LEGISLATIVE COUNCIL

Tuesday 12 March 1985

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

ASSENT TO BILLS

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

Bail,
Classification of Publications Act Amendment,
Electrical Workers and Contractors Licensing Act Amendment,
Industrial and Commercial Training Act Amendment,
Land and Business Agents Act Amendment,
Legal Practitioners Act Amendment,
Local and District Criminal Courts Act Amendment,
Police Regulation Act Amendment (No. 2),
Renmark Irrigation Trust Act Amendment,
South Australian Waste Management Commission Act Amendment,
Statutes Amendment (Bail).

YATALA LABOUR PRISON

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

Yatala Labour Prison—B Division Upgrading.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—
Rules of Court—Local Court—
Local and District Criminal Courts Act, 1926—Costs.
Stamp Duties Act, 1923—Regulations—Stamp Duty on Interstate Cheques.
The State Opera of South Australia—Report, 1983-84.

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

Pursuant to Statute—
Trade Standards Act, 1979—Regulations—Precious Stones (Opals).

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

Pursuant to Statute—
Credit Union Stabilisation Board—Report, 1983-34.
National Companies and Securities Commission—Report and Financial Statements, 1983-84.

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

Pursuant to Statute—
National Parks and Wildlife Act, 1972—Report, 1983-84.
North Haven Trust—Report, 1983-84.
Planning Act, 1982—Crown Development Reports by S.A. Planning. Commission on proposed—
Land division, Hundred Noarlunga.
Sewerage scheme, Port Lincoln.
Construction of Child Care Centre, Kesters Road, Para Hills West.
Borrow Pit for Stuart Highway.
Public Parks Act, 1943—Disposal of parklands, corner of Torrens and Harrison Roads, Renown Park.
Radiation Protection and Control Act, 1982—Report, 1983-84.
Surveyors Act, 1975—Regulations—Fees.
City of Adelaide—By-law No. 2—Vehicle Movement.
City of Noarlunga—By-law No. 11—Controlling the Beach and Foreshore.
City of Tea Tree Gully—By-law No. 46—Dogs.
District Council of Cleve—By-law No. 34—Vehicles upon Parklands and Recreation Reserves.
District Council of Lacepede—By-law No. 25—Controlling the Beach and Foreshore.
District Council of Port Elliot and Goolwa—By-law No. 40—Keeping of Poultry.

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

Pursuant to Statute—
Metropolitan Milk Supply Act, 1946—Regulations—Milk Distribution.

MINISTERIAL STATEMENT: SCHOOL COUNCILS

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

Leave granted.

The Hon. FRANK BLEVINS: The activities of school councils have increased and broadened in recent years. Yet the current regulations covering the powers, roles and responsibilities of the councils date back over more than a decade—to the Education Act, 1972. It was for this reason in May 1983 that the Minister of Education set up a review on the role of school councils. This review constitutes the third policy development paper to be issued under the Government's preselection commitment to involve the community in changes to educational direction.

Three further papers in the series will be issued later this year examining the areas of 'Equality of Opportunity', 'Senior Secondary Education' and 'Schools in a Changing Society'. The school councils review canvasses many of the most difficult issues facing councils—the level of parental involvement, school council contributions to school finance management and fund raising, staffing and curriculum planning, and grounds and building maintenance, for example.

If school councils are to have the option to be more active in school planning and decision making in the future, a major and critical stocktake of what they do now would seem a useful starting point. While many school councils have made valuable contributions to education in this State, it would be wasteful should this review develop into an exercise of simply justifying what happens now. It is not just asking for self-congratulations on the *status quo*.

For example, the involvement of relatively small numbers of parents in school affairs is a challenging issue raised in the report and requiring serious attention. As Australian and overseas studies show that the quality of the relationship between home and school stands out as a vital influence on student achievement and behaviour, the question of greater parental involvement begs further urgent attention. The Minister of Education challenges school councils to find imaginative ways within their capacities to penetrate the 'silent majority' on the vital questions about the future of school councils and other forms of parental/community involvement.

If real headway is to be achieved through this review, then the school councils themselves must accept some responsibility for distributing the document and encouraging discussion. It would be irresponsible should this document reach no further than the school principal or council chairperson. The review's proposals will be translated into the major community languages, and groups or individuals are invited to respond to the review in their own language. These submissions will be translated by the Department. Responses should be sent to the Director-General, South Australian Department of Education, G.P.O. Box 1152, Adelaide, by 17 May 1985.

QUESTIONS

WATER QUALITY

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Agriculture, representing the Minister of Water Resources, a question about water quality.

Leave granted.

The Hon. M.B. CAMERON: There is growing concern in the community about the quality of Adelaide's water supply, particularly in view of the extremely dry period that this city has experienced over the past three months which, I understand, is the second driest on record. Also, there has recently been a conference about the problem of salt in the Murray River. Professor Derrick Sewell from the University of Victoria in British Columbia, a visiting professor in geology at the Adelaide University, has stated that action needs to be taken immediately on salt levels in the Murray River in order to contain what is obviously a growing problem of salt pollution. He indicated that there should be a well advised salinity control programme.

Although he said that, if irrigation did not expand upstream it was probable that the problem would not get much worse, anyone who has had anything to do with irrigation in the Murray River knows full well that it is increasing upstream and that the problems will obviously increase, unless there are careful controls on the reintroduction back into the Murray of water after it has been polluted. Mr Lewis, the Director-General and Engineer-in-Chief of the Engineering and Water Supply Department recently warned that the quality of Adelaide's domestic water supply was deteriorating. No-one in this Council would disagree with that. It is obvious to most people that that has been occurring for some time. He has indicated that very severe measures will be taken in the Hills area to prevent pollution from animal excrements. He has also said that, under the present low rainfall conditions, the annual salt content of water pumped into Adelaide reservoirs, and in some cases directly into the metropolitan water supply from the Murray River, would exceed the World Health Organisation's drinking standards.

I understand that that is already the case with Murray River water: once it leaves Morgan it is above that standard and the only reason it is acceptable in the City of Adelaide is that it is diluted with fresh water from the reservoirs in the Hills. Therefore, it is essential that whatever steps can be taken are taken to ensure that Murray River water is kept to the lowest possible salt level. Shortly after this Government took office it cancelled the Cobdogla irrigation rehabilitation scheme, which was an important part of the projects necessary to ensure that pollution of the Murray River was kept to a minimum. Only by ensuring pollution is kept to a minimum can we persuade people upstream to take similar measures. When will the Minister reconsider the salt mitigation projects that were already in the pipeline ready for action when this Government took office? When will the Government re-establish those projects, including the Cobdogla irrigation rehabilitation works, on priority so that they can receive immediate attention and be proceeded with forthwith?

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

EXECUTOR TRUSTEE AND AGENCY COMPANY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about the takeover of the Executor Trustee and Agency Company of South Australia Limited.

Leave granted.

The Hon. K.T. GRIFFIN: Members will recollect that the Executor Trustee and Agency Company of South Australia Limited was the subject of a takeover battle at the end of 1984 and the beginning of this year. It may be remembered that the ANZ Bank, through its subsidiary, first made an offer in November 1984 of $7 per share; in December the State Bank made a bid of $8; a few days later the ANZ increased its offer to $8.75; and in January the State Bank increased its offer to $8.75. At the same time, the Government said that it supported the State Bank offer and would amend the Executor Companies Act to lift a limit of 1.67 per cent of shares being held by any one shareholder only to allow the State Bank to acquire the company.

The Premier said that the amending legislation would be introduced during the present session, if the State Bank's bid was successful. The Attorney-General, as Minister of Corporate Affairs, also publicly indicated that the amending legislation would be introduced. That legislation has not yet been introduced and the State Bank's offer expires under the Companies (South Australia) Code on 20 March, which is in five Parliamentary sitting days. My questions are as follows:

1. In the light of the Premier's and the Attorney-General's statements, can we presume that the State Bank bid was not successful?
2. Is any legislation to be introduced and, if so, when?
3. What are the reasons for any delay in legislation?

The Hon. C.J. SUMNER: No, the honourable member cannot assume that the State Bank bid has not been successful. The State Bank bid has been successful, and legislation will be introduced in these sittings to resolve the matter. Legislation has been approved by Cabinet and I imagine will be introduced by the Premier in the very near future.

The Hon. R. C. DeGaris: Within five Parliamentary sitting days?

The Hon. C.J. SUMNER: I am not sure. It should be within the five sitting days, yes.

The Hon. K.T. Griffin: I hope you aren't going to expect it to be passed in such a short time.

The Hon. C.J. SUMNER: I know that honourable members would wish to co-operate with Parliament and the Government in a matter of such importance to the State of South Australia and to one of its institutions. In fact, the ANZ Bank will be permitted to operate an executor and trustee company in South Australia.

The Hon. K.T. Griffin: Has that legislation also been approved?

The Hon. C.J. SUMNER: In principle the decision to permit that has been taken and will require legislation, but I do not believe that the legislation on that has yet been drafted. As far as the Government is concerned, there is no question but that that is acceptable. A decision has been made; it merely awaits ratification by Parliament. I expect the matter to be resolved by Parliament in the next few days.

The Hon. K.T. GRIFFIN: I desire to ask a supplementary question. What are the reasons for the delay in the introduction of that legislation (which was my third question)?

The Hon. C.J. SUMNER: There are no reasons for the delay. There is no real delay. Legislation has to be drafted: it is being drafted and will be introduced when that process is completed. As I said before, the necessary approvals have all been given by the Government and it is now a matter for the legislation to be introduced.

GREEK WELFARE ASSOCIATION

The Hon. C.M. HILL: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Community Welfare, a question about a grant for the Greek Welfare Association.

Leave granted.

The Hon. C.M. HILL: The Greek Welfare Association operates a welfare service for Greek migrants at the Greek Welfare Centre situated at 28/25 Peel Street, Adelaide. Last calendar year it received a subsidy—I believe from the Community Welfare Department—on a two-thirds to one-third basis. That grant money expired on 1 January this year and the arrangement was not renewed by the Department.

There is an ever increasing demand for the services of this Association. A full-time secretary is needed, and the Association has been seriously inconvenienced by the loss of those grant funds. The situation is reaching a critical point, I am told, in which Greek migrants who are in need of help are having to be turned away. In view of these circumstances, will the Minister look again at the needs of the Greek Welfare Association, and will he provide a grant, if only for this calendar year, to assist this Association with its very important work.

The Hon. J.R. CORNWALL: I am not aware of what the circumstances may have been that led to the apparent termination of this grant, but I will be pleased to refer the question to my colleague in another place and bring back a reply.

NATURAL GAS PRICES

The Hon. K.L. MILNE: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Mines and Energy, a question about natural gas prices.

Leave granted.

The Hon. K.L. MILNE: On 6 March it was made public in the press that SANTOS Limited, the very big natural gas producer, had a lift in profit of 72 per cent, bringing it to $83.8 million. It was stated that the higher profits came from a 100 per cent rise in the sale of gas condensate oil and LPG during the year. Honourable members will recall that I predicted some months ago that this situation would arise. I ask the Minister whether increased profits from our own South Australian gas and other products would help to retain reasonable gas prices for the people of South Australia, because I understand that a number of industries would come to South Australia if gas prices were reasonable—and they are higher here than in New South Wales, and that is doing this State a great deal of damage—and that negotiations with the producers are proceeding. Will the Government now ensure that there will be no increase in the price of gas from the Cooper Basin producers, who are, in effect, selling our own gas back to us?

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

BODY SEARCHES

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General a question about body searches.

Leave granted.

The Hon. ANNE LEVY: In the Public Notices section of the *Advertiser* on 4 March there appeared a notice over the name of the Lord Mayor, Mrs Wendy Chapman. I will not quote the whole of the notice, but part of it states:

> In exercise of the powers contained in section 59 of the Police Offences Act, I hereby give the following directions:

Further down, dealing with the concert being held at Memorial Drive, it states:

> No member of the public shall enter or remain in the said area between 5.30 p.m. and midnight on that day unless he has submitted himself for a body search for alcoholic beverages, bottles, or cans by security guards hired by the promoter of the concert for such purpose.

Section 59 of the Police Offences Act under the heading 'Control of Traffic on Special Occasions' (I will not quote the whole section but merely the relevant part) states:

> The mayor of any municipality shall have power to give reasonable directions for maintaining order in any public place on any special occasion.

I presume that it is under the auspices of that section that the order in the *Advertiser* was printed. Many people may have heard complaints regarding the body searches that occurred. In fact, a letter appeared in the *Advertiser* yesterday from someone who attended the rock concert on 5 March and who was complaining about having to submit to a body search. Part of that letter states:

> As a mature age professional working in the area of youth affairs I am concerned to draw public attention to the highly objectional scenario facing youth and young at heart who would like to attend rock concerts at Memorial Drive. One is first confronted by a high wire fence where security guards personally body frisk each individual passing through. At a further wire fence one's bag is searched. Only at the third fence is one asked for one's ticket.

Apart from that letter to the *Advertiser*, several of my constituents have complained to me about the body searches that took place. This body search applied to all people entering that concert, including all those people who had purchased tickets. Furthermore, all the security guards undertaking those body searches were males, who body searched all patrons attending the concert—male and female.

As far as I am aware, in no other situation of which I know are body searches of females undertaken by males. I refer to the situation in our prisons and police stations: the body searching of women is undertaken by a woman. We do not have situations where women are body searched by men. Apart from that aspect, it appears that a body search of someone who has committed no offence whatsoever and who is merely wishing to attend a concert for which they have purchased a ticket seems a fairly uncivilised way in which to order or arrange affairs in the community.

I doubt whether any of those people who attended concerts in the Town Hall or at the Adelaide Festival Centre would expect to be body searched, be it by males or females, when presenting themselves to attend the performance. Does the Attorney-General believe that body searches, particularly of females by male security guards, can be considered as coming under the auspices of section 59(2) of the Police Offences Act? Also, can they be regarded as a reasonable direction from the mayor of a municipality, in this case the Lord Mayor of Adelaide?

The Hon. C.J. SUMNER: No doubt the genesis of this direction given by the Lord Mayor of Adelaide, and notice of it given in the daily press prior to events that occurred at Memorial Drive, is in the interest of ensuring that at such functions where a large number of people congregate there is not any disturbance or difficulty occurring as a result of people being intoxicated. I imagine that that is what the City Council is concerned about when granting permission for a rock concert or any other event to be held at Memorial Drive. It needs to be said that the question that the honourable member raises is related to the broader question of attempts by the City Council to ensure that

there are no disturbances at such functions caused by people being inebriated or being in the possession of liquor that may cause them to become inebriated during the concert.

That having been said, it is important that the powers used in this area are clear and, following the letter in the newspaper to which the honourable member has referred and some other public comment about frisking and searching that went on before permitting entrance to the rock concert, I can say that I am seeking the Crown Solicitor's advice on the proper interpretation of section 59 of the Police Offences Act to see whether this sort of activity and the authorisation of private security guards under section 59 of the Police Offences Act is an authorisation that can properly be given under that Act. My preliminary view is that section 59 probably does not allow private security guards to be given the authority to conduct such searches. However, I have referred the matter to the Crown Solicitor and, following a report from the Crown Solicitor, I will take up the matter with the Corporation of the City of Adelaide to see whether there is any need for clarification of the law in these circumstances.

WASTE HUMAN TISSUE

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

Leave granted.

The Hon. R. J. RITSON: The Minister will recall that some time ago a quite recognisable portion of human body was found in the Wingfield dump. I could be more specific but I will not do too much to disturb the sensibilities of members of this Council. Suffice to say, it caused great disturbance, and it was indeed a portion of human tissue discarded as a result of surgery.

The point of my question is that this problem still exists, and I have been approached by a constituent who informed me that there is no system or set of requirements for the disposal of waste human tissue, and that in various hospitals it is quite a difficulty.

The Hon. J.R. Cornwall: When was that human tissue found at Wingfield?

The Hon. R.J. RITSON: It was about one or two years ago. In fact it was a leg from Flinders. Daily small portions of human tissue, small pieces of dissected bowel or tumors that have been found to be benign after biopsy (and therefore the principal tumor is not sent to histology) must be disposed of. I understand that the Royal Adelaide Hospital has facilities for cremating this material, and so there is no problem there, but various methods are employed in other hospitals. I will not mention the other methods, except to say that disposal in double strength plastic bags through ordinary commercial waste disposal contractors is carried out. That material is most probably dumped: it may be burnt, but not in a way that would destroy the larger specimens that have to be disposed of from time to time.

Pathologists generally have facilities to cremate remnant tissue after histologicial examination, but they are very reluctant to become a general agency for disposal of human tissue that has not been sent to them for histological examination but is merely waste from a hospital. The most difficult things to get rid of in terms of their physical characteristics and the emotions involved are legs and foetuses.

Therefore, will the Minister ask for an investigation, preferably by the Health Commission, as to the different methods of disposal of human tissue in various hospitals? Will he consider the case for guidelines or regulatory controls to be applied to hospitals generally in this matter, and will he report back to the Council on the nature of the problem, the results of the investigation, and any action he considers necessary to solve this issue?

The Hon. J.R. CORNWALL: I must say at the outset that I will be very pleased when the Legislative Council preselections for the Liberal Party are over. Between the sorts of stories that the Hon. Mr Davis tells us about the water in Hawker, and this rather—

The Hon. L.H. Davis: The Government is doing something about it.

The Hon. J.R. CORNWALL: Indeed, and the honourable member's preselection is probably assured as a result of that, but the Hon. Dr Ritson is perhaps not in the same happy position. What he has told us is a little bit of history revisited. The incident he described happened about three or four years ago.

The Hon. R.J. Ritson: Last weekend there was a real problem.

The Hon. J.R. CORNWALL: The honourable member asks whether I will consider the case for guidelines: I understand that there are guidelines for hospitals. I would certainly be pleased to consider regulatory controls. Regarding investigating the methods of disposal, quite clearly the best and the outstanding method is incineration. In an ideal situation, from the point of view of the metropolitan area, that would be desirable at all major hospitals but, in fact, that does not happen at all hospitals at this time.

I must confess to not being absolutely sure about the arrangements in each of the hospitals, but I would be pleased to obtain the detail and bring it back in the form of a report to the Council. Regarding the action to be taken, let me assure the honourable member that in this as in any other matter that has ever been drawn to my attention during the two years and four months I have been Minister of Health, I will pursue whatever action is necessary with great vigour.

PERSONAL EXPLANATION: MINISTER'S REMARKS

The Hon. R.J. RITSON: I seek leave to make a brief personal explanation.

Leave granted.

The Hon. R.J. RITSON: I noted the point with which the Minister closed his argument: he has indeed always responded to my questions in a satisfactory way when they have been of a non-political nature, but he seems to have misunderstood me when he went off on the Party political track about preselections. I was not raking over old coals. If the Minister wants the details of the difficulty faced by a surgeon in disposing of an amputated leg last weekend, if he wants me to describe some of the suggestions that were made to the surgeon to solve his dilemma, such as that he might find a friendly undertaker and slip it in with someone else, the Minister would understand that there is a real problem. He misrepresented me by saying that I was raking over two year old coals in the interest of preselection. That is not what the question was about. The Minister must understand that there is a problem.

CHILD CARE

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question about child care.

Leave granted.

The Hon. M.S. FELEPPA: An article in the *News* on Monday 11 March 1985 under the heading 'Child care centre bid hits hurdle' states:

A Polish community welfare group trying to set up a child care centre at Kurralta Park claims it is being discriminated against by the West Torrens council.

The building is behind the home of West Torrens mayor, Mr S. Hamra. He said this had nothing to do with council's stand.

The Jas i Malgosia Nursery says despite Federal and State Government support, the council has refused planning approval for the centre. And it is upset at the way the council worded its opposition in a resolution to the State Planning Commission. Part of the resolution describes the group's proposal as 'an absolute disgrace to every basic principle of planning.'

I emphasise the words 'an absolute disgrace to every basic principle of planning'. The report further states:

Australian Democrat Senator Haines, who has had the matter brought to her attention, says she was appalled when she read the council's decision. 'I have never seen such extraordinary language used by the council before,' she said.

I completely agree with those comments, and I support what Senator Haines said—that such language is appalling. I must confess that I am not one bit surprised, because I have previously experienced similar incidents. Therefore, I wish to thank Senator Haines for her intervention on this matter, and I hope that she will continue her interest to assist the community in every way she can. Given the desperate need of migrant communities to establish child-care centres that reflect their own cultures and values, will the Minister promptly request the Minister of Local Government to investigate the manner, reasons, and circumstances of the decision of the West Torrens council? Will the Minister refer the matter to the appropriate authority to investigate whether the council has discriminated against the Polish community, as claimed in the article? Finally, will the Minister make representations through the appropriate channels to the State Planning Commission to consider the decision of the council in the light of the circumstances surrounding the decision and the advice received after completion of the investigation that I suggest.

The Hon. C.J. SUMNER: I understand the honourable member's concern about this matter; that concern has been expressed on other occasions leading up to the decision of the West Torrens council. Whether or not any discrimination has occurred, presumably on the grounds of race, is a matter that could be looked at by the Commissioner for Equal Opportunity although any action that could be taken would have to be under the Federal Racial Discrimination Act. I know that the Minister of Community Welfare, Mr Crafter, has had some input in attempting to resolve the difference of opinion that has arisen over this child care centre in the West Torrens council area. I will again take this matter up with my colleague, the Minister of Community Welfare, and will refer the honourable member's question to the Ethnic Affairs Commission to see whether or not there is any case for any further action and whether or not there is any substance in the allegations of discrimination raised by him.

YOUTH SERVICES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about the Adolescent Health Centre.

Leave granted.

The Hon. L.H. DAVIS: In early June 1984 the Minister of Health, the Hon. Dr Cornwall, on his return from a trip to the United States, enthusiastically reported on the New York youth centre known as The Door, which provides a full range of services for young people in the age range of 12 years to 20 years. The Door operated on a budget of about $4 million a year and catered for 350 young people each day. The Minister believed that a similar programme could be established in Adelaide on a reduced scale in the 1984-85 financial year.

Recently three key people from The Door have been in Adelaide talking to youth organisations and workers about its operation. Saturday's *Advertiser* carried a report that youth workers expressed reservations about the way in which the Hon. Dr Cornwall had handled the matter. Mr Presdee, a sociologist and co-ordinator of the South Australian Centre for Youth Studies at the South Australian College of Advanced Education, was reported as saying that there was no evidence that a programme such as this could be transplanted in Adelaide at the expense of existing youth services, which were inadequately funded and researched. I understand that Mr Presdee is on several committees advising the Government on youth affairs.

I have made inquiries among youth organisations and workers in Adelaide and the metropolitan area and those groups are aware that 1985 is International Youth Year and that the Government quite properly wishes to have a project or projects launched in recognition of that fact. However, there is widespread criticism and concern about the Hon. Dr Cornwall's proposal. First, the body of opinion is that there has been no attempt to research the merit of establishing a new all-embracing youth service. The Minister is presenting the establishment of an Adelaide Door as a *fait accompli* with little or no consultation with key youth groups.

Secondly, existing youth organisations are already badly underfunded and in many cases are struggling for survival. They find it hard to believe that the Minister will splash out with $500 000 for one youth service when existing groups struggle for survival relying on a small share of $300 000-plus allocated by the Department for Community Welfare. Thirdly, it is stated that Dr Cornwall has publicly indicated that the centre will be in Hindley Street. I have it on good authority that a search for a site is already on. Youth workers do not believe that Hindley Street is an appropriate city site and believe that it would be more appropriate to service disadvantaged young people in the north, south and western suburbs, that is, on a regional approach. Building on existing services would be more desirable.

Fourthly, there is criticism about the lack of consultation. A consultative group met for the first time only in mid-February and was presented with models for the operation of an Adelaide Door, styled the Adolescent Health Centre, which would offer comprehensive health, legal, recreational and counselling services. Four options were presented for its administration: three were that it would be run by the Government and one that there would be funding for a new or existing voluntary organisation. I am told that people attending this mid-February meeting were left with a clear impression that the Adelaide Door was going to happen and that it was to be administered by the South Australian Health Commission rather than a voluntary organisation. However, the New York Door youth workers emphasised that the programme in New York works best as a voluntary programme and simply would not operate successfully if it was an arm of Government.

Fifthly, the argument goes that the establishment of a new large youth group may jeopardise existing well-run youth groups and have an adverse impact on the morale of volunteers who, of course, are vital to the success of such groups. My questions are:

1. Is the Minister aware that there is growing concern about his 'crash through and be damned' approach to the establishment of an Adelaide version of The Door?

2. Why did the State Government invite three principals, rather than just one, from The Door in New York to South Australia? What was the total cost to the Government of this recent trip?

3. On what basis did these three principals from The Door visit Adelaide? Were they retained as consultants? I understand that, having been here for only a few days, they have been giving expert views on the youth programmes as they operate in Adelaide.

4. Why has the Minister insisted on treating the establishment of a Door programme in Adelaide as a *fait accompli* before adequate research and consultation have taken place?

5. Does not the Minister believe that the interests of disadvantaged young people in South Australia could be better served by building on existing services in appropriate regions, given that many of these have already demonstrated a high level of professionalism despite a shortage of funds?

6. Will the Minister confirm that the Premier (Mr Bannon) is unhappy with the handling of the Door programme and that the Ministers in charge of International Youth Year (Mr Arnold and Mr Wright) are far from impressed with Dr Cornwall's grandstanding on this matter?

The Hon. J.R. CORNWALL: May I say at the outset that the Hon. Mr Davis's ignorance is matched only by his extreme lack of manners. It so happens that the three visitors from the United States are in the gallery at the moment and I am sure that they would have been somewhat less than impressed by that extraordinary outburst. The Hon. Mr Davis really is a very ignorant fellow.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Turning specifically to the matter raised, no, the Premier is not unhappy and Mr Arnold is his usual smiling self. In reply to the question as to whether I am aware of growing concern, I am aware of some criticisms that were made by one Mike Presdee, who did a bit of grandstanding last Friday. In terms of consultation, the Door people have been here at my specific invitation for a period now of nine days. They have worked extraordinarily hard from early morning to late at night. I have had the good fortune to meet with them on a number of occasions, the last of which was at lunch at Parliament House today, with a number of my colleagues who, I assure members, were fortunately far more gracious and better informed than the Hon. Mr Davis.

Regarding the allegation of a lack of consultation, during the period they have been here there was a public meeting last Monday week within hours of their arrival. Jet lag notwithstanding, they were on the job and on Monday night at a public meeting there was standing room only at the Institute of Teachers. More than 150 people attended the meeting. A seminar was held on Friday which was attended by more than 100 people. They have visited a wide range of youth facilities in Adelaide and altogether they have met with and consulted with something in excess of 400 people—many of them young people—and all of them people who are involved in one way or another with youth care in this State. In that sense the Hon. Mr Davis's performance is not only totally discourteous but also disgraceful.

I now refer to the honourable member's question, 'Why did the State Government invite three?' It so happens that my friends (and I am pleased to call them such)—Charles Terry (a Harvard law graduate), his wife, Dr Betsy McGregor (Paediatrician in Charge of Adolescent Health Services at the Beth Israel Hospital in New York; and she also maintains her links to the Door in her capacity as an expert in adolescent health), and Julie Gover (the Associate Director of Programmes)—were responsible for establishing the Door from the outset to meet a large number of urgent needs in New York City. The Door networks with all the other youth organisations in New York. It is not an alien culture, as Mr Presdee said in a manner that was just as gratuitously insulting as the Hon. Mr Davis's insult. Quite frankly, Mr Presdee would not be in the class to polish the shoes of Charles Terry or Betsy McGregor.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: In relation to the 'lack of consultation', of course, that is a nonsense. As I have said, the three people have been associated with the delivery of adolescent health services in particular and youth services in general for a total period now of something like 13 years. The basis of the visit was that I wanted to get it right. It is a new concept. What has happened in South Australia and indeed in this country generally for the past 10 or 15 years is that youth care and youth support has generally been delivered in a very friendly and 'tender loving care' approach, but in an unstructured way. What impressed me most about the Door was that there were quite definite programmes into which young people were ultimately directed and that there were goals and objectives.

Indeed, it is normal at the Door that after a period of attendance there is literally a graduation so that children between 12 and 14 years who may present at the Door in the first instance because of chronic truancy and learning difficulties at school have available to them remedial teaching. Children who present because they have primary medical or health problems have a full range of health services. That is not available in Adelaide; it has never been available in Adelaide. It certainly could not be done on some sort of sessional basis or with a travelling caravan around the suburbs. The whole project will be an initiative, and it will attract additional funding. It will not be to the detriment in any way of some of the excellent existing youth services, and it will certainly network with the suburbs and indeed on a State-wide basis.

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: If the Hon. Mr Davis wants to know about the Door, he can do as I did and go and look at it. He is fairly slow witted but I dare say he will learn. If he spent an afternoon and evening at the Door, I am sure that he would learn a great deal. As I have been trying to explain to him, he would learn just what the basic philosophies and policies underlining the programmes are. It is essential to it that there is a critical mass, so that there are not one or two workers but a full range of community health programmes for adolescents; that legal services are available; that remedial teaching is available; that a whole range of recreational activities both passive and active are available; and that it is possible within the programme to offer these kids, in many cases for the first time in their lives, the opportunity to build their self image and to give them the chance to be decent and responsible citizens in this very fine State.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: If the Hon. Mr Davis wants to stand up and knock a programme like that, he does so at his peril. I think his performance today was disgraceful. In terms of the total cost of the visit, at this stage I really do not have any accurate idea. I know that the return air fares have been paid at business class or its equivalent. The accommodation for the three people has been paid while they were here. I do not know what consultant's fees, if any, may have been paid. I shall be pleased to bring the details back to the Council in the fullness of time. I conclude as I began by saying that it is a unique programme. It introduces a new and exciting concept in adolescent health care to South Australia. It will be combined with a very much expanded adolescent health programme at the Adelaide Children's Hospital for the first time in the history of this State. The Hon. Mr Davis will have to wait another 10 or 12 days to find out about that. It will be a major initiative

and I am very proud to be associated with it and, indeed, to be one of the driving forces behind it at the moment.

QUESTIONS ON NOTICE

RESIDENTIAL TENANCIES FUND

The Hon. J.C. BURDETT (on notice) asked the Minister of Consumer Affairs:

1. What is the total amount currently standing to the credit of the 'Residential Tenancies Fund' however invested?
2. In what investments in detail is the fund invested?
3. What was the total income of the fund for the periods 1 July 1983 to 30 June 1984 and 1 July 1984 to 31 December 1984?
4. In respect of the periods 1 July 1983 to 30 June 1984 and 1 July 1984 to 31 December 1984 respectively, how much of the income of the fund was applied to—
   (a) compensating landlords under residential tenancy agreements in respect of damage caused to premises by children whom the landlords were required by the Residential Tenancies Act to permit to live on the premises?
   (b) compensating landlords under residential tenancy agreements in respect of damage caused to premises by tenants or persons (including children) permitted on premises by tenants?
   (c) towards the costs of administering the Act?
   (d) for the benefit of landlords or tenants in such other manner as the Minister, on the recommendation of the Tribunal, has approved?
5. In what other manner, if any, has the Minister approved the spending of money for the benefit of landlords and tenants during the above periods?
6. What was the total cost of administering the Act for the last period in respect of which a calculation of cost was made?

The Hon. C.J. SUMNER: The information is statistical and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

Reply to Question

1.	$9 708 201.39 (as at 31.1.85)		
2.	Cash at Bank		$
	State Bank		420 652.02
	Short Term Deposits		
	R.E.I. Building Society	2 410 000.00	
	Co-op. Building Society	750 000.00	3 160 000.00
	Bank Accepted Bills (Short Term)		
	National Bank		990 705.37
	Long Term Investments		
	Australian Resources Bank	500 000.00	
	ETSA	1 186 844.00	
	Primary Industry Bank of Australia	250 000.00	
	SAFA	2 700 000.00	
	S.A. Gas Company	500 000.00	5 136 844.00
			9 708 201.39

3.	1.7.83-30.6.84	1.7.84-31.12.84 (6 months only)
	$782 517.70	$675 707.31 (Anticipated full year) ($900 000)
4.	1.7.83-30.6.84	1.7.84-31.12.84 (6 months only)
	(a) Nil	Nil
	(b) Nil	Nil
	(c) $713 196.57	$200 000.00
	(d) $4 453.00	$1 411.00
5.	Nil	
6.	$713 197.57 (for year ending 30.6.84).	

INSTITUTE OF FRESH WATER STUDIES

The Hon. I. Gilfillan, for the **Hon. K.L. MILNE** (on notice), asked the Minister of Agriculture:

1. In the light of the Report of the Interim Council on the proposal for an Institute of Fresh Water Studies (presented to the Federal Minister for Resources and Energy in August 1984), does the Government agree with its recommendations for the establishment of an Australian Water Research Advisory Council instead of an Institute of Fresh Water Studies?
2. What is the difference between an Institute of Fresh Water Studies and an Australian Water Research Advisory Council and, if not known, would the Government ask for an answer?
3. In view of the importance of this matter to South Australia, does the Government have a preference?
4. Since the report states that there is a lack of understanding on underground water dynamics and that catchment processes are poorly understood, does the Government intend to take steps to hasten action regarding the establishment of the Institute or Advisory Council?
5. Will the Government ask the Federal Minister for Resources and Energy when some action can be expected?
6. Is the Government satisfied that the interests of South Australia and our opportunity to participate are protected in the recommendations of the Interim Council?

