LEGISLATIVE COUNCIL

Wednesday 27 March 1985

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

QUESTIONS

PENALTY REMISSION

The Hon. M.B. CAMERON: I ask the Minister of Agriculture a question, part of which he did not answer yesterday. Will he withdraw those sections of the Potato Marketing Act, and introduce legislation to bring that about, that have led to the present problem of additional penalties of, in one case that he knows about, $12 000 for selling potatoes in the wrong sized bag?

The Hon. FRANK BLEVINS: The issue of the additional penalties under, I think, section 21a of the Potato Marketing Act is under active and urgent consideration by the Government at the moment. I hope to be able to make an announcement on that next week.

HOSPITAL INCIDENT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about an incident at the Royal Adelaide Hospital.

Leave granted.

The Hon. J.C. BURDETT: I understand that late on Friday last a patient in ward S2 or S3 (certainly one of the northern wards) of the Royal Adelaide Hospital shot himself fatally. I understand that the shooting occurred in the toilet area and that the staff had no prior warning. I believe that the police are investigating the matter, but obviously a Health Commission investigation into security procedures is needed, as well. The possibilities are alarming—a demented patient, if he can get firearms into the hospital, can shoot half of the patients and staff in a ward. My questions are:

1. What investigation into this matter has been set up by the Minister?
2. Who is conducting the investigation?
3. What are the terms of reference of that investigation?
4. When will the report of the investigation be issued?
5. What are the present security precautions at the Royal Adelaide Hospital with regard to the taking in of firearms?

The Hon. J.R. CORNWALL: The matter raised by the honourable member is clearly one for the police and the Coroner, in the first instance. I do not believe that it would be appropriate for me to comment on the matter further at this time. Quite clearly, security is always a problem in a large teaching hospital like the Royal Adelaide Hospital, which has in excess of 900 beds. I think that it would be unwise for me to try to recall in any detail what the specific security arrangements are at the hospital, but I am pleased to take that part of the question on notice and will bring back a reply.

JUDGE LAYTON

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about an Industrial Court judge.

Leave granted.

The Hon. K.T. GRIFFIN: An announcement has been made in the past week or two that Judge Layton of the Industrial Court has been appointed to the Commonwealth Administrative Appeals Tribunal. Judge Layton, in addition to being an Industrial Court judge, is a judge of the Local and District Criminal Court. Some months ago a report appeared in the *Commonwealth Record* (a publication identifying Commonwealth Ministerial announcements, appointments and a variety of other Commonwealth decisions) indicating that the appointment of Judge Layton was to be on a part-time basis. A report that appeared in a newspaper in the past week or two suggested that this was now a full-time appointment. In the light of the apparent uncertainty about the status of Judge Layton, I ask:

1. Has Judge Layton retired from the Industrial Court and, if she was a member of the Local and District Criminal Court, has she resigned from that position?
2. If she has not so resigned, what are the arrangements with the Commonwealth in respect of her new position *vis-a-vis* her State judicial office?
3. If she is no longer a South Australian judge, has all of her entitlement to superannuation under the Judges' Pensions Act been transferred to the relevant Commonwealth superannuation scheme?
4. What payments, if any, have been made to Judge Layton by the South Australian Government on termination of her position, if in fact she has resigned from her State judicial offices?

The Hon. C.J. SUMNER: I am not completely *au fait* with all the details that the honourable member has requested. The Minister responsible for the Industrial Court is the Minister of Labour. In broad terms, I understand the position to be that Judge Layton was appointed to a Federal position (the Security Appeals Tribunal was one such appointment) while she still held the position of Deputy President of the Industrial Court.

I think that appointment was to be on a part-time basis (I am not sure whether that is the Commonwealth appointment to which the honourable member refers) and she was to continue as a judge or Deputy President of the Industrial Court. Subsequently, I understand that Judge Layton has decided to accept a permanent appointment with the Commonwealth Administrative Appeals Tribunal and will, if she has not done so already, resign her position as a Deputy President of the Industrial Court. I am not sure whether that has actually taken place at this stage but, as I understand it, that is the intention of the learned judge. Initially, Commonwealth appointments were made on a part-time basis. She has now decided to accept a full-time Commonwealth appointment and will resign her State commissions.

I do not believe that Judge Layton was appointed a judge of the Local and District Criminal Court. I think that that practice, which was to appoint an Industrial Court judge or Deputy President of the Industrial Court automatically as a Local and District Criminal Court judge, has not been followed in recent years. Indeed, I do not believe it was followed during the term of the previous Government; for instance, I do not believe that Judge Lee or Judge Russell were actually appointed as judges of the Local and District Criminal Court. However, I stand to be corrected on that point. My understanding is that they were appointed as Deputy Presidents of the Industrial Court and not to any other position. However, I believe that earlier on some judges held commissions in both courts.

I do not believe that Judge Layton was in that position. Therefore, there was no need for her to resign from the District Court. As I understand the position, as she is accepting a full-time Commonwealth appointment with the Administrative Appeals Tribunal, she will resign from any State commissions that she holds. With respect to the details of entitlements received or transferred to the Commonwealth, I am not aware of any details. I imagine that the judge

would have received on termination whatever entitlement she had by way of long service or annual leave. As to the arrangements between the State and the Commonwealth with respect to her superannuation, I am not aware of those arrangements, if any. I will attempt to find out those details and let the honourable member know.

COMPULSORY FIRST AID CERTIFICATES

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question about compulsory first aid certificates.

Leave granted.

The Hon. R.I. LUCAS: Over a number of years there have been many proposals for new applicants for driving licences being compulsorily required to undertake a first aid certificate course through agencies such as St John and possibly Red Cross. I have been informed that Cabinet has supported the principle of such a compulsory first aid certificate course and is now considering the detail of such a scheme before a final decision is taken, possibly some time next month. I am also informed that the Government estimates of the extra cost involved for each applicant for such a compulsory driving test would be $12.

The hours of training involved might be about five to six hours for each applicant. Some concern in Government circles has been expressed to me about this possible new impost. The $12 may not seem much but for someone 18 or 19 years of age, perhaps unemployed, living on social security and looking for a job, it might be a significant impost.

It has been suggested to me that, if the Government is committed to this line of compulsory first aid certificates and an impost of $12 for each new driving applicant, one possible alternative for people who are in need and who are going to have difficulty in respect of the new Government impost might be for assistance to be provided by a specific form of subsidy from the Government if people can prove to a section of the Government problems in meeting what might be a compulsory impost. My questions to the Minister are:

1. Does the Minister support the introduction of compulsory first aid certificates for driving licence applications?

2. Can the Minister confirm the agreement of Cabinet in principle to compulsory first aid certificates?

3. Can the Minister confirm that the Government estimates of the new impost on all drivers taking the driving licence certificate would be $12?

4. If that is correct, will the Minister consider some form of subsidy for only those people who can demonstrate some proven need?

The Hon. J.R. CORNWALL: The first three questions are about matters for consideration by Cabinet. I have not been in the habit of discussing publicly matters before they go to Cabinet. The fourth question regarding subsidy therefore becomes irrelevant in the circumstances. The honourable member will simply have to wait. It is very interesting that he should raise the matter in this way. The fact is that the question of compulsory first aid courses for first licence applicants is Liberal Party policy. It has been announced and reannounced on a number of occasions by the member for Davenport, Mr Dean Brown.

The simple fact is that if such a policy is adopted by this Government there will be a cost. Whether it was this Government or whether it was—God help us—the alternative Government, there would be a cost. You cannot run five or six hour courses, for something in excess of 20 000 applicants for new licences every year, for nothing. Obviously it costs money. That has to be raised one way or another.

The Hon. Frank Blevins: Have the Liberals costed their policy?

The Hon. J.R. CORNWALL: The Liberals have not costed their policy at all. They have just said that it seems like a good idea and they will do it. They have not said how they will finance it. They have not said whether they would subsidise the scheme, whether it would come from general revenue, whether it would be a charge against individual applicants for that first licence or anything else. Maybe the Hon. Mr Lucas could come back and tell us whether the Liberal Party has costed its scheme, and what it thinks it would cost in its estimate. Perhaps the Liberals ought to come clean and tell the people of South Australia where they would obtain the money from—this carping Opposition, this negative Opposition that is always talking about taxes and charges.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Whether the individual cost is $10 or $12 or whether the estimated annual cost is $300 000 or $400 000 seems to me largely irrelevant if it would help to reduce the road toll. For the Hon. Mr Lucas, in these circumstances, to have the gall to get to his feet knowing that his own Party has announced this as policy on a number of occasions without costing it is—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! If the Hon. Mr Lucas wants to hear the reply, he should stop interjecting.

The Hon. J.R. CORNWALL: He clearly does not want to hear the reply, because he has made an absolute fool of himself by asking the question. If the advice to the Government is consistently that, based on overseas experience this sort of procedure may save lives, either by increasing the awareness of the applicant for that first licence, or by having literally in a short space of time tens of thousands of people with basic training in first aid and cardio-pulmonary resuscitation, then any Government worth its salt would move to introduce such a scheme. On the other hand, if the assessment based on overseas experience is that it is of limited value, clearly that puts a different light on it altogether.

Already the Liberal Party has stated it will introduce it willy-nilly. It has not costed it or told the people of South Australia what it would be likely to cost. I am able to say that the Minister of Transport and I have developed a range of options that will be presented for Cabinet consideration within a matter of weeks and, when Cabinet has taken that decision, it will be announced one way or the other. I am not about to canvass one way or the other what will be submitted to Cabinet or to speculate on what its decision might be.

RADIOACTIVE CONSIGNMENT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Mines and Energy, a question about a consignment of radioactive material shipped in last Sunday.

Leave granted.

The Hon. I. GILFILLAN: Last Sunday evening the scam carrier ship *Boogabilla* from Finland arrived at Port Adelaide and unloaded consignments of radioactive material originating at Roxby Downs. It was transported at 10 p.m. that evening, consigned to Roxby Downs through Adelaide. My questions are as follows:

1. Were the containers checked for emission of radiation before they were offloaded? Were they checked after they were offloaded?

2. Were the workers and police involved in the unloading monitored for radiation exposure?

3. What method of storage will be used for this material at Roxby Downs?

4. What material has been left in Finland? Who is paying for the tests done in Finland? Who is the technical owner of the ore?

The Hon. FRANK BLEVINS: I will be pleased to refer the list of questions asked by the honourable member to my colleague in another place and in due course bring back a reply.

CORRESPONDENCE SCHOOL

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Education, a question about the Correspondence School.

Leave granted.

The Hon. PETER DUNN: At present 13 subjects are available to Correspondence School recipients in year 12 whereas the metropolitan area has about 200 subjects available. TAFE has been teaching year 12 and is now relinquishing that post to the Correspondence School, which is having difficulty writing these courses. It also announced a fee of $20 per student, I presume to supplement the writing of the courses and the distribution of the material. Also, the Homestead video scheme, whereby free videos are given to primary school students, is at this stage not available to secondary school students. In a circuitous manner it is available, and if primary and secondary school students are together, one can use the Homestead videos available to those primary school students. At this stage the Correspondence School has been teaching about one lesson per week in year 12.

Will the Government expand the Homestead video scheme so that all secondary school students may have access to the equipment now that the Correspondence School is taking over the teaching of year 12? Now that the Correspondence School will be teaching year 12, will the number of optional courses be expanded beyond 13 courses to give a wider choice to prospective students? What is the Government's future policy in relation to both these matters?

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

HOSPITAL WAITING LISTS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question concerning booking or waiting lists in metropolitan hospitals.

Leave granted.

The Hon. L.H. DAVIS: In September last year, after repeated questioning on the matter of public hospital booking or waiting lists, the Minister of Health indicated that a committee had been established to review the position and make suggestions to better monitor booking or waiting lists in metropolitan public hospitals. The Minister then indicated that he anticipated that a report on this matter would be available by March 1985. Does the Minister expect the committee report to be available this March? Given the importance of the issue, will the Minister advise whether or not there has been increasing pressure on booking or waiting lists at metropolitan public hospitals in recent months?

The Hon. J.R. CORNWALL: The answer to the second part of the question I gave some weeks ago at the beginning of the autumn session. I know that I then went into it in quite some detail. The honourable member will find that it is all in *Hansard*, but I am perfectly happy to do it again. The task force was established in September last year, from memory, and was asked to report by 29 March 1985, which is now getting fairly close. The task force was established to review arrangements for the administration of waiting lists at the major metropolitan hospitals. Its terms of reference, just to refresh honourable members' memories, although, as I said, the Hon. Mr Davis or anybody else can probably find this in *Hansard* in February, are:

1. Review numbers of patients awaiting, by speciality and period, since listed for admission at RAH, QEH and FMC.
2. Review arrangements of the administration of in-patient waiting lists at the major metropolitan hospitals, and make recommendations.
3. Review policies and procedures for determination of priorities for 'cold' admissions and make recommendations.
4. Recommend and introduce appropriate information systems and reports to allow waiting lists to be kept under review at all relevant levels, that is, clinical unit, division, Hospital Board and Health Commission.
5. Make recommendations to optimise effective management of waiting lists.
6. Recommend arrangements to ensure waiting lists are kept under review.
7. Report before 29 March 1985.

The membership of that task force is Mr E.J. Cooper, Mr J. Blandford, Dr B.J. Kearney, and Mr W.R. Layther.

