it is likely to be introduced at all.

The Hon. R.J. Ritson: Do you agree with the whole of the Woodhouse report?

The Hon. C.J. SUMNER: I will not comment at this stage on the Woodhouse Report: that was produced 10 years ago and any moves in that direction at this time would have to be reassessed in the light of the current circumstances. All that I am saying is that there have been discussions with some of the States and the Commonwealth about a no-fault scheme, which could involve criminal injuries compensation and could involve the Commonwealth in funding that compensation.

That that would have to be part of an overall scheme. As I said before, that certainly is not moving particularly speedily at the moment, and I do not see that as an immediate prospect for victims of criminal injuries. It is a matter to be borne in mind if that is considered in the future. I

will assess the work that has been done on this topic as soon as I am able to do so and will be happy to provide another report to the Council once that has been done.

BUILDING CONSULTANTS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about building consultancy.

Leave granted.

The Hon. I. GILFILLAN: A building consultant has approached me and made a claim that some solicitors are in his opinion abusing their position in relation to claims regarding faults in buildings. This consultant has had claims of faults in two buildings with which he was involved brought to a solicitor by a client. The solicitor in that matter contacted the building consultant whose advice had been used without checking the facts with an engineering consultant or being willing to furnish the basis of the claim.

The solicitor threatened legal proceedings and requested contact with the building consultant's professional indemnity insurer. The building consultant was faced with the choice between paying over $400 for consulting engineers fees, plus solicitors fees, and/or paying the damages. In one instance, the solicitor no longer proceeded with the case and the building consultant had no redress for the fees that he had already paid to the consulting engineer. In the second case, involving a claim for $360 000, the building consultant referred the case to an insurer, who was obviously operating through a solicitor. The two opposing solicitors are stretching the case out for months, accumulating large fees.

If in general a building consultant refers a case to a solicitor, either directly or indirectly through an indemnity insurer, the two opposing solicitors arrange site meetings, consultancies, letters, phone calls and the like involving sharply escalating fees amounting to hundreds of dollars. It appears very much as though it could be a rort practised between solicitors aware of the compliant situation provided by insurance companies. Is the Attorney aware of what could be described as mischievous, malicious and frivolous proceedings threatened against building consultants by some solicitors? If he is, what action does the Government intend to take? If he is not, will the Attorney investigate this matter that is causing financial loss to building consultants, and therefore increasing fees charged to the public? I ask that the Attorney consider whether there should be some form of protection for building consultants in the circumstances like those presented to me.

The Hon. C.J. SUMNER: The honourable member must be feeling deprived or the like. Obviously, he has not seen his name in the paper recently and this is his attempt—

The Hon. M.B. Cameron: He is not grandstanding.

The Hon. C.J. SUMNER: I would never make that accusation about any honourable member in this Council.

The Hon. Frank Blevins interjecting:

The PRESIDENT: Order! The Minister of Agriculture should write the Attorney a letter.

The Hon. C.J. SUMNER: It seems that the honourable member is feeling deprived and has introduced this curious question to the Council alleging that apparently lawyers are deliberately stringing out proceedings in order to increase costs and that they are making unjustified claims against building consultants. It takes two to make a fight, as the honourable member knows. In my experience lawyers have to take their instructions in regard to matters that they are conducting.

If lawyers are acting in this particular way, they are acting in that way on the instructions of their clients. The honourable member has not been specific in any way—he has made broad and general allegations. The honourable member has not brought anything to the Council that tends to substantiate his claims in any way. As I said before, that tends to indicate that perhaps he is looking for an easy headline. The fact of the matter is that, if solicitors are acting on behalf of their clients legitimately and in doing that they still have those instructions, it involves site conferences and escalating costs. That is a matter in the hands of the clients themselves to determine and to try and compromise.

It is in the hands of the clients to ask how much the proceedings instigated are going to cost and to determine what the end result will be of the cost of action taken. Certainly, when I was in practice, that was something often asked and one felt obliged to advise clients at the first interview of the potential costs of any litigation that they might be undertaking.

However, if there is evidence that solicitors are not acting on their clients' instructions but are going on frolics of their own in this area in the manner that the honourable member mentioned, then those clients obviously would have a claim, possibly against the solicitor if there had been financial loss arising from it. Certainly, there would be the possibility of lodging a complaint with the Complaints Committee and there would be potential for the solicitor to be disciplined for unethical behaviour.

The solicitor has to act in accordance with the client's instructions. That is clear. If what the honourable member is suggesting—I am not sure whether he is—that solicitors are acting without their clients' instructions, and if he has specific examples of that that he can give to the Council or me, then I will refer them to the Complaints Committee for investigation. The honourable member might prefer to do that himself, and he can do it. He can go and see Mr McNamara or Mr Mulligan, who is Chairman of the Complaints Committee.

The Hon. I. Gilfillan: What is the protection for the building consultant?

The Hon. C.J. SUMNER: I am not sure what the honourable member is saying. Presumably the building consultant has been written to by the solicitor who is acting for a client who is not very happy about the building consultant. Is the honourable member suggesting that, if he comes in to see me and he is irate because he has been to a building consultant who has told him to use certain footings for his house and he has used them and the house has fallen down, I should not write to the building consultant and lodge a claim? The end result of that for the building consultant may be that the building consultant has to go and get his own legal advice. He might have to get an independent assessment of whether the advice he was giving was reasonable in the first place.

The Hon. I. GILFILLAN: I desire to ask a supplementary question. In this particular case there are details and I did not want to take up time in Question Time. In this instance it has cost the consultant some thousands of dollars for a case that has been dropped. He feels a victim and others will be—

Members interjecting:

The PRESIDENT: Order! Let us hear the question.

The Hon. I. GILFILLAN: Is there is any protection for the building consultant?

The Hon. C.J. SUMNER: One would need to look at the facts of the case to see whether the solicitor had behaved improperly. I am not sure whether the honourable member is suggesting that the solicitor, acting presumably on the instructions of his client, should not have lodged the claim against the building consultant. That happens every day of the week in any litigation. A person comes to a solicitor and gives instructions to the solicitor, who claims against

the building consultant, the builder, the driver of the motor vehicle or whatever—

The Hon. I. Gilfillan: It's a rip off on the insurance companies—that's what it is.

The Hon. C.J. SUMNER: The honourable member says that it is a rip-off on the insurance companies. If he has any evidence about how that is occurring or whether the solicitor has acted improperly with respect to his instructions, then he has a point. However, if he is just talking about the normal processes of litigation, then he does not have a point. If the honourable member wishes to put the facts to me or to discuss with Mr McNamara of the Complaints Committee or Mr Mulligan, the Chairman of the Complaints Committee, he is perfectly free to do that. Alternatively, if he wants to give me the details or to write to me about the matter, I will have the matter referred to the Complaints Committee for investigation.

ENERGY EFFICIENCY

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Mines and Energy, a question about energy efficiency in houses.

Leave granted.

The Hon. BARBARA WIESE: Recently, I received a pamphlet entitled *Energy Efficiency in Californian Homes* that was distributed by the Fibreglass Insulation Manufacturers Association of Australia. The Association clearly has a vested interest in promoting the contents of the pamphlet, but it seems to me that the proposal outlined in the pamphlet is worth considering. The pamphlet points out that in 1977 the Californian Energy Commission adopted a comprehensive set of standards for energy efficiency in new buildings that reduced the amount of energy used in new houses by 50 per cent. Subsequently, second generation standards were adopted in 1983 which, again, halved energy use for heating, cooling, and water heating in new houses. In other words, all new houses built in California must have the capability of using only one quarter of the energy that would have been used eight years ago.

The pamphlet also points out that for the past 10 years Australian Governments and the private sector have spent millions of dollars each year telling the public about the benefits of house insulation—how it conserves energy, reduces appliance running costs, and improves comfort. The Association asserts that Australia remains a generation behind almost every other developed country, because it has failed to introduce mandatory insulation for new dwellings. It is stated that that is the case despite the fact that there is considerable public support for building regulations to be amended to make it mandatory that ceiling and wall insulation be included in new homes. It is stated that support was indicated by a survey which was conducted in Victoria in 1984 and which showed that 83 per cent of respondents favoured this course of action.

If the information contained in the pamphlet is correct, it is clear that much can be gained by adopting the kind of measure that has been enacted in California. As honourable members would know, the climate in much of California is similar to our climate. Can the Minister say whether consideration can be given to implementing a policy under which it is mandatory for ceiling and wall insulation to be included in all new dwellings in South Australia?

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

ASER DEVELOPMENT

The Hon. C.M. HILL: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question about construction work at the ASER site.

Leave granted.

The Hon. C.M. HILL: It appears that a very large underground drain or possibly a tunnel is being constructed from the ASER railway station site to the Torrens Lake. Those who drive their cars from the Festival Theatre carpark to the Morphett Bridge would have noticed this work; sightseers in the vicinity of Elder Park can also see the construction work being undertaken at the edge of the lake. The public is wondering what is the purpose of this drain and people certainly query whether or not the Torrens Lake might become polluted as a result of whatever—

The Hon. J.R. Cornwall: Heaven forbid!

The Hon. C.M. HILL: I hope that the Minister is serious. Heaven forbid that the Torrens Lake and the Torrens River will be polluted. Honourable members know that, quite properly, there are strict controls on the disposal of fluids and water into the Torrens River in the metropolitan area and, indeed, over its full length.

The Hon. Frank Blevins: Why do you hate the ASER project so much?

The PRESIDENT: Order! The Hon. Mr Hill does not have to answer that.

The Hon. C.M. HILL: I want to answer it, because the inference was that I hate the ASER project. Of course, nothing could be further from the truth. The only point about the project that I dislike is the ridiculous height of the hotel in that development, to which the Government has agreed, as I have said time and time again. However, my point is that public questions have been asked about the purpose of the drain. Will it be used for surface drainage from the ASER development on completion? Is any kind of effluent to be disposed of through the drain, or is it likely that any waste matter will pass through the drain from the development into the Torrens Lake? Questions have also been raised as to whether or not the Adelaide City Council has agreed to this facet of the construction which, of course, involves the parklands in their very true sense—that is, that section of the lawns that have already been beautified around the lake. Therefore, I seek information from the Minister as to the purpose of the drain that is being constructed.

The Hon. C.J. SUMNER: I, too, have noticed the drain or tunnel. I am not sure whether it is a tunnel or, if it is, its purpose. I suspect it is more likely to be a drain, but it may be a tunnel. Of course, it could be something completely different.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: It could be catacombs and it might be something sinister to do with the casino. The mind boggles at the possibilities that we could contemplate regarding this drain cum tunnel. The Torrens is an important feature of Adelaide's environment. It is somewhat unfortunate that at present it is not as full as it should be, and it is even more unfortuante that the water in the lake is not particularly fresh. If the Hon. Mr Hill ran around the Torrens from time to time in order to keep in trim (as I do for the demanding job of Leader of the Government in the Legislative Council) he too would have noticed the somewhat poor quality of the water in the Torrens. Whether this tunnel cum drain will exacerbate any problems, I do not know. I do not know its purpose, although I assume that it has something to do with the construction of the hotel which is to be part of the ASER project and for which the Hon. Mr Hill has such a distaste, albeit because of the height of the building. However, as was pointed out previously, if

the honourable member had been in Government and if he had insisted that the height of the building be reduced significiantly, this project would not have proceeded.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: The honourable member wants to have it both ways—he wants to be able to say that the building is too high but that he wants the project to proceed. As I understand it, because of the economics of the situation, that is not possible, so by indicating that he wants the height of the hotel lowered he is, in effect, indicating his opposition to the project. Of course, he has been quite open about that and voted against the regulations when they came before the Council some months ago. I return to the important question involving the mystery of the tunnel *cum* drain, which will be resolved for the honourable member when I have referred the question to the Premier and brought back a reply.

HOSPITAL CATEGORISATION

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

Leave granted.

The Hon. R.J. RITSON: The question of categorisation of hospitals for the purpose of payment of hospital benefits is a Federal matter but one that impinges upon State Ministries of Health and a matter on which State Ministers are regularly informed because they form a Labor Party coven of Ministers of Health from time to time. Therefore, can the Minister say whether there are plans in hand or whether there is in train a new system of hospital categorisation; whether the things I have heard about a system of five categories of hospital is to be instituted; whether those categories include a category of hospital that has resident medical officers; and whether any private hospitals will be seeking to be elevated to a category requiring resident medical officers and, if so, what effects the Minister anticipates such a change will have on the private hospital system in South Australia?

The Hon. J.R. CORNWALL: The suggestion, or even the recommendation, regarding five categories of hospital was made by the Federal Ministerial task force looking at this whole question. I must say that I was singularly unattracted to the recommendation for what would have been category A or category 1 hospitals having resident medical staff. There was certainly no private hospital in South Australia (and I use that in the broadest sense) in which one could have possibly justified that. The temptation, once the hospital had to go to the expense of paying salaried medical officers, was that we would have finished up with some sort of half-baked casualty service which would be quite inappropriate because casualty services must remain where they are with the teaching hospitals and the public hospitals, for a variety of very good clinical and administrative reasons. I must say that the private hospitals were less than enthusiastic about the idea also and, in fact, had some of those recommendations been followed a number of category 1 hospitals, as they are now, could have finished up in category C or 3, whatever the various titles were that were suggested for those categories.

In summary, I was not at all attracted to the idea, the Health Commission thought it was terrible and the private hospitals were initially terrified and then hostile at the idea. Between the lot of us I think that we have managed to convince the Federal Government that in South Australia, at least, such an idea would be quite inappropriate and it is my understanding that, at the moment, there is no intention to proceed with the five category hospital suggestion.

ELECTRICITY TRUST TARIFFS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Mines and Energy, a question about electricity tariffs.

Leave granted.

The Hon. PETER DUNN: This is a popular subject at the moment. While paying my Electricity Trust bill last week I was amazed to see one section of the account had taken an enormous rise of 156 per cent. That rise of 156 per cent was for the minimum charge per connection. In the metropolitan area that fee has risen from $7.80 per quarter to $20 per quarter. In the previous two years the minimum charges have risen only marginally, in 1982-83 to $6.60 per quarter and in 1983-84 to $7.80 per quarter, but in 1984-85 to $20 per quarter.

During this period from December 1982 we have had two electricity tariff rises, one of 12.4 per cent and one of 12.2 per cent, totalling 24.6 per cent while inflation has risen only 18.9 per cent. This rise in ETSA tariff, which has outstripped inflation by nearly 6 per cent, is indeed a bitter pill to swallow, as electricity affects nearly every person in this State, and is considered a fundamental necessity for today's living. I add that the Gas Company has a minimum charge of only $30.60 per year as compared with the $80 minimum charge per year for electricity. To have this minimum charge increased by 156 per cent in the past year from 1 November 1984 to 1 November 1985 does not at first glance appear to affect many people or institutions; however, it does. Those affected the most by this enormous increase are, in many cases, least able to afford this impost; for example church halls; scout and girl guide halls; some pensioner and senior citizen groups who have their own premises; sporting bodies, particularly in the more remote areas where halls and public meeting places are a necessity but are used infrequently; and the biggest group of all, those people who have shacks at the seaside or on the rivers.

The increase in the minimum charge for a full year will be $48.80: that is, a rise from $31.20 a year to $80.00 a year. This new minimum charge would purchase 835 kW of power, and if the average home uses 10 kW a day that is 83 days usage before exceeding the minimum charge. This is much more power than any person would be likely to use living in a seaside shack. There is even a harsher picture in those remoter areas of Eyre Peninsula where people pay 10 per cent above Adelaide costs and the rest of the State tariff is considered; their annual minimum is $88 a year. Can the Minister say what criteria were used by ETSA when setting this minimum charge? Does the Government consider this charge to be a fair charge on the groups I have named? Will it seek to have ETSA lower the minimum charge so that it does not exceed the inflation rate?

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

ADVERTISING

The Hon. L.H. DAVIS: Does the Attorney-General realise that SAFA gathers its funds through 25 merchant banks, 15 or 16 stockbrokers, half a dozen banks, a handful of insurance companies, and a few statutory authorities, and that there is really no need to expend tens of thousands of dollars on pure political advertising to enhance the sagging prospects of the Government in South Australia?

The Hon. C.J. SUMNER: I have answered this question previously. It is certainly not purely political advertising, or

political advertising of any kind. As I have indicated before, and as I indicated in my answer to a previous question that, obviously, the honourable member has not read, SAFA is a new and important organisation in the financial affairs of South Australia.

The Hon. L.H. DAVIS: All they need is telexes, letters or phone calls—they do not need advertising.

The Hon. C.J. SUMNER: The honourable member is interjecting again. Apart from the information that I provided to the honourable member previously, I have indicated that I will refer the Hon. Mr Cameron's question in relation to this matter to the Premier and bring back a reply.

REST HOMES

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

That,in the opinion of this Council, rest homes have an important role to play in the provision of aged care and, as the provision of aged care is of growing concern in the community, the rest homes deserve the maximum possible support by both the State and Federal Governments.

In raising this issue in the Council today, I seek to focus attention on the continuing concern that the Opposition has for the care of the aged in our community. Aged care policy must be carefully planned and developed and not simply result from the application of *ad hoc* responses to individual problems as they arise. It is important before considering the role of various sectors in the provision of aged care to obtain a proper perspective of the structure of our population.

According to the Australian Bureau of Statistics 147 005 South Australians are over the age of 65 years. This represents some 11 per cent of the South Australian population. This proportion will grow as the number of aged South Australians rises during the next decade whilst, at the other end, the number of young people declines. Already the physical facilities devoted to the care of the aged are facing maximum utilisation. With an upsurge in the number of aged this problem will exacerbate. Care for the aged can be provided for in a number of ways. Our goal must be to achieve a proper balance among the options available that is fair to both the aged and to society generally.

Elderly South Australians have the potential of a number of choices. The first alternative is remaining in their own homes and caring for themselves, or receiving the help of relatives, friends or domiciliary care. Where the elderly receive care within their own homes a subsidy of $4 a day is available.

The second alternative is for the elderly being cared for in a nursing home when they are unable to maintain separate living quarters in their own home and need more regular care and attention than that provided with domiciliary care. Nursing homes receive a Commonwealth subsidy for patients under their care.

The third alternative is that, when very ill or infirm, some elderly people may become long term hospital patients if they are unable to obtain nursing home care. The fourth alternative is rest home accommodation which is available to the elderly who can generally fend for themselves, but who do not desire or feel capable of living totally independently within their home. Should the elderly transfer from their own home where they have been cared for by their family and take up residency in a rest home (as distinct from a nursing home) the Commonwealth benefit is removed.

Neither the State nor Federal Government provides any kind of benefit whatsoever in respect of residents of rest homes. I am not so concerned about benefiting the rest homes themselves as I am about benefiting the people who are resident in them. It seems to me to be anomalous that where elderly persons are being cared for in their own homes by relatives, friends or whatever and are regarded as being in need of personal care a subsidy of $4 a day is available, but as soon as they go into a rest home that subsidy is removed.

The case of an elderly woman who was doubly incontinent and being looked after by her daughter has been brought to my notice. The family was receiving $4 a day subsidy in relation to persons in need of personal care. The pressures applied to the daughter became such that eventually she was being, to use a colloquialism, driven up the wall; she was in danger of having to receive psychiatric treatment. In desperation she looked around for what she could do. Eventually she was able to get the elderly person into a rest home. This elderly person, who really was in need of nursing care, went into a rest home because that was all that was available. No nursing home was available. The $4 a day then ceased. That seems to me to be quite anomalous.

The final alternative is that the elderly may choose to live with a member of their family in that family member's home but, regrettably, whilst the maintenance of family groups can be encouraged, for many this option does not apply.

If one looks at the options available for the elderly who cannot be cared for in their own homes and do not have access to them, if they are relatively healthy (at least initially), the options are limited. Nursing homes provide care to ill, aged and infirm South Australians. Rest homes, technically, should only provide 'boarding house' accommodation to the elderly. Of course, many aged people who are relatively healthy on entering a rest home suffer, by virtue of their age, deterioration in their health.

Many rest homes continue to provide help and accommodation for such people who, frankly, have nowhere else to go, yet are being penalised or, at best, not assisted by the Government for doing this. A survey of nursing homes in the metropolitan area which I had undertaken some time ago revealed that there were no immediate vacancies available in any of them. In particular, if a couple wanted to go into a nursing home one of them had to go first and perhaps the other might be able to follow later. Because I have been concerned about this problem for some time I telephoned around and found that on that day there were no vacancies in any of the nursing homes in the metropolitan area. I am informed that this is not abnormal: it is extremely difficult to find nursing home care for aged South Australians.

The names 'rest home' and 'nursing home' as orginally conceived were fairly appropriate. A nursing home was to provide nursing care and a rest home was to provide rest for people who did not need nursing care but simply needed somewhere to go to rest. At one time that may have been true. Presently, because there is a great shortage of nursing homes in South Australia—and I have demonstrated this when talking about the phone around I made, and I have other evidence—rest homes have to take people who need nursing care because there is nowhere else for such people to go. For one reason or another they cannot be looked after by their own family—perhaps they have none and cannot get into a nursing home. I have already referred to the situation where the elderly go into a rest home, when they are appropriate residents for a rest home at the time and when they get older and later need nursing care they cannot get into a nursing home.

So often, because nursing home care is not available, rest homes have to provide nursing care. The nursing homes are reasonably generously subsidised by the Commonwealth Government. Even in the profit area they can cope if they manage their books properly (I do not say that they get rich,

but they can certainly cope). However, there is no help for the residents of rest homes, neither for the residents nor for the rest homes. I do not suggest that the help should go to the rest homes; it should go to the residents. They do not have anywhere else to go. They are being nursed, and there is no question about that; in many cases they are being nursed in the rest homes.

Because there is no subsidy or help of any kind available, the only payment available to rest homes is from the residents. Because the residents normally rely on pensions, that source of funding is limited. I certainly know of cases where the proprietors of rest homes work themselves to the bone in a most excellent way in trying to care for their residents in a way that is to be commended. They have compassion and do everything they can to look after their residents. In fact, they work themselves to the bone and receive no recompense for their efforts, really. Because of the lack of any kind of financial support for the residents, they must survive on what they can.

This being the case, the State and Federal Governments must do more to support the other options which I have discussed. In particular, rest homes appear the logical alternative for greater recognition and encouragement. This fact was clearly recognised in July 1981 by the Minister of Health (as shadow Minister) when the ongoing problems faced by rest home operators were revealed in the *News*. He was quoted as saying that:

> The lack of funds for rest homes in South Australia was 'irresponsible and disgraceful'.

How things change! If it was irresponsible and disgraceful in 1981, so it is in 1985. I cannot understand how the Minister has not been prepared to do anything practicable for the rest homes when the real rub was there when he made that comment in 1981. Four years have elapsed since that time and regrettably the Minister has backed away from that quite unequivocal support for rest homes.

Rest homes receive no Government assistance, because they deal with aged people who are primarily pensioners. They must keep their charges to a minimum and, as I have indicated, the problem is exacerbated by insufficient nursing home beds and the Federal Government's unwillingness to provide any form of assistance to rest homes, so that rest homes should not deal with ill and infirm people and that they should be referred to nursing homes. However, because there are insufficient nursing home beds, rest homes are forced into the choice of either evicting such people or keeping them on and providing what care they are able to provide.

I have had drawn to my attention many cases of elderly citizens who have been looked after by their own families for some time but who have become so ill or unmanageable that the families can no longer cope. If these people are placed in rest homes, the $4 per day subsidy paid by the Government is withdrawn. I am aware that the Minister of Health has written to the Federal Minister for Community Services asking that, where rest home residents were assessed as eligible for domiciliary care, they receive the $4 a day subsidy. This matter, however, has not been sufficiently thought through or discussed with the rest homes.

If rest homes are to provide a service to the aged and infirm who are unable to gain access to nursing homes, then what is required is proper staffing of rest homes so that suitably qualified people can be in charge. Let me give an example: an elderly woman who suffers dementia, brain damage and incontinence was moved from a nursing home after an examination by a doctor. The incontinence was diagnosed as a urinary infection. However, medication did not arrest the infection and the incontinence continues. Because of her dementia she wanders into other residents' rooms and is stealing possessions. She has found her way out of the building, opened a van in the driveway and somehow knocked the van out of gear: it rolled down the driveway into a wall, damaging the van and the wall. Clearly, the rest home cannot care for her and is endeavouring to find accommodation for her in a nursing home and, although the proprietor is well aware of the correct procedures in obtaining nursing home accommodation, no beds are immediately available.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: Yes, I think she did. So that this woman can be put back into the system, she may well have to be admitted to casualty with the request that she be placed in the psychiatric ward for assessment. If this woman is not accepted at casualty and subsequently the Royal Adelaide Hospital, is the rest home proprietor expected to evict her because it is against the law for rest homes to accommodate nursing home type residents?

In his Ministerial statement of 11 September last, the Minister of Health in reference to the difficulty facing rest homes said:

> Rest homes are intended to provide accommodation for people who are ambulant and semi-independent and who do not require full nursing care but choose to be accommodated in other than a domestic setting—they are residents, not patients. If there are people in rest homes who require nursing home care, the appropriate answer is to place those people in nursing homes rather than to turn the rest homes into nursing homes.

As I have already indicated, what does the Minister expect rest home owners to do—turn out these people? Obviously this is not an option and the Government must recognise this and assist rest homes which are doing their best in difficult circumstances.

In his statement of 11 September the Minister indicated the establishment of a task force to investigate the situation of residents in rest homes. I am sure he would agree that insufficient detail of the financial problem facing rest homes was canvassed by that task force, and I know that more work is being done in this area. However, I refer to the comments made by me in an explanation to a question I asked of the Minister on this subject on 1 December 1983, as follows:

> I think the matter is summarised in a copy of a letter from a Mr Klecko of Sunnydale Retirement and Rest Home, addressed to the Federal Minister for Health, Dr Neal Blewett, and dated 31 October 1983, as follows:
>
> > My concern then is in the financial viability and operation of this industry. The only source of income within our industry is from the pensions of residents or from their guardians. Fees must be kept to a minimum to attract prospective residents and in order to provide them with some money 'back in hand'. There is no Government subsidy either State or Federal to offset the costs associated with the running of rest homes. Our concern, that of myself and my co-director, is that the viability of our industry and of its service to the elderly is in real jeopardy because of costs associated with its running. Costs are outstripping the already limited income we can derive. As an example, our own rest home charges each person $180 a fortnight or, on the basis of $12.85 a day. When one compares this to the operating costs of nursing homes, in some cases $40 a person a day or more then . . . one can see that we operate on a 'shoe string budget', but with costs that are as high as nursing home costs based on [the latest] information.

I have raised this question several times before, and I think the Minister has been sympathetic and acknowledged that the problem does exist. On at least one occasion when I raised it before, the Minister referred to the possibility of providing domiciliary care in rest homes, and he has raised this since. I understand that as a result of his offer some rest homes have asked when a domiciliary care person was going to present for care, and that, in fact, this has not happened, but it would be fairly obvious to anyone who thinks about it that the provision of domiciliary care for residents in a rest home is not very efficient. What is necessary is for the rest home to be able to schedule its

staff, limited as it usually is, for the purpose of care of the residents whom it has. If a domiciliary care person comes in, he or she will not be subject to the schedules of the rest home, and not be subject to the ordinary rostering for care and, obviously, there could be all sorts of problems.

It is fairly obvious that the management of a rest home must be in control of the persons who deliver care to the residents. For these reasons, I commend to the Council the motion that I have moved.

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

To strike out all words after 'have' in line 1 and insert 'a role to play in the provision of aged care'.

I am pleased that this motion gives me the opportunity to clarify some of the misconceptions about the role of rest homes in the overall provision of aged care services. Rest homes have a role to play: the provision of aged care is certainly of growing concern to the community, and rest homes deserve some support from Governments. Rest homes should get support commensurate with their role in the provision of aged care services.

It is important that their role is clearly understood because if one misunderstands their role one will look for inappropriate solutions to their problems. That is what has tended to happen here in South Australia, with some rest home proprietors trying to provide a service that is more appropriately provided in a nursing home or hostel. Unfortunately, it is also becoming increasingly clear that some other rest home proprietors are more interested in the financial rewards than the care of their residents, and their lack of co-operation in providing audited financial data makes one wonder just what their true motives are.