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

1. Yes.
2. In its submission to the Interim Council the South Australian Government recommended that an institute be set up which would carry out research in its own right. This was to ensure that high quality senior staff would be attracted to the Institute. The Interim Council has recommended the establishment of an Advisory Council without its own research capability but with a support unit in the Department of Resources and Energy.
3. The proposed arrangement is considered satisfactory provided suitable senior staff are recruited and the necessary level of Commonwealth funding is achieved.
4. A letter was sent to the Minister for Resources and Energy in November 1984 expressing this Government's desire for a greater funding commitment, by the Commonwealth Government, and immediate implementation of the Interim Council's recommendations.
5. The Commonwealth Government is examining the Interim Council's report and we are awaiting a response to our submission.
6. Yes.

STATE TAXES

The Hon. M.B. Cameron, for the **Hon. L.H. DAVIS** (on notice), asked the Attorney-General:

1. Do current projections indicate that the amounts to be collected for the following State taxes for the 1984-85 financial year will be ahead of the Budget estimate—
   (a) Financial Institutions Duty;
   (b) Stamp Duties;
   (c) Property;
   (d) Business franchises?
2. If so, to what extent are estimated receipts expected to exceed budgeted receipts?

The Hon. C.J. SUMNER: Based on collections for the seven months ended January 1985, it is expected that only stamp duties will exceed budget by a significant amount. F.I.D. and property-land tax are expected to come in approximately on budget while business franchises (gas, liquor, petroleum and tobacco) may fall short of budget.

The expected improvement in stamp duty collection has been brought about by higher than expected increases in the level of activity (transactions) and average duty (which reflects price increases) in respect of real property transactions and higher than anticipated increases in average duty paid on motor vehicle registrations which reflects in part a greater than estimated shift away from second-hand to new motor vehicle registrations.

It should be noted that with respect to taxation receipts generally and in particular stamp duties there is a potential for major variations in either direction against Budget/ Revised Outcome dependent upon the level of activity and prices paid in the market place.

LONG SERVICE LEAVE (BUILDING INDUSTRY) ACT AMENDMENT BILL

In Committee.

(Continued from 27 February. Page 2894.)

Clause 3—'Definitions.'

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

Page 1, lines 26 to 34—Leave out paragraph *(c)*.

My amendment is to ensure that the provisions of section 4 of the principal Act remain substantially as they are at present. Clause 4 is the definition clause: it contains a definition of 'employer', which is relevant in determining the scope of the application of the Long Service Leave (Building Industry) Act and the obligations of employers to make contributions towards the fund. The definition section was amended in 1982 to remove what was then a definition of 'industry' and to replace it with a definition of 'employer', which means under the 1982 amendment:

a person or body that employs a person under a contract of employment as a building worker for the purpose of any of the following activities:

(a) the construction, renovation, alteration, maintenance, repair or demolition of—

(i) any building;

(ii) structures (including tanks) for the storage or supply of water;

(iii) structures for the conveyance, treatment or disposal of sewage or effluent;

(iv) bridges, viaducts, aquaducts or tunnels;

(v) chimney stacks, cooling towers or silos, or the construction, improvement or alteration of docks, jetties, piers or wharves;

(b) pile driving or the preparation of the site for an activity referred to in paragraph *(a)*;

(c) the construction on the site of an activity referred to in paragraph *(a)* of structures or fixtures required for or in connection with that activity;

or

(d) the construction off the site of an activity referred to in paragraph *(a)* of structures or fixtures required for or in connection with that activity where the person or body in question also engages in an activity or activities referred to in that paragraph,

but does not include—

(e) the Crown;

(f) any agency or instrumentality of the Crown;

(g) a council within the meaning of the Local Government Act, 1934-1981;

(h) any person or body of a prescribed class;

or

(i) any person or body where the activities of the kinds referred to in paragraphs *(a)* to *(c)* engaged in by the person or body are (taken together) subsidiary to other activities engaged in by that person or body:;

Then, a further provision inserted in 1982 was in subsection (3):

For the purposes of this Act, in determining whether particular activities are subsidiary to other activities, regard shall be had to the number of persons engaged exclusively in the firstmentioned activities and to the number of persons engaged in the other activities (disregarding in both cases persons who are engaged wholly or principally in work of an administrative or clerical nature).

That subsection is proposed to be left out by the Bill, and paragraph *(a)* of the definition of 'employer' is proposed to be repealed and a new paragraph *(a)* inserted in its place. The object of the amendments that the Bill incorporates is to widen the scope of the industries affected by the legislation so that their employees may participate in the Long Service Leave (Building Industry) Fund, which will consequently result in added contributions by employers of persons engaged in those areas of industry that are not presently encompassed by the principal Act.

During the second reading debate I indicated that I was concerned about the extension of availability of long service leave in an industry, first, because of the potential within the building industry for this to add to its costs in what is not a particularly buoyant, but somewhat depressed, sector of the economy, notwithstanding something of an upsurge in the housing industry, and also because of the way in which this may be used as a precedent to open up other areas of work to a similar sort of long service leave provision, particularly in an industry like the shearing industry. That would be devastating for private enterprise in South Australia, but more particularly for the well-being of all South Australians in what is a highly competitive economy where South Australia, while it should have some economic advantages, in fact suffers as a result of the small size of its economy compared with those of the States on the eastern seaboard.

As I indicated in my second reading speech, in the mid 1970s long service leave was payable only to those employees who had served a period with a particular employer. It was then unacceptable that long service leave should be regarded as being for employment within a particular industry. It was an incentive for employees to remain with one employer and to provide reasonable service to an employer in return for not only reasonable salaries and allowances but a reasonable provision for long service leave.

We saw with the introduction of the principal Act in 1976 a totally different concept with long service leave being extended to an industry, notwithstanding that an employee within that industry may change from one employer to another, and may not have what would generally be regarded as a continuous period of service. Substantial absence from the industry is permitted under the principal Act.

We have seen the concept change only in relation to the building industry and, because of the peculiarities of the building industry and its employment opportunities, the nature of the work performed and the mobility of employees, there appears to be a general acceptance of this legislation in that industry, but it would create additional burdens for industry as well as being the thin end of the wedge for other industries if we were to allow it to be extended as widely as the Government's amendment in the Bill proposes. Therefore, I move for the deletion of that part of the Government's Bill that seeks to broaden the ambit of the principal Act, and to maintain the *status quo*.

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

Page 2—

Lines 7 and 8—Leave out all words in these lines.

Line 13—After 'subsection (3)' insert 'and substituting the following subsection:

(3) A person or body shall not be regarded as being an employer for the purposes of this Act if the person or body—

(a) employs a person as a building worker only for or in connection with the construction, improvement, alteration, maintenance, repair or demolition of a building or structure owned or occupied by the person or body;

and

(b) does not carry on the business of constructing, improving, altering or repairing buildings or structures for the purpose of their subsequent sale or lease.'

My amendments are related to each other. They are really of a drafting nature. The words in the Bill 'not being a building or structure that is to be in continuing occupation or use by that person or body' were intended to exclude from the definition of 'employer', first, a person who employs a building worker under a contract of employment to carry out on a continuing basis the maintenance or repair of premises owned or occupied by the employer. For example, a department store or a large factory, etc., may have a permanent maintenance type building worker as part of its work force. Such a person in any event would be covered by the ordinary Long Service Leave Act.

Secondly, it is intended to exclude from the definition of 'employer' a person who is building or improving his own house or business premises and, rather than giving the work to contractors, employs building workers as employees, that is, under contracts of employment. It is not practicable to require such one-off employers to come under the scheme of the Act. Paragraph *(a)* in the definition of 'employer' would have excluded both such classes of employer, and that was the Government's intention in this Bill.

However, it is intended by the Government that spec builders and renovators would come under the scheme, and that is made clear by the words of paragraph *(b)* of new subsection (3). My amendment puts a new subsection (3) into the definition of 'employer' in section 4 and does two things. Paragraph *(a)* excludes those classes of employers to whom I referred. It was not intended that the Bill would cover them and, in fact, we believed that Bill did not cover them. It is to clarify that and, secondly, it is to make clear that the Bill does cover spec builders and renovators.

The Hon. Mr Griffin's amendment is opposed by the Government. The Government believes that the areas of activity outlined in the Bill properly constitute the building industry and building work and, accordingly, are appropriate to be covered by the legislation. Concerning the other aspect of the honourable member's amendment, namely, section 4 and the definition of 'employer' in that section, it is made clear under the existing Act that 'employer' does not include the Crown and any agency or instrumentality of the Crown, and included in those exceptions are any person or body where the activities of the kind referred to in paragraphs *(a)* to *(c)* engaged in by the person or body and taken together subsidiary to other activities engaged in by that person or body. The Government's amendment would delete that exemption or exception to the general definition of 'employer'.

The Opposition's amendment reinstates it. The problem I understand is that there is capacity for avoidance of the legislation in that exemption because, by way of subsidiaries that were clearly involved in the building work, some employers are escaping being caught up in the scheme, and there are a number of building workers who are employed by those subsidiary companies but who nevertheless still carry out building work and who may shift from one company to another and who, under the principles of the legislation, should get the coverage that is envisaged. Because the activities of building are subsidiary to some other activity, there is some possibility for those employers not to be covered and, therefore, for the employees not to be covered. The Government believes that that capacity for being exempted from the legislation should be removed.

The Hon. L.H. DAVIS: I am pleased that the Government has reconsidered the matter and has moved another amendment different from the original proposal and that is a considerable improvement. As I indicated in my second reading contribution, there was some unease that employees on the fringe of the building industry—people such as glaziers, landscapers and pest control operators—could have been picked up under the provisions of the Act and this would have disadvantaged their employers by committing them to make a contribution to the Long Service Leave Building Industry Fund of 2 per cent.

The Hon. K.T. Griffin: It still does.

The Hon. L.H. DAVIS: Sure. Also, the operation of this provision, as it was originally proposed, was retrospective in its application. Therefore, this amendment does improve the situation, and narrows the operation of the definition. Can the Minister say how many additional people will be picked up under the provision? One of the concerns expressed in the second reading debate was that the Government had been decidedly silent about the economic impact of the provision. Although there has been this improvement, I would be interested to know whether the Attorney has any indications about how many additional people will be brought in.

The Hon. C.J. SUMNER: It is estimated to involve 200 to 300 people.

The Hon. K.T. GRIFFIN: I am not sure what procedure you will adopt in putting the amendments, Mr Chairman.

The CHAIRMAN: It will involve a test case.

The Hon. K.T. GRIFFIN: In regard to the Attorney's amendment, some clarification would be important. I doubt that it will create any great problems, particularly in regard to paragraph (3) *(b)*, which relates to the business of constructing, improving, altering, or repairing buildings or structures for the purpose of their subsequent sale or lease. However, that is largely a technical drafting matter. It should not cloud the principal issue that is in my amendment to ensure that as much as possible the *status quo* in respect of the scope of the legislation is maintained.

The Committee divided on the Hon. K.T. Griffin's amendment:

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

Noes (11)—The Hons Frank Blevins, 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.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. C.J. Sumner's amendment carried; clause as amended passed.

Clauses 4 to 11 passed.

Clause 12—'Effective service after commencement of Long Service Leave (Building Industry) Act Amendment Act, 1982.'

The Hon. K.T. GRIFFIN: In another place the Hon. Roger Goldsworthy commented on this provision, which seeks to allow 36 months rather than 18 months between periods of service within the industry and to allow a person who is away for that period to continue as a member of the fund. How many employees is that provision expected to affect, and what is the estimated extent of additional liability of the fund that may arise as a result of this amendment?

The Hon. C.J. SUMNER: I will have to obtain further information on the first question: it is not possible to answer at this stage, but I would be happy to provide a response after the passage of the Bill. As to the second question, there is no actual cost to the scheme because of the increase in the time for which a person may be out of the industry.

The Hon. L.H. DAVIS: Will the Attorney say whether the increase in the provision from 18 months to 36 months will bring South Australia into line with other States or put it in advance of other States?

The Hon. C.J. SUMNER: I do not have precise information on that, but no doubt we can provide it. My information is that the period for which a person can be outside the industry has been increased in some of the other States but I do not believe that that period has been increased to 36 months. I will obtain that information for the honourable member.

Clause passed.

Clauses 13 to 15 passed.

Clause 16—'Reciprocal arrangements with other States and Territories.'

The Hon. K.T. GRIFFIN: I will vote against this clause, which seeks to provide a mechanism by which a reciprocal arrangement can be negotiated between the Minister responsible for the administration of the Act and the Minister of a State or Territory responsible for corresponding laws within the State or Territory. That will mean that those who work in areas of the building industry and who move to South Australia will automatically be entitled to continuity of service and participation in the scheme under the terms of the legislation: a building worker who moves from South Australia to another State will likewise receive reciprocal benefits from the long service leave (building industry) schemes in that State. I understand that that applies only to New South Wales, Victoria and the ACT but, after all, that involves a substantial body of the building workforce in Australia. I adopt the view that to embark on reciprocal arrangements in the longer term may well add to the costs of South Australian industry and effect its competitive nature.

It may well also lead to the establishment of similar schemes in other industries, particularly the shearing industry, with reciprocal arrangements with those other States and the Australian Capital Territory. I do not believe that it is appropriate for this reciprocal arrangement to be agreed to. I recognise that the section facilitates the reciprocal arrangement. The same consequences will obviously flow from the passing of this clause. For those reasons I oppose the clause.

The Hon. C.J. SUMNER: I ask the Council to retain clause 16. It will enable reciprocal arrangements to be entered into with other States and Territories. All other States, except Queensland and the Northern Territory, have such a scheme as this and are prepared to participate in reciprocal arrangements. I understand that negotiations have proceeded with all these States and that it will be possible to enter into an agreement with them in the reasonably near future. I do not think that honourable members should exaggerate the significance of this measure in economic terms as far as the States concerned or in terms of any additional burdens that will be placed on the South Australian scheme.

It is estimated from the monitoring that has been carried out over the past 12 months that there are only 50 people out of the 13 000 people covered by the scheme in South Australia who have service in other States and who, therefore, may be eligible to be picked up if a reciprocal arrangement is entered into. By the same token, there would be in the other States people from South Australia who will be picked up by schemes in those other States. It seems to be not an unreasonable provision, given that all the other States and Territories, except Queensland and the Northern Territory, are involved in it. The ACT is involved in it and Tasmania is apparently prepared to enter into it. On that basis I believe that the clause should be passed by the Council. I do not believe that it will place any great economic burden on South Australian industry and, depending on the movement of people between the States, at a particular time South Australia will benefit because people will transfer and at other times there will perhaps be a small added burden to the South Australian scheme.

The Hon. K.T. GRIFFIN: I do not accept what the Attorney has indicated. I think that there will be some longer term costs, but the more difficult question is the extension of this Australia-wide reciprocal arrangement to other industries. In another place the Hon. Roger Goldsworthy referred to the shearing, cleaning and hotel industries not on the basis of the need for employees to be itinerant, but the fact that employees in many instances for their own convenience determine to travel rather than stay put in one place. I see that it can be a problem. I seek to maintain the *status quo* rather than open what may be the flood gates for this and other industries.

The Committee divided on the clause:

Ayes (11)—The Hons Frank Blevins, 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.

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

Majority of 1 for the Ayes.

Clause thus passed.

Remaining clauses (17 to 21) and title passed.

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

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: I put on record the Liberal Party's very grave concern about the two principal matters that the Committee agreed to leave in the Bill. I do not intend to divide on the third reading because it is clear that the Australian Democrats support the Government on this piece of legislation, which will widen the scope of the Long Service Leave (Building Industry) Act and will allow reciprocal arrangements with other States.

Other amendments in the Bill are desirable. I indicated that during the second reading debate, and it has been indicated in another place. Notwithstanding that, I think that the two overriding features of the Bill which cause concern remain in the Bill, and they are sufficient for me to indicate that, although I oppose the third reading, because of the indication by the Democrats that it will support the Government and these two provisions in particular, I do not intend to divide.

Bill read a third time and passed.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 28 February. Page 3000.)

The Hon. L.H. DAVIS: The proposal to amend the Constitution to establish a minimum fixed term for the House of Assembly reflects almost a decade of debate on the matter following the controversy surrounding the Federal elections of May 1974 and November 1975, and a succession of early State elections in South Australia—from March 1973 to July 1975, then to September 1977 and, finally, to December 1979 (which was the straw that broke the Corcoran Government's back). It is interesting to note that, since the introduction of responsible Government in South Australia in February 1857, of the 38 Parliaments to 1968, 32 ran for two years and 10 months or more, but of the six Parliaments in the period 1968 to 1982 only one Parliament ran for two years and 10 months.

Indeed, it is worth recording that from 1912 through to 1968—a period of 56 years—the State election was always held in February, March or April. In fact, of the 11 elections called by Sir Thomas Playford, 10 were held in March and one in April. Rather remarkably, the House of Assembly was always dissolved in February, prior to each of the 19 elections in the period 1912 to 1968. Sir Thomas Playford dissolved the House eight times on 28 February and twice on 29 February. Therefore, it could hardly be said that his opponents were not given every opportunity to fully prepare for an election campaign. I seek leave to have incorporated in *Hansard* information of a statistical nature setting out South Australian elections and dates of Parliament since 1857.

The PRESIDENT: Is it statistical?

The Hon. L.H. DAVIS: Yes, Mr President.

Leave granted.

South Australian Elections and Dates of Parliament, 1857

Parliament	Date of Election	Assembled	Dissolved
1st	29 February 1857 9 March 1857	22 April 1857	1 March 1860
2nd	3, 19, 23 March 1860 3 April 1860	27 April 1860	22 October 1862
3rd	10, 17, 24 November 1862	27 February 1863	25 January 1865
4th	20 February 1865 1, 6, 9 March 1865	31 March 1865	26 March 1968
5th	6, 9, 15, 21 April 1868 4, 7 May 1868	31 July 1868	2 March 1870
6th	28 March 1870 5, 14, 21, April 1870	27 May 1870	23 November 1871
7th	7, 14, 27 December 1871	19 January 1872	14 January 1875
8th	10, 11, 12, 16, 22 February 1875 1 March 1875	6 May 1875	13 March 1878
9th	29 March 1878 2, 5, 11, 16, 19, 30 April 1878	31 May 1878	19 March 1881
10th	5, 8, 11, 21, 25, 27 April 1881	2 June 1881	19 March 1884
11th	2, 8, 23 April 1884	5 June 1884	2 March 1887
12th	15, 19, 22 March 1887 2, 6, 21, April 1887	2 June 1887	19 March 1890
13th	9, 11, 18, 19, 23 April 1890	5 June 1890	21 March 1893
14th	15, 19 April 1893	8 June 1893	31 March 1896
15th	25 April 1896	11 June 1896	5 April 1899
16th	29 April 1899	22 June 1899	Expired under Act 779 of 1901 31 March 1902
17th	3 May 1902	3 July 1902	4 May 1905
18th	27 May 1905	20 July 1905	10 October 1906
19th	3 November 1906	30 November 1906	28 February 1910
20th	2 April 1910	2 June 1910	16 January 1912
21st	10 February 1912	19 March 1912	23 February 1915
22nd	27 March 1915	8 July 1915	28 February 1918
23rd	6 April 1918	25 July 1918	28 February 1921
24th	9 April 1921	21 July 1921	29 February 1924
25th	5 April 1924	24 July 1924	21 February 1927
26th	26 March 1927	17 May 1927	20 February 1930
27th	5 April 1930	27 May 1930	28 February 1933
28th	8 April 1933	6 July 1933	11 February 1938
*extended for two years by Act No 2141 of 1933			
29th	19 March 1938	19 May 1938	18 February 1941
30th	29 March 1941	3 July 1941	28 February 1944
31st	29 April 1944	20 July 1944	28 February 1947
32nd	8 March 1947	26 June 1947	28 February 1950
33rd	4 March 1950	28 June 1950	28 February 1953
34th	7 March 1953	25 June 1953	29 February 1956
35th	3 March 1956	8 May 1956	28 February 1959
36th	7 March 1959	9 June 1959	28 February 1962
37th	3 March 1962	12 April 1962	28 February 1965
38th	6 March 1965	13 May 1965	29 February 1968
39th	2 March 1968	16 April 1968	1 May 1970
40th	30 May 1970	14 July 1970	20 February 1973
41st	10 March 1973	19 June 1973	20 June 1975
42nd	12 July 1975	5 August 1975	17 August 1977
43rd	17 September 1977	6 October 1977	22 August 1979
44th	15 September 1979	11 October 1979	14 October 1982
45th	6 November 1982	8 December 1982	

The Hon. L.H. DAVIS: It is interesting to note that in the first 14 Parliaments through to 1893 South Australian elections were conducted over a range of dates. For example, the thirteenth Parliament, which was elected in April 1890, had election dates covering the period 9 April, 11 April, 18 April, 19 April, and 23 April. Elections were not a rushed affair in those days. When Sir Thomas Playford was first elected to Parliament the House of Assembly had multi-member electorates, but these were replaced after 1938 by single electorates. The Legislative Council had multi-member electorates until the 1975 State election, comprising five electoral districts of four members each. In 1975 this was replaced by a system where half the Council retired and 11 members were elected who had the State as their electorate, similar to a Federal Senator.

The term of service of a Legislative Councillor is defined in section 13 of the Constitution Act. At present, the term shall be six years at least, calculated as from the first day of March of the year in which he or she was first elected. In recent times section 13 has operated to restrict the Government from holding an election for half the Council at the same time as an election was being held for the House

of Assembly. Councillors elected in March 1973 were not required to face the voters in September 1977 as the six year period had not expired. They retired in September 1979 after a 6½ year term. Councillors elected in July 1975, including my colleague the Hon. Murray Hill, were not required to retire in September 1979 but served until November 1982—a seven year and four month term.

Indeed, it is useful to illustrate how the existing powers operate in respect of the length of term of members of the House of Assembly and the Legislative Council. Existing section 28 provides:

Every House of Assembly shall continue for three years from the day on which it first meets for the dispatch of business.

It is not from the date of the election. That provision is subject to the following provisions:

(a) If the said period of three years would expire between the thirtieth day of September and the first day of March next thereafter, the House of Assembly shall continue up to and including the day preceding the said first day of March and no longer;

(b) If the said period of three years would expire between the last day of February and the first day of October next thereafter, the House of Assembly shall cease and determine on the said last day of February.

Therefore, if this three year period expired on, say, 2 October, the powers of section 28 (1) *(a)* provide that the House of Assembly would continue up to 28 February of the following year—a period of three years and five months, and conceivably as much as three years and eight months after the actual election date. In fact, an election could be held after 28 February. However, if the three year period from the time the House of Assembly first met expired between 28 February and the first day of October—for example, 29 September—the House of Assembly shall cease and dissolve on the said last day of February pursuant to the provisions of section 28 (1) *(b)*. In this case the House would sit for only two years and five months.

As can be seen from the two examples, rather remarkably a difference of a day or two in the expiry of the three year period from the day on which the House of Assembly first meets for the dispatch of business can make a difference of one year in the length of time which the House can sit. It is also pertinent to consider the maximum length of term for a Legislative Councillor under the present provisions. If, for example, a Legislative Councillor was elected at a State election held in March 1975, the required six year term would expire on 1 March 1981, under the operation of section 28 (1) *(b)*. However, if an election was held in February 1981, there would not be an election for half the Legislative Council. In fact, Councillors elected in March 1975 could remain until the next State election, which could be as late as the end of February 1984—a period of almost 9 years.

The Government has proposed a four-year term for the House of Assembly. What is the practical effect of the proposed amendments to the length of term of the House of Assembly? Clause 4, which seeks to substitute section 28, basically picks up the provisions of existing section 28. Therefore, using the same examples as previously used, if the four year period expired on, say, 2 October, the House of Assembly could continue until 28 February of the following year.

Under clause 28a that is a period of four years five months, and conceivably as much as four years eight months, after the first election date if the House of Assembly did not first meet for business until three months after the election date, as was the case in 1973. If the four years expires after 1 March and on or before the last day of September, the House of Assembly expires on 1 March, under the provisions of clause 28b. Therefore, if the four years expire on 29 September, the House could sit for only three years five months, as the four years relates back to 1 March. These examples should dispel any notion that the Government's proposed amendments to the Constitution provide for a maximum four year term: clearly, they do not.

As I have illustrated, a day's difference in the expiry of the four years from the date on which the House of Assembly first met can make a difference of at least one full year in the maximum life of the Government, the difference between as much as four years eight months and as little as three years five or six months.

The Hon. R.C. DeGaris interjecting:

The Hon. L.H. DAVIS: Exactly: as the Hon. Mr DeGaris accurately interjects, if the House does not meet for some period, and given that it is required to meet only once within a calendar year, that four years eight months could blow out to as long as five years. In that example I provided, where with the right conjunction of dates that maximum of four years eight months was based on the assumption that the House of Assembly would convene no more than three months after the election date. However, if the Government chose to convene seven months after the election date it is conceivable that one Government would have a maximum period of up to five years.

Therefore, it is misleading for the Government to suggest that this legislation introduces four year terms for the House of Assembly. What can be said is that clause 28 seeks to limit the minimum length of term of the House of Assembly to three years from the day on which the House of Assembly first met.

Therefore, it would be proper to describe this provision as introducing a minimum fixed term, subject to the triggering of the deadlock provisions of section 41 or a motion of no confidence in the Government being passed in the House of Assembly and no alternative Government having been formed within seven days of the passing of that motion.

The Hon. R.C. DeGaris interjecting:

The Hon. L.H. DAVIS: The Hon. Mr DeGaris anticipates the very interesting Committee debate that no doubt will take place on that proposal because, undoubtedly, that is one of the more contentious issues in this Bill. I do not intend to canvass it in my second reading contribution, but I am sure that, like the Hon. Mr DeGaris, I will be more than interested in participating in Committee when we debate the semantics and the practical impact of the Government's proposal.

The provisions of clause 28a are at the nub of the debate. In what circumstances should a Government be allowed to go to the electors ahead of a minimum fixed term? It is a red herring to use analogies with the American political system, given that it is a totally different structure. We must be practical in examining this question: for example, if the Tonkin Government elected in November 1979 had been defeated on the Roxby Downs Indenture Bill in June 1980 rather than having it passed eventually in June 1982 by the eleventh hour conversion of the new Independent in the Legislative Council (the Hon. Norm Foster), should it not have been allowed to go to the people arguing that this was a matter of public importance for which it had been given a mandate?

What if an indenture Bill for a petro-chemical plant was defeated in the Legislative Council soon after an election, and an election were three years away? The Government knows that if it has to wait for that time another State will seize the opportunity to establish or to build a petro-chemical plant to the exclusion of South Australia. These examples are not wild figments of a legislator's imagination: the Roxby Downs affair in this Council just two years ago is there for all to see. Undoubtedly, it is difficult to come up with a form of words that not only covers the examples that I have mentioned but also does not create a legal nightmare.

Amendments are on file that seek to extend the operation of clause 28a. These matters are most properly debated in Committee.

One final point in relation to the length of term to be served by a Legislative Councillor under the provisions of new section 14: the minimum six year term requirement is removed. Therefore, half of the Legislative Council retires at each House of Assembly election except where the deadlock provisions of section 41 are triggered, in which case Legislative Councillors must have served for at least three years. Therefore, paradoxically, although the maximum length of term of the House of Assembly has been extended by one full year under the Government proposals, the length of term of a Legislative Councillor will be shortened from a theoretical present maximum of nine years to a new possible theoretical maximum of eight years five months, assuming that in most normal circumstances a Government will reconvene the House of Assembly within three months of the election date.

The Hon. R.C. DeGaris: Are you saying that there should be a one-way traffic fixed term: a fixed term for the House of Assembly, but not for the Council?

The Hon. L.H. DAVIS: The Hon. Mr DeGaris has again interjected and said that the benefit of the fixed term apparently resides with Lower House members—members of another place—rather than with members of the Legislative Council. If my calculation is correct, it will come as no small relief to the community and my colleagues in another place, some of whom erroneously believe that Legislative Councillors have an easy wicket on which to play a longer innings than all bar Sir Donald Bradman. Proposed new section 13 (5) seeks to cover the question of a casual vacancy in the Legislative Council. It formalises what has been a long held convention, at least in South Australia, that the Party that had endorsed the retiring or deceased Legislative Councillor has the right to nominate a person to occupy the vacancy. The convention has worked well in the past. I remember that it operated to my advantage on 31 July 1979, when I was elected to replace the Hon. Jessie Cooper. The proposals that are before us are major amendments, which will be undoubtedly thoroughly discussed in Committee. I support the second reading.

The Hon. I. GILFILLAN: We believe that this Bill is a disappointing attempt at a very worthwhile aim, which is to establish fixed terms for a Parliament. It becomes increasingly clear as the subject is discussed more among the public that it has very strong support, and that there are increasing signs that the general public, if given a chance to have a voice in this, would be substantially in favour of Governments anticipating a strictly fixed term in which there would be a set election date every four years.

Several arguments have been put forward in favour of this from both sides of the Council. It seems to us that the aim, at least, of the Bill is not only to avoid or reduce the chance of an early election, but to give a greater expectancy of a reliable, firm and predictable period of Government free from the uncertainty as to timing and the destructive influence of extended campaigning periods.

In the 1979 Liberal policy speech the then Leader of the Opposition (David Tonkin) said that that was the third early State election and he gave the undertaking 'We will seek effective legislation to prevent this abuse in the Parliamentary system.' Assuming that he was speaking for the Liberals, he was indicating that early elections were an abuse of the Parliamentary system, and that the Liberal Party had plans to introduce legislation to prevent it. The principal spokesman in this Council for the Liberals, the Hon. Mr Griffin, in a long and constructive speech stated:

> It is important to ensure that there is no attempt to even engineer a situation whereby an early election is held for purely political purposes.

In his second reading explanation the Attorney-General stated:

> The problem addressed by the Bill is the lack of predictability and stability in the electoral cycle within this State. The present constitutional rules virtually allow the Premier of the day to call an election for the House of Assembly at his whim.

He made several other points, and stated:

> It would largely remove the partisan political advantage presently enjoyed by the Premier in his choice of a date for an election;

Further on he stated:

> It would enable the Government to plan its Parliamentary timetable in a more rational, methodical, and purposeful manner.

In the following paragraph he stated:

> The real advantages of the proposal inherent in this Bill are the removal of the potential for cynicism and opportunism from the decision-making processes that apply to elections. Acute uncertainty very often reigns even from the early life of a new Parliament. Rational planning, in both the private and public sectors, becomes very difficult. Short term *ad hoc* political advantages will not hold sway in the decision to go to the people.

I read with great interest an *Advertiser* editorial of Tuesday 26 February. It has been quoted previously by the Hon. Mr DeGaris, and I have found that it supported largely our point of view. I will refer to the last paragraph of that editorial. However, prior to that it makes the following comment about the current system, 'This gives about a year of real governing each time,' We find that an accurate reflection of the result of the present situation. The last paragraph of that editorial—

The Hon. Frank Blevins interjecting:

The Hon. I. GILFILLAN: Someone else can quote that. I have one paragraph that I believe is important in regard to the Democrats' point of view, and it states:

> There should be, then, a four-year term, and a fixed term, as is the case with the US presidential elections. A Government could go to the polls earlier only if the Governor granted that it had irredeemably failed to hold the confidence of the House, or needed to seek a mandate for some new and important issue, or had a vital and valid constitutional reason; and on the understanding that the Government then elected served only the remainder of that term, which prospect would in itself militate against frivolous manipulative elections. The time has arrived for political decision to transcend bickering, for the goal of longer and fixed terms is clearly in sight. At stake is better government, for us, and for our heirs.

The Hon. Frank Blevins: Selective quoting!

The Hon. I. GILFILLAN: As the Council will find, it summarises largely the Democrats attitude to the fixed term issue. We were advised after asking the Library for research material that 11 countries provide for fixed terms. Therefore, it is not an entirely novel idea or one that is just restricted to the United States. I emphasise that the arguments put forward from both sides of the Council (from both major Parties) for a modified form of fixed three year term with the flexibility on the latter end of it, are persuasive arguments for exactly what the Democrats would like to see: that is, a fixed four year term.

Accepting that there are and will be problems in getting the legislation in as an effective and as thorough form as possible, we are not willing to jettison the aim, because it will require some thoughtful and maybe difficult drafting of legislation. The fact still remains that the argument that has been put up to date supporting fixed terms is very sadly diluted if in fact the terms can be flexible for about the 18 months that would extend beyond the three years, which is relatively fixed.

In the amendments that we have on file in my name, in the first instance there is the matter of the starting date. We will be seeking to ensure that the starting date for the effect of this legislation would not occur before 15 September,

so that there would be security of term for those Legislative Councillors who have been elected, and some time for freedom from the risk of an early election, which is part of the reason for the introduction of the Bill.