In addition to the terms of reference, the task force has been asked to address the problem at some non-public hospitals, where people have presented for hip and other joint replacements, because of the waiting lists or booking times in public hospitals. Regarding the progress of the task force, a literature review of recent relevant articles was undertaken and discussions were held with hospital staff on waiting list issues. The task force considered waiting list management and issues in the context of the terms of reference and another project on patient care information systems being conducted at the RAH and FMC.

A survey of waiting list information was conducted during November and December 1984. Details of each elective admission during the month from 19 November to 16 December 1984 were recorded and subsequently analysed. In some areas, historical data for the previous two months was also analysed to complement the survey data. On a date in December, the total waiting lists at each hospital were reviewed to provide comparable information for the three major teaching hospitals.

A series of interviews was conducted with a range of hospital staff from administrators to directors of specialist units to ascertain the current method of operation of waiting lists and clinical and management needs for improved waiting list systems.

A questionnaire was developed covering the use of waiting lists for management, the policy for elective admission of surgical cases and the statistical measures appropriate for all users of waiting list information. A preliminary report was prepared, canvassing the waiting list concepts developed and suggesting guidelines for managing waiting lists. This included a description of the survey and preliminary data. It has been distributed to the hospital for review and comment. Questionnaires completed by staff in hospitals are still being received. That was at the end of February 1985.

Following receipt of hospital comments on the preliminary report and data, and following analysis of questionnaires, a draft report will be prepared for further consideration by the task force. This was expected—this is at the end of February, I stress again—to identify quite new directions in waiting lists management. As to early findings, not a great deal can be said at this stage—again, I remind honourable members that this was prepared for me towards the end of

February—as the hospitals have yet to comment on suggested systems and the preliminary data. Nevertheless, it appears that the preliminary outcome could indicate that waiting times are at generally accepted limits for most surgical procedures.

Moreover, members of the task force do not believe that the data available to date suggests that waiting times are longer than have been historically experienced in Adelaide. However, there are problems in some specialties at some hospitals. I have said in this Council many times before that there is a special case at Flinders, where there is very heavy pressure on what is the busiest teaching hospital, surgically, in Australia, based on the actual bed numbers. Flinders Medical Centre reports more general and severe difficulties than do the other two major hospitals. The hospital's ability to manage their waiting lists within existing resources should be enhanced as a result of the task force's recommendations.

The report again goes on to say, remembering that this is just an interim report prepared for me in February, that the issues of waiting list management are complex and cannot be divorced from other hospital management issues such as theatre utilisation, bed state management and hospital staffing. It is intended that guidelines arising from the study will be designed to form a basis for motivating hospital staff to optimise utilisation of resources and improve the quality of patient care.

That is the state of play at the moment. I expect that task force report to be in my hands in the very near future. I will consider it and will certainly take it to Cabinet. What becomes of it from there I will not speculate on at this stage except to say that, clearly, it will be used as a most important document for rationalising booking and waiting lists in South Australia, a job that has never previously been done in this country.

We will certainly rationalise waiting lists to insure that there is no discrimination between public and private patients, between hospitals or between departments and units within hospitals. I anticipate that at some stage in the not too far distant future, also, this will become a public document, since it would be a matter of very considerable interest and moment to everyone in the health system and to very many people in the State of South Australia.

The Hon. L.H. DAVIS: A supplementary question, Sir. Will the Minister answer the second question: given the important issue of waiting or booking lists, can the Minister advise whether or not there has been increasing pressure on waiting lists or bookings in the metropolitan hospitals in recent months?

The Hon. J.R. CORNWALL: I answered that, but I will read it again slowly and hope that the Hon. Mr Davis can absorb it. It is clearly part of the voluminous notes to which I referred in answering the questions. As to early findings, not a great deal can be said at this stage as the hospitals have yet to comment on suggested systems and the preliminary data. Nevertheless, it appears that the preliminary outcome could indicate that waiting times are at generally accepted limits for most surgical procedures. Moreover, members of the task force do not believe that the data available to date suggests that waiting times are longer than have been historically experienced in Adelaide.

POLICE COMPLAINTS

The Hon. ANNE LEVY: Has the Attorney-General a reply to a question that I asked on 19 February about police complaints?

The Hon. C.J. SUMNER: The following table shows details of complaints processed by the Police Department as well as the number on hand at 30 June of each of the last two financial years:

	1982-83	1983-84
Complaints substantiated	18	29
Investigated and refuted	126	170
Investigated and unable to resolve on available evidence	89	159
Withdrawn by complainants	5	14
Investigations undertaken but not completed at 30 June	108	102

TRANS-HOSPITAL SPECIALIST SERVICES

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

Leave granted.

The Hon. R.J. RITSON: I am moved to ask this question because of something the Minister let slip some weeks ago when he indicated that he had a dream of one metropolitan teaching hospital with several campuses. That is probably a long way off, but some specialists have developed or are attempting to develop multi-disciplinary teams to provide high technology services in some highly specialised areas and, indeed, perhaps in some areas that are not so technically specialised but should have on the team a fairly broad spread of medical and para-medical people.

Unfortunately, the organisation of various hospitals and the clinic system in the city of Adelaide is somewhat possessive and some specialists will be appointed to only one hospital. They will find that the ideal person—perhaps the ideal anaesthetist for a particular procedure, or the ideal assistant or the ideal speech pathologist—is appointed to another hospital. In some cases the twain are not allowed to meet, because of administrative difficulties and some degree of possessiveness. The response then tends to be that, if there are two people interested in the same area of a particular speciality appointed to different hospitals, they tend to try to generate an entire unit each. Indeed, there may be a need for two surgeons in terms of volume of work but, if they are each constrained to work within their own hospital, then they tend each to build up a separate support base leading to some duplication.

I think that one instance about which the Minister may be in receipt of, or be about to receive, a submission relates to cochlear implant, where some of the personnel for an ideal team are appointed at one hospital and some at another. Does the Minister believe that, if some of the administrative and parochial barriers can be overcome, there ought to be increasing development of highly specialised teams which can function in any or several of the public hospitals which use personnel already appointed or salaried within the global hospital system so that that team can come together for specific purposes as a regular team regardless of the hospital at which the team members have their principal appointment?

The Hon. J.R. CORNWALL: The short answer to that question is an enthusiastic 'Yes'. It is refreshing to get such a constructive and well informed question from the honourable member. How it contrasts with the destructive and negative sorts of questions so often raised in this place by the Hon. Mr Davis! The Hon. Mr Davis skulks about ringing up people at the Queen Elizabeth Hospital and—

The Hon. M.B. CAMERON: I rise on a point of order. I do not recall the Hon. Mr Davis being involved in the answer to this question and ask the Minister to withdraw his comment that the Hon. Mr Davis 'skulks about'.

The PRESIDENT: The honourable Minister has been asked to withdraw his statement regarding the Hon. Mr Davis and I ask him to withdraw.

The Hon. J.R. CORNWALL: I do not know what you are talking about, Mr President, so I cannot help. I said that the Hon. Mr Davis skulks about ringing up people at the Queen Elizabeth Hospital trying to create mischief in our various organisations—

The Hon. M.B. CAMERON: I rise on a further point of order. I do not quite know what the Minister is on about but I ask him to withdraw that statement because it is a direct reflection on a member in unnecessary terms.

The PRESIDENT: Like the Minister, I am not sure what the actual statement was.

Members interjecting:

The Hon. M.B. Cameron: Carry on, we all know what a clown you are.

The PRESIDENT: Order! Does the Hon. Mr Cameron wish to pursue this point of order?

The Hon. M.B. CAMERON: No. He won't be Minister for much longer.

The PRESIDENT: I call on the honourable Minister. I think he was answering the Hon. Dr Ritson and praising him.

The Hon. J.R. CORNWALL: Before the honourable Mr Cameron interjected and described me as a clown and the not so honourable Mr Burdett described me by way of interjection as a 'pipsqueak' (and I hope *Hansard* has got that interjection)—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: It ought to be on the record that for every one time I am moved—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Any fair reading of *Hansard* will prove that for any one time I have been moved to describe a member of the Opposition in somewhat colourful terms they, for their part, have been grossly abusive by a factor of at least six.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. J.R. CORNWALL: It is a pity that *Hansard* is not recorded in video so that one would be able to hear all of these interjections to which I am subjected on an almost continuous basis. I am sure that you have noticed, Sir, and I am sure that *Hansard* has noticed that I no longer respond to them. They are so stupid and inane that I will not dignify them with a response.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: The matter of the Hon. Mr Davis and his destructive negative approaches, and the matter of Mr Davis striving to sabotage one of our major adolescent health initiatives for International Youth Year will be a matter for another day and we will take care of that at the appropriate time next week. A question was asked about multi-disciplinary teams. It is perfectly true that I have said on a number of occasions that I have a vision of what I have described as 'one large university teaching hospital'. That is a very rational approach in 1985 and is achievable. It is not achievable, perhaps, in the literal sense in that we cannot ultimately have a coalescence of all of the hospitals that are used for teaching. However, we can have a very rational approach to the deployment of equipment, accommodation and expertise.

It is very substantial expertise, and in this day and age when equipment is so expensive it is also necessary and highly desirable that we have a rational use of that expensive equipment. In fact, there are already admitting privileges to a number of hospitals across areas as diverse as laser therapy, anorexia nervosa, and very shortly cochlear implants, to name just three. The Hon. Dr Ritson is fairly accurate when he speculates on the fact that an announcement is fairly close about the cochlear implant programme. I have not got the final details with me (and I am not being coy about it). Suffice to say that there will be an announcement about that area within three weeks. I am sure that it will be a very pleasant and happy announcement for a number of people in South Australia and that that will be yet another example of this approach that I encourage very vigorously of multi-disciplinary teams being assembled around the hospital system and for trans hospital specialist services to be developed.

CHILD CARE

The Hon. DIANA LAIDLAW: I seek leave to make a statement before asking the Minister of Health, representing the Minister of Community Welfare, a question about child care.

Leave granted.

The Hon. DIANA LAIDLAW: Over the past year the Minister of Community Welfare has made several statements advising that South Australia will have access to $2.5 million from the Federal Government to establish 15 new child care centres in South Australia. Certainly, I for one welcome this commitment. However, I question the Government's rationale in spending all of this money on constructing and establishing new centres when one existing centre at least will have to cease operating soon if funds are not found to pay for the continuing services of a co-ordinator.

Last August the YWCA applied for and received funding, via the community response team under the Community Employment Programme, to employ a qualified co-ordinator on a full-time basis for six months to research and establish a creche at the YWCA community house that it owns at Elizabeth. The CEP funding ceased in February. Because of the YWCA's initiative during the first six months of operation, the creche was welcomed with tremendous enthusiasm by young mothers in the Elizabeth area. When the funding ceased in February, the YWCA resolved that it could not let the project stop at that time. Accordingly, it has struggled to maintain the operation by employing the qualified co-ordinator on a part-time basis of 20 hours and at a base salary of $6.90 an hour. However, it is clear that even that commitment cannot be maintained by the YWCA for much longer and the Director, amongst others, has been anxiously seeking funds from the Government.

My questions to the Minister are as follows:

1. Considering that the guidelines for the receipt of CEP funding for the YWCA noted that the funding was to research and establish an occasional child care centre at Elizabeth, and that the YWCA has been able both to establish this service and to meet an urgent need within the past six months, why is the Government now denying the YWCA a continuity of funding for this purpose?

2. Considering that the Government has identified the establishment of child care facilities as a priority, why is it channelling all new funds into establishing new services only and is not prepared to support the continued operation of an established service in the Elizabeth area (an area where the Government itself has identified that the need for child care services is vitally important)?

The Hon. J.R. CORNWALL: There are some very good reasons why these difficulties have arisen. I could well answer the question without referring it to my colleague. However, that would be most unethical and there are those

who would say that I have quite enough on my plate managing a vast and complex health system without getting into one of my colleague's areas. Therefore, I think it is far more appropriate that I refer the question to the Minister of Community Welfare, and bring down a reply in the fullness of time.

PATIENT ADVICE

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question about the Patient Advice Office.

Leave granted.

The Hon. R.I. LUCAS: Early last year the Minister indicated publicly that an independent office responsible for investigating public complaints against South Australian hospitals would begin operating in May of last year and would be called the Patient Advice Office. My questions to the Minister are as follows:

1. Can the Minister provide the number of complaints received by the Patient Advice Office for each month since May last year?

2. Has an assessment of the number and type of complaint lodged with the Patient Advice Office been made by officers of the Health Commission and provided to the Minister or members of his staff?

3. Is the Minister confident that this innovation is working as well as was intended?

The Hon. J.R. CORNWALL: Clearly, I do not have at my fingertips the specific number of complaints received. It is my recollection that the Patient Advice and Information Office—which is its correct title—was opened simultaneously with the appearance of the new telephone book last year (which was in late May, on my recollection). The office is listed in the telephone book at five different locations, prominently and readily accessible. Judged on the number and range of inquiries that have been made—bearing in mind that it is for information and advice as well as any specific complaints against health units and the system—and based on the number of calls received it has certainly been successful.

Two officers are involved: one is a senior clerical officer who does the actual reception work, such as answering the telephone, and so on; and the other is a more senior officer who investigates complaints where necessary by visiting hospitals. I suppose the most striking feature of the operation to date is that about three-quarters of the calls received come from current or former psychiatric patients or patients with mental illness problems.

The Hon. R.I. Lucas: Three-quarters of the complaints, or three-quarters of the total number of calls?