I believe strongly that rest homes provide a valuable service to a relatively small number of our aged people, and I am more than willing to assist those who have the care of their residents at heart. I know of a number of rest home proprietors who are dedicated to the role that they fulfil. However, I would have to say just as strongly that it is those who have the balance of their cheque books at heart that I am less concerned with.

When the question of the viability of rest homes gained some prominence last year, the Chairman of the South Australian Health Commission arranged to undertake a review of all licensed rest homes in South Australia. I might say in passing that the public posturing and the threats of closure and dumping of residents on to the doorsteps of our major hospitals brought very little credit to the rest homes industry. Nonetheless, the Rest Homes Association agreed to the terms of reference for the review, and all 19 rest homes in South Australia agreed at that time to participate.

Recommendations from the review were agreed by Cabinet in December 1984, and I take this opportunity to remind members of the outcome of the review, which is a public document available to anyone who cares to ask for it. It was agreed that an approach be made to the Federal Government with a view to securing the payment of domiciliary nursing care benefits for rest home residents who were professionally assessed by Domiciliary Care Services as being eligible. An approach was made to the Federal Minister for Community Services, Senator Don Grimes, on this matter on 15 January 1985: as yet there has been no response.

It was agreed that rest home owners should be advised that it was the Government's view that they should provide only basic accommodation requirements and should not endeavour to supply services of a health or welfare nature. A letter to that effect was sent to the Rest Homes Association on 16 January this year.

Cabinet also recognised the need for people to be properly assessed before entering rest homes to ensure that they are being appropriately accommodated and that any services that they require are made available through domiciliary care agencies. Guidelines are currently being prepared within the South Australian Health Commission to advise domiciliary care agencies on the procedures for providing services to rest home residents. That, by the way, was an offer that I made almost two years ago, but it was not taken up at that time.

On the very critical question of financial viability, the review was unable to draw any positive conclusions because of the poor standard of data. Most rest homes did not provide audited accounts and only two out of the 19 homes supplied verifiable data in the form of taxation returns. Of those that supplied unverified data, the review team noted some unusual payments, such as large payments to 'associates' or so-called 'associates' and various sums paid to children. This cast some doubt over the very small profits which some proprietors claimed to be making.

To try to make some progress on this matter the Chairman of the Health Commission wrote to all rest home proprietors requesting an indication that they would be prepared to co-operate with a proper review of the financial viability of rest homes: in other words, that they would provide far more data and financial details on which a genuine assessment could be made. To date, only eight of the 19 rest homes have responded, and only five of those responses have indicated a willingness to participate. So it is very difficult, indeed, to verify their statements that they are going broke.

If things are so desperate in the industry, I would have thought, and any reasonable person would have to agree, that a full and frank disclosure of the financial position could only be beneficial and provide a very powerful argument for Government assistance. However, it is difficult not to take the view that the failure to co-operate is because some proprietors are trying to hide their real profit levels. The true test of their motives may well be in the suggestion put by two of the prominent aged care organisations in South Australia: if the care of their residents is paramount, the rest homes could become non-profit organisations and be eligible for Federal subsidy.

Mr Graham Forbes, the Executive Director of Welfare Services for Adelaide Central Mission, and Mr Peter Taylor, the Chairman of Southern Cross Homes, have strongly and publicly supported my determination to ensure that the rest home operators' claims for a $4 a day subsidy is very carefully examined. In a joint statement released on 25 January Mr Forbes said:

> It is quite possible for many of the private rest homes to convert to a non-profit structure, and they would then qualify for a number of Government subsidies. This very viable approach would enable the operators to receive appropriate wages while placing the priority of their services on providing quality care. Private organisations that choose not to take such actions would seem to be primarily motivated by financial concerns. For that reason we would not support any allocation of Government moneys that might simply maintain profit margins.

Mr Taylor, of Southern Cross Homes, also added:

> While we accept the right of any organisation in a free enterprise system to claim a profit from a legitimate enterprise—

I support that completely—

> the community must draw a clear distinction between the services offered by a commercial boarding house operation and the services provided in aged care hostels or nursing homes.

He went on to say:

> Private rest homes are essentially a boarding house operation and should not be regarded by the community as providing the specialist support services which one expects to find in a hostel or nursing home.

I said earlier that I agreed with that part of the original motion which said that the provision of aged care is of growing concern in the community. It is recognised that Australia has an ageing population and, in particular, the

South Australian population is ageing at a more rapid rate than is the rest of Australia. This has important implications for the planning of aged care services, and presents some significant challenges to which this Government is already responding.

The ageing of the population has very significant social, economic, and health implications. These issues are closely intertwined in the community, and a co-ordinated and comprehensive approach is needed to respond to them. Numerous Commonwealth reports have referred to these matters at a national level including the Henderson Report on Poverty, the Report of the Committee on the Aged and Infirm, and the McLeay Report (In a Home or at Home) and several others.

In all of these there has been a call for recognition of the need to tackle ageing issues on a multifactorial basis, to more clearly define national policies and priorities, and to foster integrated and co-ordinated programmes with more emphasis on community based services than on institutional programmes.

At the State level two significant reports were completed in 1983. The Report of the Inquiry into Hospital Services in South Australia (the Sax Report: Chapter 6 refers specifically to aged care in South Australia), and the report of the Inquiry into Mental Health Services in South Australia (the Smith Report, which the Hon. Mr Burdett has read. Those reports refer specifically to psychogeriatric services and other matters related to the aged, chapter 8).

Subsequent action on matters concerned with health service planning for the ageing in South Australia has been based on recommendations in these two reports. It is important to recognise that while ageing is not necessarily a time of illness or disability, the aged do represent a significant risk group and a major client group of health related services. Therefore, there are real health care issues that require a health service solution. The important part is to ensure that these services are properly co-ordinated and integrated with the other social and economic needs of the elderly.

Recent reports such as McLeay and Sax have argued a 'quality of life' policy, of providing services to allow people to remain in their own homes for as long as this is a viable and practical option. In recent years health services for the ageing in South Australia have pursued such a policy with the development of comprehensive domiciliary care and domiciliary nursing services to complement existing institutional services. Indeed, I must say that one of the positive things that occurred during the Tonkin interregnum was the expansion of domiciliary care services in South Australia.

A most comprehensive range of services has been assembled. However, there is still a long way to go to service the burgeoning ageing population and to fill the gaps in either service types or geographic location. The main focus of aged care in the past has been on the residential accommodation, with nursing homes taking the most prominent position and the bulk of the funds. The preoccupation in this country and in this State for almost three decades with aged care was the provision of nursing home beds. Of course, that has been a mentality that has afflicted all of us.

Nursing homes operate under Commonwealth legislation, which controls the numbers of beds available, the admissions to nursing homes and fees they can charge. In South Australia now we have 7 360 nursing home beds of which 1 141 are operated by the State Government. The terms 'rest homes' and 'hostels' are often used interchangeably, but there are clear distinctions to be made in both the services they provide and their financial operations. There are about 400 rest home beds in South Australia *vis-a-vis* 7 360 nursing home beds which, as I said at the outset, should provide only basic accommodation. Those who require a higher level of care involving some health or welfare services would be more appropriately accommodated in one of 5 500 hostel beds in this State. As I pointed out previously, there are 7 360 nursing home beds, 5 500 hostel beds, and 400 nursing home beds. Again, as I pointed out previously the hostels are eligible for a Commonwealth subsidy but the quid pro quo is that they must be non-profit organisations.

By far the greatest proportion of aged people, as I am sure you would know, Mr Acting President, as a medical practitioner and concerned citizen, live in their own homes and, given that our current emphasis is on keeping those people in the community, we must plan accordingly. We already have a domiciliary care system which provides a range of services such as assessment; home nursing; paramedical services such as podiatry, social work and physiotherapy, and so on; and these are supplemented by a range of local services such as Meals on Wheels, senior citizens clubs, day therapy facilities, welfare centres, day care centres, and so on.

I give this thumbnail sketch of the current aged care services to illustrate that the Government has been far from idle in providing for the elderly. However, I would not like to give the impression that we are by any means totally satisfied with what we have achieved to date. There is still much to be done, and I would like to take a short time to explain how the Government is responding to the challenges of providing for the increasing numbers of elderly in our community. I submit that it is directly relevant to the motion as it concerns aged care generally.

The State has recently appointed a Commissioner for the Ageing to act as a focal point for the development of services for the ageing in South Australia. The appointment of Dr Adam Graycar to this position is somewhat of a coup for South Australia, as he is one of the pre-eminent social scientists working in the area of aged care. Dr Graycar who, I might add, takes up his position tomorrow (the timing of this motion is indeed proper), was previously the Director of the Social Welfare Research Centre in the University of New South Wales. He has published many papers on aged care, and enjoys an international reputation as one of the leaders in the field.

In addition, the Health Commission has implemented the Ageing Project to provide a focus for the health care system's response to the ageing of the population. It is envisaged that the project will provide a catalyst and information source in policy, planning, programme development, and evaluation across a whole range of health services, which provide care for the aged. It is a $500 000 service and, as I understand it, probably the largest of its kind in Australia. It will be able to advise, for instance, the Commissioner on Ageing on these matters, and it is expected there will be close co-operation and liaison between the two health aspects of aged care.

Based on Sax recommendations a number of groups were established to advise on work undertaken by the Ageing Project. In addition to the project's management steering committee, there are:

- The Aged Care Review Group, which comprises individuals in various policy and service delivery units dealing with the ageing.
- The Clinical Advisory Group, which comprises the medical directors of the four metropolitan domiciliary care services and which is particularly concerned with input into the development of a clinical protocol for assessment services.
- The Advisory Committee on Medical Rehabilitation, which comprises individuals from many agencies concerned with health and allied services for the ageing, the disabled, and those people undergoing active medical rehabilitation.
- The Psychogeriatric Services Advisory Group which has recently been established.

It is a measure of the importance of this project that each of these groups is chaired by the Chairman of the South Australian Health Commission, Professor Gary Andrews, himself a world recognised authority on the aged and ageing.

Professor Andrews is a consultant to the World Health Organisation on the health and social aspects of ageing, and is currently the Chairman of the Asia/Oceania Region of the International Association of Gerontology. In Professor Andrews and Dr Graycar we are fortunate indeed to have two of the country's leading experts in aged care here in South Australia.

One of the main tasks currently underway at the Ageing Project is the review and evaluation of assessment teams. This project forms a unique approach to assessment work. The assessment process professionally examines the client as to his/her physical, mental, social, and financial circumstances. South Australia already has a fairly well developed domiciliary assessment team infrastructure in place, unlike other States. Therefore, the emphasis of this project has been to review assessment procedures with the objective of finding ways of ensuring greater co-ordination of service delivery mechanisms through agreed system-wide, standardised, multidisciplinary assessment procedures.

There are also a further six projects now being undertaken by the Ageing Project which will result in recommendations being put to the South Australian Health Commission covering refinements to existing service delivery mechanisms and a review of priorities. These projects, which cover services to the ageing as well as the disabled population using health services, are:

1. Ethnic interpreter services for the aged: this will develop a community based mechanism for supplying professional interpreters with volunteer back-up;
2. Aged accommodation types: this is to review existing types of accommodation available for the aged, and recommend means of supplying new types more sensitive to people's needs;
3. Aged care centres network: this is to recommend ways of co-ordinating existing service delivery in existing service centres into a dynamic network;
4. Aged accommodation staff standards: this will take various accommodation types and establish the appropriate staff categories and standards to supply adequate services;
5. Review of aids and equipment schemes: to enable us to recommend means of providing better service delivery and filling identified gaps; and
6. A bed bureau: this will establish the logistics of providing a computer based information service on accommodation types and other health care services.

Once that is up and running, it will be possible for the Hon. Mr Burdett or anyone else to have access to the computer so that people can know exactly at any time where vacancies occur in the system, whether in nursing homes, hostels, or anywhere else.

The Hon. L.H. Davis: Are there any vacancies in nursing homes at the moment?

The Hon. J.R. CORNWALL: Not many. Of course, nursing homes were designed over three decades to operate at 100 per cent occupancy. To do otherwise would be financially disastrous. The present Federal Government is changing that, fortunately. A number of important papers are also now being developed by the ageing project. These include:

- a policy paper on general medical rehabilitation including services for acquired brain damage;
- a policy paper on aged care services;
- a policy paper on community health;
- a policy paper on hospice care services; and
- a short report on options for co-ordination of services delivered by the South Australian Health Commission and the Department for Community Welfare.

These are all important developments which will ultimately ensure that the aged in South Australia are provided with a range and standard of services which is second to none. Part of that range of services will include the provision of rest home accommodation (and the Hon. Mr Davis should listen to this), but as I said before we must be careful to put it in its proper perspective. Nearly 90 per cent of those people aged 65 and over live in the community (and that is highly desirable), and only about 10 per cent live in institutions. Of those who live in institutions, only 3 per cent are accommodated in rest homes.

In other words, to put it in its perspective, of all institutional accommodation for the aged in this State, only 3 per cent is provided by rest homes. To put it another way, three people in every 1 000 of the total aged population are accommodated in rest homes, so that is a very small part of the industry.

However, that is not to imply that because the numbers are small their interests are not important or they do not deserve consideration by the Government. We have shown by our actions that we are prepared to support the rest homes and their residents by a range of actions that reflect the proper status of rest homes in the overall delivery of services for the aged. We have approached the Federal Government on behalf of the rest homes seeking financial support: we have made available assessment procedures to ensure the correct placement of residents; and we will provide domiciliary services to those residents who require them. We believe that these actions are appropriate to support rest homes as providers of basic accommodation for the elderly.

However, let me make perfectly clear that we are not prepared to give rest homes a blank cheque nor are we to be blackmailed by threats of closure and dumping of patients. We have acted responsibly on behalf of the rest home industry, and they will have to respond in kind if they want the Government to give further consideration to their claims. Public funds mean public accountability, and, unless the industry as a whole is prepared to co-operate and disclose its financial position, there is no prospect of attracting any further Government support.

The Hon. L.H. DAVIS secured the adjournment of the debate.

SELECT COMMITTEE ON KANGAROO ISLAND TRANSPORT

Adjourned debate on motion of Hon. K.L. Milne:

1. That a Select Committee be appointed to inquire into and report upon—
   (a) sea transport to and from Kangaroo Island with special consideration regarding the operation of the M.V. *Troubridge* and any future vessels; and
   (b) alternative transport schemes with particular reference to the inequalities of the operational cost recovery policy and its effect on the Island's economy and people.
2. That in the event of a Select Committee being appointed, it consist of six members and that the quorum of members necessary to be present at all meetings of the Committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the Select Committee to have a deliberative vote only.
3. That this Council permits the Select Committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the Committee prior to such evidence being reported to the Council.

(Continued from 5 December. Page 2118.)

The Hon. G.L. BRUCE: It gives me great pleasure to respond to this motion, but from the outset I indicate that the Government opposes it. Since it was put on the Notice Paper, a number of actions have been taken by the Gov-

ernment that have changed the situation applying to charges and operations of the *Troubridge* service.

As the Minister of Transport in another place has already announced, the Government has reviewed its cost recovery programme on the *Troubridge* that was announced in May last year. Following that review, discussions were held with the local House of Assembly member for Kangaroo Island and several other interested parties, including the Hon. Mr Cameron. The Hon. Mr Milne has expressed disquiet that he was not a party to those discussions, but I can assure him that he would have been involved as Leader of the Democrats in this Council had he been available when the discussions took place. Unfortunately, the Hon. Mr Milne was not available, and so there was no representation from the Australian Democrats at those conferences.

As a result, the Government has decided to suspend its cost recovery programme on the following terms. The *Troubridge* charges will revert to December 1984 levels from 1 March 1985. That means a 12 per cent reduction in the present rates. The new rate will be maintained till 30 June 1985, after which increases will be tied to the CPI. This removes the additional 10 per cent per annum automatic increase in charges that was proposed for the next nine years. Rates for a new vessel to operate the service will not be set before 30 June 1986.

Everyone shares the concern that the Government feels about the present operation of the *Troubridge*. The escalating annual losses, expected to be $3.7 million this financial year, are intolerable. The Government has committed itself to practical moves to provide an efficient service. A design for a replacement vessel is now being developed. It will be a modern, smaller, more efficient vessel with better freight carrying capacity than the *Troubridge*. It has been developed from the basis of providing the cheapest 'no frills' freight service that meets present and predicted future demands for Kangaroo Island.

Once the parameters of that design were agreed, the question of passenger capacity was investigated, and it was found that passenger facilities sufficient for 90 people (mainly owners or drivers accompanying vehicles) could be incorporated without altering the basic design or efficiency of the ship and at only a marginal cost. The design committee is proceeding to develop this concept with the help of a consultant naval architect so that tenders for the new vessel can be called at the end of this year. This would allow the new vessel to be commissioned some time in 1987.

Everyone should be agreed that the sooner this vessel starts operating the better. Preliminary estimates indicate that major cost savings will result from this new vessel. With a loss of $3.7 million a year, we need some savings. The Government is confident that rates for the new vessel will be equitable, and that operational cost recovery can be achieved on the new, cheaper vessel without creating hardship for Kangaroo Island residents.

The Government has been genuine in its efforts to provide a suitable service to the Island, as its support for *Philanderer III* and its commitment to the *Troubridge* replacement should evidence. Throughout these investigations there has been a willingness to consult and accommodate the reasonable suggestions of all interested parties.

The matter of what programme of cost recovery is suitable cannot be debated rationally until the operating costs of the replacement vessel are better defined and this is unlikely to occur before the end of this year. Until these costs are known, any debate on charges and equitable cost recovery will be made useless by unfounded fears, exaggerations and wild accusations. The Minister of Transport has agreed not to set rates for the new vessel before 30 June 1986. This leaves the first six months of 1986 for informed debate and negotiations on the new rates to take place.

If it is still thought necessary, a Select Committee could be appointed to investigate matters at that time. The argument we are putting forward is that a Select Committe at this time is premature. Until then, however, it is imperative that work on the new vessel should progress as quickly as possible. A Select Committee at this stage, as proposed in the motion before the Council, would not have available the cost details necessary to evaluate the replacement service and would, if the Government was to respect its findings, mean an unnecessary delay to the design process. At $3.7 million a year the State cannot afford such delays. Therefore, the Government opposes this motion.

To supplement what I have just said, I quote the following extract from a press release issued by the Minister of Transport on 19 February 1985:

> The member for Alexandra, Mr Ted Chapman, said today that he welcomed the Government's agreement to drop its May 1984 cost recovery policy on the *Troubridge*.
>
> 'Given all the complex factors surrounding the design of a new vessel, disposal of the current cost recovery policy and adoption of the negotiated charging structure is fair and should be acceptable to my Island constituents,' Mr Chapman said. 'I hope neither this Government nor future Governments contemplate introducing a policy of operational cost recovery on the Island's essential freight link. Future space rates should be fair and comparable in relation to the Government's services rendered to the Island, and/or isolated parts of the State,' Mr Chapman said.

It seems to me that if the member for Alexandra (Hon. Ted Chapman) is satisfied with the negotiations and good faith shown by the Government, and with what has taken place in relation to this matter, the Australian Democrats should accept the situation. To push ahead at this time is unnecessary and would not prove to be a useful proposition for this Council to involve itself in. As part of the background information in relation to this matter, I will give some information about just what the Government has done.

The Government accepted the Abraham Report into the operations of the M.V. *Troubridge* in March 1984. The report recommended that a new vessel be commissioned to replace the *Troubridge* and that a programme of cost recovery be implemented with a 25 per cent increase in charges in the first year and increases based on the CPI plus 10 per cent in each of nine successive years. The Government agreed to split the 25 per cent rise into 12½ per cent from 1 July 1984 and a further 12½ per cent from 1 January 1985. Previous increases in cargo charges were 12 per cent in March 1981, 15 per cent in July 1979 and 11 per cent in October 1975. Design for the new vessel is under way and it is anticipated that tenders could be called at the end of 1985 for commissioning of the vessel in 1987.

Troubridge losses picked up by the Government to date have been as follows: 1979-80, $1.4 million; 1980-81, $1.6 million; 1981-82, $2.2 million; 1982-83, $2.9 million; 1983-84, $3.2 million; and in 1984-85, $3.7 million is projected. the Government is concerned that we reach a viable and reasonable proposition for the residents of Kangaroo Island. I assure the Hon. Mr Milne and the Hon. Mr Gilfillan that the Government is mindful of what is going on in relation to transport on the Island and desires that as soon as possible the transport difficulties in relation to the Island be alleviated. I suggest to members of the Council that it would be in the interests of the residents of Kangaroo Island if they vote against the Hon. Mr Milne's motion. I oppose the motion.

The Hon. C.M. HILL: I think, after considering all aspects of this matter, that the most prudent course for the Hon. Mr Milne to take would be to withdraw his motion. I do not know whether he realises it or not, but he should know that the Government has reversed its decision about a 12½ per cent rise in freight rates announced prior to Christmas. The Government has said that after 30 June there will be

no further increases in costs other than increases based on CPI increases. There has also been an announcement that a Select Committee will be appointed prior to the replacement vessel for the *Troubridge* being launched. It seems to me that these are strong reasons why this matter should rest in abeyance at present and in due course the inquiry that the Hon. Mr Milne is now seeking will, without doubt, take place.

I think that the Government's announcements with regard to this matter have been fair and reasonable and that it would not be in the best interests of this whole matter to proceed with this motion. We all agree on the need for a replacement vessel and on the general subject of reasonable freight costs being imposed on the Kangaroo Island community, who are part of the South Australian community and who are at a considerable disadvantage because of their isolation. Therefore, rather than this matter going to a vote, if the motion is withdrawn the honourable member's objective will, in due course, be met.

The Hon. M.B. Cameron interjecting:

The Hon. C.M. HILL: I think that there is no doubt at all that, if the Government changes—

The Hon. M.B. Cameron: It will.

The Hon. C.M. HILL: It may not change as early as the time referred to: it depends. A Liberal Government is, and has been, committed to treating the conditions and general lifestyle of the people on Kangaroo Island with a great deal of fairness and equality along with the rest of the South Australian community. As I see the matter, the whole call for a Select Committee at this stage should be withdrawn and in due course the objectives sought will be accomplished.

The Hon. I. GILFILLAN secured the adjournment of the debate.

PUBLIC RECORDS

Adjourned debate on motion of Hon. L.H. Davis:

That this Council views with concern the current state of the public records system of South Australia and urges the State Government without delay to:

1. Consider the establishment of a Public Records Office and the provision of sufficient off-site bulk storage for public records.
2. Examine ways and means by which public sector records systems can be brought up to date.
3. Establish criteria for the efficiency and effectiveness of such systems with a view to reducing wastage and costs.
4. Examine current methods of records storage and to introduce, where appropriate, alterations that can give effect to large scale savings over time.
5. Train appropriate existing public sector staff in information systems/records management and ensure adequate education courses exist for such training.
6. Establish the ways in which the information systems of Government can better serve the public sector, the community and the Parliament, with particular emphasis on research requirements.
7. Ensure where appropriate the proper arrangement and protection of permanent public historic records of significance of the State of South Australia.

(Continued from 5 December. Page 2126.)

The Hon. G.L. BRUCE: The Government regards the motion as being put forward in a constructive fashion and designed to highlight developments in an otherwise relatively unknown area of Government activity. In response to the first item in the honourable member's motion, the Government has undertaken to establish a Public Records Office parallel with development of the Mortlock Library. As the honourable member would know, the Jervois Wing of the State Library is presently being renovated in order that a South Australiana Library can be established which will comprise both print and private manuscript materials which relate to South Australia.

The decision to establish the library is in line with the distinguished Mitchell and LaTrobe libraries in New South Wales and South Australia respectively, which provide the focal point for all material relating to the history and development of those States. In establishing the Mortlock Library, the present Archives in the State Library will have their collections split. Private and manuscript materials will go to the Mortlock Library and the remainder, which are essentially public records, will become the responsibility of the new Public Records Office. It is hoped that the formal establishment of the Public Records Office will occur about the middle of this year and that a full-time director or manager will be appointed.

In order to pursue both the establishment of a Public Records Office and the adequate provision of suitable off-site bulk storage, a joint Federal-State working party on public records management has been established. This working party is chaired by the Director of the Department of Local Government and its membership is drawn from the Australian Archives, South Australian Archives, the South Australian Public Service Board and the Data Processing Board. The working party and its sub-groups have met several times and in June 1984 presented the first report to State and Federal Ministers and to State Cabinet. This report concentrated on proposed solutions to immediate and long-term accommodation needs for both agencies. The working party will shortly be presenting a major report with details and recommendations about accommodation, and intends to report as soon as practicable on detailed proposals for the establishment of a Public Records Office in South Australia. The Government recognises that there is a clear need for the records of the State, both active and inactive, to be efficiently managed and properly preserved.

The question of storage has proven a difficulty for all Governments in recent years, not only in relation to the State Library but also to the other major institutions. In November/December 1984 approximately 9 000 metres of Government records were moved to new premises at Netley. As part of this exercise it was possible to rationalise storage so that records previously split between two locations were consolidated. The most frequently requested records were sited at North Terrace. Later in 1985 approximately 10 per cent of the holdings of the Archives, which can be classified as private, are to be transferred. As part of the relocation to Netley, some records previously in poor storage conditions were reboxed and reorganised to improve conservation and access.

The net space gained by the Netley relocation is not large, but its gains in quality storage are substantial. Map and plan storage in particular has been greatly improved. However, the records are now located in four different repositories, two of which (Gilbert Street and Somerton Park) are not of a sufficient standard for the long-term storage of facilities.

The working party is directing its attention at trying to overcome this problem. It is no longer feasible to consider maintaining all Government records on one site within the central business district of any major city. The general practice throughout Australia is to have a centrally located access point where the most highly requested material is kept and to have major off-site storage facilities and an efficient retrieval system.

It is hoped that the Federal-State working party will come up with a major joint bulk storage facility for semi-current records. This would enable the city location to store high access records and Netley to be used for high quality storage of permanent records. The honourable member and those

interested will be able to learn reasonably soon of the recommendations of the joint working party into the necessary storage arrangements.

I emphasise that although it is planned that there will be a joint use facility, the records of the South Australian Government will remain firmly the property of the State and be under the care and control of the State Public Records Office. However, use of joint facilities and the co-operation of the Commonwealth Archives can mean that a number of costs can be minimised.

The honourable member then addressed the question of records management within the Public Service as a whole. Many of his comments have validity. There are a wide range of methods employed within Government departments for the management of the records that they create. It is for this reason that a Public Service Board member is part of the joint working party as the resolution of storage problems and the management of the Public Records Office will be only a first step to a full-scale record management strategy within the public sector as a whole. Although the honourable member speaks strongly about a lack of action in this field, I think he must also acknowledge that this has been common to every Government since the Second World War. In the move to establish the Public Records Office, obtain extra space and begin the process of determining a public records management system, this Government is at least taking real and positive steps. The Mortlock Library also is a very major step forward in terms of the preservation of South Australiana and will be a very major part of the State Library.

Some time ago, a draft Archives Bill was prepared, but it has now been reviewed by the working party and will also require amendment to embody the proposed function of a Public Records Office with an effective role in assisting Government agencies with the complete range of records management activities, as well as reference and research functions.

Archivists and historians have requested the opportunity to provide input into the development of the legislation. Discussions will soon commence with persons interested in public records and it is hoped that before any legislation comes before Parliament there will have been the widest consultation with specialists in the archival field.

The Government accepts that the motion has been put forward by the honourable member in a constructive manner, as information in relation to the handling of public records in Ontario is useful. We are aware that the honourable member and also the Hon. Mr Cameron have expressed their interest by visiting and discussing with Archives staff problems encountered in records management. An invitation will be extended to the Hon. Mr Davis to participate in discussions on legislation and matters associated with the development of the Public Records Office.

The Government is aware of the problems raised by the Hon. Mr Davis and is acting properly and responsibly to achieve the aims of the honourable member and all members on this side of the Chamber in relation to the stored material, whether in the Archives or in the Public Records Office, and its easy retrieval for anyone who is interested. The Government is glad that the honourable member drew this matter to our attention.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

PROCEEDINGS OF COUNCILS

Order of the Day: Private Business, No. 10: Hon. C.M. Hill to move:

That the regulation made under the Local Government Act, 1934, concerning proceedings of councils, made on 2 August 1984 and laid on the table of this Council on 7 August 1984, be disallowed.

