LEGISLATIVE COUNCIL

Tuesday 26 March 1985

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

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Friendly Societies Act, 1919—

Amendments to General Laws—

Mutual Health-National Health Services Association of South Australia;

Independent Order of Rechabites Albert District No. 83.

General Laws—

Friendly Societies Medical Association Incorporated.

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

Pursuant to Statute—

Food and Drugs Act, 1908—Regulations.

Warning Statements; Batteries and Electronic Components.

Planning Act, 1982—Crown Development Reports by S.A. Planning Commission on proposed—

Construction of child care centre at Salisbury TAFE College.

Activity Hall at Urrbrae Agricultural High School.

Construction of stormwater drainage, fencing and ramp on transportable classroom area, Gawler College of TAFE

Construction of Community Centre, Woodville South.

Construction of offices at Netley Public Buildings Depot.

Land division at Ottoway.

Erection of classrooms at Gepps Cross Girls High School.

Erection of two single transportable classrooms at Modbury, The Heights Primary and High School.

Erection of three transportable classrooms at Craigmore High School.

Division of land at Part Block 5 of Part Section 97, Hundred Yatala.

Erection of quad unit timber classroom, Angle Vale Primary School.

Landscape depot, Sturt Road, Bedford Park.

Construction of multi-purpose hall, Dernancourt Primary School.

Erection of single transportable classroom, Ardtornish Primary School.

Erection of classrooms at Gilles Plains Community College.

Erection of single transportable classroom, Craigmore South Primary School.

Erection of two single Demac classrooms, Evanston Gardens Primary School.

District Council of Snowtown—By-law No. 24—Cemeteries.

PORT ADELAIDE COMMUNITY HEALTH CENTRE

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

Port Adelaide Community Health Centre—Development.

QUESTIONS

PENALTY REMISSION

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Agriculture a question concerning the Potato Board.

Leave granted.

The Hon. M.B. CAMERON: Honourable members would have been as surprised as I was to read that the Minister of Agriculture had remitted a penalty of close to $12 000 imposed on a wholesaler who had been penalised by the courts. On examining this problem I found that the crime for which this person was penalised was that he sold potatoes in South Australia in 67 kilogram bags instead of 50 kilogram bags. That does not seem to be a serious crime, but it attracted a large penalty.

I examined this question and found that the penalty arose from amendments to the Potato Marketing Act moved in 1973 by the Hon. T.M. Casey, the Minister of Agriculture of the day. It may be helpful if I read a short section of the second reading explanation, which stated:

This short Bill, which is introduced following representations from the South Australian Potato Marketing Board, established under the principal Act, the Potato Marketing Act, 1948, as amended, is intended *(a)* to increase penalties for offences against the Act; *(b)* where the offence involves unlawful activity in relation to potatoes, to include in the penalty an amount equal to the value of those potatoes;—

I gather that this was the situation in the case of the merchant about whom I am talking—

and *(c)* to facilitate somewhat prosecutions for offences against the Act.

The explanation also stated:

New section 21a in effect transfers the 'burden of proof' to the defendant. In cases in the contemplation of this section, it is easy for the defendant to show that his transaction was lawful but difficult for the authorities to prove, in the strict legal sense, that the transaction was unlawful. It seems reasonable therefore that, once it is proved that the defendant had possession of potatoes at a particular time and that he could not produce appropriate evidence that the transaction was lawful, it shall lie upon the defendant to satisfy the court that the transaction was a lawful one. New section 21b merely ensures the invalidity of agreements or arrangements that have the intention or effect of defeating the objects of the principal Act.

I searched valiantly, as I was in Parliament at that time, for my objection to this Bill, but, unfortunately, I found none. However, I did find that the Opposition at the time supported it through its spokesman, the Hon. C.R. Story, who said:

The committee is empowered to charge the total amount at the current daily rate of potatoes if a person is found with potatoes unlawfully in his possession. This would apply especially to washers. I see no reason to disagree with the amendment. This legislation provides for orderly marketing, and I have always said, 'If you are going to make yourself a Socialist, make a good job of it,' and that is what this does. I support the Bill.

I, along with other members, should have had a lot of doubt about this Bill after hearing the Hon. Mr Story say this, but none of us objected to the statement and the Bill passed unanimously. It appears that it has caused a problem. The Minister has indicated that he has remitted this fine.

A number of people have been penalised under this section in recent times. I have a list here of the people who have been penalised: I do not want to read out the names of the people because that would not be appropriate, but I hope to provide that to the Minister so that he can take appropriate action. I ask the Minister whether he will consider remitting the penalties that have been applied to people who have been penalised under the Potato Marketing Act and, in order to cure this problem that has arisen, rather than the Minister's having to remit fines or penalties, will he take the necessary action to introduce a Bill into this place to take away those

special provisions that were introduced by his Government in 1973?

The Hon. FRANK BLEVINS: First, I wish to correct the Hon. Mr Cameron when he said that I remitted the fines for this gentleman; that is not accurate: Cabinet remitted the fines on the recommendation of the Attorney-General. Essentially, the facts as outlined by the Hon. Mr Cameron are correct. In dealing with legislation to do with the Potato Board I have a great deal of difficulty in keeping some sense of perspective, because I keep having to remind myself that we are talking here about potatoes, not about heroin or something far more dangerous to the community than the humble potato. I am still wrestling with the concept of a Potato Board at all. I am not convinced that there is any rationale for the Government to interfere with somebody either selling or buying a potato. There may be a rationale: I have looked for it long and hard and been unable to find it.

I will have discussions in about an hour with the Potato Board. I have an open mind about this, as honourable members know: the Potato Board may well be able to persuade me that there is a rationale for the situation to continue and why potatoes should come under this degree of regulation. In any case, it will be an interesting meeting.

The longer I am the Minister of Agriculture, the more I favour deregulation. I had no idea that rural industries were regulated to this extent, certainly in an age where deregulation seems to be very fashionable; when from time to time we see in our local afternoon newspaper statements that there is far too much Government regulation and red tape; and when we hear the Leader of the Opposition saying from time to time how the Liberals believe in deregulation, how they established a deregulation unit when in Government two years ago and how, if they ever get back into government, they will go through all the red tape and regulations like the avenging angel. The Potato Board, the Egg Board, the Milk Board and the Citrus Board apparently escaped the eagle eye of the deregulation unit during the three years of the Liberal Government.

The Hon. L. H. Davis: You abolished the deregulation unit.

The Hon. FRANK BLEVINS: That is right: that was our first act of deregulation. The unit was a completely unnecessary Government function, so now there is one less.

The Hon. L.H. Davis: You've obviously had a victory in Cabinet—

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: Government intervention in the market place is a very serious topic. I have no ideological hangups about it at all. Where in the interests of the community, or a significant section of the community, it is appropriate for the Government to intervene, I would have no hesitation in intervening. The Potato Board, the Citrus Board, the Egg Board, the Milk Board and so on are to some extent a hangover from decades gone by and are perhaps not relevant in the 1980s. I am having a very close look at boards of that nature.

The honourable member asked whether I will remit these fines, and the answer is 'No, I do not remit anything'. Every citizen has the right to apply to the Government to have a fine remitted, and that is what the gentleman did. He exercised his right as a citizen to ask the Government to remit a fine, and the Government, in the circumstances of the case, saw fit to do so. If any other citizen who is fined by the Potato Board or any other body chooses to put a case to the Government, that matter will be examined on a case by case basis, as occurs at present and, I am sure, as has happened for many years. If there is justification for remitting a fine, as the Government does, and Governments do, from time to time, the fine will be remitted. This matter is considered on a case by case basis. There must be special circumstances, and people have to put up a very good case indeed for remitting a fine.

ANGASTON LADIES AUXILIARY

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the closure of the Angaston and District Hospital Ladies Auxiliary.

Leave granted.

The Hon. J.C. BURDETT: Under the headline 'Gifts with present day value of $1 million', which appeared in the *Angaston Leader* of 20 March 1985, an article stated:

> With the ending of the Angaston and District Hospital Ladies Auxiliary, a final donation of $5 002 to close the accounts has been made to the District Hospital.

From the article it appears that the calculation of $1 million in present day terms includes the former Government's subsidy. The article recounts that many of the funds were raised by large catering functions: 123 of these functions were held at Yalumba Winery, and of course that is a tribute to the directors of that winery. I understand that the wines were donated. A number of these functions were hosting visiting international touring cricket teams, so the hospitality of the Ladies Auxiliary has become known internationally.

In the past, the Minister has claimed that incorporation under the South Australian Health Commission Act is not likely to deter or lessen the activities of auxiliaries and other similar organisations. My information is that the Auxiliary has been closed because it is considered that there is no place for it under the present arrangements. First, is the Minister aware of the closure of the Ladies Auxiliary at the Angaston and District Hospital? Secondly, is the Minister aware of any past or impending closures?

The Hon. J.R. CORNWALL: No, I am not aware to this moment of the closure of the Angaston and District Hospital Ladies Auxiliary. It is certainly a matter that I take seriously, but I do not think it needs to devastate the health care system of South Australia. As to the very useful functions that auxiliaries—ladies or otherwise—have performed in South Australia in the past, I pay them tribute. I take this occasion to make clear that they have done a splendid job in this State for more than 100 years. I am confident that in the great majority of cases auxiliaries and other support groups around our great hospital system will continue to do that.

As to whether incorporation under the Health Commission Act or otherwise has anything to do with that, I would say, 'No'. There is no question at all that incorporation should have no impact on local communities or indeed State communities supporting their hospitals for which they quite rightly have a deep affection and respect. I would be very saddened if all those organisations which have assisted in fund raising, and all those volunteers who are an integral part of our health system, were to be disadvantaged in any way. Certainly, the Government supports and applauds the very fine work that is done by volunteers and support groups in the health system throughout the State.

RETIREMENT VILLAGES

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about retirement villages.

Leave granted.

The Hon. K.T. GRIFFIN: In October last year, I asked the Attorney-General some questions about the controls

which are placed on voluntary retirement villages in the promotion of those villages, because it had been drawn to my attention that the matter was being considered by the Ministerial Council on Companies and Securities and that very severe controls under what are called the 'prescribed interest' provisions of the Companies Code were being enforced. I drew attention to the fact that that was a matter of concern to many voluntary organisations providing this very important means of accommodating older people in our community.

I indicated that, if the prescribed interest provisions were to be enforced, it would undoubtedly force up the costs of making retirement village accommodation available to older people. The Attorney-General responded at the time, and subsequently followed that up by letter, indicating that it was a matter that was currently being considered by the National Companies and Securities Commission and that he expected that a decision would be taken on the Ministerial Council about the matter fairly soon. That letter was in November last year.

On 28 November last year in Western Australia the Western Australian Attorney-General issued a media statement which in part indicated that initiatives taken by the Western Australian State Government would make the establishment of retirement village schemes easier and less costly in future for voluntary care organisations and some private developers. The Western Australian Attorney said that the Western Australian Government was going to deregulate a number of retirement village schemes to free them from requirements of the Companies and Securities Code.

In February this year in the Western Australian Parliament the Attorney-General again said that his Government was taking the initiative by regulation to relieve charitable organisations that promote retirement villages from the more onerous 'prescribed interest' provisions of the Companies Code. I am not sure exactly how the Western Australian Government can act unilaterally, but it may be that there is a mechanism by which that can be done. In the light of the Western Australian Government's announcements and in the light of the Attorney-General's letter to me in November, I ask the following questions: first, has the Ministerial Council on Companies and Securities yet made a decision on the treatment of retirement villages and their promotion and, if that decision has been taken, what is it, and, if it has not taken a decision, when is such a decision likely? My second question is, is there any facility by which the State Government can deregulate the retirement villages promoted by voluntary care organisations or by private sector interests in the way which the Western Australian Government has indicated that it would deregulate them from the provisions of the Companies Code? My third question is, if there has been no action taken to deregulate, how are these organisations now being treated by the Corporate Affairs Commission?