The Hon. J.R. CORNWALL: Three-quarters of the complaints, on my recollection. That certainly suggests to me that, in the long term, we will need some sort of mental health advocate. That is not a new idea, but it has never really been put into practice: it was suggested before the Mental Health Act was introduced and passed in the 1970s. That is certainly a direction about which we require further information. As to confidence about the workings of the Patient Advice and Information Office, one thing that has become quite clear is that, if it is to be effective in the real consumer protection sense and not just a listening post with a monitoring quality assurance function, it will be necessary to ultimately give the officers in that Advice and Information Office statutory access to patient records.

At the moment, to do that means, if they were given access to the records, in turn anyone acting on behalf of a patient could subpoena those records for any litigation that might be pending. That in turn would create very real difficulties regarding public liability and associated insurance. That problem has already become evident in the operation of the office. An alternative method of covering this is to ask the Ombudsman specifically to take on a health and hospital role specifically. That is being considered at this time.

The Hon. R.I. Lucas: Not a specific health Ombudsman?

The Hon. J.R. CORNWALL: I would not contemplate that at the moment. The Ombudsman has quite adequate powers. The important point is that, if the Ombudsman requisitions records, they in turn cannot be subpoenaed in any subsequent litigation. Therefore, there is protection for a number of people. As I have said, that is one way that we may see fit to go.

We have learned a great deal. It was trail blazing: we had to set it up and get it going before some of the difficulties became obvious. The Government in general and the Health Minister in particular are committed to seeing that the Patient Advice and Information Office works in the best consumer protection and quality assurance since—

The Hon. R.I. Lucas: Will you bring back the numbers?

The Hon. J.R. CORNWALL: I will bring back the specific numbers by months since the time that the office was opened.

PUBLIC WORKS COMMITTEE

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

That, pursuant to section 18 of the Public Works Committee Act, 1927, members of this Council appointed to the Parliamentary Standing Committee on Public Works have leave to sit on that committee during the sitting of the Council on Thursday 28 March 1985.

Motion carried.

PLANNING ACT

Order of the Day, Private Business, No. 6: The Hon. G.L. Bruce to move:

That regulations under the Planning Act, 1982, concerning development control, made on 15 November 1984 and laid on the table of this Council on 4 December 1984 be disallowed.

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

That this Order of the Day be discharged.

Order of the day discharged.

EVIDENCE ACT AMENDMENT BILL (No. 4)

In Committee.

(Continued from 20 March. Page 3370.)

Clause 2 passed.

Remaining clauses 3 and 4 and title passed.

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

That this Bill be now read a third time.

The Hon. C.J. SUMNER: For reasons stated during the second reading debate, I will not call for a division.

Bill read a third time and passed.

LICENSING ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT AND REPEAL (CROWN LANDS) BILL

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

ELECTORAL BILL

Adjourned debate on second reading.
(Continued from 26 March. Page 3505.)

The Hon. M.B. CAMERON (Leader of the Opposition): At the second reading stage, as the Hon. Mr Griffin indicated, the Opposition will be supporting the Bill, although we will take up a number of questions during the Committee stage. It amazes me that every time there is an election somebody believes that there should be wholesale changes to the Electoral Act. Once again, we are seeing that come about. I recall saying after the last election, when the Attorney-General indicated that he intended to bring about changes to the Electoral Act, that I trusted we would give the system an opportunity to shake down and work before we again had extensive changes. It must be very confusing for the average person in the community, who finds that each time there is an election the system that they have developed an understanding of is no longer the system—that a new system is in force.

Mr President, I know that you have taken considerable interest in the voting system for the Legislative Council. Certainly, the question of all people having to express preferences has become part of our Statute. I believe that that is important. I have looked at the new voting system for the Senate and, while it appears to be simple and acceptable, the fact is that it starts to write into the electoral system a predominance of Party opinion. I cannot accept that. It then gets to the point where a few people sitting around deciding preferences will end up deciding the preferences for all.

People should express their own preferences and go through the list of candidates. If they support the Party team as a whole, then they can do that, but if they do not, they should have that opportunity. I know that the proposal put forward by the Attorney-General allows voters to do it one way or the other. I think that this will merely confuse people further. I ask the Attorney-General to seriously consider the position that the Opposition will put forward to bring it back to the system that operated at the last election.

In relation to the number of informal votes, one of the reasons for this is that we are always changing the system. If we allow people to learn the system we may find that this situation relating to the number of informal votes does not continue. The Opposition also brought forward a move towards voluntary enrolment and voluntary voting. I support that move very strongly and have always supported it during my time in this place. I believe that the Government should seriously consider that matter. I do not believe that you have a democracy while you force people to vote. Why should a person be harassed because they do not roll up on polling day when they do not want to? Surely it is a part of people's freedom—the freedom we value so much in Australia—for them to be free to make a decision on whether or not to vote and, if they go to vote, make their decision on who to vote for.

The Liberal Party supports full preferential voting for the House of Assembly. That is not beyond the wit of voters. There is no problem and there has never been a problem. I do not believe that this matter should be an issue. I am also opposed to the inclusion of Party affiliations on ballot papers. I know that some members of all political Parties will think that that should be written into the Statutes. Frankly, I do not support that. I believe that the individual candidate is still important and should be predominantly important. If we start to move political Parties into that arena, to the extent where they become registered on the ballot paper, then we are taking away the greater importance of the individual and the Party machine starts to dominate.

I believe that Party affiliations should not appear on the ballot paper. People should take the trouble to find out who their candidates are and which political Parties those candidates belong to. If voters have not done that, they have not taken much interest in the lead-up to the election. With the media concentration that occurs these days, they have not been listening if they have not found these matters out.

I am concerned about mobile polling booths. While it may seem an easy way around the problem, there has been no problem, in my opinion. It has been possible for voters in isolated and outlying areas to vote at a booth which has been set up and it should not be impossible to continue with that. I have great faith in the Electoral Department and its ability to cope with ensuring that all people in the State have the opportunity to vote. I have been to outlying areas during elections and it has always been possible for people to vote.

When members move amendments to the Electoral Act, it is important that they have a background interest in electoral matters and ensure that their own house is in order. I do not wish to go too far into the Labor Party system of selecting candidates. However, before members of that Party rise in this Council and pretend to be the exponents of the fairest system and attempt to make changes that will make the electoral system even fairer, it is important that they first put their own house in order.

I do not trust members opposite, because I find their own system of selecting candidates quite obnoxious. The union heavies roll in with 75 per cent of the votes for any candidate in their little hands and fill out thousands of voting papers, having never once consulted the people whose ballots they are casting as to what they may require. While the Attorney-General might believe that he is a purist and is doing the right thing, he will suffer a lack of confidence from members on this side of the Chamber when he is moving to change the Electoral Act—

The Hon. R.I. Lucas interjecting:

The Hon. M.B. CAMERON: That is right. He was obviously supported by the unions.

The Hon. R.I. Lucas interjecting:

The Hon. M.B. CAMERON: Yes. Therefore, members opposite become candidates for this Council under a system that is not fair, and they know it. If they fixed the system up—and I have heard many rumours about what is going to happen—they would find that we would perhaps look with a little more confidence at changes they are attempting to bring in. Members on this side of the Chamber will look with great suspicion at any moves by the Attorney-General and his Party, because we know the system that operates in the Labor Party. As that system is supported by the Attorney-General and his Party, then I and other members on this side of the Chamber have grave doubts about the changes they are attempting to make. There is the matter of people in gaol being able to propose a place of residence. Goodness knows what will happen with this matter—

The Hon. R.I. Lucas: Do you reckon that they will all be in Unley?

The Hon. M.B. CAMERON: I think that they will all propose to go back to Unley after they leave gaol.

Members interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order! The Hon. Mr Cameron will address his remarks to the Chair.

The Hon. M.B. CAMERON: I find it difficult. I will attempt to do that but I always find you, Mr Acting President, much better looking than the average Labor member and I find it very difficult to be rude to you: I find it much easier with other members. I can imagine that some sort of direction may go to the people who are incarcerated in the institutions of this State where they are being taught how to behave, that a very good electorate to live in after they leave this institution could be the seat of Unley.

The Hon. R.I. Lucas: Is that marginal?

The Hon. M.B. CAMERON: Yes, or the seat of Coles, depending on which one the polls are showing up to be the best. I have very grave doubts about that move. I would not normally look on it with such grave suspicion if the system within the Labor Party was not pretty much the same sort of shifty system. I mean that word 'shifty': the people, on whose behalf 75 per cent of the votes are cast, have never been consulted and the majority of them have no idea that they are even voting. They do not know the candidates; they have no idea of whether they are left, right, centre, centre right, unity, Labor unity or what it is.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. M.B. CAMERON: I do not know how the Attorney-General got in here because, of the six—

Members interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Cameron has the floor.

The Hon. M.B. CAMERON: —or 10 factions in the Labor Party, I understand that the Attorney-General does not belong to any. I do not know how he operates within the system, but I understand that he does not attend any of the faction meetings and that he keeps right aside from it and above it all.

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

The Hon. M.B. CAMERON: Yes, I have a bit of background on the Minister.

The Hon. R.I. Lucas interjecting:

The Hon. M.B. CAMERON: That is why he did not stand for Hartley when he was proposing to.

Members interjecting:

The ACTING PRESIDENT: Order! There is too much conversation. Other honourable members will have their chance later. The Hon. Mr Cameron.

The Hon. M.B. CAMERON: Perhaps that has outlined some of the reasons why we look with great suspicion on this Bill, because we have not got faith in the Labor Party and the way that it handles its own back yard. So, we look with great suspicion on the changes that are now before us. It could well be that some of them have some merit: we will examine them closely and will move amendments to try to rectify what we see as some faults in this legislation.

I can assure the Attorney-General that in the opinion of the majority of members on this side there are faults within this Bill. I trust that when this is all over we will have ironed those out and that, for heaven's sake, we will leave the system alone for a while and let the people learn a bit about it, and not go on changing it every time we have an election.

The Hon. C.J. Sumner: You changed it last time.

The Hon. M.B. CAMERON: Yes, I know. We tried to make it fair. The Government is trying to take it back to a system that was unfair.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: That is the Attorney's opinion. The Attorney claims that that is unfair. We need to allow people to settle down and learn the system. He will increase it to 20 per cent because he will attempt to change it again.

The Hon. K.T. Griffin: A constant state of agitation.

The Hon. M.B. CAMERON: That is right. He does not want them to settle down. I urge the Attorney-General to carefully consider the amendments that will be put forward by this side and I hope he will accept those that ensure that the system stays as it is so that the people can learn to understand it. I support the Bill at this stage.

The Hon. R.J. RITSON: I support the second reading of the Bill, with some misgivings because I fear some of its contents, but hope that something can be done in Committee to make it acceptable. I will reserve most of my thoughts and comments for the Committee stage of the Bill, but I want to take this opportunity in the second reading debate to emphasise one matter that has been discussed by the Hon. Mr Griffin and the Hon. Mr Cameron, that is, the question of the clause dealing with prisoners' voting rights.

Like the Hon. Mr Cameron, I believe that this clause will lay the whole matter open to abuse of the very worst kind—worse than any gerrymander that has ever existed in any liberal democracy. The prison population of South Australia under this Bill will now have the option of nominating any electorate in this State in which they wish to be enrolled, because all they need to do is to state which electorate they will live in when they are released from prison. Indeed, a person in his first year of serving a life sentence with a 25 year non-parole period could still nominate an electorate under this clause and vote in it even though he has little prospect of ever residing in that electorate as it is currently delineated by its boundaries.

This is not a theoretical matter: it is an actuality. I also fear that this will receive support from the Australian Democrats, because the Hon. Mr Gilfillan is noted, first, as one newspaper put it, for being well to the left of the Labor Party. Certainly his view on the issue of uranium is well to the left of the Labor Party. He was elected to this Council on Communist Party preferences and has very close associations with the Prisoners Action Group, which appears very sporadically in the major press, but the activities of which one can read about by reading the Communist newspaper *Tribune* on a regular basis. The attachment that the Hon. Mr Gilfillan has to the Prisoners Action Group may override his judgment and his sense of democracy in looking at the real consequences of this clause. I hope that it does not. If I have been too tough on him I would be the first to apologise to him and praise him, if he is able to overcome his attachment to that group and look at the real threat to democracy as proposed by this clause.

Under this clause a little bit of organisation in the prison, which I do not think would contain too many Liberal voters, could deliver 600 votes to any marginal electorate at will or, if one is looking at marginal electorates with margins of the order of 1 per cent to 2 per cent, that group could split and say, 'Okay, at the next election we will take out Unley; we will save Henley Beach; and at the next Federal election we will look at Hawker.' I could not think of a more powerful weapon in the hands of a political Party, whether it be the ALP or the Communist Party of South Australia, than to have a completely mobile 600 or 700 strong group of lawful, and legally recognised electoral stackers—and that is all that it is.

I do not believe that it is in the Bill by accident. I wish that the Attorney-General were here for me to say it to him. I have always seen him as a great democrat in the true sense of either a social or a liberal democracy. It is a disgrace to him and his Party that they have drafted this clause, which is designed—not just potentially able to—to assault and, indeed, to rape the democratic process mercilessly.