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

That this Order of the Day be discharged.

Order of the day discharged.

ELECTRICAL WORKERS AND CONTRACTORS LICENSING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 2804.)

The Hon. L.H. DAVIS: I indicate support for this measure.

Bill read a second time and taken through its remaining stages.

ELECTORAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 2802.)

The Hon. K.T. GRIFFIN: This Bill was introduced yesterday, and we have been asked to facilitate its passage to enable the Electoral Commissioner to prepare rolls on the basis of the new electorates that have been established by order of the Electoral Boundaries Commission under the most recent redistribution. We are prepared to facilitate that because it is a very large job for any electoral office to have to try to adjust all of the electors' names into their new electorates. I think it is also important that they be available as soon as possible to the community at large.

I appreciate that there is no legal basis on which the Electoral Commissioner can prepare and make these rolls available because, up until the next election, we relate to the old electoral boundaries and, if there is a by-election, it will be held for an old electorate and not on the basis of a new electorate created by the recent redistribution. Several matters need to be raised in the context of this Bill that will obviously interest all members of Parliament. To some extent these matters were raised during the Budget Estimates Committee questioning in October last year. Obviously this Bill results from some of the questions raised at that time.

I ask the Attorney-General to whom the new rolls will be made available. Is it proposed that there will be street order rolls prepared and made available to some persons, members of Parliament particularly? If they are to be made available to members of Parliament, to which members of Parliament will they be made available, recognising that up until the present time the street order rolls have been made available only to the member of Parliament for a particular electorate (and, of course, the State-wide rolls have been made available to the Leader of each Party in the Legislative Council on the basis that Legislative Councillors represent all the electors of South Australia)?

If it is intended that the new rolls should go to the present members, does that then mean that some parts of those rolls will be for portions of electorates for which the member of Parliament is not presently the elected representative? What is to happen with the regular updates of the electoral roll? Are they to go to the present members of Parliament only in relation to their present electorates, or will they receive information which extends beyond their present boundaries and take in electors for other electorates which are part of a new electorate under the redistribution?

The policy that was followed by the Electoral Commission when I was Attorney-General, only in relation to existing

electorates, was that we would make the street order rolls available to members of Parliament only and to the Leaders in the Legislative Council, and that when the new roll was printed the old rolls would be returned so that some measure of security was practised as to the information on those rolls. I know that the rolls are available for public search, but not in street order form, and it is the street order rolls that are valuable to mail order companies and to a variety of other persons who may have a commercial or other interest than a Parliamentary interest in canvassing members of the community. I would like the Attorney-General to identify what is the present policy in relation to those rolls and what is the policy proposed in relation to the new rolls, recognising that we still do not have those new electorates in force and members representing them.

The other question that is raised periodically by my colleague in another place, Mr Peter Lewis, is whether the information in respect of his electorate can be made available to him on the magnetic discs that are compatible with his own word processing machine for ease of servicing his electors. The Electoral Commissioner and the Attorney-General gave some answers in the last Budget Estimates Committee, which indicated that that would be considered, but there was then no intention to make the information available unless the material went on line to members' offices, and a fairly substantial expense was involved in that. I am not suggesting that there ought to be that sort of significant expenditure, but because Mr Peter Lewis, the member for Mallee, has raised the question with me it is important for me to raise it now.

Is any information at present made available outside the Electoral Commission on the floppy discs or in other magnetic form? Apart from those sorts of questions, which we can pursue in Committee if that is more convenient for the Attorney-General, I am pleased to be able to support the Bill to enable the electoral rolls to be prepared.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member for his support for this Bill. It is an enabling piece of legislation to clarify what the Electoral Commissioner can do with respect to the boundaries that have now been determined by the Electoral Boundaries Commission. As he rightly points out, the purpose of the Bill is to give a legal basis for the preparation of rolls, based on the new boundaries at this stage, despite the fact that an election on the new boundaries would not occur until the next general election, and any by-election would be conducted on the existing boundaries.

I shall now answer the honourable member's questions. It is intended that the Electoral Commissioner will make five prints of the street order roll; that is the usual practice, I understand, and is done as part of one printing, in effect, that produces five copies. It is intended that those copies would be distributed as follows: one for the Electoral Commissioner; one for the Leaders of the Parties in the Upper House (that is, one to the Hon. Mr Cameron, one to the Hon. Mr Milne and one to me); the fifth copy is divided amongst the House of Assembly electorates and one would be made available to each member of Parliament for the electorates that that member would represent following the next election.

The Hon. K.T. Griffin: You cannot presume that they will represent them.

The Hon. C.J. SUMNER: No, that is true—the electorates that they will stand for at the next election. I do not know how one can do it any other way. I am advised by the Electoral Commissioner that it is not really possible under the existing system to maintain two sets of rolls. It will be easy to maintain two sets of rolls when the computer facility is updated, but at present that is not possible and we therefore are able to produce street order rolls based on either old electorates or new electorates but not both. We will programme it to produce the new street order rolls based on the new electorates. The question is: to whom do we make those available? Presumably, members of Parliament have a right to them, so they will be made available to members of Parliament, but we will have to ascertain what street order roll the member requires. The only basis on which to do that is a street order roll for the electorate that that member intends to stand for at the next election.

The Hon. K.T. Griffin: If the member is retiring?

The Hon. C.J. SUMNER: If the member is retiring, that member would still be entitled to a street order roll, just as a member retiring previously was always entitled to his street order roll. The honourable member might say that that has some inbuilt advantage for the sitting member; that is true, but that was always the case.

The Hon. R.I. Lucas: Would the member have to notify the Commissioner about what electorate he will be standing for?

The Hon. C.J. SUMNER: Some mechanism would have to be developed. The alternative is that we give the fifth one to the Parties and let them sort it out, but then we have to determine as between the Parties who gets what. Then, there is the problem of Independents and minor Parties. I understand the point that the honourable member is making, but it seems that if we are to have a street order roll—and it is possible at this stage to produce the print-outs only for the new electorates—we have to make the judgment that if they are to be made available to anyone they should be made available to sitting members, as members who represent their electorates and who may represent those electorates after the next election.

That is no different from the practice that previously pertained, because until an election, in the past, the street order roll was made available to the sitting member despite the fact that at the election the member may not win the seat. I do not really see that there is any difference or problem with that, although, admittedly, the sitting member will now get a street order roll covering an area that he would not represent until after an election.

The Hon. R.I. Lucas: And he would not get the area that he was currently representing, so he would not be able to service those electors.

The Hon. C.J. SUMNER: He would still have access to the normal roll, as opposed to the street order roll.

The Hon. R.I. Lucas: He would continue to get updates on the present electorates?

The Hon. C.J. SUMNER: No, he would not, as I understand.

The Hon. R.I. Lucas: Perhaps we can do this in Committee.

The Hon. C.J. SUMNER: Yes: if the honourable member wants to ask questions we can deal with them then. In response to the honourable member's question, the present intention is to do as I have outlined.

I do not think that there is any partisan advantage in it either way. It is the only logical way to go about it, given the restrictions we have on the street order rolls that are available and the current restrictions on the capacity of the Electoral Commissioner to produce rolls. With respect to other questions, the honourable member might wish to pursue those in Committee. It is not intended to make any floppy discs available to Mr Lewis for use on his private machine. When the matter is dealt with generally—if it is—if the Government believes it can deal with it by providing terminals, word processing equipment or mini computers in electorate offices, the matter can be looked at then and it may be that those terminals can be linked to electoral rolls.

However, there are problems with that, because it means that one has to work out what access the member has to the electoral roll. Would he have continual 24 hour a day, 52 weeks a year access? If he does, who pays for the print-outs? Does the Government have to make an allocation to the electorate office? Would the member be able to supplement that from his own resources in order to get more copies of the roll, or would one have to impose a restriction on the number of print-outs that the member got each year? There are still some unanswered problems in any on-line arrangement to be entered into. For the moment, the question of computer facilities in electorate offices is being looked at and, until that general question is resolved, it would not be the intention to make an exception for any one particular member, even if he has private facilities to deal with it.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Electoral districts.'

The Hon. K.T. GRIFFIN: I thank the Attorney for his response in the second reading debate. Can the Attorney confirm that the regular updates that the Electoral Commissioner publishes or print-outs to the rolls will be the updates to the new rolls and that they will be available to whichever member receives the initial master print-out for a particular district?

The Hon. C.J. SUMNER: What I said before is correct: it is the sitting member who gets the print-out—the master print-out. It should be available later in March. He will get the master print-out for the new district for which the member expects to be the sitting member after the election. However, it will mean that the electorate office will not have access to the print-out for the district that the member is currently representing in its totality. I am not sure that anything else can be done about that. If the honourable member has another proposition to put, I would be willing to investigate and discuss it with the Electoral Commissioner. The current state of the technology is that it is just not possible to do both. I am advised that it will be possible but at the moment it is not possible.

The Hon. K.T. GRIFFIN: Is that likely to be possible within the near future, this year, next year or in the distant future? The other question is about the rolls for a by-election. If it is not possible to keep two sets of rolls, and in the event of an unexpected by-election, how is it proposed that the rolls for the present electorate will be established for that by-election?

The Hon. C.J. SUMNER: The old information is still being held.

The Hon. K.T. Griffin: And updated?

The Hon. C.J. SUMNER: As I understand it, it will have to be updated manually if a by-election is called, but the information is all there. It is just not retrievable in a readily accessible form for every old district. It will be when the new system is installed.

The Hon. K.T. Griffin: When is that likely to be?

The Hon. C.J. SUMNER: I am advised that it will not be before the next election. The Electoral Commissioner wants to test it apparently; he considers that it might be a little risky.

The Hon. K.T. Griffin: We won't need to worry about it then, because there will not be another redistribution for seven or eight years.

The Hon. C.J. SUMNER: That may be so. The two rolls simultaneously will not be available prior to this election as things stand now, I am advised. There will be one print-out in March at the close of the rolls for local government elections. That is a master print-out and five copies will be distributed as I indicated. There will be another one shortly after the close of the rolls at the time of the next election; that is in accordance with the usual practice, but it will not be possible in the intervening period to keep two sets of rolls that are readily available for access. They will be available if there is a by-election, but it is not possible to run the two systems in the computer at the same time as things presently stand.

The Hon. K.T. GRIFFIN: If it all has to be manually updated to produce a roll for a by-election then I imagine it could be an extensive task, and the longer we go from the date of the present roll to an unexpected by-election the more work that will have to be done in extracting the information manually to update it. I am really seeking a feeling as to whether it is likely to be such a significant task or whether it is something that the Electoral Commissioner and the Attorney do not expect to create problems.

The Hon. C.J. SUMNER: No, it is not difficult. It does have to be done manually. But the redistribution is based on streets. The electors in streets are updated under the new system. If a by-election is held, the Electoral Commissioner then goes back manually to the streets that are in the old electorate. By reference to the streets he is thereby able to determine the people who are electors in that electorate. In other words, the streets are all updated under the new system. If one has to refer back to the present House of Assembly electorates one does it by way of streets: the streets are all updated. As I said, it has to be done manually but it is not something that cannot be done. What we are proposing is a suggestion for trying to introduce a practice which is consistent with what has happened before and which is fair to all Parties. If honourable members believe there is some difficulty I am willing to hear of any difficulties that they foresee, but we cannot see how else it can be done. The alternative is that we remain on the old system until the election and I do not believe that that is particularly desirable either.

The Hon. R.I. LUCAS: If an instance arose where two present sitting members indicated a preference for one seat, I take it from what the Attorney has said in regard to five copies that one way around such a situation would be a photocopy arrangement undertaken by the Electoral Commissioner to cover what would probably be a one-off situation.

The Hon. C.J. SUMNER: The honourable member is very perceptive and knows the Liberal Party much better than I do. Of course, this is quite a hypothetical situation as far as the Labor Party is concerned, but I understand that it is of burning interest to people in the Liberal Party who live in the vicinity of the Hills, near the South-Eastern Freeway, or in that general direction give or take a few kilometres either side. An Independent Liberal candidate might contest a seat in that general vicinity.

The Hon. K.T. Griffin: What about Whyalla?

The Hon. C.J. SUMNER: If an Independent stands in Whyalla he will not be a member of Parliament. The Hon. Mr Lucas raised questions about a sitting member who runs as an Independent. I understand that that is a problem this time. Things can change very rapidly in politics—I can see all that—but at this time that problem seems to me to be one with which the Liberal Party rather than the Labor Party might have to cope.

The Hon. J.C. Burdett: It would worry you more than it would worry us.

The Hon. C.J. SUMNER: Well, the honourable member concerned cannot be named because that would allow vicious press speculation, which would be quite unfair to him. The interjection was quite out of order. Should that eventuate, it would be a problem for the Liberal Party, not for the Labor Party. Of course, we would not seek to encourage that practice, but I do not see that it would impinge on our

electoral prospects. Other things might occur that impinge on our electoral prospects, and that is in the nature of politics, as honourable members would realise. Regarding the example given by the Hon. Mr Lucas, with his intimate knowledge of the Liberal Party and his concern for sitting members on the Opposition side of politics in the House of Assembly, whether or not they are endorsed, the only way in which that problem can be solved is to give the sitting member the print-out for the electorate for which he indicates he will stand. If that means that there are two sitting members for a district in the Lower House and they both receive the same roll, so be it. Individual electorates can be printed out.

The Hon. R.I. Lucas: But one sitting member could not nominate for two districts.

The Hon. C.J. SUMNER: No. If the honourable member is hypothesising, and if this hypothetical member in another place is keeping his options open, I do not think we could run to providing that honourable member with a street order roll for two districts or, perhaps, more than two. The hypothetical member might be considering that. If that was the case, we would have to require the member to nominate the district for which he would like the street order roll. Of course, it may be that he would nominate one district and when the final print-out was done prior to the election he might nominate another district—I do not know. That would be a conundrum with which we would have to cope at the time.

The Hon. R.C. DeGaris: Couldn't he stand for two seats?

The Hon. C.J. SUMNER: I do not think that is permissible under electoral legislation, but no doubt honourable members can address that question when amendments to the Electoral Act are introduced for debate in Parliament, whenever that occurs.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: Well, it is not pertinent to this measure, which has a very simple compass. The answer is that the roll will be available to one member who nominates in place of a sitting member. The basic principle is that the roll should be available to sitting members and that those sitting members would nominate one seat. Again, I agree there are problems with that: it is not the ideal solution. However, if we adopt the principle that the sitting member has some entitlement, that is the only way in which it can be worked out.

The Hon. R.I. LUCAS: Assuming that the Bill is passed this week, when will the normal roll for the new electorates and the street order roll be available to members?

The Hon. C.J. SUMNER: At the end of March or in the first week of April.

The Hon. R.I. LUCAS: A recent amendment to the Commonwealth Electoral Act related to information collected for the Commonwealth electoral roll; in particular, information on occupations was deleted. I am aware that the State Electoral Act is to be amended. What is the present situation in South Australia now that the Commonwealth is not collecting information on occupations and in the light of the fact that the State Act is silent on the matter? I understand that there is a common roll for Commonwealth and State purposes. Is it appropriate to maintain that sort of information and, considering there is a common roll, is there any way in which South Australia can continue to collect that sort of information so that it can be provided on electoral updates?

The Hon. C.J. SUMNER: The question of occupation on electoral rolls has different implications for the State and the Commonwealth. Apparently, that information is required at State level for determining eligibility for jury service. We will still collect information on occupations. It is the present intention of the Electoral Commissioner not to include that information on the normal roll that is produced for public purposes, but it still could be included on the street order roll, which is a more confidential document and is made available to people such as us. However, such information could be suppressed from those rolls. At present it is intended that the information be collected not for publication on the general alphabetical roll but for the street order roll.

The Hon. R.I. LUCAS: If that is intended, personally I am concerned. As the Attorney would know, that information is invaluable to practitioners in the political field. If it is made available only on the street order listing and perhaps not even on that, as the Attorney said, it would be available only once or twice during each Parliament. I presume, from what the Attorney said, that the regular electoral roll updates would not contain information on occupations.

Can the Attorney-General indicate why it is the present intention of the Electoral Commissioner to collect that information and make it available to those who want it for jury service purposes but not make it available to other groups who might be interested in using the information?

The Hon. C.J. SUMNER: I understand that the basis of Commonwealth deletions from the roll was considerations of privacy. It was the Electoral Commissioner's intention to delete it from our rolls, but the information is needed for public authorities such as the Sheriff to determine initial eligibility of persons for jury service. I think that whilst that is partly determined by occupation there is a need to know and it saves the bureaucracy involved a certain amount of work. If they know initially the occupation of the people they are dealing with it is helpful because some people are clearly excluded from receiving a notice for jury service. I suppose the bureaucratic obstacles would not be insuperable; it would just mean that everyone on the electoral roll would be sent a notice to attend for jury service and then would send a reply saying, 'No, I am Mr Lucas and am not allowed to serve on a jury under the Juries Act.' Clearly, if one has the occupation of the Hon. Mr Lucas, as a member of Parliament one would not be bothering him with junk mail.

The Hon. K.T. Griffin: Are you putting a jury subpoena in the context of junk mail?

The Hon. C.J. SUMNER: It would be protecting Mr Lucas from junk mail because it would be something to which he would have to respond and about which he would be very frustrated when he got it. That is the reason at the moment for keeping the occupations on the roll, but they would be suppressed from publication. The reason for keeping them is to make them available to the Sheriff for the purpose of jury service. The only thing so far as the honourable member's question is concerned is whether or not the information should be made available to the street order roll. At the moment it is intended to make it available because that is a list with a much more limited distribution.

The Hon. R.I. LUCAS: The Attorney is saying that it will be made available on the street order roll but that the regular updates that members receive on a month-by-month basis will show no occupations?

The Hon. C.J. SUMNER: The street order roll and regular updates will still have occupations shown on them. They will not appear on the alphabetical roll.

The Hon. R.I. Lucas: Therefore, members of Parliament will still have a list of persons' occupations available to them?

The Hon. C.J. SUMNER: That is correct, but if people do not want that information, I can discuss the matter with the Electoral Commissioner and we can have it suppressed. Honourable members would then just have names. I take it that the honourable member is not pressing me on that.

The Hon. R.I. LUCAS: I certainly am not. I am delighted that the Attorney-General and the Electoral Commissioner

will continue to provide this necessary information to members to enable them to service their electorates to the fullest.

Clause passed.

Title passed.

Bill read a third time and passed.

RENMARK IRRIGATION TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 2816.)

The Hon. PETER DUNN: This is a procedural Bill containing a proposal that will allow the Renmark Irrigation Trust Board to get portion of its outstanding loans back from areas that have been annexed from its area. By so doing it will be able to pay off debts incurred when the scheme was first devised. The loan was amortised over a certain period. Local government needed an extra area to expand the township and impinged on the Renmark Irrigation Trust land. That resulted in a lesser area being available for it from which to obtain funds. This Bill enables the Trust to recover those funds from anybody or any organisation that wishes to subdivide and buy some of the area. The Bill is a fair and reasonable one to which the Opposition has no objection. I support the Bill.

Bill read a second time and taken through its remaining stages.

POLICE OFFENCES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 February. Page 2504.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill but during the Committee stage will be seeking to make several amendments to it. Notwithstanding that, the Opposition is very pleased that the Bill has come in and that it adopts so many of the previous Liberal Government's proposals for amending this Act and, in respect of police powers, picks up the proposals in a private member's Bill introduced in another place by the shadow Minister, the Hon. David Wotton.

Before the November 1982 election the previous Liberal Government had prepared a Bill with extensive amendments to increase penalties under the Police Offences Act, some of which were out of date. They had not been increased for about 50 years and had been the subject, in recent years, of criticism by the courts, the police and others in the community because of their gross inadequacy particularly in areas such as assaulting a police officer, where the monetary fine was $200 and the period of imprisonment was 12 months. The period of 12 months imprisonment in that instance was not unreasonable but, in the light of amendments that were passed to the Criminal Law Consolidation Act during the Liberal Government's term of office, where we had increased the period of imprisonment for common assault from one year to three years, it was seen to be inadequate.

In respect of that offence I am pleased to see that the Government has decided to increase the period of imprisonment from 12 months to two years and the monetary penalty from $200 to $8 000. The general proportion of the $8 000 maximum fine and the maximum period of imprisonment of two years adjusted for various offences throughout the Bill is a level of penalty that the Liberal Party finds acceptable and will wholeheartedly support, because it has been one of our criticisms of this legislation that the penalties have been so grossly inadequate.

The Bill repeals some outmoded offences. One has to recognise that there is a need for offences such as those contained in the principal Act, to be reviewed from time to time. Over the years the seriousness of offences is viewed differently from one generation to another. Some offences have been abolished by this legislation and several have been included. It is also pleasing to note that the Government is continuing with the Liberal Government's proposals in relation to being unlawfully on the premises. The Council will remember that I introduced a private member's Bill that would make it easier to get rid of squatters (section 17a of the principal Act) and it generally has been recognised as an important provision for protecting the private property rights and rights of privacy of ordinary members of the community in respect of their own premises.

In addition, this provision was used during the Roxby Downs blockade as a more effective tool to charge and, ultimately, get rid of a number of protesters who trespassed on the property of the Roxby Downs developers. To that extent it has proved to be a very useful section in the Police Offences Act. The Government adopted my proposal in the private member's Bill and facilitated the progress of that legislation through the House of Assembly. I was pleased that it was able to do that.

A number of police powers that were recommended by the Mitchell Committee in the early 1970s have been extended. Again, these were incorporated in the Liberal Government's Bill that was not introduced because of the intervention of the election. The Government has been persuaded that these provisions should be adopted to ensure that police are given reasonable powers in maintaining law and order and in ensuring that offenders are detected, apprehended and brought to justice. In my discussions with certain leading members of the legal profession they have raised with me one or two questions about some of the powers but, generally speaking, having had experience in the courts, they do not take a one-sided view favouring only the offenders, but recognise that there need to be certain provisions included in our law that do not frustrate the police in their genuine and reasonable attempts to detect crime and bring offenders to justice. One of those is the arrest without a warrant and the provision that will allow police officers to detain an arrested person for up to four hours, or for a further period of four hours on the order of a magistrate. That is reasonable.

I have previously drawn attention to the problem that the police faced in relation to the Miller case—the Truro murderer—where extreme caution was exercised by involved members of the CIB when they had identified Miller as the prime suspect. Mobile patrols were not alerted because if they had been and some officers had apprehended Miller, he would then have had to be taken immediately—forthwith—to a police station and the successful conclusion of that case may not have been so easily achieved, if it could have been achieved, and the fully informed police had not been able to question competently Miller about the allegations and require him to identify for the police the sites of the graves of the victims.

In the same context, taking Miller from the cells to assist in investigations, such as the identification of the grave sites, was technically not possible, and the fact that there were some technical contraventions of the Police Offences Act at that time put at risk the confessions he had made, and could well have ruled them inadmissible.

Fortunately, although the point was taken by the defence in respect of some of his evidence, the court did not uphold that. I recall a relatively recent case where Mr Justice Millhouse ruled that, in relation to a request by police officers

for suspected offenders to accompany them to a police station to assist in police inquiries, and that having been done and a statement made, the statements were inadmissible because of a technical defect in the way in which the persons who had been requested to accompany the police to the police station had not forthwith been taken to a police station, charged and delivered into custody. There are technical problems. I do not think it is reasonable for members of the public to be upset about the correction of those technical defects to assist those who are charged with a public duty to enforce the law and bring offenders to justice.

In relation to the powers of the police, there is an extension of police powers to take fingerprints, photographs, footprints, toe prints, handprints, and dental impressions. I am pleased that that is done because, not only will it assist in identifying persons who may have committed offences, it will also assist in identifying those who have not committed offences. On occasions it has occurred where, for example, the taking of fingerprints from a suspect has been a factor which has identified that suspect as a person who could not have possibly committed the offence. I think that is valuable.

The only point I make about that clause, clause 35, is that the penalty for refusing to comply with reasonable directions is only $200. I can envisage a situation where a person accused of very serious criminal offences will refuse to comply on the basis that the penalty is only $200 and it is better to pay $200 (which is the maximum penalty and is not likely to be imposed except for the most blatant and serious offence) than to give fingerprints, and so on which may assist in confirming the suspicions of the police and put the guilt of the suspect beyond all reasonable doubt. During the Committee stage, I will propose that the penalty should be increased to a fine of $1 000 and three months imprisonment. The relationship between the monetary penalty and the prison sentence is the same as in other parts of the legislation, but my proposal is more likely to be a deterrent to those suspected of major crime than is a fine of a mere $200.

In relation to section 75a, which deals with the refusal or failure to give name and address or to produce identification, it has been drawn to my attention that there is a possible injustice, since the penalty for refusing or failing to comply with a request to provide identification can result in a fine of $1 000 or six months imprisonment. I will move to amend that to merely provide that, where the failure is without reasonable grounds, the offence is committed. If there are reasonable grounds for not producing identification because, for example, the person being questioned does not have a driver's licence on his or her person, there seems to be the potential for injustice for that person (who may be quite willing to go home and obtain a driver's licence) to be charged with an offence for failing to produce identification. I hope the Government is prepared to accept that amendment.

The loitering provisions of the legislation have been a matter of public comment; they are presently contained in section 18 of the principal Act and clause 14 of the Bill. The Bill deletes subsection (1) of the principal Act, and I do not oppose that. It retains subsections (2) and (3), and I am pleased about that because the loitering provisions are useful policing tools. Section 18 provides:

(2) Where a person is loitering in a public place and a member of the police force believes or apprehends on reasonable grounds:

(a) that an offence has been or is about to be committed by that person or by others in the vicinity;

(b) that a breach of the peace has occurred, is occurring or is about to occur in the vicinity of that person;

(c) that the movement of pedestrians or vehicular traffic is obstructed, or is about to be obstructed, by the presence of that person or of others in the vicinity;

or

(d) that the safety of that person or of others in the vicinity is in danger,

the member of the police force may request that person to cease loitering.

The safety mechanism in that is that members of the Police Force making a request for a person to move on must have reasonable grounds for doing so. I think that is a reasonable safeguard. The difficulty which has been drawn to my attention by members of the Police Force and by the Hindley Street traders (who represent a wide group of people, not just those in the Hindley Street area) is that, in policing subsection (2), the request to move on and to cease loitering in the vicinity of an area is very vague and is very difficult to police. Merely moving 20 or 30 yards down the street, as many persons do when requested to cease loitering, is really sufficient to avoid the consequences of subsection (2).

The Hon. C.J. Sumner: Do you think that is right?

The Hon. K.T. GRIFFIN: That is the view of the police, and I think it is the position. Looking at the section, I can see those sorts of difficulties. I propose that the police officer who makes the request to cease loitering may be able within limits to request a person to cease loitering in a defined area for a maximum period of four hours, the defined area being an area up to half a kilometre in radius from the point at which the original request was made. That will provide a much more effective means of establishing a breach if a person so requested to cease loitering returns to the area identified within the maximum period of time. It will not have the sorts of problems that I am informed the police currently face in successfully using section 18 (2).

The Hon. C.J. Sumner: I don't think that that's right.

The Hon. K.T. GRIFFIN: I believe that it is right. I am trying to put up a reasonable proposition that will enable that section to be effective in dealing with problems in Hindley Street, Glenelg (the Colley Reserve and Jetty Road), Elizabeth, Coober Pedy and a number of areas where these problems are encountered.

The Attorney-General has previously said publicly that he does not think that there is a problem with subsection (2) in the sense that if offences are committed the persons who commit them will be arrested. However, if one looks carefully at subsection (2) one will see that it is not just where there are offences being committed that section 18 (2) becomes operative, but where there are reasonable grounds for believing that certain offences are about to occur.

In those circumstances there is no offence that can be the subject of a charge and, to that extent, the section is ineffective. There is a need to provide adequate policing powers in the areas to which I have referred. They are not necessarily just public areas: nurses at public and other hospitals have expressed concern about those who may be loitering in the vicinity of car parks and hospitals. I have had representations about those who may be loitering in cars parked near the footpath on the side of the road and creating a nuisance, but without technically committing offences. They are areas of considerable concern within the community.