The second part of the amendment is related specifically to a fixed term, and attempts to provide that there will be regular elections anticipated to be on the second Saturday in March of each fourth year. However, because there is obviously good reason for grounds that a Government may go to the people within that four year period, the amendment will attempt to expire that Government on the predictable expiry date, regardless of when the election takes place. If there is by argument a justifiable reason for an election after three years, the successful Government would only anticipate governing for 12 months to the predictable expiry date, and then there would be the anticipated election date, which is what the general public and the whole system would be geared to.

The Hon. K.T. Griffin: You would have more elections.

The Hon. I. GILFILLAN: I do not believe it would result in more elections. The reasons for having an election in that case would be *bona fide* genuine attempts to solve a problem rather than a manoeuvre to establish a position of advantage for the Party in power. We believe that that is a strong disincentive—to refer to the *Advertiser's* words 'frivolous or irresponsible manipulations of elections'—and that seems to us to be an adequate safeguard to reduce those to a minimum.

If in those circumstances there is an election called, we believe that that reason would be *bona fide* and substantial. As to amendments not on file that we intend to move, it has already been recognised by the Hon. Mr DeGaris that there is an anomaly in the system for picking the long term Legislative Councillor in the case of a double dissolution. In fact, it is possible under the formula in the Bill for a candidate who is not in the first 22 elected to get up and be counted in the first 11, and be eligible for the longer term. We have made a calculation of a hypothetical case that provides substance for the criticism of that part of the Bill. Rather than going through it, I seek leave to have it inserted in *Hansard* without my reading it: it is a hypothetical statistical example of voting percentages.

Leave granted.

VOTING PERCENTAGES

Section 15 (4) *(a)* in the process of selecting 11 elected candidates to be full-term members of the Legislative Council, how can provision be made to avoid the election of a candidate who was not listed in the original 22?

The following figures show how this could be possible:

Party A	B	C	D
43.5 per cent	46.7 per cent	3.5 per cent	6.3 per cent

To fill 22 vacancies each quota is 4.35 per cent

	Final state
A = 10 quotas	10
B < 10 quotas + 3.2 per cent	11
C = 0 quotas + 3.5 per cent	0
D = 1 quota + 1.95 per cent	1

Thus 21 vacancies are filled, the second candidate for Party D is excluded—presumably the majority of the votes go to Party B being the majority preferred party, or where Party D has allocated its second preferences to Party B.

However, to fill 11 vacancies each quota is 8 ⅓ per cent:

A = 5 quotas + 1.83 per cent
B = 5 quotas + 5.03 per cent
C = 0 quotas + 5.03 per cent
D = 0 quotas + 6.3 per cent

Thus 10 vacancies are filled, the sixth candidate for Party A is excluded. When sufficient of As votes go to Party C that party passes the 5.03 per cent of a quota for Party B. On the distribution of Bs vote, C needs only a small percentage to have a candidate elected, although Party C had no candidate elected in the original 22.

The Hon. I. GILFILLAN: There will be obvious decisions to be made in Committee as we try to assess the shared intention of the major Parties and to decide whether they are both of a mind to establish the basic three-year minimum, in which case the Democrats' point of view will only be of comment and possibly of some help in regard to amendments. We hope that there will be some support for the logic of the amendments on file in my name. It is common knowledge that part of the phenomenon of the electoral system under the current rules is that the election campaign starts and finishes virtually within unpredicted parameters, so it is quite obvious that we are presently in a campaign situation.

I share the opinion of the *Advertiser*—that once Parliament moves into a full throttle campaign situation, quality of performance in the Parliament and potential legislation suffer. I believe that the general public has more justification for viewing the activities of politicians with cynicism and distrust, and that is an unfortunate and unnecessary price that we as individual politicians pay and the system pays because of the extraordinarily haphazard way in which the people of South Australia can be exposed to the date for an election. Whether performances in the past have conformed to certain averages is not a significant feature: the fact is that the situation is unpredictable, and the uncertainty that surrounds the process means that within this place and in the electorate we are virtually now at full bore campaigning.

I consider that the attitude of the Government and the Opposition, and to a certain extent the Democrats, reflects the fact that we do not know for sure that there will not be an election in two months, or even this year. In fact, for the whole of the time during which I have been in Parliament we have not been sure that there would not be an election within a short time, so it is Parliament and Government on tenterhooks. There is no stability, security or assurance. The Bill as the Democrats would like to see it amended would largely satisfy the political, Parliamentary and governmental requirements for South Australia, and the people of South Australia would have much more trust and confidence in the performance of the Government and Parliament.

Therefore, I support the second reading but I certainly urge all members to treat the Democrats' amendments with the utmost seriousness. If honourable members are sincere about the intention of the Bill, they should be sincere in supporting the real fixed term of four years and not the wishy washy compromise contained in the Bill.

The Hon. R.I. LUCAS: This Bill makes, among minor changes, two major changes, the first being the extension of the normal Parliamentary term in the House of Assembly from three years to four years and the second being the fixing of a three-year component of that four-year term. In considering the Bill, members should recognise that it represents a significant modification of the views of the Attorney-General about fixed terms. I refer to a paper entitled 'The role of Upper Houses today in South Australia' delivered in Perth on 21 August 1982 as part of 'The Australasian Study of Parliament (Group Fourth Annual Workshop)' by the Hon. C.J. Sumner, then Leader of the Opposition in the Legislative Council in South Australia. At page 15 of the paper, regarding a package of proposals that the Attorney was recommending, it is stated:

1. The House of Assembly to be elected for a fixed term of three years on a specified date except where the Government loses a vote of no confidence in the House of Assembly and no alternative Government can be formed within seven days.

Sometime early last year (and I do not know the exact date), in regard to a Ministerial statement relating to proposals for parliamentary reform by the Hon. Chris Sumner, it was stated:

> The Government remains clearly committed to a policy of fixed terms of Parliament and the consequential removal of the power of the Council to reject Supply and prevent a Government formed in the House of Assembly from completing its fixed term. I wish to place on record that the Government does intend to proceed with these proposals in the Budget session in August this year.

So the Attorney indicated last year that he would proceed in August last year. It is further stated:

> Accordingly, the Government will introduce a Bill at that time for fixed terms of the House of Assembly and for removing the Council's power to block Supply.

That was certainly the Attorney's personal view from 1982 until last year. It is no secret that significant members of Cabinet did not share the Attorney's passion for that concept: the Minister of Agriculture was certainly one of those.

The Hon. FRANK BLEVINS: I rise on a point of order. The Hon. Mr Lucas is telling lies. This is the appropriate time to put on record that that is what the Hon. Mr Lucas is doing. If the honourable member examined the policy of the Labor Party, he might find that the explanation lies there, but certainly he should not tell lies.

The ACTING PRESIDENT (Hon. C.W. Creedon): There is no point of order.

The Hon. R.I. LUCAS: It is obviously a sore point with the Minister. It is very rare for the Minister to get up and defend his backside. I do not resile from that statement; it was common knowledge within Parliament House. Certainly, other significant members of Cabinet took a view contrary to the strongly held views of the Attorney that were announced in this place as recently as last year involving definite proposals to fix a three-year term for the House of Assembly.

I agree with the Hon. Mr Gilfillan that it is stretching a point to argue that the proposal before us is in any way a fixed-term proposal. The measure is being portrayed in the press and in Parliament as a fixed-term proposal on the basis of giving the Attorney-General a way out of the commitments he made in this Council in 1982. I guess it was good of the likes of the Hon. Mr Blevins and other members to support a proposal such as this to at least let the Attorney-General down gently.

The Hon. Frank Blevins: Doesn't the fact that this is ALP policy mean anything to you?

The Hon. R.I. LUCAS: Does a Ministerial statement not mean anything?

The Hon. Frank Blevins: Why do you tell lies instead of just referring to our policy?

The Hon. R.I. LUCAS: Does a Ministerial statement in the Council mean anything? Is the Minister saying that the Attorney told lies?

The Hon. Frank Blevins: It is the ALP policy that I am supporting.

The Hon. R.I. LUCAS: Is the Minister saying that the Attorney did not give Labor Party policy in this place?

The Hon. Frank Blevins: You tell lies to the Parliament all the time.

The ACTING PRESIDENT: Order! The Hon. Mr Lucas must come back to the debate.

The Hon. R.I. LUCAS: It is certainly a sore point with the Minister of Agriculture. The Attorney-General stood up in this Chamber and gave a commitment on behalf of the Government and other Ministers in this Chamber. The Hon. Mr Blevins was there and he made no interjection in any way contrary to what his Leader was saying. It is unusual for the Minister of Agriculture to indicate that what the Attorney-General, as Leader of this Council, was saying is contrary to Party policy.

The Hon. Frank Blevins interjecting:

The Hon. R.I. LUCAS: I am talking about what the Attorney said.

The Hon. Frank Blevins: Why should that not be a perfectly reasonable explanation for the Government's Bill? The explanation could be that it is Party policy—a perfectly reasonable logical explanation. It does not require any lies to be told by the honourable member.

The ACTING PRESIDENT: Order! We do not need any chit chat across the Chamber. Let us get on with the debate.

The Hon. R.I. LUCAS: Thank you for your protection, Mr Acting President. The Minister is entitled to get up later and make his contribution if he wishes and he can contradict the Attorney-General's Ministerial statement of last year if he wants to.

The Hon. Frank Blevins: I am trying to teach you to tell the truth and do a little bit of homework.

The ACTING PRESIDENT: Order! Order!

The Hon. R.I. LUCAS: As I indicated, I agree with the Hon. Mr Gilfillan's contribution that it is stretching a point to call this proposal 'fixed' because the length of term will be able to vary from between approximately three years to possibly, as other speakers have indicated, as much as four years and five months. Therefore, it gives the Premier of the day considerable scope to select the appropriate economic climate for an election date within what will be a maximum of 17 months, without having to go into any extraordinary distortion such as the West Germans went into with respect to moving motions of no confidence in their own Government. As occasionally happens, my preferred option had been the same as the Hon. Mr Sumner's, that is, for a fixed three year term. It appears that other Ministers got the upper hand over the Attorney and that that is not an option for this Chamber.

The Hon. Frank Blevins: That is a lie. You are telling lies. Why do you insist on telling lies?

The ACTING PRESIDENT: Order! Order!

The Hon. Frank Blevins: Party policy was changed at our State convention last year. That is the explanation. There is nothing sinister; there is no need to tell lies.

The Hon. R.I. LUCAS: I am not normally a sensitive soul but is 'telling lies' unparliamentary?

The ACTING PRESIDENT: The term is not generally used in debate.

The Hon. R.I. LUCAS: I ask that the Minister withdraw and apologise.

The Hon. FRANK BLEVINS: I agree completely with the Hon. Mr Lucas that telling lies is unparliamentary. The fact is that he persists in telling lies in this Chamber when the explanation for the situation—

The Hon. R.I. LUCAS: On a point of order—

The ACTING PRESIDENT: Order! The Minister has been asked to withdraw. Is he withdrawing?

The Hon. FRANK BLEVINS: I am looking for your ruling, Mr Acting President. If what the Hon. Mr Lucas is saying is that he is going to stop telling lies to the Parliament, then I would certainly agree that that is highly desirable. We have the situation explained quite simply; at the ALP policy convention of June last year—

The Hon. C.M. HILL: Mr Acting President, I draw your attention to the state of the Council.

A quorum having been formed:

The ACTING PRESIDENT: The Minister was asked to withdraw the accusation. There have been occasions in the Council when the term has been ruled unparliamentary. I ask the Minister to withdraw his remark.

The Hon. FRANK BLEVINS: First, I would like to know under what Standing Order the Hon. Mr Lucas is taking his point of order.

The Hon. C.M. Hill: The Minister cannot do that. He has to apologise on instruction from the Chair.

The ACTING PRESIDENT: I inform the Minister that the Hon. Mr Lucas has taken exception to the expression used. The Minister should withdraw.

The Hon. FRANK BLEVINS: After having put the record straight, I am happy to withdraw.

The Hon. R.I. LUCAS: I thank the Minister for his unconditional withdrawal. I will be happy to accept a private apology in the hallways afterwards.

The Hon. FRANK BLEVINS: On a point of order. The Hon. Mr Lucas is suggesting that I will give him a private apology. I assure the Council that the Hon. Mr Lucas will not get any apology, private or otherwise.

The PRESIDENT: Order! There is no point of order. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: Thank you, Mr President, for your very wise ruling. I personally do not support the individual arguments that have been proferred by many people both within and outside the Chamber about the benefits of a four year Parliamentary term. I do not do so on the basis of the four year term for the House of Assembly, but rather the associated problems that I see of giving a House of Parliament, such as the Legislative Council, an average eight year term. I believe that a six year term as we already have on average for members of the Legislative Council is, on balance, a fairly long and good term for an Upper House. However, I believe that in extending it to eight years we are really placing too long a period between the times when members of the Council are, first, answerable to their own Party machines by way of preselection but, more importantly, answerable to the electorate at large at an election time.

I do not intend to canvass the details of amendments to be moved during the Committee stage but, if some are passed, the length of the Parliamentary term for a Legislative Councillor could, on occasions, extend to 10 years. I think that that is beyond the pale: that a member of Parliament should not be answerable to the public for what is, in effect, a decade, and that a member of Parliament can spend 20 years (or the bulk of their adult life) in a House of Parliament having only tested the water at an election time on two occasions. Once again, the numbers on both sides of the Chamber indicate that my views are in a minority and even the Democrats are supporting a four year term. The argument of three years versus four years is therefore gone.

Many arguments have been offered by various political commentators for fixing a term of Parliament; some were given by the Attorney-General in his second reading explanation. I believe that a better or more comprehensive list is provided by Phil Ruddock, MP in an article in the journal *The Parliamentarian.*

The Hon. I. Gilfillan: Where is he from?

The Hon. R.I. LUCAS: He is from New South Wales and he was a member of the House of Representatives, representing the district of Parramatta. I am not sure whether he is still there. Mr Ruddock lists 21 reasons for it and gives an equal number of reasons against it. I will not put them all on record but, for those who are interested in the pros and cons of fixed terms, those three or four pages in *The Parliamentarian* by Phil Ruddock comprise a comprehensive listing of the pros and cons and gives a far more detailed argument for fixed terms than the Attorney-General was able to—

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan has asked me for the dates. I will be happy to provide him with that information later; perhaps in the Committee stage I will place it on the record. I apologise that there is no date on the copy in my possession. Perhaps in the Committee stage I will have an opportunity of slipping it in for those who may be assiduous readers of *Hansard.* I comment on one of the reasons for a fixed term raised by Ruddock. It relates to the argument which goes along the lines that early elections, whether they be forced by an Upper House or whether they are called by a Premier of a Government in a Lower House, can be defended on the basis that an election is in effect the very essence of democracy and that we should not really argue against elections *per se* because, in effect, we are giving people the opportunity to express their view. I certainly do not agree with that argument; I believe it to be a politically naive view.

That argument does not understand the political reality of Governments choosing to go to an election at times that are most propitious for the Government of the day or, if it is in relation to an Upper House forcing the Lower House to an election at a time when the Party that controls the Upper House believes that it would be most advantageous for the Opposition Party to be contesting an election. I have no compunction (as has been the case in the past) in indicating that I believe that a major reason for the problems of 1974 and 1975, in particular, resulted from the attitudes taken by members of the Opposition that an election held at that time would be advantageous for the Opposition Parties.

The Hon. Mr DeGaris and others have argued that there is no need for fixed terms. In fact, in his contribution the Hon. Mr DeGaris said:

> Since the Constitution Act first began in 1856 we have had 44 elections in South Australia. If an absolute fixed term had been the procedure, we would have had 43 elections—one extra election in South Australia over a period of 129 years.

The argument developed by the Hon. Mr DeGaris there is that over such a long period, if we only had one extra election, there is no need or argument for fixed terms. I think the fact is, quite simply, if one goes back far enough in history with respect to statistics, one can prove whatever one wants to prove.

The Hon. Mr DeGaris, in backing up his argument (as is his right), happened to go back 130 years to provide evidence for his particular argument. However, I think that in going back 130 years the Hon. Mr DeGaris misses the major point, which is that early elections have been an epidemic of the 1970s and the 1980s.

I will look at the most recent 16 year period from 1968 to 1984. If we look at what the South Australian people have been confronted with in that 16 year period, we find that we have had 15 general elections in a space of 16 years. Of those 15 general elections—both State and Commonwealth elections in South Australia—eight have been early elections, whether called by the Premier or Prime Minister of the day or forced upon the Premier or Prime Minister by actions perhaps of an Upper House. In that period of 16 years, rather than 15 general elections we should have been confronted with only 12 general elections.

The Hon. Mr DeGaris and others again go on to argue that the results of early elections are such that there is now a positive disincentive for a Premier or Prime Minister to call an early election. However, once again, I think the recent experience indicates that that is not the case. In fact, whilst the memory of Corcoran in 1979 in South Australia was still fresh in the minds of the Labor Party strategists, Prime Minister Hawke as recently as December last year called an election after only 18 months of his term. Even if one is kind to Prime Minister Hawke and accepts that he wanted to bring together the elections of the Upper and

Lower Houses, he need not have called his election until May or June of this year. Even using that argument, he was calling an election some six months earlier than he needed to.

In his contribution, the Hon. Mr Griffin raised a number of important questions which need to be answered, and I suppose they will be answered in the Committee stage. I will certainly be waiting for the Attorney's response to the second reading speeches and also his response in Committee to the questions that have been put by the shadow Attorney-General. I will comment on two or three of the questions raised by the Hon. Trevor Griffin and, as a non-lawyer, I will offer a layman's understanding of what the legislation will provide in relation to the questions raised by the shadow Attorney-General. The first series of questions raised by the Hon. Mr Griffin relate to the question of an early election within the three year period as a result of a no confidence motion being successfully passed in the House of Assembly. The Hon. Mr Griffin stated:

> The Governor is then obliged to accept it [The resignation] 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.

By way of interjection (and I think also in his speech) the Hon. Mr DeGaris raised that very question. My layman's understanding of what in effect would happen under the Government's Bill is that it would be the same as confronts the Governor at the moment under the present Constitution Act. It would be the same problem as confronted the Governor in 1975 when both major Parties, with 23 seats each, were courting the Independent, Mr Connelly. There was, in effect, a minority Government. No Party had a majority of the 47 members, and the Governor of the day (I forget who it was) had to satisfy himself that the Labor Party as it was then was able to form a Government.

Obviously, the way I imagine that the Governor did that was based on discussions with the leader of the Labor Party at the time, possibly even on discussions with the Leader of the Opposition as well, and possibly on discussions, either directly or indirectly, with the Independent, Mr Connelly. I would have thought that that is the commonsense way of approaching the problem. I do not believe that the problem that the Hon. Trevor Griffin and the Hon. Mr DeGaris raise there is a new one. As I said, it is one that exists under the Constitution Act and, with common sense by the Governor of the day, we managed to get through.

I agree that there is no independent way for the Governor to assess an attempt to form a Government until the House of Assembly meets, but common sense would prevail. He would make an assessment and swear in a Government, and it would be up to that Premier and his or her Ministers to front up to the Parliament, whether that is within or after seven days or whatever and, if they were to lose a vote of no confidence in the Assembly, my layman's understanding of this Bill is that we go through the procedure again.

The Hon. R.C. DeGaris: *Ad infinitum?*

The Hon. R.I. LUCAS: No, not *ad infinitum*, but for as long as that occurrence might occur. So, when, for example, the Hon. Trevor Griffin asks later on whether the Governor tries to get someone else to form a Government, my answer would be, 'Yes, he does try to get someone else to form a Government.' Then the Hon. Trevor Griffin asks:

> Does he [the Governor] then invite the second Premier or the first Premier to recommend a dissolution?

My understanding of this Bill is that it would be the second Premier.

The Hon. R.C. DeGaris: Or the third or the fourth.

The Hon. R.I. LUCAS: The last Premier, anyway, and there is the Governor's discretion, prerogative or whatever we get in the matter, and he makes that decision. Obviously, if it were going on to three, four, five or six, the Governor is a person of considerable common sense and would not go round and round in circles taking the same commitment from the person from whom he might have got a commitment a week ago and found that that was not correct.

The Hon. Trevor Griffin goes on to say that a dissolution is not something that the Governor can initiate of his own motion. Once again, on my reading of the Bill the Governor can initiate of his own motion an election. Clearly, there may well be differing viewpoints on this, but my understanding is that, if we get to the end of the seven days and no alternative Government can be formed, the Governor is by this Bill given the power to initiate of his or her own motion an early election. The question is then raised:

> If, for example, the Attorney-General were correct and the Governor, of his own volition, could issue the writs for a dissolution ... I think that is a unique exercise of the Governor's prerogative ... papers ... presented to the Constitutional Conventions about the Governor-General's powers ... 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, anyway.' 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?

Once again, in response to the question from the Hon. Trevor Griffin, my understanding of the Bill is that it would be the second Premier. Clearly, there are differing views whether the Governor can issue writs of his own motion. Once again, my understanding of the Bill would be that the Governor could issue writs.

The Hon. R.C. DeGaris: What if both those Governments fall and an Independent Labor group says that it could form a Government? What does the Governor have to do?

The Hon. R.I. LUCAS: I take it by 'fall' that the honourable member means to lose a vote of no confidence?

The Hon. R.C. DeGaris: Right.

The Hon. R.I. LUCAS: We follow the same process. If the Governor were convinced that a person—Independent Labor or whatever—could form a Government of 24 members, he could swear the Government in. If that Independent Labor Government was to fall, under the terms of the Bill my understanding would be that we go through the procedure again.

The Hon. R.C. DeGaris: Even if there were only seven of them, he would have to form a Government?

The Hon. R.I. LUCAS: As I have said, the Governor would have common sense and would know that a Government would have to comprise at least 24 members of the House of Assembly.

The Hon. R.C. DeGaris interjecting:

The Hon. R.I. LUCAS: One has to have the support.

The Hon. R.C. DeGaris interjecting:

The Hon. C.J. Sumner: Don't let them confuse you!

The Hon. R.I. LUCAS: They are doing a good job. I will soldier on and indicate that my understanding would be that the Governor would have to be satisfied that a group or coalition of Parties or individuals commanded enough support to run the Lower House. On my calculations, that is 24 supporters out of 47, irrespective of the number of Ministers that one might have. The Hon. Bob Ritson refers to Whitlam and Barnard, where two Ministers were doing everything. A grouping of people would have to have the

support of enough people in the Lower House to run the show.

The Hon. C.M. Hill: The other examples are of extreme circumstances.

The Hon. R.I. LUCAS: I am sure that members are raising genuine concerns, but my view is that they are extreme circumstances. Nevertheless, we have to confront them. My views are that the Bill as drafted meets those questions. There are questions that have been raised that clearly have to be responded to by the Attorney in Committee. At this stage I am pursuing the question of the no confidence motion that took the time of the Hon. Trevor Griffin and the Hon. Ren DeGaris earlier. Later, the Hon. Trevor Griffin said:

That convention—

being one of the conventions discussed at the Standing Committee of the Constitutional Convention of 1983—

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.

On this matter, whilst I agree with much of what the Hon. Trevor Griffin has put in his contribution, I take a slightly different view. I think the question of a convention concerning the Governor-General and the Prime Minister to which the Hon. Mr Griffin referred is not directly transferable to the circumstances before us. The question of conventions under the Commonwealth Constitution is clearly different from the circumstances that would relate if this Bill were to be passed. This Bill stipulates a number of occurrences that the Commonwealth legislation and conventions do not countenance. Another matter to which the Hon. Mr DeGaris referred also deserves some brief reference. He said:

Very strange things happen in this situation. A Government could change in the Lower House because of a no confidence motion. Another Government could form. The House could sit for one day and then adjourn for six months as it is known full well that the next no confidence vote is on the way.

A similar argument has been put to me by others. It may not be six months but may be 10 months. Parliament has to sit at least once every 12 months, so the six months referred to by the Hon. Mr DeGaris could be 10 months or 11 months. Again, I believe that to be an extreme example, but we still need to look at it. This situation can happen now, say, after the election of a minority Government. I refer to the situation in 1975 where the Labor Party formed a minority Government. If it had wanted, it could have sat for one day and adjourned for 10 months or 11 months if it believed that the next no confidence vote was going to go against it. The problem that the Hon. Mr DeGaris raises is a problem with which we have had to live since we have had our own Constitution. It is not a new problem.

The Hon. R.J. Ritson interjecting:

The Hon. R.J. LUCAS: No. The Hon. Mr Griffin has an amendment addressed to another significant question and we need to wait for the Attorney's response to that. I will await with interest the Hon. Dr Ritson's argument. Certainly, while I am on the run as I now am I do not believe that the Hon. Mr Griffin's amendment, particularly the one about which I am thinking, will affect that argument. All I am arguing is that the possible problem that the Hon. Mr DeGaris raises in regard to the Bill is not a new problem: it has existed with our present Constitution since our founding, but we have never had a situation where the problem has come to light.

The next matter to which I wish to refer concerns the power of the Legislative Council to reject Supply and how that position might be affected under the Bill. Certainly, the Bill does not take away the technical exercising of the power of the Legislative Council to refuse Supply if it chooses to do so. What it leaves unsaid is exactly what would happen if the Legislative Council of the day refused Supply as to what would be the constitutional situation and what would be the practical political situation if an election could not be forced as a result of rejection of Supply.

There have been two widely conflicting views about the effect of fixed terms on the exercising of Upper Houses' power to refuse Supply. At one extreme we have the argument that says a fixed term is a powerful disincentive to the Upper House to reject Supply. Some would argue that that powerful disincentive ought more appropriately to be described as a loss of the power of the Legislative Council to exercise its right with regard to financial matters. I want to place on record two alternative views at the other end of the extreme by two most unusual bedfellows. The first is the Hon. Ian Sinclair of the National Party sitting in the Commonwealth Parliament. In his contribution to the Constitutional Conference debate in 1983 he stated:

In fact, if fixed terms are to be introduced they enhance the powers of the Senate. The consequence of introducing fixed terms for the House of Representatives and for the Senate is that one will provide a position where, if Supply is blocked in the Senate, then it becomes essential for the Government, having the majority in the House of Representatives, to accommodate the Senate in order that the Senate can release Supply and so that the Government can continue in its normal responsibilities. Therefore, this proposition for a fixed term enhances the powers of the Senate. It does not in any way reduce them: it increases them.

Even his opponents would agree that that view comes from one of the master tacticians of the Commonwealth Parliament and, irrespective of the view that people might hold about Mr Sinclair, everyone would agree that he is a master strategist in the Commonwealth arena and that he took a high profile in regard to the constitutional crisis of 1974-75 in the Commonwealth Parliament. As I said, based on that contribution, there is a view from a man such as Mr Sinclair, who argues that the Government would have to meet the requests of the Upper House—in that case the Senate, or the Legislative Council in our instance—and give that Chamber what it wanted.

In regard to the other end of the spectrum of views in the National and Liberal Parties, I refer to the view of Haddon Storey, former Victorian Attorney-General and Liberal Party member. The case he put to the Australian Constitutional debate in 1983 is as follows:

So, instead of it being an incentive for the Senate not to reject Supply, Mr Hawke's proposition is an incentive for the Senate to take action on Supply in order to create problems for a Government in order to seek to achieve concessions and changes, in effect, to blackmail the Government, secure in the knowledge that it cannot itself be brought to an election.

Those are the views of Haddon Storey in regard to Upper Houses being able to blackmail Governments under fixed terms secure in the knowledge that the Upper House cannot itself be brought to an election. Here are the views of two respected commentators in the political arena putting similar views about the effect of a fixed term on the powers of an Upper House. The Hon. Mr Griffin and the Hon. Mr DeGaris raised a number of questions that I do not have time to pursue now, and I will deal with them in Committee. Certainly, the question that the Hon. Mr Griffin raised with respect to casual vacancies for independents would have to be addressed in some way by the Committee. Certainly, I cannot see what the solution will be to the problems that he raises.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: Yes. The Hon. Mr DeGaris has some amendments on file and I will explain my position in Committee, but I do not believe that those amendments even cover the myriad situations that might eventuate with regard to Independents or members who switch Parties, and I also will go into those circumstances.

The Hon. R.C. DeGaris: They can do so now—

The Hon. R.I. LUCAS: I do not know how to fix it; it is a problem.

The Hon. R.C. DeGaris: What is the problem? Tell me now.

The Hon. R.I. LUCAS: I will tell the Hon. Mr DeGaris afterwards. I do not have the situation written down in front of me. It is on small notes on my desk in my room. Also, I was interested in the comments of the Hon. Mr DeGaris as they were pursued today by the Hon. Mr Gilfillan with respect to the quota problems or the question of quotas for long term and short term Senators. In one way I was disappointed that the Hon. Mr Gilfillan did not expand his example to the Council, and I will appreciate the opportunity of obtaining a copy of the document that he had inserted in *Hansard* without reading it. I played around until the early hours of the morning with figures trying to come up with the situation that the Hon. Mr DeGaris and the Hon. Mr Gilfillan talked about, but I was unsuccessful in doing so and I will be interested to look at that example. If that is the case then clearly the Committee is going to have to address that problem.

Finally, I refer to the proposals of the Victorian Parliament under the Constitution (Duration of Parliament) Act, 1984. The Victorian Parliament passed legislation dealing with semi-fixed terms with the support of the three major Parties. Section 8 (3) of the Act provides:

> On and from the coming into existence of the Assembly first elected after the commencement of the *Constitution (Duration of Parliament) Act* 1984 the Governor may not dissolve the Assembly unless—
>
> *(a)* a period of three years has elapsed since the day of its first meeting after a general election;
>
> *(b)* the dissolution is authorised under the provisions of section 66;
>
> *(c)* the Assembly has passed a Bill dealing only with the appropriation of the Consolidated Fund for the ordinary annual services of the Government and the Council rejects or fails to pass the Bill within one month after it is sent up to the Council and the Governor by proclamation declares that the dissolution is granted in consequence of the rejection or failure; or
>
> *(d)* the Assembly has passed a resolution expressing a lack of confidence in the Premier and the other Ministers of State for the State of Victoria.

Section 8 (4) details what we are talking about—it provides detail on the appropriation of the Consolidated Fund under section 8 (3) *(c)*. This provision differs from the Attorney's provision that we are addressing and the amendments that are currently on file. The Victorian no-confidence exception is different: in Victoria if the Assembly passes a resolution expressing a lack of confidence in the Premier and other Ministers in the State of Victoria, that is sufficient reason for the Governor to dissolve the House of Assembly.

The Attorney's Bill provides that, if a no-confidence motion is successful and if no alternative Government can be formed within seven days, the House of Assembly is dissolved. Our provision mirrors what has been known as the Evans suggestions for the Commonwealth Parliament. The Victorian legislation deals with what, in effect, has been summarised as the removal of the power of the Council to refuse Supply, as reflected in the Government's provision. The third exception is unusual and involves dissolution under section 66, regarding Bills of special importance. Section 66 (1) of the Victorian legislation provides:

> If—
>
> *(a)* the Assembly passes a Bill and the Council rejects it;
>
> *(b)* after the Bill has been rejected by the Council, the Assembly resolves that the Bill is a Bill of special importance;
>
> *(c)* the Bill is again passed by the Assembly and transmitted to and received by the Council endorsed with the resolution of the Assembly referred to in paragraph *(b)* and is rejected by the Council; and
>
> *(d)* not less than four months and not more than eight months has elapsed between the first rejection of the Bill by the Council and the second rejection—
>
> the Governor may notwithstanding anything in this Act but subject to subsection (2) by proclamation dissolve the Assembly.

Section 66 (2) provides:

> The Governor shall not pursuant to the power conferred by subsection (1) dissolve the Assembly after one month has elapsed since the last rejection of the Bill by the Council.

The exception in the Victorian legislation that is not provided in the Bill before us relates to what the Government might call a Bill of special importance. All it means, in effect, is that if a Bill is knocked out in the Council, if it goes back to the House of Assembly and the Premier says 'This is a Bill of special importance', if it is knocked out again by the Council, subject to certain time restrictions the Governor can call an early election contrary to the fixed term component. I place that on record so that honourable members are aware of what has occurred in another State Parliament and so that in Committee when discussing the exceptions to the fixed term component the situation in Victoria will be known.

I remain a strong supporter of fixed terms. I am not a supporter of four year terms, but nevertheless my personal views have had to be varied by the practical realities of what will happen in this Council. I will support the second reading and I look forward with interest to the Attorney's response to the second reading debate. I also look forward to the Committee debate.

The Hon. R.J. RITSON: I support the second reading, and I intend to support the amendments that will be moved by the Hon. Trevor Griffin. It is important for us to remind ourselves at this stage that we are doing two different things at the same time. First, there is the question whether there should be fewer elections, and honourable members will recall the statements made by the Hon. Mr DeGaris in various places that, if one considers the whole history of South Australian elections since the advent of responsible government, one sees that short term Governments have been balanced by long term Governments, so there has been almost exactly the same number of Parliaments that a rigid three year term would have provided. In general terms we have not had too many elections under a three year system, but if we went to a four year term with the variation allowed in the Bill I guess that there would be fewer elections than under a three year term.