The Hon. C.J. SUMNER: I will have to obtain some up-to-date information on that topic for the honourable member to respond specifically to his questions. I believe that the Western Australian Government acted by way of a power for a general exemption that was given to them to give exemptions to the prescribed interest provisions of the companies legislation. There are varying views on how retirement villages should be regulated. It would be a common view that the companies legislation and the prescribed interest provisions of it is not the best way to regulate and protect consumers interests in retirement villages. It would generally be the view that it is more a consumer orientated problem rather than an investment problem, and that the prescribed interest provisions of the companies legislation is probably not the best way to regulate retirement villages. However, whether they be villages promoted by private organisations for profit or whether they be promoted by religious or charitable institutions, there may still need to be some degree of consumer protection with respect to the investment made by the usually elderly person who purchases an interest in a retirement village. While it is probably true to say that there is less cause for concern with respect to religious or charitable organisations, there are some examples where perhaps the schemes that they are operating would also need some kind of vetting at least from a consumer interest point of view.

At present, if a retirement village comes before the Corporate Affairs Commission, the arrangement is that it is assessed and exemptions have been given, depending on the structure that has been developed by the entrepreneur proposing the village. I will have to obtain an up-to-date report, as I said, for the honourable member, but there seem to be differing opinions as to how this matter should be resolved. One view is for complete deregulation. Another view is to say that it is not appropriate through companies legislation but that there should be some other mechanism. The other mechanism is possibly some sort of vetting procedure through the Department for Social Security, because it is basically dealing with welfare or housing for elderly people. The precise means, if any—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: No, that is true, but they are concerned with housing for the elderly and, therefore, many people do not see it as appropriate to have it regulated by way of the prescribed interest provisions of the companies legislation. Whether there is some other way it ought to be done, for those who favour regulation, is still being considered. My recollection is that a committee, comprising corporate affairs officers and people concerned with housing for the aged, is examining the question with a view to seeing whether there can be some satisfactory alternative developed to the prescribed interest provisions of the companies legislation. I will get more up-to-date information for the honourable member and bring back a reply as soon as I can.

FOETAL ABNORMALITIES

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about foetal abnormalities.

Leave granted.

The Hon. ANNE LEVY: In yesterday's *Advertiser* there appeared an article expressing the personal opinion of Father John Fleming 'The Extermination of Abnormal Foetuses'. I imagine that most honourable members know that Father Fleming was a founding member of the Right to Life Association, and for many years was on the executive of that body which, of course, is totally opposed to abortion in any circumstances, including pregnancies that are known to be abnormal foetuses, pregnancies resulting from rape, and so on. In the article Father Fleming, doubtless expressing his own personal opinion and not that of the *Advertiser*, is complaining about a screening programme for neural tube defects that is being offered to pregnant women in South Australia.

Apparently, this new test is very simply done using maternal blood and can indicate whether the foetus is suffering from a neural tube defect. The frequency of such defects is not negligible in our community. On a random basis they are about one in 500 pregnancies and, where there has been an occurrence of a birth with such defects, there is a greatly increased chance of a defect in a subsequent pregnancy—it rises to about 5 per cent.

I gather from the article that Father Fleming is objecting to the fact that the State Government is making this test available to women, particularly those at risk, who are being able to have determined whether or not they are carrying an abnormal foetus. Apart from anything else, the article shows very little compassion for a woman who is concerned about whether or not she is carrying an abnormal foetus who would give anything to have her worries settled in one way or the other and not have to go through 40 long weeks of apprehension.

From what Father Fleming put in his article, one could almost suppose that, where an abnormality is determined, the Government will insist on a termination taking place, which strikes me as being unlikely. Will the Minister indicate the situation with regard to this easy screening test for neural tube defects, and whether or not the Government is doing anything more than making available a test that can readily detect such defects, leaving it entirely to the woman concerned to decide whether or not to terminate the pregnancy should an abnormality be found—a compassionate and humane approach on the part of the Government?

The Hon. J.R. CORNWALL: I want to make crystal clear that, contrary to what Father Fleming alleged in that article, the South Australian Government is certainly not in the business of persuading or exerting any pressure on pregnant women to have their foetus checked for abnormality nor, if that foetus is found to be abnormal, to have it aborted. On the other hand, the South Australian Government is in the business of providing knowledge and information about important matters—important to women and their families in this instance to assist them in making an informed choice. We believe that that is everybody's right in a democratic society.

Apropos of the programme itself, which was conducted and developed in our teaching hospitals in South Australia, more than 30 000 women participated voluntarily in the five year pilot programme. Of those with detectable abnormalities, one or two did choose to continue with their pregnancies, and a few others declined the offer of being screened for a neural tube defect. No-one denied those people the right to choose to continue with their pregnancies. Genetic counselling is a highly specialised skill that provides a forum for a family to have the facts about abnormality explained to them and to be given information about treatment options available to children born with congenital abnormalities.

The key function of genetic counselling is to provide the information in a manner that will allow a woman and/or her family to make a choice that is most appropriate to her in the particular circumstances. Counsellors do not advocate, nor do they evangelise, particular causes or courses of action. I vigorously defend the right of the Right to Life Association to hold its views. However, that does not mean that I agree with them. Nowhere does the Government, the Health Commission, or the medical, nursing and social work staff in hospitals oblige anyone to do anything that is contrary to their cultural beliefs or religious affiliations.

On the other hand, the Government does not and will not actively inhibit anyone from making a decision which affects them and which is within the law of the State of South Australia. The termination of pregnancy for specific reasons is in the Statutes of the State as a result of intensive debate in both Parliament and the community. Of those who have had a child with spina bifida there is a known risk of recurrence of one in 20 of subsequent pregnancies. Prior to the screening programme becoming available many women chose not to have further pregnancies because the risk to another child of pain, repeated hospitalisation, disability and varying degrees of handicap was a risk that families were loathe to take for another child. The screening test and other supportive diagnostic measures have lifted this burden from many such couples who have been able to embark with confidence on further pregnancies.

The availability of such a screening test to all women to allow an opportunity for those who wish to take it to avoid having even one baby with a neural tube defect is not regarded by all South Australians, as it is by Father Fleming, as what he called barbaric and inhumane. As a matter of statistical interest, there will be about 18 000 women a year involved, if they enter anti-natal care in time, and the cost of the programme is $102 000 per annum.

ARMS CACHE

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question in relation to illegal arms trafficking.

Leave granted.

The Hon. I. GILFILLAN: Yesterday, an arms cache was discovered in Hackney and, as was described in today's *News*, it consisted of crates of ammunition of French, Middle East and German manufacture; machine gun parts; automatic rifle and machine gun magazines; Armalite rifle ammunition; and armour-piercing and tracer shells. I raised this matter early in February in this Chamber. In another place the Deputy Premier, who had been briefed by the Deputy Commissioner of Police at that time, gave a statement that was generally recognised as being a rebuttal of a Commonwealth Police document that alerted Federal and State Police Forces, to an illegal international gun running racket in 1969. Three points were contained in the Deputy Premier's statement, as follows:

> South Australia is not an arsenal of illegal arms, as alleged in the original document, and there is no evidence to support the allegation that South Australia is a major source of illegal arms for terrorist organisations throughout the world.

The Minister, referring to small arms finding their way into the hands of small time criminals, said:

> However, it was stressed by the Acting Commissioner that at no stage could this ever be considered an organised case of large scale gun running as alleged in the Commonwealth Police document.

Dealing with the document, he said:

> I would now like to briefly deal with the document itself. It was compiled in January 1979, is 30 pages long and contains many allegations, the vast majority of which are based on heresay and opinions. I am informed by the Acting Commissioner that in most cases they are not substantiated by hard evidence and the allegations cannot be tested.

Does the Attorney-General agree that the find at Hackney is, first, hard evidence to support the allegations; secondly, could be considered an organised case of large scale gun running as alleged in the Commonwealth Police document; and, thirdly, could be considered hard evidence and does in fact test the allegation? Why was no action taken on the 1979 report? Who was responsible for deciding that the investigation of the report be stopped? Why has it taken the Attorney-General so long to answer my question on this matter asked on 12 February?

Will the Attorney-General immediately confer with his colleague the Special Minister of State in the Federal Parliament, the Hon. Mr Young, to find out what steps are being taken federally? While he is about it, he might ask that honourable gentleman why he has not responded to or even acknowledged my letter of 22 February. Can the Attorney-General assure the people of South Australia that investigation of this report was or is thoroughly being conducted in a diligent manner and, if so, give details of that investigation? If not, which Governments and/or Police Forces failed in their responsibility earlier? What action has the

Attorney-General taken to thoroughly inquire into this scandal? Does he believe that there would and could have been criminal suppression or prevention of a proper inquiry into this matter, and will he give an indication of when he will give a thorough report to Parliament?

The Hon. C.J. SUMNER: The honourable member has not asked a question: he has asked about 10 questions.

The Hon. R.J. Ritson: He should have put it on notice.

The Hon. C.J. SUMNER: That is correct, but it will not surprise him to know that I have all the answers. It is not possible to answer the first question that the honourable member asked about whether this find constitutes hard evidence of the sorts of things that he outlined. That can be determined only after a proper investigation of the find that has been revealed in the press in the past day or so. All I can say to the honourable member at this stage is that it is not possible at this time to say that this constitutes hard evidence of the sorts of things that the honourable member outlined: that South Australia is a centre of gun running activity for terrorists, and the like. That matter, and whether there is any connection between this find and the matters that the honourable member raised in the Council in February, will also have to await further investigation.

Following the question raised by the honourable member, I took action and have replied to what the honourable member asked. He asked, as I recall it, whether I would examine the documentation that he provided to me, which included certain police running sheets and other material that had been made available to him. I said that I would refer them to the Crown Prosecutor, Mr B.R. Martin, QC, and that if on the basis of his comments to me there appeared to be a case to refer the matter to the Commissioner of Police I would do that. I said that in the answer that I gave when the honourable member raised the question in the Parliament on the last occasion, and that is what I have done. So, it certainly was not a matter of not replying to the honourable member's question. I replied to it at the time and I carried out what I said I would do in the answer to that question.

I referred the details of the honourable member's question, and the material which he had in his possession and which he made available to me privately, to the Crown Prosecutor. On the basis of that, I sent the material with a minute to the Commissioner of Police. I indicated to the Commissioner of Police that a number of serious allegations were made in respect of this material and, as a result of the information that had been brought to my attention by the Hon. Mr Gilfillan, I indicated to the Commissioner of Police that it would be incumbent on me to report further on this matter to the Legislative Council.

I sent the minute (which also indicated that I had been asked by the Hon. Mr Gilfillan to consider and evaluate the report of 3 January 1979, headed 'Trafficking in illicit firearms') and I referred, as I said, to the Commonwealth Police Force investigation running sheets, which the honourable member had made available to me. I then asked the Commissioner whether he would advise me what investigations, if any, were carried out following the release of the report. I further suggested that additional action or investigations might need to be undertaken. I suggested that some assistance might be gained by reference to officers of the Australian Federal Police, who were apparently preparing a further report. That report was referred to in the Deputy Premier's statement to the House of Assembly in February.

The matter is with the Commissioner of Police. I believe that the Commissioner would be considering the material that had been provided to him by me as a result of the information given to me by the honourable member. The Commissioner has advised me that the inquiry in this regard is proceeding, and a full report will be made available in the near future. The South Australian police inquiry is being carried out in conjunction with officers of the Federal Police, who are also preparing a further report, as I mentioned.

The cache of ammunition, grenades and machine gun parts found yesterday in a closed city restaurant is incidental to the above inquiry. It may be that there is some relationship, but, as I said earlier, it is not possible at this stage to indicate what that might be. Certainly, it is not possible at this stage to respond affirmatively to the propositions put by the honourable member at the beginning of his question. A full investigation into the Hackney incident is proceeding with the Police Department, and details will be made available when that inquiry has been completed.

In summary, following the honourable member's question in February, I took all proper steps to ensure that the material that the honourable member gave me was assessed by the proper authorities, initially by the Crown Prosecutor (Mr B.R. Martin, QC) and then referred to the Commissioner of Police, who is, after all, the Government agency responsible for the investigation of complaints of criminal conduct. I am still awaiting a response to my request to the Commissioner of Police on the material that I sent to him.

Secondly, by way of summary, an investigation clearly will proceed into the cache of arms found in the disused Hackney restaurant, and an assessment will be made following that investigation. It will then be possible, following the two investigations, to assess whether there is any positive link between the two and whether or not there is any further evidence to respond affirmatively to the question that the honourable member raised at the beginning of his long list of questions.