When one looks at the numbers in the House of Assembly and the new boundaries and the way they have quite reasonably created more marginal seats to unlock either blue ribbon or red ribbon seats it is quite obvious that for decades to come Governments in South Australia will be formed and will fall by margins of one and three seats. This provision would create a lawful group of electorate stackers, namely, the prisoners who from the security of their four walls, as it were, can be organised into any marginal electorate much more effectively than can a group of partisan volunteers who would have to rent premises or risk the breaches of the Electoral Act in order to stack a particular electorate. There is no doubt in my mind that this clause is in the Bill for the purpose of that being done.

If the Australian Labor Party were to say to me 'No, no! It will not be done; we are better than that. We are holier than that. Mr Sumner is a good democrat,' I say it will still be done by people to the left of the Labor Party if the Labor Party does not do it itself. I do not know whether or not the Labor Party decided to do this itself or decided to insert this provision as a pay-off to the left. I am shocked and dismayed that the press has not noticed this assault on democracy, this wicked and iniquitous purchase of two marginal seats at the next election by the gross abuse of the weight of numbers.

With his track record and demonstrated ideological affections, I am afraid that the Hon. Mr Gilfillan will support this clause. I hope that he does not, but I am afraid that he will, and I am also afraid that his colleague in this place, the Hon. Mr Milne, may follow his leader, Mr Gilfillan. However, there is a glimmer of hope, and while there is life there is hope. Therefore, I support the second reading but indicate that if some conditions, including that clause, are still in the Bill at the end of the Committee stage I will be opposing the third reading of the Bill in this Council and will go to the barricades outside to tell anyone and everyone that I can what has been done to democracy, particularly by this electorate stacking clause. I will, of course, advise everyone that it is the Australian Democrats who are responsible for it.

What a laugh! The Australian Democrats, if they support this clause (the prisoners electorate stacking clause) will give the Labor Party—not the Government of the day, because the Liberal Party does not have any influence in this area; it does not know the officials of the prisoners action group or who are members of the prisoners sub-branch of the Labor Party—one or two extra seats for decades to come, the one or two seats legislated for in this Bill. I do not think that anybody who passes that provision of this Bill can call himself a democrat, perhaps a democrat raper, but not a democrat. Because there is a glimmer of hope, I support the second reading and will wait to see the Bill's condition when it emerges from Committee.

The Hon. R.C. DeGARIS: The Bill before us repeals the existing Electoral Act and rewrites legislation applying to the conduct of Parliamentary elections in South Australia. I am not one who stands and says that he does not trust the Labor Party. I trust the Labor Party completely in regard to the means of introducing legislation that suits it. This Bill's provisions have been well covered by the Hon. Trevor Griffin in his excellent speech on this matter, most of which I agree with. I will start my comments by turning to voluntary enrolment. That was always the position in South Australia, but it did change when South Australia began using the Federal rolls for compiling State rolls, so in most circumstances the compulsion at the Federal level conveys compulsion to the compilation of the State rolls.

The only course left to a person who does not wish to be on the State roll is to ask to be excluded from that roll. Really, we are arguing about a few voters who have taken that particular course to be excluded from the State roll. I have no objection to retaining that quite democratic procedure of allowing a person not to be included on the State roll if that person so desires. I support the opposition to this change.

I also support the concept, on balance, of a return to voluntary voting. There are arguments for compulsion. On the absolute definition of democratic rights compulsion should not be supported. I remind Council members that South Australia, while the first State or nation in the world to grant voting rights to women, was the last State in Australia to move away from voluntary voting. Therefore, while one can say we advocated strongly women voting we did not like the idea until the end of changing to compulsion for people to vote. Compulsion for people to vote has never been a strong movement in South Australia. If this Council does not accept the principle of voluntary voting, other measures need to be considered.

One of the things that always annoys me, having done a lot of scrutineering in my time, is seeing the number of people who deliberately vote informal. There has been an argument put forward that a simplified voting system may reduce the informality of voting. What effect would that have on the highest informal vote in the State in the 1982 election in the electorate of Price, which had only two candidates standing. Voluntary voting would reduce informal voting more than any other means. If one has voluntary voting I can assure members that the informal vote would almost entirely disappear.

There should be an informal vote square on the voting paper so that a person who wishes to vote informal may tick that square and be done with it. Alternatively, a better definition is needed for what is a valid reason not to cast a vote. In a judgment in the Millicent Court some years ago Mr B.J. Prowse was not found guilty of offending because he gave a valid reason that he could not vote for any candidate in that election. On being questioned about why he did not go to the polling booth and be issued with a paper and cast an informal vote he made the point that that course would be offensive to his views. I think at one stage he gave a reason of personal cowardice if he had gone along to the polling booth and voted informal.

Whether I am right or wrong on that point I am not quite sure, but I fully support his general view. I do know that Mr Prowse voted Democrat and is still strongly of the view that the definition of 'valid reason' should be quite clear in the Electoral Act so that people such as himself are not prosecuted for following an important personal principle. The legislation includes a religious belief clause, but to some people it could never be a religious belief that they do not vote, but at times such people hold a principle against voting just as important to them as a religious belief, in respect of which an exemption from voting is granted. Therefore, the legislation should contain a 'valid reason' provision so that a person could be exempted if he did not wish to vote for any candidates in an election.

It seems to me quite unfair that a person with Mr Prowse's beliefs has to achieve his rights not to vote by defending himself in court. If a person gives a reason as Mr Prowse did, that he did not wish to vote for any candidate, no prosecution from the Electoral Commissioner should proceed. As I pointed out before, if we move to voluntary

voting, what would be the cost saving to the taxpayer? There would be no need for further prosecutions; there would be no need to peruse the electoral rolls for some time following an election to find out who had not voted; there would be no need to post letters to all those people who did not vote asking them why; and there would be no need to think about who to prosecute and who not to prosecute.

When the compulsory voting legislation passed in the House of Assembly in 1942, the Bill also passed the Council but the compulsion to vote applied only to the House of Assembly. The Legislative Council has always maintained the view that as far as this Chamber is concerned voluntary voting will be the order of the day. However, in the change that has taken place, compulsory voting now applies in effect to the Legislative Council. That compulsion is actually included in this Bill. I would like to preserve the attitude of the Upper House in regard to voting. Even if the House of Assembly continues with its demand for compulsory voting, this Chamber—even though it means very little—should preserve its historic position in retaining voluntary voting.

I now turn to the question of voting for the Legislative Council. The Bill moves from the present system to the system which applied at the last Senate election. I disagree with that proposal. The present system to vote for 11 candidates contains a provision to make sure that a genuine mistake in marking up to 11 numbers does not necessarily make the vote informal. To permit a '1' vote to record a vote for a ticket prepared and lodged by a political group seems to me to reduce the voter to an automaton under the control of political Party groups.

In Tasmania, which has had the longest experience in Australia of proportional representational voting (I think over 40 years experience) it is rather interesting to note that the system is used as it should be. How often has one seen in Senate elections the result in Tasmania differing entirely from results in the rest of Australia. I recall one gentleman who was endorsed as the first person on the ALP ticket, and I refer to Mr Harry McLaughlin, who was a Minister. There were seven candidates in the electorate and he was number 1 on the ALP voting ticket. Although the ALP won four positions out of seven, Mr McLaughlin was not in the first four. That shows the way in which Tasmanians regard their system and how they vote. They do not become tied absolutely to Party machine decisions. That has been done on many occasions in Tasmania. Tasmania has had the longest possible experience of proportional representational voting in Australia.

If we move to the Party group system, which is suggested by the Government, we are moving away from the ability of the people of South Australia to gradually understand how the system works and gradually express themselves as they should in relation to an individual vote for each person they vote for. If we run this system, we are assuming that it is not possible for South Australians to vote as people should in a true proportional representational system.

I achieved the amendment when the Bill came through of voting from number 1 to number 11. I believe that is a perfectly good and just system. When one looks at the counting of preferences in a proportional representational system, it is interesting that over many years in the Senate, if the voting had been up to number 11, there would have been no change in the Senators elected from South Australia. Voting from 1 to 11 is a perfectly acceptable system and is just as valid as voting for the full ticket. I do not believe it would be possible to have a system in South Australia where all those who have nominated must be voted for, particularly if we had a double dissolution.

There may be anything from 100 to 120 candidates standing, which would make it an extremely difficult card for people to fill in. I am perfectly satisfied that voting up to 11 in a normal election and up to 22 for a double dissolution is quite satisfactory. Once again, I believe that political Parties have reduced the system to the most common denominator; in particular, the Democrats and the Australian Labor Party achieved this by nominating 11 candidates in an election. I believe that cuts across the whole idea of the system.

I would like to see Parties come to an agreement that they nominate no more than a majority of seven or eight candidates. I point out that there is no possibility of any political Party ever gaining more than seven members in an election in South Australia. That is not possible. However, it would allow the system, where there are 11 vacancies, to have some flow to another group so that the proportional representational system counting can be given an expressed view of an elector. If not, we should legislate for no more than seven candidates to be on a ballot paper, or extend the number of markings from 11 to 15, to ensure that there is movement or flow of an elector's preference. Each group would not be permitted to have more than 11, so with a marking up to 15 there would have to be a flow of preferences.

I do not wish to pursue these particular questions, except to say that I am prepared to support any changes that prevent what I term the Party ticket system of voting from becoming law. I support the existing system of voting to 11 in a Legislative Council voting system, although I would like to see a very close examination of how we can, with this voting up to 11, ensure that there is a flow of preferences from one group to another. It is unfortunate when one sees in the major political Parties (in the last election it was only the Democrats and the ALP) where so many votes stopped at 11 and there was no flow of preferences, which cuts across the whole concept of proportional representation.

A similar Party ticket vote will apply to the House of Assembly voting. I find this all so objectionable when looking at the voter as being incapable of marking a paper with the numbers 1, 2, 3 and in some cases 4. Perhaps the Government is reflecting on the informal voting expression of the Prime Minister who seemed to indicate that it was the Labor voter who tended to vote more often informally than any other political Party voter.

The Hon. Peter Dunn interjecting:

The Hon. R.C. DeGARIS: I am not too sure about that.

The Hon. Peter Dunn: That is what the Prime Minister implied.

The Hon. R.C. DeGARIS: Yes, that is correct, that I would agree, but I would not like to say that Labor or Democrat or Liberal voters are any thicker than anybody else. Perhaps I could say that they are all thick, but that is not a good statement to make except from a person retiring from politics. Perhaps the Government is reflecting on the informal voting expression made by the Prime Minister, who seemed to indicate that there is more likelihood of Labor people voting informally than of anybody else. In my experience informal voters are just as likely to be Liberal, or Democrat, or ALP.

An honourable member: They certainly were Liberal at the last election.

The Hon. R.C. DeGARIS: That is right. The view sometimes expressed that in saving informal votes will assist the ALP cannot be substantiated. Any system of simplifying the voting to save informal votes, many people argue will assist the ALP: that is not my experience, even by Mr Hawke and his particular criticisms.

I have mentioned before that even in the last election any change in the voting system would not have altered one vote from the informal bundle in Price to the formal bundle. In other words, if you had the most simple voting

system of just one for one candidate, there is not one vote in the (I think the Hon. Mr Griffin said 17 per cent informal vote in Price at the last election) informal pile that would have come out of that informal pile and become a formal vote under the provisions of this Bill. In other words, the informal vote in Price was a deliberate informal vote, and if we wish to overcome the problem of informality in voting a very simple way is to move to a voluntary voting system. At this stage I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[*Sitting suspended from 4.24 to 4.42 p.m.*]

LIQUOR LICENSING BILL

Returned from the House of Assembly with the following amendments:

No. 1. Clause 27, page 14, after line 5—Insert paragraph as follows:

(ab) if the licensee elects to open the licensed premises to the public for the sale of liquor on a Sunday, the licensee must keep the licensed premises open to the public for that purpose for a continuous period of at least four hours;.

No. 2. Clause 37, page 19, line 26—Leave out paragraph *(b)*.

No. 3. Clause 37, page 19, line 29—Leave out '(1) *(a)*' and insert '(1)'.

No. 4. Clause 40, page 20, line 43—Leave out '95' and insert '90'.

No. 5. Clause 41, page 21—After line 19 insert subclause as follows:

(2a) Subject to any authorisation to the contrary given by the licensing authority in relation to a specific occasion or occasions, liquor supplied under subsection (1) *(c)* must be supplied by way of free sample.

No. 6. Clause 41, page 21, line 36—Before 'bottling' insert 'final'.

No. 7. Page 29, after clause 59—Insert new clause as follows:

59a. *Creditworthiness to be taken into account when determining whether a person is fit and proper to hold a licence*—Where the licensing authority is to determine whether a person is a fit and proper person to hold a licence, or to occupy a position of authority in a body corporate that holds a licence, the creditworthiness of that person shall be taken to be a relevant aspect of character to which consideration should be given.

No. 8. Clause 109, page 48, line 34—Leave out 'section' and insert 'Division'.

No. 9. Clause 109, page 48, lines 43 and 44 and page 49, lines 1 to 3—Leave out subclause (2).

No. 10. Clause 110, page 49, line 4—Leave out 'section' and insert 'Division'.

No. 11. Page 50, after clause 110—Insert new clause as follows:

110a. *Liquor may be bought onto and removed from, licensed premises in certain cases*—Where a licence authorises—

(a) the sale of liquor for consumption on the licensed premises with or ancillary to a meal provided by the licensee;

or

(b) the consumption of liquor on the licensed premises with or ancillary to a meal provided by the licensee,

then, notwithstanding any other provision of this Act, it is lawful for a person—

(c) to bring liquor into the licensed premises, with the consent of the licensee, intending to consume it with or ancillary to a meal provided by the licensee on the licensed premises;

and

(d) subsequently to take the unconsumed portion of the liquor from the licensed premises.