[*Sitting suspended from 5.58 to 7.45 p.m.*]

The Hon. K.T. GRIFFIN: Having identified the amendments that I will be moving on behalf of the Liberal Party in three areas, there are several matters to which I want to address remarks, although not with a view to moving amendments at this stage. Some concern has been expressed by police officers that the four hour period allowed for detention of an arrested person prior to delivery into custody in a police station includes reasonable travelling time. The suggestion was made that in some areas of the State the whole four hour period may be occupied with travelling

and that in other parts of the State under the terms of the Bill the reasonable travelling time may be the subject of legal debate when the courts are determining whether or not evidence in regard to confessions is sought to be admitted.

I recognise the concern that police have expressed in that context and I make the point that the provision in the Bill is identical to that in the Liberal Bill. For that reason I see no justification in tampering with it. We should allow that provision to become law, see how it works in operation and, if there are any technical difficulties, it can be refined at a later stage. The other point I make is that when this issue was discussed by the Liberal Government we were anxious to ensure that there was a reasonable balance between, on the one hand, giving more extensive powers to the police, which we believe to be necessary and, on the other hand, endeavouring to recognise and protect as much as is possible the rights of an accused person.

A point has been made by one leading Adelaide QC, a criminal lawyer, about the four hour detention period—that the clause refers to a telephone call being allowed to a friend or relative while no reference is made to the accused person's solicitor. That provision may be a matter of concern, although I would have thought that the telephone call could extend to a lawyer. However, the legal practitioner to whom I directed questions about this issue was of the view that at the very least there ought to be some central location where the whereabouts of the accused under the four hour detention or eight hour detention, as the case may be, can be filed so that lawyers, relatives or friends who are seeking to ascertain the whereabouts of the accused can do so by ringing a central location such as the city watchhouse.

On the face of it, the suggestion has something to commend it. I do not propose to move any amendments about it, but it is an issue that I would like the Attorney to answer in Committee. Also, I am told that solicitors sometimes have difficulty in ascertaining the whereabouts of an accused and that an accused often has difficulty in contacting a lawyer. In some instances, as the Bill provides, it is reasonable, subject to certain guidelines, for the police not to disclose the whereabouts where the disclosure of the whereabouts or the telephone call to the relative or friend may tip off an accomplice or others or may result in the destruction of evidence.

They are the principal issues that have been drawn to my attention regarding the Bill. Apart from those, I am pleased with the way in which the Bill has been presented to the Council. I must say that I am delighted that after such a long period there has been such a substantial review of the Police Offences Act in line with the review that the Liberal Government undertook prior to the 1982 State election. In his second reading explanation the Attorney-General indicated that the Bill is to be renamed the Summary Offences Act, and I have no difficulty with that. It has been somewhat curious to regard it as dealing with police offences because, although some of the offences are against the police, there is but a handful of them compared with the other offences. Also, I support the Act, when amended, being committed to the Attorney-General, who already has responsibility for the Criminal Law Consolidation Act and other Statutes that establish criminal offences. I support the second reading.

The Hon. R.I. LUCAS: I, too, support the second reading. At this stage I want to address brief comments to two aspects of the Bill and alert the Attorney to my intention to raise a number of questions in Committee. First, I refer to the provision in regard to loitering. As the Hon. Mr Griffin pointed out, the Bill removes section 18 (1) of the parent Act and I have no difficulty with that. It also leaves in subsections (2) and (3) of section 18.

Section 18 (2) leaves a pretty wide discretion with a police officer. For example, under subsection (2) *(a)* a police officer must make a judgment whether an offence has been committed (and that is easy enough) or is about to be committed by a person, or by others in the vicinity. Under subsection (2) *(b)*, a police officer must judge whether a breach of the peace has occurred (that is easy enough), is occurring (that is also easy), or is about to occur. Equally, under subsection (2) *(c)*, he must decide whether the movement of pedestrians or vehicular traffic is obstructed or is about to be obstructed by the presence of a person or others in the vicinity. It is clear from the drafting of section 18 (2) that police officers would have to make personal judgments about what might be about to occur or what might happen at some time in the future regarding a breach of the peace, obstruction of vehicular traffic or movement of pedestrians.

I am still concerned about that. I have heard the arguments put by people such as the Hindley Street Traders and those who agree with their point of view, and I see the need for the police to have powers to deal with the sorts of problems outlined. Therefore, I support the provisions of the Bill. However, I hope that the implementation by police officers of the provisions of subsections (2) and (3) of section 18 will be a fair and cautious use of the pretty wide powers that they will continue to have. Complaints have been made to various honourable members where people have believed that they were moved on unfairly by police officers using such powers. Of course, those complaints have to be taken with a grain of salt: we must hear the other side of the argument from the police officers. Nevertheless, we ought to give it a go and, if there are problems with the new loitering provisions, it would be up to Parliament to seek to tighten the provisions to ensure that they cannot be misused.

Secondly, I refer to the clause under which police under certain circumstances can detain people for up to four hours before delivery to a police station. Once again, on first reading I had considerable reservations about this power, but after spending some time with Parliamentary Counsel I found that there were safeguards that I had not picked up on first reading of the proposed Bill. I am pleased to note that under new sections 79a and 79b (and I will pursue this matter with the Attorney in Committee) the person who is detained on suspicion of having committed an offence will be entitled to have a solicitor, a relative or a friend present during an interrogation or investigation to which he is subjected while in custody. There is a proviso, to which the Hon. Mr Griffin referred, under new section 79a (2) whereby, if the police believe that a person might tip off a relative or friend by telephone, making the police investigations less than productive, permission can be refused. With that proviso it would appear that there is a general undertaking that a person who has been detained by the police under the four hour detention provision is allowed certain rights. Once again, I will pursue the practicalities of that situation in Committee.

For example, if the accused or the detained person is unable to locate his or her solicitor, a relative or friend, what happens? Can the police take the detainee on a four hour excursion of areas that might pertain to the investigation without the solicitor, relative or friend being present? A number of questions about that aspect must be answered in Committee so that we can be sure that a person who is detained under this provision receives what might be termed a fair go during the four hour period of detention. I give my broad support for the Bill.

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

LONG SERVICE LEAVE (BUILDING INDUSTRY) ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 February. Page 2821.)

The Hon. K.T. GRIFFIN: I support the second reading. The Hon. Legh Davis spoke in great detail about the difficulties created by this legislation. We do not oppose some of the relatively minor amendments, but we will oppose two specific provisions, one in clause 3, which seeks to broaden the ambit of the long service leave (building industry) scheme, and another which seeks to develop reciprocal rights and relationships with similar funds in other States.

As my colleague, the Hon. Roger Goldsworthy, mentioned in another place, at one stage long service leave was a reward for long service with one employer. When this legislation, the Long Service Leave (Building Industry) Act, 1975, was introduced in the mid-1970s it was a quite radical move to seek to cover an industry such as the building industry where long service in an industry was to be recognised rather than long service with a particular employer.

However, it passed into law and has been operating and accumulating steadily since 1975—10 years ago. I understand that there is now a very substantial amount of money in the fund available to meet long service leave entitlements in the building industry. The difficulty that the Opposition sees is not with the continuation of the fund, in view of its operation for the past 10 years, but the fact that it is to be widened to encompass a whole range of additional trades which may at some stage be associated with the building industry, but which may not necessarily be so related.

We are of the view that that is an unfortunate attempt to extend the operation. It will add unnecessarily to the costs of commerce and industry and, ultimately, those increases in costs will flow through to the consumer in one way or another. It is for that reason that we will resist, as much as possible, the extension of the legislation to a whole range of new trades and industries referred to in clause 3. My colleague, the Hon. Mr Davis, dealt with that matter in much more detail, but his views are ones that I share and adopt.

In relation to the reciprocal rights in other States referred to in clause 16, although superficially it may be attractive in the sense that employees may decide to stay in South Australia rather than go to the other States, I do not believe that it will have that effect, but that the real effect will be, again, a locking in of South Australian industry to the high cost industries of other States. It is important that we do, in fact, retain what competitive edge we have. It has, of course, been eroded since the days of Sir Thomas Playford when South Australia was able to attract industry here by virtue of its low cost base.

The other difficulty with both clause 16 and the extension of the Bill to a variety of other trades and industries is that it appears to be, in effect, retrospective so that those who come into the fund for the first time will gain all of the benefits of the fund without having made any contribution to it so that the employers who have for the past 10 years been making contributions will, in fact, be subsidising a whole range of other employees who will become entitled to participate in the fund, either by moving from interstate to South Australia or by being involved in one of the other peripheral trades or industries which will be hereafter included in the legislation and covered by the fund.

There are many other things that could be said about the building industry. I do not intend to embark upon any commentary on the industry as that has been done by my colleague, the Hon. Roger Goldsworthy, in another place, and by the Hon. Legh Davis in this Council. Suffice it to say that we have very grave concern about those two aspects of the Bill and at the appropriate time will be moving amendments. However, in order to consider those amendments we are prepared to support the second reading of this Bill.

Bill read a second time.
In Committee.
Clauses 1 and 2 passed.
Progress reported; Committee to sit again.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 5 December. Page 2139.)

The Hon. K.T. GRIFFIN: This is a most significant piece of legislation in that it makes some very substantial changes to the constitutional system as we know it. What the Bill seeks to do, apart from some of the relatively minor matters related to the filling of vacancies in the Legislative Council and clarifying who will be short term and long term Legislative Councillors in the remote possibility of a double dissolution, is focus upon elections and the length of a Parliamentary term.

The Bill seeks to provide for the extension of the provision presently in the Constitution Act for a three-year term to a four-year term and to fix at least three years of that Parliamentary term so that except in certain circumstances it will not be possible for the Premier of the day to seek and obtain from the Governor a dissolution of the House of Assembly. Debate has raged since the mid-1970s about four-year terms and fixed Parliamentary terms, particularly in the Commonwealth arena where Parties of both political persuasions have sought to go to the people early, frequently on terms of political expediency.

South Australia, during the 1970s, suffered four early elections—three by Labor Premiers and one by a Liberal Premier. To a very large extent the question of whether or not Parliaments should serve longer has derived from the experience of the 1970s, and the more recent Commonwealth Parliamentary process. The community has come to the expectation that after that spate of early elections at both levels there will be fewer elections rather than more; political commentators, the media and members of the public have expressed concern to find a mechanism that will ensure that Parliaments serve longer terms. To some extent that wish is a wish to have fewer elections, modifying the democratic process which, ultimately, must depend on the electoral process for the electors to make the decisions about the suitability of one Party or another to form a Government. In 1979 we saw the Corcoran Labor Government resolving to go to the polls some 18 months early and the electorate spoke its mind through the ballot box and gave that Government a resounding rebuff.

The same thing occurred in 1983 with the Fraser Federal Liberal Government, and nearly occurred in 1984 with the Hawke Federal Labor Government. To some extent, it is fair to say that the electors of South Australia on the one hand, and Australia on the other hand, have the perception to be able to express a criticism of a particular Government if it determines to go to the people early for purely political purposes. Regardless of what happens with this Constitution Act Amendment Bill, there is no doubt that in the future the electors of South Australia, in determining which Party ought to be a Government for an ensuing Parliamentary term, will be able to express—and will clearly express—through the ballot box a point of view as to whether or not they support an early election.

One aspect of the second reading explanation is wrong, that is, the way in which the Attorney-General has concluded that on average over the past 10 State elections the majority have been early. In fact, if one looks at those elections and the provisions of the Constitution Act, there have been only four early elections out of those 10 or so, three with Labor Premiers during the 1970s and one with Liberal Premier Hall in 1970 over the Dartmouth/Chowilla dams dispute.

The Hon. R.C. DeGaris: The fifth one is a Labor Premier, too, in 1912.

The Hon. K.T. GRIFFIN: My colleague, the Hon. Ren DeGaris interjects that it happened in 1912, too. Apart from the recent 15 years, there has not been a spate of early elections sufficient to create widespread community concern. However, there is that concern, and the Liberal Party has recognised that. It believes that a four-year Parliamentary term is appropriate, and will support that part of the Bill. It should be recognised that four years is an average because in some circumstances it can be as little as three years and five months and as much as four years and five months under the specific provisions of the Constitution Act, depending on when the election is held. So, we are talking about a spread between three years and five months and four years and five months—generally speaking, a four-year Parliamentary term. The Government's legislation also provides for the first three years to be fixed except in two limited circumstances: first, under the double dissolution provisions of section 41 of the Constitution Act; and, secondly, in relation to a motion of no confidence in the Government in the House of Assembly, where no alternative Government has been formed within seven days after the passing of that motion of no confidence. The double dissolution provisions of the Constitution Act are quite clear, although they have never been used to my knowledge, and I suggest that they are most unlikely to be used, so the exception that has been provided in relation to double dissolutions is probably not so significant.

The Hon. C.J. Sumner: Those provisions really need updating.

The Hon. K.T. GRIFFIN: Those provisions require a Bill to be passed in the House of Assembly, to be either rejected by the Legislative Council or not passed, an election to be held in the House of Assembly, for the same Bill or a Bill with similar objects to be passed with an absolute majority of the House of Assembly at the second and third reading stages of the Bill, and again to be rejected or not passed by the Legislative Council. In that event, within six months the Governor may grant to a Premier a double dissolution.

The Hon. C.J. Sumner: You have a further problem, too. When you have a double dissolution, if they still refuse to pass it, there is nothing you can do. It is a hopeless provision.

The Hon. K.T. GRIFFIN: The Attorney-General says that it is a hopeless provision. I am not so sure about that. It certainly has its difficulties. As the Attorney-General indicated in his second reading explanation, if he sought to amend it in this Bill there would be no doubt that this Bill would have to go to a referendum. Therefore, I recognise why the Attorney-General wishes not to provide for any amendments to section 41 in this Bill.

The other exception which I think the Attorney-General was trying to establish in his Bill, but which I suggest has not been established (that is, the exception to the fixed term), is that a motion of no confidence in the Government has been passed in the House of Assembly and no alternative Government has been formed within seven days after the passing of that motion. That is the only other exception. The scenario may well be that the Premier loses a vote of confidence in the House of Assembly, and that is possible where there are a number of independents who may determine the balance of power in either the House of Assembly or the Legislative Council (although we are talking about the House of Assembly at the present time). Under the present conventions, the Premier would then go to the Governor and would most probably seek an election for the House of Assembly.

Generally speaking, the Governor would grant that request of the Premier, because it is the advice of the Ministers. Of course, it may be that there are circumstances in which it is clear that the Premier, having lost the confidence of the House, has enabled some other member of the House of Assembly to form a Government. In some circumstances, it is suggested that the Governor may decline the request for a dissolution and invite another person whom he believes can form a Government to do so. Putting that to one side, if the Premier, under the Government's provision, suffers a vote of no confidence, the Premier has no alternative but to go to the Governor and offer his or her resignation.

The Governor is then obliged to accept it and then may well seek to have, say, the Leader of the Opposition endeavour to form an alternative Government, because the clause refers to no alternative Government being formed within seven days after the passing of a no confidence motion. The Leader of the Opposition may be prepared to give the Governor a commitment that he will form a Government. In fact, it may be a minority Government, but he may still be able to form it. There is no independent way for the Governor to assess an attempt to form a Government until the House of Assembly meets. Timing is critical, but it may be that, either within the seven days or outside the seven days, the new Premier goes to the House of Assembly and may not be successful in gaining a vote of confidence. The Premier would then go to the Governor and tender his resignation.

The Hon. R.C. DeGaris: How long would it be after that that the House of Assembly would meet?

The Hon. K.T. GRIFFIN: It is not clear in the Bill, and I do not think convention dictates any period. It certainly could be longer than seven days, or it could be shorter. I suggest it is more likely to be longer, particularly if Parliament has adjourned. In fact, it may have adjourned for a fortnight or more. One just does not know all the circumstances that can apply in a vote of no confidence. I am putting what could be a realistic scenario: where one Premier resigns, and the second Premier is elected and cannot obtain a vote of confidence. I suggest that the provisions of the Government's Bill then start afresh from the vote of no confidence in the second Premier. The second Premier then tenders his resignation to the Governor. The question then arises: what does the Governor do? Does he try to get someone else to form a Government, or does he sit around for seven days and, having decided that he cannot get anyone to form a Government, does he then invite the second Premier or the first Premier to recommend a dissolution? The dissolution would have to be recommended by the Government to the Governor; it is not something that the Governor can initiate on his own motion.

The Hon. C.J. Sumner: If no alternative Government is formed within seven days, the Governor issues the writs.

The Hon. K.T. GRIFFIN: That is not correct. I will go through the scenario once again: the first Premier has resigned and no longer forms the Government. The Governor then invites the Leader of the Opposition, say, to form a Government. The new Premier is sworn in, appoints his Ministers and they are sworn in; together they form the Executive Government. At some time either within or outside the seven days, the new Premier goes to the House of Assembly where he may lose a vote of confidence. It is at that point that he has lost the motion of no confidence and the seven-day period starts to run again, under the Government's provision. The second Premier goes to the Governor and

says, 'I have lost a vote of no confidence; I cannot recommend an election because the Constitution Act does not allow me to do that. I therefore tender my resignation.'

The obligation is on the Governor, as one of his obligations, to endeavour to get an Executive Government. The Governor cannot sit around for seven days with no Premier, no Ministers and no Executive Council. The Governor has an obligation to endeavour to get someone to form a Government. He may approach another member who says he can put together a group and form a Government. There is no way for the Governor to test that. The Governor cannot say, 'Will someone please call the House of Assembly together so we can test this?' The Governor must swear in that person as Premier, and the Ministers.

The Hon. R.C. DeGaris: It could be an independent Labor.

The Hon. K.T. GRIFFIN: It could be anyone. I am not trying to be difficult about it; I am trying to flag what I see as the potential problems in the way in which the Bill is drafted. If, for example, the Attorney-General were correct and the Governor, of his own volition, could issue the writs for a dissolution—

The Hon. C.J. Sumner: After seven days.

The Hon. K.T. GRIFFIN: After the second Premier has not got a vote of confidence. I think that is a unique exercise of the Governor's prerogative. In fact, it may well be disputed that the Governor has the right to initiate that action. I have read some of the papers (to which I will refer later) presented to the Constitutional Conventions about the Governor-General's powers. The papers clearly suggest that the Governor-General, for example, does not have the right to initiate a dissolution and that it must be on the advice of Ministers. However, the Governor has the right to refuse the request. The Governor cannot say, 'I am going to issue the writs without request.' That is a very important constitutional principle that I think we must keep in mind. If the Attorney-General were correct, after the second Premier could not gain a majority in the House of Assembly, who is the Premier who goes to the people, with all the resources of the Government behind him? There is a very interesting debate at the Constitutional Convention level about this situation in respect of the Federal Parliament where that scenario cannot be agreed. After it had been to one Convention and one of the standing committees it has gone back for further examination, because the two major Parties, and I suspect others, are not able to agree as to which Prime Minister goes to the election.

That is an important question, which still has to be answered. So, that is a major issue. The way in which it is drafted at the moment tends to suggest—and it is open to one interpretation—that the motion of no confidence procedure applies right through the four years and not just to the three years. When I have had a chance to sort out my amendments I hope that the Attorney-General will see what I envisage as a potential disagreement: not now, but maybe in five or 10 years time when totally different circumstances may apply and when it may need to be acted on. The drafting, if nothing else, has to be looked at to ensure that the no confidence provision is related to the fixed three-year period.

The next area relates to the question of Supply. The Legislative Council has power to delay or reject Supply. It has never done it and I cannot envisage that it will, but one never knows what may happen at some time in the future. One cannot foretell what constitutional matters are likely to arise and what the political situation will be even in three or four years, let alone 30 or 40 years. If the Legislative Council, in circumstances where it may or may not be justified—that is not a question at issue—delays Supply, what happens under the provisions that the Government has in its Bill?

The House of Assembly is not involved: it has passed Supply, because the Bills originate there. It has come to the Legislative Council, which delays or rejects it. The only way in which there can be an election to test the feeling of the people is if there is a vote of no confidence in the House of Assembly against the Government of the day and no alternative Government is formed within seven days. One is then back to a fairly difficult constitutional question that, as I said earlier, has a lot of unforeseen problems in it. It may be that the Government of the day or the Premier does not want to engineer a vote of no confidence in the House of Assembly: so there is a stalemate.

How is that crisis to be resolved? There is no question of a double dissolution; there is no question of an early election because the clause of the Bill will not allow an early election.

I put another scenario that does not involve Supply, but involves the Legislative Council rejecting the Government's legislative programme. I cannot see that it will happen, but, again, as I say, it is not possible for us to foretell what may be the political or constitutional climate a few years hence. We are moving amendments for the future as much as for the present.

If a legislative programme were rejected constantly—either the Government's policy measures, on which it might have gone to an election or simply measures relating to good Government administration—and the Government says, 'The whole of our initiatives are being frustrated; we are just stumbling along; we cannot get the legislative power to do what we believe is necessary for the people of South Australia; we are hamstrung', there is no possibility under the Government's proposal that if that occurs within the three years the Premier can go to the Governor and say, 'Please, let me have an election so that I can get a mandate from the people.'

If there is an argument that there may be some sort of reserve powers, we should realise that this Bill codifies the law and there is nothing left in relation to what might be regarded as reserve powers of the Governor during the first three years of a Government's life. They are matters of very serious constitutional significance and we have to look at ways by which that can be resolved. I will propose some amendments that will hopefully come to grips with that: they are not perfect, but nevertheless, where we are making such significant changes to the constitutional basis of South Australia, we have to recognise the need for some sort of caution as well as provide for some safety valves in the event of a grave crisis in Government.

I would like the Attorney-General to consider in due course, when the amendments are circulated, an amendment that will retain the concept of a fixed three years, retain the present provisions in relation to section 41, retain the present provision that is in the Bill about a motion of no confidence being passed in the House of Assembly and no alternative Government being formed within seven days, but include an additional provision so that where, in the opinion of the Governor a dissolution is necessary in the public interest in order to resolve a crisis of Government or matters of grave public concern, the Governor may grant the Premier a dissolution.

That sort of provision recognises the predominant principle of a fixed three years and will recognise also a responsibility in the Governor to determine whether or not there is a crisis of Government or a matter of grave public concern and, if there is, whether it is in the public interest for an election to be held. That is a matter of discretion for the Governor on the request of the Premier of the day. There is adequate authority that in those circumstances the Gov-

ernor has the responsibility to determine whether the conditions precedent have been satisfied.

At the Federal level, for example, it is recognised and accepted by both major political Parties, and I suppose also by the Australian Democrats, that the Governor-General, in considering whether or not to grant a request for a double dissolution, has to satisfy himself that the provisions of section 57 of the Australian Constitution have been satisfied. At the Australian Constitutional Convention in Adelaide in 1983 and in Standing Committee discussions before and after that, we have had a number of debates about the conventions that apply to the Governor-General at the Federal level and we have had a number of papers that explore the powers of the Governor-General.

As I have indicated, there is one convention which has not yet been agreed and which arises directly from the 1975 sacking by the Governor-General of Prime Minister Whitlam. It is still being discussed by the Standing Committee, and I suspect that it will come up at the next Constitutional Convention whenever it is to be held (I think, July this year). That convention says that when the Governor-General refuses to grant the Prime Minister a dissolution and an alternative Prime Minister is appointed who cannot obtain the confidence of the House of Representatives the original Prime Minister is reinstated for the purpose of any dissolution that may be then granted by the Governor-General.

That relates directly to the question that I have been raising as to which Premier goes to the election as Premier if the circumstances of the Government's exception to the fixed three year term can be satisfied. However, there is convention No. 26 which, I have already indicated, has been agreed to by all the Parties, that the Governor-General may refuse advice to dissolve both Houses if he is not satisfied that the conditions of section 57 of the Australian Constitution have been complied with. In addition, convention No. 25 provides:

> That where an early election is requested the advice also includes a written statement of the reasons for early dissolution. The Governor-General is not bound in all circumstances to grant a request for such a dissolution. Matters to which the Governor-General may have regard to in refusing such a request are:
>
> *(a)* Whether insufficient time has elapsed since the last dissolution;
>
> *(b)* Whether an alternative Government can be appointed to carry on with the existing House of Representatives; and
>
> *(c)* Whether an issue has arisen which cannot be or is unlikely to be resolved within the Parliament.

So, some conventions at least are clear at the Federal level in regard to the powers of the Governor-General. Among the papers that the Constitutional Convention has had before it are papers by Professor Geoffrey Sawer, who is of the view that, where a Prime Minister requests a dissolution and the Governor-General refuses it, and an alternative Prime Minister is appointed and then loses a vote of confidence, then the former Prime Minister ought to be reinstated, the second one being dismissed. However, that is a matter of dispute even between Professor Sawer and other noted constitutional academics. They all are agreed on one thing: that although ordinarily a Governor-General acts on advice of his Ministers, there are occasions where a Governor-General is able to exercise an independent discretion to determine what is in his best view the proper course to be followed in the interests of the people. Sir Paul Hasluck in one of his contributions, namely, the 19th Queale Memorial Lecture states:

> In crude terms the case for dissolving Parliament in mid term is that Parliament has become unworkable. Among various reasons for this may be a conflict between the two Chambers, the Senate and the House of Representatives; the defeat of the Government on a major issue on the floor of the House; or difficulty of a Prime Minister with his own supporters. The key question is whether Parliament has become unworkable.

That seems to be a basis upon which other constitutional lawyers recognise that the Governor-General again has some independent discretions. This is not an easy area: it is fraught with difficulty. The Council has to remember that we are legislating for tomorrow as much as for today and that what may appear to be a simple solution to a difficult problem has many sides to it that must be explored before we once and for all amend our Constitution.

Our descendants will not forgive us for creating a constitutional nightmare if some of the scenarios to which I have referred come to pass.

There are several other aspects of the Bill on which I want to comment. The first concerns casual vacancies in the Legislative Council. I think we have had to fill only two such vacancies. One was when I was appointed in 1978 to fill the vacancy created by the sudden death of Sir Frank Potter and the other was filled by the Hon. Mr Davis in regard to the casual vacancy caused by the retirement of the Hon. Mrs Cooper.

In each instance there has been a recognition by the Government of the day that it was appropriate to fill the vacancy with a member of the Party to which the deceased or retiring member belonged. Of course, we have seen some upsets to that principle at the Federal level, particularly in Queensland. Of course, we have had some fears that there may be some rejection of the convention at the State level but that has not come to pass. However, there are difficulties with the proposition in the Bill. It deals with the obvious: where there is a member of a political Party elected to Parliament and that member's position becomes vacant then, if there is another member of that Party nominated to fill the vacancy, that in fact occurs, although even the question of nomination to fill the vacancy is not spelt out and it is quite possible for a Government of the day to decide not to accept the nominee of the Party whose member has died or retired and fill it with some other person who might still be a member of that political Party.

I understand that the Queensland practice is to require nomination of three persons by a political Party to fill a vacancy for the Senate and for the Government to make the choice. I must say that I am not too happy about that. What the Bill does not address is the question of an Independent. What is the mechanism for filling the place of an Independent? What is the position of a member of a political Party whose political Party has ceased to exist or has merged with another political Party? Who fills the vacancy? If it is merged with another Party, is it accepted that the merged Party will supply the candidate?

The Hon. C.J. Sumner: What about the Australian Constitution?

The Hon. K.T. GRIFFIN: I am saying that the Attorney's Bill does not address the question of an Independent.

The Hon. C.J. Sumner: What about the Australian Constitution?

The PRESIDENT: Order! If the Attorney wishes to join in the debate he can do it from his proper place.

The Hon. K.T. GRIFFIN: The Attorney-General can respond at the appropriate time. His Bill does not address those questions.

The Hon. R.C. DeGaris: It is more likely to occur in a Council where 11 and 22 members are elected as opposed to six.

The Hon. C.J. Sumner: It is a serious interjection, because the Federal Constitution was amended to incorporate a similar provision with respect to the Senate.

The Hon. K.T. GRIFFIN: But it does not deal with independents.

The Hon. C.J. Sumner: Not specifically, no. The same problem occurs in that case.