The Hon. I. GILFILLAN: A supplementary question, Mr President. Following the Attorney-General's answer, which I appreciate, I make the point that he has corroborated the fact that there is a substantial international illegal arms trade. Will the Attorney-General please ensure—

The Hon. R.J. RITSON: A point of order, Mr President. The Hon. Mr Gilfillan succumbed and began to ask his question, so I withdraw the point of order.

The PRESIDENT: The point was raised that the honourable member was not asking a supplementary question, but was explaining another one. The point of order was correct.

The Hon. I. GILFILLAN: The supplementary question is: will the Attorney assure the Council that he will not only investigate the illegal arms cache discovered in Hackney but also discover why the investigation that should have proceeded in 1979 was stopped, and by whom?

The Hon. C.J. SUMNER: That was part of the honourable member's earlier question, and I will certainly refer it to the appropriate authorities for a response and respond when the other matters can be replied to in the Council. The honourable member in asking a supplementary question made a statement on a matter about which, in my answer, I had deliberately not drawn any conclusion. It was quite wrong for the honourable member to get up by way of a supplementary question and then assert that illegal international gun running was occurring from South Australia when I had made quite clear in my answer (and for the honourable member to assert otherwise was quite inaccurate) that at this stage—and I emphasise that—it is just not possible to draw any conclusion of that kind. We must await the outcome of the inquiry that I set in train following the honourable member's question in February. He asked that question following a newspaper report in Victoria, as I recall.

Following that question I took all possible steps to have the matter referred to the appropriate authority—the Commissioner of Police. What the honourable member seems to overlook is that the initial report to which he refers was

dated 1979 and that the investigation that led up to that report occurred prior to that date, so it is obviously not possible to snap one's fingers and produce an immediate response. These things must be investigated properly by the appropriate authorities. As I said in reply to the honourable member's question, I have referred all the material he gave me to the Commissioner of Police. If the honourable member is criticising the Commissioner of Police, let him come out and say so. Let him be specific. I have referred the material to the Commissioner of Police, who is the proper authority to investigate this sort of matter. Obviously, the police will also examine the circumstances surrounding the discovery of the cache of arms that was found yesterday.

The Hon. I. Gilfillan: Will the police be examining it themselves?

The Hon. C.J. SUMNER: If the honourable member has any complaints about the police, I suggest he bring the specifics of those complaints to me and I will refer them to the appropriate Minister for investigation. Until any specific allegation is made about malpractice by the police in this area, all I can do is to say what I have said previously—that I will refer the matter to the Police Commissioner and await his investigation into the matters raised by the honourable member earlier and the matters that came to light yesterday.

AUSTRALIA'S REPUTATION

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about Australia's overseas reputation.

Leave granted.

The Hon. R.J. RITSON: The *Advertiser* of Saturday morning referred to remarks published and attributed to Mr Justice McClelland while he was in England. Mr Justice McClelland in quoted as referring to Mrs Thatcher as a silly woman and a figure of fun. He criticised Malcolm Fraser, a former Prime Minister, he was rude to public officials, he—

The Hon. R.I. Lucas interjecting:

The Hon. R.J. RITSON: Yes, I will get to that. Mr Justice McClelland referred to Mrs Thatcher's 'terrible phoney accent', he took political sides with the striking miners, and stated that the ruling classes were attacking civil liberties and free expression of protest in Britain—

An honourable member: What State does he come from?

The Hon. R.J. RITSON: From New South Wales. Mr Justice McClelland is a former Labor Party Senator; he is a political appointee to a politically sensitive job, namely, the New South Wales Industrial Court.

The Hon. J.R. Cornwall: No, lands and environment.

The Hon. R.J. RITSON: I am quoting the *Advertiser.*

The Hon. C.J. Sumner: You shouldn't do that. It's very unreliable.

The PRESIDENT: Order! Will the honourable member please explain his question?

The Hon. R.J. RITSON: Mr Justice McClelland was then appointed to the politically sensitive post of Royal Commissioner investigating British atomic tests. He was in Britain as a guest of the British Government, he was a holder of high office and of judicial office, which is traditionally non-political, whatever a person's opinions may be, but he has insulted our allies. Although this is a Federal matter, I am sure that all Australians, and all South Australians, are offended. There have been many other occasions on which State Governments have written to Federal Governments about Federal matters and on which State Parliaments have passed resolutions asking the Federal Government to rectify certain matters. Will the Attorney-General ask the Premier, as Leader of the South Australian Government, to request Mr Hawke, the Prime Minister, to apologise to the British Government on behalf of this poor simpleton and buffoon who has made a disgrace of himself and of our country in Britain by making those remarks?

The Hon. C.J. SUMNER: No, I do not intend to comment one way or the other about the actions or words of the Hon. Mr Justice McClelland while in the United Kingdom.

CEP FUNDING

The Hon. C.W. CREEDON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour, a question about CEP funding.

Leave granted.

The Hon. C.W. CREEDON: I received a letter from the District Community Youth Support Scheme in Gawler a few days ago stating that it is aware Gawler has received CEP grants to be used for recreational development of Clonlea Park. These people are greatly disappointed that their voluntary efforts were not recognised. Even though the grant has been made and people have been employed, people listed at the Gawler unemployment office have not been chosen to work on the project, and these people feel that their voluntary effort should have warranted some consideration. A CEP grant was made for drainage in Gawler West, and it was insisted upon that long term unemployed to be involved in the project must come from the Elizabeth office. In all, 26 people being employed under CEP grants in Gawler must come from people listed at the Elizabeth office. The local council had no say in regard to which area the people employed came from. Of course, the people have already been chosen, so nothing can be done to rescind the decision.

The people of Gawler have been very active in regard to CEP financial assistance, and many long term unemployed have benefited as a result. The people of Gawler are very grateful for this kind of assistance. The two proposals involve 26 employees. There are 2 500 unemployed people listed with the Gawler office, and 40 per cent of those reside in Gawler or very close to it. They realise that, while two-thirds of the funds come from Federal sources, one-third comes from Gawler electors, so people believe that Gawler citizens should be entitled to a share of the work. When and why were these guidelines adopted? Will the Minister say whether or not future grants will be made according to former guidelines that allowed labour to be recruited locally?

The Hon. C.J. SUMNER: I will obtain a report for the honourable member and bring down a reply.

STATUTES AMENDMENT (COURTS) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Supreme Court Act, 1935; the Local and District Criminal Courts Act, 1926; and the Industrial Conciliation and Arbitration Act, 1972. Read a first time.

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

That this Bill be now read a second time.

It has three major aspects: first, the jurisdiction of the District Court is increased from the present limits of $60 000 in relation to a cause of action in tort relating to injury, damage, or loss caused by or arising out of the use of a motor vehicle, and $40 000 in any other case; to $150 000 in personal injury actions; and $100 000 in all other cases. This increase in jurisdiction is a reflection of the important

role the Government considers the District Court should have as a first instance trial court in this State.

The move to increase jurisdiction is also in keeping with moves in several other States to increase the jurisdictional limits of intermediate courts. In New South Wales, the civil jurisdiction of the District Court has been increased to $100 000, whilst in the Victoria County Court, jurisdiction has been increased to $100 000 in personal injury cases, and $50 000 in all other cases. The Victorian position is under review yet again following a report of the Civil Justice Committee to the Attorney-General of the State of Victoria concerning the administration of civil justice in Victoria. The report recommends several changes to jurisdiction of courts in that State including a recommendation for an unlimited jurisdiction for the County Court in certain conditions.

Second, the Bill provides for more flexibility in the deployment of judges in the courts of the State. Provision has been made for the Chief Justice, with the approval of the President of the Industrial Court or the Senior Judge of the District Court as the case may be, to recommend the appointment of an acting judge from another court to either the Supreme Court, the District Court, or the Industrial Court. In addition, provision has been made for a Supreme Court judge to exercise the powers and jurisdiction of a District Court judge.

This latter provision in particular will overcome the current difficulty that arises when a Supreme Court criminal trial collapses leaving the Supreme Court judge without a matter to try and unable to dispose of a District Criminal Court trial instead. The other advantage of this provision is that it will also enable a Supreme Court judge to deal with an offender's District court charges, and summary charges (as provided for in the Magistrates Act) at the same time as sentencing on charges brought in the Supreme Court. Lastly, the Bill picks up a number of miscellaneous amendments.

Provision has been made for the Governor to appoint an acting judge to the Supreme Court 'when it appears necessary or desirable to do so in the interests of the administration of justice'. This provision confers the same kind of broad powers as are provided for the appointment of acting judges in the District Court and the Industrial Court.

At present, the Local and District Criminal Courts Act only permits a judge who retires to complete the hearing or determination of proceedings part heard prior to retirement. Unlike the Supreme Court Act, no similar provision is made for a judge who resigns to complete his work. The Local and District Criminal Courts Act is amended to include provision for a judge who resigns to complete the hearing and determination of proceedings.

Section 153 (2) is amended to take account of two problems which have arisen over the years. The section is currently orientated towards judgment against the defendant in favour of the plaintiff. Judgment may of course be ordered in favour of a party other than the plaintiff. In a complex action judgment may be given in favour of a third party against the defendant or vice versa, or costs may be awarded between defendants against each other. Section 153 (2) has been amended to apply to the party against whom the judgment or order was given or made. In addition, a definition of 'taxed costs' has been inserted.

Section 19 (1) of the Act provides that the offices of each court should remain open for the dispatch of business on a daily basis subject to certain specified exceptions. One such exception is Easter Tuesday. Officers of the Local Court attend for work on that day; however, the office must remain closed. Reference to Easter Tuesday has been deleted as has reference to the times during which the court office must be open. This matter will be determined administratively as it is in respect of other courts.

Section 80 (2) requires names prefixed Mr, Mrs or Miss to be used where the defendant is unacquainted with the Christian name of the defendant. In 1981 the Hon. Anne Levy suggested that the prefix Ms also be permitted. Section 80 (2) has been amended to permit use of the prefix 'Ms'.

The Suppression Order Review Committee set up by the Chief Justice recommended amendment to section 320 *(b)* of the Local and District Criminal Courts Act to provide for publication of the criminal lists of the District Court in the *Government Gazette* only—rather than requiring publication of the lists in newspapers circulating generally throughout the State. It is considered that such an approach is desirable as a standardisation of requirements of the Supreme Court and the District Court. The Supreme Court does not require publication of the criminal lists other than in the *Government Gazette*. I seek leave to have the detailed explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 makes an amendment to section 11 of the Supreme Court Act. The effect of the amendment is to clarify the qualification of a person who may be appointed as an action judge or master, and to require that, before a Deputy President of the Industrial Court, or a District Court judge can be appointed as an acting judge, the Chief Justice must recommend his appointment with the concurrence of the President of the Industrial Court or the Senior Judge of the District Court, as the case requires. Clause 4 is formal.

Clauses 5 to 14 make amendments to the Local and District Criminal Courts Act, 1926 ('the principal Act'). Clause 5 amends section 4 of the principal Act—the effect of the amendment is to increase the local court jurisdictional limit from $60 000 to $150 000 (in the case of a tortious action arising out of a motor vehicle accident) and from $40 000 to $100 000 dollars in any other case. Clause 6 amends section 5c of the principal Act. The effect of this amendment is to provide that a Deputy President of the Industrial Court shall not be appointed as an Acting District Court judge except on the recommendation of the Chief Justice of the Supreme Court made with the concurrence of the President of the Industrial Court.

Clause 7 amends section 5f of the principal Act. The effect of this amendment is to enable a judge to complete, after his resignation from office, the hearing of cases part-heard by him before that resignation. Clause 8 inserts new section 51a—the effect of the new sections is to confer upon judges of the Supreme Court all the powers and jurisdiction of a District Court judge. Clauses 9, 10 and 11 make amendments to sections 7, 8a and 19 of the principal Act. The amendments are of an administrative nature, and are designed to enable greater flexibility in the hours during which local court offices may open. In addition, a prohibition on the the opening of such offices on the Tuesday after Easter is removed.

Clause 12 amends section 80 of the principal Act which provides for the description of a defendant on a summons. The present possible descriptions ('Mr, Mrs or Miss') are extended with the inclusion of 'Ms'. Clause 13 amends section 153 of the principal Act. The effect of the amendment is to extend the operation of that section, which imposes certain procedural requirements before certain costs may be executed against a defendant. The effect of the amendment is to extend those requirements to the execution of such costs against any party against whom they were awarded. Furthermore the amendment makes it clear that the costs

referred to are taxed costs, as taxed by the clerk of a local court, a special magistrate or a judge.