No. 12. Clause 122, page 55, after line 18—Insert paragraph as follows:

(i) a contravention or failure to comply with an industrial award or agreement occurs in the course of the business conducted on the licensed premises.

No. 13. Clause 122, page 55, line 24—Leave out 'or'.

No. 14. Clause 122, page 55, after line 27—Insert:

or

(d) in the case of a complaint founded on subsection (3) (i)—by any person aggrieved by the subject matter of the complaint.

No. 15. Clause 130, page 59, lines 10 to 29—Leave out clause 130 and insert new clause 130 as follows:

130. *Control of consumption, etc., of liquor in public places*—(1) A person who, in a public place—

(a) consumes liquor;

or

(b) has possession of liquor,

in contravention of a prohibition imposed by regulation is guilty of an offence.

(2) A prohibition imposed for the purposes of subsection (1)—

(a) may relate to a specified public place or to public places of a specified kind;

(b) may be absolute or conditional;

(c) may operate continuously or at specified times.

(3) In this section—

'public place' means a place (not being licensed premises) to which the public has access (whether or not admission is obtained by payment of money).

No. 16. Clause 131, page 59, line 36—Leave out 'five hundred' and insert 'one thousand'.

Consideration in Committee.

Amendment No. 1:

The Hon. C.J. SUMNER: I suggest that we deal with the amendments made to this Bill by the House of Assembly *seriatim*. There are obviously different issues involved in each one and I believe that it is not possible to deal with them *en bloc*. I move:

That the House of Assembly's amendment No. 1 be disagreed to.

The amendment inserted by the House of Assembly places the Bill in the same position as it was when it was introduced into this Council by the Government with respect to the period during a Sunday that a hotel must open. The Government Bill provided for a continuous period of at least four hours. That was not accepted by the Legislative Council when the Bill was before us on a previous occasion and the House of Assembly has reinserted the continuous period of at least four hours. However, the Government has given further consideration to this aspect of the Bill and in the light of certain other amendments that will be dealt with at a later time the Government does not wish to insist on its initial position. I therefore suggest to the Council that it reject this amendment.

The Hon. J.C. BURDETT: I am pleased that the Government has seen reason in this matter.

The Hon. K.L. MILNE: The Democrats support the Government in relation to this matter, but I want to get the record straight. The press seem to have got hold of the idea that the Democrats were wanting to maximise the number of hours that hotels could be open on Sundays. In fact, what we were saying was that, in supporting the move to give the hotels the option of opening for a short time, we were really hoping that the number of hotels and the hours that they would open would be less. We were not encouraging hotels to open for the maximum, but perhaps minimum, so that some would not open at all. That is what the Democrats meant. We believe that whether or not hotels open will be adjusted by the market place, but hotels know best when the people want them open. If the custom is there they will be open; if it is not there, they will not be open. This is a big improvement; otherwise, hotels would be opening when they did not want to, and that is foolish. It meant that more places would be available to sell liquor on a Sunday than would be necessary under the present amendment.

Motion carried.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be disagreed to.

This amendment deals with another issue that was of some contention, that is, the question of Sunday trading for bottle shops. The Government initially took the view that bottle

shops or liquor stores should be characterised more as retail shops and, therefore, governed by the hours of opening of retail shops. That is the position that the Bill is now in, following its consideration by the House of Assembly. However, on further consideration the Government believes that the compromise put by the Hon. Lance Milne for bottle shops to be permitted to open on Sunday on the same optional basis as hotels from 11 a.m. to 6 p.m. is reasonable. Therefore, the Government will agree with that proposition.

Motion carried.

Amendment No. 3:

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

That the House of Assembly's amendment No. 3 be disagreed to.

This amendment is consequential on amendment No. 2, which we have just dealt with.

Motion carried.

Amendment No. 4:

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

That the House of Assembly's amendment No. 4 be agreed to.

This deals with the question of the proportion of retail sales that holders of a wholesale liquor merchant's licence should be allowed to make. There was some debate about this earlier. The Government position was that all wholesalers should be restricted to 5 per cent of their turnover in terms of retail sales. This compares with the position at present, where there are a number of different categories. Some are able to have, in effect, 49 per cent of retail sales: that is, all they have to show is that the preponderance of their business is as wholesalers.

The Government felt that there should be uniformity in this area. Wholesalers should be wholesalers basically—that by far the major part of their operation should be as wholesalers—and that, if they wish to be retailers, they should get the appropriate licence and be subject to the restrictions that apply to a retail licence. However, the Government has been prepared in discussions to move to some extent with respect to this issue. The amendment moved in the House of Assembly means that wholesalers will be able to have 10 per cent of their sales as retail sales and still be within the law.

Motion carried.

Amendment No. 5:

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

That the House of Assembly's amendment No. 5 be agreed to.

This arose out of a proposition put in this Council by the Hon. Mr Chatterton. The honourable member believed that in the case of sampling provided at producers' premises—in particular, wineries—there should be the possibility for producers' wineries to charge for sampling in some circumstances and on some occasions. One suggestion was that we remove completely the restriction, namely, that any sampling should be free. After consideration, it was thought appropriate that there should be some controls over wine tasting and whether people were charged or not.

So, the amendment which is proposed now and which was inserted in the House of Assembly provides that an authorisation may be given by the Licensing Commissioner or the Licensing Court to charge for wine tasting; that would enable in appropriate circumstances the producers—the wineries in particular—to charge for wine tastings, but they would have to get the authority from the court or the Commissioner to do this.

The concern was that if there was open slather it would provide another substantial outlet for the sale of liquor and might upset the balance that exists in the industry. We should do all we can to encourage producers—in particular, wineries—in South Australia to enable customers to taste what they have to offer as part of tourism in this State. The point made by the Hon. Mr Chatterton is well taken. The amendment that the Government has now moved in the House of Assembly enables producers to have some flexibility in this regard.

Motion carried.

Amendmment No. 6:

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

That the House of Assembly's amendment No. 6 be agreed to.

This was another point raised by the Hon. Mr Chatterton in this Council and clarifies what a producer may sell. The basic principle in the Bill was that a producer may sell as part of the producers licence only that liquor that was manufactured by that producer, and the producers licence could not permit the producer to sell liquor that it had purchased from other sources or of a different kind from that which it produced.

The honourable member raised some question about champagne which was bottled at the time that it arrived at the producers premises but which was subsequently rebottled as champagne. Under the way the Bill was originally worded, that champagne could not have been sold by the producer because he had received it in a bottled form in the first instance and had therefore done nothing in terms of the manufacture of the champagne. But, clearly, with drinks like champagne there may be a process in the manufacture that occurs after bottling. To overcome that problem, the Government agreed to accept the Hon. Mr Chatterton's proposition.

Motion carried.

Amendment No. 7:

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

That the House of Assembly's amendment No. 7 be agreed to.

This inserts a new clause into the Bill, dealing with the creditworthiness of an applicant for a liquor licence. It provides that, in determining whether a person is a fit and proper person to hold a liquor licence or to occupy a position of authority in a body corporate that holds a licence, the creditworthiness of that person shall be taken to be a relevant aspect of character to which consideration should be given. This arose as a result of discussions, in particular with the producers and wholesalers, who were concerned that on occasions a licensee does not meet the demands of his creditors and perhaps goes into liquidation if it is a company, leaving creditors that have not been paid. It was suggested that before that person is able to apply for another licence it should be made clear that the creditworthiness of the person and the person's performance with respect to payment of debts are factors that go to whether or not the person is fit and proper to hold a licence. The Government was prepared to accede to that additional criterion.

Motion carried.

Amendments Nos 8 to 11:

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

That the House of Assembly's amendments Nos 8 to 11 be agreed to.

The first three of these amendments are consequential on the amendment No. 11. They deal with the question of whether a patron may bring his or her own liquor to a restaurant that has a restaurant licence that permits the sale of liquor with meals: in other words, is it possible for a patron to bring his own to a restaurant that sells liquor?

This makes clear that if a patron consents then a restaurant that sells liquor may also permit the carrying on of BYO liquor and the carrying off of that liquor. This was never in contention. It is the situation that applies now, but there was some question raised during the debate whether the Bill before us made that clear. The amendments inserted by the Government in the House of Assembly make clear that

BYO may apply to a restaurant that sells liquor subject to the patron's consent.

Motion carried.

Amendments Nos 12, 13 and 14:

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

That the House of Assembly's amendments Nos. 12, 13 and 14 be agreed to.

These amendments are again a package consequential upon each other. When the Bill was introduced into this Parliament it contained a ground for disciplinary action along with a number of other grounds including conviction for an indictable offence and a contravention or failure to comply with an industrial award or agreement that occurs in the course of the business conducted in the licensed premises. Amendment No. 12 moved by the House of Assembly reinserts that ground of disciplinary action. The amendment as introduced by the Government initially also said that a complaint that could give rise to disciplinary action under that heading could be brought only by an association registered under the relevant industrial legislation.

The clause has not returned in that form precisely. The ground of complaint being a breach of an industrial award or agreement is still there, but the person who brings that complaint must now be a person who is aggrieved by the subject matter of the complaint: that is, it is not a matter that is the exclusive preserve of an industrial association, but if an employee in licensed premises is not paid correctly for a period of time, or if there are breaches of other awards, then that person, the complainant (the person aggrieved), can be the complainant in proceedings for disciplinary action under this head, so it is not in precisely the same form as existed when the Government introduced the Bill into this Parliament. It is quite a significant departure from it. The grounds still apply and I believe are justifiable, but the complaint must be made by a person aggrieved by a breach of the industrial award. I suggest that as the amendments are consequential the Committee accept them.

The Hon. J.C. BURDETT: The only part of the Attorney-General's statement with which I agree is that amendments 12, 13 and 14 are part of a package. This package is the result of a deal done between the Government and the Democrats.

The Hon. C.M. Hill: There has been wheeling and dealing going on, has there?

The Hon. J.C. BURDETT: Yes. The attitude taken by members on this side when this Bill was originally before us in regard to the industrial provision was that it was improper in a Licensing Act to make a breach of an industrial agreement an offence and something that could be taken into account in dealing with a licensee. The basic thing, of course, is that if this package is passed it will mean that if a licensee is deemed to be in breach of an industrial agreement he can have his licence taken away. That to me, in simple terms, is quite improper. There are provisions to deal with this situation in the Industrial Commission whereby this matter can be agreed. They are strong provisions, and so they ought to be.

I do not believe that employers ought to be in breach of industrial awards, but I do believe that there is a place to take that into account. We are dealing here with the sale, supply and consumption of liquor; that is what this Bill is about. It is not about industrial awards or provisions, so if we have separate Acts to deal with separate things, as we do, then let each matter be in its own place. I acknowledge that there are Acts that refer to other provisions and things of this kind and that this is not perhaps a complete precedent, but I say that what is being proposed here is wrong, that a licensee of licensed premises should not be discriminated against, and that is what this package does.

A licensee should not be discriminated against because he is in breach of this other provision of the law, namely, in breach of an industrial award. When this matter was before the Council previously the Attorney-General made a great fuss about larceny and about if a person had stolen a block of chocolate that was an offence that could be held against that person. Offences of dishonesty against the criminal law are one thing, but with regard to a breach of an industrial award there are ways of taking that into account that are quite effective. I oppose the deal done between the Government and the Democrats. I think it is quite improper to insert into a Bill about selling, supplying and consumption of liquor a provision about an entirely extraneous matter, namely, industrial provisions that are well and appropriately taken care of in another place. I vigorously and strongly oppose this package of amendments.

The Hon. M.B. CAMERON: I am surprised to hear the Hon. Mr Burdett indicate that he has knowledge that a deal has been done. I have no reason to doubt him, and it appears from what the Attorney has said that there have been what he indicates were 'reasonable discussions'. There are ways of handling legislation through this Chamber.

The Hon. C.M. Hill: This is the place to discuss things.

The Hon. M.B. CAMERON: Yes. There are ways to do things and that is not out in the corridor, discussing amendments outside which have been moved by the Opposition and which become the subject of these deals. If the Hon. Mr Milne has done this, I am disappointed in him. We could quite easily take this matter to a conference where it could be dealt with between the House managers with the amendments made by this House being supported by it as they were at the beginning with people not changing their minds half way through. I hope that the Hon. Mr Burdett is wrong. I have not heard the Hon. Mr Milne's view on this matter. In this case, it would be quite wrong for this amendment to be taken out at this stage before the Bill has gone through the normal procedures. I will not enter into the sorts of conversation that took place between other parties in relation to this matter, but there certainly were some, or an approach was made.

In this case I believe the amendments were put into the Bill quite properly. They should be discussed in this Chamber now, supported by honourable members and then taken to a conference between the Houses where proper discussion can take place. I totally agree with the Hon. Mr Burdett: I do not believe it is proper that a measure such as this should be in the Bill. As he says, there are ways of dealing with industrial matters. People have redress through the proper channels and that is the way it should occur, not through the Liquor Licensing Bill. I trust that the Hon. Mr Milne will continue to support the amendments that were inserted by the Opposition with his support, and that this matter will go to a conference.

The Hon. K.L. MILNE: I am sorry that I could not accede to the deal which the Hon. Mr Burdett put to me in my office on this very matter.

The Hon. J.C. Burdett: Think about that. It's not a deal. I suggested that you stick to what you did in the first place. That was not a deal.