The Hon. K.T. GRIFFIN: I acknowledge that the problem is the same. I am not criticising: I recognise that there is

the same deficiency in the Federal Constitution in that it does not address those issues. I want to ensure that those problems are identified during the debate. It may be that there is a mechanism by which the vacancy that was formerly filled by an Independent can be filled. Under the Hare Clark system in Tasmania, the results of an election can be considered as the basis for filling a vacancy, but other members might like to address that matter. I merely want to flag that there are grey areas in this proposal as well as in the Federal Constitution.

The Hon. R.C. DeGaris: I believe that the Federal system is the only system in the world where that is used in conjunction with proportional representation. All the others use the Tasmanian system.

The Hon. K.T. GRIFFIN: The Hon. Mr DeGaris has done a lot more work on these matters than I have done and he might care to address the Council on that subject. I would be very interested to hear his proposal. Generally, I have no difficulty with the proposal regarding long-term and short-term members of the Council being elected at a double dissolution. I suppose that one should recognise that it is reasonable that there be provisions in that regard in the Constitution Act. To some extent, the present position of determining the order of retirement of Councillors who are elected at a double dissolution being determined by lot is a disincentive to a double dissolution and, although we are providing a specific mechanism to deal with that, I doubt whether we will have to use it, at least in the foreseeable future.

The other area on which I want to comment is the removal of the minimum term for Legislative Councillors. At present Councillors cannot be taken to an election before six years has elapsed from the first March in the year of their election. That is a disincentive for Governments to go to an election early to attempt to manipulate elections to gain control of both Houses of Parliament. Under the present system, I believe that the minimum term, although it may be that a term longer than six years is served by Councillors in the event of an early election, is nevertheless an important protection for the second Chamber of the Parliament of South Australia. One only has to consider the situation in Queensland to recognise the need for a second House of Parliament, elected democratically, and on a different electoral system than that for the other House. We are fortunate that we now have a proportional representation system for half the Council members generally at each election, ensuring that there is a reflection of a stable community view towards the Government, which tends to level out the peaks and troughs of emotional political appeal and reaction within the community.

Although there might be some criticism that Councillors who were elected six years ago do not reflect contemporary electoral opinion, I would say that that is not necessarily true and that in fact members so elected keep in touch with the community on particular issues. Notwithstanding that, they are able to act effectively as a filter for what might be the extremes of a Government's legislative programme. Therefore, it is important to retain a minimum term. One could argue that under a fixed term concept there is probably less need to ensure that the minimum term is retained, but in some respects I suggest that there is probably more need to retain the minimum term, particularly in the circumstance where there is a vote of no confidence in the House of Assembly and ultimately constitutional and practical difficulties with the Government's exception to the three-year term can be resolved, because in that sort of climate the emotion in the community may well run fairly high. It is important to ensure that there is no attempt to engineer a situation whereby an early election is held for purely political purposes.

My attitude to this provision is that, if there is no need to delete it and if it has provided a safeguard, why delete it? When we change the Constitution we should change only those aspects that it is absolutely necessary to change to achieve a recognised and clearly defined objective. I do not believe that in this case it is necessary to tamper with the minimum term provision.

In summary, the Liberal Party is prepared to support four-year terms: it is prepared to support the first three years of a term of office being fixed; however, we are not at all happy about the full four-year term being fixed, and we will not support the Democrats on that. We believe that there must be an additional exception to the fixed three-year period to safeguard the public against matters of considerable constitutional difficulty and matters of grave concern. We also believe that there should be further debate on the filling of casual vacancies in the Legislative Council and that the minimum term for Legislative Councillors should be retained as a necessary safeguard: its removal has not been justified by the Government's legislation. I would like to make two further comments. There is no doubt that this Bill must be passed with a constitutional majority and that it must be reserved for the signification of the Queen.

Although the Attorney-General has said that a referendum is not necessary, I have some doubts about that. However, I will not push that matter because it is really a matter for the Government to determine.

The Hon. C.J. Sumner: I am going to bring in some advice on these points tomorrow so that Council members and the President have relevant material before them before we vote on the second reading.

The Hon. R.C. DeGaris: I hope it is better than the last lot.

The Hon. C.J. Sumner: The last lot was very good.

The Hon. K.T. GRIFFIN: I will be interested to see that advice.

The Hon. C.J. Sumner: What was the other point that you were going to make?

The Hon. K.T. GRIFFIN: I will deal with the three points. There is no doubt in my mind that the Bill affects the constitution of the Parliament. Each House has to have a constitutional majority, which is an absolute majority in each House.

The Hon. C.J. Sumner: We agree with that.

The Hon. K.T. GRIFFIN: Therefore, it has to be reserved for the signification of Her Majesty and cannot be assented to by the Governor. With respect to the referendum, I agree that it is not clear cut, but I think that there is an argument that the legislation, by providing for a fixed term, does in fact affect the powers of the Legislative Council—it certainly would if the double dissolution provisions were affected. However, at least it is arguable, and really that is all I want to put on the record, that by introducing a concept of fixed terms the powers of the Legislative Council are affected and therefore the Bill ought to go to a referendum. It is interesting to note that in New South Wales, when the Government there proposed longer terms, the issue, from memory, went to the people by way of a referendum.

The Hon. C.J. Sumner: I do not think that it had to; I think that that was a political decision.

The Hon. K.T. GRIFFIN: I am not suggesting that this ought to go to a referendum specifically, although there has been some comment made to me since the Bill has got a little bit of publicity that indicates that an extension of Parliamentary terms is regarded as suiting politicians rather than the public and I have been asked why has it not gone to a referendum. Some people in the community are perceiving this to be an extension of the tenure of politicians rather than a preservation of the electorate from too frequent elections. I am only making this point—I am not arguing

for a referendum, but I need, in a matter of such significance, to put on the record these views.

In relation to the New South Wales situation, it may be that it was not constitutionally necessary to have a referendum, but because the Legislative Council was to be elected and the members were to serve nine years, a third retiring at each election, that was felt to be necessary.

The Hon. C.J. Sumner: The Victorians have instituted a similar measure to this that passed the Parliament.

The Hon. K.T. GRIFFIN: It may well have passed the Parliament, but I do not know whether the Victorians paid attention to what I see as the constitutional problems that may be confronted. I raise them because I think that they are serious questions that need to be addressed before we bring this legislation into law. I hope that during the course of the debate we will be able rationally to debate those sorts of questions. In order to facilitate that further consideration the Opposition is prepared to support the second reading of this Bill.

The Hon. R.C. DeGARIS secured the adjournment of the debate.

CARRICK HILL TRUST BILL

In Committee.

(Continued from 26 February. Page 2812.)

Clauses 2 to 6 passed.

Clause 7—'Membership of the Trust.'

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

Page 2, lines 27 and 28—Leave out subclause (1) and insert subclauses as follows:

(1) The Trust shall consist of seven members, of whom—
(a) six shall be persons appointed by the Governor; and
(b) one shall be the Mayor of the City of Mitcham, *ex officio*.

(1a) One of the members appointed by the Governor shall be a person whose principal place of residence is, in the opinion of the Minister, in the near vicinity of Carrick Hill.

The amendment that I have on file in relation to clause 7 deals, first, with a general matter that I will speak to at some length because most of the amendments that I have on file relate to this matter, which I call the general matter. The situation at Carrick Hill was that a considerable number of residents there now either built their homes or bought their homes in Springfield when Carrick Hill was a private residence. Of course, they looked with great pleasure upon this magnificent private residence as a neighbouring property and naturally assumed that the property would remain with its rural landscape, outstanding building and retain the quietness that they thought they could enjoy.

When we look at the situation now we find that the property has experienced a change of use and that that change in effect has been finalised by this Bill, which sets up a trust which in future will own and manage the property. The local House of Assembly member of Parliament for the area, quite properly, in the course of his duties, informed these people of what changes were in this Bill. As one should understand, the residents expressed some fears on whether this change in use, which from their point of view is thrust upon them, will perhaps not hold the same quiet enjoyment for them as in the past, enjoyment which they expected to have in the future.

Fears were expressed to the local member by these people that this change in use might bring large crowds and many motor vehicles on to the property. Perhaps most important of all is that they wonder whether noise from the property will worry them if some forms of entertainment or some kinds of concerts, especially of a musical nature, are held in the grounds adjacent to their properties.

Of course, when one is talking about concerts in the modern context one has to think of pop music concerts and entertainment of that kind. As members know, such concerts cannot be performed without a great deal of amplification. That seems to be an essential part of life. I am not objecting to that and often hear performances held at Memorial Drive from where I live. I personally do not mind a certain degree of noise because it is all part of life in the modern sense. Nevertheless, it is proper that Parliament should take into account the attitude of these nearby residents and give them whatever protection it can, as well as fulfilling the proposed role of the Trust. My amendments endeavour to help such people and put their minds at rest.

If the Council agrees that these established residents should have their concerns noted, how best can they be protected—by having some representation of local residents on the Trust. I suggest that the City of Mitcham, as the local governing body, should be involved in some way with the administration of this property (not necessarily having a significant role on the Trust) because of the community aspect of Carrick Hill in the future—it has changed from being a private residence to what may be called a community amenity.

Members will agree with me that the City of Mitcham is a very responsible council in metropolitan Adelaide. It is one of our senior councils and has an excellent record in the performance of administration, to the extent that for many years the rates were very moderate compared with some comparable councils elsewhere in metropolitan Adelaide. That is only one aspect, although it does point to an efficiently run council.

Because of the matters I mentioned and because I think that Parliament should favour the City of Mitcham being involved to this extent, and I feel sure that local residents will feel happier if the council is involved, I have placed on file amendments to bring about those changes. My first amendment concerns the Government's proposal that the Trust be comprised of seven members. The Government reserves the right to appoint out of those seven members a Chairman and Deputy Chairman. The Government has not indicated what qualifications it will look for when it appoints any of the seven members. Although I am prepared to accept that, it really is not good legislation. My amendment provides that of those seven members, one will be the Mayor of the City of Mitcham *ex officio*: in other words, six of the members will be appointed by the Government and the Mayor of the City of Mitcham at the time will be an *ex officio* member.

This would ensure a continuity of contact between this very important new cultural and community institution and the council of the area in which it is situated. Any reasonable Government should not object to a change of that kind. It will certainly not mean that the City of Mitcham will play a dominant role in the decision-making of the Board because there will be only one member from the council compared with six other members on the Trust. Nevertheless, for the best possible community relations, it is not unreasonable to have the mayor of the council as one of the members of the Trust.

The second part of my amendment is that one of the six members should be a person appointed by the Governor (by the Government) whose principal place of residence is, in the opinion of the Minister, in the near vicinity of Carrick Hill. Again, this amendment is intended to bring the local people, who are somewhat worried about potential problems such as noise, into the Trust and allay their fears. The local member from the House of Assembly has informed me that Mr Charles Wright lives nearby. He was one of the leading

proponents of the petitions to save Edmund Wright House some years ago. By doing that he displayed a very keen and most commendable community interest in the heritage question affecting the City of Adelaide. He is the kind of person who one can foresee could contribute to the Trust concerning the heritage value of the property. More importantly, he would be a good communicator between nearby residents and fellow Trust members. A person living nearby, as one of six members of the Trust, could not dominate it but could contribute and improve its decision-making.

I have not tried to narrow down the guidelines in relation to that latter appointment. My amendment says that, in the opinion of the Minister, a person should be appointed who lives in the near vicinity of Carrick Hill. By referring to 'the near vicinity', we are dispensing with any future problems of whether or not the person lives half a kilometre or one kilometre from the boundary of the property. If I put that amendment I will have some indication of whether or not I should proceed with the other amendments. In a constructive way I am trying to assemble the best possible Trust by acknowledging the fact that the property is within the City of Mitcham and stipulating that notice should be given by Parliament to a person who lived nearby before the change in use of the land was made.

I think I should mention the other point, that is, that the status and prestigious value of this property, once the Trust administration settles down, will be quite immense. It will be one of the most famous tourist venues for visitors to Adelaide. It will be something of which the State and indeed the City of Mitcham will be proud. I would like to see the City of Mitcham not only proud of the fact that Carrick Hill will be blossoming in its area as a result of this great cultural and tourist development, but I am sure it would also like to feel part of it, so to speak. That association could be welded if the City of Mitcham's Mayor was an *ex officio* member of the Trust.

The Hon. C.J. SUMNER: The amendment is not acceptable to the Government. It was fully debated in another place when, I think, the Hon. Mr Wotton moved a similar amendment. The Government is not unmindful of the points raised by the Hon. Mr Hill. As usual, the Hon. Mr Hill's contribution was serious and considered. While accepting some of the points raised by the Hon. Mr Hill, the Government does not feel it is necessary to restrict the discretion of the Governor in appointments to the Carrick Hill Trust. The problem with having *ex officio* members on boards is that it tends to limit in terms of expertise and availability the sort of person who can be appointed.

The Hon. Peter Dunn: That situation can be reversed.

The Hon. C.J. SUMNER: That may be. The problem is that, while it is inevitable in some organisations that there be *ex officio* members, an *ex officio* member does take up a position which could be available to someone else. Where someone is appointed to a position purely because of their office, there may be difficulties in terms of the interest of that *ex officio* member, their availability, and so on. While I concede that *ex officio* members are necessary in some circumstances, I do not believe such a position is necessary in this case. The point in relation to a resident of Mitcham, again, is a matter that must be seriously considered. I understand that the Premier in another place answered a query raised by the Hon. Dean Brown. The Premier said that he was quite happy to consult with the Hon. Dean Brown, by asking the honourable member to submit a list of names of people who the local member might think were suitable for appointment to the Trust, so that there was the requisite local representation.

Without giving any absolute final commitment that a local resident would be appointed, I understand that the Premier was amenable to the point made by the Hon. Mr Brown and the Hon. Mr Hill and was prepared to consult with and consider any suggestions put up by the local member in relation to the appointment of a local resident to the Trust. The Hon. Mr Wotton asked the Premier:

> Are you prepared to give an assurance that the local member, whoever he may be, will be consulted?

The Premier replied:

> I am certainly prepared to invite the local member to submit to me some names of persons he may think would be useful to serve on the Trust. I am also prepared to say that at least one of the persons envisaged there should be someone from the local vicinity who has a particular interest and, I hope, skills to offer in relation to Carrick Hill.

That seems to me to be not unreasonable and, in the light of those assurances, I would have thought that the Hon. Mr Hill would not see it necessary to proceed with his amendments. The amendments are not acceptable to the Government, but the Government is sympathetic to some of the points made by the honourable member. In fact, the Premier has given certain assurances to the Hon. Mr Wotton and to the Hon. Dean Brown in another place about attempting to get a local resident with an interest in the area on the Trust.

The Hon. PETER DUNN: I support the amendment. I feel that if something went into my area—and local government has a lot to do with its local area, for example, the collection of rubbish, planning, roads, footpaths, and so on—that it would be wise and sensible to have it on side by appointing a local government representative. For the life of me I cannot see how that would be wrong. Why is it so objectionable? If the inclusion of the Mayor reduces the membership from seven to six, why can it not be increased by one? I do not think the Government's argument is very sound. I have read the Premier's comments. In relation to the point that the local member would have some input, it is a fact that members change, and may not always be so considerate to Carrick Hill. Such a member could recommend someone quite opposed to the outlook that Carrick Hill is endeavouring to put to the public. I suggest that it is a very sensible idea that a member of local government should be on the Trust.

The Hon. C.M. HILL: I am very disappointed with the Minister's response; he really has not given any logical reasons for not accepting the amendments. I think the basic reason for that is that the Attorney and the Premier do not have a lot of experience in local government. In fact, they have not had any experience in this area at all.

The Hon. C.J. Sumner: The Premier was once Minister of Local Government.

The Hon. C.M. HILL: Not for long, though. As soon as he got that job the first thing he was interested in was expanding his empire, and he quickly became Minister of Community Development.

The Hon. C.J. Sumner: Local government was one of his portfolios.

The Hon. C.M. HILL: Local government was downgraded into one corner.

The Hon. C.J. Sumner: No, no!

The Hon. C.M. HILL: Yes it was. I was his successor, and I knew where it was when I took it over.

The CHAIRMAN: Order! I ask the Hon. Mr Hill to keep personalities out of the debate.

The Hon. C.M. HILL: Yes, Sir, I want to keep the standard of the debate at a high level. I really feel that any person who fully understands local government and its importance within the community generally and has served in local government would appreciate the points that I have made.

The Hon. Diana Laidlaw: Does the Hon. Mr Milne appreciate the points that you have made?

The Hon. C.M. HILL: I will listen to the Hon. Mr Milne's contribution, but I am sure that the Hon. Mr Milne, when he considers the argument on the one hand that seven members will be appointed by the Government for this Trust, which becomes so involved with community within the local council area—

The Hon. M.B. Cameron: He is a very strong supporter of local government.

The Hon. C.M. HILL: I know that he is: he has a fairly good record in this area. That is one thing for which I will give him credit. He was Mayor of his own local council; he was President of the Municipal Association for some years before it amalgamated with the country local government group.

The Hon. M.B. Cameron: If this place was in Walkerville he would support it.

The Hon. C.M. HILL: I do not want to get down to criticism in any way at all. I am saying only that anyone who has a full appreciation of the contribution that local government could make to a Trust such as this proposed body in Springfield (and anyone in local government knows the record of the City of Mitcham as a local governing body), and those who know the area intimately as I do know the record, incidentally, of the Mayors of Mitcham over the years. Mitcham has been served splendidly since I have been associated with it, and that goes back to the mid 1940s by a succession of first-rate Mayors.

The Hon. C.J. Sumner: Were you a member?

The Hon. C.M. HILL: No, I was never a member of the Corporation of the City of Mitcham, but I know the area well, and I have been a ratepayer there, too, for some years. They could contribute, too, and when the Minister says, 'I've got doubts as to whether the Mayor could give the time to this work—

The Hon. C.J. Sumner: No, that's not what I said. Don't misrepresent me!

The Hon. C.M. HILL: I'm not endeavouring to, nor am I, because I clearly heard him say that there may be some doubt, or words to this effect, as to whether the Mayor had the time available to serve on this Board.

The Hon. C.J. Sumner: I said, 'That is the problem with *ex officio* people in general.'

The Hon. C.M. HILL: We are not talking about generalities: we are talking about this specific instance. I know that Mayors who in the past have served the City of Mitcham would have had time to serve on a body of this kind. It is a great pity when the Government turns its back on local government, as it is doing in this case, and treats it in this way. At the same time, I point out again to this Council that no-one knows who will be elected to this Trust. We do not know what qualifications they will have; we do not know who they will be. Here is this large and magnificent institution being set up—a public body being set up within the local governing area of Mitcham—and Mitcham will have no say in it whatsoever, and it is part of community life.

The Hon. Anne Levy: It is not a Mitcham community centre.

The Hon. C.M. HILL: I did not say that it is a Mitcham community centre. I said that it is part of the Mitcham community life.

The Hon. Anne Levy: It is the community life of the whole State. It does not belong to Mitcham.

The Hon. C.M. HILL: That is right. Of the seven members, five can live in Port Adelaide under my proposal, if one wants to take the whole State into account.

The Hon. C.J. Sumner: I do not think that we will do that.

The Hon. C.M. HILL: I suggest only two within the City of Mitcham, one being *ex officio* the Mayor and one person who lives in the near vicinity of Carrick Hill.

The Hon. J.C. Burdett: What is wrong with that?

The Hon. C.M. HILL: I take the interjection of the Hon. Mr Burdett when he questions the Hon. Miss Levy and says, 'What is wrong with that?' For the life of me I can not see anything wrong with it at all. Nor can the Government really say that there is anything wrong with it at all, but the Government simply digs in and relies on an undertaking that has been given by the Premier in another House to the local member that if the local member submits a list of local people he will give some consideration to those names. How long will the Premier be there? Not too long!

The Hon. C.J. Sumner: If you are in Government you can change the people.

The Hon. C.M. HILL: We do not throw people out when we get into Government, as the honourable member knows.

The Hon. Anne Levy: Only typists.

The Hon. C.M. HILL: Typists? I do not understand what the honourable member is talking about.

The Hon. Anne Levy: Ethnic Affairs Commission typists.

The CHAIRMAN: Order! We can leave the Ethnics Affairs Commission and its typists out at this stage.

The Hon. C.M. HILL: I have to be realistic. I know that people on this side of the Council feel as deeply as I do about this matter. If the Government will not edge that little way backward or forward and further consider this matter, I hope that the Australian Democrats in this Council might give some support to local government in this way and give support to residents up there.

I do not know whether the Hon. Mr Milne was in the Chamber when I first spoke, but I made the point that people who were living there saw Carrick Hill as a private residence, with all the quiet enjoyment of that large property adjacent to them. The land use has now been changed and they have some worries on the question of noise, cars and crowds. It is only human for them to have these concerns as to what the future holds for them. All that they ask—and my amendment suggests in its second part—is that one of their number becomes one of the seven on the Trust: that is all. It is not too much to expect; it is not too much to ask. The decision as to who the person will be I am leaving to the Minister, and the decision as to whether the person lives in the near vicinity or not—and that is a very arguable point—is left to the Minister.

So, it is beyond debate once the Minister decides. Surely, it is not unreasonable to expect a person in that category to go on to the board of seven. That person in turn will probably help the Government of the day because that person will be in contact with other residents who have these same concerns and will explain the decision-making of the Trust to such people. The person will be a link between that residential group of people who are worrying about the future, on the one hand—

The Hon. C.J. Sumner: I have already indicated that the Premier has given that undertaking in the House of Assembly. What are you carrying on about?

The Hon. C.M. HILL: If the Government is giving an undertaking, why does it not put it in the law. It is as simple as that. The Premier may not be there shortly, and what happens to the undertaking after that? On those two points of giving consideration to the local governing body, the City of Mitcham, by the Mayor being *ex officio* and, secondly, a local member being one of the seven, I urge the Committee to support the amendments. I wonder whether the Hon. Mr Milne would like to contribute to the debate so that I have some idea as to what he thinks about this question.

The Hon. ANNE LEVY: I appreciate the fervour with which the Hon. Mr Hill is pursuing his argument. I, too,

have great respect for the various Mayors of Mitcham with whom I have had contact, but he is overlooking the fact that Carrick Hill, which will be Government-owned, is to be run for the benefit of all the people of this State. To suggest that, just because it is located within the local government boundaries of Mitcham, the Mayor of Mitcham should be a member of the Trust, is equivalent to saying (and the honourable member is not even listening) that the Lord Mayor of Adelaide should be *ex officio* on the board of the Art Gallery or the Museum simply because these Government institutions—

The Hon. Diana Laidlaw: That is not a residential area.

The Hon. ANNE LEVY: There are people who live in the city of Adelaide.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: I am talking about the Mayor. There are people who live in the city of Adelaide in which are located Government institutions like the Art Gallery and Museum. To suggest that the Mayor of Mitcham should be on the board of Carrick Hill simply because Carrick Hill is located within the boundaries of the Corporation of the City of Mitcham is equivalent to saying that the Lord Mayor of Adelaide should be *ex officio* a member of the Art Gallery Board, a member of the Museum Board or the History Trust.

The Hon. Diana Laidlaw: Those bodies are not in the middle of a residential area.

The Hon. ANNE LEVY: We are not talking about residents: we are talking about the Mayor.

The Hon. Diana Laidlaw: The Mayor represents the residents.

The Hon. ANNE LEVY: There are many residents in the city of Adelaide, including the Hon. Miss Laidlaw. It is a nonsensical argument to say that, because a Government institution is located in a particular council area, the Mayor of that council should be *ex officio* a member of the board of that Government institution. It would give many mayors much more work than they would wish, I am sure, and it is not a logical argument, as I am sure the examples of the Art Gallery and Museum, to name just two, would indicate. It seems to me to be quite misconceiving the function of Carrick Hill, which is set out in the legislation, to suggest that the Mayor of the local corporation should be *ex officio* a member of that board. I oppose the amendment.

The Hon. K.L. MILNE: I did not intend to come into this debate but, from what has been said, there might be a solution to the problem. I agree entirely with those honourable members who say that local residents should have something to say in the management of Carrick Hill. The change of use of Carrick Hill is the same as changing the land use by law: it is like rezoning the area without the approval of the local people. There is the question of how Carrick Hill is used and how parking arrangements, noise, entertainment and so on will be dealt with.

I am sure it will be done properly and I am as delighted as anyone with the way the Government is handling the administration and enthusiasm of the staff who have been appointed. However, I can see the Hon. Anne Levy's point of view that it is a State organisation and one cannot overbalance on having local people running it. It is not a local entity but to suggest, as the Hon. Mr Hill has in that gentle way that he has of doing things, that there should be the Mayor *ex officio* and a local resident as two of seven on the board is out of proportion. I do not think it need be the Mayor either, but I think that the people most likely to take an interest in Carrick Hill and be the most responsible would be members of that council. I suggest that the Hon. Mr Hill amend his amendment to provide that a member of the council, appointed by the council, be on the Trust. It need not necessarily be the Mayor because, from my experience in local government, there are frequently people who are good at such activity and who want to do it, especially some more senior members (in years) of the council. Some council members are quite mature.

The Hon. C.M. Hill: An alderman.

The Hon. K.L. MILNE: Yes, an alderman, or perhaps a retired person who would take an interest in the project. I think they have the right to do so. If that does not work it can be changed but it would be a nice idea for the Mitcham council, which is a responsible council and which takes a tremendous interest in the Royal Adelaide Show. The Mayor is treated with the utmost courtesy. The Hon. Mr Hill has a point. I do not support him in regard to two members because one would be sufficient if it is a councillor. That is all that would be necessary and I hope the Hon. Mr Hill will consider amending his amendment to that effect, and I would support it.

The Hon. C.M. HILL: With his usual clarity the Hon. Mr Milne seems to have cut through the wood and at least by his suggestion the local council will be able to contribute and communicate with the local residents living nearby. As the Hon. Mr Milne says, the council might still appoint the Mayor. Under his suggestion the council will have the option to choose a person who the council believes in the local community's interests will best act as one of the board members. I am willing to go along with the Hon. Mr Milne. I will have to recast my amendment.

The Hon. C.J. SUMNER: The amendment is not acceptable to the Government. I do not undersand what the fuss is about. The Premier has given certain undertakings and, frankly, the Hon. Mr Hill's amendment (1) *(a)* is preferable to the proposition of the Hon. Mr Milne.

The Hon. M.B. Cameron: What are you saying?

The Hon. C.J. SUMNER: The Hon. Mr Hill's amendment comes with an argument with some merit and the Government concedes this by saying that it will give full consideration to a list of local residents provided by the local member. The Hon. Mr Milne then bobs up with his bright idea and the Hon. Mr Hill caves in straight away. I believe he has arrived at a less reasonable position than the one first advanced.

The Hon. C.M. Hill: It's a half way mark.

The Hon. C.J. SUMNER: No. It is not acceptable.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

In Committee.

(Continued from 26 February. Page 2822.)

Clauses 2 and 3 passed.

Clause 4—'Interpretation.'

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

Page 1, lines 25 to 31—Leave out subsection (1a) and insert new subsection as follows:

'(1a) Where—

(a) a person is authorised or required by a provision of this Act to act in a particular office or position while the holder of the office or position is absent; or

(b) a provision of this Act provides for the appointment of a person to act in a particular office or position while the holder of the office or position is absent,

the provision shall be construed as authorising or requiring that person to act in the office or position while the holder of the office or position is absent from the duties of the office or position or while the office or position is temporarily vacant.

This is a drafting amendment proposed by Parliamentary Counsel to make the clause easier to interpret.

Amendment carried; clause as amended passed.

Clause 5—'Vacancies.'

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

Page 2, line 4—After 'within' insert 'the period of one month after'.

Both the Opposition and the Democrats believe that the Government's proposal regarding the conditions under which a seat would become vacant if a person did not complete the register of interests is too Draconian. The Liberal Party has attempted to make the provision gentler, or more gentlemanly.

The Hon. R.I. Lucas: As befits us.

The Hon. K.L. MILNE: Yes, as one would expect. However, the Liberals have failed, because their amendment provides that, if a person does not complete the register of interests, a fine of up to $5 000 will be imposed. There is no need for that. First, we must realise that this will occur very rarely, and in the future it will not happen at all. It has happened in the initial stages with people wanting to look like martyrs.