Clause 14 amends section 32o of the principal Act. The effect of the amendment is to remove the requirement from that section that the district criminal court lists be published in a newspaper circulating throughout the State. Clause 15 makes an amendment to section 9 of the Industrial Conciliation and Arbitration Act, 1972. The effect of the amendment is that a District Court judge may not be appointed as a Deputy President on an acting basis except on the recommendation of the Chief Justice of the Supreme Court made with the concurrence of the Senior District Court Judge.

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

EXECUTORS COMPANY'S ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

It is intended to lift the restriction on shareholdings in the Executor Trustee and Agency Company of South Australia Limited to enable the State Bank's bid for the company to proceed. Late last year, in view of an offer being made by the ANZ Banking Group, the Government confirmed the approach taken by previous Governments in connection with this company. The Executor Trustee and Agency Company of South Australia Limited is the oldest of the four private trustee companies in South Australia. Its long service in probate administration and trustee functions make it too important a part of the South Australian commercial community to be under the control of other than a sound South Australian based enterprise.

Therefore, I advised the ANZ and the Executor Trustee and Agency Company that, in the Government's view, the company should remain in South Australian hands as regards both equity and Board control. Acquisition of the company's shares by the State Bank of South Australia will ensure that these objectives will be achieved. The bank has advised that it has acceptances or undertakings in respect of more than 50 per cent of the company's shares. Therefore, it is now appropriate to clear the way for the bank's offer to proceed.

Clause 1 is formal. Clause 2 amends section 26 of the principal Act which imposes certain limitations in relation to shareholdings in the company. The effect of the amendment is to exclude from the application of the section the Crown, or an agency or instrumentality of the Crown.

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

LAND AND BUSINESS AGENTS ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 19 March. Page 3307.)

The Hon. J.C. BURDETT: I rise to speak to the second reading of this Bill, although I am not sure that the Bill is necessary. The position at present is that in order to engage in the undertaking of so-called hotel broking one has to have two licences; one licence under the Land and Business Agents Act and the other a licence as a hotel broker that is granted by the Licensing Court.

I said 'the so-called' business of hotel broking because, as the Review Report indicated, the operation is really an operation of agency and not of broking at all. The Review Report on page 569 stated:

> Our point is that the reputation of the few specialist brokers will not in any way be sullied by our proposal, and the industry will still turn to them because of their proven expertise and efficiency. However, other licensed land and business agents should not be denied the opportunity to work and establish a reputation in this field.
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> We recommend that hotel brokers no longer be required to be licensed pursuant to the liquor licensing laws.
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> We recommend that any person licensed as an agent pursuant to the Land and Business Agents Act be able to act as an agent in respect of the acquisition or disposal of any licensed premises or the business conducted pursuant to a liquor licence.
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> We are absolutely convinced that these two recommendations are the correct course to follow. However, if they are not implemented, we consider that a licensed hotel broker should be required only in the acquisition and disposal of a hotel, where the valuation of stock and goodwill can be difficult. However, we make no recommendation on this point.

The position at present is that two licences have to be held, and the Liquor Licensing Bill which is now before Parliament and which we passed in this Council some days ago repeals the Licensing Act. It was the Licensing Act that required hotel brokers to be licensed by the Licensing Court in order to carry out their functions.

I believe that there is a great deal of merit in the recommendations in the Review Report. I think that hotel brokers have carried out their functions very well. It has rarely, if ever, been proven that they have been guilty of dereliction of duty: they have operated correctly. They have the expertise both as land and business agents and also the particular expertise pertaining to the liquor licensing laws, which have in the past been difficult to follow.

I hope that they will now be easier to follow, but there is a case for the need of agents. They really are agents rather than brokers. There is a need for agents who have special expertise. I would have thought that the recommendations of the review were correct, and my feeling was that, if the hotel brokers are as good as they say they are, they could sell themselves to their potential clients, and that it would not be necessary to maintain as applies at present, that one cannot operate in this field unless one is specifically licensed.

This Bill is a measure of deregulation. It provides that hotel brokers will have one licence instead of two, and this is a measure of deregulation that is in itself a good thing. There is no longer any provision in the Licensing Act, or in the new Liquor Licensing Bill (when it becomes an Act which I am sure it will in some form or another). All that will be required will be a licence under the Land and Business Agents Act with an endorsement to the effect that the person can carry on the business of a hotel broker.

I seriously wonder, as I have suggested, whether this is necessary. There is a lot of merit in what the Review Report has stated. I believe that hotel brokers could sell their own skills and would be exclusively used if they have those particular abilities. I am not disposed to oppose the Bill. I propose several questions to the Minister: he can reply either in his second reading reply or in the Committee stages. I should like to know what the criteria would be and what the procedures would be for the endorsement on a Land and Business Agents Licence that the holder of that licence is able to practise as a hotel broker.

The present position has been a closed shop, and a person has not been able to practise in this area unless he has held the two licences, and under the Bill he will not be able to practise in this area unless he holds the Land and Business Agents Licence and unless that licence bears the endorsement that he is able to operate as a hotel broker. I should like to know what the criteria will be; what the guidelines will be;

and what the procedures will be in order to obtain the endorsement.

For the reasons I have mentioned I am not very enthusiastic about the Bill, and I doubt its necessity. I would have thought that the recommendations of the Review Committee would be more appropriate, but I do not want to oppose the Bill and hold up the Government. Therefore, I will not oppose the Bill, but I do ask these questions. I should like to know the difference between the present position and what is proposed. I should want to know particularly whether the proposed position is likely to open up the area to other land and business agents. I should like to know what the criteria will be and what the procedures will be in order to gain the endorsement proposed by the Bill, but I do not oppose the second reading.

The Hon. R.J. RITSON secured the adjournment of the debate.

REMUNERATION BILL

Adjourned debate on second reading.

(Continued from 20 March. Page 3381.)

The Hon. M.B. CAMERON (Leader of the Opposition): When the Government announced in late February that it would introduce legislation for the proposed Remuneration Tribunal, the Opposition expressed some reservations about the Government's planned course of action. We were concerned that the Government had indicated that it wished to have the matter rushed through another place within a week. Fortunately, we have been able to ensure that the pressure has been removed so that more careful scrutiny can be applied to the Bill.

This important piece of legislation proposes significant changes to wage and salary fixing arrangements. Last year, Parliament accepted that, while the present national wage fixing system operates, the salaries of MPs should move only in line with and at the same time as indexation increases granted by the State and Federal Industrial Commissions. That system is now operating and this Bill, which sets up a new all encompassing Tribunal, warrants special attention. The Opposition has reviewed this Bill thoroughly and sought to amend it in another place. A number of amendments were accepted by the Government but two amendments, which we considered to be important, were not accepted. I will detail those proposed amendments later.

It should be noted that the independent Labor member for Elizabeth also moved a number of amendments that have been incorporated in the Bill. These related to a maximum term of appointment of seven years for Tribunal members, with no opportunity for reappointment for tribunal members, representations from members of the public who have a viewpoint regarding salaries of MPs, and intervention into proceedings by the Minister. The establishment of a Remuneration Tribunal seeks to overcome what has been a long term problem and issue, namely, the salary level for those key decision makers in our Parliament, our courts and our statutory offices. The salaries of MPs have always been a delicate issue.

MPs are, the Council will agree, in an almost no-win situation when it comes to salary increases. It is important that those people whom the public see to be the high wage earners in the public arena are dealt with in an open, fair and objective manner. We can remove those areas of remuneration from an environment where MPs are seen to exercise any influence over their pecuniary return and place them fairly and squarely in independent and reliable hands. This will allay the public's concern and should ensure the fairest possible results. Whilst supporting the general thrust of the Bill, I stress that I do have a concern that it includes a number of provisions that result in an overkill. There is a restatement of provisions, for example, which already exist in a number of other Acts covered in the statutory amendment legislation which will follow this Bill. There has been a considerable debate in various quarters as to how the salaries of judges should be determined. The Minister of Health in his second reading explanation in reference to the concept of a single remuneration tribunal said:

> The principal advantage of this approach is that it will enable the Tribunal to co-ordinate salary relativities and the timing, basis and quantum of salary increases for these groups and hence to achieve equitable treatment for each group.

Yet within this Bill there is a special provision applying to members of Parliament only and not to others who are brought under this umbrella. This action conflicts with the notion of equitable treatment for all and tends to undermine the Government's attempt to have one all encompassing Tribunal for this matter. It is really establishing a group with a special case within a group which allegedly is to be dealt with equitably.

As I have said, the problem of adequately determining judges' salaries has been canvassed on numerous occasions. A key dilemma has been the impact of Executive decision-making power over judges' salaries on the perceived independence of the Judiciary. This issue was touched on by the Chief Justice of South Australia, Mr Justice King, who, at a conference in Rome, expressed his concern that South Australia did not have a sufficient minimum standard of judicial independence set down. In the *Advertiser* of 23 May 1983, Mr Justice King's Rome comments were reported in the following way:

> Further judicial independence could adequately be ensured only by Governments' giving the Judiciary complete control over court buildings, facilities, staff and finances, he said. A copy of the Chief Justice's address to the International Bar Association conference was issued by the South Australian Supreme Court. Mr Justice King said he has co-ordinated an association project to produce international minimum standards for judicial independence.
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> One of the standards required the regular adjustment of judicial salaries and pensions by other than Governments—either independent tribunals or statutory formulas. 'In Australia, the general practice is for judicial salaries to be adjusted annually by an independent tribunal,' Mr Justice King told the conference. 'I regret to have to report that my own State of South Australia is an exception . . . judicial salaries are fixed by Executive Government (which) has been a constant force of friction . . . for some time. Indeed, the history of judicial salary-fixing in South Australia is an excellent example of the dangers associated with Executive Government control of judicial salaries.
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> There can be no doubt that Executive Government control over judicial salary-fixing is always at least an incipient threat to judicial independence.' The Chief Justice said that before 1973 in South Australia, judges' salaries were fixed by Parliament. In 1973, the South Australian Government had taken control so adjustments for inflation could be made more quickly. The intention was that South Australian judges' salaries would be 95 per cent of the average of those in New South Wales and Victoria and that that formula would be ratified by Statute.
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> 'In fact the formula was never embodied in a Statute and was indeed abandoned subsequently by the Executive Government which retained control (of salary-fixing). The result has been continuing friction between the Judiciary and the Executive Government and a steady decline in judicial salaries in relation to incomes in the rest of the community and to judicial salaries in other parts of Australia.'

The Hon R.C. DeGaris interjecting:

The Hon. M.B. CAMERON: I am not sure. The report continues:

> [In April, the Premier, Mr Bannon, announced new salaries for the Chief Justice and puisne judges based on 95 per cent of the average salaries of judges in New South Wales, Victoria, Queensland and Western Australia. The Chief Justice's new salary is $76 851 and puisne judges $68 978.] In his address, Mr Justice King also called for the Judiciary to have total control of court buildings, staff facilities and finances without reference to Executive

Government. The Attorney-General, Mr Sumner, said yesterday he was 'very interested' in the Chief Justice's speech and would

It had never been suggested that South Australia's arrangements for salaries and court facilities had affected judges' impartiality and independence. The Judiciary was not divorced from financial reality or responsibility. Salaries and facilities were provided by the taxpayer, and Executive Government was responsible and accountable to Parliament for public expenditure. 'However, I advised the Chief Justice before he left that I would examine the question of fixing judicial salaries.' Mr Sumner said.

Since that statement by Mr Justice King in 1983, the Government set up a working party to deal with the remuneration of those groups covered by this Bill, and this Bill itself embodies the recommendations of that Working Party, which was headed by Mr David Mercer, a former Chairman of the Public Service Board.