That issue is quite separate from the issue of so-called fixed terms. We could provide longer terms by increasing the maximum time limit for a Parliament, and there could be fewer elections without our arguing for fixed terms. Indeed, no-one is arguing for fixed terms. I have never heard anyone who uses the words 'fixed term' actually propose fixed terms in a rigid, literal sense. People always begin to qualify the idea of fixed terms by listing or codifying various circumstances under which fixed terms would not be fixed but under which an earlier election could be held. This has certain consequences, because if we are to depend on a codified set of circumstances under which the life of a Parliament can be terminated, we must be wise enough to foresee all possible events.

The whole history of legislation shows that it is nearly impossible, with the use of language and the human mind, to foresee and write down a law that will cover all possible events. Indeed, if the history of legislation was such that that was generally possible, then all case law interpreting

Statutes and all the litigation disputing the meaning of Statutes would not fill those books, keeping our lawyers and judges busy. So if we think that we will do any better in foreseeing the future problems and disputes that will arise about the meaning of the law that we write today, if we think that we will be any better able to deal with this Bill than legislators in the past have been in framing myriads of other Acts, that is a little pretentious of us. Of course, unforeseen circumstances will arise and people will dispute the meaning and application of the words that we put into the Statute book today.

We would be exchanging Vice-Regal discretion and the ballot box for court decisions on whether an election had been properly called within the meaning of the Act. I have had a lot of faith in the past in the common sense of the elector and in the democracy of the ballot box. We should think twice before further codifying the circumstances in which Parliaments may be terminated. I do not wish to preempt the Hon. Mr Griffin's arguments on his amendments, but I will be supporting most strongly the amendment which avoids going through the argument whether Vice-Regal officers in Australia have reserve powers in the same way as the British Crown. The Hon. Mr Griffin's amendment makes clear that the Governor would have the power to dissolve Parliament, but only in circumstances of public importance and not merely because the Premier of the day wanted Parliament dissolved.

Under the amendment it would have been almost impossible for the Corcoran Government to have gained that dissolution because there was clearly no breakdown of society and no matter of grave public importance. I do not think that the amendment takes very much away from the notion that Premiers should not be able to demand a dissolution for their own political benefit. If the Hon. Mr Griffin's amendment is in place, in future it will be extremely unlikely that Premiers will have whimsical elections.

I was impressed by the Hon. Mr Griffin's arguments about the defect of the provision in the Bill which enables a Government which has fallen to be replaced by a new Government which would not have to be tested at the ballot box or in Parliament for up to one year. It did not seem to bother the Hon. Mr Lucas that it would be possible for a Government to fall, perhaps on the vote of one or two Independents, for some people to go along and offer to form a new Government, for that to be accepted by the Governor, and then not to test that Government before Parliament for up to a year.

Of course, one can have Government without Parliament if one does not want to change the law and one has enough money to keep governing within the framework of the law as it stands. One does not even have to have a Government composed of members of Parliament. A Ministerial office can be held by a Minister for up to three months without his being a member of Parliament. The whole point of Executive Government is that in the end it must be tested before Parliament. One could have a Government of two Ministers, who would be Ministers of everything, as Mr Whitlam and Mr Barnard were in 1973, but eventually they have to face Parliament. I suppose that Parliament need only sit for one day a year to pass Supply and it would be at that moment that Parliament could exercise the voice of the people and bring that Government down. It seems wrong to be framing a law where it is conceivably possible that with a bit of connivance from a few Independent members a deal could be done, a Government could fall and a new Government be formed which could be completely unrepresentative of the people—a Government which would not have the confidence of Parliament—but which did not have to face that Parliament for up to 12 months. I fully support the Hon. Mr Griffin's concern about that.

We can say to the people, 'Okay, if you want fewer elections, by all means let us have longer terms, which will result in fewer elections.' We can say to the people, 'Okay, if you do not like Premiers demanding dissolutions as of right, let us put a constraint on them and require the Governor to have a very substantial reason for granting a dissolution short of the minimum period.' But, we are creating a situation where a bad or incompetent Government could avoid being tested before the Parliament for up to a year and where the Governor would have to say, 'Here is chaos. It is clear that the feelings of the people are for such and such a type of Government and that the people in Government would lose confidence in the House and lose an election if it faced the people's representatives,' but he could do nothing.

I support the Hon. Mr Griffin's amendment to give the Governor that limited power to intervene so that a State can be saved from any incompetent Government which was clinging to power and which was plainly causing enormous public dissent, yet nothing could be done until it had to face the Parliament up to a year later. The people should have longer terms if they want them. The Premier of the day should not be allowed to ask for a dissolution for no reason at all. Instead of going along the direction of codifying and perhaps adding to the law in later years as further problems arise, until we had a huge list of conditions under which Parliament may be terminated, I believe that the amendment to be moved by the Hon. Mr Griffin is a very neat, flexible and democratic way of coping with future eventualities, whatever they may be, whilst still preventing Governments of the day from going to the polls whimsically. I support the second reading.

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

FOOD BILL

Adjourned debate on second reading.
(Continued from 28 February. Page 2970.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. I suppose it goes back to the Sackville Royal Commission when it was recommended that all the law relating to drugs be put in the one piece of legislation. At that time the law relating to drugs was spread over the Narcotic and Psychotropic Drugs Act, the Food and Drugs Act and other legislation. Therefore, if that fairly sensible sounding recommendation was to be implemented, food and drugs had to be split in the food and drugs legislation. While the Liberal Government was in office some moves were made along that track in that the then Minister of Health (Hon. Jennifer Adamson) had under preparation a Controlled Substances Bill to draw all the drugs legislation into one place. That involved a separate Food Bill. When the present Government came to office it went further along that track and introduced the Controlled Substances Bill, which was passed last year. Therefore, it becomes necessary to have this Bill to pick up the food component of the former Food and Drugs Act.

Another matter which has occurred almost simultaneously is that in 1980 the Standing Committee of Health Ministers discussed the desirability of a Food Bill being uniform throughout the Commonwealth. This was and certainly is desired by the food industry, which feels the need very much for uniform food legislation, particularly in regard to packaging and labelling. Of course, most of the food industry is organised on a national basis, for the purpose of manufacturing and marketing. The uniformity of food legislation

was very desirable for the industry, and I believe it is desirable for consumers and for enforcement agencies.

In 1980 a model Food Bill was produced at the instance of Health Ministers. This present Bill largely implements the model Food Bill which was initiated at the Standing Committee of Health Ministers. There will be some variations from State to State when all States have implemented it. Some of that is inevitable because some aspects of the enforcement in relation to food legislation are carried out by local government, which varies from State to State. By and large, this Bill follows the Commonwealth model legislation. As the Minister said in his second reading explanation, it is an enabling Bill and it really sets up machinery whereby regulations can be made in connection with the production, marketing and sale of food. Therefore, it will be necessary for members of Parliament who are interested in this matter to scrutinise the regulations carefully when they appear. Unlike some legislation which comes before this Council and which is introduced by the Government, in this case there has been very wide and very extensive consultation by the Government with all sorts of organisations involved in the food industry. They have been circulated with a draft Bill, and the Bill which is now before the Council does not differ from it much.

I have undertaken very wide consultation in all sorts of areas, including industry, local government, some professional areas involved such as chiropractors and pharmacists, and also the Hotels Association, which is also concerned. Not only did I consult with the Local Government Association itself but also with the Municipal Officers Association; I also contacted some of the boards, health surveyors, bread manufacturers, and others. I found that there are some objections and some reservations about certain parts of the Bill but, generally speaking, there is support for its principle. Since the concept of the Bill was first put forward and draft copies were circulated, there has been growing acceptance of the broad principles of the Bill and even of its detail.

I should mention, as did the Minister, that this Bill abolishes the Metropolitan County Board. I believe that in the present circumstances that is necessary and desirable. I think it is desirable that the general principles should be administered by the Health Commission with some detailed administration by councils. Councils are empowered to form themselves together in regions or groups if they wish, but the Metropolitan County Board, as the Minister said, had its beginnings a long time ago and at the present time is quite anachronistic. As the Minister did, I most sincerely pay a tribute to the work which has been done by the Metropolitan County Board. It is not the Board's fault and it is not the officers' fault that it has had to labour under an anachronistic piece of legislation and that its own existence has been an anachronism to some extent. It has done extremely good work and its officers have been very competent and most assiduous.

I am very pleased that the Bill specifically preserves the status of the individual officers and provides that officers of the Metropolitan County Board at the time when the Bill comes into operation will become officers of the Health Commission at the same salary and without any downgrading. It is very pleasing to see that the officers who have carried out their work very well are protected by the Bill. Very few misgivings have been expressed. However, there is one in regard to clause 21, which deals with hygiene.

Clause 21 creates an offence where a person who handles food is suffering from a prescribed disease. The offence is also committed by the employer. I believe that this clause should be amended to provide a defence where the employer could not by the exercise of reasonable diligence know of the circumstances creating the offence. Clause 28 of the Bill provides for a general defence, as follows:

It is a defence to a charge of an offence against this Act for the defendant to prove—

(a) that the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of some other person (not being an agent or employee of the defendant);

(b) that he could not, by the exercise of reasonable diligence, have prevented the occurrence of those circumstances.

What disturbs me about that is that the person charged does not have the availability of the defence where the act or omission was on the part of some other person who was an agent or employee. If an agent or employee committed the act or omission which constituted an offence and the employer or principal did not know and could not have known by the exercise of reasonable diligence, he is not provided with a defence. There is a 'reasonable precautions' provision in Victoria which provides an employer or principal with a defence in those circumstances.

Either the words in brackets in clause 28 (2)—that is, 'not being an agent or employee of the defendant'—ought to be struck out or else a more comprehensive 'reasonable precautions' provision as applies in Victoria ought to be inserted.

The long title refers to the amendment of various Acts and of the Local Government Act, 1934. The Bill in fact does not amend the Local Government Act in any way at all. A former draft did; that draft contained a schedule that amended the Local Government Act. That schedule has been dropped out, and the error in the long title ought to be rectified in some way or other.

For the reasons that I have given, the Bill follows a pattern of separating the drug legislation from the food legislation. It follows model Commonwealth legislation, and I support the second reading.

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

[Sitting suspended from 5.52 to 7.45 p.m.]

LIQUOR LICENSING BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 2725.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. Although it does depart from the review in several significant respects, some of which I will mention during the course of my speech, it largely implements the recommendations of the review into the licensing laws. In 1982 when the Liberal Party was then in Government and introduced some significant amendments to the Licensing Act, we said we would set up a review after the next election. The Labor Party now in Government, when we lost the election, has carried that out and set up a review.

When the announcement was made that the review was to be set up and that Mr Peter Young was to conduct it, I did at the time criticise the choice. I said that I had the utmost confidence in Mr Young's ability and integrity, he having been the Superintendent of Licensed Premises as well as the Deputy Director-General of the Department of Public and Consumer Affairs for some time, but my criticism was not of him personally, but rather his appointment, because I thought what was needed was to tear up the Act and start again and to step back and say, if there had been nothing in the way of control of supply and consumption of liquor in the past, what would we do now if we were starting all over again? I said that I found it very difficult to see how a person such as Mr Young, who had been involved with liquor licensing as Superintendent of Licensed Premises for so long and who must have developed some

preconceived ideas, could do that. I acknowledge that I was wrong, because in most respects I believe he has proved that he has been able to do just that.

The review was conducted by Mr Peter Young with the most able assistance of Mr Andy Secker. The review document is a most meritorious document. It is a very thorough review indeed. It commenced by setting out the history of liquor licensing in South Australia in a most comprehensive way. From there it went to the various topics. In every case it set out the background in detail on every issue to be addressed. It referred to the views which had been put. As in the case of another Bill upon which I spoke today, the Food Bill, this is a case where there was complete consultation. In the case of the Liquor Bill the consultation was at the time when the review was sitting, when it called upon anyone who had anything to say to say it. In the review it sets out the list of the people who made submissions and sets out in detail, when addressing each subject, what each interest group said.

When the review was published in June comments on the report were invited and received from all sorts of interested bodies, so there was ample opportunity for consultation. The manner in which the review came to its recommendations is an excellent one. In regard to each matter addressed concerning each recommendation the various opposing points of view (and there were more than two on many occasions) are set out. When the review arrives at its recommendation it says why and states the reasons, so we do not get just a bald statement of what the facts and issues are, as is the case with some reports. In this case we get a statement as to why the review arrived at recommendations on each of the many matters which it addressed.

I do not agree with all of the recommendations of the review. In such a comprehensive and complicated matter as this it would be surprising if I did, but I think it will appear in the course of this speech that the Opposition agrees with more of the recommendations of the review than does the Government.

First of all, where there is variation from the present situation I would refer to the things which, as I see it, the Bill does. In a fairly simplified form these are as follows: first, whereas presently we have optional Sunday trading for tourist purposes, those to be established, the Bill provides for optional Sunday trading in all hotels between 11.00 a.m. and 8.00 p.m. for both bar and bottle trade. Secondly, the Bill deals with the complex and important question of supply of liquor to minors. I believe that the review addressed itself very thoroughly to this difficult and important question and the answers which it comes up with and which have been adopted in the Bill are very good answers inasmuch as legislation can deal with such a problem. It imposes more responsibility on licensees and it increases the penalties. In some respects it imposes obligations on the minors themselves, and I think this is important. It acknowledges the fact that some licensees may, by the way in which they conduct their business, attract minors and it sets out that if they do so they will have no defence if they supply liquor to minors. It acknowledges the fact that if they conduct their business in such a way where, for example, there is not enough room or not enough staff to detect the presence of minors, then the onus is on the licensees who conduct that business. I believe that is as it should be.

It will now also be an offence for minors to consume liquor in areas such as carparks adjacent to licensed premises and some unlicensed premises, such as cafes, shops, amusement parlours and other prescribed areas. I acknowledge that the other prescribed areas could include Colley Reserve where riots occurred recently and places of that kind.

As I see it, the third major thing which the Bill does is to set up the licensing authorities and the authorities will now comprise a Commissioner and a court, with the more simple matters to be determined by the commissioner. Where it is appropriate, I have long believed in deregulation and I think this has been an approach of the review and I believe it is an approach in this area.

The simpler things over which the court has deliberated in the past without any good reason are to be referred to the Commissioner and the court will deal with appeals and with more serious matters. This is a sensible approach, an approach that will involve less administration and more streamlined means of dealing with matters that come before the licensing authorities.

The next matter to which I refer involves complaints. I am now just summarising what I believe the Bill does. I will deal with what I believe ought to happen later. A complaints procedure is established with the ability to complain being widened to include a member of the Police Force, the local council or any 10 or more local residents, workers or worshippers—this latter provision relates mainly to Sunday trading.

A sensible procedure has been established so that complaints will first be arbitrated by the Commissioner, who will try to reach agreement between the complainant and the person complained against. If agreement is reached then the agreement will be set down by the Commissioner and will have the force of law. If agreement cannot be reached the matter will be determined by the court.

In the matter of licences, this is a most important matter of deregulation from the very mixed up and convoluted situation that we have at present. The present Act provides for 17 general classes of licences, several categories of permits, nine specific purpose licences and some licences that have not been used for years. The Bill simplifies licences and permits and provides for 10 licences and permits only covering broadly the same spectrum as at present.

At this stage I will make another comment about the report of the review: thorough as it was—it was meticulous and painstakingly thorough—nonetheless there was a sense of humour about it. The review was an easy document to read and on this subject of licences I will just take one example. In regard to wine licences, which were a previous form of licence now abolished, at page 122, paragraph 6.11.1 it states:

> Of all the licences under the Act, the wine licence is perhaps the most anachronistic. It has like a limpet, tenaciously clung to its place in the licensing scheme despite attempts to limit or abolish it. In this section we discuss wine licences and recommend that once and for all they be abolished.

Further, at page 124, paragraph 6.11.15. the review states:

> In another sense however, they are disadvantaged—

that is, wine licensees—

> caught between Scylla (hotels) and Charybdis (restaurants). (We consider however that, unlike Ulysses, they ought to founder.)

I find this style to be refreshing and makes a long, meticulous and careful study easy to read. I merely introduce this subject to give an example of the style of the document. Having done that, I should indicate that in regard to wine licences, although they are abolished, the review states—I think correctly—that everyone who currently holds a wine licence will find a niche in the new pattern of licences set out in the Bill.

On this same subject of licences comes the question of need, which now has to be established in regard to an application for licences. It will have to be established only where people are applying for a category A licence, that is, a licence where the sale of liquor is the primary aim, and in other cases it will not have to be established. Again, that is another useful area of deregulation.

As I say, the other matter that it provides for is to simplify consumption of liquor on unlicensed premises. It provides

that no licence or permit will be needed at all where a function is held on unlicensed premises and where liquor is provided at no direct or indirect charge to those people who are present. That covers functions such as weddings and similar social functions, some club functions and the like. That is another useful method of deregulation.

In regard to matters that need attention, first, I am sure that the Minister is already aware of this and will be able to address this problem correctly. I refer to the heading, 'Part II, Licensing Authority and the Advisory Committee'. In fact, the Bill does not provide for an advisory committee. No doubt in an earlier draft provision was made for such a committee, because it is recommended by the review. There is now no such provision. Although I hold some sympathy for the review in recommending an advisory committee, because it might have had some advantage, I do not intend to seek to write it back at this stage and I merely ask that the Minister ensure that the Bill is tidied up in this regard and that the words 'and the Advisory Committee' be removed. Whether he can do that with the Clerk or how it is done does not worry me.

Next, I refer to club licences. Broadly speaking, the provisions in the Bill are in accordance with the review in this regard. I do not agree with the whole of the recommendations about club licences. In regard to these licences, there is no ability for take-off liquor: there is no ability for members of a club to take liquor away from their club, and I believe that that should apply. I am not sure of the extent of the ability to take off liquor, but I believe that there ought to be some ability for persons at licensed clubs to take liquor home. For example, if someone has been to a golf club and has spent time playing golf and then has spent time in the club house and wants to take a bottle of wine home to be consumed by his family, friends or whatever, I do not believe he should have to go to a hotel in order to purchase his liquor. He ought to be able to take liquor home from the club.

Certainly, I would not like to see a massive trade develop by clubs in take-off liquor. I do not believe that that is likely in any event, because most of the clubs do not have the physical facilities, the room or space and they do not have the economic resources to indulge in massive trade or in discounting or the like. The person who bought a bottle of wine or beer or whatever in a club will probably pay a higher price than if he bought it elsewhere, but it would be convenient. I refer to the convenience of a member of a club, and that is what clubs are about, to provide facilities for members. Therefore, I believe that this matter ought to be addressed and I intend to address in Committee the question of allowing club members to take liquor away.

The other major matter concerning clubs addressed in the review and the Bill is wholesale liquor purchase. This is a difficult matter. On the one hand, I have some sympathy for all clubs having access to wholesale facilities if they wish. I am sure that they would not all wish to have access: many small clubs in the country would want to purchase from hotels in any case, seeing that method as the most convenient way for them to obtain supplies. However, I have sympathy for any club, whatever the turnover, being able to purchase from a wholesale source if it wishes. I recognise that under the present Act most clubs are obliged to purchase from hotels, so there is an artificial situation in which many country hotels rely on sales to clubs to account for a large part of their total sales. If we upset what the review recommended and what the Bill sets out, the finances of many hotels could be damaged. In fact, representations have been made by hotels that the Bill be amended so that it is more favourable to hotels.

The report stated that there was a lot of pressure and conflicting interests both within the liquor industry and from people in the public arena, people who are interested in social issues and so on. This is perfectly true and it applies not only to the review personnel but also to the Government, the Opposition and, I have no doubt, the Australian Democrats. Representations are made from all sides. The question of wholesale purchase rights for clubs involves two sides, but there are more sides than that in many issues. The side that I come down on in regard to wholesale purchase rights for clubs is to stick with the recommendations of the review and the provisions of the Bill. That is the best balance.

Clause 36 deals with the definition of 'unrestricted' and 'restricted' club licences and sets the turnover figure at $30 000 or such other sum as may be prescribed. There is some merit in certainty, and I would like to delete the words 'or such other sum as may be prescribed'.

Clause 26 refers to Sunday hotel trading. The review recommended that Sunday trading be completely optional and from 11 a.m to 8 p.m. I believe that that is in accord with present thinking, although some people have reservations. I have always felt that the question of Sunday trading is most difficult. It is very difficult to weigh up the social issues with issues that concern the licensing trade, but I believe that the recommendation of the review and the provision of the Bill, to provide trading between 11 a.m. and 8 p.m., is about the best we can achieve. A number of surveys have been undertaken and, generally speaking, it has been found that the public favours trading on an optional basis and across the board.

In one area I would stick with the recommendations of the review, departing from the Bill: the review recommended that Sunday trading for hotels be completely optional so that between 11 a.m. and 8 p.m. the licensee could do what he liked. He could close his doors and, if someone knocked on the door and wanted a drink, he could open, give that person a drink, closing the doors after that person went away. That could happen six times in an afternoon. However, the Bill provides that where the licensee elects to open his premises to the public for the sale of liquor on a Sunday, he must keep them open for a continuous period of at least four hours. The Opposition believes that it is more deregulatory (and we are serious about deregulation) to adopt the suggestions of the review—that trading be completely optional so that between 11 a.m. and 8 p.m. the publican can do what he likes. We will oppose the four-hour continuous minimum period.

Although I refer to particular parts of the Bill and although this is mainly a Committee Bill, the matters to which I refer are all matters of principle. The question of a retail liquor merchant's licence arises. The review recommended that retail liquor merchants be allowed to open on Sundays and at other hours as set out, but the Bill does not give the retail liquor outlets that privilege. It will be obvious that the Liquor Merchants Association strongly opposes the Bill in this regard and that the hotels strongly support it: that is one aspect of the different interests that we find in these matters. I thought that the reasons outlined by the review for allowing liquor stores to open on Sundays were persuasive. It has been suggested that liquor stores are shops and thus they should open for the same hours as other shops. It has also been suggested that, if shopping hours are extended, the hours for retail liquor merchants should also be extended. The hours are not the same now; the merchants are able to trade on Saturday afternoons when most shops are not able to trade.

It is more realistic to take the view that both the retail liquor merchants and the hotels deal in the sale of packaged liquor, and I see no reason, generally speaking, why their hours should not be the same. To prevent holders of a retail liquor merchant's licence from trading on Sunday is dis-

criminatory. It is a matter of fairly severe discrimination, first against small business. My Party strongly supports small business. Small business must compete with big business and it is very often at a disadvantage, but I do not see why there should be an artificial legislative disadvantage. I do not see why small business should not be allowed to compete on the same legislative or regulatory basis as big business. For these reasons, to deny the retail liquor merchants the right to trade on Sundays is discrimination.

The Hon. C.J. Sumner: Don't you think they are big business?

The Hon. J.C. BURDETT: No, most are not. It is also a matter of discrimination against women. A letter in the *Advertiser* yesterday raised the point that many women who want to purchase liquor prefer to go to an outlet that is removed from places where liquor is consumed, namely, the hotels. They do not like going to hotels, even to the drive-in bottle shops: they want to go to a retail liquor store and they do not see why they should be denied the right to purchase liquor on a Sunday when liquor can be purchased at a hotel. For those reasons, I believe particularly that this is important and that the retail liquor merchants should have the right to trade for extended hours, particularly on Sundays. Clause 40 (1) *(b)* provides that, in respect of a wholesale liquor merchant's licence, at least 95 per cent of the licensee's gross turnover from the sale of liquor in each assessment period must be derived from the sale of liquor to liquor merchants.

At present liquor merchants may make up to 49 per cent of their sales to unlicensed persons, because only the majority of their sales have to be to liquor merchants. Some merchants have claimed that under this clause they will be adversely affected. This provision should not be a matter for deregulation: it is a matter of regulation. It further regulates the wholesale liquor merchants. I am prepared to support a grandfather clause which provides that those liquor merchants who presently rely on sales to unlicensed persons under the present limits should be able to do so in the future, whereas future licensees may have to comply with at least 95 per cent, as provided in the clause.

Clause 75 (1) concerns an extension to sell liquor in areas adjacent to licensed premises and deals with holders of full publicans licences and certain other licensees, whether in respect of beer gardens or similar areas, that may be used to sell liquor and deemed to be part of the licensed premises for the period they are open. I do not see why this provision should not be extended to clubs as many are in similar situations and should have the same privilege.

Clause 126 (1) concerns the removal from licensed premises of persons behaving offensively. In the present Licensing Act the present position is that police are required to remove persons behaving offensively—prostitutes and similar people—from licensed premises. The Bill takes that power away and simply gives a power to the police to remove persons behaving offensively from licensed premises. The present situation is reasonable and preferable. I do not believe that the onus should be on the licensee to use reasonable force to remove person's behaving offensively. It may be very difficult for him and it is not unreasonable in such a situation to expect the *status quo* to be restored and the police required to remove such persons at the request of a licensee.

The Opposition made its policy clear on drinking in public places, and this has been stated in the press. We believe that some controls should exist concerning this. The Bill contains satisfactory powers in regard to minors, which includes the power of prescribing places where minors may not drink—it may be Colley Reserve and apply to the Glenelg riot type of situation. Not only minors were involved at Colley Reserve. There were probably mainly young people at the Glenelg riot, but by no means all minors. I maintain that a wider power of control for drinking in public places should be provided.

For some time the Opposition has said that local governing bodies, which are the closest to the people and responsible and answerable to the ratepayers and residents, should declare places, by by-law, where it will be illegal to consume liquor on occasions and times set out in the by-law. This makes it public within the local area, and it is subject to the scrutiny of the Subordinate Legislation Committee and the Houses of Parliament. I will be moving an amendment during the Committee stage to provide that councils have the power to declare, by by-law, areas on which it is illegal to consume liquor within the times and occasions set out in the by-law.

Members interjecting:

The ACTING PRESIDENT (Hon. Anne Levy): Order!

The Hon. J.C. BURDETT: The point I am making is that situations like the Glenelg riot are very personal to the local residents; they should be able to be dealt with by local councils, which are answerable to the local residents. The by-laws will be subject to the scrutiny of Parliament.

The Hon. C.J. Sumner: Would it be applicable to the Aborigines in Port Augusta?

The Hon. J.C. BURDETT: I do not know whether or not it would.

The Hon. C.J. Sumner: You should know what it is designed to do.

The Hon. J.C. BURDETT: I would say that it would be applicable to a particular area in Port Augusta, not to the Aborigines in Port Augusta. If the local governing body in Port Augusta made a by-law to say that on a particular area liquor could not be consumed on such and such a day between so and so, it would say nothing about race, whether Aborigines or white persons.

The question of the consumption of liquor was a departure in the Bill from the review recommendations. The review recommended that consumption not be controlled by law at all. Under the terms of the review it would have been possible for a person, with the consent of the owner, to take liquor into a fish and chip shop, a cafe or anywhere else, and there consume it. That was attractive, because there would be nothing to stop the proprietor of any of those premises hanging a sign on the outside saying, 'No liquor may be consumed on these premises.' We find this in relation to smoking, food and all sorts of other things. I have a good deal of sympathy with the philosophy, but it has problems. The Bill departs from it and carries out this philosophy only with regard to non-commercial undertakings—weddings, some club and similar sorts of activities. The Bill does not pursue it through to commercial undertakings like cafes, fish and chip shops, and so on. I am prepared to go along with the Bill in this regard.

It will be clear from what I am saying that this is a Committee Bill and I will be moving a number of amendments during the Committee stage. The review's recommendations and the provisions in the Bill are quite good in relation to the complaints. During the Committee stage I will be seeking to widen the power to complain for a greater number of reasons than presently set out in the Bill. Not only noise and inconvenience should be provided for, but also undue annoyance and things of that kind. The Bill is good in principle. It does what was set out by the review and what the Liberal Party had in mind when it recommended the review.

It is a complete rethink and a complete relook at liquor licensing. I support the general principle of the Bill and, as I said, will be addressing a number of amendments in the Committee stage. I have great pleasure in supporting the second reading.

The Hon. PETER DUNN: The Hon. John Burdett has given an extensive outline of the Bill, what it endeavours to do and our position on it. He has mentioned that it is a Committee Bill. I agree with that and point out that most of the work on the Bill will be done in Committee. However, I would like to put forward a few things before we reach that stage. My remarks relate to country pubs. I believe that hotels and country pubs will be with us forever, but I doubt whether that will be the case with many clubs (although I am a member of a club), even though I believe that they serve a useful purpose at the moment. I believe that hotels will be with us for a long time. Given that premise, I will outline some of the things in the Bill which I believe deal with hotels rather harshly.

I refer to the opening up of Sunday trading from 11.00 a.m. to 8.00 p.m. At the moment Sunday trading is intermittent and causes problems in city hotels due to a funnelling effect. Hotels which open in some areas funnel people into those areas and, as a result, there is considerable disturbance. I believe that Sunday trading should be opened up and hotels that wish to open on that day should be able to do so. I believe that that will stop much of the funnelling which sometimes results in a large group of people in a small area creating a disturbance. There are problems in freeing up Sunday trading because it will impinge on some people's privacy. That should be considered. I think that is covered; the Bill provides that the hotelier and the people being affected can come together with an arbitrator to try to cure the problem and, if that does not work, the matter can go before the courts. However, I hope the former approach is the more active option and that people take that option rather than going before the courts, because there will always be ill-feeling if it reaches that stage.

Church groups should also be considered, and I believe that some churches will be affected by this legislation. However, if the people around them are sensible and the hoteliers are sensible, I do not believe that there will be a great problem. Most sensible people will use the new freedom to advantage and I believe it will improve their social lives, their eating habits and their habits in regard to the consumption of alcohol. It will also be a great help to tourism. It may not be an enormous help at the moment, but it will certainly aid the person who travels throughout the State and wishes to have a meal. As we all know, hotels are obliged to provide meals and accommodation. I believe that some protection is required in this area.

Clause 27 (1) provides for four hour opening on Sundays and public holidays. If a hotel opens up on a Sunday, it must stay open for four hours. I see great problems with this in non family hotels—I do not think it will be quite so much of a problem in family hotels. I refer to a family hotel in a small country town. A tourist bus travelling through on a Sunday might have an arrangement whereby the hotel agrees to provide meals. The tourist bus would probably stay at the hotel for no more than 90 minutes, but under the Bill the hotel would be required to remain open for a further two and a half hours. I believe it is difficult to justify that provision. I believe the hotelier has provided a worthwhile service if a tourist bus calls at the hotel, unloads its passengers who are fed and watered at the hotel and then depart to look at other things in the area.

I am quite sure that clubs do not provide that service, but they are not meant to and were not designed to do that. Hotels are obliged to provide that service. To require small hotels to open for four hours is quite an imposition. Perhaps the Minister can explain how the four hour requirement was arrived at. I am a firm supporter of optional opening times. If someone knocks on the door of a hotel and wants a drink and the publican serves him, that is fine. If the publican then wants to close his door, so be it. As I have mentioned, hotels must provide these services, such as meals and accommodation, which are not provided by other organisations—and, as the Bill states, they must be of an exceptionally high standard. I believe that some consideration should be given to this area.

I now turn to clubs. There are a number of licenses under the present provision. I agree with the system whereby the number is being reduced to about 10. Under clause 34 there are two main types of club licences—restricted clubs licences and unrestricted club licences. Restricted clubs will be similar to the current permit clubs whereby they purchase their liquor requirements from a hotel. They do not necessarily buy the liquor from the hotel next door, but they must buy it from a hotel. I think it should be like that in every case. The Bill provides that, a club having spent $30 000 purchasing liquor in a 12 month period, it can apply to become unrestricted the following year; that means that it may purchase alcoholic beverages from a wholesaler. However, what happens if in a 12 month period a club spends $30 000 purchasing liquor supplies from a hotel, is then granted an unrestricted licence but the next year the amount of liquor purchased from the brewery and wineries is for a lesser amount?

It is feasible that a club, perhaps having only just reached the $30 000 limit the previous year, could be under the $30 000 requirement the following year having purchased its alcohol at a reduced cost. Does the club lose its unrestricted licence and become restricted once again? I think that that problem will have to be addressed in the Committee stage. I point out that $30 000 today is not very much. I belong to a small club in my own area, and there is no local hotel. It is a small club which supplies a football club. Last year the club purchased $23 000 worth of various alcoholic beverages.

An honourable member interjecting:

The Hon. PETER DUNN: There is one team.

The Hon. K.T. Griffin: Where is it on the ladder?

The Hon. PETER DUNN: I think it came fifth last year, so we did not consume too much. It is reasonable to assume that, given the inflation rate, it could easily purchase up to $30 000 in alcoholic beverages. The club purchases its alcohol from two hotels, both about 20 miles from the club; that gives members some idea of the club's isolation. The hotels rely on that business very much, because each hotel makes $20 from each keg it sells to the club. The club then sells the liquor and makes in the order of 50 per cent on top of that. If the hotels lost that $20 per keg their income would be considerably diminished.

The other problem that I find is: who is going to handle these clubs? A problem with these clubs is that continually, year in and year out, they change their executives. If there is not continuity in executives, their secretaries, treasurers and purchasing officers, honourable members can imagine the confusion at the South Australian Brewing Company, Coopers or whoever they purchase their products from, when they do not know who to purchase it from, who signs the cheques, whether they are signing them and, in the confusion of the changeover, often there are delays in paying accounts, and so on. So, I see considerable problems there.