The Government's proposition is the correct one: it prevents the martyrdom aspect, and I support it. It is even more gentlemanly to provide that a person will be given 60 days in which to fill in the form, after which he will receive a warning by registered letter from the clerk. That would be no trouble for the Town Clerk or the Chief Executive, because he is expected to write to the Minister and the council notifying them of what has happened, so he could also write to the member. The member would have one month from the warning in which to fill out the form with no question of a fine being imposed. If he does not fill out the form, the seat becomes vacant and the other provisions are applied.

The Hon. C.M. HILL: Will the Hon. Mr Milne seek to amend clause 16, which deals with this same matter and with offences in relation to misleading returns presented by a member when that member sends in his list of pecuniary interests? I want to be sure that the honourable member will achieve what he says he will achieve. For instance, does he want to delete reference to a fine?

The Hon. K.L. MILNE: Is the Hon. Mr Hill referring to his amendment?

The Hon. C.M. Hill: No, to yours.

The Hon. K.L. MILNE: I do not want to provide a fine. It is a simple matter of saying, 'You have been warned; you have had another month; you know the law; now your seat becomes vacant,' and then the appeal comes in. I did not intend to amend clause 16 and Parliamentary Counsel did not suggest that. My amendment provides a simple procedure. It would be a better way in which to handle councillors as distinct from members of Parliament.

The Hon. J.R. CORNWALL: The Government opposes this amendment. It is fair to say that the Hon. Mr Hill and the Hon. Mr Milne are trying in their own ways to arrive at a similar point, at least in principle, to that which the Government proposes to insert in the legislation. In debating this amendment I must speak somewhat at large, and therefore I seek your indulgence, Mr Chairman. Our proposal does not involve a monetary penalty unless a false or misleading report has been submitted by the councillor-elect or by the putative councillor.

The general thrust of the amendments (and the Hon. Mr Hill proposes a number of consequential amendments) is tortuous and difficult in application. It still retains an element of martyrdom. I give notice that we will oppose all the relating amendments. On the other hand, the Hon. Mr Milne's proposal does not introduce an element of martyrdom or of going to the barricades, of going through a tortuous procedure during which the person concerned could seek publicity to show that he was bucking the system. However, the Hon. Mr Milne's amendment is not necessary.

Under the provisions and in practice, no councillor who is elected will be unaware of the pecuniary interest requirements. In view of the public controversy that the pecuniary interests matter created when it was introduced and because of the actions of a small number of councillors and the grandstanding of a very small number of councillors (of a total of 1 200 councillors, only a handful were involved in this sort of thing), it is highly undesirable that we introduce any provision that tends to make martyrs of people. In practice, under the provisions in the Bill any councillor-elect will have 60 days in which to comply with the proposals. If in the opinion of the council that person does not comply and if his seat is declared vacant, he will subsequently have the right of appeal in any case.

In our submission that is a perfectly adequate provision to protect everybody's interests without allowing provisions to persist in the existing legislation that allow this grandstanding. I ask members to support the Government's proposals. They are supported by the Local Government Association, the peak council of local government in this State. They are proposed by the Minister of Local Government at the behest and on the advice of the senior officers of the Local Government Dept. The Chairman of the Local Government Association agrees strongly with our proposals. I therefore ask members to follow the logical and common sense course of action and support the Government's proposed legislation and consequently oppose the amendments proposed by the Hon. Mr Milne as slightly cumbersome and, in the event, unnecessary.

The Hon. C.M. HILL: I will refer to my amendments so that the Committee gets an idea of what are the three different approaches to this question of a member of local government losing his seat automatically if he has not lodged a return of pecuniary interests. The Minister has called my amendments on this subject somewhat tortuous. That may well be so in his view. However, they also involve what I believe to be a proper procedure that ought to take place before a member of local government suddenly finds that he has lost his seat. I take the Hon. Mr Milne's point, and agree with him that some better procedure ought to be found than that proposed in this Bill. This proposal is too sudden, although I see that there is a provision in the Bill whereby if a council member claims that his failure to make a return has been unavoidable he may appeal against the loss of his seat.

The Government's Bill indicates the loss of a seat automatically. I would like the Minister to explain his reference to a period of 60 days because I have not been able to find that reference in the measure before us. I want to be clear on that point, that a member has 60 days before his return should be in. If that point can be cleared up it will help me, but my approach, as stated in my series of amendments, is that there should be a fine imposed if a member has not forwarded his return to the Chief Executive Officer. The court is given the right to fix a period of time up to a 28 day maximum in which the councillor is ordered to lodge his return. If the return is not then lodged following the court order the person will lose his council seat.

I think that that approach of using the court procedure is a better form of legislation and certainly does not in any way set a bad precedent as the Government's measure does. If these seats in public office can be slashed from under someone's feet automatically simply because a certain time has elapsed, we are getting away from the more accepted democratic and judicial system where the court has some right to give orders to offenders. At the same time, if the councillor, as the Minister has just said, is trying to be a martyr ultimately I do not oppose the principle that that person should lose his seat.

The Hon. Mr Milne said that my amendments were not along lines that he would support. The Hon. Mr Milne's amendment is simply giving a member of a council yet another month in which to lodge his return. It appears from the Hon. Mr Milne's comments that he will not support my amendments, so they will be lost. I believe that his amendments go towards getting away from the absolute sudden death approach that the Government favours in its Bill. However, before I indicate how I intend to vote in this matter, will the Minister clarify the point he made in relation to the 60-day period, which I think he said was the time a council member now has to lodge a return and which will be a time span in the machinery that will apply in the case of Mr Milne's amendments in which people are given an extra month within which to lodge that return.

The Hon. J.R. CORNWALL: The Local Government Act Amendment Act (No. 3) of 1984 states quite clearly in section 147 (2):

> Every person who, after the first day of September, 1984, is elected as a member of a council (other than a person who was a member of that council immediately before the conclusion of that election) or is appointed as a member of a council shall, within thirty days after his election or appointment, submit to the chief executive officer a primary return.

Section 148 states:

> Every member of a council shall, on or within sixty days after the thirteenth day of June in 1985 and each succeeding year, submit to the chief executive officer an ordinary return.

In fact, the councillors elected in the May elections this year under those conditions would have 90 days, and subsequently 60 days after any subsequent May election to lodge their return.

The Hon. K.L. MILNE: The Hon. Murray Hill's amendment gives a person another 28 days to lodge a return and I am simply advocating another month. However, the proposal is that people do not receive a warning before they are to be fined. In any civilised Act of Parliament people who are expected to do something of this nature are entitled to a warning. It is very easy for a busy businessman to go overseas and come back to find that his seat has been forfeited and that he has to pay a fine, or he can appeal. What the Hon. Murray Hill is doing is giving that person an extra month to fulfil the requirement to lodge a return, as I am, but he leaves them to face a fine plus a court case. I do not think there is any need for that—it is not that kind of offence.

One is dealing here not with a crook or a prisoner but with a councillor who has a minor objection to what is not an enormously important issue. I think this is getting out of proportion, and I hope that the honourable member can see that what he wants to happen will happen if my amendment is accepted. The Minister says that people will be given another 30 days in addition to the existing 60 days within which to lodge a return, but I would not mind if he was reducing the 60 days to 30 days and giving a warning. What I am suggesting is quite simple. The machinery of it would work automatically. When the chief executive is required to notify the council, the Minister and the councillor at the end of 60 days, the councillor then has had a warning. Who has not been in a position where they have required and been grateful for a warning on a matter like this?

The Hon. Peter Dunn interjecting:

The Hon. K.L. MILNE: If a person was ill they would get a registered letter which would perhaps be delivered to the hospital. The letter would find that person. There could be sickness or a misunderstanding. I do not think that the Hon. Murray Hill intended it, but his machinery is still automatic.

The Hon. C.M. Hill: Basically I am bringing the courts into it because I feel that people being dismissed from public office should have the protection of the court overseeing the proceedings.

The Hon. K.L. MILNE: I intend that the appeal will still give that court protection, but with a warning before that expense is incurred and before one's seat is confiscated. A council is not a Parliament; it is a more personal entity. It is not nice for people to say, 'My councillor had his seat taken away when he was sick in hospital.' It will cause untold trouble for the Government of the day. I ask members to consider this matter so that there is a warning without a fine. I am asking the Hon. Murray Hill to do away with the fine. I am not concerned as to whether or not there is an appeal to the court. That is up to them. I would like provision for a warning of one month, before the rest of the proceedure through the courts.

The Hon. J.R. CORNWALL: Very briefly, it is a little hard to follow the Hon. Mr Milne sometimes. Not so long ago he was telling me that the amendments proposed in this Bill were the great social reform of the 1980s. He has now done a quick sidestep. This Bill, and the amendments I have on file, as I said previously, have the full support of the LGA, the Department of Local Goverment and me—indeed, just about everyone to whom I have spoken and listened, with the exception of the Hon. Mr Milne and the Hon. Mr Hill. I again urge members to oppose the amendment moved by the Hon. Mr Milne because, quite frankly, I think that it is unnecessary and introduces a degree of difficulty which, in the administration of the legislation, the Department of Local Government and local council's can do without.

The Committee divided on the amendment:

Ayes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne (teller), and R.J. Ritson.

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

Majority of 3 for the Ayes.

Amendment thus carried.

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

> Page 2, after line 16—Insert new subsection as follows:
> (1c) A supplementary election to fill the office of a member that has become vacant pursuant to subsection (1)(ea)—
> *(a)* may not be held within the period of one month after the vacation of the office; and
> *(b)* in any event, if a complaint is laid under subsection (1a)—may not be held until the matter has been finally dealt with by a court of summary jurisdiction.

This amendment is simple and self-explanatory. It provides that, where the office of a member of a council becomes vacant because of that member's failure to lodge a return under the Register of Interest provisions, a supplementary election shall not be held until after the period during which the member has a right of appeal against loss of office, or where an appeal is lodged, until after it is determined. It will prevent any possibility of there being a supplementary election while the appeal is being heard or considered. In the event that an appeal was upheld there could be a very difficult situation with two councillors for the one vacancy. I urge all members to support this simple and sensible amendment.

The Hon. C.M. HILL: In paragraph *(b)* the word 'may' appears. As a layman I think that it should read 'shall'. Clearly, if a man has appealed to a court of summary jurisdiction on the basis that it was impossible for him to lodge his return because of instances that the Hon. Mr Milne referred to that illness, being overseas or it being unavoidable that he failed to lodge a return) the law should be clear that a by-election shall not be held until the matter has finally been cleared up in that court.

As I read it at the moment, perhaps a council not well advised in the matter might proceed with the by-election and the problems to which the Minister just referred (of nominations being called or a councillor being elected and another councillor finding that he has been reinstated by the courts) would cause all sorts of confusion. I want to be clear about that.

The Hon. J.R. CORNWALL: My view and that of persons far more learned in the law than either the Hon. Mr Hill or I is that it makes not one jot of difference. However, if the Hon. Mr Hill would like it changed from 'may' to 'shall', I am happy to accept that. I am a very reasonable man and I am anxious to expedite the passage of the Bill.

The Hon. C.M. HILL: When the Minister says that, I wonder what is coming next. I prefer the word 'shall' to 'may'.

The CHAIRMAN: The Minister would need to seek leave to amend his amendment.

The Hon. J.R. CORNWALL: I seek leave to amend my amendment by substituting the word 'may', twice appearing, with the word 'shall'.

Leave granted; amendment amended.

Amendment carried.

The Hon. C.M. HILL: I point out that in line 21 the word 'be' has been omitted. I suppose that that error will be rectified by the table officers.

The CHAIRMAN: It appears to be a clerical error, which can be rectified without any further action.

Clause as amended passed.

Clause 6 passed.

Clause 7—'Meetings of council.'

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

Page 2—
Line 30—Leave out 'and'.
After line 34—Insert new word and paragraph as follows:
and
(c) by inserting after subsection (11) the following subsection:
(12) In this section—
'agenda', in relation to a meeting, means a list of items of business to be considered at the meeting.

From my knowledge of local government agendas, they are quite different from what one finds on Parliamentary Notice Papers. In fact, the best way to distinguish between local government and Parliament is to look at the differences between local government agendas and Parliamentary Notice Papers. I am a little anxious, and the Local Government Association is certainly worried, that the Government expects information to be disclosed on an agenda. That information could conflict with the confidential clauses in the original Act, which provides that certain information may be kept confidential. My amendment seeks to define the term 'agenda'. An agenda can be a list of items with explanations, or it can be a list of items with agenda papers.

I do not think for one moment the Government intended that agenda papers should be exposed to public scrutiny. In order to make it quite clear, the Local Government Association will be happy and I will be happy if it is made clear that all councils have to do is display a list of items to be discussed. As I said during the second reading debate, if one is interested enough to want to know exactly what an item entails (and it would only happen once in a blue moon) they can approach the Chief Executive, the Town Clerk or their local member. I suggest that, if we spell it out, it would be a tactful move, particularly for small councils in the country.

The Hon. J.R. CORNWALL: The Government accepts the amendments.

Amendments carried; clause as amended passed.

Clause 8—'Meetings of council committees.'

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

Page 3, line 16—Leave out 'two' and insert 'the Chairman or two other'.

The amendment is intended to bring the procedures for calling special meetings of committees into line with the procedures for calling special meetings of councils by providing that they may be called by the Chairman of the committee or by the prescribed number of members of the committee.

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10—'Chief executive officer.'

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

Page 4—
Lines 15 to 17—Leave out 'or any three or more members of the council'.
After line 17—Insert new paragraph as follows:
(d) if a person is not appointed under paragraph *(c)*—a suitable person shall be appointed by any three or more members of the council to act in the office.

The amendment is intended to merely clarify the intention of the provision by making it clear that the right of any three members to appoint an acting Chief Executive Officer will only be exercisable where the Mayor or Chairman has failed to exercise his right to make the appointment. It is a very sensible amendment and I commend it to the Committee.

Amendments carried; clause as amended passed.

Progress reported; Committee to sit again.

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

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider new clauses relating to an alternative method of counting at elections.

Motion carried.

In Committee.

Clauses 11 and 12 passed.

New clause 12a—'Method of voting in election.'

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

Page 4, after line 27—Insert new clause as follows:
12a. Section 100 of the principal Act is amended—
(a) by striking out the word 'or' after paragraph *(a)* subsection (1);
(b) by inserting after paragraph *(b)* of subsection (1) the following word and paragraph:
or
(c) where the method of counting votes applying at the election is the method set out in section 121 (4a)—by placing the number 1 in the square opposite the name of the candidate for whom he votes as his first preference and by continuing his votes for all the remaining candidates by placing consecutive numbers beginning with the number 2 in the squares opposite their names in the order of his preference for them;
and
(c) by inserting after subsection (1) the following subsection:
(1a) Where the method of counting votes applying at the election is the method set out in section 121 (4a) and a voter has indicated preferences for all candidates except one, it shall be presumed that that candidate is the one least preferred by the voter and that the voter has accordingly indicated his preferences for all candidates.

This clause deals with an alternative method of Council elections and voting procedures for local government which I submit to the Committee for consideration. I will speak to the matter in general, because it involves further amendments.

The Bill in its present form, as it came to this Council from the other place, has provided local government with an alternative in the choice of elections and the counting of votes in those elections. The two alternatives, as the Bill now reads, are the proportional representation system (which was previously in the Act but limited to those councils having no wards) and the preferential system with its 'bot-

toms up' counting approach (about which there has been so much criticism since May of last year, when it was written into the Local Government Act).

The Bill provides councils with the chance, irrespective of whether or not they have wards, to adopt the proportional representation system or choose the system favoured by the Government in May last year when we debated in this House the matter of the preferential 'bottoms up' system. My proposed new clause gives local government a further choice in the selection of the method of voting and counting for elections.

I see nothing wrong in giving local government a relatively wide choice in the selection of these systems. Indeed, we should be giving local government a choice in many matters within the general umbrella of the Local Government Act: it gives councils a chance to utilise their own environments, features and factors in choosing the scheme that they think will best suit their councils and council areas. As honourable members know, there is a very big difference in local government bodies in South Australia when we look at their size in area, numbers of ratepayers, rate revenue, and so forth. Some are small, some are very small indeed, some are large and, by Australian standards, one or two are quite large. The purpose, therefore, of this amendment is to give this further choice to local government.

The third method is based on what I call the old practice of preferential voting, whereby the first candidate to receive 50 per cent plus one of the formal votes cast is elected and all the second preferences of that successful candidate are distributed amongst the balance of the candidates at that poll. If the first successful candidate is not found in the first count, there is a distribution from the candidate who has the lowest number of No. 1 preferences: his No. 2 preferences are distributed. So, that procedure comes up from the bottom in that case until a successful candidate is found by that person obtaining the 50 per cent plus one goal.

This was an established method of preferential voting and counting before the more popular formal proportional representation system was implemented in such places as the Senate in Canberra and in this Council. That is the objective: simply to give local councils this further option. Some may be unhappy about the formal proportional representation system; some may not want the 'bottoms up' system. If that is the case, here is a third opportunity for them to choose a method that they believe is more acceptable to the citizens within their area. I have explained it in sufficient detail for members to understand what I am proposing to do.

The Hon. J.R. CORNWALL: I urge members, with great strength, to vote against this amendment. The so-called 'top down' system of voting is a winner take all system, which is highly discriminatory and which entrenches machine politics. It would bring politics into local government at a time when all Parties at least pay lip service to the fact that that is highly undesirable. One of the strongest and loudest opponents over a number of years of having Party politics, particularly Labor politics, in local government has been the Hon. Mr Hill. So, I urge very strongly that this amendment be resisted. Let us keep machine politics out of local government!

The Hon. R.I. LUCAS: I indicated when we first debated this matter in May last year that my personal preference for a voting system for local government was the majority preferential system that the Hon. Mr Hill has just moved. I will not go over the detail about what I saw as being iniquitous about the first past the post voting system and the Government's version of first past the post, which was this most iniquitous 'bottoms up' preferential system.

The Hon. R.C. DeGaris: Voting by a cross for multiple members is far better than the 'bottoms up' system.

The Hon. R.I. LUCAS: I know the Hon. Mr DeGaris has argued that with me, but I believe that the first past the post and the Government system are iniquitous. They are not fair systems and, as I said before (I will not repeat the detail), the Government argued for fair voting systems for State and Commonwealth Governments yet it is willing to deliver a brumby to local government councils, and it still seeks to do that.

The other point I want to make is that, for example, in New South Wales councils have a preference between the majority preferential system and the proportional representation system. The Minister said in this Chamber tonight similar things to what the Minister of Local Government has been saying, that is, that this system is a winner take all system and that it will introduce machine politics into local government. In my view both those statements are nonsense. I refer to the first statement, the winner take all accusation involves the argument that, because each and every member of a council will be elected by 50 per cent plus one minimum of voters, it is a winner take all system and that somehow that is unfair. That is patent nonsense. It is not a winner take all system.

Electors are able to make a choice between various factions, groups, residents groups, or whatever. It is merely saying that the second and third preferences have equal weight to the first preference. I accept that that is an assumption, but it does not have to mean that it is a winner take all system. Electors can cast a reasoned vote and choose between candidates from differing groups or differing individuals if they want to do so and cast their preferences giving equal weight to them. They are saying, 'All right if my first fellow or lady does not get up, I give my second preference to someone else.' That is all the majority preferential system is saying. It gives weight to the second and third preferences: it takes them into account. The Minister's hybrid system of first past the post says that any second or third preference is not to be taken into account at all.

I will not go into the criticisms of the Minister's system again. I repeat that what the Minister of Local Government is saying through the media and around the traps, and what the Minister in charge of the Bill has said here this evening, is patent nonsense. It is a fine catchcry to say that it is a winner take all system, and supposedly that therefore means that is terrible and that we should not touch it. That is nonsense. No explanation has been developed by the Minister. There is no reason why it must be a winner take all system at all.

The Minister's second criticism is that he will introduce machine politics—terrible—and that in some way this is the only system that will introduce machine politics into local government.

The Hon. R.C. DeGaris: Proportional representation will do that just as well.

The Hon. R.I. LUCAS: It will not do it just as well. In my view, proportional representation has the potential to introduce machine politics into local government in a far greater way than the majority preferential voting system will ever do.

The Minister has elected to support a proportional representation voting system. That system operates in the Senate and in virtually all Upper Houses in the Commonwealth. We know that PR systems encourage parties or groups to get together. Even ungrouped candidates or groups of independents come together in a sort of loose faction putting their names on a list as, in effect, an independent Party because of the need to do that under a PR voting system. So, if there is to be any argument at all about voting systems possibly introducing machine or Party politics into local

government, it should be directed at the provision of the Bill.

It is clear from what the Minister of Local Government and the Minister in this Chamber are saying that they do not understand in any way the differences between the voting systems that we are being asked to debate. The majority preferential system in no way encourages the introduction of machine or Party politics into local government. If there is to be an increasing role for the major Parties in local government, it will occur because of a decision taken by the respective Parties. It will not be encouraged by the introduction of the majority preferential system or the PR system. It is nonsense to suggest, as the Minister has suggested, that we should vote against the majority preferential system because it will introduce machine politics into local government.

They were the only two reasons that the Minister gave in opposition to the amendment. Clearly, he has no other good reason to offer. He offered nothing else in his rebuttal to the Hon. Mr Hill's persuasive arguments for accepting the amendment. I urge members at least to give councils a third option. I had hoped that we could get rid of the iniquitous Government option, but that remains. However, we should give local government the opportunity to opt for an eminently fair electoral system.

The Hon. R.C. DeGARIS: I spoke briefly in the second reading debate on this matter. I support absolutely the views expressed by the Hon. Robert Lucas. There is no question that, if there is to be a preferential system, there is only one system about which local government should have a choice, and that is the majority preferential system. If we provide only two choices, that is, proportional representation (which I do not oppose) and the so-called bottoms up voting system for local government, we will give local government no real choice.

I have made inquiries over some time about the bottoms up system, and I have not found that it operates in any part of the democratic world—perhaps someone can correct me on that.

The Hon. Diana Laidlaw interjecting:

The Hon. R.C. DeGARIS: I have searched for that system, but as far as I know it does not operate in other parts of the world. It has been said that that system operates in Canada. I contacted the Canadian Embassy, but the answer so far is that as far as they know the system does not operate in Canada. I pointed out in the second reading debate how in the case of one distribution of votes that I described under the PR system, A, B and C, would be elected. On the tops down principle, that is, the majority preferential system, A, B and C would be elected.

On the vote by a cross system, A, B and C would be elected. But on this bottoms up system, in the case that I outlined, A would be elected, but not B or C; rather D and E would be elected even through they had only one vote each out of 100. Reference was made to the question of winner takes all, something for which the majority preferential system does not provide, but a system exists under the Local Government Act now where the loser can take all. We are allowing that to stand in the Local Government Act in South Australia as a choice for the local government people. So, what we are really saying in this matter is that they will have proportional representational voting or no other system. That is precisely what we are saying. That may suit some people who are tied to the proportional representational system, but I believe that local government should be given a choice.

Some people do not agree with proportional representation, and the argument is quite good. Why should we say to local government that it has two choices, either, the proportional representation system, which is a fair voting system, or another that local government might prefer, which is absolutely the wrong system to select people to sit on councils. I would suggest that anyone with any feeling about democracy should vote for the Hon. Mr Hill's amendment. If the Hon. Mr Hill's amendment is not carried it will be something of a tragedy, and I suggest that we should repeal the existing system and stick absolutely to proportional representation. I think it is wrong democratically to say to local government that it has only one choice and no other. I urge members to support Mr Hill's amendment.

The Committee divided on the new clause:

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

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

Pair—Aye—The Hon. M.B. Cameron. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

New clause thus negatived.

Clause 13—'Issue of advance voting papers.'

The CHAIRMAN: Does the Hon. Mr Hill intend to proceed further?

The Hon. C.M. HILL: In view of the vote that has just been taken, I will not proceed further with that matter.

The Hon. R.C. DeGARIS: Is the Hon. Mr Hill interested at this stage in going further and deleting from the Local Government Act the atrocious voting system for which it provides at present. This would leave only the proportional representation system, which is unfair to local government, but to leave a system operating in the Local Government Act that I can only describe as atrocious is something that we should not do, and it should be got rid of at this stage.

The Hon. C.M. HILL: I would be in the hands of the Australian Democrats if I considered proceeding along those lines. However, in discussions that I have had with them they have indicated that they propose holding to the Bill as it came into this Chamber.

The Hon. R.C. DeGARIS: Perhaps, Mr Chairman, progress can be reported to allow the Democrats to confer with the Government to find out what they are going to do.

The Hon. I. GILFILLAN: We are touched by this consideration. To put the Hon. Murray Hill's mind at rest in respect of the Hon. Mr DeGaris's question, I point out how critical we were of that system previously. We now believe that it is reasonable that that option remain in the Bill. The Government has determined that this will be the method used, and it only grudgingly accepted proportional representation. We feel that it is not proper for us to interfere with that decision. We do not favour an amendment to delete the infamous bottoms up method of voting from the legislation.

The Hon. R.C. DeGARIS: It appears that legislation is arrived at outside the Parliament and that deals are done with regard to what can be achieved. Even though we have, as the Hon. Ian Gilfillan describes it, an infamous system (what I call an atrocious system), no move is to be made to take that system out of the Local Government Act. Therefore, local government is left with a voting system that is quite disgraceful, one that exists nowhere else in the democratic world, yet no-one in this Chamber is prepared to move to take it out of the legislation.

The Hon. R.I. LUCAS: Earlier, I made some valid criticism of the Government's attitude to electoral reform.

The Hon. J.R. CORNWALL: I rise on a point of order, Mr Chairman. What clause are we debating?

The CHAIRMAN: This debate has resulted from the Hon. Mr DeGaris asking a question of the Hon. Mr Hill. If someone were to indicate the clause dealing with deletion—

The Hon. R.C. DeGARIS: That is the clause which the Hon. Mr Hill moved and which was defeated. If he can move it, we can also delete it.

The CHAIRMAN: There would have to be an amendment to that effect, and either the Committee would have to report progress or one clause would have to be recommitted, and the amendment would be moved.

The Hon. C.M. HILL: I withdraw my statement that I would not proceed with the balance of my amendments.

The CHAIRMAN: The honourable member will not speak to clause 13, but to new clause 13a?

The Hon. C.M. HILL: That is right; I will come in at line 30.

Clause passed.

New clause 13a—'Procedure to be followed at close of voting at elections.'

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

Page 4, after line 30—Insert new clause as follows:

13a. Section 121 of the principal Act is amended—

(a) by inserting after subsection (4) the following subsection:

(4a) Where the council has so determined under section 122, the returning officer shall, with the assistance of any other electoral officers who may be present, and in the presence of any scrutineers who may be present, conduct the counting of the votes according to the following method:

(a) in relation to the first vacancy to be filled—

(i) if the candidate who has received the largest number of ballot papers in his parcel has received an absolute majority of votes, the returning officer shall make a provisional declaration that the candidate has been elected;

(ii) if no candidate has received an absolute majority of votes, the returning officer shall exclude from the count the candidate who has the fewest ballot papers in his parcel and place each ballot paper that was in his parcel in the parcel of the candidate next in order of the voter's preference;

(iii) if a candidate then has an absolute majority of votes, the returning officer shall make a provisional declaration that the candidate has been elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest ballot papers in his parcel and counting each of his ballot papers to the continuing candidate next in order of the voter's preference shall be repeated by the returning officer until one candidate has received an absolute majority of votes;

(iv) when a candidate receives an absolute majority of votes, the returning officer shall make a provisional declaration that the candidate has been elected;

(b) in relation to the second vacancy to be filled—

(i) the returning officer shall rearrange all the ballot papers under the names of the respective candidates in the same manner as they were arranged in subsection (2) *(g)*, except that each ballot paper on which a first preference for an elected candidate is indicated shall be placed in the parcel of the candidate next in order of the voter's preference;

(ii) the returning officer shall then count the ballot papers in the parcel of each candidate;

(iii) if a candidate then has an absolute majority of votes, the returning officer shall make a provisional declaration that the candidate has been elected, but if no candidate then has an absolute majority of votes, the process referred to in subparagraphs (ii) and (iii) of paragraph *(a)* shall be repeated until a candidate has received an absolute majority of votes (but any reference in those subparagraphs to first preference votes shall be read as a reference to all votes counted to a candidate in pursuance of this paragraph);

(iv) when a candidate receives an absolute majority of votes, the returning officer shall make a provisional declaration that the candidate has been elected;

(c) further vacancies shall be filled one by one in the manner provided in paragraph *(b)* as regards the filling of the second vacancy, except that a ballot paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in order of the voter's preference;

(d) in an election where there is only one vacancy to be filled the candidate to be elected shall be determined in the manner provided in paragraph *(a)* for filling a first vacancy;

(e) if during the process of counting two or more candidates have an equal number of ballot papers in their parcels and one of them has to be excluded from the count the returning officer shall, in the presence of any scrutineers who may be present, draw lots to determine which of the candidates is to be excluded;

(b) by striking out from subsection (5) the passage 'subsection (3) or (4)' and substituting the passage 'subsection (3), (4) or (4a)';

(c) by inserting after subsection (6) the following subsection:

(6a) In subsection (4a), a reference to an absolute majority of votes means a greater number than one half of the whole number of unrejected ballot papers that are being counted.;

and

(d) by striking out from subsection (7) the passage 'subsection (3) or (4),' and substituting the passage 'subsection (3), (4) or (4a),'.