If one compares the salaries that judges presently receive, one notes on the one hand, the figures of $76 851 for the Chief Justice and $68 978 for the puisne judges and, on the other hand, the figures for judges in Western Australia, where on 1 January 1985 the Chief Justice was in receipt of $97 328, plus an allowance of $ 5000; the Senior Puisne Judge was in receipt of $89 541, plus an allowance of $4 500; and a puisne judge was in receipt of $87 078, with an allowance of $4 000. In Victoria, the Chief Justice receives $93 376, with an allowance of $5 111; and the puisne judges receive $83 006, with an allowance of $4 147. In Queensland, the Chief Justice receives $94 725, with an allowance of $5 200; and the judges receive $84 200 with an allowance of $4 050. In New South Wales, the Chief Justice receives $99 496, with an allowance of $5 904. The President (which is a position equivalent to a Senior Puisne Judge) receives $93 797, with an allowance of $4 761; and a puisne judge receives $91 205, with an allowance of $4 761.

Those figures differ greatly from those which apply to South Australia. However, that in it itself need not be an overwhelming reason for modifying the South Australian position. Workload and a variety of other issues also come into consideration. It has been suggested that a figure commensurate with 95 per cent of the salaries applicable in New South Wales and Victoria should be negotiated, but that suggestion has not been put in legislation. Therefore, that is not a matter which is the property of this Council. If that is an agreement that was loosely entered into on some earlier occasion between the Government and the Judiciary to keep the Judiciary quiet, that may be the case, but it is not a matter that has been addressed by the Council.

The Hon. C.J. Sumner: What?

The Hon. M.B. CAMERON: The 95 per cent of salaries applicable in Victoria and New South Wales. If the Judiciary is at great variance in the position in which it finds itself, the Judiciary could well present such a case to the Tribunal, when it is formed, and consideration could be given to an anomaly affecting members of the Judiciary in South Australia compared with other States, rather than the Government providing an easy access to the Judiciary for a massive increase in salaries, which we would be authorising if we left the Bill in its present state.

The position in relation to MPs' salaries is interesting. An *Advertiser* newspaper article of 20 October headed 'Northern Territory MPs clear leaders in the political stakes' states:

The 25 members of the Northern Territory Legislative Assembly, the smallest Parliament in Australia, are now the highest paid politicians in the country. The newly elected Chief Minister, Mr Ian Tuxworth, is the highest paid political leader in Australia, receiving nearly $3 000 more in base salary than the Prime Minister, Mr Hawke. This follows a Northern Territory Remuneration Tribunal determination this week to award Territory politicians an immediate 11 per cent pay rise. The determination, tabled in the Northern Territory Parliament without debate takes the base salary of Northern Territory Parliamentarians from $39 100 to $44 000.

By comparison, Federal Parliamentarians receive a base salary of $41 802. The base salary for Queensland MPs is $41 466, in Queensland $41 302, with Victorians getting $41 302 and those in New South Wales $39 558. The basic salary for MPs in South Australia is $37 500. The Premier, Mr Bannon, gets $81 055, while the Leader of the Opposition, Mr Olsen, and Government Ministers get $62 575. The Northern Territory wage increase means Mr Tuxworth, who was elected to his new post [recently] now has a base annual salary of $90 600.

This compares with Mr Hawke's base wage of $87 838. It is only considerably higher office and electoral allowances which preserve Mr Hawke's status as the politician who receives the most remuneration in the nation. The total Prime Ministerial wage and allowance package is $124 219.

Of course, on top of that we have motor vehicles, the Lodge, Kiribilli House, the consideration of air travel, and first class accommodation, all of which have been supported in relation to the position of the Leader of the country, as it is on a State basis in relation to the Premier of the day and others who have Ministerial rank. The Opposition believes that because that information is available there is every opportunity for the Tribunal to give due consideration to the relative position of the various groups for which it is to make a determination. There is still, in the first instance, the opportunity for the anomolies position to be resolved.

If the Minister was willing perhaps in the final discussion to consider the anomalous circumstances being corrected in the first instance but not thereafter, there may be some common ground—if there is not common ground in what is provided by the Bill, plus the amendments, directed to the attention of the Committee by the Opposition. The public at large believes that there must be a weighing in of escalating salary increases. The tribunal system is one that would allow the public interest to be adequately considered. The public could be completely happy with a Tribunal determination within the limitations that we seek to place on the Bill, so that it is not as open-ended as that provided by the Government. One concern of the Opposition is the fact that any respondent group appearing before the Tribunal may be represented by counsel. We believe that that is quite unnecessary.

The Hon. C.J. Sumner: You are saying that there should not be any increase in Government salaries at the moment?

The Hon. M.B. CAMERON: We want the same as other groups affected by this Bill. We want people covered by the Bill to be treated equally. If the Attorney-General believes that there is an anomaly, he should correct it and not leave it to the Tribunal to have an open-ended situation in relation to groups other than members of Parliament. If the Attorney-General wants to correct something, then he should go ahead and do it. The Tribunal should treat everyone equally. If members of Parliament are restrained under this Tribunal, then everyone should be restrained. There is nothing to stop the Attorney-General correcting an anomaly, if he sees that as the situation. He is in Executive Government and that is his job.

The Hon. C.J. Sumner: I thought that you just read out the Chief Justice saying that he did not want salaries set by Executive Government.

The Hon. M.B. CAMERON: That is what the Tribunal will do from now on. Let us make everyone equal under the Tribunal. We are talking about people who occupy very senior positions in the State and who are capable of standing on their own feet and presenting their point of view. If people of that ilk are represented by counsel, the Tribunal will want to be represented by counsel. Members of the public who wish to make representations, particularly in relation to MPs salaries, or who seek to be heard in relation to other salaries that the Tribunal considers, will then also want to introduce their own counsel. I do not know where this will finish. It will provide a field day for counsel. That

will then become an unnecessary and expensive exercise that the Opposition would oppose.

Mention has been made of the action taken in Western Australia, where a measure was submitted in 1975 that really only addressed the position of members of Parliament and not the other areas that we are dealing with in this Bill. The Commonwealth introduced its legislation in 1973. It has been amended a few times but has worked well. It has shown that there is a tribunal method which is satisfactory in these circumstances and which is untrammelled by intrusion of the Government of the day. That is as it should be. That is a measure to which the Opposition gives full support, but we do not support some of the specific detail that the Government seeks to incorporate in this Bill.

I have two amendments on file. The first amendment in relation to clause 23 will ensure that all groups are treated equally by the Tribunal, as I have already said in answer to an interjection from the Attorney-General. My second amendment will ensure that all persons with an interest can represent themselves, but not by counsel, because it is the Opposition's view that this situtation will very easily get out of hand and is unnecessary. In that situation there could be counsel appearing for one side and, as I said, the Tribunal determining that it needed to safeguard its position by also being represented by counsel. This could go on and on to a point where it became quite unmanageable from the Tribunal's point of view. We support the Bill at the second reading, but with the proviso that we will move amendments in Committee.

The Hon. K.L. MILNE secured the adjournment of the debate.

[Sitting suspended from 3.56 until 4.25 p.m.]

STATUTES AMENDMENT AND REPEAL (CROWN LANDS) BILL

In Committee.

(Continued from 21 March. Page 3436.)

Clause 54—'Consent of Minister not required to encumbering or mortgaging of leases and agreements.'

The Hon. PETER DUNN: I had asked the Minister to clarify the position in the Land and Business Agents Act regarding the obligation for the vendor to notify the purchaser of back rental or back encumbrances on that land. The Minister was seeking advice on that.

The Hon. J.R. CORNWALL: The Hon. Mr Dunn's concern was that we should devise some sure method whereby an incoming lessee would be appraised of any amounts outstanding under the lease, to which he would by virtue of his new purchase become liable. The Committee will recall that I agreed to adjourn the proceedings on this Bill until today so that I could take advice from officers of the Lands Department and Parliamentary Counsel.

The regulations under the Land and Business Agents Act, which was the subject of some discussion last Thursday, do not currently provide that such information is to be included in section 90 statements given to purchasers. We have co-operated in discussions with the Lands Department officers and Parliamentary Counsel in order to find a satisfactory way to overcome this. The Government, for its part, had no objection at all to devising a means whereby this should be made compulsory, provided that it was reasonably simple.

I have been advised following those discussions that it would be a relatively simple matter to amend the regulations under the Land and Business Agents Act to make such a provision. I therefore give an undertaking on behalf of the Government that such a regulation will be devised and will be promulgated either before this Bill is proclaimed after it has been passed by the Parliament or at least to coincide with the operation of the Bill, so the minimum undertaking is that an adequate and satisfactory regulation under the Land and Business Agents Act will be promulgated before or at the same time as this Bill comes into operation.

The Hon. PETER DUNN: I thank the Minister for making that offer. It is probably a reasonable and the easiest way out of the problem. Even though the Government had contact with the United Farmers and Stockowners over this Bill, it was really an oversight on the part of the United Farmers and Stockowners that it did not bring this to the Government's notice. In fact, it came along late and notified both you, Mr Chairman, and me that there was a problem here, even though we had identified it before United Farmers and Stockowners came to us. I thank the Minister for co-operating in fixing this matter up and agree with his regulation change to the Land and Business Agents Act.

Clause passed.

Remaining clauses (55 to 75) and title passed.

Bill read a third time and passed.

ELECTORAL BILL

Adjourned debate on second reading.

(Continued from 19 March. Page 3312.)

The Hon. K.T. GRIFFIN: Make no mistake, this Bill is principally about the implementation of ALP policy and not, as the Attorney-General has claimed, a substantial rewrite of legislation to codify electoral law and overcome major administrative problems. It is correct that some administrative matters are addressed, but the overwhelming majority of the provisions in the Bill relate to the Government's own policy. Any Government proposing such radical changes to a voting system as this Electoral Bill proposes ought to be regarded with the greatest suspicion. It makes radical changes to an established fair voting system, but there is no objective justification for the radical changes the Bill proposes.

The Government wants to do a number of things that will dramatically alter a system that has operated in the House of Assembly for many decades and in the Legislative Council since the 1982 State election.

There is a variety of matters that I will address in respect of this Bill: the first relates to voluntary enrolment and voluntary voting. At present the Electoral Act provides that anyone who satisfies the criteria for entitlement to vote may make a claim for enrolment. It is not compulsory, but once the claim for enrolment is made and accepted by the Electoral Commissioner the obligation to vote is then compulsory. If there are citizens who satisfy the criteria for enrolment who decide not to enrol, they do not have to. No penalty is imposed upon them if they do not exercise that choice.

The Bill introduces a penalty for failing to enrol when the criteria for enrolment in relation to a citizen have been established. Therefore, we move from a long established principle of voluntary enrolment to the matter of compulsory enrolment. That move will be opposed by the Liberal Party. The Bill maintains the present compulsory voting provisions, which have been in force in South Australia since 1942. At that time it was not a Government initiative but a private member's initiative to introduce compulsory voting in place of the voluntary voting that had been in force in South Australia for many years. In fact, compulsory voting has existed in this State for 43 years. We in the Liberal Party believe that it is about time that we did some serious

thinking, and that the community did some serious thinking, about compulsory voting and voluntary voting.

Australia and the Australian States are in the minority of democracies that compel citizens to vote. Among the major western democracies which have voluntary voting are the United States of America and the American States, Canada and the provinces of Canada, the United Kingdom, France, West Germany, and others. The only western democracies that have compulsory voting are Austria, Australia, Belgium, Greece, Liechtenstein, Luxembourg, and Switzerland. They make up a very small minority.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: We are looking at the major western democracies. There have been no problems in the United States, the United Kingdom, West Germany, Canada or France in respect of—

The Hon. C.J. Sumner: There haven't been any problems in Switzerland, either.

The Hon. K.T. GRIFFIN: I am talking about the question of voluntary or compulsory voting. The Liberal Party supports the proposition that there should be a serious rethink about the compulsory voting system in Australia, and that we should move to voluntary voting. In countries with voluntary voting there is no doubt that Party machines are more active in endeavouring to persuade electors to vote for them and to go to the polling booths, and the carriage and encouragement of persons to go to the polling booths is certainly much better organised. I am informed that, in those countries where there is voluntary voting, not only are the Party organisations better organised but there is a higher level of membership than in Australia or other countries where compulsory voting is required.

The Hon. C.J. Sumner: It's not related to the voluntary voting.

The Hon. K.T. GRIFFIN: It is related to the question of voluntary voting.

The Hon. C.J. Sumner: Look at the level of Party membership in Austria, for instance.

The PRESIDENT: The honourable Attorney will have lots to say in his summing up.