The Hon. K.L. MILNE: Do not go on with this nonsense. However, I felt very bad about that. I had misgivings about this. I can see the Opposition's point of view; it does have a case. I cannot see the provision does any damage. There have been bad instances in the hotel industry of employers not paying the correct wages, not putting taxation aside, getting money mixed up in the till, and so on. In an industry such as this, with so much cash changing hands, I was persuaded by the Attorney-General—

The Hon. C.M. Hill: A *quid pro quo.*

The Hon. K.L. MILNE: I would not do it if I was not persuaded, and the honourable member knows that very well. The Attorney-General persuaded me that this is a wise precaution in this industry. I cannot see that it will do any damage. The legislation provides that there shall be proper cause for any disciplinary action against a licensee. That means that his licence is under threat; it does not mean that a licence will be taken away. If it was unfair, would the Commissioner be likely to recommend that the licence be taken away? The Opposition should not be so foolish.

I realise that there is protection under the Conciliation and Arbitration Act. However, the fact is that in quite a few cases that has not been sufficient. For a start, the union has been unable to get satisfaction and inspectors were unable to obtain satisfaction from the Arbitration Court. The request of the union to be the only person to take a grievance before the court is over the fence. I am happy to say that the union has conceded that point, and I think that will make for much better relations between the union and the employers. I am glad to see that compromise was reached on that matter. I think that is a big step forward and I hope that it works properly. Where we insert 'a person aggrieved', I point out that a trade union is a registered person. Therefore, there was no attempt whatsoever to frustrate the union in looking after its members—none at all. It simply allows other people to take action, as well. I support amendments Nos 12, 13 and 14.

The Hon. C.J. SUMNER: In response to the Hon. Mr Burdett, I really think that in considering the amendments before us, and in particular amendment No. 7 dealing with the creditworthiness of an applicant for a licence, the Opposition's attitude indicates a certain double standard. Members opposite were perfectly happy to have as a ground to determine whether someone is a fit and proper person to hold a licence that person's creditworthiness. In terms of an applicant's dealings with other commercial enterprises, if that person was not creditworthy, the Hon. Mr Burdett and members opposite were prepared to see that as a ground to determine whether or not a person was fit and proper to hold a licence. However, when members opposite came to the question of a breach of industrial awards or agreements, they said that that was not a relevant consideration. That is really a question of double standards. Members opposite said that creditworthiness is allowable because it is dealing with other enterprises—

The Hon. J.C. Burdett: Because there's no tribunal.

The Hon. C.J. SUMNER: There is a tribunal. There are the normal courts of the land.

The Hon. J.C. Burdett: There aren't.

The Hon. C.J. SUMNER: The Hon. Mr Burdett says there are no other tribunals; I point out that there are the normal courts of the land. Businesses aggrieved by the nonpayment of licence fees can take proceedings in the courts to retrieve their money. There are other tribunals. The fact of the matter is that, on the one hand members opposite say that creditworthiness can be taken into account in determining whether or not someone is a fit and proper person to hold a licence (that is, the dealings that an applicant for a licence has with other commercial enterprises, and they say that it is a relevant criteria) but, as soon as members opposite talk about a licensee's approach to industrial awards and conditions, they don their blinkers and are not prepared to consider it. I think that indicates some double standards.

I repeat: industrial awards and agreements in this country, for better or for worse, are a part of the law of the land. The Hon. Mr Burdett knows that a Federal award—established as a result of a Federal Conciliation and Arbitration hearing—can overrule the law of this State Parliament. It is a law of the land. A breach of an industrial condition or agreement can attract criminal penalties. The Hon. Mr Burdett knows that. Why should there be one category of offence which can lead to disciplinary action—namely, a minor indictable offence—and another category which does not?

I refer to a recent case in the city with respect to the old City Hotel. I will not mention all the people involved. Advice was given to the union by members employed at the hotel that some management practices were in gross breach of the hotels and clubs award. The union had a number of conferences with the hotel and received assurances that were never kept. The employees were being paid direct from the till. They were given cash in hand, they paid no tax, no time books were kept, and employees were being paid a fraction of the award rate. The honourable member is saying that that sort of thing should not be grounds for considering whether a licence should be renewed. The union received written assurances that the hotel would adopt practices in accordance with the law and that it would repay money to staff for wages owing (and that amounted to several thousand dollars). That agreement was not honoured by the hotel.

The union went to the Licensing Court to oppose the hotel's licence being renewed. While the matter was being heard (apparently it was a $2 company running the hotel) another company was introduced into the argument. The court was assured that it was a separate company but, in fact, the same people were involved. The fact is that with these sorts of companies there is no point taking the matter to the Industrial Court for the recovery of wages—they are empty shells. In those circumstances, I think it is legitimate for the Licensing Court to look at the behaviour of an applicant for a licence with respect to the applicant's dealings with his employees and his regard for the law of the land as expressed through industrial awards.

So there is one concrete example that I would have thought any reasonable person would have considered unacceptable in this community. Those people could have gone back to the court and, unless this sort of clause was inserted, the court could have said that they were not factors which could be considered as relevant. We have accepted creditworthiness as a criterion. we should accept breaches of the industrial award. It does not mean that for every breach of the industrial award there would be disciplinary action. It is still a discretionary matter in the hands of the court, which would be reserved for those severe cases such as the sort I have mentioned. I strongly support the proposition.

The Hon. J.C. BURDETT: First, let me give the lie to the Hon. Lance Milne. I did not seek to do a deal with him in his room. He is wrong in saying so. Last Friday I had reason to suspect that the Government was negotiating with Mr Milne. On Monday I rang him and went to his room, not to do a deal but to ask him to have the guts not to change his mind but to stick to his guns and continue to support the package of what had been moved in this Chamber previously. I did not seek any kind of deal. I suggested that I put the reasons which I put today and which were put earlier in this Chamber. I suggested that he should have the courage of his convictions and not change his mind as he so often does, but to stick to what he said before. I was suggesting that there was no reason to change his mind or prevaricate, that he should stand by his position. I did not offer a deal.

I asked him in regard to amendments Nos 12, 13 and 14, and amendment No. 15 (which we have not yet considered), not to change his mind but to stick to what he had supported before and gave him some reason in support of that. There is no suggestion of double standards on the part of the Opposition. The question on creditworthiness which was introduced by the Government in another place is quite different from this one of industrial provisions because

creditworthiness does not necessarily attract the courts of the land or the processes of the law.

The Hon. C.J. Sumner: Is that justification for considering it a ground?

The Hon. J.C. BURDETT: No, there is more justification for this reason; in regard to industrial provisions there is the Industrial Commission. The power is there. It is all there. If a licensee or any other employer—and I will come to this in a moment—has been in breach of an industrial award, and I do not support his being in breach of an industrial award, the powers are there. In regard to creditworthiness that is not so. In some instances it may be, if the applicant is in debt, he can be sued for his debt, but creditworthiness is more than that. There are all sorts of tests of creditworthiness, as to whether there had been bills unpaid, that are not necessarily subject to the due processes of the law. Regarding creditworthiness, you are dealing with something for which there may be no other remedy, because people who are certainly not in breach of the law and even people who may not be sued may be bad credit risks. Creditworthiness is a different matter altogether, and because there may not be any other tribunal it is reasonable to include that. All we did was not oppose it.

Regarding this issue, there is another tribunal and a strong one (and so it should be) which has every power to bring to book any employer who is in breach of an industrial award. I particularly oppose discriminating against licensees of licensed premises because in the case of most other employers (factory owners or shopkeepers or anyone like that)—

The Hon. C.J. Sumner: They don't have to apply for a licence.

The Hon. J.C. BURDETT: Exactly. There is no second sanction. There is only one sanction, and the sanction is that before the Industrial Commission. Just because licensees do have to apply for licences, because the whole issue is about the sale, supply and in some cases consumption of liquor, why should they be singled out amongst other employers? How many employers have only one sanction? The sanction is the one that ought to be there, the sanction before the Industrial Commission.

Why should a licensee of licensed premises, just because he is dealing in an area which does need some regulation as the review said it did—and I agree with the review in its excellent report—have his living taken away in this way: not in all cases of course, but certainly the possibility is there that his licence will be taken away because of a breach of the industrial award. That is improper, wrong and quite discriminatory. As I said before, our law has to be to some extent in departments and this law deals with liquor, so let us not try to deal with industrial awards and conditions, industry and so on in this Bill.

The Hon. M.B. CAMERON: I have been sitting here thinking that it is a great pity that the Hon. Mr Milne was conned before this Bill got back to this Chamber. It is a pity that this discussion is not taking place in the proper forum where the arguments for and against can be put—at a conference.

The Hon. C.J. Sumner: They are being put.

The Hon. M.B. CAMERON: Yes, but not in the forum, and with the situation already confirmed, finished, done. The amendments moved by the Hon. Mr Burdett are all over, and it is quite proper what he is saying, that a second sanction is being put on people who already have a sanction on them, and that is having to apply for licences, with everything that goes with that.

The Hon. Mr Milne ought to remember in future that this is what should be called 'the 75 per cent clause'. This is the clause put in for the unions because the people on this side are absolutely dominated by them. That is what it is all about. There is no argument about whether or not it is a correct procedure. It is because the Government is absolutely committed in every Bill that comes before this Parliament to get something in for the people who have its destiny in their hands. That is what has happened. It is a great pity we could not have put arguments in the proper forum before this deal was done on amendments that were moved by the Opposition. What the Government has done is take away one of the powers of this Chamber, and that is most unfortunate.

The Hon. K.L. MILNE: I think we ought to get this sort of thing into focus. The facts are—

The Hon. M.B. Cameron: Whose focus? Yours!

The Hon. K.L. MILNE: No, yours. I will tell the honourable member about that in a minute. The situation is that the three different Parties are required to talk things over from time to time. That is a natural procedure and that is the situation in which we find ourselves. If it is going to be a complaint about doing deals, honourable members will recall the Associations Incorporation Act where the Hon. Mr Griffin had pages and pages of amendments which had been agreed with the Government. He had done a deal with the Government and he did not consult me.

The CHAIRMAN: I do not mind your making the point, but we had better not get on to some other Bill.

The Hon. K.L. MILNE: The Hon. Mr Griffin did not consult me. I did not complain; I regarded that as very right and proper. I think it came out as an excellent Bill.

The Hon. M.B. Cameron: Whose amendments were they, the Hon. Mr Griffin's?

The Hon. K.L. MILNE: Yes, they were the Hon. Mr Griffin's amendments and he did a deal to get the Government to accept them. It is not a question of doing a deal; it is a question of having proper discussions and getting the best Bill in the end.

The Hon. C.J. Sumner: The Government has given way on two or three points on this. It was a compromise. We have given way on a number of points.

The Hon. K.L. MILNE: You did not find me crying and grumbling about not being consulted, because it came out a much better Bill and I congratulate you on it. However, it was a deal between the two Parties.

The Hon. C.J. SUMNER: In conclusion, what the Hon. Mr Milne said is correct. There are always discussions about Bills that go on outside the Chamber. The place could not function in any other way. Every honourable member knows that, and to say that somehow discussing the Bill with the Australian Democrats is wrong completely misrepresents the whole nature of the negotiations and discussions that occur in Parliament and that have to occur to enable Parliament to function correctly.

With respect to a whole range of issues—there are 16 points of difference—in another place the Government accepted points that were raised and passed in this Chamber. The question of the further matters relating to noise and annoyance of nearby residents were moved in this Committee. They were accepted by the Government in another place. So, already we have agreed on a number of issues put up in this Chamber. We have now agreed on more, so there has been a compromise, I agree. The Government has agreed not to persist with its position on bottle shops opening on Sundays, opening for four hours, and other amendments moved on other matters as part of the compromise. It is perfectly reasonable and discussions have been held just as they are on most Bills.

The Hon. M.B. CAMERON: One last word, because it is obvious what the end result will be. I should put this point to the Hon. Mr Milne while we are on it: where amendments are moved in this Chamber, in this instance by the Hon. Mr Burdett, and then taken to another place

and discussed, when they come back to this Chamber not all agreed, surely it would be normal procedure for the Hon. Mr Milne, before he decided to give away the amendments which he supported and which were moved on this side of the Committee, at least to have some discussion with the Hon. Mr Burdett to allow him to say that he wants them to proceed to conference so that he can have further discussions. The honourable member should have agreed to that. It would be reasonable.

The CHAIRMAN: Order! We have strayed from the amendments. Honourable members are dealing with matters that could be discussed outside the Chamber.

The Committee divided on the motion:

Ayes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

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

Majority of 1 for the Ayes.

Motion thus carried.

Amendment No. 15:

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

That the House of Assembly's amendment No. 15 be agreed to.

This is another area of contention. It is a question of how, if at all, the pure consumption of liquor should be controlled in public places. The Opposition took the view that that power should be given exclusively to local councils. The Government took the view that in the Bill, as it was introduced by the Government, there was sufficient power to enable this to occur by regulation.

The Government has taken the view that this should be clarified and that new clause 130 dealing with the control of consumption of liquor in public places specifically ensures that the Governor in Executive Council by regulation can prohibit the consumption of liquor in public places anywhere in the State and subject to whatever conditions it may wish to apply.