It is much easier if they purchase from the local hotel. They often pay cash, or have an agreement: everyone knows everybody. They are not that far away and people get to know. Even though there are changeovers in the executives, the local hotel usually knows who those people are, and so there are not the problems that I could foresee when these smaller clubs get over the $30 000 in alcohol purchases. I would rather see it considerably higher than that. The smaller clubs, in particular, should not be able to purchase wholesale, anyway.

There are close to 300 fully licensed clubs in the State, about half of which would exceed the $30 000, and the rest would have to buy direct. It will mean that a lot of those clubs will easily exceed the $30 000 as inflation gallops past us in the next two or three years. So, quite easily, those hotels that supply those clubs now will miss out on that small amount of profit that helps to keep them in the area. I will explain a little later how important it is to keep those hotels in the country, and I am directing these remarks particularly to those country hotels.

It has been bandied around that the sale of bottles from those clubs will be advantaged in an amendment. I have some problems with that because I can see that that would very rapidly cause them to exceed the $30 000 purchase mark.

The Hon. R.C. DeGaris: Do you think that the clubs would deliberately get out to lift their sales above the $30 000?

The Hon. PETER DUNN: Definitely. The sale of bottles certainly will do that, so there is a problem there. However, if the amendment is agreed to, they will sell only to members: so, there is quite a restriction on whom they can sell their bottles to. They cannot sell them to the man off the street because he will not be a member, but there will be an opportunity for clubs to play around with their membership and try and avoid that problem.

Retail liquor merchants at the moment are asking that they, too, be allowed to open on Sundays. Once again, a similar argument can be applied to them: they do not have to provide any of the other facilities that the small hotel has to provide, that is, accommodation and meals. For that reason, I have some problems in saying that they should be open. The Bill does not allow that at the moment and I think that it is correct in that. It would, indeed, put an impost particularly on the smaller hotel because many of them make approximately 50 per cent of their profit from their bottle sales, and if that is cut back one is putting a bigger impost on them.

Section 121 (4)—the removal of persons being offensive—ought to remain as it is at present, whereby police are required to remove an offender if asked to do so. Now, the responsibility lies more with the publican. I can imagine the case where hoteliers will have truncheons under the counter and, although perhaps not with 45s on the hip, will certainly want to protect themselves from those people who—and there are always people who will—get a little off side under those conditions. It would be wise for the Bill to be amended to the present position, where the police are required to remove those people if they become offensive to other people. That is not a very big amendment, but it would be a sensible one.

As I said before, hotels are a very important part of the country. In my area there are a large number of them. There are some 171 single hotels in the country out of the 600 total. Nearly half of the hotels are in the country. Of that half, 170 odd are single hotels. Many of them are not making a great profit today because since we freed up the hours of the hotels they have been under some pressure with paid staff and all the add-on costs that are required to keep them running for those long hours. I could take honourable members to several hotels in my area where, from Monday to Thursday, from, say, 6 to 10 at night there would not be more than two or three at a time and perhaps a total of 10 people for the night. There is a fairly big impost on them now, and they have to pay staff to do that unless they are a big family and can have the family do that. When one pays staff at fairly high rates and have only that sort of clientele, and are forced to do so, they are under a lot of pressure.

I would not like to see them depart from the scene because of unprofitability. They ought not be molly-coddled either: they have proved over the years that they have been able to withstand reasonable competition. They are getting considerable competition from clubs in their areas: that is right and proper. Clubs have a different purpose: they are there to provide an amenity to people who come and join the football, bowls, golf and whatever. After they have had a round of golf they wish to sit down, relax, and have a beer, a spirit or a wine, and even a meal. But that happens usually only on a Saturday or Friday, whereas hotels provide this right through the week. So, some things need addressing carefully. I cite them in the second reading debate and hope that we can address them more carefully in Committee. I support the Bill.

The Hon. L.H. DAVIS: The review of South Australian liquor licensing laws, which was presented in June 1984, resulted from a Liberal Party initiative, which was taken up by the Labor Party Government when it came into office in November 1982.

I am most impressed with the review of the Licensing Act which has been presented by Messrs Young and Secker. They certainly had sweeping terms of reference and have reviewed the subject thoroughly. Whilst not everyone would agree with the conclusions they have arrived at on what is invariably an emotive topic for many, it is a fine attempt to marry the competing interests of the community at large—tourism, the economic realities of opening on weekends (given that Australia is committed to penalty rates), the genuine concern of many people who believe that there should not be trading in liquor on Sundays and, also, the general change in the structure of the industry which has taken place over many years, which of course has been reflected more recently in the very dramatic increase in the growth of restaurants and clubs.

I want to address some of the matters that have been raised by Messrs Young and Secker in their review and then later deal with the specific matters which are more contentious within this fairly detailed Bill. In their introductory remarks the reviewers state, at page seven:

> We consider that there is considerable scope for altering the licensing laws to redress some imbalances between industry segments, to introduce new, flexible arrangements, and to accommodate public wishes. Our aim has been, within our terms of reference, to propose a scheme that is a fair reflection of the often-competing interests of the industry sectors, and that properly takes into account the reasonable wishes of the public generally. This is reflected in recommendations for considerable rationalisation of legislative provisions, much less 'red tape', and cautious liberation of trading conditions applying to licensees. In doing so we had, unlike virtually all the parties in the industry, the advantage of being able to look at the industry as a whole.

Those last words are emphasised. The review continues:

> The interests of that whole, and of the public generally, must sometimes mean that some parties will not be able to have all they seek.

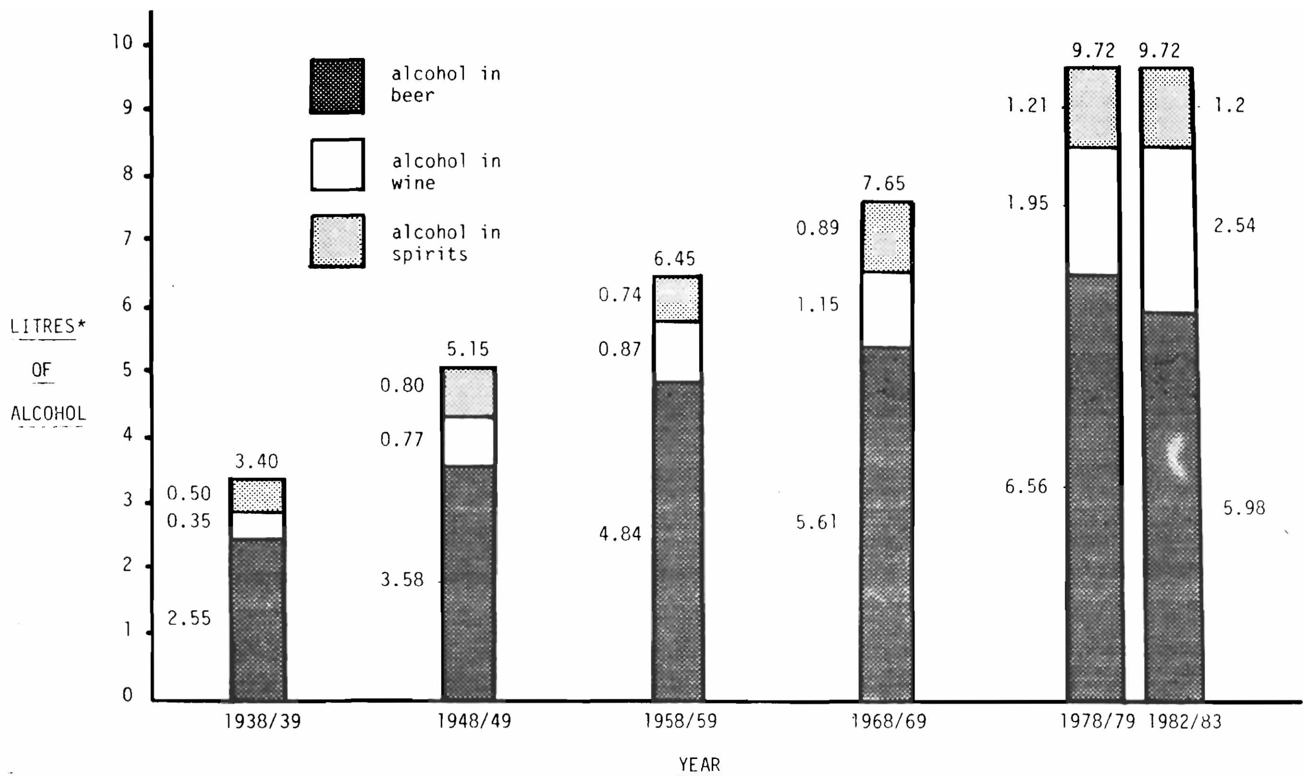
Then, in paragraph 1.4.11 the reviewers go on to say:

> We do not claim that what we propose will be adequate forever. The liquor industry, indeed society itself, is in a state of flux and it would be folly to try to predict what will be the position in even 20 years' time. We are confident however that our proposals will provide a useful model for now and for a number of years to come.

That is a useful backdrop to the review which was made available to the community some eight months ago and which quite clearly the Government has largely accepted in the Bill we are now debating. I now seek leave to incorporate in *Hansard* a table of a statistical nature detailing apparent Australian per capita consumption of alcohol per annum, a table which is sourced to the Review of South Australian Liquor Licensing Laws; statistics from the Australian Bureau of Statistics.

Leave granted.

APPARENT AUSTRALIAN PER CAPITA CONSUMPTION OF ALCOHOL PER ANNUM
(1938-39, 1948-49, 1958-59, 1968-69, 1978-79, 1982-83)



Source for data 1938-39 to 1978-79 inclusive: Australian Bureau of Statistics, "Apparent Consumption of Foodstuffs and Nutrients in Australia 1981-82", Table 1 (Cat. No. 4306.0., 30 September 1983).
Source for data on 1982-83: Australian Bureau of Statistics, "Apparent consumption of Selected Foodstuffs, Australia 1982-83 (preliminary)" (Cat. No. 4315.0, 30 September 1983).
* 10 litres of alcohol per annum = 27.4 ml per day = 22 grams (approx.) per day.

The Hon. L.H. DAVIS: This table shows very clearly the quite significant increase in per capita consumption of alcohol per annum in recent years. Indeed, one can see that in the last 15 years there has been an increase of nearly 30 per cent in alcohol consumption per capita in Australia and that in 1968-69 the average per capita consumption of alcohol was 7.65 litres, whereas today it is close to 10 litres per capita. There is also, reflecting changing tastes in society, quite a dramatic shift in the nature of the liquor consumed, in that in 1968-69 less than 30 per cent of alcohol consumed was alcohol in wine or alcohol in spirits: in other words, more than 70 per cent of all alchohol consumed was beer. However, as can be seen from the graph, the most recent statistics would indicate that figure has fallen to 60 per cent. Not surprisingly, there has been a large increase in the consumption of wine and to a lesser extent a small increase in the consumption of spirits. Of course, that is of some significance to South Australia, given that some 60 per cent of wine produced in Australia is produced in South Australia.

In this introductory section of the book the reviewers quite properly take note of the social effects of alcohol and they refer to the Senate Standing Committee on Social Welfare of 1977, which listed the following effects of alcohol consumption on society and I quote from page 19 of the review:

- Alcohol has been a "major factor" in the deaths of over 30 000 Australians from 1967 to 1977;
- Over 250 000 Australians could be classified as alcoholics;
- Over 1 200 000 Australians are "affected personally or in their family situations" by alcohol abuse;
- One in five hospital beds is occupied by a person suffering from the adverse effects of alcohol;
- Two out of five divorces or judicial separations "result from alcohol induced problems";

Finally, the reviewers say:

Alcohol is associated with half the serious crime in Australia.

That was a summary of some of the more serious social effects of alcohol from the Senate Standing Committee of some eight years ago. I have no doubt that it would be argued that those effects are still with society today, but I quote that comment from the Review committee because it underlines the fundamental dilemma that any review of liquor legislation has, namely, that we do not live in a perfect society and that we have problems associated with enjoyable services or enjoyable goods that we consume or use. We can look at the dangers of swimming. We can look at the dangers of driving and there of course, is an example of the relationship between drinking and driving and the harmful social and economic consequences that may flow from road accidents. The Hon. Gordon Bruce, the current

Chairman of the Random Breath Test Select Committee, along with myself and other colleagues in this Chamber, are serving on our second Select Committee looking at this matter. We are well aware of the impact of drink driving and I think, to the credit of the liquor industry, they have come to realise in recent years that there is a responsibility on everyone in the community, whether or not they are associated with the industry, to make people aware of the harmful consequences that flow from drinking and driving.

Only recently we were at a suburban hotel where a device was being installed so that drivers could test themselves for their blood alcohol level before they set off to drive home or back to their place of work. I do not intend to comment on the merit or otherwise of that device, and perhaps my Select Committee colleague the Hon. Mr Bruce will do so. However, the fact that such initiatives are being taken indicates that there is greater awareness of how serious this problem is. That one can say this State has a $250 million cost flowing from road accidents in deaths, loss of work, incapacity and so on is tragic. That is a conservative estimate, but that is not to say we should go back to the prohibition era of the 1920s. That would be foolish, and that era showed we cannot ban liquor: that is not a solution to the problem. Rather, society has to seek ways of mitigating the problem, of educating people to accept that there is a responsibility when it comes to drinking. Certainly, I want to place on record that I appreciate the growing initiatives and concern of the liquor and entertainment industries generally in taking up the responsibility for this matter.

The review suggests that there are various ways of reducing average consumption. Much evidence was received about the liquor problem and the review commented that there are alternatives such as reducing the number of liquor outlets, reducing the periods during which liquor outlets may open, prohibiting or limiting the sale of liquor above a certain alcoholic content, educating people to change their attitudes towards alcohol, increasing the price of liquor, prohibiting the advertising of liquor, raising the legal drinking age, and so on. Having reviewed those suggestions and, based on evidence received, the review then commented on what various studies, both in Australia, interstate and overseas, have said. At paragraph 23.6 (page 20) the review states:

> Without going into great detail on each of these proposals, studies indicate that in a society like South Australia's where liquor is quite freely available through hundreds of outlets—

Indeed, I will mention later that there are more than 1 000 outlets for liquor in South Australia on Sunday. The review continues:

> Increasing the number of outlets does not increase average alcohol consumptions.

Studies have been undertaken that justify that proposition. The review continues:

> Nor does an extension of hours in which liquor is available increase consumption. Nor does anything other than drastic reductions in outlets or trading hours or both reduce average consumption, and such moves are extremely unpopular.
>
> Some Scandanavian countries regulate the alcoholic strengths of liquor that some outlets may sell. However, we found no data as to whether this sort of measure results in any reduction in average alcohol consumption. Studies of jurisdictions that have banned liquor advertising for periods of a year or more conclude that average alcohol consumption is not affected at all, and increases or decreases in legal drinking ages tend respectively to decrease and increase average alcohol consumption, but only in the age group concerned.

They then mention that educational campaigns aimed at reducing people's average consumptions by stressing the hazards of heavy drinking have been undertaken in some Canadian provinces, but none of the results have yet been evaluated and it seems that perhaps they are only of limited effect and that it will take many years to judge properly the results of those campaigns.

In the review's introductory remarks honourable members can see that the members went to much trouble to raise the arguments from people and then seriously examine them, using the evidence that was available to them and from other sources. The thoroughness and objectivity of their approach is to be commended in what I said is quite naturally an emotive area.

The history of licensing in Australia undoubtedly will be of some interest to all historians or latent historians. The history of licensing in South Australia is quite humorous. I refer to page 26 of the review, and the following comment:

> A publican was required in 1839 to provide for a traveller and his horse or a traveller without a horse, the horse not becoming a guest of the house, or any corpse which may be brought to his public house for the purposes of a coroner's inquest.

The review commented that although that requirement may have been quaint by today's standards, the principle of the hotel being obliged to provide lodging has been maintained throughout our licensing history. From the beginning of this and other colonies, there has been provision for licensing; there has been a realisation that there should be some control, some standard set in the provision of liquor.

Again, in examining our nearly 150 years of history we see that there has been a continuing change in attitude towards the drinking age and that in the period from 1839 to the present the minimum drinking age has ranged from no limit at all, which of course is hard to believe but which did exist at one stage, to a minimum age of 21 years. At present, the minimum drinking age is 18 years. Certainly, it is worth pausing to note that in 19 States of the United States the minimum drinking age is 21 years, and that in another 18 States the minimum drinking age is 19 years or 20 years.

On the Random Breath Test Select Committee we received evidence suggesting that nations or States that have a gap between their minimum drinking age and their minimum driving age, those that have provided a minimum driving age lower than the minimum drinking age are better served. The proposition is that if people have a chance to learn to drive without consuming liquor in that first two years, as applies in South Australia where our minimum driving age is 16 years, they will be more experienced to be able to handle alcohol when it becomes available to them at the age of 18 years, as is the case in South Australia.

Of course, that is not to say that in the real world there are not people under 18 years who drink and drive, because it is distressing to note that from 1980 to 1982 about 26 per cent of road deaths of people 16 years to 18 years were drink driving related. On the drinking and driving minimum ages I would like to state my position: although our minimum driving age is 16 years and is the lowest of any Australian State, I accept that we should retain it for the present.

However, it is important that we improve our attitude and our interest in the education of young drivers. I also maintain that the minimum drinking age of 18 is appropriate and that is something, from what I can see, that meets with general community acceptance.

I seek leave to insert in *Hansard* material of a purely statistical nature setting out the number of licences in all categories of institutions—clubs, restaurants, etc.—that dispense liquor, for the period 1967 to 1983.

Leave granted.

NUMBER OF LICENCES OPERATIVE AS AT 30 JUNE

CATEGORY (1)	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
Full Publican's	596	596	597	598	598	598	600	601	602	603	603	604	603	604	609	611	609
Limited Publican's (3)	—	16	24	29	37	40	44	48	55	55	58	59	66	73	77	82	85
Wholesale Storekeeper's	—	26	36	38	40	41	40	42	42	45	45	46	45	46	48	50	51
Retail Storekeeper's	—	31	48	99	99	100	103	105	107	110	110	109	110	111	113	115	118
Storekeeper's (2) (4)	50	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Aust. Wine S/keeper's (2) (5)	86	84	50	2	—	—	—	—	—	—	—	—	—	—	—	—	—
Wine	11	11	11	12	12	12	9	11	12	12	12	12	11	11	10	12	13
Brewer's Aust. Ale	8	7	4	4	4	4	4	4	4	4	4	4	4	4	3	3	3
Distiller's S/keeper's	20	21	32	32	30	30	31	33	34	34	35	37	37	36	36	33	32
Vigneron's (3)	—	2	36	45	44	47	55	61	67	75	86	89	103	109	116	123	132
Club	42	44	54	60	73	93	133	159	177	185	199	216	241	260	270	280	287
Packet	—	3	3	2	2	2	3	3	4	5	6	7	8	9	10	9	8
Railway	1	1	1	1	1	1	1	—	—	—	—	—	—	—	—	—	—
Restaurant	—	30	59	66	88	106	121	137	151	171	202	229	254	295	334	374	401
Limited Restaurant	—	—	—	—	—	—	—	—	—	—	—	—	5	7	10	14	21
Restaurant (s. 197A) (2) (5)	124	71	43	34	—	—	—	—	—	—	—	—	—	—	—	—	—
Cabaret (3)	—	4	3	3	3	3	3	2	2	2	2	2	2	3	3	3	2
Theatre (3)	—	1	1	1	1	2	3	3	4	4	6	6	7	7	7	9	9
20-litre (3)	—	—	5	14	20	22	25	24	32	40	42	47	52	49	50	54	55
Reception House (3)	—	—	—	3	6	4	3	5	6	6	7	9	7	6	5	3	3
Permit Club (6)	—	—	—	—	—	745	741	751	753	756	783	783	785	798	829	844	864

NOTES: (1) Hotel brokers licences not included because they do not involve the sale of liquor in the same way as other categories. 'Specialist' licences under sections 15 to 18 inclusive also not included.
(2) These categories were abolished by the 1969 Act. However, transitional provisions allowed existing licensees to operate for some time while they converted to other licences.
(3) These did not correspond to, or evolve from, licences existing before 1967. In that sense they were 'new'.
(4) Licensees in this category were given one month to apply for either a wholesale storekeeper's licence or retail storekeeper's licence.
(5) Licences in these categories continued for three years after the commencement of the Act. Within that period licensees could apply for other licences. Most S. 1971A restaurant permits were converted to restaurant licences, for example.
(6) Records not available before 1972.

The Hon. L.H. DAVIS: This material clearly establishes quite dramatic trends within the liquor industry. Whereas there has been relative stability in the number of hotels in South Australia, that figure increasing from 596 in 1967 to 609 in June 1983 and 617 at present, there has been a dramatic increase in the number of retail storekeepers licences or, as we now describe them, retail liquor merchants. In 1968, there were only 31 such licences, but at 30 June 1983 there were 118 licences and at present there are 124 such licences. Similarly, there has been a dramatic increase in the number of restaurant licences, the figure increasing from 30 in 1968 to 401 at 30 June 1983. In the past 18 months that figure has increased by an additional and an amazing 66, so there are 467 restaurant licences for South Australia. The number of clubs has also increased dramatically, by 50 per cent in the past six or so years. The number of permit clubs has also increased, but not significantly.

That precis underlines the review of the liquor industry took place at a time of dynamic change. This is reflected in the very strong growth of the restaurant industry at a rate which evidence given to the review committee suggests that Adelaide is the restaurant capital of the world in the sense that we have more restaurants per capita than has any other capital city in the world. I am not sure whether the Attorney approves of that, or whether he believes that he has more choice, or perhaps less money. The review sets out an attitude on licensing, given that the Act this Bill seeks to replace is a mish-mash of many amendments over a period providing for many licences and licence types and great confusion as to who could apply for what, even within the industry. Given that the Government has largely accepted the recommendations of the review, it is appropriate to set down briefly the objects of Messrs Young and Secker in establishing what a liquor licensing system should do. At page 73, paragraph 6, 4.2, this is as follows:

- To regulate the orderly sale and supply of liquor by licensed outlets to the public and other licensees.
- To ensure that the standards under which liquor is consumed on licensed premises are maintained at a level that is acceptable to the community.
- To balance the often competing interests of the liquor industry, the workers in that industry and the public generally.
- Not unreasonably to hinder the promotion of businesses that to remain viable rely largely or significantly on the supply of liquor
- To enable the sufficient collection of those fees that the Government decides are to be imposed on licensed operations.

Not surprisingly, it is stated that they do not believe that those objectives are currently met by the Licensing Act. The argument was put that the industry should be totally deregulated, that there should be a *laissez faire* approach.

The Hon. C.J. Sumner: You wouldn't agree with that, would you?

The Hon. L.H. DAVIS: I would not agree with that.

The Hon. C.J. Sumner: What has happened to your small 'l' liberal philosophy?

The Hon. L.H. DAVIS: I think that the Attorney would know me well enough to realise that I am an economic pragmatist and in the real world there may well be constraints. I am sure that some of the legislation that the Attorney tabled in the Council recently have been notable examples of Bills that may be at variance with what the Attorney would personally prefer. I accept that that is part of the give and take of politics and the realities of life. The point is made that South Australia now has one hotel for each 2 000 or so people, and the ratio of all retail liquor outlets, including permit clubs, to population is one outlet for each 600 people.

One reason for what could be regarded by some people as over-supply is the substantial amount of capital tied up in hotels which, in the early days, were rather grand affairs. One has only to consider the hotels in the mining towns to see the magnificence of the architecture. Those hotels are costly to maintain. If business deteriorates, as the review points out, the investment cannot easily be recovered and Kapunda is cited as an example: there are still five hotels operating at Kapunda for a population of about 1 300 people.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: That may well be the Attorney's idea of heaven. The review considers the rationalisation of the licence system, and the recommendations have been largely taken up in the Bill. It was recommended that there be hotel licences, retail and wholesale liquor merchants licences and restaurant licences. I will refer to retail liquor merchants later, but now I turn to restaurants. I mentioned the proliferation of restaurants: the industry is regarded by many as being beyond saturation point. An argument has been put that the Licensing Court has allowed this proliferation contrary to the interests of the community. There were arguments from restaurateurs, though not necessarily the association, that a moratorium should be imposed on restaurant licences so that the industry would have a chance

to absorb the explosion. However, I do not wish to buy into that argument except to say that I agree with the recommendation of the review that we continue to free up the provision of liquor in restaurants. One of the great features of a trip to Melbourne is the accessibility of BYO restaurants.

The Hon. C.J. Sumner: Do you like them?

The Hon. L.H. DAVIS: I do.

The Hon. C.J. Sumner: What happens if you go into a restaurant in Melbourne, you sit down, you get all set up, ask for a menu and order your meal and then say that you would like the wine list and they say, 'Sorry, it's a BYO', and tell you that the pub is 400 yards down the road. You get up to go out, it's pouring with rain—

The Hon. L.H. DAVIS: It always does in Melbourne.

The Hon. C.J. Sumner: That is right. What enjoyment is there in that?

The Hon. L.H. DAVIS: I usually book before I go out.

The Hon. R.I. Lucas: You go well prepared.

The Hon. L.H. DAVIS: That is right. That is the difference between the Liberal Party and the Labor Party—we are organised.

The PRESIDENT: Order! Let us get on with the Bill.

The Hon. L.H. DAVIS: I am totally distracted by the Attorney-General's flippant interjections, Mr President. The Attorney, having expressed some regret about the existence of BYOs in Melbourne, is happily associated with a measure that frees up the provision of BYOs in Adelaide which, of course, returns to the example I have given, that the personal views of the Attorney do not always accord with what he may bring into the Council.

The Hon. C.J. Sumner: I really do not mind. It's a bit of a two-edged sword from the tourist point of view. It's all right for the locals; they can take their flagon of cheap wine along and sit there. The poor old tourist who comes in and fronts up at the BYO, gets nicely settled in expecting to be able to get a bottle of wine and then has to troup down the pub quarter of a mile away is not very happy, and doesn't come back again.

The Hon. L.H. DAVIS: I will remember that when the next BYO opens in Adelaide, the Attorney-General should not be invited to open it.

The Hon. C.J. Sumner: You do not agree that there is any force in those arguments?

The Hon. L.H. DAVIS: No. I accept that the market place will determine the level of restaurants that can be sustained in Adelaide.

The Hon. C.J. Sumner: I'm not arguing for a limit on restaurants. I think that all the glamour about BYOs and how much better it is to go to Melbourne and go to a BYO is really a lot of codswallop.

The Hon. L.H. DAVIS: I do not go to Melbourne to go to a BYO. If the Attorney cares to see me in the passage afterwards, I will refer him to quite a few very pleasant BYOs in Adelaide.

The PRESIDENT: Order! On with the Bill! Members will run out of puff directly and will then be snarling. Why not continue with the debate now.

The Hon. C.J. Sumner: It's a very uncivilised way of going to a restaurant.

The PRESIDENT: Order! The Attorney-General should let the Hon. Mr Davis continue with his second reading speech. I am sure that the Attorney will have lots to say in his summing up.

The Hon. L.H. DAVIS: It is not generally appreciated that at 30 June in South Australia there were 287 licensed clubs and 864 permit clubs. At the time of the review that meant that there was a licensed club or permit club for each 1 183 people. I am quoting from page 155 of the report. Of the 285 licensed clubs, in February 1983, 93 per cent could sell liquor on Sundays. Interestingly enough, 41 clubs could sell take-away liquor and, of those 41 clubs, 39 were what are styled as pre-1967 clubs, which had the ability, before the liquor licensing laws changed, to sell take-away liquor. I understand that some football teams have pre-1967 clubs. I think I am right in saying that Port Adelaide is one, but sadly Norwood is not. Of the 863 permit clubs as at 28 February 1983, all had to purchase liquor from a hotel or retail storekeeper; 78 per cent could trade on Sundays and about 38 per cent could trade for more than eight hours on a Sunday. It is important to put on record that some 936 licensed and permit clubs can already trade on Sundays. They cover a gamut of interests—sporting and social clubs in both metropolitan and country areas.

One of the key ingredients of the Bill and one area where the Government was not anxious to accept the recommendations of the review committee concerns take-away liquor sales. The Review of South Australia's Liquor Licensing Laws on page 169 addressed this matter. It makes the point, which obviously has validity, that hotels especially rely very heavily on their packaged liquor sales to maintain profitability. There is no doubt that profit margins in recent years have been squeezed considerably in the packaged sales area. We are aware of heavy discounting in the wine industry, especially the bottom end of the market, and in beer. The review develops that argument by saying that to allow more than 1 100 clubs, or even the 287 licensed clubs, to sell takeaway liquor would further reduce the profits of hotels. The review recommends that clubs, except the 41 clubs that may now do so, should not be allowed to sell liquor for consumption off the premises unless they can satisfy the licensing authority that their members cannot without great inconvenience purchase such liquor elsewhere.

The Government accepted that recommendation and, quite clearly, no provision has been made for it. I am interested to see that no reference has been made to clubs which sell liquor and what impact it has had in areas where a football club, for example, because it had a pre 1967 licence, has been able to sell liquor. I am surprised that there was not a great deal of reference where clubs in particular areas—and big clubs at that—sold liquor under a pre 1967 licence. However, it is a matter of some contention because, obviously, if clubs are permitted to sell liquor, whether licensed clubs as a whole or permit clubs as well, it may put considerable pressure on existing suppliers of packaged liquor, and I refer to hotels and retail liquor merchants as they are styled in the Bill.

I now turn to the question of trading hours. I think it would be true to say that this is perhaps one of the most contentious matters in the Bill. As I have already mentioned, it is an area where the Government chose to vary its approach from that adopted by Messrs Young and Secker in their voluminous report. First, I will examine Sunday trading. The trading hours for clubs are established by the Licensing Court at the moment, and that is done after taking into account the needs of a club. I have already mentioned that licensed clubs and permit clubs trade on Sundays at various times. There are 175 licensed clubs which trade on Sundays over eight hours (which is 61 per cent of licensed clubs) and about 38 per cent of all permit clubs also trade over eight hours on Sundays. The fact is that, quite clearly, liquor is already freely available on Sundays. There is no doubt that there is access to liquor during week days, certainly on Saturdays, and to a lesser extent on Sundays. I refer to page 237 of the review at paragraph 11.5.37 where the actual outlets for Sunday trading are detailed, as follows:

There were, as of 30 June 1983:
401 licensed restaurants;
132 vignerons;

> 32 distiller storekeepers;
> all of which may sell liquor at any time on a Sunday (in accordance with the tenor of their licence). In addition there were:
> 287 licensed clubs;
> 864 permit clubs.
> Of the licensed clubs, 265 (93%) can sell liquor on Sundays, including 175 (61%) who can sell liquor for eight hours or more. Of the permit clubs, 671 (78%) may sell liquor on Sundays, including 326 (38%) for eight or more hours.
> 11.5.38 There are, therefore, already well over 1 000 outlets in the State where liquor may be legally purchased for eight or more hours on Sundays. Given that people may also stock up on supplies from a hotel or a retail bottle store on Saturdays, we consider that increasing availability of liquor on Sundays through hotels will not significantly increase overall liquor consumption, except perhaps in the short-term until the novelty wears off. ... In the absence of evidence to the contrary, we proceed to consider Sunday trading in hotels according to what we perceive to be the needs and wants of the public.
> 11.5.39 Our basic philosophy is that trading hours should be unlimited unless some good reason exists to restrict them.

That is at the heart of the argument that has been advanced by the review team and which has been adopted by the Government in respect of hotels trading on Sundays. It is proposed that it replace the restricted Sunday trading arrangement where hotels, provided they are classified as tourist hotels, can open for four hours (in two bands of two hours each with a two hour interval between) which was the arrangement under legislation passed during the term of the Tonkin Government. It was interesting to note that 50 per cent of all hotels in the State qualified for the tourist licence. Quite clearly, the tourist hotel licence venture, whilst novel, did not perhaps have the result that some people might have expected.

The Hon. C.J. Sumner: You voted for it. You toed the Party line.

The Hon. L.H. DAVIS: I do not know whether the Attorney can remember that vote. It meant that people were inclined to move from hotel to hotel. It could be regarded as vaguely analogous to the six o'clock swill arrangement which existed prior to 1966. I accept that, given the increasing interest in tourism and the fact that 50 per cent of all hotels now open for a minimum of four hours on a Sunday anyway under the tourist license provisions, it is not an unreasonable step for Sunday trading to be further extended to hotels. However, there are consequences of Sunday trading for hotels which deserve to be closely monitored.

I refer to an article by Barry Hailstone in the *Advertiser* of 23 February. As I have mentioned, I am a member of the Random Breath Test Select Committee. I was somewhat alarmed to read Mr Hailstone's article, which refers to a study in Western Australia by a Professor Hawks, who is the Director of Western Australia's alcohol and drug authority. Professor Hawks strongly criticised the practice of Sunday trading, which he said has led to more road accident victims being killed or maimed on roads on Sundays. The article states:

> Professor Hawks says that in a three-year period after the introduction of Sunday trading in Perth there was a 39 per cent increase in the number of persons killed on Sundays compared to previous years.
> The loss of life associated with Sunday alcohol sales in Perth in the 12 years since its introduction was estimated to have cost Western Australia $21.5 m.