This clause relates to the proposal that I submitted a few moments ago regarding a further choice for local government of a preferential majority system. As the Committee rejected the first new clause dealing with the matter, and as other matters relative to this subject have been raised, it is proper at this stage that we have some further discussion on the general context of this approach.

I thank the Hon. Mr Gilfillan for indicating his views on the matter raised by the Hon. Mr DeGaris. That was to limit local government entirely to the PR system that is in the Bill. The Hon. Mr Gilfillan said that he was not prepared to do that, but I am sure that he will agree with members on this side that the second alternative of the bottoms-up proposal is, as the Hon. Mr DeGaris has just said, a most outrageous system to foist upon local government in this State.

If that point is accepted, would the Hon. Mr Gilfillan further consider the question of giving local government the choice between the PR system and the preferential majority system, which I am endeavouring to write into the legislation? So, we would say 'Goodbye' forever to the bottoms-up proposal and give local government a choice between the two preferential systems of PR, on the one hand, and the majority counting system, on the other. Of course, that would be, I am sure the majority of members in this Chamber would say, the ideal to present to local government, because we satisfy this approach of choice.

That principle was accepted by the Government in the other House: we get rid of the outrageous 'bottoms up' system that all local governments want to see put out of the Act as soon as possible yet, for those few councils that may not prefer the PR system, the trusted and tried old fashioned system of preferential voting and counting would be the alternative choice. I seek the Democrats' support for such a proposal and ask the Hon. Mr Gilfillan to indicate whether he will seriously consider it. The legislation is now before us. Time does not matter. All members know that it is getting late. This matter is most important for the third tier of government. There probably will not be another chance for a long time to tackle this major problem that is confronting local government.

The Hon. I. GILFILLAN: The history of the amendments to the original method of voting are curious and interesting. The Opposition, in the House of Assembly, when the Bill first came forward, did not put forward any alternative voting method that I am aware of. It was only at the insistence of the Democrats that proportional representation came forward as a serious contender. With very valuable contributions from the Opposition, we evolved probably the best local government method of voting that has yet been devised. I am very proud to be part of it. I believe that there are other major contributors in the Chamber who should have continuing credit for that. At that time the Democrats' amendment was to leave PR as the only method of voting, but at the insistence of the Opposition the option of the two methods we currently have before us was retained. There was a little bit of change at the conference, certainly. I am not persuaded now, and certainly have no intention of supporting a Johnny-come-lately system, because I believe that the system we now have goes a long way along the track, and local government has had time to consider, under some pressure—

Members interjecting:

The Hon. I. GILFILLAN: Yes, thanks to a lot of the agitating from the Democrats, they have had misgivings about it. At least that is what it has considered. There is now three months—

Members interjecting:

The CHAIRMAN: Order!

The Hon. I. GILFILLAN: I am prepared to listen to constructive comments. The point is that this method of voting, to my knowledge, has not been presented to any council. Certainly, no councils have presented their case to me. I feel that there is no good purpose in it at this late stage. There may be reason to look at amendments at another time, but we are getting very close to the local government election and it is unfair to throw chaos into it. There are decisions being made, with serious attempts to look at proportional representation, which I gather the majority of the Opposition would like local government to use. It would be best to leave the option as it currently is and for the councils to choose. I make no apology for it. I do not have any admiration for the 'bottoms up' method. It will not in every case be spurious; it may result in a reasonable result in a lot of cases. There is no reason to add another method of voting to the system now and I would not recommend that my colleague and I support the amendment.

The Hon. R.I. LUCAS: That is absolutely incredible. I have had some respect for the Hon. Mr Gilfillan's views on electoral matters, and he knows that. We did a lot of work together on the proportional representation system. The Hon. Mr Gilfillan knows my personal views, which have been on record since May last year, for a majority preferential system. The Hon. Mr Gilfillan now stands up in this Chamber and says that it is an infamous system and the Democrats' criticism is on record. He clearly believes, and agrees with us, that it is not a fair voting system for local government.

The Hon. Mr Gilfillan is rejecting an opportunity to provide an option under the proportional representation system, which is a fair option for local government councils, namely, the majority preferential system. We will be offering a replica of the New South Wales local council system, which has an opportunity to use PR or majority preferential. Even though the Hon. Mr Gilfillan is an avowed devotee of PR, he would know that there are people and councils in South Australia who are not avowed devotees of PR. Arguments could be used against proportional representation: the possibilities of finely balanced majorities on councils, or small groups if you have got major groups in a particular council area holding sway. A whole number of criticisms arise. There is also the complexity of the system for returning officers, and so on. There are some criticisms to be made of proportional representation.

Nevertheless, it is a system that we and the Hon. Mr Gilfillan have supported and have put into the Local Government Act. As I indicated earlier, I made criticism earlier of the Government's attitude because the Government Party has criticised many members of the Opposition about their attitude to electoral reform in both the Commonwealth and State arenas. I believe that, on occasions, there has been some justification, but on other occasions there has not been. They have criticised us, yet the Government proposes an iniquitous system for the local government arena—

The Hon. R.C. DeGaris interjecting:

The Hon. R.I. LUCAS: Yes, the Hon. Mr Gilfillan says 'an infamous system'; the Hon. Mr DeGaris says 'an atrocious system'; and I say that it is 'an iniquitous, disgraceful and outrageous system.' The Democrats are supporting a patently unfair system for the third tier of government.

The Hon. I. Gilfillan: We are not supporting it.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan interjects that they are not supporting it, yet an opportunity is being provided to the Hon. Mr Gilfillan to give local councils a fair option—an option other than PR or majority preferential—and to remove the iniquitous system of 'bottoms up'. The Hon. Mr Gilfillan says that they are not supporting the 'bottoms up' system, yet he has indicated in his response to the Hon. Mr Hill and the Hon. Mr DeGaris (and I know that he respects the views of the Hon. Mr DeGaris on electoral matters) that he is not going to take up that opportunity.

The Hon. Mr Gilfillan cannot have it both ways. I know that some criticise the Hon. Mr Gilfillan when he tries to have it both ways—to have his cake and eat it too. I do not normally join in those criticisms, but I believe that at least on this occasion the Hon. Mr Gilfillan is trying to have it both ways. He is saying that he is on the record stating that it is an infamous system, that there are criticisms of the system, that he is not going to do anything about it as it is too late at night.

The Hon. I. Gilfillan: I did not say that it was too late at night.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan said that it was too late for us to do anything about it. We are saying that, if we are talking about providing a fair electoral system to the third tier of government, similarly fair to the Commonwealth and State systems, the question of whether or not it is too late ought not to come into it at all.

The Hon. I. Gilfillan: Why didn't you think of it before?

The Hon. R.I. LUCAS: I argued in May of last year that my view was for majority preferential. The Hon. Mr Gilfillan knows that and cannot criticise me for it. What has happened before surely does not matter. Do we have to go back into the past and ask why we did not do something six or 12 months ago? We have an opportunity to do something now

to provide a fair electoral system or the opportunity for two fair electoral systems for local government. We have the opportunity to remove an iniquitous system or, as the Hon. Mr Gilfillan put it, an infamous system.

The Hon. J.R. CORNWALL: On a point of order, Mr Chairman, if one looks closely at the amendment before the Committee difficult to see the relevance of what the Hon. Mr Lucas is on about.

The CHAIRMAN: I think the honourable member has strayed away from the original thrust of his query.

The Hon. R.I. LUCAS: I am arguing in support of the Hon. Mr Hill's amendment, which is to introduce a third option majority preferential; as a corollary of that, once we have two fair electoral systems, we can get rid of the infamous system (the term used by the Hon. Mr Gilfillan) from the Electoral Act. I strongly support the amendment moved by the Hon. Mr Hill. The fact that the Democrats joined with the Government in relation to the first part of this series of amendments does not mean that they will continue to support the Government in the remainder of the Hon. Mr Hill's amendments.

The CHAIRMAN: I point out that the main part of the amendment that would provide exactly what the honourable member is suggesting was defeated. Therefore, the Bill would have to be recommitted to reintroduce the matter that was defeated earlier. It seems pointless to me to develop too far an argument that really belongs to a recommital of the Bill.

The Hon. R.I. LUCAS: The only way we will know whether we can get to a recommittal is, in my view, if we get the Democrats to change their minds in this Chamber. I would have thought that we in this Chamber are here to try to convince the Hon. Mr Milne and the Hon. Mr Gilfillan of our point of view, because on occasions in the past they have been big enough to change their minds. We are seeking to do that.

The Hon. R.C. DeGaris: At the last moment.

The Hon. R.I. LUCAS: Yes, and even late at night. If they change their minds and support the Hon. Mr Hill's fine amendment, of course, we would then have to go back to the stage of recommittal of the part that has been defeated. I am arguing very strongly for the Democrats at least to think about the Hon. Mr Hill's amendment. The Australian Democrats should not reject the option lightly. As the Hon. Mr Hill has indicated, now is the time to do something. As I have said to the Hon. Mr Gilfillan, we need not go back to what happened 12 months ago. Why not take a little time now to think about it and perhaps discuss the matter with the Hon. Mr DeGaris, a member whose views I know that the Hon. Mr Gilfillan and the Hon. Mr Milne respect, and look at the possibility of changing their minds? If they do not change their minds, all right, there is nothing more we can do about it. At least they should take the opportunity to consult with those they respect.

I know that there are people in the Hon. Mr Gilfillan's Party who assisted in the drafting of the proportional representation amendment. I am sure they could offer a view as to the worth of majority preferential *vis-a-vis* 'bottoms up'. Perhaps the Hon. Mr Gilfillan could consult with not only the Hon. Mr DeGaris but also those in his Party who have expertise in this area, and then come back with a decision as to whether he is prepared to look at the new alternative option that is being offered this evening.

The Hon. L.H. DAVIS: I must support my colleagues in agreeing with the Hon. Mr Hill's amendment. The ambivalence of the Hon. Ian Gilfillan knows no bounds. On the one hand, he is saying it is too late in the day to countenance any change in the system, yet the clause we are debating countenances a change in the voting system for local government. To suggest that a majority preferential system should not replace the 'bottoms up' system because it is too late in the day is a nonsense. Majority preference is a tried and proven system and, as the Hon. Mr DeGaris has observed, I doubt whether anybody can point to another country or a State of Australia which has a 'bottoms up' system.

Again, his ambivalence is quite patent when he says that the reason so many councils are objecting to the 'bottoms up' system is because the Democrats pointed out the deficiencies of that system, yet despite the generous and reasonable opportunity presented to the Democrats by the Hon. Mr DeGaris to review the voting systems available to local government, the Hon. Mr Gilfillan has turned it down.

I am most disappointed to hear of that attitude. I believe that they should carefully reconsider their stand. This Parliament, during the all too brief term of the Tonkin Government, recognised the importance of local government by enshrining a reference to it in the Constitution. We have recognised the importance of their views by leaving the Local Government Act Amendment Bill largely untouched when it was debated in May, and paying great respect to their views. All too obviously there was not an appreciation of the defects of the 'bottoms up' system at the time this measure was debated in this House. It is only since the Local Government Act passed into law that the defects of the 'bottoms up' system have become obvious to many councils. We can all think of many examples of councils publicly saying that they do not like this system.

It is incumbent on us as legislators to take note of that change and the Hon. Mr Gilfillan has said that one of the reasons they are rejecting the 'bottoms up' system is because the Democrats have drawn the deficiencies of that system to their attention. I do not deny that that is true, and I say publicly that I have admired the interest and activity of the Hon. Mr Gilfillan particularly in this matter in terms of voting systems, but tonight we are in a much better position to know how local government feels, and I hope that, as a Council, we are in a better position to know what is best for them, having heard their response.

Therefore, I suggest that we should take careful note of the opportunity thrown to us by a person whose wisdom in matters such as this is beyond dispute (and I refer to the Hon. Mr DeGaris), and of course the wise views of the Hon. Mr Hill, who has been a Minister of Local Government and whose sensitivity in and knowledge of this area is beyond dispute.

It is not a matter of playing politics at this late stage with local government elections only three months away. I hope we are above all that. We are seriously trying to come up with voting systems which are acceptable to local government and, more importantly, are easily understandable to the people who vote for local government. Those systems should be patently fair.

The point which has been made and admitted to by the Hon. Mr Gilfillan, and agreed to by everyone who has looked at the voting systems, is that the 'bottoms up' system is patently unfair. The only place we find a 'bottoms up' system is in South Australia. For goodness sake, let us not make history by putting in such an iniquitous system: let us be man enough to realise that we have an opportunity to change—

The Hon. R.I Lucas: Person enough.

The Hon. L.H. DAVIS: All right, person enough, if we want to be pedantic about matters like this.

The Hon. Anne Levy: I cannot be a man.

The Hon. L.H. DAVIS: I think the debate has risen above semantics at this stage. I would like to think that as a Council we can come up with a sensible compromise and, if the Democrats want to speak about it more, the sensible thing at this late hour, I suggest, would be to report progress.

The Hon. M.B. CAMERON: I will not hold up the matter too much. I have listened very carefully to this debate. It is very important that if we have the opportunity to do something in a Bill that we consider wrong that is what this House of Review is all about. If the bottoms-up system is not a good one and we have the chance to change it by putting in what the Hon. Mr Hill is moving, it should be done. It gives local government a good choice instead of having, from what I can hear, no choice because they will not use the other system, which has been described very clearly by the Hon. Mr Gilfillan and others as an inappropriate system, I ask so that there can be at least some discussion on this matter, because it is important to do this thing properly this time—it is the second time that it has been through in the past 12 months—that we report progress and discuss the matter.

If the Hon. Mr Gilfillan sticks to his view, so be it, but at least we should give him the chance to discuss the matter and clarify the issue before we go further in this debate. I ask the Minister to report progress so that it can be considered.

The Hon. K.L. MILNE: It is not as easy as that. First, I am not sure that the bottoms-up system is as bad as all that. There has been no move by the Local Government Association, for example, for it to be changed. There have been complaints from some councils where there is a certain set of circumstances; this applies particularly to the City Council, which believes that it will go wrong. We do not have any facts and figures to say that it goes wrong any more than do systems other than PR. To ascertain that would take some investigation on our part and on the part of other honourable members with the Electoral Reform Society and the Local Government Association, in particular, and that cannot be done now. So, it is not fair to make a decision on it. I am not necessarily against keeping the matter open at some other time or agreeing to review it as soon as possible afterwards.

The Hon. M.B. Cameron: You will not get the chance!

The Hon. K.L. MILNE: We could make the chance. I am sure that the Government is not so intractable that it would not give a chance if the Local Government Association wanted it. It is coming up to an election. If there is to be a third option, a lot of people will want some other option as well. The Local Government Association may rather stick to the system that it has had before it for this election.

The Hon. M.B. Cameron: Has it told you that?

The Hon. K.L. MILNE: No, but it has not told the honourable member anything, either: it has not told anybody. That is what is in the legislation, and I cannot see that any evidence has been produced. A lot of rhetoric and sentimental stuff has been talked about, but no facts and figures have been given as to why the thing goes wrong. I am not certain that it is not—

The Hon. R.I. Lucas: Yes, there is. I will go into the details again for you if you want.

The Hon. K.L. MILNE: I am not sure that it is as bad as all that.

The Hon. M.B. Cameron: Well, it is.

The Hon. K.L. MILNE: Well, it should not have been allowed to come in in the first place.

The Hon. M.B. Cameron interjecting.

The Hon. K.L. MILNE: The honourable member did not put up an alternative to it at that time, if I remember correctly.

An honourable member interjecting:

The Hon. K.L. MILNE: We should not go into the history of it. This is not the occasion to discuss it. I would give an undertaking on our behalf to discuss it some other time, but to confuse the whole issue in amending this Bill properly would not be wise.

The Hon. L.H. Davis: We are looking at the voting systems now. This is the chance to do it.

The Hon. K.L. MILNE: We are not looking at voting systems: we are looking at the amendments that are before us. If we are to talk about voting systems for local government I will be pleased to do it, but not at the moment.

The CHAIRMAN: Order! The only way in which the matter has had much airing at present and in which it could be brought to bear would be for the Bill to continue through to its final stage and be recommitted for further consideration of certain clauses. I cannot stop honourable members from speaking but, in my opinion, that is really what ought to happen.

The Hon. C.M. HILL: I think it would be best if I put my amendment. Because of the points made by the Australian Democrats, I will not call for a division. There is not much purpose in my trying to win on this clause, anyway, because of the loss of the former clause which was the main provision introducing this alternative system. I understand that the Government has other business with which it wishes to proceed, so that it will probably report progress. If that is the case, we have overnight to have further thoughts and discussions on the matter and we may come to some different approach when the matter is brought on tomorrow.

New clause negatived.

Progress reported; Committee to sit again.

CARRICK HILL TRUST BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2902.)

Clause 7—'Membership of the Trust.'

The CHAIRMAN: I understand that the Hon. Mr Hill seeks leave to withdraw his amendment and to move a new amendment.

The Hon. C.M. HILL: That is so, Sir.

Leave granted; amendment withdrawn.

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

Page 2, after line 28. Insert new subclause as follows:

(1a) One of the persons appointed to the Trust shall be a person who is a member of the council of the City of Mitcham, nominated by that council.

My amendment is identical to that suggested by the Hon. Mr Milne. It is a compromise on the part of Opposition members because, as honourable members will recall, in the former amendment we sought to have the Mayor of Mitcham and a local nearby resident appointed to the board of seven. Now, as a compromise, the amendment provides that a member of Mitcham council and nominated by it shall be one of the seven members. That goes part of the way towards satisfying me, and I know that it will satisfy the Hon. Mr Milne.

The Hon. K.L. MILNE: We should not look at it in a one-sided way: we should not see only that we are helping the Mitcham council. An association with a council such as the Mitcham council has all sorts of advantages for an organisation like Carrick Hill. The council has a lot of plant and machinery and facilities, and it would be much more inclined to allow the Trust to use them if it had representation. This is to the council's advantage. I am grateful to the Hon. Mr Hill and I support the amendment.

The Hon. C.J. SUMNER: I do not support the amendment for the reason I outlined previously. The Premier has given certain undertakings in relation to the representation of the residents in the vicinity of Carrick Hill.

The Hon. K.L. Milne: It's a different thing.

The Hon. C.J. SUMNER: No. Those undertakings have been given and, as I said previously, the Government is not

prepared to accept that an *ex officio* member from the council be appointed to the Trust.

The Hon. C.M. Hill: It's not an *ex officio* member.

The Hon. C.J. SUMNER: Yes, it is. It is the same thing. I take it that the Hon. Mr Gilfillan will support his colleague in this matter. He nods assent. The honourable member is being led by his Leader on this occasion, but I am not sure whether he is being led down the right path. Nevertheless, it would appear that I do not have the numbers, so I will not call for a divison.

Amendment carried; clause as amended passed.

Clauses 8 to 12 passed.

Clause 13—'General functions and powers of the Trust.'

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

Page 4, line 37—Leave out 'or the Minister'.

This is a small but very important amendment. The Government has gone to the trouble of setting out the functions and powers of the Trust, and members can see that quite clearly. But suddenly the sting is in the tail. Subclause (1) *(c)* provides that a function of the Trust is to perform any other functions assigned to the Trust by this Act or the Minister. So the Minister on his own prerogative can decide any functions of the Trust, irrespective of what is contained in the Trust's charter—the legislation. He can simply give an instruction to the Trust, because the Trust comes under his direction in accordance with other provisions of the Bill. The Minister can instruct that another function is such and such, and Parliament has no idea what the functions will be. We read and hear about dragnet clauses and so on, but this provision is quite out of this world. I do not believe that Parliament should give the Minister the right to instruct the Trust to widen its functions unless or until Parliament has some idea what the Minister has in mind, and I refer not only to the present Minister but also to any future Minister.

The Hon. R.I. Lucas: They might order him to have the Labor Party Christmas party there!

The Hon. C.M. HILL: One does not know what they might do. If the Government has any other functions in mind for the trust, let it say so now and detail those functions in the legislation so that we can debate the issues that might arise in relation to any other functions that the Government has in mind. This sort of provision is holding the Parliament to ridicule, and here we are debating the Bill at nearly midnight. The Government quite properly sets out the details of the functions of the Trust but then stipulates that if the Minister has any other functions in mind he can direct the Trust to carry out those functions, and this is without the knowledge of Parliament, until it is too late. I think that it is quite wrong for this Committee to pass legislation that gives such wide powers to the Minister.

The Hon. C.J. SUMNER: The amendment is not acceptable. The formulation used in clause 13 is used in other Bills. It is not something that has been dreamed up for the purpose of the Carrick Hill Trust. This is an important added provision to ensure that the Trust has the power to carry out other functions that might not be specifically mentioned in the Act. The Trust must produce an annual report, and that will have to be tabled in Parliament. If the Minister has given any directions with which the Trust disagrees, presumably that can be pointed out in the annual report and made public, and members of the Parliament can comment on that. I do not see the need for the amendment to restrict the powers of the Minister to add other functions that can be undertaken by the Trust. I oppose the amendment.

The Hon. K.L. MILNE: This might be an unfair question, but can the Attorney give us some examples of other trusts to which this arrangement applies?

The Hon. C.J. SUMNER: I can certainly get an indication of other legislation in which this provision has been included.

The Hon. L.H. DAVIS: I support the Hon. Mr Hill's amendment. I raise the matter of the cost to the Government of developing Carrick Hill to the point when it will open in 1986. We understand, of course, that some $340 000 has been made available by way of Community Employment Programme grants. However, can the Attorney say what costs will be involved in developing and upgrading the interior of the house, the surrounding gardens, and the natural afforestation on the 97 acres of Carrick Hill?

The Hon. C.M. HILL: I do not think that the Minister can cite another instance of this happening. In all the time I have been in this place, and with the record of this Council of reviewing legislation closely, I do not think that it has ever agreed to such a wide power being put into legislation. I do not want to be over critical of the Government on this point, but the functions are quite clear and, as laid out in front of us in the Bill, are as follows:

(a) to administer, develop and maintain Carrick Hill for all or any of the following purposes:

(i) as a gallery for the display of works of art;

(ii) as a museum;

(iii) as a botanical garden;

(b) to promote and encourage the interest of the public in Carrick Hill, its collections and the services and amenities provided by the Trust.

Surely those words throw the net wide enough to cover all the functions we envisage for a Trust of this kind. I do not know what extra functions the Minister might dream up, unless they are functions to which the Parliament might take some objection.

The Hon. R.C. DeGaris: An open zoo!

The Hon. C.M. HILL: There is a lot of land there, but I do not know whether or not the Minister would go that far. There has been discussion during debate in the other place about noise at Carrick Hill. I return to the subject of rock concerts. Although some people may think that this is amusing, about 90 per cent of open air concerts now held are rock concerts, and there are a lot of them.

The Hon. C.J. Sumner: Where?

The Hon. C.M. HILL: At Memorial Drive, Adelaide Oval and Football Park. When promoters want to attract an audience of 7 000 or 8 000 people the only way they can do that in Adelaide, unfortunately, is for the performance to be in the open.

The Hon. C.J. Sumner: They are not going up to Carrick Hill.

The Hon. C.M. HILL: Why would they not go up to Carrick Hill if the Minister utilised this power we are giving him and instructed the Trust to allow Mick Jagger and his crew to perform there on the slopes of Springfield with full amplification?

The Hon. C.J. Sumner: The Springfield residents would be overjoyed to have Mick Jagger up there.

The Hon. C.M. HILL: Some might, but that is not what Parliament intends. Unless the Minister can give an explanation about what he has in mind, or what he foresees he might do with the power that these few words give him, I think that it is in the best interests and traditions of this Chamber that these words be removed from the Bill.

The Hon. ANNE LEVY: I suggest to the Hon. Mr Hill that these words are necessary to enable the Trust to permit the Waite Institute to graze sheep on some of the spare land at Carrick Hill. Sheep from the Waite Institute have been grazing on Carrick Hill land for many years.

This serves a very useful purpose, both in providing grass for the Waite Institute sheep to eat and in keeping down the grass, thereby avoiding mowing expenses at Carrick Hill. Also, it has considerable benefit in reducing the bushfire hazard in some of the steeper territory at Carrick Hill.

Unless there is such a clause in the Bill that would enable the Trust, with the concurrence of the Minister, to permit the sheep to graze, the sheep would no longer be able to graze at Carrick Hill.

I am sure that the residents of Springfield do not feel that the noise of sheep chewing grass is too loud and would not wish to disturb the arrangement that has worked to the mutual benefit of both parties for many years. Unless there are enabling provisions in the legislation, under the supervision of the Minister, then such activities would no longer be able to continue, to the detriment of both parties.

The Hon. C.M. HILL: The honourable member misses the point. The grazing of sheep involves the maintenance of the grounds around Carrick Hill. In other words, instead of using lawn mowers, if the grounds can be maintained adequately by sheep, the Trust can arrange for the sheep. It is not a function of the Trust to bring in sheep by herding them with drovers' dogs coming up behind them along Fullarton Road. That has nothing to do with the point at all. The words are already 'to administer, to develop and maintain Carrick Hill'. The point that the honourable member has raised is simply a question of maintenance of the grounds.

The Hon. C.J. SUMNER: I wish to take this opportunity to congratulate the Hon. Mr Hill for the sterling job he did in 1981 as Minister of Local Government—and a very good Minister of Local Government too—in the Tonkin Government. As I recollect, he piloted through this Parliament with great skill and perception a Bill to establish the Parks Community Centre. I remember him giving particular attention to clause (now section) 15 (1) of the Parks Community Centre Bill, which provides:

> The functions of the centre are:
> *(a)* to manage and maintain the premises and property of the centre; and

(b) to do something else; and paragraphs *(c) (d) (e)* and *(f)* follow. Then, of course, we come to section 15 (1) *(g)*. I know that the Minister gave particular attention to this, because he wanted to have the power to give the Parks Community Centre other functions, so he had inserted—and I congratulate him on it and on the effort he put into getting this important Bill through the Parliament—the following:

> to perform any other functions prescribed by this Act or assigned to the centre by the Minister.

The Hon. L.H. Davis: It was probably an amendment forced on him by the Upper House.

The Hon. C.J. SUMNER: No, we did not take any interest in that matter. It was a matter specifically put into the Bill introduced by the Hon. Mr Hill.

The Hon. C.M. Hill: Are you reading all the sections?

[*Midnight*]

The Hon. C.J. SUMNER: If the honourable member would like me to provide him with a copy of the section to read, or if he would like me to read it out in full, I will. With respect, I think that what is in section 15 of the Parks Community Centre Act, 1981, is very similar to, if not in precise wording the same as, the Bill introduced by the Government, which the honourable member is now objecting to.

There may be other examples but, because of the sterling job that the honourable member did as Minister in bringing this Act through Parliament, I thought I would draw that to his attention. With respect to the question asked by the Hon. Mr Davis, we do not have a precise budgetary figure at this stage, but the round sum estimate is $800 000, some of which will be covered by CEP funds and some, it is hoped, will be raised by private donation.