The Hon. K.T. GRIFFIN: In an article in the *Bulletin* of 13 November 1984 Mr Don Aitkin comments on a request by Prime Minister Bob Hawke that all Australians should join political Parties even, if they must, those of the Opposition. Mr Aitkin in his article was reflecting on the fact that in Australia, because of compulsory voting, there is no need for Australians to be involved in the Party machine.

The Hon. R.C. DeGaris: Perhaps that could be made compulsory.

The Hon. K.T. GRIFFIN: It is not even compulsory in the Soviet Union but in the Soviet Union some 11 per cent of the population belongs to the Communist Party. I suspect that is so they can participate in the various perks of office which come only to the members of the Party machine in that country. In Australia, Mr Aitkin comments:

> Compulsory voting in Australia has for 60 years removed the need for the Parties to get out the vote on election day, to canvass every household, to do the dozens of labour-intensive things with which Parties in other countries have to contend.
>
> So Australian political Parties have small memberships mostly because they do not need large ones. As a result, the Parties have become career structures for the politically active. Those already in the Parties do not want hordes of new members pouring in—they would only disturb existing arrangements.

I am not sure about that but the fact is that there is no need to join Parties with compulsory voting, where there is a penalty if you do not go to the polling booth, and all citizens, generally speaking, feel obliged to go to the polling booth rather than pay the penalty for not fronting up and having their names ticked off the list. I have no doubt at all that, in the light of the experience in those other countries to which I have referred where there is voluntary voting, there would in fact be a much less complacent attitude towards the electorate, that there would be a heightened electoral awareness of the Parties and their candidates, and that members of Parliament would have to be out in the electorate earning the support which they would need to be returned under a voluntary voting system.

I believe that the move to a voluntary voting system is something which would be progressive and would recognise that the right to vote is a right and a privilege and that it ought to be exercised by those Australians, and in the context of this Bill by all South Australians, where they feel a desire to be involved in the political process. To some extent, I would suggest that the large informal vote would be reduced by a voluntary voting system because there would not be the pressure under threat of a penalty for electors to have to go to the polling booth to have their attendance marked off the roll.

The Hon. R.C. DeGaris: Doesn't this Bill really kill the last of the voluntary systems in Australia?

The Hon. K.T. GRIFFIN: There is no doubt that, with the emphasis on compulsory enrolment as against voluntary enrolment, that is so—that the whole system becomes compulsory.

The Hon. R.C. DeGaris: The Council was always voluntary. But even that is not taken into account.

The Hon. K.T. GRIFFIN: The Legislative Council, as the Hon. Mr DeGaris indicates, was a voluntary enrolment and voluntary voting, but under this Government that certainly does not prevail. The Liberal Party in this context wants to retain voluntary enrolment and to move to voluntary voting in South Australia. I think that that would be well received by the populace at large, although may be not by some members of Parliament and Party organisations because of the additional work which would be involved in getting people out to the polls on polling day. In terms of an informed electorate I believe that it could only be to the advantage of electors and certainly not to their disadvantage.

I turn now to the question of the voting systems. It is important to recognise that in South Australia we presently have a system where, in the House of Assembly, electors are required to vote 1, 2, 3, 4, etc. by number for however many candidates are on the ballot paper, indicating their order of preference for each of those candidates. That has been a feature of the House of Assembly voting for a number of decades. The Government's Bill, incidentally, would eliminate that requirement and would equate number 1 with a tick or a cross. I will deal with that later.

The Legislative Council voting system has undergone some changes. Up to 1973, there was a system of districts, each returning four members elected at each election. The voting system was voluntary, as well as there being voluntary enrolment, but it was by number indicating the order of preference for the candidates of the elector's choice.

In 1973 we moved away from the district system to the 'whole of State' electoral system where all South Australians vote for 11 Legislative Councillors by proportional representation. In 1973, the system which was then introduced provided for candidates to be grouped together according to political persuasion or other interest and for electors to vote in order of priority for each list or group. It was essentially a Party decision as to who would be in a particular group and the order in which they would appear in that group. There was no opportunity at all to vote for individual candidates for positions in the Legislative Council.

That system attracted a great deal of criticism during the 1970s because of its emphasis on Parties rather than on individual candidates. With the Legislative Council system, in 1982 the Liberal Government introduced legislation which removed the list system and provided for not fewer than

11 preferences to be indicated where there was a half Legislative Council election, and optional preferences could be indicated thereafter. At least for the number of vacancies which were to be filled, individual candidates had to be voted for in order of the preference of the elector, and that system has been in effect for one election, the 1982 State election. The Government now proposes an alternative system.

Let me now relate the change that is proposed in the House of Assembly, where the Government proposes that a vote will be valid if an elector indicates an order of preference for all candidates or, alternatively, votes by a figure 1, a tick or a cross for one candidate who has lodged a voting ticket with the returning officer, that voting ticket indicating the way in which that candidate wishes preferences to be distributed.

The elector therefore can cast a valid vote by voting with a figure 1, ticking or crossing a particular candidate. At this stage I am not sure what the cross is really meant to indicate: preference for or a vote against a particular candidate where the cross is used. Alternatively, the elector can vote in full order of preference for all the candidates on the ballot paper. Where a candidate has not lodged a voting ticket indicating the way in which that candidate is proposing the distribution of preferences, then, if there is a vote by a figure 1 for that candidate and no other indication of preferences, the vote will be informal and certainly not be included in the count. That is one problem with that particular system.

The Legislative Council voting system proposed by the Government is that an elector may vote in order of preference for all of the candidates on the ballot paper or may vote by indicating number 1 in the square at the top of the list for a particular group, or a cross or a tick and, if that group has lodged a voting ticket with the returning officer, the preferences will be allocated according to the preferences indicated on that voting ticket.

If there is a vote by list and a vote also by order of preference for some candidates, as I understand the Government's Bill, the list will prevail unless all of the preferences have been allocated by the elector marking that particular ballot paper. However, if an elector indicates preferences for all candidates but doubles up on a number, the vote is still a valid vote up to but not including the number that has been duplicated, so one has a further variation with the Government's system.

The concern that the Liberal Party has with the radical changes proposed for the Legislative Council and House of Assembly is that for some electors there will be at least the impression of first past the post voting by number 1, a tick or a cross. This change will make it that much easier for a Government, which might be so persuaded to do so, to ultimately move to a first past the post system which I certainly do not support, nor does my Party, because it does not give a true reflection of the candidate who gains the greatest preference from a majority of electors.

The other problem that we see with the Government's proposal is in relation to the registration of political Parties and the inclusion of Party affiliation on ballot papers. The consequence of that is that there becomes an even greater emphasis on political Parties than there is at present, and less emphasis on voting for individuals, presuming of course that the individual candidates will at all times toe the Party line. That is an undesirable development—to move towards a greater emphasis on Parties. Although they are presently a fact of life, there is nevertheless a move, at least on the Labor side for some persons to stand as Independent Labor candidates and to be elected. That happens in the Liberal Party, too.

I refer to the seat of Goyder, where Mr Keith Russack stood as an Independent Liberal candidate and was successful. An emphasis on Party affiliations on ballot papers will undoubtedly place a greater emphasis on those Parties, rather than on individual candidates. We have to be particularly sensitive to the fact that it is ultimately individuals who vote in this place—it is not Parties. That is an important matter that ought not to go unnoticed within the electorate.

I will deal with the question of the registration of political Parties in a few minutes, but let me first finish off the discussion about the voting systems by referring to what I presume is the principal reason for the Government seeking to bring this in at present—and that is in relation to informal voting. In the 1984 Federal election we saw a high informal vote, not only in the Senate but also in the House of Representatives.

The Federal Electoral Commission is undertaking an inquiry to ascertain what information is available to identify the reasons for that informality. To some extent it resulted from the curious system of voting in the Senate and the different system in the House of Representatives. It also occurred because of the problems of advertising by the Electoral Commission in seeking to explain the new Senate system without reference to the unchanged system in the House of Representatives. A report in the Melbourne *Age* on 9 January by Mr Tim Colebatch comments about informal voting and states:

> The informal vote for the House was even higher than we thought. The latest figure puts it at 625 849 votes, or 7.2 per cent of all those cast. The final figure could be higher still. In 1983 informal votes numbered only 185 312 or 2.1 per cent.
>
> In the Senate by contrast where a single preference was counted as a full formal vote, the informal vote dropped dramatically. In 1983 it was 872 626 or 9.8 per cent; in 1984, 441 297 or 4.7 per cent.

He then goes on to state:

> The informal votes were not responsible for the unexpected 1.6 per cent swing against Labor. The weight of evidence from scrutineers is that there were more '1 Labor' votes than '1 Liberal'. But the difference was not enough to swing the result, except maybe in one or two very close seats.

He then goes on to comment about the Electoral Commission's television advertising focusing upon the new Senate voting system. It should be remembered that, in a comparison between the informal votes at the 1983 Senate election and the 1984 Senate election, in 1983 there was a requirement for all preferences to be indicated on the ballot paper.

New South Wales had a ballot paper over a metre long, and I can understand the difficulty in completing that satisfactorily. However, only 9.8 per cent of the electors across Australia in 1983 could not complete the ballot paper adequately, and that percentage reduced with the altered Senate system in 1984. The Electoral Commissioner made an assessment of informal votes in the 1982 Legislative Council election. Out of a total of 81 540 informal votes it is interesting to note that well over a quarter were vacant ballot papers (23 722). Of the other informal votes, 4 753 had fewer than 11 figures on the paper; 1 378 had no figure 1 on the ballot paper; 26 582 had two or more figures 1; 10 303 had Communists marked 1 and 2 and the ALP marked 1 to 11; 3 905 were Liberals indicating 1 to 7 with no National Country Party, but with some Foster 12 and Jamieson 13; 270 were illegible; 9 413 were crosses or ticks instead of numbers; 24 were signatures on the ballot papers; and 1 190 were ballot papers not placed in the ballot box.

The Hon. R.C. DeGaris: What was the informal vote there?

The Hon. K.T. GRIFFIN: That was 10.02 per cent.

The Hon. R.C. DeGaris: Was that the highest informal vote in South Australia?

The Hon. K.T. GRIFFIN: No, the House of Assembly had an even more significant informal vote than the Legislative Council. The Electoral Commissioner comments on

that. He says that at the 1982 House of Assembly election 46 896 electors voted informally—that is, 5.78 per cent of the total number who voted—compared with 10.02 per cent for the Legislative Council at that election. The Electoral Commissioner makes some interesting comments that in the Division of Price the informal vote was 17 per cent in the 1982 election, whereas in the 1979 election it was 7.4 per cent. I think that a large degree of difficulty is created by the compulsory voting system and the need to properly inform the electors, as far as that is ever possible, about the voting system.

If one eliminates from the Legislative Council informal vote the number of ballot papers that were vacant, and the number that were crossed or ticked, had signatures on them or were not placed in the ballot box, one brings the informal vote back to something in line with the average House of Assembly informal vote in the 1982 election. Therefore, fiddling with the system and bringing in even further changes is likely to be more confusing than enlightening and will only exacerbate the problem observed in 1982, which we would hope to a large extent would be resolved by a better understanding of the system—by education in the lead-up to the 1985-86 State election.

In respect of the voting system, the changes are radical and the Opposition will be seeking to maintain the *status quo*, of course placing a greater emphasis on the need for further education by the Electoral Commission. In relation to voting papers, the Liberal Party has no objection to the determination of the order of candidates in the House of Assembly and groups of candidates in the Legislative Council being decided by lot. We believe that the form of the ballot paper should be specifically set out in a schedule to the legislation and not be left to the individual discretion of an Electoral Commissioner. That is no reflection on the Electoral Commissioner. It is just that the form of the ballot paper can often be critical on polling day and it is for that reason that this very basic requirement for voting should be specified in the schedule.

A provision in the Bill provides for photographs of all candidates to be required by a District Returning Officer. The second reading explanation indicates that that could be in circumstances where candidates have the same names, but that was the only example given. I have a concern about photographs of all candidates on all ballot papers. I do not think that that is a necessary provision and in some instances it may be a disadvantage to the candidates. If photographs are to be provided for in the legislation, then the Opposition will move an amendment that will require all photographs to be photographs taken within 12 months of the date of the election rather than the candidates providing photographs where they may appear more youthful; such photographs would be misleading.