I am not sure on what basis those assumptions have been made. It is not easy to pick up facts like that.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: I do not know. The article does not give that detail and I have not had a chance to follow it through. It does concern me. I hope that, if this Bill passes into law, the Government will carefully design an education programme specifically to counter the initial novelty of Sunday trading in hotels. I accept that what seems to be the majority of hotels already have Sunday trading from 12 noon to 2 p.m., or from 1 p.m. to 3 p.m., and in the dining hours of 5 p.m. to 7 p.m. However, it is important that we keep a check on that particularly vital aspect of extending hours of drinking on a Sunday.

I now turn to the retail liquor merchants. I am most critical of the Attorney-General in that the review of South Australia's liquor licensing laws categorically recommended that retail liquor merchants be allowed to open on Sunday. I understand from talking to people associated with the South Australian Retail Liquor Merchants Association that the Attorney-General has not discussed with them since that review the recommendations of the review that their hours should be extended, that at the time the Bill was being drafted there was no discussion with officials of that Association, and that it was not until the Bill was tabled in the Parliament that they became aware that what was undoubtedly one of the major recommendations of the review had not been taken up.

I do not believe that the Attorney-General or the Government of the day is obliged to accept every recommendation that is in a review. Clearly, they are not. The Government has its own reasons for not taking up the recommendation of the review team. However, those reasons have yet to see the light of day. The second reading explanation was pretty light on when it came to giving reasons, and I suspect that Trades Hall may be a better place to find out what the reasons really were.

The Hon. C.J. Sumner: What has it got to do with it?

The Hon. L.H. DAVIS: I suspect that there might be a bit of muscle in there.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: The Minister might be able to correct me if I am wrong.

The Hon. R.I. Lucas: It is Gordon, is it? He is in the Liquor Trades Union.

The Hon. L.H. DAVIS: He is shaking his head; no-one knows. It is disappointing to see that the Attorney-General did not consult, because on balance this Bill has many good features. I understand that, of the 124 retail liquor stores in South Australia, 78 of the 85 that are situated in the metropolitan area would be prepared to open on a Sunday if the opportunity was given to them. There are 39 in country areas, and the Association as yet has not been able to contact them and establish what their attitude would be.

I will mention what the situation is in other States in relation to retail liquor merchants. In New South Wales and the Australian Capital Territory I understand that retail liquor shops can open. In Victoria, retail liquor shops can open in tourist areas only. This is a recent amendment, and the shops have to be certified. They have to go through perhaps much the same mechanism—

The Hon. C.J. Sumner: Don Dunstan keeps telling us in those ads that all Victoria is a tourist area.

The Hon. L.H. DAVIS: That is right. I am pleased to see that the Attorney-General has finally made a public confession that the Hon. Don Dunstan is still misleading the people.

The Hon. C.J. Sumner: No, the whole of Victoria is a tourist area.

The Hon. L.H. DAVIS: Perhaps the Attorney may like to write to the former Premier of South Australia and tell him that if he is serious about promoting Victoria he should open it up to tourists. I do not know whether the Attorney has any contact with the former Premier: perhaps that is a waste of time asking him to do that. In Tasmania, retail liquor shops are not able to open on Sundays, nor is it the case in Western Australia. Queensland does not have retail liquor stores. As I have mentioned, in New South Wales,

the Australian Capital Territory and (by a recent amendment) Victoria, retail liquor merchants can open on Sundays.

There is an argument to say that if one opens more retail liquor outlets on Sunday that will increase the dangers of drink driving, alcohol abuse and so on. I really do not accept that argument, given that there are 1 000 liquor outlets already in South Australia, through licensed clubs, permit clubs, restaurants and so on.

The Hon. C.J. Sumner: Not many restaurants open on Sunday.

The Hon. L.H. DAVIS: Well, there we are. We will have to make the honourable member Minister for Restaurants: he seems to have an incredible interest in them, but, the way the Attorney keeps this Council sitting, we will have to find a restaurant that is open 24 hours a day. I am persuaded to the argument that the retail liquor merchants should be allowed to open on Sunday.

The Hon. R.I. Lucas: Gordon is against it: I told you that it was Gordon.

The Hon. L.H. DAVIS: The Hon. Mr Creedon has come to life. He has made noises—

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I understand that an estimated minimum 27 per cent of packaged liquor is sold through retail liquor merchants. That figure has remained constant, notwithstanding the fact that hotels have been able to sell liquor on a Sunday in recent years. I am persuaded that retail liquor merchant stores should open on Sunday because it will be to the advantage of people who wish to go to a BYO restaurant. They can drop in conveniently, and it gives them a greater choice. Many customers, particularly women, feel more comfortable shopping in liquor stores than in hotels.

The Hon. C.J. Sumner: Where does that argument come from?

The Hon. L.H. DAVIS: I accept that as an argument: it is a reasonable proposition. I have a wife who would prefer to go to a liquor store than to a hotel. Old habits die hard: there is a generation of women who were not allowed in hotels.

The Hon. C.J. Sumner: Your wife is not that old.

The Hon. L.H. DAVIS: But she came from Queensland. The other argument that members of the Random Breath Test Select Committee, including the Hon. Gordon Bruce, would share is that an outlet that provides for liquor to be bought but not consumed is an advantage in the sense that the liquor is likely to be taken home or on a family outing and it reduces the possibility of a drink driving accident.

Although I do not think there is anything in the review which suggested any hard facts on this, there is anecdotal evidence to suggest perhaps there are more people who do tend to drink at home. It is very hard to quantify, but certainly with more leisure time that would seem to me to be a sustainable proposition.

I argue in support of retail liquor merchants being able to open on Sunday. That is not to say I am dissatisfied in any way with the service the hotels provide. Quite clearly the Australian Hotels Association has done a magnificent job through the years in providing not only bottle shops, takeaway liquor and a range of services on site including drinking, food and accommodation, but also they have made an enormous contribution to the economy. Again, it is something easily overlooked, but we are talking about a very significant industry in terms of employment and income generation. If one takes as a line through the retail liquor merchants an average employment of, say, four permanent people and two temporaries, one is talking about 1 000 people in South Australia being directly employed. That is a significant industry. One of the aspects which is to be addressed, particularly in Committee, is as to how far this Sunday trading should be extended. I have argued in support of the 11 a.m. to 8 p.m. recommendation for the hotels and in support of retail liquor merchants to be able also to open on Sunday. It is a question for the debate in committee as to whether or not hotels should be required to open for a minimum four hour period, or whether they should be required to open for a shorter or longer period. Again, that argument can be developed in the Committee stage for the liquor shops.

Of course, in some instances there may be permanent part-time employment where a minimum period of time has to be paid anyway, although in some instances no doubt there has been a trend to casual labour. There is also the matter of clubs and whether or not they should be allowed to sell liquor on a takeaway basis, given that some 41 clubs already have that right, including four out of the 10 league football clubs in the Adelaide metropolitan area. Those four clubs are Port Adelaide, Glenelg, South Adelaide and Central Districts.

It is worth noting that one of the particular anxieties which no doubt the industry has about extending this trading is whether it can be sustained. I have a great sympathy, for example, for hotels that already open six days a week that will perhaps be forced to open for seven days a week in a situation where there may be a competitor, because many of them are family run businesses. Many of them also employ labour and the penalty rates which exist in Australia are quite horrendous. If we look at the particular examples in the restaurant trade, for Monday to Friday before 6 p.m. the hourly rate for casual food and drink waiters is $6.87. After 6 o'clock it goes to $7.44. On Saturday until 1 o'clock it is $8.29. After 1 o'clock it is $9.73 and then on Sunday that rate goes to $12.59. That gives an indication of how costly wages are to restaurants and that of course is also reflected in other areas of the liquor industry. It is a matter which has to be addressed and a debate on this Bill is an appropriate time to address this point.

As we increasingly move towards a seven day working week we have to drop the notion that Saturdays and Sundays are somehow special. That notion has already been thrown out the window in countries such as the United States and I would hope that this Government takes on notice at least this side's concern about the continued existence of penalty rates, the continued inability of both Federal and State Labor Governments to come to grips with this situation, but now we have—

The Hon. C.J. Sumner: What did you do about it?

The Hon. L.H. DAVIS: It is a Federal and State matter, certainly. One Government cannot act in isolation and you would realise that.

The Hon. C.J. Sumner: What did Tonkin and Fraser do about it?

The Hon. L.H. DAVIS: I think they made a few noises. I think they certainly had some discussions about it, but of course the key to it is the unions. It is pertinent to note that we are now proposing in this Bill that hotels, retail liquor merchants and other interests in the liquor industry will have the opportunity to open seven days a week and that many of the people employed will be working on a four, four and a half or five day basis. I would argue very strongly that the time has come in Australia for us to recognise that five days can be any five days in a seven day week, rather than making Saturday or Sunday special, because if we are going to compete in the real world for international tourists we have to be cost competitive. We have seen our cost competitiveness being improved in the sense that our dollar has devalued, making travel into Australia more attractive for people from overseas, but as I have indicated in a recent second reading speech relating to long service leave, that devalued dollar is a reflection of the weakness

of our economy, the fact that we are not cost competitive. Although we live on the Pacific rim in what is going to be the most rapidly growing economic region in the world for the rest of the 20th century, unless we face up to these matters and grasp the hard ball, we are going to be left behind, so that disbelievers within 10 years are going to have to accept the fact that Singapore, that man-made State of the last 20 years, will have a standard of living higher than that in Australia. Although hard to believe, it is true and whilst I have interposed that in a Bill relating to liquor, it is pertinent and relevant, because this industry is an industry which makes an enormous economic contribution to our community.

As I mentioned earlier, there are social disadvantages relating to this Bill and that requires education and common sense on all sides in order to cope with and minimise those problems. This industry also helps create jobs. It is an industry relating to tourism and it is tied up with leisure and those industries are going to be the greatest growth industries outside perhaps the provision of financial services, certainly in this State over the next few years, so I hope, in supporting the second reading, that my pleas do not fall on deaf ears.

I commend the Attorney for introducing this Bill, which is basically good legislation. I have some disagreements about the legislation that I will take up in Committee. It is pleasing to see the very thorough work which has been undertaken by Messrs Young and Secker, and which was commented on favourably by the Hon. Mr Burdett. Their recommendations have been largely adopted by the Government. I support the second reading.

The Hon. R.I. LUCAS: I rise briefly to place one question on notice for the Attorney so that I will not be asking a fresh question in Committee. The Hon. Mr Davis referred to 41 clubs with takeaway facilities. We are aware of the six outlined in the Bill and we have tracked down another four, which are football clubs. In his response to the second reading debate or in Committee, can the Attorney provide a full listing of the 41 clubs involved?

The Hon. K.L. MILNE: In common with other speakers on the Bill I would like to congratulate Mr Peter Young and his assistant Mr Andrew Secker on their remarkable report, or review. We would like to compliment them on their patience, thoughtfulness, thoroughness, fairness as far as one can because, in fact, they actually sought people out and the result—all 700 pages—will be an historic document.

It is unusual in that it gives recommendations with reasons for and against those recommendations. That makes it much easier for people to make decisions, especially when one is making decisions on balance, one way or the other. With so many different interest groups involved it is of course impossible to please them all, and it is impossible to be helpful to them all, but that does not necessarily say that they have not been fair. It seems to me that the reviewers have steered a sensible course: not a middle course but a considered and well navigated course through not so very rough waters.

They have gone out of their way to make sure that the waters did not become too rough. In their decisions, it seems to me, the paramount consideration was always the customer or the public. The benefits of overseas experience by these officers being sent overseas to have a good look at how other countries handle these matters is evident, and I congratulate the Government on sending them overseas.

The Hon. C.J. Sumner: They wrote the report before they went!

The Hon. K.L. MILNE: In that case I condemn the Government for wasting our money! But they have been making overseas inquiries and I know perfectly well that they were drawing heavily on overseas experience, and that is evident. I do not believe the review got much advice from England where the liquor laws are such that if an Australian does not read them carefully one nearly dies of thirst.

In regard to clubs, I do not want to interfere with their trading with members, but I do believe that there should be no trading with the public. Selling to members is one thing but trading with the public is quite another thing and it is not on, certainly not like it has become in New South Wales, and that is a great danger. We should be aware of it and stop it at this point.

As to the introduction of visitors, if one is connected with a club one must realise that the question of visitors is a personal and precious matter. I see that the Licensed Clubs Association of South Australia is asking that the original provision in the Licensing Act remain, as it allows members not to introduce more than five visitors to the club premises at any one time. What does that mean 'any one time'? Does it mean that one can bring in five visitors and get them stuck into it at one end of the bar and then go and get another five visitors? One cannot do that sort of thing. That provision was almost impossible to police, I gather, and I believe that the new rule of no more than five visitors in any one day is sensible and generous because one has to remember that if one is connected with a club it is a sort of family or a group involving people with similar interests and each member is responsible for that to remain and must have consideration for other members; indeed, much more consideration than one would have in a public place such as a hotel or restaurant.

Some clubs want to be both privileged clubs with restricted membership and hotels at the same time. That is not on as far as I am concerned. The right to take away or take off (I understand that that is the official term) from clubs seems to be sensible but, as far as I can see, it should not be encouraged. I suggest that we should make a limit of, say, 2 litres per person, per member, and I will be seeking to move an amendment to that effect. My amendment will put the take off facility into perspective. If the provision is unlimited it changes the whole concept of a club liquor licence into something else.

In regard to producers—and they are very important, as we all know—for some reason producers seem worried about BYO restaurants, but I cannot understand why. It seems that the producers may sell a little more wine if people can buy their wines at retail prices rather than restaurant prices and take them to the restaurants of their choice. It seems to me that it should be the licensed restaurants who are complaining and not the producers. I believe that producers licences are quite special. The reviewers went into the matter of blending, for example, very thoroughly and I believe that they have been sensible in their recommendations in this area.

There are very definite ethics in the wine industry and certain disciplines need to be observed. Having had the privilege of living overseas for a number of years—not recently, although I had a brief visit recently—I know something about the restrictions that wine producing countries in Europe, particularly, place on their winegrowers and the wine industry and, if Australia wants the same dignity, we will need discipline too. I believe that Mr Young and his team have been correct and have made sensible recommendations on blending and fermenting in one's own premises, and so on. In fact, they may have been almost too generous. I see no great dignity in buying bulk wine, putting it in a bottle, sticking a label on it, and selling it.

The Hon. Frank Blevins: It is a good fund raiser.

The Hon. K.L. MILNE: That is different: we could make an exception of that. Retail liquor merchants are what most of us call local wine shops, and they have been discriminated against in the Bill in regard to Sunday trading—not much but enough to require rectification. I will propose an amendment that among other things increases their ability to open on Sunday (but not on Christmas day) between II am and 6 p.m. We could get used to the idea that wine shops open in the morning at 9 and on Sundays at II but close at 6 p.m. There is no need for a wine shop to be open beyond those hours. They should be allowed to open on Sunday with restricted times, but that may require further discussion.

I agree with the Hon. Mr Burdett who talked about options. If a hotel has an option to open there is not much sense in requiring it to open for a minimum of four hours. They should have the option of opening for any time they like. Their trading will be subject to their position geographically: wine shops on a main road may want to open for a morning or a full day but others may want to open for only an hour or two. Wine shops face a special problem and my proposal would be slightly fairer to them. It would not affect the hotels a great deal because people who browse in a wine shop would not waste that sort of time on a Sunday in a hotel.

My colleague and I, like the Hon. Mr Burdett, are in favour of small business and we must keep in mind constantly that we should not disadvantage small business either by accident or thoughtlessness, but unknowingly we frequently come up with legislation that makes it more and more difficult for small businesses to operate when we had not intended that. Some of the Hon. Mr Burdett's suggestions and some of my suggestions will ensure that the small business man has a fair go. From what I can gather, the hotel industry does not seem to be very concerned about the Bill. I understand that the industry was fully consulted and is reasonably happy with these controls. However, some hotels object to wine stores opening on Sundays: they point out that hotels must provide proper premises, meals, furniture, toilets, staff service and so on whereas wine stores do not have to provide such things.

That is quite true: it is a reasonable argument. However, I still feel that on balance wine stores should be allowed to open on Sunday, even with shorter hours. As I said, it will not make all that much difference if 120 wine stores are open, and not all wine stores will open and some may not open for long periods. It will not make that much difference to the hotel industry. I have always been under the impression that penalty wage rates are an enormous problem for the hotel industry, a disincentive to tourism and employment. However, I understand that that is not necessarily so. It is not a simple problem although, as the Hon. Legh Davis said (in fact, he might have said it several times according to the length at which he went on), that matter must be addressed in the interests of the hotel industry, the liquor trades industry and the people who work in those areas, particularly in the interests of those whose career is in that field.

We must realise that the base rate for hotel employees in South Australia is low; it is possibly the lowest in Australia, and perhaps for good reason. However, if the rate was increased (but not very much) hotel owners and managers would be better off employing casual labour. There is a fine line and people on all sides must sit down to decide whether there is a better way. It is foolish, and it is not in the best interests of the industry. I am told that in spite of weekend loadings it is still difficult, almost impossible, to get people to work on weekends and public holidays, so it is not necessarily a matter of the margin and penalties being too great. Personally, I think that they are too great, but the solution is not simply to peg them off. I could well see that, if the basic weekend rate was discontinued, many hotel operators would pay overtime in any case to get the people they need. What worries me is that the costs must be loaded into the price of meals and liquor, so it is the working man who suffers, because he is the one who takes his family out for a meal on weekends, when he has the most spare time.

The Hon. Anne Levy: What about the working woman?

The Hon. K.L. MILNE: I use the words 'working man' in the drafting sense, and I apologise. However, I will not be diverted. Penalty rates are loaded into the costs, whether men or women are involved, and I will not be diverted from my argument. We will have to discuss this matter sooner or later. What is confusing is that there are three categories of employee. First, there are full time employees, who are on a basic award plus 50 per cent for overtime, 50 per cent for Saturdays, 100 per cent for Sundays and 150 per cent for public holidays. That sounds horrific, and it probably is, but again it is not a simple matter of taking the penalty rates off. The second category is the regular part time worker, who gets the basic award plus 10 per cent as an hourly rate, plus overtime penalties at 50 per cent; for Saturday, basic award plus 50 per cent; for Sunday, basic award plus l00 per cent; and for public holidays, basic award plus 150 per cent. Front of house staff get 75 per cent.

Casuals have time plus 50 per cent at any time they work with no other additions, except that it costs the owner or employer approximate 17 per cent for the additional workers compensation and long service leave adjustments. One of the problems is that about 65 per cent of members of the Liquor and Allied Trades Union are casuals—most members have other jobs. That is a big problem and it is wrong that those people control the union and its policies. The percentage of casual members in interstate unions is about 75 per cent. Therefore, the career workers in the industry do not control their own destiny—the casuals do. That is serious for the future.

It is sensible that there be either two unions or two sections of one union, one for full-time and regular part-time career workers and another for casuals. Their interests are not the same. One person works full-time in the liquor industry, and the other is making a lot of money on the weekends and has another job as well. The Labor Government should address itself to this matter and rectify it in the interests of the career people in the industry.

The Hon. C.J. Sumner: How can you legislate for that?

The Hon. K.L. MILNE: I do not say that one needs to legislate. The Labor Party should look at it to see whether some arrangement can be made. It would pay the full-time career workers to design a flexible system of working 40 hours in return for an increased base rate, but not so much that it would put them behind in comparison to the casuals. It should be some arrangement that still left it preferable to employ full-time career people who knew what they were doing from experience and were prepared to study their work.

The Hon. Diana Laidlaw: Are you going to advocate that approach in the shop assistant area as well?

The Hon. K.L. MILNE: I had not thought about that, but I suppose we could. If the principle is the same and if it would help the unions to retain their membership of career people, I would certainly recommend it. It is a matter of people in full-time jobs taking the jobs of other people, although the owners say that they cannot get others to fill the positions. I do not know the answer, but it is a problem. Most of us want to feel that, although we are looking after other interests a little more, the hotel industry is looked after in this Bill. I do not want to see other outlets in the liquor industry looked after to such an extent that we will make it difficult for hotels to continue and, even if they do not close, to become second rate.

This is a Committee Bill and I look forward to hearing the debate on the clauses to be changed. I thank honourable members for the information we have gleaned so far in the debate. However, we should be careful before going against the recommendations of the reviewers because their reasoning has been so careful, considered and complete, and as nearly impartial as one can get. It is no good congratulating the reviewers and then drastically changing their recommendations. I know the Liberal Party wanted a review this legislation. I congratulate the Hon. Mr Burdett on his attitude towards it and the praise he gave to the Government—both the Hon. Mr Burdett and the Government deserve some praise. Mr Peter Young, who started from a base where he could have easily been biased, has come as close as one can to a good independent review. He was greatly helped by Mr Andrew Secker. I thank them for the open approach to the review which has undoubtedly been a success and proposes a great improvement.

The Hon. K.T. GRIFFIN: I want to address several issues, some of which are of a relatively technical nature and perhaps could be better addressed during the Committee stage. It is important to raise them now if only to alert the Attorney-General to the sorts of issue that I will raise during the Committee stage. If one accepts that Sunday trading in whatever form is here to stay in South Australia (and, it having been in force since 1982, whatever the arguments against it may be—and there are a number—the battle has been lost), it then becomes a predominant consideration to ensure that there is adequate protection for ordinary members of the public, particularly residents and others who are in the vicinity of a particular liquor outlet. Although the Bill gives certain rights in relation to the application for and removal of licences and other processes, and enables residents, the Commissioner of Police and councils, as well as the Commissioner, to participate in certain proceedings, certain aspects of the provisions in the Bill need further clarification to ensure that the rights of citizens are adequately protected through the courts—the Licensing Court initially and then on appeal to the Supreme Court, if necessary.

We all recognise that some of the most contentious questions about liquor licensing have arisen out of the so-called Glenelg riots and activity near some of the hotels which trade into the early hours of Sunday morning. There are at least two of those hotels at Glenelg, particularly the Holdfast Hotel, where there has been a great deal of community concern about the activity of patrons in the early hours, not only Sunday morning, but other mornings, and the way in which they disturb the neighbourhood and create a nuisance.

Although some may argue that the licensee of a hotel facility cannot be blamed for that behaviour, it is a direct consequence of the issue of a licence and the activity that is arranged by the licensee of a particular liquor outlet. Under clause 26, the provision dealing with the granting of a hotel licence, the licensing authority has to be satisfied that the grant of a late night permit in respect of a licensed premises is unlikely to result in undue noise or inconvenience. A similar sort of provision applies in clause 33 where, in relation to an entertainment venue licence, the licensing authority must be satisfied that the grant of a licence is unlikely to result in undue noise or inconvenience.

I make the point by way of digression that the drafting of that provision is somewhat curious, because the licensing authority has to be satisfied that the grant or removal of the licence is unlikely to result in undue noise or inconvenience. I think there is obviously some drafting error in including the reference to 'removal of a licence', unless I have missed an obscure point and an obscure reason for its inclusion. In clause 82, which deals with the rights of intervention and objection by the Commissioner of Police, a council and an inspector under the Places of Public Entertainment Act, there is again reference to a somewhat different consequence, and that is to public disorder or disturbance. That is in the context of the Commissioner of Police being able to intervene in any proceedings before a licensing authority for the purpose of introducing evidence or making representations on the question of whether the grant of a particular licence is likely to lead to public disorder or disturbance.

A council also has a right to intervene, but only in respect of the suitability of premises to be licensed or to continue to be licensed or in relation to a proposed alteration. The Inspector of Places of Public Entertainment under this clause may intervene in relation to the safety or suitability of premises. The Commissioner has a much wider opportunity to introduce evidence, and he may do so on the basis of any question before the Licensing Court. In clause 84, which deals with the general right of objection, an objection may be made on the ground that the grant of the application will disturb the quiet or otherwise detract from the amenity of the locality in which the premises or proposed premises to which the application relates are situated. In clause 112, which deals with complaints about noise emanating from licensed premises, there is a facility for a complaint to be lodged by a group of citizens with the Commissioner where any activity or the noise emanating from licensed premises or the behaviour of persons making their way to or from licensed premises unduly disturbs or inconveniences any person who resides, works or worships in the vicinity of the licensed premises.

I have mentioned those five clauses of the Bill because they are important in giving citizens within the vicinity of licensed or proposed licensed outlets, a council or the Commissioner of Police power to take action which may lead to some greater measure of control of the disturbance and/ or inconvenience. My concern, which has already been touched on by my colleague, the Hon. John Burdett, is that the emphasis on disturbance or inconvenience may not extend to dealing with nuisance or matters which act to the annoyance of those in the vicinity of a licensed outlet or proposed licensed outlet, and I refer to such things as broken bottles on a footpath, bottles thrown over a front fence, urination in a front garden, and a variety of other acts which in themselves are offensive but which may not legally fall within the description of a disturbance or inconvenience.

I think there needs to be a wider range of acts which attract the attention of the court and provides a basis for complaints against or action in relation to licensed premises. I will support the amendment to be moved by my colleague, the Hon. John Burdett, in that context. I also make the point that under clause 82 (2) a council for a local area is able to intervene in proceedings only in relation to what I would regard as Building Act type matters affecting premises licensed or proposed to be licensed. I believe that a local council, being a representative of ratepayers in particular, ought to have an opportunity to intervene in relation to disturbances, inconvenience, noise, matters of annoyance or those matters which cause offence for the following two reasons: the first is that a local council represents ratepayers; secondly, a local council can act in a way which is likely to demonstrate wider community concern about the offensive activity and is likely to remove the possibility of victimisation of those residents who would otherwise wish to make a complaint before the Licensing Court. In that context I would want to ensure that there are adequate rights of appeal ultimately to the Supreme Court, if necessary.

I recognise that in clause 112 the Commissioner only conciliates and, if conciliation is not effective, the matter then goes to the Licensing Court, from which there is a right of appeal. However, in the context of the other clauses

to which I have referred, I would want to be satisfied that there are adequate rights of appeal ultimately from the Licensing Court to the Supreme Court. I believe that those specific provisions relating to the rights of members of the public, councils and the Commissioner of Police need special attention and some widening of their scope to ensure that, in the context of the extended trading hours proposed in this legislation, there is a higher level of protection for members of the public.

The Hon. C.J. Sumner: Are you moving an amendment?

The Hon. K.T. GRIFFIN: The Hon. Mr Burdett will be doing that, and I have indicated that I will support the amendments that he proposes to widen the scope of those clauses. I am also pleased that the licensing laws are proposed to be tightened up in respect of minors. I now raise a question which may have a simple answer but, nevertheless, it needs to be addressed. The provisions of Part VII of the Bill deal with minors principally in relation to the sale or supply of liquor on licensed premises or in prescribed premises, meaning licensed premises, regulated premises or premises of a kind declared by regulation to be prescribed premises for the purposes of the clause. I can envisage a situation where there may be a supply to minors in the circumstance where a person is not licensed but may have been the agent by which liquor has been purchased from licensed premises and delivered to a minor for the purpose of circumventing the law.

I would like the Attorney-General to give some indication whether he believes that that situation has been adequately covered in the Bill. Money may change hands as a result of the agent acquiring liquor from licensed premises for the minor. It does not seem that that is addressed in Part VII, but I would certainly like to have some clarification of it because, again, the area of minors needs special attention.

The other area, which is not in the Bill but which my colleague, the Hon. John Burdett, proposes to deal with by way of amendment, is to give local government some responsibility to make by-laws to prohibit the consumption of alcohol in declared public places for particular periods. It is important to give some responsibility to local government to do this. Speaking of the area with which I am most familiar—Glenelg—it is obvious that if the council had power to make by-laws regulating the consumption of alcohol in public places on occasions, say, of rock concerts or in areas such as Colley Reserve or around the sideshow areas, it would certainly be an advantage not only to the residents but also to those law-abiding citizens who visit Glenelg as tourists. So I will certainly support that proposal to give some wider responsibility to local government bodies.

I will now mention a couple of technical matters. The first relates to the liability of directors of a body corporate. Clause 132 is probably the important one relating to offences. In some respects, it relates to the definition of 'persons in authority' under clause 4 of the Bill, and particularly subclause (5). Clause 4 (5) deals with bodies corporate and extends to shareholders in a body corporate of a proprietary company, which I understand is the position in the present Act, but no reference is made anywhere in the legislation to the situation of co-operatives.

Co-operatives do not have directors: they have a committee of management; they do have shareholders. It may be that licences are held by co-operatives and, although they may well be dealt with in the transitional provisions, the problem that I see is that, if there is an offence by a co-operative in the future or by one of the persons on the committee of management or by someone else in authority in the co-operative, there is no specific reference to those who will carry a liability. So, I would like the Attorney to give some consideration to the question whether or not some specific reference ought to be made to co-operatives, particularly in that context but also in the context of the bodies that may hold licences, that is, bodies corporate.

In the context of the offence provisions (clause 132), where a body corporate is convicted of an offence, each director of the body corporate and the manager of any premises in which the offence is committed shall be guilty of an offence and be liable to the same penalty as is prescribed for the principal offence. I am not sure whether it is fair that each director of the body corporate should be so liable unless he shows that by the exercise of reasonable diligence he could not have prevented the commission of the offence. That is the usual defence provision in all of the legislation that comes before us, where members of the body corporate are liable to have some responsibility ascribed to them for the commission of an offence by the body corporate. I would like the Attorney-General to give some indication why in this Bill there does not appear to be a defence such as that which I have outlined.

The other point in relation to offences is in clause 130, which provides that where an offence is committed for which no penalty is specifically provided the fine shall be $5 000 maximum on a licensee, a manager of licensed premises or the director of a body corporate that holds a licence, and in any other case a fine not exceeding $500. It may be that an employee or some other person has committed the offence without the knowledge of the licensee or the manager has committed on offence, and $500 for breach of the provisions of the Bill seems to be a particularly lenient penalty. I wonder why the penalty of $500 is so low and whether some further consideration could be given to increasing that to what I would regard as a more respectable level of penalty for those offences for which no other penalty is provided.

of penalty provisions apply for breaches of the regulations. I am a bit surprised that the same sort of penalty should be applied because ordinarily regulations are subordinate legislation and where offences are created by subordinate legislation the general principle is that those penalties ought to be very much lower than penalties in a statute that has run the full gauntlet of review by the Parliament.

I make one point in relation to clause 55 (2). Clause 55 provides that, subject to subsection (2), a minor shall not hold a licence or occupy a position of authority in a body corporate that holds a licence. Subsection (2) provides that this section does not prevent a minor from being a shareholder in a proprietary company that holds a licence. I know that some accountants issue shares to minors, but I do not think that legally that is possible. Certainly, I would never give advice for the issue of shares in a limited company to a minor. Generally, it ought to be done through an adult as trustee for a minor because the minor has no capacity at all to deal with that share in terms of exercising options, taking up additional shares or transferring those shares.

I would suggest that minors do not even have the capacity to exercise a vote when they are shareholders. I have raised this matter before on several occasions in the Parliament and have expressed concern about the apparent recognition that minors do hold shares when legally I think there are some serious impediments which prevent a minor validly holding such shares. I draw attention to that legal problem and express the hope that it is not envisaged that this clause will give some imprimatur to minors holding shares when I do not believe at law that they have the capacity to so hold them.

By way of digression, I point out that the Real Property Act recognises that minors can in some circumstances hold property, but there are some special statutory provisions which deal with that. If we are going to recognise the holding of shares by minors, we need to give some more careful consideration to the legal consequences of that.

I should have touched on clause 65 earlier in relation to rights of objection, but that clause deals with the removal of a licence presumably from one premises to another. I would like the Attorney-General to give some response as to whether or not the removal of a licence can be subject to the same sorts of objections as applys to the application for a licence, because I think that the removal of a licence to other premises is as important as the granting of a licence, particularly to residents of an area to which the licence is to be removed.

The final point relates to clause 122, which deals with disciplinary action which a court may take when a complaint is lodged against a licensee. Subclause (3) identifies a number of matters which shall be proper cause for disciplinary action against a licensee and one of them, which has been slipped in right at the end, is a contravention of, or failure to comply with, an industrial award or agreement which occurs in the course of a business conducted on the licensed premises. Subclause (5) says that a complaint founded on subclause (3) (i), which is the one I have just referred to, may be lodged with the court only by an association registered under the Industrial Conciliation and Arbitration Act, 1972. The Government has been rather strong on questions of double jeopardy and I suggest that that is a matter of double jeopardy for a hotel licensee. The Licensing Act is not the proper vehicle for dealing with breaches of an industrial award; such breaches are properly the province of the Industrial Conciliation and Arbitration Act and this matter ought not be a basis for disciplinary action against a licensee. As I say, it is double jeopardy, in addition to introducing into the legislation a possibility for action to be taken relating to an industrial matter which has nothing at all to do with licensing, so I will be moving the appropriate amendments to delete those two particular references in clause 122.

There are some other matters which I will raise during the Committee stages of the Bill, but they are the principal issues which I want to raise now with a view to giving the Attorney-General an opportunity to prepare responses so that we can adequately consider them during the Committee stages.