The Hon. L.H. DAVIS: I take it that the $800 000 is in addition to the $343 000 CEP funds that have been recently announced.

The Hon. C.J. SUMNER: The $800 000 is not completely in addition to the $300 000 CEP funds. The figures are not precise and at this stage I cannot be more precise. That figure concerns capital works costs to get the job under way and not recurrent expenses. I assume that the Trust will have the capacity to borrow funds in any event and that will presumably be financed from Loan funds.

The Hon. C.M. HILL: I cannot recall the full details of the Parks debate in 1981 to which the Minister has referred, but its purposes and future are entirely different—

The Hon. Anne Levy: There are lots of residents round about.

The Hon. C.M. HILL: No, there were not. That is one of the great differences. The residents at the Parks were not objecting to the Parks development being there.

The Hon. Anne Levy: But they would be just as disturbed by Mick Jagger.

The Hon. C.M. HILL: I am not talking about Mick Jagger being at the Parks. The extra functions to which the Parks was to be put were not entirely known at that stage. All sorts of situations might have arisen, but we could foresee the amenities and services needed by the unemployed people there. We wanted to help the people who lived in that region. There was the refugee situation with more and more people needing help, because it was close to the hostel; we had the school with its great increase in ethnic children; and so forth. The Parks was a fluid changing situation. I do not want to drag the argument on in comparison with the Parks. The situation at Carrick Hill is quite clear. We know what it should be used for and those purposes and functions are set down in the Bill. If the Minister can foresee any functions that he wishes to instruct the Trust to implement at Carrick Hill, Parliament should know what they are now.

The Hon. G.L. Bruce: It is in the future. There may be the launching of the South Australian boat to challenge the Western Australian boat.

The Hon. C.M. HILL: One cannot launch a boat up in Springfield. Members opposite will have to do better than that. It will be a magnificent, cultural, tourist and community centre.

The Minister simply should not be given this wide power relative to this venue. I went to great lengths to explain not the disapproval of nearby residents but simply human concerns that anyone in that position would raise when they see a change of use on a property adjacent to their residence. Surely we have a responsibility to have some clear knowledge in the Bill we are passing as to the functions of the Trust. I support the functions laid out before us, but it simply is not fair—

The Hon. C.J. Sumner: Mick Jagger can already have his concert there under the existing functions. It provides that it is a venue for musical or theatrical performances.

The Hon. C.M. HILL: The Attorney-General is looking at a copy of the House of Assembly Bill. That provision was knocked out of the Bill in another place. The Attorney-General does not know in detail what he is arguing about.

The Hon. C.J. Sumner: It is still there.

The Hon. C.M. HILL: I refer to clause 13 (1) (a).

The Hon. C.J. Sumner: It is in clause 13 (2) *(h)*.

The Hon. C.M. HILL: It refers to musical and theatrical entertainment at Carrick Hill.

The Hon. Anne Levy interjecting:

The Hon. C.M. HILL: Music appropriate for the venue has been played there, and that is how I want to see it kept. I do not want to see Mick Jagger up there.

The Hon. C.J. Sumner: You said that this was going to be a short debate.

The Hon. C.M. HILL: If the Minister agrees with me, it will be a short debate. As it has gone on too long, I support my amendment.

The Hon. K.L. MILNE: With Carrick Hill, the Government is trying to interpret the will and create a Trust to do just that. Does the Attorney-General think that the fact that this is trying to interpret the will of the donor makes a difference to his attitude to what the Hon. Mr Hill is saying?

The Hon. C.J. SUMNER: No.

The Hon. C.M. HILL: In conclusion, I notice in the legislation on The Parks introduced by me in 1981, I included on the Board a member of the Enfield council.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 5, after line 31—Insert new subsections as follows:

(7) The Trust shall permit members of the public to enter and leave Carrick Hill only through a gate situated on the western side of Carrick Hill.

(8) The Trust must make sufficient provision within the precincts of Carrick Hill for the parking of motor vehicles used by members of the public visiting Carrick Hill.

(9) The Trust shall not, so far as is practicable, cause, suffer or permit Carrick Hill to be used in any manner or for any purpose that may generally disturb or annoy people who reside in the vicinity of Carrick Hill.

This amendment adds further arrangements by which the residents in the neighbourhood can be assured of some further protection in the event of possible disturbances. I do not wish to infer that they will occur often, but they could occur occasionally. There are three proposals in my amendment. The first is that the residents have put to their local member their very strong view that entry into Carrick Hill by the public should be via what one might call a front gate situated on Fullarton Road, which is a main thoroughfare. There is a second gate which is entered through the heart of the suburb of Springfield (I am not sure of the street on which it is located, because I do not know the suburb very well). Nevertheless, there is a back gate which enters the property from within the suburb of Springfield and by way of a relatively minor suburban road.

If in the various activities to be held there are a great number of cars at one time (and I am talking about hundreds), it would be proper that such cars should enter through what I call the main gate. It is in the vicinity of the main gate that the Government has already constructed a car park, and I compliment it for that.

The second part of this amendment states that the Trust must make sufficient provision within the precincts of Carrick Hill for the parking of motor vehicles of visiting members of the public. That is a further assurance, not only from the point of view of the local residents, but in the cause of good planning it is proper that operations should cope with the car parking problem by providing adequate parking facilities on site. This part of the proposal does that.

The third point again involves the people who reside there and who have seen a change in use of the adjacent property and it provides:

The Trust shall not, so far as is practicable, cause, suffer or permit Carrick Hill to be used in any manner or for any purpose that may generally disturb or annoy people who reside in the vicinity of Carrick Hill.

If the Government agreed to it, that would show its good faith in regard to adequate planning in the development of Carrick Hill and its appreciation of the concerns which I have brought before this House and which I know the local member brought before the House of Assembly.

The Hon. C.J. SUMNER: This is not acceptable to the Government. To prescribe in an Act what gates shall be open and what traffic movements in a particular locality would be permittted is unacceptable. There is no need for it. I am sure the Carrick Hill Trust will be considerate of the interests of the local residents and it would be going too far to insert in the legislation such detailed restrictions and directions to the Trust about traffic control.

Amendment negatived.

The Hon. L.H. DAVIS: Would the Attorney be in a position to advise the Committee when Carrick Hill is likely to be open to the public in 1986?

The Hon. C.J. SUMNER: During the 1986 Festival of Arts.

The Hon. PETER DUNN: The Attorney-General indicated there would be something like $800 000 spent on bringing Carrick Hill to the stage where it would be suitable for the public. What is planned for the development of the 25 to 30 hectares behind that area?

The Hon. C.J. SUMNER: The public areas could be used for picnicking, nature trails and the proposed sculpture park.

The Hon. PETER DUNN: I have had over many years some contact with the Waite Research Centre. It was brought to my attention and the Hon. Anne Levy mentioned the fact that Sir Edward Hayward and Lady Hayward, for reasons of fire risk control, had an agreement whereby Waite has used the area for grazing sheep. It has proved most suitable for that. An area there is very steep and unsuitable other than for grazing or development as an area for paths and parks, but the cost of developing that would seem to be bizarre. If one thinks of planting it as something like savannah woodland—and I anticipate that that is the type of area that one would want, with paths through it—we would run into a high fire risk and again. I anticipate the whole of the area being burnt out.

If one flies over the top of it, as I did the other day, one notices that the back of it is very dry and, if it had long grass on it, I would anticipate that people being able to move around on it would cause an enormous fire risk. I hope that maybe the Waite Research Centre, in negotiation with the Trust, would be able to develop this area; because if anybody has been to the back of the Waite Research Centre and looked at the hills facing Waite from the east they will see a very pleasant area that has been developed in this savannah woodland, with trees planted around it. The area is grazed and very attractive to look at from any angle. By doing that they would not preclude the public from it by any means: the public could walk around. If one goes up the hill face in that area one sees that there is a very attractive view of the Adelaide plain, city, the beaches and the Gulf ahead, and people will want to do that.

I suggest that a term of lease be given perhaps to Waite to enable it to develop that area along the lines of a savannah woodland. If one looks at the arboretum that has been developed at the Waite Research Centre, one sees that it is a very beautiful area, and maybe the lower part of Carrick Hill could be developed in that order.

To give some idea of the cost of developing it into an area with a lot of trees, if there were 25 hectares we would need about 1 000 trees per hectare, and the minimum cost would have to be $1 per tree: in fact, it would be closer to $2. So, to have 25 000 trees would cost $50 000 without

having any failures. That would be an extremely expensive method of doing it.

At the moment a number of olive trees are growing and generating wild on the land. They are generally a very high fire risk. To allow it to be grazed would be in the context of the wishes of the Hayward family because they had a very big stud at Silverton, south of Adelaide. To use that areas as park and for people to walk around would be most suitable. We are very fortunate to have a great area of the Adelaide hills very close to that area. The fact that an institution could use it for the benefit of the State would be parallel to the intention of the will.

The other thing that I might mention—and this has not been canvassed by people whom I know—is that there is a small flat area between the hill and the back. I know that the garden extends over most of this area. It is a very beautiful garden, and I hope that the Trust will develop it to a stage where it is used by the public. Perhaps a small part of any area that is left could be used for agronomy.

The Waite Research Centre has an extensive agronomy section. When crossing grains one comes up with a first cross that needs to be observed closely during the entire growing period for tillering, height, flowering, maturity and many other considerations. To have to travel any distance to observe this is time consuming and, as this area is adjacent to the Waite Institute, perhaps an area could be developed there. This work results in an attractive display.

The plots developed in this manner are one metre long single rows and hundreds of them would cover a small area of up to there, four or 10 acres at the most which would be most suitable. This would present an attractive display for people visiting the area as well as providing a good fire retardation system. In making these suggestions to the Attorney, I believe that a good case can be made in their support, especially as it would cut down the cost of development. Perhaps a reasonable lease could be provided at the start and, if it was proved unsuitable after five or 10 years or a longer period, the lease could be terminated.

However, for the time being it would be in the interests of the development of the area to allow access to that institution, which is revered throughout the world as a primary industry institution. It would also be in the interest of the city of Adelaide. Over the years we have got rid of much market gardening area as well as pure agricultural areas. Indeed, people rarely see such intensive growing. Will the Minister comment on my suggestions?

The Hon. C.J. SUMNER: The problem with all this discussion about the Waite Institute is that there does not seem to be any suggestion that this was the wish of Sir Edward or Lady Ursula Hayward. It may be that the Trust will consider some alternative uses for the property, but the matter will have to be very carefully considered. If the Trust is to allow the land to be used in a way that is really different from the purposes envisaged by Sir Edward and Lady Ursula Hayward in their wills, it would need to be given careful consideration.

Some discussions have been held with Adelaide University and Waite Agricultural Research Institute about the agistment of sheep at Carrick Hill. In fact, sheep have continued to graze there since the property passed to the Crown. However, any decision about the future use of Carrick Hill land is a matter that should rightly and properly be left to the Carrick Hill Trust to decide once the Trust has been appointed. It may desire to allow the Waite Institute to continue grazing sheep subject to certain charges and services in those areas not immediately required for use and subject to the ongoing development of the Carrick Hill land. This is one of the many options that the Trust may wish to consider. The Trust could decide to graze sheep itself to earn revenue for Carrick Hill and save the Government money. Likewise, it might wish to graze horses on agistment as another possible source of income, and requests have already been received for this.

In fact, Sir Edward Hayward used to have horses at Carrick Hill and there are of course fine stables there that could be put to good use. So, a number of options are available in regard to the use of that land. Clearly, I would not imagine that the Trust would wish to do anything, at least without very serious consideration, that was in conflict or inconsistent with the wishes of Sir Edward Hayward and his late wife.

As to the other question, I understand that CEP money has been made available to clear the area at the back in the hills face zone, to which the honourable member referred, that the exotic trees there—the olives and the like—have been removed and that it will be returned to its native vegetation state. The undergrowth will be cleared away.

Clause passed.

Clause 14 passed.

Clause 15—'Officers and employees.'

The Hon. R.I. LUCAS: How many staff will be appointed to the Trust? What will be the salary levels of the senior officers of the Trust?

The Hon. C.J. SUMNER: It is not possible to answer that question at this stage. Staff requirements will be assessed as part of the budget process of 1985-86.

The Hon. R.I. LUCAS: Have any officers been appointed to positions with the Trust?

The Hon. C.J. SUMNER: Mr David Thomas has been appointed Director, and two gardeners, one caretaker, and a secretary have been appointed. An administrative officer has been seconded for the time being.

Clause passed.

Clauses 16 to 18 passed.

New clause 18a—'Opening and closing times to be fixed with approval of council.'

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

Page 6, after line 35—Insert new clause as follows:

18a. No times for the opening or closing of Carrick Hill, or any part of it, to members of the public shall be fixed under this Act without the prior approval of the Corporation of the City of Mitcham.

This is another means by which I endeavour to involve the City of Mitcham, as the local governing body, in this public amenity. This should assure residents that the local council will have some overview of the opening and closing times of Carrick Hill. Other institutions that hold public activities in parks and reserves have to obtain the consent of the council in regard to opening times, especially when such activity is within a residential area. The new clause proposes that the opening and closing times for Carrick Hill be fixed only with the prior approval of the City of Mitcham.

The Hon. C.J. SUMNER: The amendment is not acceptable, again on the basis that it restricts the operation of the Trust, which is unreasonable. There should be no prerequisite for consultation with the Corporation of the City of Mitcham before hours of opening are determined. As the honourable member says, this is part of his package of amendments that he says will protect the local residents more effectively. As I have said, I am sure that the Trust will be sympathetic to any problems that might arise as a result of its activities and its expanded operations.

New clause negatived.

Clause 19—'Report.'

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

Page 7, lines 1 to 3—Leave out ', as soon as practicable after his receipt of a report submitted to him pursuant to subsection (1), cause a copy of the report to be laid before each House of Parliament' and insert 'cause a copy of a report submitted to him under subsection (1) to be laid before each House of Parliament within fourteen sitting days of his receipt of the report if Parliament

is then in session, but if Parliament is not then in session, within fourteen days of the commencement of the next session of Parliament'.

This is similar to amendments that I have moved on other occasions with respect to the reporting provisions of statutory authorities and QUANGOS to Parliament. I am pleased to note that clause 19 (1) provides that the Trust will have a three-month period to present a report to the Minister. My amendment relates to clause 19 (3), which now provides that the Minister shall, as soon as practicable—which is open-ended—after the receipt of a report, table the report in the Parliament. I want a time limit placed on that. As I have said before, my preference is that this provision ought to be a lot tighter than 14 sitting days, as I have indicated in my amendment. I think that 14 days ought to be sufficient time for a Minister to table a report in Parliament. Nevertheless, the past voting record in this Chamber seems to indicate that a slightly looser reporting provision, such as 14 sitting days, which can perhaps turn out to be four or five weeks, has the best chance of success. So, while my personal preference is 14 days, it appears that the best chance of success at this stage is to give the Minister a little more flexibility. As the Attorney has suggested on previous occasions, I shall leave the matter of a tighter provision until a perhaps more substantive debate, which I hope will occur at some time soon.

The Hon. C.J. SUMNER: I will not argue about the amendment. It effectively extends the time in which a report can be tabled in the Parliament. I have made that point before but the honourable member seems to want to persist in extending the time that a Minister has to table a report. If that is what the honourable member wants, I suppose we can humour him on this occasion, as we have done on previous occasions. With respect to the three months time limit for the production of a report, I point out again that in this case I do not imagine that too many difficulties will be involved, because the Carrick Hill Trust is not a very large organisation and has a fairly limited purpose. One would expect that within three months a report could be produced for tabling in Parliament.

However, that is not possible in relation to reports from a number of other statutory authorities, much larger organisations, such as the Corporate Affairs Commission, and so on. It can be done, but it requires more people and more resources which would have to be diverted from other work which then cannot be done. If members opposite ever end up in government, they will find that the simple fact is that if they get stuck with a problem in this regard they will simply say to an authority, 'If you can't do it, you can't do it.' It is as simple as that. No responsible Minister will insist that ridiculous deadlines are met and, if they cannot be met, I suppose that that is something that Parliament will have to deal with in terms of questioning the Minister. All I will say on that matter is that, yes these things can be done, if that is the priority that the Parliament wants to put on the statutory authorities or the public servants involved. But sometimes it is just not possible.

Amendment carried; clause as amended passed.

Remaining clauses (20 to 23) and title passed.

Bill read a third time and passed.

STATE DISASTER ACT AMENDMENT BILL

In Committee.

(Continued from 20 February. Page 2660.)

Clauses 2 to 4 passed.

Clause 5—'The State Disaster Committee.'

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

Page 2—

Line 21—After 'submitted by the' insert 'Director of the'

Line 25—After 'submitted by the' insert 'Chief Officer of the South Australian'.

Line 30—Leave out 'Service' and insert 'Service Board'.

These amendments are of a technical nature and are designed to make clear who is the responsible officer of the three authorities for nominating persons for appointment to the State Disaster Committee.

Amendments carried; clause as amended passed.

Clauses 6 to 12 passed.

Clause 13—'The State Disaster Relief Fund.'

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

Page 5, after line 36—Insert new subsection as follows:

(2a) All moneys held in the account kept at Treasury entitled the 'Premier's Bushfire Relief Appeal Trust Fund' as at the commencement of the State Disaster Act Amendment Act, 1985, shall, upon the establishment of the fund referred to in subsection (1), be paid into that fund, and those moneys may be disbursed for the relief of persons who suffered injury, loss or damage as a result of the disaster in respect of which the moneys were received, or of persons who suffer injury, loss or damage in some future disaster.

The Hon. Mr Cameron raised a number of issues regarding the State Disaster Relief Fund and its relationship with the Premier's Bushfire Relief Appeal Trust Fund. In particular, he asked what was to happen to the Premier's Bushfire Relief Appeal Trust Fund, which is the Ash Wednesday moneys. Further, he raised some questions, which can be dealt with in a subsequent amendment, about what entitlements people would have where they might receive a payment by way of damages as a result of legal action against, say, ETSA, which has particularly been mentioned. However, of course in general principle in the future there may be disasters in which an action can be taken by the aggrieved parties against a private company or public authority.

The question was whether those people should both get their damages—assuming that they are successful in their action—and relief from public funds or funds subscribed by the public. My first amendment relates to what is to happen to the Ash Wednesday moneys that are left over, and there is a small amount left over at this stage, I believe. But more significantly, if funds are recovered by some of the people who suffered damage in the Ash Wednesday fire, from ETSA for instance, then there may be coming back into the Bushfire Relief Appeal Trust Fund a certain amount of money, and it could be substantially more, of course, than is in there at present.

In order for this Bill to pick up what has happened in the past, my amendment provides that all the Premier's Bushfire Relief Appeal Trust Fund moneys, whether there now or subsequently, would become part of the State Disaster Relief Fund.

The Hon. M.B. CAMERON: I support this amendment and the subsequent amendments that the Attorney-General has had drawn up as a result of discussion. I know that it is a very difficult area: it always will be, no matter whether we are dealing with this matter now or in the future.

I take the opportunity to congratulate those people who had to handle that vast sum of money given by people in this State, outside this State and even outside this country, on the manner in which they directed that money back into the communities that were affected. It is great credit to them that it was done this time without controversy, because that has not always been the case.

I know of examples where there have been very severe difficulties and a lot of hard feeling as a result of funds distribution. It is a very difficult area indeed, and people watch very closely for any unfair actions. I cannot recall any complaints from any person about this area. However, because in the opinion of many people there will be some successful litigants, some money will be returned to the fund as a result of this Bill, but only at the discretion of

that committee and of the committee that originally distributed the funds.

After the way in which the committee handled it previously, I have faith in it conducting any return and redistribution of funds, if that becomes necessary. It may be that not sufficient money comes back for it to be redistributed. If that is the case, there is the option for the committee to put the money into the State Disaster Relief Fund and hold it for some future emergency. I agree with that and I do not think that anyone would argue with it. It also means that if there are only sufficient funds to provide small amounts to some people whose losses were not as great, it gives the committee an option as to whether or not it pays that out. Because of the great wisdom that the committee showed in the original distribution, I have no problem about leaving it with as much discretion as it needs to conduct any drawing back or distribution of money in the manner in which it sees fit. I trust that the faith I have in the committee will prove justified, and I am sure that it will. Again, I congratulate the people concerned on the way in which they carried out their functions after that terrible day two years ago. I support the amendments.

The Hon. R.C. DeGARIS: I intended speaking to this clause to suggest amendments to the Government along the lines I will outline. I do not know whether the matters I outline can be correctly inserted into clause 13, or whether another Bill should handle the matter. It is clear that where an insured person takes action and finds that compensation is payable to him as a result of a disaster—usually a fire—the insurance company would get back the money paid to that particular person, or some of it. It seems unfair that where people are not insured and burnt out—and this is possible —they get more compensation than those who were insured.

It seems unfair that an uninsured person does not have to repay the money back to the fund that has gone to him. I do not believe that the amendment is completely satisfactory, although I cannot make any suggestions to improve it at this stage. I am certain that as things go on there will be some rather difficult circumstances that require amendment. I am thinking of the situation where some fires are started in a way where action can be taken, and other fires are started by unknown causes, as happened on Ash Wednesday. It then becomes very difficult to assess who is responsible for a particular fire that burnt someone out.

One then comes to the difficult situation of how much compensation goes back to the fund. I suggest that eventually we may have to have some court approval of how much money is repaid to the fund in situations such as that. Basically, I believe that the Bill is proceeding in the right direction. In the future we will probably have to look at other matters that will arise concerning this problem. I support the amendment.

Amendment carried.

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

Page 5, line 41—leave out 'no' and insert 'Subject to this section, no'.

This amendment is consequential.

Amendment carried.

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

Page 6, after line 2—Insert new subsections as follows:

(5a) Where the committee is satisfied that it has made sufficient payment to all persons who suffered injury, loss or damage as a result of a particular disaster, the committee may, with the approval of the Governor, leave the balance of the moneys in the fund for the relief of persons who suffer injury, loss or damage in some future disaster.

(5b) Where the committee is of the opinion that a person who suffered injury, loss or damage as a result of a disaster has been overcompensated for that injury, loss or damage by reason of being paid—

(a) moneys from the fund or, in the case of a payment made before the commencement of the State Disaster Act Amendment Act, 1985, from the fund entitled the "Premier's Bushfire Relief Appeal Trust Fund"; and

(b) damages or compensation from another source,

the committee may, by notice in writing given personally or by post to the person, require him to pay to the fund the amount of the overcompensation as determined by the committee and specified in the notice.

(5c) A person who is given a notice under subsection (5b) is liable to pay to the fund, as a debt due to the Crown, the amount specified in the notice within the time specified in the notice (being a period of not less than one month from the day on which the notice is given).

(5d) Moneys paid to the fund pursuant to subsection (5c) may be disbursed for the relief of persons who suffered injury, loss or damage as a result of the disaster in respect of which the moneys were first paid, or of any future disaster.

This series of amendments relates to matters that I have already discussed. New subsection (5a) allows for the State Disaster Committee to have discretion to leave a balance in the fund for use at some future disaster. New subsections (5b) and (5c) allow for the collection by the committee of funds resulting from over-compensation by the fund and other sources. That deals with the problem that I outlined previously.

The Hon. Mr Cameron and the Hon. Mr DeGaris raised this matter in their second reading contributions, which led to the discussions that have given rise to these amendments. It gives the committee the power to collect funds, to indicate to recipients of funds that recovery should be made from damages that they might have received from any actions against a negligent party.

New subsection (5d) allows for the further disbursement of funds collected as over-compensation. As the Hon. Mr DeGaris said, problems arise because it reposes in the committee complete discretion. It is for the committee to take action and collect over-compensation that is paid. There does not appear to be any legal mechanism whereby it can enforce that, but at least it is enabling in the sense that it permits the committee to do all these things.

The problem of making controls tighter was that there will always be so many exceptions to the rule, and it was found difficult to draft—

The Hon. R.C. DeGaris: In an action where compensation disputes go before the court, the court can make the decision on how much goes back into the fund.

The Hon. C.J. SUMNER: When I said that it was completely discretionary, that was probably not completely correct. The discretion is as to whether the committee issues notices to people who may have been over-compensated. Once those notices have been issued, they can require the repayment of moneys, and that would, I believe, be enforceable in court proceedings. It is discretionary whether the committee takes the action in the first place, but it is not discretionary once it takes action for the people to whom the notice is given to repay the money so paid out.

The amendments have been couched in discretionary terms as far as the committee is concerned. That was felt necessary after considerable discussion because so many exceptions and difficulties might arise that it would be impossible to cope with it in an amendment in any other way. I believe that that is accepted by the Hon. Mr DeGaris and the Hon. Mr Cameron.

The Hon. PETER DUNN: Do these funds cover acts of God such as flood, and earthquake, or war and drought?

The Hon. C.J. SUMNER: In order to find out what is covered, one would have to go back to the principal Act where 'disaster' is defined as follows:

'disaster' means any occurrence (including fire, flood, storm, tempest, earthquake, eruption and accident) that—

(a) causes, or threatens to cause, loss of life or injury to persons or damage to property;

and

(b) is of such a nature or magnitude that extraordinary measures are required in order to protect life or property:

That may be debatable. I suppose it is a question of whether the words 'any occurrence' are limited by the words 'fire, flood, storm, tempest, earthquake, eruption, and accident'. I think it is possible that war could come within it.

The Hon. M.B. CAMERON: I wish to confirm what the Attorney-General has said. To some extent I agree with the Hon. Mr DeGaris, because it is a very difficult area. The main reason that this is needed is because there is a problem with the way in which the funds were distributed. When it was decided to grant people money, it was based on their loss. In the case of insured people, I understand that their insurance money was taken into account before they were allocated funds. In other words, people who were insured received less from the appeal funds than people who were uninsured. If there is a successful case before a court, the insured person will receive back only the difference between what he had actually received in insurance and his final loss. The uninsured person will receive back the total loss. In the meantime, he had received more because of the original distribution. That situation would be very unfair.

That is why I felt, and the Attorney-General has agreed, that something should be done to ensure that there was some recovery so that there would not be a situation, neighbour to neighbour, where one was careful and had insured but had received less in the final outcome than had a neighbour who was uninsured. I hope that that explains the situation. The Hon. Mr Griffin has raised the fact that there is no appeal against the decision of the committee. I know that that could be a difficulty, but I must say that until that situation arises—where an unfair decision is made—I have faith in the committee because of the way in which it has carried out its task previously. That faith may prove not to be justified in the future. If that occurs, I will certainly be the first one to ask for a change to be made. However, I do not believe that that is necessary at the moment.

The Hon. K.T. GRIFFIN: In the light of my name being mentioned by the Hon. Mr Cameron, I point out that I raised with him privately the fact that it appeared that the committee made the decision as to whether or not there was over-compensation, then issued a notice which claimed a particular amount, and that, without any other reference to a court on any dispute about the amount being claimed, the amount claimed in the notice is repayable as a debt. That was my only area of concern. If this clause passes tonight, perhaps the Attorney can look at it before it is considered in another place.

The Hon. C.J. Sumner: It's come from there.

The Hon. K.T. GRIFFIN: Yes, but it has to go back because this amendment must be accepted by the House of Assembly. I raise the point that it is an amount in a notice which is a debt by reason of the fact that it is in the notice. Therefore, it is a debt recoverable in a court and there may be disputes as to whether the amount in the notice is correct. I have not had a chance to think it through, other than to pick up that point very quickly. I may be misunderstanding the content of the proposal, but it seems that there is no area for any dispute, if the amount claimed as compensation is challenged.

The Hon. C.J. SUMNER: I am not sure that it is appropriate to have an appeal provision in this clause. The committee would not ask a person to give back more than he got, which was really an act of charity by someone, whether it be the Government or funds provided by public subscription. Therefore, I do not see it is justifiable in this context.

Amendment carried; clause as amended passed.

Clause 14 and title passed.

Bill read a third time and passed.

CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

Returned from the House of Assembly with an amendment.

INDUSTRIAL AND COMMERCIAL TRAINING ACT AMENDMENT BILL

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

ADJOURNMENT

At 1.9 a.m. the Council adjourned until Thursday 28 February at 2.15 p.m.