The Opposition also wishes to ensure that photographs are used only at the discretion of the Returning Officer where the surnames of two or more candidates are identical. It needs to be a matter of discretion, because in the Legislative Council it has frequently happened that there have been candidates of the same name, but it would be ludicrous to put photographs of all candidates on the Legislative Council ballot paper. Yet, in the House of Assembly it may be appropriate to distinguish with photographs between candidates of the same surname. So, where a District Returning Officer requires photographs in circumstances where there is the same surname for two or more candidates, the Opposition would want to ensure that all candidates on the ballot paper had their photographs included and not just those who had the same surname, and that only photographs taken within 12 months prior to the election date were used.

It is also possible by printing techniques to place different emphases on the quality of photographs. I do not expect that that would ever happen, but I would hope that a District Returning Officer who would seek photographs would at least give the candidates the opportunity to peruse the reproduction on the ballot paper before they are officially approved. In the context of a short election campaign I recognise that time constraints are significant, but I hope that there would be a measure of consultation with candidates by the District Returning Officer to ensure reasonable reproduction of the photographs that are submitted.

My understanding of the voting system proposed is that a system of numbering which may not be consecutive but which nevertheless is in an order of priority may be acceptable, and I instance numbers such as 1, 10, 21, 30, 50 and so on. They are not consecutive numbers, but they would indicate an order of preference. I do not believe that that ought to be a valid vote; the numbers indicated ought to be consecutive from 1 to however many candidates are listed on the ballot paper.

The Liberal Party will support the proposed system of declaration voting, removing the distinction between absent votes, postal votes, institutional votes, registered postal votes, electoral visitor votes and section 110 votes, because that change removes the potential for confusion in the minds of electors. However, we believe that some criteria should be established to identify the reasons that would allow an elector to vote before polling day. As the Bill stands at present, it is possible for any elector for any reason, whether or not it is reasonable, before polling day to say, 'I will not be available to go to the polling booth on Saturday; can I have a declaration vote?' and that will be allowed automatically, provided that that person is on the roll.

Of course, that may mean that someone who cannot be bothered going out on a Saturday, or someone who is going to the tennis or the cricket, playing tennis or cricket, or who is going to some other function may be able to obtain a declaration vote. Unless there are good reasons, such as illness, disability, absence from the area or so on, declaration votes should not be allowed; the emphasis should be on getting people to the polling booth. However, we support the change in the administrative requirements, generally speaking, as they affect declaration voting, and we are pleased that the postal declaration voting register will be retained for those who, by reason of distance, are unable to make an early application for a declaration vote, or for the physically disabled who find it difficult to get to and into the polling booth on polling day.

The other important aspect of voting is the allowance of mobile polling booths in remote subdivisions. Under the Bill the Electoral Commissioner may declare a subdivision to be a remote subdivision and for up to 12 days before polling day a mobile polling booth can cruise around the remote subdivision collecting votes. I believe that this is open to abuse. There are adequate facilities in fixed locations for voting, and the greater flexibility that is generally allowed for declaration voting is adequate to deal with the problems faced by people in remote areas of the State. The potential for abuse of the mobile polling booth system is sufficient for me to indicate that the Liberal Party will oppose the proposition.

The basic qualifications for enrolment are set out under clause 29. Those criteria are that the person has attained the age of 18 years and that the person is an Australian citizen or a British subject who was at some time within the period of three months commencing on 26 October 1983 enrolled under the repealed Act as an Assembly elector or enrolled on an electoral roll maintained under a law of the Commonwealth or a Territory of the Commonwealth, and his or her principal place of residence is within the

subdivision and he or she has lived in the subdivision for one month preceding his or her claim for enrolment. The other criterion is that that person is not of unsound mind.

The criteria are clear. The residential requirements of a principal place of residence within the subdivision for at least one month preceding the date of the claim for enrolment is a key to the whole area of enrolment. The Bill provides some exceptions to that basic entitlement to enrolment: it adopts the provisions of the Commonwealth Act in so far as that Act provides for an eligible overseas elector, spouse or child of an eligible overseas elector or an itinerant elector.

The Bill adds an additional provision in relation to prisoners. It seeks to provide that a prisoner's principal place of residence is the place that constituted his principal place of residence immediately before the commencement of the imprisonment or, if the prisoner so elects, in a subdivision nominated by the prisoner being the subdivision in which the prisoner intends to reside on his release from prison, and that the prisoner resides at that place or in that subdivision. That is a presumption. It will allow for all prisoners in Yatala, for example, to indicate to the Returning Officer for an electorate that they intend to reside in a certain subdivision in that electorate when released from prison. We cannot assess whether or not that is a genuine intention. The prisoner merely says 'I intend to reside in that subdivision', and the Returning Officer is obliged to enrol the prisoner for that electorate.

The potential is quite staggering: it can mean the influencing of marginal electorates by a prison population that may be favourably or unfavourably disposed to a particular political Party and may seek to influence the vote in that marginal electorate. With the prison numbers being what they are, it is not unlikely in that scenario that 600 prisoners may all decide to go on the roll in a particular electorate or be divided between several electorates and thus create a balance in favour of the Party that the prisoners have resolved to support. That is a most undesirable characteristic of this Bill and it should not be permitted.

We will certainly resist as strongly as we can that part of the Bill that allows those prisoners to elect which roll they will be added to for the purpose of an election. Because of the very grave potential for abuse of the system, the *status quo* ought to remain.

There are several other exceptions to the basic conditions precedent to enrolment, relating to itinerant electors and to an eligible overseas elector and the spouse or child of an eligible overseas elector who has moved overseas with a view to living with or near the eligible overseas elector. The Bill adopts the Commonwealth provision so that when the Commonwealth decides to change its legislation in respect of itinerant electors and eligible overseas electors this Parliament will have no say in that change. I have resisted in many instances the adoption of Commonwealth legislation that would allow an influence on State matters legislatively without an involvement of the State Parliament.

Itinerant electors in the Commonwealth legislation are persons who are in Australia but do not reside in any subdivision, and who are not entitled to have their names placed on or retained on the roll for any subdivision by reason only that they do not reside in any subdivision. For Commonwealth purposes, that itinerant elector who does not satisfy the residency requirements of the Act will be able to apply to the Australian electoral officer for a State to have his or her name added to the roll for a subdivision in that State, which is the subdivision for which the person's next of kin or, if the person has more than one next of kin, one of the person's next of kin is enrolled at the time the application is made: or the roll of the subdivision for which the person last had an entitlement to be enrolled, the subdivision in which the person was born; or, in a case in which there is no subdivision for which the person can apply for enrolment, the subdivision with which the person has the closest connection. That varies significantly the basic criterion for eligibility for enrolment. Because of the potential for manipulation of the roll by the recognition of itinerant electors, we will not support it.

We do not see the need for any special provision to be made for so-called eligible overseas electors. Under the Commonwealth Act a person who is on the roll and has indicated an intention to cease to reside in Australia, and has indicated that intention within one month immediately preceding the day on which he or she intends to cease to reside in Australia, applies to the Divisional Returning Officer and, provided there is an intention to return within three years, which again one cannot assess, that person goes on the roll as an eligible overseas elector. The present position of the Act allows some persons who are overseas to remain on the roll, and the *status quo* ought to remain in respect of those electors as well as prisoners and, where an itinerant elector satisfies the criteria, for those itinerant electors.

The other area of some concern is in respect of provisional enrolment of 17 year olds prior to attaining the age of 18. The Bill allows a person who attains the age of 17 to apply for enrolment on the provisional roll for a subdivision and then, when that person attains the age of 18, to be added to the formal roll. The concern that the Liberal Party has about this is that up to a year can elapse between a provisional enrolment and attaining the age of 18 and the place of residence may change within that period, so that upon the person attaining 18 the residency requirements for an electorate for which that person is provisionally enrolled will not necessarily be satisfied.

The other difficulty is that at the Matriculation level undoubtedly there will be added pressures on young people to provisionally enrol. For many of them, it is their Matriculation period and there is no doubt that they will be liable to further political pressure and agitation at the secondary level in those years. There is already concern about politicisation of the education system. We are of the view that provisional enrolment will add to the pressures for that politicisation at the secondary level in the most important period of a young person's educational life, namely, the Matriculation period.

One other matter that relates to enrolment is the mechanism for objection to an enrolment. Under the present Act any person can object to the enrolment of an elector and has to pay the fee of $1, which is specified in the Act. The Bill seeks to provide for a fee to be prescribed, and that fee is to be forfeited if the Electoral Registrar is of opinion that the objector has no reasonable grounds for objecting. In some respects, that could be regarded as minor, but there ought to be no major discouragement of objections to enrolment, and the potential where a fee is to be prescribed is that the fee might be such as to discourage legitimate objections to enrolment. For that reason, as much as possible ought to be in the Act rather than be dealt with by regulation. I propose that the actual fee be included in the Bill and be set at no more than $5, and that it be forfeited only if the objection is frivolous or vexatious.

With respect to writs for the election, generally speaking the Liberal Party supports the Government's proposal, which provides for a 24 day period between the issue of the writ and election day. I point out the exception that the period between the issue of the writ and the closing of the rolls is seven days; the Electoral Commissioner believes (in his report) that five days is appropriate, and the Liberal Party tends to support that. In fact, some 22 days will elapse between the issue of the writ and polling day, and five days would give adequate opportunity for persons to get on to the roll.

I turn now to the question of misleading advertising. The Bill contains a series of provisions which affect not only candidates but also the print media and radio and television—and affect the print media more than radio and television.

Clause 115 provides that electoral advertisements must contain the name and address of the person who authorised the advertisement and the name and place of business of the printer. I have no objection to that. However, the electoral matter which is to be inserted in a newspaper (and 'electoral matter' is defined as 'matter calculated to affect the result of an election') must carry as a headline, in letters no smaller than 10 point or long primer, the word 'advertisement', and that must also be before each article or paragraph containing electoral matter. There is no defence to that. If electoral matter is inserted in a newspaper, where publication has been made in consideration of payment in money or other consideration, an offence is committed.

Clause 116 provides:

> Where—
>
> *(a)* an electoral advertisement contains a statement purporting to be a statement of fact;
>
> and
>
> *(b)* the statement is inaccurate and misleading to a material extent,
>
> a person who authorised, caused or permitted the publication of the advertisement shall be guilty of an offence.

It is a defence to a charge for a defendant to prove that he took no part in determining the contents of the advertisement and that he could not reasonably be expected to have known that the statement to which the charge relates was inaccurate and misleading. I suggest that, where someone has authorised an advertisement, it must be presumed that that person was aware of its contents and at least approved the determination of the contents of the advertisement.

Clause 118 provides that it is an offence for a person during an election period to publish in written or printed form any article, letter, report or other matter consisting of, or containing, a commentary on any candidate or political Party or the issues being presented to electors, unless the name and address of the author appear at the end of the article, letter, report or other matter. That does not apply to the publication in a newspaper of a leading article, whatever that may be, or an article that consists solely of a report of a meeting, and where it does not contain any comment other than comment made by a speaker at the meeting on any candidate or political Party or the issues being submitted to the electors.

The other matter that I think is important to recognise in that context is that clause 135 provides a mechanism for interim injunctions and permanent injunctions by any candidate affected by the material or by the other contravention of the Electoral Act or by the Electoral Commissioner. I certainly believe that elections ought to be conducted using material which is accurate and not misleading. However, I challenge anyone to identify where fact begins and ends and where opinion commences.

It is all very well to have an ideal as expressed in clause 116 in the Bill, but it is another matter to give the Supreme Court, during the hurly burly, rough and tumble of an election campaign, the responsibility for determining whether or not a matter is inaccurate or misleading in a material respect, with a view to granting an interim injunction. It is important to recognise that during a three week election campaign there will be claim and counter claim; there will be expressions of opinion on both sides and some will purport to be supported by facts, but it may well be that those facts are at least subject to some sort of challenge.

In the circumstances where there are competing points of view as to the accuracy of those facts, the Supreme Court will be placed in the invidious position of determining whether or not an interim injunction is to be granted. An interim injunction is normally made by a particular applicant *ex parte* (that is, the other party is not represented); an interim injunction is granted and the court then sets a time for hearing the interim injunction question, and it may take at least some days before the interim injunction question can be resolved. In the meantime, if an interim injunction is imposed, the Party or candidate against whom the injunction has been ordered will be prejudiced in the conduct of his or her election campaign. It is a matter of major concern that an interim injunction is permitted in this way. I think that that may well seriously prejudice the reasonable conduct of an election campaign.