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

STATE DISASTER ACT AMENDMENT BILL

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

POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) BILL (1985)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Before proceeding to explain the Bill I would like to make a number of points of a general nature. South Australia is widely held to have one of the best police forces in this country and this government certainly shares that view. In South Australia we have a police force of which we can be justly proud. This does not mean that from time to time there are not complaints about the conduct of individual members of the police force. It is essential that in these instances an independent mechanism for the investigation and review of complaints is available.

Presently, complaints against the police are investigated at the direction of the Commissioner of Police by the Internal Investigations Branch. While the professional integrity and competence of the branch is not under question. It is no longer realistic to expect that the public will see the branch as being able to conduct a truly independent review of a complaint.

If the work of the branch is to be accepted by the public and, indeed, the Government and the Parliament, as being independent and conclusive, then the process must be subject to the oversight of a person who is not part of the Police Force and who has the full authority of this Parliament to investigate and report publicly upon any matter he thinks fit.

It was in this context that in 1983 the Government established the Grieve Committee to inquire into and report on the most appropriate mechanism for the creation of an independent authority to consider complaints against police. The committee was representative of the various interested parties and included representatives from the Police Department, The Council for Civil Liberties and The Police Association of South Australia. The final report of the committee was adopted by Cabinet in early 1984.

The Committee recommended the establishment of an independent Police Complaints Authority and made certain suggestions as to the constitution of the authority and its method of operation. The Bill is based on the Grieve Committee Report and also draws on the Commonwealth legislation in respect of the Commonwealth Police Force.

There has been some criticism that the Government failed to consult over the Bill. Such a criticism is clearly baseless. Not only was the Grieve Committee broadly representative but the Bill in its original form was introduced into the Parliament only after lengthy consultation with interested parties. In particular, it should be noted that the Bill was introduced with the support of the Police Association of South Australia. Subsequently, that organisation identified a number of aspects of the Bill which it considered unacceptable and withdrew its support for the Bill.

The Government's response to this development was to defer debate on the Bill to enable further discussion to proceed. The response was appropriate and responsible. The success of the proposed legislation depends largely on its acceptance by the public and by members of the Police Force itself. Given the concerns expressed by the Police Association, albeit late, the Government opted to defer the Bill.

The Government through the Minister of Emergency Services or other ministers, acting in his absence, met with executive members of the Police Association on ten separate occasions to discuss the Bill. In addition, officers have been made available to the Police Association to discuss their concerns. It became evident from these discussions that the Police Association was not at that stage prepared to accept the establishment of an authority with any investigative powers of its own. The Government believes that such a situation is untenable.

Although the internal investigation branch will continue to play a very significant role in the investigation of complaints against the police it is imperative that the authority have substantial investigative powers. This will ensure that where it is appropriate and where the matter is serious enough to warrant investigation by the authority itself, then

the authority is able to conduct a full investigation. The grieve committee itself envisaged instances where it would be inappropriate for the internal investigation branch to conduct the investigation.

The Government is pleased to see that the Police Association has now accepted those provisions of the Bill which empower the authority to investigate complaints itself and supports the Bill as a whole. Arising out of the discussions with the Police Association a number of amendments were made to the original Bill to allay the concerns of police members about the possible abuse of the authority's powers. I believe these concerns were misconceived or exagerated and were largely the result of a lack of confidence in an appointment to the authority being of sufficient stature and integrity. To some extent this misconception was fed by alarmist fear-mongering.

However, the Government considered it undesirable for the authority to be established in a climate of fear and resistance and accordingly was prepared to agree to a number of amendments. The amendments do not impinge upon the authority's capacity to undertake a full, unhindered and independent investigation should the need arise.

The major objections of the Police Association have been resolved to the satisfaction of of both the government and the association. The association did, however, shortly before the introduction of the revised Bill, raise some further objections based on legal advice. The Government asked the association to clearly identify those objections and in response the association furnished a copy of their legal advice to the Government.

Certain of the concerns raised in that advice had already been met by amendments agreed to with the Commissioner of Police and the Police Association. Those amendments related to confidentiality of police information and the qualifications of the person appointed as authority. Accordingly, to a large extent, many of the comments were no longer relevant. Where there was any substance or validity to the comments, amendments have been included. This is particularly in relation to the notification to the member of the Police Force of the matters complained of and the identification of persons undertaking the investigation.

The Legal Report Expressed the view that the Bill is vague and in that respect unsatisfactory. That comment obtained some publicity and, I believe, should be refuted. In the Government's view the Bill clearly addresses all the fundamental issues and provides a proper and complete framework for the establishment of an effective authority. In addition to the amendments agreed with the police association a number of amendments were included arising from discussions with other employee groups and further discussions with the Police Commissioner. The most significant was the inclusion of a provision enabling the Commissioner to issue a certificate restricting the divulging of information obtained in the course of an investigation.

I now turn to the more significant provisions of the Bill. The authority itself is to be constituted by a legal practitioner of not less than five years standing. The inclusion of this requirement has in large measure overcome the objection of the Police Association to a number of provisions where they felt legal qualifications would be required to obtain a person of appropriate stature to exercise a power or discretion.

The authority will be empowered to receive and examine anonymous complaints. While this has some undesirable aspects there are sufficient safeguards to ensure that the system is not abused. The authority may dismiss any complaint that it regards as trivial, frivolous, or vexatious, or not made in good faith. Further, in the case of anonymous complaints, special circumstances must exist before the authority may investigate. These safeguards overcome the risk that a campaign of persecution could be conducted against a police member.

An important provision of the Bill empowers the Commissioner of Police, with the consent of the authority, or the authority itself, to attempt to resolve a complaint by conciliation. This will ensure that where an informal explanation and discussion between the parties can quickly resolve the matter, the formal process of investigation and report can be set aside. The involvement of the authority in this process will ensure that this informal process is only used in appropriate circumstances.

The authority will retain the power to summons persons to appear to answer questions or produce documents. The authority will not, however, have the power to require persons to take oath when answering questions. It should be noted though that it remains an offence to knowingly make a false statement to the authority.

The requirement to furnish information, answer questions, or produce documents, has been qualified. A person may refuse to furnish information, etc., if amongst other things that information may tend to incriminate him or a close relative. However, I point out that refusal to answer on the part of a member of the Police Force may be dealt with as a breach of discipline. A person proposing to exercise the power of entry under the provisions of this Bill will be required to obtain a search warrant from a Special Magistrate. It is important to note that the authority will not have the power to delegate any of his powers or discretion. This will ensure that powers under this Bill will only be exercised by a person with the appropriate stature and qualifications.

Following an investigation, the bill provides that the authority shall make an assessment of whether there was any wrong doing or failure on the part of the police officer concerned and shall at the same time make a recommendation as to the laying of a charge for an offence or breach of discipline or other action he considers necessary in the circumstances. The authority is to advise the commissioner of his assessment and recommendations who is then required to notify the authority whether he agrees or disagrees. After consultation the authority is to confirm or vary his assessment and recommendations or make a new assessment or recommendation. At that stage, the commissioner is required either to give effect to the recommendations of the authority or to refer the matter to the minister for his determination as to what action should be taken. I must emphasise that the involvement of the minister relates only to action to be taken in response to a determination by the authority and does not in any way interfere with the independence of the authority to make a determination in respect of any matter.

A determination by the minister that action should be taken to alter a practice, procedure or policy relating to the police force shall not be binding unless embodied in a direction of the governor pursuant to the Police Regulation Act 1952. In addition the minister is not to determine that a member of the police force should be charged with an offence or a breach of discipline except in consultation with the attorney-general. The bill establishes a police disciplinary tribunal to hear charges against members of the police force in respect of breaches of discipline. The tribunal is constituted by a magistrate appointed by the Governor. Charges against a member of the force in respect of a breach of discipline will be heard by the tribunal in private. However, to ensure that the public interest is seen to be protected, the authority may be present at any hearing of the tribunal. This is an important safeguard even though the primary purpose of the authority, like that of the ombudsman, is the investigation of complaints and the determination of the validity of the complaint rather than the disciplining of members who have been found to commit a breach of discipline.

An appeal to the Supreme Court is available to any party aggrieved by a finding of the tribunal. I would like to draw to the attention of the council those provisions which relate to the publication of reports by the authority. As with any ombudsman-like function, it is essential to the public credibility of the office that the person concerned has the unfettered right to bring matters to the attention of this parliament. The bill provides that the authority shall report to parliament each year on the activities for the preceding financial year. However, the bill also empowers the authority to make special reports to the parliament on any matter arising during the year. This is a most important safeguard of the independence of the authority as it ensures that the attention of the parliament and therefore of the public, may be drawn to any issue of importance arising from the administration of the act as and when it occurs. This bill is a major item of legislation which seeks to balance a number of interests. On the one hand there exists a widely held belief, including within the police force itself, that there must be an independent authority to deal with complaints against the police. A case of justice being seen to be done. On the other hand there is the no less important right of members of the police force to be free from undue interference with their rights as citizens and as employees. In striking this balance the bill establishes an authority with a range of powers which are set against a series of qualifications and safeguards. Taken in their context the powers and qualifications represent a fair balance and should ensure that both the public interest and the reputation of the police force itself are protected. I commend the bill to the council.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. The clause now provides that different provisions of the measure may be brought into operation at different times. This is intended to enable the Authority to be appointed and to allow adequate time for the person appointed to consider in detail with the Police Commissioner the working relationship that will be necessary for the proper administration of the measure before complaints begin to be dealt with under the measure.

Clause 3 provides definitions of expressions used in the measure. Attention is drawn to the definitions of 'conduct' and 'member of the police force'. 'Conduct' of a member of the police force is defined as meaning an act or decision of a member or failure or refusal by a member to act or make a decision in the exercise, performance or discharge, or purported exercise, performance or discharge, of a power, function or duty that he has as, or by virtue of being, a member of the police force. 'Member of the police force' is defined to include police cadets, special constables and officers or persons employed in the department of the public service of which the Commissioner of Police is permanent head. It should be pointed out that the inclusion within the definition of member of the police force of all those employees for whom the Commissioner is responsible does not subject those who are not members of the police force under the Police Regulation Act to disciplinary procedures under that Act and Parts V and VI of this measure. The investigatory functions of the Police complaints Authority and the Ombudsman are, however, as a result divided clearly according to whether or not a matter the subject of complaint concerns the Police Department and police operations. In addition, a definition of 'prescribed officer or employee' has now been included in the measure. This term is applied to special constables and the public servant employees of the Police Department. The term is used in subsequent provisions that are designed to ensure that the investigation of complaints of a non-criminal nature made in relation to such persons will be carried out by the Authority and not by the police investigators.

Clause 4 provides that the provisions of the measure are in addition to and do not derogate from the provisions of any other law.

Part II (comprising clauses 5 to 12) provides for the office of a Police Complaints Authority.

Clause 5 provides that the Governor, may appoint a person to be the Police complaints Authority. Under the clause in the previous Bill the person was to be a person having, in the opinion of the Governor, appropriate knowledge of and experience in the law. The clause now provides that the Authority must be a person who has been enrolled as a legal practitioner in this State or another State or Territory for not less than five years. A person appointed to be the Authority is to be entitled to a salary and allowances determined by the Governor. The salary and allowances so determined are not to be reduced during the term of office of the Authority and are to be paid out of the general revenue which is appropriated by the clause to the necessary extent.

Clause 6 provides that the Authority shall not, without the consent of the Minister, engage in any remunerative employment or undertaking outside the duties of his office.

Clause 7 provides that the Authority shall be appointed for a term of office of seven years, or, if that period would extent beyond the date on which the person would attain the age of sixty-five years, for a term of office expiring on the day on which he attains the age of sixty-five. A person appointed to the office of the Authority is to be eligible for reappointment.

Clause 8 provides that the Authority may be removed from office by the Governor upon an address from both Houses of Parliament praying for his removal. He may be suspended from office by the Governor on the grounds of incompetence or misbehaviour. Any such suspension, however, has effect only for a short period pending determination by the Parliament whether or not he should be removed from office. The office of the Authority is to become vacant on death, resignation, expiration of the term of office, removal upon an address of both Houses, bankruptcy, conviction of an indictable offence, or removal by the Governor on the grounds of mental or physical incapacity. In addition, the office would become vacant if the occupant became a member of any Parliament. Apart from the circumstances referred to, the Authority shall not be removed or suspended from office nor shall the office become vacant.

Clause 9 provides that the provisions of the Public Service Act are not to apply to or in relation to the office of the Authority.

Clause 10 provides for the appointment of officers to assist the Authority.

Clause 11 provides for the appointment of a person to act in the office of the Authority during any period for which the office is vacant or the Authority is absent for any reason. Clause 11 in the previous Bill provided for delegation by the Authority. That clause has been omitted from this Bill.

Clause 12 protects the Authority and persons acting under his direction or authority from personal liability for acts done in good faith.

Part III (comprising clauses 13 to 15) provides for the Police Internal Investigation Branch.

Clause 13 provides that the Commissioner of Police shall constitute within the police force a separate branch to carry out investigations under the measure in relation to complaints about the conduct of members of the police force. The clause provides that the branch may in addition carry out such other investigations relating to the conduct of

members of the police force as the Commissioner may require.

Clause 14 provides that the officer in charge of the internal investigation branch shall be entitled to report directly to the Commissioner upon any matter relating to the internal investigation branch or the performance of its functions. The corresponding clause in the previous Bill provided that the officer in charge was to be responsble directly to the Commissioner for the performance by the branch of its functions.

Clause 15 provides that where a member serving in the internal investigation branch is able to do so without unduly interfering with the preformance by the branch of its functions, the member may be directed by the Commissioner to perform duties not related to investigations into the conduct of member of the police force (not being duties involving the investigation of offences alleged to have been committed by persons other than members of the police force).

Part IV (comprising clauses 16 to 30) deals with complaints and their investigation.

Clause 16 provides that a complaint about the conduct of a member of the police force may be made to that member or any other member of the force or to the Authority. The clause now includes a provision requiring that such a complaint not be made to the member of the police force about whose conduct the complaint is made. In addition, the clause now includes a provision providing that where a person makes a complaint to the member about whose conduct the complaint is made, the member must as soon as reasonably practicable advise the person to make the complaint to some other member or to the Authority. A complaint made to the Authority must, if the Authority so requires, be reduced to writing.

The clause provides that the measure is to apply to a complaint whether or not the police officer complained about or the complainant is identified, whether the complaint is made by a person on his own behalf or on behalf of another and whether the complainant is a natural person or a body corporate. The clause previously provided, as is the normal position with procedural matters, that the investigation and other provisions would apply in relation to complaints made after the commencement of the measure whether the conduct complained of occurred before or after the commencement of the measure. The clause now provides that the measure does not apply in relation to conduct occurring before the commencement of the measure. The measure is not to apply to complaints made by or on behalf of a member or members of the force in relation to the employment or terms or conditions of employment of the member or members or to complaints made to a member of the police force by or on behalf of another member. The latter exception does not, of course, prevent a member of the force from making a complaint to the Authority, in which case the provisions of the measure would apply fully in relation to the complaint.

Clause 17 requires a person performing duties in connection with the detention of any person to provide, at the request of the person detained, facilities for the person to prepare a complaint and seal it in an envelope and, upon receiving the sealed envelope from the detainee for delivery to the Authority, to ensure that it is plainly addressed to the Authority and marked as being confidential and delivered to the Authority without undue delay. The clause now includes a provision that such a request must not be made to the member of the police force about whose conduct the complaint is to be made and that the request is to be complied with as soon as reasonably practicable but without there being any obligation to interrupt the carrying out of any other lawful procedure or function. A further provision has been inserted providing that where the request is made to the member the subject of the proposed complaint, the member must as soon as reasonably practicable advise the person to make the request to some other person performing duties in connection with his detention. The clause provides that it shall be an offence for a person other than the Authority or a person acting with the authority of the Authority to open such an envelope or inspect its contents. A defence has now been included putting the matter beyond doubt that a person will be protected from liability for inadvertent acts.

Clause 18 provides for a complaint made to a member of the police force to be referred as expeditiously as possible to the internal investigation branch for investigation. The Authority is at the same time to be notified of the complaint and furnished with particulars of the complaint. A new provision has been inserted providing that a complaint made to a member of the police force about the conduct of a prescribed officer or employee (as defined by clause 3) must be referred to the Authority and not to the internal investigation branch for investigation.

Clause 19 provides for the case where complaints are made to the Authority. Under the clause, the Authority is required to notify the Commissioner of the complaint and to furnish him with particulars of the complaint and, subject to a determination under clause 21, 22, or 23, to refer the complaint to the Commissioner. A complaint referred to the Commissioner must be referred on by the Commissioner to the internal investigation branch for investigation.

Clause 20 requires the Authority, except where the identity of the complainant is not known, to acknowledge by writing each complaint made to the Authority and each complaint of which he is notified under clause 18.

Clause 21 provides for determination by the Authority that a complaint does not warrant investigation. Under the clause, the Authority may, in his discretion, determine that a complaint (whether made to him or to the Commissioner) should not be investigated or further investigated where the complaint was made more than six months after the complainant became aware of the conduct complained of; where the complaint is trivial, vexatious, frivolous or not made in good faith; where the complainant does not have sufficient interest in the matter raised in the complaint; where the complaint was made without disclosure of the identity of the complainant (that is, anonymously); where a person has been charged with an offence or breach of discipline in relation to the conduct complained of; where the complainant has exercised a right of action or has exercised a right of appeal or review in relation to the matter complained of; or where the Authority is of the opinion that investigation or further investigation of the complaint is unjustified or unnecessary in the circumstances. It should be noted that the provision for such a determination in the case of an anonymous complaint was not a part of the previous Bill. In relation to the question of an alternative remedy in respect of the matter complained of, the provision in the previous Bill provided for a determination only in the case where the complainant had already exercised a right of action, appeal or review. Where the Authority makes such a determination, the Commissioner and the complainant are to be notified of the determination.

Clause 22 provides for conciliation in relation to complaints. Under the clause, the Commissioner may, with the approval of the Authority, attempt to resolve a complaint made to a member of the police force by conciliation. The Authority is empowered to attempt conciliation in relation to any complaint, whether made to him or to a member of the police force. Any investigation of a complaint that is the subject of conciliation may, under the clause, be deferred pending the results of that action. The clause provides that

where the Authority is satisfied that a complaint has been properly resolved by conciliation undertaken by him or by the Commissioner, the Authority may determine that the complaint should not be investigated or further investigated.

Clause 23 provides that the Authority may determine that a complaint should be investigated by him where the complaint concerns conduct of a member of the force of a rank equal to or senior to the officer in charge of the internal investigation branch; where the complaint concerns conduct of a member serving in that branch; where the complaint is in substance about the practices, procedures or policies of the police force; or where the Authority considers that the complaint should for any other reason be investigated by the Authority. A new provision has been inserted in this clause providing that, in the case of complaint about a prescribed officer or employee (that is, a special constable or public servant), the Authority make such a determination if he is of the opinion, having regard to the nature of the matters raised by the complaint, that there are no special reasons justifying investigation by the internal investigation branch. Where the Authority makes a determination, the Authority may also make a determination as to whether there is to be some further investigation by the internal investigation branch in conjunction with his investigation or whether further police investigation should be prevented or limited.

Clause 24 permits the Commissioner, if he thinks fit to do so, to carry on investigations of a complaint in respect of which the Authority has made a determination under clauses 21, 22 or 23 (that is, a determination that an investigation is not warranted; that the matter has been resolved by conciliation; or that the complaint should be investigated by the Authority). However, in that event, the provisions of this measure are not to apply and the investigation would, in effect, be an ordinary police investigation. This provision for continued police investigation is subject to any determination made by the Authority under clause 23 that the complaint, or a particular matter or matters raised by the complaint, should not be investigated or further investigated by the police.

Clause 25 sets out the powers of the internal investigation branch to carry out investigations of complaints. In effect, the powers of the internal investigation branch are the ordinary police investigative powers except in relation to other members of the police force. Under the clause in the previous Bill, a member of the branch was empowered to require a member of the force to furnish information, answer a question or produce a document or record and the member was to be required to do so notwithstanding that the answer, information, document or record might tend to incriminate him. However, where the member had been directed to provide the information, answer, document or record, the information, answer, document or record was not to be admissible in any proceedings against the member other than proceedings for providing a false answer or information or proceedings for a breach of discipline.

Refusal to provide information, an answer or a document or record was, under the clause in the previous Bill, to constitute an offence punishable by a fine or imprisonment. Under the present clause, a member may refuse to furnish information, produce a document or record or answer a question if it would tend to incriminate him or a close relative of his, but any such refusal, whether on the ground of incrimination or for any other reason, is to be dealt with as a breach of discipline and will not constitute a criminal offence. In addition, a new provision has been inserted requiring a member of the branch, before he gives a direction under subclause (5) to the member the subject of the complaint, to inform the member of the general nature of the complaint. Finally, a new definition has been inserted (subclause(14)) to make it clear that the special powers in relation to members of the police force do not apply to prescribed officers and employees. Under subclause (13), the officer in charge of the internal investigation branch may, subject to any directions of the Commissioner, require a member not serving in the branch to assist in the investigation of a complaint and, in that event, the provisions of the measure are to apply as if that member were a member of the internal investigation branch.

Clause 26 provides for the powers of the Authority to oversee investigations conducted by the internal investigation branch. Under the clause, the Authority is empowered to discuss the complaint with the complainant and to require the Commissioner or, as approved by the Commissioner, the officer in charge of the internal investigation branch, to provide information about the progress of the investigation or to arrange for an inspection of any document or record in the possession of the branch relevant to the investigation or for him to interview a person other than the complainant in relation to the complaint. Subclause (3) authorizes the Authority to notify the Commissioner of any directions that he considers should be given by the Commissioner as to the matters to be investigated, the methods to be employed, the use for investigative purposes of members not serving in the internal investigation branch or any other matter or thing in relation to an investigation or investigations by the internal investigation branch. Where the Authority issues such a notice, the clause provides that the directions are to be given by the Commissioner or, if no agreement can be reached, the matter is to be resolved by determination of the Minister. A new provision has been inserted in this clause providing that a determination of the Minister that relates to complaints generally, or a class of complaints, is not to be binding on the Commissioner unless embodied in a direction of the Governor given under section 21 of the Police Regulation Act, 1952. Any direction under that section is required to be tabled in Parliament and published in the *Gazette*.

Clause 27 requires the officer in charge of the internal investigation branch to maintain a register containing prescribed particulars relating to each complaint referred to the branch for investigation.

Clause 28 sets out the powers of the Authority to investigate any complaint that the Authority determines under clause 23 should be investigated by him. An investigation by the Authority is to be conducted in private and in such manner as the Authority thinks fit. The clause provides for the Authority to make use of members of the South Australian Police Force or other Australian police forces by arrangement with the Commissioner or under arrangements made by or with the approval of the Minister. The clause in its present form gives any police officer or other person who is to be the subject of criticism by the Authority in a report under the measure an opportunity to make submissions to the Authority in answer to the criticism. This right also extends to the Commissioner in relation to criticism by the Authority of the police force or a police officer.

The clause in the previous Bill empowered the Authority to require the provision of information, documents or records by any person and any such requirement was to be complied with notwithstanding any self-incriminatory effect, although any information, document or record so provided was not to be admissible in evidence in proceedings against the person other than proceedings for providing false information or, in the case of a member of the police force, proceedings for a breach of discipline. The clause in the previous Bill provided that refusal or failure to comply with such a requirement of the Authority was to constitute an offence punishable by a fine or imprisonment. The clause now provides that a person may refuse to comply with such a

requirement if compliance might tend to incriminate him or a close relative of his or might tend to show that a close relative of his who is a member of the police force has committed a breach of discipline. However, any such refusal on the part of a member of the police force is to be dealt with as a breach of discipline (and will not constitute an offence).

Any other non-compliance with the provisions of the clause is, in the case of a member of the police force, to constitute a breach of discipline, and, in the case of any other person, to constitute an offence punishable by a maximum fine of $2 000 (and not by imprisonment). The Authority is given power to enter at any reasonable time any premises used by the police force or any other place and there to carry on an investigation. The clause now requires that the power of entry may only be exercised in respect of a residence or place of business with the authority of a warrant issued by a special magistrate. A new provision has been inserted requiring the Authority to inform a member the subject of a complaint of the general nature of the complaint before the Authority requires the member to furnish information or answer questions relevant to the complaint. The clause previously empowered to the Authority to administer an oath or affirmation to a person whom he proposed to question. That provision has been omitted. The clause includes a new provision under which a member of the police force may postpone for a period (not exceeding 48 hours) the need to disclose confidential information to the Authority in order to enable the member to obtain from the Commissioner a certificate under clause 48 (3) relating to the information. Such a certificate then would have the effect of requiring the approval of the Commissioner or the Minister before the information could be given to any other person by the Authority. The clause now requires a person exercising or proposing to exercise a power under the section to produce, upon demand, a certificate of authority in the prescribed form. Finally, the clause includes a new definition excluding prescribed officers and employees from the provisions of the clause that have a different effect in relation to members of the police force. The clause creates appropriate offences to ensure and facilitate the proper exercise by the Authority of the investigative powers conferred by the clause.

Clause 29 requires the Authority to maintain a register containing particulars of each complaint including particulars of any determination under clauses 21, 22 or 23 made in relation to the complaint and particulars of any investigation or further investigation of the complaint.

Clause 30 provides that any inquiry by a complainant as to the investigation of his complaint is to be directed to the Authority who shall provide such information as to the investigation as he thinks appropriate.

Part V (comprising clauses 31 to 36) deals with the action consequential on the investigation of a complaint.

Clause 31 provides that the officer in charge of the internal investigation branch shall, on completing an investigation, prepare a report on the results of the investigation and deliver it to the Commissioner. The Commissioner must then either direct that further investigations be carried out or forward on to the Authority a copy of the report and any comments he thinks fit to make in relation to the investigation.

Clause 32 provides that the Authority shall, on receiving a report under clause 31, consider the report and any comments of the Commissioner and notify the Commissioner, by writing, of his assessment as to whether the report discloses any wrong doing or failure on the part of the member and his recommendations as to whether action should be taken to charge the member with an offence or breach of discipline or whether any other action should be taken. However under subclause (2), the Authority may instead, if he thinks it appropriate to do so, refer the complaint back to the Commissioner for further investigation or determine that the complaint should be investigated by the Authority.

Clause 33 provides that where the Authority completes any investigation of a complaint conducted by him, he shall furnish to the Commissioner a report on the results of the investigation and include in the report his assessment and recommendations as to the matters referred to in clause 32.

Clause 34 requires the Commissioner, as soon as practicable after his receipt of an assessment and recommendation made by the Authority in relation to the investigation of a complaint, to consider the assessment and recommendation and the report and to notify the Authority by writing of his agreement or, as the case may be, his disagreement and the reasons for his disagreement. The Authority is required to consider any notice indicating disagreement on the part of the Commissioner and, after conferring with the Commissioner, to confirm or vary the assessment or recommendation or substitute a new assessment or recommendation. The Commissioner must, under the clause, give effect to any recommendation of the Authority with which he has agreed or which the Authority has confirmed, varied or substituted, or the Commissioner may, if he thinks fit, refer the matter to the Minister for his detemination as to the action (if any) that should be taken.

Where a matter is referred to the Minister, the Minister may determine what action (if any) should be taken or determine that the complaint should be further investigated by the internal investigation branch or the Authority. The clause now includes a new provision providing that where a determination of the Minister is to the effect that action should be taken to alter a practice, policy or procedure of the police force, the determination is not binding on the Commissioner unless embodied in a direction of the Governor given under section 21 of the Police Regulation Act. Any such direction must under the Police Regulation Act be tabled in Parliament and published in the *Gazette*. The Minister must make any determination as to the laying of charges for an offence or breach of discipline in consultation with the Attorney-General.

Clause 35 requires the Commissioner to notify the Authority of the laying of charges for an offence or breach of discipline or any other action taken in consequence of the investigation of a complaint. Where charges are laid, the Commissioner must also notify the Authority of the final outcome of proceedings in respect of the charges, including any decision of a court or the Commissioner as to punishment of the member concerned.

Clause 36 requires the Authority to furnish to the member of the police force concerned and to the complainant (if his identity is known) particulars of all final assessments and recommendations made under clause 34 and if a determination is made by the Minister under that clause, particulars of the determination. The Authority must also notify the complainant of any action taken including charges laid and the final outcome of the proceedings in respect of such charges, including any decision of a court or the Commissioner as to punishment of the member concerned. The particulars referred to must at the same time be entered into the register kept by the Authority pursuant to clause, 29. Part IV (comprising clauses 37 to 45) makes provision for a Police Disciplinary Tribunal.

Clause 37 provides that there is to be a Police Disciplinary Tribunal to be constituted of a magistrate appointed by the Governor. The clause provides for another magistrate to act as deputy.

Clause 38 provides for a registrar and deputy registrar of the Tribunal. Clause 39 provides that where, in accordance with the Police Regulation Act, the Commissioner charges a member of the police force with a breach of discipline

and the member does not make an admission of guilt to the Commissioner, the proceedings upon the charge shall be heard and determined by the Tribunal. This is to apply whether the charge is laid in consequence of the investigation of a complaint to which this measure applies or otherwise. The clause provides that where the Tribunal is satisfied beyond reasonable doubt that the member committed the breach of discipline, the proceedings are to be referred to the Commissioner for the imposition of punishment by the Commissioner under the Police Regulation Act. Under subclause (4), the Tribunal may indicate its assessment of the seriousness or otherwise of a particular breach of discipline and the Commissioner is required to have due regard to that assessment in making his determination as to punishment.

Clause 40 regulates proceedings before the Tribunal. The Commissioner and the member charged may call or give evidence, examine and cross-examine witnesses, make submissions and be represented by counsel or an agent. The Tribunal is to be bound by the rules of evidence and, as far as it considers appropriate, to follow the practice and procedure of courts of summary jurisdiction on the hearing of complaints for simple offences.

Clause 41 provides for the powers of the Tribunal in proceedings for breaches of discipline. Clause 42 provides for the protection and immunity of the Tribunal, counsel and other representatives and witnesses in proceedings before the Tribunal.

Clause 43 provides that the Tribunal may state a case upon a question of law for the opinion of the Supreme Court.

Clause 44 provides for the Tribunal to make orders for costs.

Clause 45 provides for the Tribunal to state in writing its reasons for a decision if requested to do so by a party to proceedings.

Part VII (comprising clause 46) provides for a right of appeal to the Supreme Court against any decision of the Tribunal made in proceedings of the Tribunal or any order of the Commissioner made under the Police Regulation Act imposing punishment for a breach of discipline (whether in relation to a complaint or otherwise).

Part VIII (comprising clauses 47 to 54) deals with miscellaneous matters.

Clause 47 provides that the Authority or the Commissioner may apply to the Supreme Court for determination of any question that arises as to the powers or duties of the Authority or the Commissioner under the measure.

Clause 48 prohibits unauthorized disclosure of information acquired in the course of the administration of the measure by persons engaged in the administration of the measure. The clause now includes a new provision empowering the Commissioner to furnish to the Authority a certificate certifying that the divulging or communication of information specified in the certificate, being information disclosed to the Authority by a police officer or information obtained by the Authority from police records, might prejudice any present or future police investigations of the prosecution of legal proceedings whether in this State or elsewhere, constitute a breach of confidence or endanger a person or cause material loss or harm or unreasonable distress to a person. Where the Commissioner issues such a certificate, any person who divulges the information without the approval of the Commissioner, or the approval of the Minister given after consultation with the Commissioner, is to be guilty of an offence.

Clause 49 provides for offences of making false complaints under the measure or preventing or hindering or obstructing persons from or in the making of complaints under the measure. The clause prevents proceedings in respect of false complaints from being commenced except with the consent of the Authority and prevents proceedings in respect of any other offence from being commenced against a person in respect of his making of a complaint under the measure.

Clause 50 empowers the Authority to vary or revoke a determination made by the Authority under the measure.

Clause 51 makes it clear that the Authority or the Commissioner may, if either thinks fit to do so, report to the Minister upon any matter arising under, or relating to the administration of, the measure.

Clause 52 requires the Authority to furnish to the Speaker of the House of Assembly and to the President of the Legislative Council an annual report upon the operations of the Authority. The Authority may, in addition, if he thinks fit, make a special report upon operations of the Authority. A copy of any such report must also be given to the Minister. Under the clause, the Commissioner is given an opportunity to have included with the report for the consideration of Parliament any comments he wishes to make on any criticism directed at him or the police force by the Authority.

Clause 53 provides that proceedings for an offence against the measure are to be disposed of summarily and must be commenced within twelve months after the date of the alleged offence.

Clause 54 provides for the making of regulations.

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

CARRICK HILL TRUST BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 2 and to the Legislative Council's amendment No. 1 with an amendment.

CHILDREN'S SERVICES BILL

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

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

COAST PROTECTION ACT AMENDMENT BILL

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

The Hon. J.R. CORNWALL (Minister of Health): I move: *That this Bill be now read a second time.*

In view of the lateness of the hour and the good co-operation shown by my colleague in this Chamber I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill amends the Coast Protection Act, 1972. It gives effect to changes that arise from a review of the operation of the Act over the past 12 years, and the recent introduction of regulations constituting works of a prescribed nature.