The Government takes the very strong view that it is better, if there is to be this control to deal with potential difficult situations or trouble spots, for it to be done at the State level rather than at the local government level. One of the problems of dealing with it at the local government level, which could be potentially difficult for tourism, is that we may have throughout the State different councils applying different criteria and declaring certain places in the State as places in which liquor cannot be consumed. The Hon. Mr Hill may be taking his annual sojourn to the Flinders Ranges and drive through Jamestown and, as he usually does, stops his vehicle with a picnic hamper and bottle of claret at the Jamestown oval and finds himself breaking the law.

Members interjecting:

The Hon. C.J. SUMNER: It is a legitimate point. He could be quietly consuming a bottle of wine and in that perfectly innocent activity is breaching a local government law. That situation could apply throughout the State. There could be a different administration procedure in Mount Gambier, Port Augusta, Jamestown, Port Lincoln and Adelaide. It is much better for this to be handled centrally, as it may need to be.

For instance, if a problem arises at Colley Reserve, Memorial Drive, or Jamestown, that needs to be addressed, then I believe that it can be addressed by regulation, subject to the Parliament looking at it. There is no question about that.

Members interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: The fact is that it could lead to a hotch potch throughout the State. One would not know throughout this State whether or not—

The Hon. Frank Blevins: Whether one could drink a can of beer on the beach.

The Hon. C.J. SUMNER: Yes, drink a can of beer on the beach, or a bottle of wine at Jamestown oval on one's way to the Flinders Ranges. It could be advertised and publicised centrally. It would be done in circumstances of public notoriety and where there was a need. If one left it entirely to local councils, the whole of Mount Gambier might be a prohibited area in relation to the consumption of liquor in a public place and in another region just the oval would be prohibited. A person travelling through would not have a clue—

The Hon. C.M. Hill: How would they know if the State did it?

The Hon. C.J. SUMNER: Because it would be well publicised. It would be a much more limited application. It would be used in situations like Memorial Drive, Colley Reserve, Port Augusta, Mount Gambier or Jamestown if there was a problem. If the *carte blanche* power was given to a council one would have the law administered differently all around the State. That is not desirable in an area where one is talking about a law concerning the sale and consumption of liquor which is administered centrally by the State Government. Laws relating to liquor sales are not the responsibility of local government. The Hon. Mr Hill is suggesting that the State should give up its authority over liquor laws and enable the Mount Gambier council to licence restaurants, hotels and clubs in the Mount Gambier area, and Port Lincoln, Port Augusta and other areas the same, all in accordance with their own criteria. One would then have an absolute hotch potch throughout the State. The sale and consumption of liquor is administered by the State Government, and that should be left. We agree with the Opposition—this is a compromise—that some power is needed. We are making that power applicable at the State level. Therefore, it is possible to deal with the problem in an unemotional way at the State level on a uniform basis throughout South Australia.

The Hon. J.C. BURDETT: I oppose the amendment. The Attorney-General said that this was a compromise. I point out to him that it was not a compromise made with the Liberals. It is another part of the deal done with the Democrats—another instance of their changing their minds. I take up the point made previously by the Hon. Mr Cameron. If one wants a compromise, the whole Parliamentary procedure should have been gone through and the matter should have gone to conference. That was what I urged on the Hon. Lance Milne when I spoke to him. I said, 'Please let the matter go to conference so that there can be some discussion and proper compromise when all points of view can be put.' I was reminded when I acted as teller in the last division that the Liberal Party has the greatest number of members on the floor of this Council, but we have not been involved in any compromise.

I oppose the amendment and suggest that the amendment that was carried and supported previously by the Democrats in this Council is the right amendment. Councils should, by resolution, be able to prohibit, in places under their control, the consumption of liquor between certain times. The local governing bodies know what is best and are most receptive to the influence of their residents. They are the branch of government closest to the residents and are answerable, if necessary, at the ballot box.

The amendment does not go far enough—simply enabling a prohibition to be imposed by regulation. It is true that there have been examples where regulations have been put through fairly quickly, but usually not in particular instances

like this—in much more important cases. From my experience as Minister of Consumer Affairs, generally speaking it is very rare that a regulation will be imposed as a result of local representations by councils, residents or anyone of that kind. It takes a long time and a lot of fuss and bother. A Government department and a Minister are fairly hard to move in this area. One wants quick action in this area. A council which is sensitive to the wishes and needs of its residents will act quickly. If one goes through the bureaucracy of a Government department it will take a lot longer and in many cases will not happen.

I take up the point made by the Hon. Mr Hill by way of interjection in relation to the Hon. Lance Milne selling out local government. I would have expected the Hon. Mr Milne to support local government. I believe that this was one of the areas that was properly, in the amendment passed in the Council, left in the hands of local government. It is a matter of local law and order and of the enforcement of the rights of the local people and their freedom from interference by people who are misbehaving. Very properly that matter should be dealt with in the local government area.

The Attorney put the example of the Hon. Murray Hill going to the Flinders Ranges and opening his bottle of claret. If that area had been declared a prohibited place it would not make any difference whether it was by local government—in fact, most of the Flinders Ranges are not under the control of councils—or by regulation. The Hon. Mr Hill or any other person probably would not know.

The Hon. Frank Blevins interjecting:

The Hon. J.C. BURDETT: Yes. That is probably not much of an argument. It is no argument to say that there will be more consistency because it is done by regulation because, where it is done by regulation, it will be done very rarely, I suspect, and will only come about as a result of persistent public pressure anyway.

The Hon. Anne Levy interjecting:

The Hon. J.C. BURDETT: I am not talking about body searching females.

The Hon. Anne Levy: That happened as a result, didn't it?

The Hon. J.C. BURDETT: I am talking about the consumption of liquor in public places.

The Hon. Anne Levy interjecting:

The CHAIRMAN: Order!

The Hon. J.C. BURDETT: I suggest that the appropriate body to know where the consumption of liquor should be prohibited in public places is the district council—the body that is receptive to the wishes of the ratepayer. I strongly oppose this amendment and call on this Council, including the Democrats who supported it before, to stand true to local government, and acknowledge them as being the body that knows.

The Hon. C.M. HILL: I also strongly oppose the amendment. I am amazed by the whole attitude of the Hon. Mr Milne. I listened to the debate a few moments ago when we learned that despite the fact that he had gone one way in an issue in this Bill earlier—

The Hon. C.J. Sumner: You and the Democrats patched up deals every day of the week when you were in Government.

The Hon. C.M. HILL: But I am concerned with what happened on this occasion. The Hon. Mr Milne, Leader of the Party, whose only political principle is, 'We will keep the so-and-sos honest', shows in this Parliament how really honest he is.

Members interjecting:

The CHAIRMAN: Order! There is nothing in this amendment dealing with the Hon. Mr Milne, and I do not want it to develop into some personal vendetta. The point that the honourable member made is taken and I ask him now to relate to this amendment.

The Hon. C.M. HILL: In regard to this matter, it is obvious that the Hon. Mr Milne will vote on this occasion with the Government. When this matter was before the Council earlier in this debate he voted the other way.

The Hon. Frank Blevins interjecting:

The Hon. C.M. HILL: I will go so far in regard to that interjection and say that it is not unusual for the Hon. Mr Milne to change his mind.

The Hon. C.J. Sumner: A compromise has been arrived at.

The Hon. C.M. HILL: No, what has been done is a deal. This member, who purports to be purity personified, has given way on a couple of issues and has got his own way on a couple of others.

The CHAIRMAN: Order! The honourable member will come back to the Bill.

The Hon. C.M. HILL: Where was this done? On the floor of Parliament? No! It was not done on the floor but in the shady corridors of Parliament. That is not unusual for the Government because the Government makes all of its policy in its Caucus room, not on this floor where it is supposed to, but up there behind closed doors.

Members interjecting:

The CHAIRMAN: Order! There is no element in the honourable member's argument to this Bill. I ask the honourable member to refer to the amendment that we are supposedly debating or he will have to resume his seat.

The Hon. C.M. HILL: I will leave the Hon. Mr Milne. I come now to the Attorney, who, for some reason or other, used me as an example of holidaying towards the Flinders Ranges, and stopping off at Jamestown and having a bottle of claret. Every member in this Chamber knows that the Attorney himself likes claret more than I do, but the example that he mentioned highlighted the weakness in his debate. If there had been a local problem regarding the consumption of alcohol in a small municipal park at Jamestown, which would have been the best authority to deal with the situation—this central State Government with all its power in the world or the representatives of the local community at Jamestown? That is what this amendment is all about.

The Hon. C.J. Sumner: Give it all to local government!

The Hon. C.M. HILL: I know how much the Minister wants to give to local government. We know where local government stands with this State Government. The decree has gone out from this State Government, having in mind the West Torrens example, that no more power will be given to local government. It will all now be centred in Big Brother, the State centralist Government. That is the situation with these people.

The Hon. Frank Blevins: What about socialists? You missed socialists.

The Hon. C.M. HILL: I will come to socialists in a minute. Do not worry about that. I can tell the honourable member a lot about his socialists. The Hon. Mr Milne is a former Chairman of the Municipal Association, a former Mayor of Walkerville and one of the great champions of local government. The other day his partner in crime got up at the Regional Local Government Associaiton meeting—

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Hill.

The Hon. C.M. HILL: They hold themselves out as being champions—

The Hon. I. GILFILLAN: A point of order, Sir. I ask that the inference that crime is attributed to the Parliamentary Leader of the Democrats be withdrawn without any qualification.

The Hon. C.M. HILL: I withdraw it, unqualified, and apologise. The Hon. Mr Milne is the champion of local

government and in this matter he is selling it out. The Glenelg council is the authority that should say, 'We wish to prohibit the drinking of alcohol in our area.' It is its people, basically, who are faced with that problem; it is its residents who face the reserve; it is its people who want to walk in an orderly way along the jetty, and so forth. It is not a Government matter: it is basically a local government matter. It disappoints and upsets me because of the support that the Hon. Mr Milne has always given to local government. In this deal that he has done he has sold them down the river.

The Hon. C.J. Sumner: Do you want local government to license hotels and restaurants?

The Hon. C.M. HILL: I want local government to have the right at Jamestown to say whether people should drink in their local park or not. I do not want the Big Brother centralist Government here in Adelaide to tell those local people that they can do that. I will never be convinced—and I am sure that in his heart the Hon. Mr Milne will never be convinced—that in that Jamestown example that was raised here by the Attorney local government, the representative of the local people, should not have that right and power.

That was the situation in the Bill, except that this deal has been done and the Hon. Mr Milne, for some reason or other, has agreed to give this power to the State and take it away from local government, which only a few days ago in this Council he supported. I do not know whether he may change his mind on this matter, but if he is genuine in his support of local government and, bearing in mind that Jamestown example or, if we wish to expand it, the situation that has occurred and will occur at Glenelg—

The Hon. Anne Levy: And Adelaide Oval.

The Hon. C.M. HILL: If it has occurred at Adelaide Oval the Adelaide city council—

The Hon. Anne Levy: With the Adelaide city council, we had female body searches by males.

The Hon. C.M. HILL: I cannot help the honourable member on that point. If there is a problem at the Adelaide Oval the first public authority to deal with it should be the Adelaide city council.

The Hon. Anne Levy: Not when you have males body searching females.

The Hon. C.M. HILL: Perhaps we will get away from males body searching females. At Glenelg the power should be with the local council, and I am sure that the Hon. Mr Milne believes that in his heart. I believe that very strongly because I am a great supporter of local government, and here the Government, with its own numbers and those of the Democrats (the Hon. Mr Milne's Party), will override it and give this power, which legitimately should be in the hands of local government, to the central State authority, and I oppose it.

The Hon. K.L. MILNE: I remind the Hon. Mr Hill of an old Chinese proverb: mud slinging is lost ground. The argument put by the Attorney-General is unanswerable: it is a State matter. I have simply got to say that I was wrong in supporting it in the first place, so I am not supporting it now. First, liquor laws are a State matter and centralised control would be much better. Although the Hon. Mr Hill carries on about local government, I believe on reflection it would not be in the interests of local government to buy into administering liquor laws.

It is a sensitive matter to tell people where they can or cannot consume liquor. I think that local government would be happy for that responsibility to be taken at State Government level because there will be charges of discrimination, racism and all sorts of other charges made in relation to this matter, so I think that local government will be well out of it. I propose to tell local government representatives this and I will also tell them what the honourable member has said. For the sake of uniformity, and because I think that local government would get into difficulty making local decisions in relation to this matter, I will support the Government in this matter.

The Hon. PETER DUNN: I think that we have got off the track somewhere along the line in relation to this matter. We are talking about the control of an alcohol induced local disruption. Pressure points develop throughout the State, whether in local towns or in the city in relation to alcohol, and what we are trying to do is to say that some of those pressure points need further control. I think that local government would be eminently suited to say, 'Here is a problem; let us legislate to control it.' They would not do that lightly, but could do it where pressure points develop. As to the matter of Mr Hill having trouble with his bottle of claret at Jamestown, I do not think that that is likely to occur, because we are trying to determine here where there is disruption. That is what this provision is about; it is not about the innocent person enjoying himself at a picnic. Who better to determine this matter than local people. I am at a loss to understand why some despotic Government here in the city will be able to say to people in Port Augusta, Ceduna or Olary that they have to do as they are told and that it will not allow people to drink in a certain area. That is reversing what we are endeavouring to do. The provision will apply only where there is disruption or a large crowd. I am worried that the Hon. Mr Milne has changed his mind so quickly over something he now realises (I can tell by the look on his face) he is wrong about.