Ultimately it is up to the electors to decide which claim or counter claim they believe, and for the media to endeavour to report accurately statements of fact and matters of opinion so that the dispute as to accuracy can be out in the public arena. It is not a matter for the courts. Therefore, while I support the general principle of ensuring that accurate statements, as much as that is possible, are used during an election campaign, I do not believe the provisions in the Bill are adequate to ensure that legitimate campaigning is not frustrated to the detriment of a particular Party or candidate and to the unequal benefit of the applicant for such an injunction.

Let me make a few more comments on other matters. The first is in relation to a Court of Disputed Returns. Presently the judge constituting the court is the senior puisne judge or, if that judge is not available, then the next senior down the line. The present Bill does not fix any order of priority for constituting the Court of Disputed Returns. My preference is to retain the present position in the Electoral Act. There is also a provision in the present Act that a petition for a review of the conduct of an election is to be lodged with a deposit of $100 as security for costs. The Bill provides for a prescribed sum to be fixed, and that means it would be fixed by regulation. The second reading explanation does not indicate what amount is envisaged.

I would like the Attorney-General to indicate what amount he has in mind and, if that is reasonable, I would like to have it inserted in the Bill rather than leaving this to a regulation, because I think it is important that reasonable amounts are fixed and no unreasonably high amounts, and that petitions alleging irregularities in the conduct of elections should not be discouraged by a high fee as security for costs being required.

Clause 120 of the Bill provides that a person shall not take part in the conduct of an election in which he is a candidate for election. That provision is in place of a variety of provisions in the present Act relating to the provision of refreshments, soliciting votes, and so on. It is not clear what is intended. Is it intended that a candidate should not be on the staff of the Electoral Commissioner for the purpose of sitting in a polling booth, or is it intended that that should have wider implications such as attendance at a polling booth and handing out 'How-to-vote' cards? What exactly is proposed? If it means that it is only related to the formal conduct of an election by officers of the Electoral Commissioner, I have some concern about the limitation on it. I would like to explore in greater detail during the Committee stages some wider scope for the operation of that clause.

Clause 141 enables the Governor to make regulations authorising the use of machines or devices for the purpose of recording votes. There is a provision in the present Act for experiments to be undertaken but I think that, if there is to be an adoption generally of machines or other devices for the purposes of recording votes, we ought to ensure that that provision is included in the Statute and not in the regulations. Whilst I do not discourage the experimentation in relation to voting machines and devices, I think that it ought to be limited to experimentation and that a widespread

use of those devices ought to be allowed only if the matter comes back to Parliament and is enacted in specific provisions of the legislation. Because voting machines are still in many respects experimental. I would want to ensure that there were adequate precautions taken to prevent abuse.

I want to focus on clause 127, which I think weakens the statutory offences which persons, who act dishonestly in the conduct of an election, may commit. The attempt to exercise a vote to which a person is not entitled is something which ought to be strictly dealt with. Likewise, a person who votes more than once at the same election ought to suffer greater penalty than is proposed in the Statute.

There are other matters to which I would want to refer during the Committee stage of this very important and extensive Bill. Let me just conclude by saying that, if there are not substantial amendments made to the Bill to reflect many of the matters to which I have referred, then the Liberal Party is proposing to vote against the third reading, because that is the ultimate remedy for recording our disapproval of the way in which this Bill proposes quite radical changes when we do not see the need for them. Such action will not prejudice the proper administration of the electoral system. It will retain the *status quo* and that, we believe, is preferable to the radical provisions which are included in this Bill. To enable further consideration of the matter I support the second reading.

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

SUPPLY BILL (No. 1) (1985)

Adjourned debate on second reading.
(Continued from 19 March. Page 3317.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this Bill as we always do and as we always have since the beginning of the Parliament, but there are a few words I would like to say in relation to the Supply Bill, not about rust-proofing, so do not get too excited, Mr President, at this stage. It is rather interesting that the timing of the Supply Bill—I trust for the sake of the Attorney-General it is not brought in early this year for the same reason that it was in 1979, because that was the last time we had an early Supply Bill. It does seem to be unusually early.

An honourable member: Very much so.

The Hon. M.B. CAMERON: Very much so and it—

An honourable member interjecting:

The Hon. M.B. CAMERON: No, one wonders. We will see whether the Attorney-General is still in control of the Labor Party in relation to early elections, but it is interesting that the last time this event occurred was in 1979. The Supply Bill grants the Government money for the early months of the next financial year. I wonder why it should be introduced now when so little precise budgetary information is available to members to know just what is going on in relation to the Government's financial programme. I wonder whether the Government plans to curtail this session as soon as possible. It could be the Government has been doing so badly within the Parliamentary sphere these past few weeks that Government members would like to get out of the place before any more disasters occur.

We are still awaiting many of the measures referred to in the Governor's Speech. I wonder whether most of these will now be put on the back burner so as not to light the flame of controversy this year. I wonder whether some of the funds in the Supply Bill will be used to bring on the new Economic and Employment Development Programme outlined by the Labor Party at a recent conference, which was very interesting indeed. It might be as well, because some of them directly relate to the way in which Government funds will be expended in the future, to see what Government members have in mind in relation to the way in which they will expend the Government funds that we are granting in the Supply Bill.

Of this Economic and Employment Development Programme that they have now brought into being, as discussed last week-end, item 2.4 states:

> Labor recognises that the present balance between the public and private sectors of the mixed economy does not provide an effective basis for economic recovery to restore full employment. It will therefore be necessary to significantly increase the scope and role of public equity and social ownership.

What that means is that we will see a rise in Government involvement within the community at all levels. I wonder whether this programme will be announced before the next election: whether we will see this, or whether in fact this programme will be brought forward before the next election—whether we will just see what the Government of this day has in mind, because that is the sort of thing that people ought to know. It could well demonstrate the very clear difference between the Government and the Opposition. Paragraph 2.5 goes on to say:

> Labor recognises that reliance on increased private sector profits and the restoration of business confidence is neither an effective nor equitable approach to restoring full employment.

What does that mean? Does it mean that even if one is not making profits one still gets full employment back through involvement of the Government sector? This lengthy document was debated recently by the Labor Party. Although I will not go through it all, I will refer to those points that relate directly to Government expenditure and the way that the Government, if it really means what was debated, will be expending some of the funds now allocated under this Supply Bill. Paragraph 7.1.1 provides:

> A Labor Government will develop a co-ordinated and planned public sector growth in terms of role, functions and numbers employed. It will maximise employment positions in the public sector.

Maximise means to increase—that is certainly what I would understand that paragraph to mean. Indeed, paragraph 7.1.3 *(b)* provides:

> The establishment of Government and union directors on the boards of private sector organisations who obtain the benefit of substantial public funds.

Does this mean that from now on when companies are given money under certain Government assistance programmes that automatically there will have to be Government and union directors on the board? Will this policy be brought into effect? Will we see a Bill in this session to bring that about? Will it be in the next session, the Budget session? I will be interested to see what happens. Paragraph 7.1.4 provides:

> Increased public sector spending to maintain services in real terms per head of population.

Again, this can only have one direction—increased Government expenditure—and that means increased taxation on the people of this State. There will be no choice. Paragraph 7.1.5 provides:

> To regulate its financial position by raising tax rates rather than cutting public expenditure programmes.

That really means that the Labor Party believes in increasing taxes. All the Premier's hints about dropping taxation must be nonsense if this is now the position of the Labor Party because, in effect, it has said in its policies that it will raise taxes rather than cut public expenditure programmes. That significant statement means exactly what it says. Certainly,

I congratulate the Labor Party on being absolutely honest, but I hope that we will not see the Labor Party in the next few months trying to continue these hints about what it will do about taxes. In regard to public works, paragraph 7.2.1 provides:

A State Labor Government will require all public works to be carried out by Government instrumentalities.

That deals with all public works—not just some. This motion is direct. Certainly, that must cause a shiver of concern down the back of everyone associated with the private sector. That is a clear and bald statement:

A State Labor Government will require all public works to be carried out by Government instrumentalities. It shall be a condition of contract that subcontractors ensure that union labour when available shall be employed.

This document goes on and on. I ask the Premier and the Attorney to indicate whether this document is now official Labor Party policy and whether we will see in the next few months Bills introduced to give effect to the matters contained in this economic policy document, which was debated a couple of weeks ago by the Labor Party. I am sure that the Hon. Mr Milne was not aware that the policy of the Labor Party is that all public works be carried out by Government instrumentalities. What will be the result in this State if by some chance the Labor Government is returned, although I believe that that is highly unlikely? This Supply Bill and the issue of Government economic strategies go hand in hand. The so-called economic and unemployment development policy discussed by the ALP State conference during the weekend before last is a fair indication of what we have in front of us. As we know, such a policy is binding on the Labor Party because every Labor Party member—and I use these words clearly—sells his or her conscience by agreeing to the Party line on every issue.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: That is exactly what happens. I have been here for years and years—13 years.

The Hon. C.M. Hill: They sign the pledge.

The Hon. M.B. CAMERON: Yes. Not once in that whole time has any member, except the Hon. Mr Foster, crossed the floor.

The Hon. C.J. Sumner: Frank Blevins did.

The Hon. M.B. CAMERON: What on? Some so-called conscience issue. They have not crossed the floor once when a matter of Party policy has been involved and that is part of their platform. The Attorney knows what happens in regard to members of the Opposition. From day to day he sees them exercising their rights within Parliament.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: This policy is hardly a policy to promote a healthy economy; indeed, it would encourage unemployment, enhancing the conditions of those who have jobs and continuing to deny young South Australians a prosperous and employed future. The policy constantly talks about redistributing wealth but avoids talking about creating or increasing wealth. Surely it is through the latter that the real good of the community will grow.

Even though the Government has passed this document, I urge it to have another conference and put it aside. The Government must know that such policies are an ineffective means of curing the problems confronting society today—totally ineffective. If the funds that we are allocating in this Bill are to be used to promote such policies, then certainly we should be grateful to the Government for putting this policy forward now. There is no doubt what the result of the next election will be because the Government has clearly shown the difference between itself and the Opposition. That is what we want. It will be a great pity if the Government in the next few months attempts to go in that direction because it will be against the best interests of the community, the unemployed people and the economy of South Australia.

The Opposition supports the Bill and trusts that the Government will spend these funds a little more wisely in future. If the Government wants an example of unwise expenditure, we have already debated a certain swimming pool, and I will not go through the details of that again because I know that you, Mr President, would bring me back into line because you have always been very strict in how you allow members to discuss the Supply Bill. I trust that some of the money will be used in building a sewerage treatment works at Finger Point.

The Hon. C.M. Hill: Where is that?

The Hon. M.B. CAMERON: Finger Point, in the South-East. That situation is an absolutely public disgrace. The Government has the opportunity now to make some steps in the right direction. Even if it starts to investigate the first site it would be a move appreciated by people in the South-East and in the fishing industry. The Minister of Agriculture and the Premier should not just travel to the area, go out in a fishing boat and get within a mile of shore, where you cannot see any problem, and then travel home again. I can tell the Attorney that his Government received no good marks in the South-East as a result of that exercise. I watched the reaction of the crowd. The Minister of Agriculture was not aware that I was present. The Minister could quite easily have won them over. They would have been his for life. All he had to say was, 'Yes, we will make a move,' but he did not do that.

The Hon. C.M. Hill: They take all the money into Whyalla. That is the latest plan.

The Hon. M.B. CAMERON: That is right. They must have conducted Gallup polls there. I trust that some move will be made soon in relation to the problem at Finger Point, because it is a public disgrace. This is a very serious matter indeed for our fishing and lobster industries. I know that some fishermen have been irresponsible and have fished in the area near there, but they should not have to worry about that. There should not be such a situation there; there should not be restricted zones there. I trust that some of these funds will be used to start that project. We must get it under way. Let us stop the talkfest, the visits and everything else. There is no need for anyone to visit the area: everyone knows what it is like—it is a disgrace. The Opposition supports the Bill.

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

ADJOURNMENT

At 6.2 p.m. the Council adjourned until Wednesday 27 March at 2.15 p.m.