The amendments are intended to clarify certain provisions of the Act, to make minor changes of a procedural nature and to provide for more effective implementation of the Act.

The Bill clarifies the position of the Coast Protection Board in respect of its authority to undertake the beach replenishment programme.

The Bill makes some minor amendments to provide that the West Beach Trust has the same rights and obligations as local councils under the Act. At present the Trust is responsible for the management of coastal land and yet has none of the rights and obligations given to councils.

The Bill extends the period for making representations on management plans. This amendment brings the Act into line with the advertisement provisions applying to amendments to the Development Plan under the Planning Act, 1982.

The Bill provides for the appointment of wardens to overcome limitations in controlling 'restricted areas' declared under the Act. A number of restricted areas have been declared, mainly in sand dune and sand carting areas. Where areas are fenced unauthorised access by the public is reduced although by no means eliminated. In some cases restricted area signs and fencing are ignored altogether. A particular problem has been with the use of motor bikes in dunes. The Board has experienced considerable difficulty in enforcing the restricted area provisions of the Act. Although the Act in its present form does not preclude appointment of persons who may assist in policing restricted areas such persons would not be empowered to act beyond their capacity as ordinary members of the public. Offenders would not be obliged to comply with any request which is made by such persons.

To overcome these limitations the Bill provides for the appointment of wardens to assist the Board in carrying out its duties to investigate alleged breaches of prohibitions and restrictions applying to a restricted area, to prevent or terminate any breaches of such prohibitions and to lay complaints alleging commission of offences.

The Bill provides for the Board to delegate its development control powers as considered appropriate. This same provision is available to the South Australian Planning Commission under the Planning Act, 1982. This amendment will enable the Board to administer its development control powers more efficiently.

The Bill limits the time in which a person aggrieved by a decision by the Board can appeal to the Planning Appeal Tribunal. This provision is also an integral feature of the Planning Act, 1982. This amendment will provide a more certain finality to the Board's decision and ease the administrative burden of the State Government in preparing evidence at appeal hearings.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 amends the definition section, section 4 of the principal Act. The clause inserts a definition of 'council' which includes, in addition to a council within the meaning of the Local Government Act, the West Beach Trust established under the West Beach Recreation Reserve Act, 1954. 'Area', in relation to a council, is, accordingly, defined to include the foreshore within the meaning of the West Beach Recreation Reserve Act.

Clause 4 inserts a new section 13*a* providing for delegation by the Coast Protection Board of any of its powers or functions to the Chairman or any other member of the Board of the Secretary to the Board or any officer engaged in the administration of the Act. Any delegation is to be subject to the approval of the Minister, may be made conditional and is subject to revocation at any time.

Clause 5 amends section 20 of the principal Act which provides, at subsection (4), for the notification and publication of management plans prepared by the Coast Protection Board and, at subsection (5), for the making of representations by councils affected by a management plan. The clause amends subsection (4) so that the Board is required to publish a newspaper advertisement inviting any interested person to make representations upon a management plan within a period of not less than two months specified in the advertisement. At present, the period referred to in subsection (4) is the period of two months from the date of publication of the advertisement. The clause makes a consequential amendment to subsection (5) so that councils will be required to make their representations within the period specified in the advertisement.

Clause 6 inserts a new section 21a that is designed to ensure that the Coast Protection Board clearly has power to remove sand and other material from one part of the coast (not being private land) to another part of the coast for the purpose of protecting, restoring and developing the coast or any part of the coast.

Clause 7 amends section 28 of the principal Act which provides for a right of appeal to the Planning Appeal Tribunal against a refusal by the Board to approve the carrying out of prescribed works in a coast protection district. The clause inserts a new provision providing that such an appeal must be instituted within two months after the person receives notice of the decision to be appealed against or within such longer period as the Tribunal may allow.

Clause 8 increases from fifty dollars to two hundred dollars the penalty fixed under section 34 (5) for contravention of any prohibition or restriction imposed in relation to access to a restricted area.

Clause 9 inserts a series of new sections providing for the office of warden under the Act. A warden is to be empowered to require any person found committing, or suspected on reasonable grounds of having committed, an offence against the Act to state his name and address or to require a person to leave a restricted area. The clause inserts an evidentiary provision and a provision for the summary disposal of proceedings for offences against the Act.

The Hon. M.B. CAMERON secured the adjournment of the debate.

STATUTES AMENDMENT AND REPEAL (CROWN LANDS) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill embodies the more pressing aspects of the Government's proposals to rationalise the land tenure legislation. It is the forerunner of more extensive proposals to consolidate other land tenure Acts into one statute.

The objectives of this Bill are:

1. To repeal four Acts which have basically satisfied their original intent and to protect the interests created under tenures issued under those Acts.

2. To provide for the Governor to issue land grants without first seeking the advice and consent of the Executive

Council and to provide that all leases and land grants previously issued shall be valid notwithstanding that they were issued without the advice and consent of the Executive Council.

3. To transfer some of the powers and responsibilities of the Governor to the Minister of Lands. This proposal coincides with a similar objective which previous Governments had while in office.

4. To further promote the concept of service to the community through regional offices by providing wider powers of delegation by the Minister of Lands, the Director of Lands and the Land Board.

5. To abandon the current two-tiered system of dedicating or reserving Crown Lands for various purposes by proclamation and introducing a single dedication system which requires the publication of a Ministerial notice in the *Government Gazette.*

6. To establish $25 as the minimum annual rental to apply to all new leases and that the amount may be varied from time to time by the Minister of Lands by notice in the *Gazette.*

7. To simplify the administrative procedures involved with the implementation of transactions relating to Crown tenures and lands of the Crown and thereby reduce operating costs while at the same time providing a better service to the community.

8. To provide the legislative authority to implement agreed tenure arrangements (life leases) under the shack site policies of the present and previous Governments.

9. To relieve the Minister of Lands of his responsibilities as a District Council in respect to certain Government-controlled irrigation areas.

The four Acts to be repealed are as follows:

1. The Crown Lands Development Act provided the authority for the Minister of Lands to develop lands for settlement for primary production. It relied on many of the machinery and operational provisions of the Crown Lands Act to implement the allocation and administration policies of the lands so developed. No development has been undertaken for many years and the Act is no longer required, but, to cover the eventuality of the need for future development, some variation to the powers of the Minister under the Crown Lands Act have been incorporated in the Bill.

2. The Land Settlement (Development Leases) Act authorised the issue of leases to the Australian Mutual Provident Society and other "approved persons" for the purpose of promoting land settlement on Crown Lands. Large areas of the Upper South East were developed by the A.M.P. under the scheme and no further development is being or is likely to be undertaken under the provisions of this legislation. All terminating tenures issued under the Act have expired and the area is now held under Perpetual Leases issued in terms of the Crown Lands Act and thus the Act has served its purpose.

3. The Agricultural Graduates Land Settlement Act encouraged and assisted the settlement of graduates of Roseworthy Agricultural College. These separate land acquisition and allocation provisions and arrangements for making advances available are no longer necessary. No amounts advanced under the Act by the State Bank remain outstanding.

4. The Livestock (War Service Land Settlement) Act empowered the Minister of Lands to buy, sell and breed livestock and dispose of their products. This power was conferred for purposes connected with the war service land settlement scheme, i.e. to assist settlers to build up their flocks and herds and to utilise the feed and pasture on Crown lands during the development stages. All aspects of development were completed many years ago and the provisions of this Act are no longer required.

There are a number of current leases which were issued under the provisions of these four Acts. This Bill incorporates transitional provisions which will safeguard the rights of the Crown and protect lessees and all parties with registered interests. Under the terms of the Bill, these leases and lessees will become subject to and enjoy all the provisions of the Crown Lands Act.

The questions of whether the Governor can exercise his powers to issue land grants and leases under the land tenure Acts without first seeking the advice and consent of the Executive Council has been the subject of some investigation and legal argument. Such advice and consent apparently has not been sought for many years, if ever, and in order to remove any doubt as to the effect of the practice which has been followed, the Bill includes provisions to protect the validity of tenures issued during that time. As the issuing of land grants is considered to be a simple process within the total land tenure system it is inappropriate for the Executive Council to be burdened with such a routine task. Provision is therefore included to authorise the Governor to issue land grants without reference to the Executive Council.

In addition to the provisions which transfer some of the powers and responsibilities of the Governor to the Minister of Lands (which stemmed from representations by a former Governor), the Bill gives the Minister authority to delegate his powers and responsibilities under the Crown Lands Act (other than certain powers transferred to him from the Governor under the provisions of this Bill) and under other Acts dealing with the disposal of lands of the Crown e.g. the Irrigation Act, to the Director of Lands. Under the provisions of this Bill, the Director and the Land Board, subject to the Minister's approval, will also be able to delegate their powers and responsibilities to appropriate Departmental officers. This will significantly enhance the ability of the Department of Lands to effectively and efficiently provide a service to its clients without the administrative humbug that hitherto has been necessary to meet archaic legislative requirements.

As a result of the need to set land aside to meet the complex multiple land use requirements of the community, it is now difficult to determine whether the reservation provisions of the Act should be applied or whether it is more appropriate to adopt the dedication provisions. The Crown Solicitor has advised that the relevant sections of the Act seem to overlap and, in terms of modern statute law, there is now no substantial difference between dedicated lands and reserved lands. The Bill therefore abandons the two-tiered system and provides for the creation of reserves by 'dedication' only—all relevant references in the Act to 'reservation' being deleted. The Minister will have the power by notice in the *Gazette,* to resume dedicated lands for which a trust grant has not been issued. However, the right to resume dedicated lands granted in trust and, where required, cancel the grants, and also the power to free land from trusts and cancel the grants will be retained by the Governor and exercised through the current proclamation procedure.

The current minimum annual rental under a lease or an instalment under an agreement to purchase is $5 and was fixed some years ago. This minimum amount which can only be regarded as of little significance in terms of today's money values, applies only to new tenures entered into since that date including new leases issued on the subdivision of existing tenures where no change in land use has occurred. This Bill provides for a minimum annual rental of $25 or such other amount as the Minister may fix from time to time by notice in the *Gazette.* This minimum will apply only to new leases issued after the commencement of these new pfovisions.

In this context it is of interest to note that of some 22 000 current Perpetual Leases issued under the Crown Lands Act and other land tenure Acts since 1889, over 15 000 (almost 70 per cent) attract rental of less than $20 per annum with the average rental of that 70 per cent being less than $7 per year. (About 6 600 leases attract rentals of less than $5 per annum.)

In view of the high prices being paid for land held under perpetual lease and the very nominal rentals which generally apply to those leases, consents to applications to transfer are not withheld pending payment of any outstanding rental as such action could lead to unjustified delays in settlement. To ensure that the right to subsequently recover any arrears is not lost, the Bill provides that any incoming lessee shall be jointly and severally responsible with the former lessee for the payment of such amounts together with any penalty for late payment.

The Bill significantly simplifies the land allocation, leasing and sale systems and the numerous associated administrative arrangements by:

1. Simplifying the provisions under which land can be sold or leased to adjacent or nearby owners or occupiers.
2. Removing the current limitations under which Crown Lands may be offered at auction.
3. Streamlining the procedures involved in the disposal of properties surplus to the requirements of the Government and its instrumentalities.
4. Providing an alternative, by way of mortgage, to purchase the fee simple of lands instead of under an agreement to purchase.
5. Amending the manner of calculating and recovering penalty interest for late payment of rentals and other amounts due under all Crown tenures.
6. Exempting Crown tenures from any charge for stamp duty on rentals and other payments due under those tenures because the very limited revenue derived therefrom falls far short of the cost of collection.
7. Providing the right to review the covenants and conditions of new leases issued following the subdivision of existing tenures and thereby have the opportunity to protect the Crown's residual interest in leasehold lands.
8. Authorising the issue of easement titles to protect installations of public utilities, local governing authorities irrigators, etc., and provide for other rights of way where appropriate.
9. Releasing lessees from the requirement to obtain Ministerial consent before mortgaging or encumbering Crown tenures.

The shack policy adopted by the present and previous Governments provides that shack owners be granted Miscellaneous Leases for life and, on their death, a lease for life be issued to the surviving spouse. However, as the Act does not provide for the issue of life leases, special provision is necessary to satisfy the agreed expectation of the shack-owning community. The Bill will permit the implementation of the agreed shack tenure arrangements.

To facilitate the implementation of Departmental management plans for reserves, particularly where substantial development of land set aside for community purposes is required, miscellaneous leases for a term in excess of the current limit of 21 years are considered necessary. The Bill removes this limitation and also enables these leases to be extended by endorsement rather than having to resort to the preparation of new leases when further occupation is granted.

It should be noted that other Ministers have much wider powers to lease and sell lands of the Crown than are currently available to the Minister of Lands when dealing with Crown Lands under the provisions of the Crown Lands Act. This Bill is intended to minimise that anomaly and to provide the Minister with the opportunity to operate on a more commercial basis and to ensure equitable financial returns which more accurately reflect the Crown's residual interest in lands of the Crown and tenures held from the Crown.

In terms of section 115 of the Irrigation Act, the Minister of Lands is deemed to be a District Council in respect to every irrigation area not within the boundaries of a district council district. This provision is anachronistic as it was originally enacted to enable the Minister to exercise all the functions of local government during the development phases of irrigation areas as local government authorities, in the context of the Local Government Act, had not been established in those areas. It is now inappropriate for the Minister of Lands to exercise the powers of a district council, particularly as regards planning matters. The Bill therefore includes a provision to repeal the relevant section of the Irrigation Act.

In summary, the measures proposed by this Bill will significantly rationalise and simplify the land tenure legislation in this State. These proposals should be welcomed by all those persons dealing with tenures under the Crown Lands Act and related statutes who have in the past found transactions involving Crown tenures to be an extremely complex and time-consuming business. This Bill will undoubtedly reduce that complexity.

Clauses 1 and 2 are formal.

Clause 3 provides for the commencement of the Act upon proclamation.

Clause 4 makes consequential amendments to the arrangement of the Act.

Clause 5 adds definitions of 'lease', 'miscellaneous lease' and 'perpetual lease', and deletes all references to 'reserved lands'.

Clause 6 provides that lands are adjacent to each other, notwithstanding that they are separated by a railway.

Clause 7 inserts a transitional provision that brings under the Crown Lands Act all current leases and agreements under the various Acts repealed by clause 75. Reserved lands are deemed to be dedicated lands, and proclamations of the Governor are preserved except to the extent to which they are abrogated by future notices of the Minister. New section 4c validates Crown leases, grants, etc., issued by the Governor without the advice and consent of the Executive Council and makes it clear that this practice may continue.

Clause 8 is a consequential amendment.

Clause 9 and 10 divide the present powers of the Governor between the Governor and the Minister. New section 5aa provides that the Governor will continue to have the power to grant the fee simple in Crown lands or dedicated lands, and to resume dedicated and other set apart lands in certain specified circumstances. New section 5ab empowers the Minister to require payment of a premium where the owner of dedicated lands, or lands set apart for particular purposes, seeks to have the lands freed from the trusts. It is intended that such a premium will be fixed having regard to the concession price at which the owner may have originally acquired the lands, and the likely increase in value of the lands arising out of the proposed removal of the restrictive trusts.

Clause 10 provides that the Minister will have the power to dispose of interests in Crown lands in all other ways, whether by granting leases, agreements to purchase or licences. Paragraph (b) of clause 10 empowers the Minister to grant easements over Crown lands, dedicated lands, lands held under licence and, in certain cases, over lands comprised in a lease or agreement. This power is similar to the power recently inserted in the Irrigation Act in relation to the granting by the Governor of easements in irrigation areas

(which is repealed later in the Bill). The power to reserve lands is repealed, and the purposes for which lands may be dedicated are amplified to include the purposes for which lands may presently be reserved. Paragraph (k) provides that the Minister may, when placing the care, control and management of dedicated lands in the hands of any authority, impose conditions as to how those lands must be managed or used. Several obsolete provisions are repealed and various consequential amendments are made to this section.

Clause 11 provides for the automatic expansion of a mortgage or encumbrance over a tenure that has been enlarged by virtue of an extinguished easement.

Clause 12 provides that the Minister, instead of the Governor, is to determine the form of grants and leases, etc.

Clause 13 provides that the Governor, the Minister and the Registrar-General are to sign all grants issued under the Act.

Clause 14 makes a consequential amendment.

Clause 15 repeals two now redundant sections.

Clause 16 makes a consequential amendment.

Clause 17 widens the powers of the Minister in respect of waiving conditions, deferring payment, extending time limits, reducing sums payable under the Act, etc. The purposes for which the Minister may develop Crown lands, and the services he may provide in so doing, are broadened to include the powers given to the Minister in this respect under the repealed Crown Lands Development Act.

Clause 18 gives a power of delegation to the Minister and the Director of Lands.

Clause 19 gives a similar power to the Land Board.

Clause 20 repeals a provision that requires the Minister to publish in the *Gazette* the names of successful applicants for perpetual leases or agreements. This is an unnecessary administrative procedure.

Clause 21 empowers the Minister to determine the conditions and covenants to be inserted in a perpetual lease granted under the Act. The Minister may exclude from a lease any of the conditions set out in the schedules to the Act.

Clause 22 provides that the Minister is to determine the form, conditions and covenants of agreements to purchase, and may exclude from an agreement any of the conditions set out in the relevant schedules.

Clause 23 provides that the minimum rent under leases granted after the commencement of this Act, and the minimum instalment for agreements to purchase entered into after that date, will be twenty-five dollars, or such other amount as the Minister may fix from time to time. This provision applies to leases under all Acts dealing with the disposal of lands of the Crown.

Clause 24 repeals a section dealing with the reduction of rent or instalments by the Minister. This power has already been provided in section 9 of the Act.

Clause 25 provides for the interest rate to be increased where an agreement is extended at the request of the purchaser.

Clause 26 repeals a section that is now comprehended by the increased powers of the Minister under section 9 to reduce amounts fixed under leases.

Clause 27 repeals a section that provides for subletting, which is now covered by new section 225 of the Act.

Clause 28 provides that a penalty at the prescribed rate is to be added to overdue rent or an overdue instalment upon the amount being unpaid for a period of thirty days. This flat rate will be added annually thereafter while the amount remains unpaid. The penalty will be a prescribed percentage of the overdue amount, or a prescribed minimum penalty, whichever is the greater. This provision is to apply to leases and agreements under any Act dealing with the disposal of Crown lands.

Clause 29 amends an incorrect expression.

Clauses 30 and 31 remove the current monetary limits on the value of parcels of land that may be added to existing leases, agreements or land grants. The Minister will have an unfettered power to add a parcel of land to an existing holding where he is of the opinion that such a parcel is either adjacent to the existing holding, or is so situated that it might conveniently be worked as one holding with the existing holding, and if he is satisfied that there is no reason for offering the land to the public at large.

Clause 32 repeals three sections that specify some of the purposes for which miscellaneous leases may be granted. These purposes are comprehended by section 77 of the Act and are therefore superfluous.

Clause 33 enables miscellaneous leases to be granted for any fixed terms the Minister thinks fit. The current limitation of granting twenty-one year terms is too restrictive in respect of some long-term developments.

Clause 34 repeals a section that is now included in section 9 and inserts two new sections. New section 78a enables miscellaneous leases to be renewed by notice, as a further option to the present situation where a new lease must be granted each time a miscellaneous lease expires. The Minister will have the power to vary the terms and conditions of a lease upon renewal. New section 78b enables the grant of miscellaneous leases for life to certain shackholders whose shack sites are determined as being unsuitable for freeholding. A lease for life may be granted to the current lessee or licensee, to a spouse of such a person (including a putative or *de facto* spouse) or to any other person whose use or enjoyment of the lands warrants the granting of such a lease.

Clauses 35 to 36 effect consequential amendments.

Clause 37 is consequential upon the amendments made to section 58 of the Act relating to penalties upon unpaid amounts. Section 58 will henceforth apply to closer settlement leases and agreements.

Clauses 38 and 39 repeal two sections that are now covered by section 9.

Clause 40 is a consequential amendment.

Clause 41 similarly repeals a section that is now comprehended by section 9.

Clause 42 simplifies the provisions relating to the surrender of leases for subdivision purposes. It is also provided that leases granted pursuant to surrender under this section may contain different terms, conditions, covenants, etc., from the surrendered lease.

Clauses 43 and 44 clarify the procedures to be followed when a lessee surrenders his lease for another Crown lease. The Minister must first approve the application for surrender before the board recommends to the Minister a rent or purchase price. The Minister then fixes the rent or purchase price at such level as he thinks fit.

Clause 45 is a consequential amendment.

Clause 46 re-casts the provisions of the Act relating to the power of a lessee or purchaser to deal with his interest in the lands. The consent of the Minister will no longer be required to the mortgaging or encumbering of a lease or an agreement (unless of course the Minister is a mortgagee). The old cumbersome procedures relating to gazettal of proposed transfers and third-party objections are abolished.

Clause 47 is a consequential amendment.

Clause 48 broadens the power of the Minister to offer Crown lands for sale by auction. As the Act now stands, apart from town land, suburban lands and other special blocks, the Minister may only sell by auction parcels of lands that do not exceed four thousand dollars in value.

Clause 49 repeals the section that provided that lands developed by the Crown for residential purposes must be

sold by auction—a qualification that has proved to be needlessly restrictive.

Clause 50 broadens the power of the Governor to grant the fee simple of Crown lands to certain authorities. It is provided that such grants may be made for no consideration, and may be made to any Commonwealth or State Minister, authority, instrumentality or agency and any local government authority.

Clause 51 repeals three provisions that deal with the power to exchange Crown lands for other lands. These provisions are no longer used and there is, in any event, power to exchange lands under an earlier provision of the Act.

Clause 52 is a consequential amendment.

Clause 53 repeals Part XV which gives the Minister special powers in respect of lands beyond Goyder's line of rainfall. These provisions are now superfluous in view of the Minister's wider general powers under section 9.

Clause 54 inserts two new sections. New section 249d provides that the consent of the Minister is no longer required to the mortgaging or encumbering of a lease or an agreement. This section applies to leases and agreements under any Act dealing with the disposal of lands of the Crown and also applies in relation to documents that may have been executed but not registered before the commencement of this amending Act. New section 249e provides that an incoming lessee is jointly and severally liable with an outgoing lessee for overdue rent.

Clause 55 provides that dedicated lands shall automatically be under the care, control and management of the Minister until such time as the fee simple is granted to some person, or the care, control and management of the lands is vested in some other person or authority.

Clause 56 inserts a new section which gives the Minister the power to lend moneys to a person for the purpose of acquiring the fee simple of any Crown lands, whether as a direct purchase, or upon surrender of a lease. The Minister can lend up to eighty per cent of the purchase price upon the security of a registered mortgage.

Clauses 57 and 58 are consequential amendments.

Clause 59 exempts from stamp duty all leases and licences under any Act dealing with the disposal of lands of the Crown. The administrative costs of collection far outweigh the revenue derived from this levy.

Clause 60 broadens the power of the Minister to acquire lands for any purpose. If the Minister wishes any acquired lands to fall back into the Crown lands "pool", he may cause the certificate of title to be cancelled.

Clauses 61 and 62 are consequential amendments.

Clause 63 remedies an anomaly. Surplus lands that the Minister may wish to dispose of are sometimes embodied in certificates of title. The definition of "Crown lands" excludes such lands, and therefore the section as it now stands cannot be used for the disposal of surplus lands unless the certificates of title are first cancelled. The amendment contained in paragraph *(b)* will enable such lands to be sold without cancellation of the titles. Various consequential amendments are also effected.

Clauses 64 to 71 (inclusive) are consequential amendments.

Clause 72 repeals the sixth schedule which is now redundant by virtue of the repeal of section 76.

Clause 73 repeals sections 41, 41a and 115 of the Irrigation Act. The repealed section 41 applied section 5 of the Crown Lands Act to lands within irrigation areas. Section 5 by virtue of its own terms applies to such lands anyway, and so the repealed section is superfluous. Section 41a which provided for the granting of easements in irrigation areas is repealed as this power is now included in section 5 of the Crown Lands Act. The repealed section 115 constituted the Minister as the council for an irrigation area that fell outside local government council areas.

Clause 74 amends the Marginal Lands Act by inserting and deleting several references in the section that applies specified sections of the Crown Lands Act to marginal lands. The sections of the Crown Lands Act dealing with minimum rent and instalments (section 47), the power of the Minister to add parcels of land to Crown leases (section 66a), and the right to surrender for subdivision (section 206), are inserted.

Clause 75 repeals the Agricultural Graduates Land Settlement Act, the Crown Lands Development Act, the Land Settlement (Development Leases) Act, and the Livestock (War Service Land Settlement) Act.

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

REAL PROPERTY ACT AMENDMENT BILL (No. 2)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is aimed primarily at streamlining and clarifying the operation of the planning system by implementing amendments recommended by the final report of the Planning Act Review Committee. This Committee was appointed by the Government to review the operation of the Planning Act and related parts of the Real Property Act. During the course of its deliberations the Committee undertook extensive public consultation and received submissions from a number of organisations. The Committee published its report in December, 1983 and received a large number of comments on the specific proposals in that report. The Bill has resulted from a lengthy and extensive consultation period, and from an expert observation of the operation of the land division procedures under the Real Property Act for nearly two years.

The Bill also amends section 223 la of the Real Property Act. This is the interpretation clause and includes the definition of an allotment, i.e. the planning unit or viable parcel of land that has been formed by the planning system. Any dealing with land, which is less than a full allotment is an unlawful dealing and void as provided for by section 223 lb.

There are occasions where allotments, whether they be an allotment in a plan or a section in a Hundred are intersected by a feature such as a railway or a road and therefore comprise two, and sometimes more, separate polygons. These polygons are at present identified with the same number. This is now undesirable as modern planning practices and the computerisation of certain land information systems of several Government Departments require each polygon to have a separate number or identifier. The Bill is therefore amending the definition of allotment to provide for separate numbering of these polygons without implying that separate Certificates of Title can issue for them unless prior planning approval has been obtained.

The existing legislation has been found to cause inconvenience and often undue hardship in cases where a proposed plan of division requires a private easement to be created. These easements may vary from right of way for access to

public streets, party wall rights for the support of buildings either side of a common wall, easements for water supply or stormwater drainage, sewerage and other effluents, electricity and television signal supply. The Act requires these easements to be granted before the division plan can be deposited by the Registrar-General and the problem arises in those cases where a sale to a second party is not yet contemplated. As it is not possible at law for a proprietor to transfer an interest in land to himself, many plans requiring the creation of private easements cannot be deposited until a sale of an appurtenant allotment occurs. As this may not happen for some considerable time, applicants for a division of land who have entered into short term finance arrangements can experience hardship. The Bill therefore provides the ability for applicants to grant a private easement to themselves within the application to the Registrar-General for the deposit of the plan.

Clause 13 of the Bill amends the open space requirements of the Act when land is divided. The current provisions provide that when land is divided into twenty allotments or less, the South Australian Planning Commission may require a fixed monetary payment for each new allotment. This money is then used by the Minister for Environment and Planning for the acquisition and development of open space. Where land is divided into more than twenty allotments, the Council for the area may require either the same monetary contribution per each new allotment, or may require that up to 12½ per cent of the land be provided as local open space, to be vested in the Council. The Bill amends these provisions in two ways. Firstly, where land is divided into twenty allotments or less, the amendments will allow the Commission to agree to accept a lesser contribution for regional open space, provided land is to be vested in council as local open space in proportion to the reduction in monetary contribution. Secondly, where land is divided into more than twenty allotments, the amendments will allow the Council (or the Commission outside of Council areas) to require either 12½ per cent of the land as open space, the monetary contribution, or some land, and some money to develop that land, at rates fixed in proportion to the formula in the Bill, which allows half money half land, or three quarters money and one quarter land, etc. In all cases, the total amount will not exceed the maximum contribution. The amendments do not alter the amounts of monetary contribution per allotment.

The Bill makes other innovations designed to further simplify land transactions, particularly those relating to the planning system. For example, the long form of the definition of a right of way has been included in the fifth schedule of the Real Property Act for many years and similar definitions of other types of easements most frequently used are now also being included. This will considerably shorten some Real Property Act instruments, title descriptions and registrations. The Bill also eliminates the need to register a plan of division as its deposit is deemed sufficient.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 amends section 88 of the principal Act. The change will allow the Registrar-General greater flexibility when recording the grant or creation of an easement.

Clause 4 inserts new section 89a into the principal Act. The new section provides for the use of forms of easement set out in new schedule 6 of the principal Act.

Clause 5 inserts a new subsection into section 90 of the principal Act. The new subsection limits the operation of the section to those plans of subdivision lodged with the Registrar-General before the commencement of the amending Act. Section 90 has not been used in recent years and with the introduction of new section 223 lo into the principal Act by this Bill its operation will be redundant in respect of future plans.

Clause 6 amends section 223 la of the principal Act which provides definitions for Part XIX AB of the principal Act. New paragraphs *(c)* and *(ca)* of the definition of 'allotment' will accommodate the new computerised planning service which will be adopted by the Lands Titles Office as well as other Government Departments over the next few years. New paragraph *(d)* of the definition is designed to distinguish between pieces of land defined on a plan of division for allotment purposes and those defined for other purposes such as the creation of an easement, in relation to heritage agreements or land management agreements. Paragraph *(d)* of this clause defines the easements created pursuant to section 223 ln as 'service easements' in order to distinguish them from easements created under new section 223 lo and referred to in subsequent amendments. Paragraph *(e)* of the clause incorporates the substance of paragraphs (i), (ii) and (iii) of the existing paragraph *(d)* of the definition of 'allotment'. This has been done to simplify new paragraph *(d)* of the definition.

Clause 7 amends section 223 lb of the principal Act. Paragraph *(a)* alters subsection (3) so as to place responsibility in relation to void instruments on those who lodge the instruments for registration. The new paragraphs inserted in subsection (4) embrace contracts that contemplate a division of land by strata plan under Part XIX B as well as those that contemplate division of land under Part XIX AB. New paragraph *(c)* requires that such a contract must provide that the dealing with the land will not take effect until the plan of division or strata plan has been deposited by the Registrar-General in the Lands Titles Registration Office.

Clause 8 makes consequential amendments to section 223 ld of the principal Act.

Clause 9 amends section 223 le of the principal Act. Paragraphs *(a)*, (b) and *(e)* of this clause remove references to registration of plans of division. There is no advantage in providing for registration as well as deposit of the plan and the change brings this provision into conformity with others in the principal Act. Paragraph *(c)* makes a consequential change. New subsection (2a) inserted by paragraph *(d)* provides for the exclusion of easements over roads and open space shown on a plan of division.

Clauses 10 and 11 make similar amendments to sections 223 lf and 223 lg.

Clause 12 amends section 223 lh of the principal Act to provide a mechanism to compel councils and the Commission to act promptly when formulating a statement of requirements under this section. Clause 13 makes the amendments already mentioned to section 223 li of the principal Act. New subsection (6) corresponds with existing subsection (5). However, when counting allotments for the purpose of determining open space contributions the smallest will be counted first under the new provision. The importance of this is that under subsection (3) it is only the allotments under one hectare in area in relation to which contributions are required.

Clause 14 replaces section 223 lk with a new provision that sets out in detail the circumstances in which an applicant for a certificate of approval may appeal to the Planning Appeal Tribunal and the powers that the Tribunal may exercise on appeal. The purpose of the amendments is to speed up the process whereby disputes in relation to the obtaining of certificates of approval are resolved. Clause 15 expands the operation of subsection (4) of section 223 ll of the principal Act. Clause 16 makes amendments to section 223 ln of the principal Act to include authorities, in addition to the Electricity Trust of South Australia, that provide electricity in various parts of the State.

Clause 17 replaces section 223 lo of the principal Act with a new provision. The substance of the existing section will be inserted into the Planning Act, 1982, as section 51a of that Act. New section 223 lo inserted by this clause provides for the creation of easements shown on a plan of division. The new provision overcomes the problem that, where land is being divided, the dominant and servient land are usually in the ownership of one person. The Registrar-General has taken the view that a proprietor can not grant an easement to himself. Planning approval for division of land is often given subject to the creation of easements. Therefore subsections (4) and (5) provide that an easement created under this section may only be altered or extinguished with the approval of the appropriate planning authority.

Clause 18 makes a minor amendment to section 223 md of the principal Act. Clause 19 amends section 223 me of the principal Act. This section which deals with appeals against a refusal to issue a certificate of approval for a strata scheme, is silent on the length of time for an appeal to be lodged. The proposed amendment to subsection (4) provides for a two month limit on this period, or such longer period as the Planning Appeal Tribunal may allow.

Clause 20 replaces section 241 with a more up to date provision that gives the Registrar-General flexibility in his requirements as to plans that are lodged with him. Clause 21 makes an amendment to section 242 of the principal Act. Plans prepared by the Registrar-General are 'accepted for filing' in the Lands Titles Registration Office as opposed to being 'deposited'. The amendment corrects the omission of the words from section 242.

Clause 22 inserts short and long forms of easements as the sixth schedule to the principal Act.

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

ADJOURNMENT

At 11.1 p.m. the Council adjourned until Wednesday 13 March at 2.15 p.m.