Local government should definitely have control of this matter because it can erect notices in relation to it. The question was asked about who will notify people about these restricted areas. I can imagine the people receiving the news in Ceduna three days after a decision has been made (or not getting the news at all) to impose a restriction. That community has a well distributed local newspaper, and if the Bill required them to erect signs in relation to this matter they would do so. However, I am sure that the South Australian Government will not go to Ceduna and erect signs saying that people cannot drink on the lawn in front of the hotel. This appears to be a walk-out by the Democrats when a reasonable resolution to the problem could have been reached.

The Hon. C.J. SUMNER: It is certainly not a walk-out by anyone but part of a compromise that has been arrived at. It is a quite reasonable one, and I do not accept the criticisms made of the Hon. Mr Milne. The position put by the Government is perfectly reasonable and logical. Liquor licensing laws are State laws and always have been. The consumption and sale of liquor involves State law. I point out in responding to the Hon. Mr Hill that the basic position that the Government has adopted is that the consumption of liquor in public places should be allowed, and that there should be no prohibition on it. That is a policy decision taken as a result of this particular liquor licensing law. This Bill does not prohibit consumption of liquor in public places.

If we give power to control this matter to local government whole areas of the State may become prohibited. They may prohibit the consumption of liquor, for instance, in public places in the whole of their municipality. The Hon. Mr Dunn says that this would not happen and would only happen after disruption. However, the power that the Opposition seeks to give to local government is a blanket power to say that people cannot consume alcohol in public places. The liquor licensing laws are State administered, ought to be State administered and that the basic position ought to be (and should not be able to be countermanded by local councils) that consumption of liquor in public is allowed. We recognise that certain problem areas many need to be

addressed from time to time. That is what we are providing for.

The Hon. J.C. BURDETT: I would not have spoken again in this debate had the Attorney not got to his feet for the fourth time to speak.

The Hon. C.J. Sumner: Second time.

The Hon. J.C. BURDETT: It is more than the second time. In any event, the Attorney-General has raised matters that should be responded to. We have not pretended at any stage that liquor licensing (and this matter does involve liquor licensing) should be administered otherwise than by the State Government through a State department. What we have said before, and I say again, with regard to public places, is that they are in many respects often properly administered by local councils. We are not talking about liquor licensing, although this is in the Bill.

Liquor licensing should be administered by appropriate State Government departments and instrumentalities. However, the control of public places in many circumstances is most properly vested in a local authority, since local government is closest to the people, most directly responsive and able to act quickly, without red tape and without having to get to the stage of making a regulation. It can act by making a simple resolution. A simple, summary remedy that was contained in the amendment passed in this Committee putting in the hands of local governing bodies control of public places in their own areas. Local councils are responsible to the people who vote for them, the residents and ratepayers. It is nonsense to say that local government ought to administer the licensing provisions of the Bill: we are not saying that at all. We are stating the proposition that local government is the appropriate authority to administer public places in its area and in particular in this case in relation to the consumption of liquor.

The Committee divided on the motion:

Ayes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

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

Majority of 1 for the Ayes.

Motion thus carried.

Amendment No. 16:

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

That the House of Assembly's amendment No. 16 be agreed to.

The amendment raises from $500 to $1 000 the maximum fine for a licensee, manager of licensed premises, or a director of a body corporate that holds a licence and is found guilty of an offence. It follows a question raised by the Hon. Mr Griffin.

Motion carried.

[*Sitting suspended from 6.15 to 7.45 p.m.*]

The following reason for disagreement was adopted:

Because the amendments are not consistent with the tenor of the Bill.

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

Adjourned debate on second reading.

(Continued from 26 March. Page 3497.)

The Hon. C.J. SUMNER (Attorney-General): In responding to the debate on this matter and the contribution from the Hon. Mr Burdett, I indicate, in answer to his question with respect to the licensing of hotel brokers, that the review recommended that hotel brokers no longer be regulated under liquor licensing laws as they are at present. The Government has implemented this by removing hotel brokers from liquor licensing laws but providing for the regulation of hotel brokers as a group within land and business agents legislation.

The review stated that if hotel brokers are to be regulated then only hotel transactions should be covered. At present the licence is required for transactions in all liquor licences. The Australian Hotels Association and the Hotel Brokers Association wanted some regulation to remain. The Government acceded to this but rationalised this system by putting it into the proper arena which, as I said, is the land and business agents area.

Under the Land and Business Agents Act there is proper machinery for the assessment of qualifications of land agents and for the taking of disciplinary action. The criteria to be applied by the Land and Business Agents Board will be determined by regulation and obviously by the policy of the Board following consultation with the Hotel Brokers Association and the Real Estate Institute. In general, it is anticipated that criteria similar to those applying now will be opposed. A person needs to be a fit and proper person with an adequate knowledge of the Liquor Licensing Act and the requirements of hotel transfers, grants or removals and a prerequisite that the person holds a current land agents licence.

I should point out to the honourable member that, if he is concerned about whether there ought to be deregulation or greater deregulation in this area, it is certainly not intended to preserve a closed shop for hotel brokers. Over the past two or three years the number of licensed hotel brokers has been expanded from about 15 to 40. All we are saying is that the representation of the Hotels Association and the Hotel Brokers Association is that the transfer of a hotel licence can have some difficulties and needs some particular expertise which is not necessarily available or needed in the transfer of another business and that if the hotel brokers were completely deregulated then presumably any registered land agent could be involved in the sale of a hotel business without necessarily having any expertise in the area.

It has been decided to maintain hotel brokers or hotel agents as a category for registration under the Land and Business Agents Act. As I said before, it should in no way be seen as a closed shop. The fact that the Land and Business Agents Board is responsible for the licensing of all other land agents and sales people means that they will probably adopt a more liberal attitude to regulation than that which applied when the registration and licensing was exclusively through the Licensing Court. I hope that satisfies the honourable member's queries. His queries were quite legitimate because in a sense we decided not to deregulate the hotel broking industry completely. We certainly do not want to see a closed shop and if people have the necessary expertise they should obtain a licence which is endorsed to enable them to carry out the business of a certain selling of hotels.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. J.C. BURDETT: I thank the Attorney for his reply, which satisfied me as far as it went, but I wonder about the mechanism of persons applying for an endorsement on the licence. How do they do it? I am satisfied about the criteria applied. What if any will be the qualifications

required? If one is a land and business agent presently licensed who wants to deal in hotels, how is one going to get the endorsement in regard to hotels? What will be the procedure? What experience must one have?

The Hon. C.J. SUMNER: These matters will have to be determined by regulation after consultation with the industry. An application can be made in the normal way, as prescribed by regulation, as is done now to the Land and Business Agents Board, which will assess it. It will have to determine whether the person has had sufficient experience and expertise in dealing with businesses similar to hotels, or has had the necessary training to be able to deal with the transfer of hotels. As I said, the precise criteria still has to be worked out, but it envisages a situation where a greater degree of expertise will need to be shown than is required to get an ordinary land agent's licence.

Obviously, if that were not the case there would be no point in having separate registration for hotel brokers. It will need to be a degree of expertise either in hotel broking, which people now in the industry can show, or expertise shown in other ways by the land or business agent of being able to show the Board that he has dealt with the sale of businesses that requires expertise, whether they be supermarkets or large types of businesses that involve stock and the sort of thing involved in the valuation and transfer of businesses.

It may be, if the experience in the industry is not great, the applicant can show he has had the necessary training. An applicant could have some accountancy qualifications and wants to be a land and business agent as well. Those criteria will have to be worked out. I can assure the honourable member that it is certainly not designed to produce a closed shop situation for people already in the industry. There will need to be a greater degree of expertise or training shown than is the case for an ordinary land agent's licence. If people can prove they have the necessary additional experience or training, they should qualify. The precise criteria will have to be worked out and partly incorporated in regulations. Part of it would depend on the policy adopted by the Board.

Clause passed.

Remaining clauses (3 to 5) and title passed.

Bill read a third time and passed.

SUPPLY BILL (No. 1) (1985)

(Second reading debate adjourned on 26 March. Page 3506.)

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

TRESPASSING ON LAND ACT AMENDMENT BILL

(Continued from 19 March. Page 3319.)

The Hon. M.B. CAMERON: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

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

That it be an instruction to the Committee of the Whole that it have power to consider new clauses relating to the extension of the scope of the operation of the principal Act.

The Hon. C.J. SUMNER (Attorney-General): I will not oppose this motion, but I have grave concerns about it. While I appreciate that the honourable member wishes to put forward certain arguments about this Act and the scope of trespass, I point out to the Council by way of a preliminary point that the Bill introduced by the Government was a Bill with a very narrow scope—it dealt exclusively with penalties under the existing law. The Hon. Mr Griffin has placed on file amendments that I consider to be a very fundamental rewrite of the law of trespass in this State and I will comment at the appropriate time on the amendments moved by him.

When an instruction is requested by an honourable member to move amendments to a Bill on matters that are extraneous to the Bill but still relate to the principal Act, it is customary for that instruction to be granted. However, there are some circumstances where perhaps that instruction should be refused. If there are, in fact, any circumstances this is certainly bordering on the sort of circumstances in which an instruction should not be given to the Committee of the Whole to consider these amendments. I say that, because the amendments are a very fundamental rewrite of the law and I would be most concerned if this Bill was to pass the Parliament having been considered on an instruction on really what was, in terms of its import, a minor amending Bill. I would be most concerned if the Committee ultimately decided to rewrite the whole of the law of trespass in this State in that manner.

I appreciate that the honourable member has an argument to put. For that reason, on balance, I will not oppose the instruction that he is seeking and will allow him to put the amendment. If the Bill were to go through the whole Parliament in this particular manner, I would be gravely concerned about the procedures of the Parliament.

The Leader of the Opposition looks quizzical. The reason I say that is that the amendments are really very extensive, fundamental and have nothing to do with the Bill introduced by the Government. They relate to the same Act but that is the only point in common between amendments placed on file by the Hon. Mr Griffin and the Bill as introduced by the Government. That is why the honourable member needs an instruction. I accept that we normally agree to instructions but I do not believe that it should be an absolute rule. In this case I think that there are arguments to say that the instruction should not be permitted. However, I can see how that can be misinterpreted as imposing a blanket on debate on the issue and for that reason I will not oppose it. I am concerned, and will be concerned, if the Parliament saw fit to adopt these amendments.

If the honourable member has concerns about the general law of trespass I believe that it should be introduced as a substantive measure and then the Council can give it the consideration that it deserves. To say the least, it is a complex area that does impact and impinge on the rights and liberties of individuals in the community, whether they be land holders or innocent trespassers. I make those preliminary remarks indicating that I do not intend to vote against the instruction, but think that there are causes for concern.

The Hon. K.L. MILNE: I seek advice from the Attorney-General.

The Hon. K.T. Griffin: You have been doing that all week.

The Hon. K.L. MILNE: I am doing it in the right place, according to you, so do not try and be too funny. Has the Government any intention of making a full revision of the laws of trespass because, if it has, it would be better for the Hon. Mr Griffin's amendments to come in at that time. It would help us if we knew whether or not the Government wanted a review of the Act. It would make a difference as to whether the Hon. Mr Griffin should introduce his

amendments in the form of a private member's Bill at some later date.

The Hon. C.J. SUMNER: The Government has not any present intention to conduct a wholesale review of the law of trespass. No doubt, the substance of the argument can be debated when we get to the Hon. Mr Griffin's amendments. We can no doubt consider the points raised by the honourable member. We considered this issue in another context last year when we debated the amendments to the Police Offences Act and inserted section 17a and 17b into that Act, which dealt with circumstances whereby a trespasser who was interfering with the quiet enjoyment of a landowner's property could be required to leave and, if that person did not leave, an offence would be committed. At that stage in this Council we looked at the law of trespass, but we took a conscious decision that we did not want to make trespass as such a criminal offence.

The Mitchell Committee argued that trespass as such should not be a criminal offence, and that would still be our basic position. So, there is no present intention to carry out a wholesale review of the law of trespass, but certainly during the debate, if the Hon Mr Griffin raises points that we believe are worth examining, we will do that. I repeat, in answer to the Hon. Mr Milne, that the Government will not at the moment oppose the motion for an instruction, but in the long run it would be most unwise for a Bill of this kind to be used as a vehicle for a complete rewrite of the law of trespass.

The Hon. K.T. GRIFFIN: I appreciate that there was no objection to the suspension of Standing Orders, which was necessary because I did not give notice of that motion yesterday. Now that the suspension has been given, I want to say that I do not agree with the Attorney-General's interpretation of the scope of the Bill that he introduced; nor do I agree with the limitation that he places on the range of matters that may be considered on instruction by the Committee in relation to any Bill.

The Hon. C.J. Sumner: I am not saying that they cannot be considered.

The Hon. K.T. GRIFFIN: No, but I am referring to the limitation in the construction that the Minister has been proposing in relation to consideration of any matter relating to a Bill. The Bill that is before us—and we will debate the substance of it when this motion passes—deals with the Trespassing on Land Act. Standing Order 422 states:

> An instruction empowers the Committee to consider matters which are relevant, and not contradictory, to the order of reference, but which had not been expressly referred, and to make amendments to Bills which are relevant to the title.

My interpretation of the Standing Orders is that if there is a Bill that is before us relating to a principal Act or other matter, it is in order to give the Committee an instruction, if that is the wish of the majority of the Council, to consider matters which are not specifically referred to in the Bill but which are relevant to the Bill.

The Hon. C.J. Sumner: I am not saying that it cannot be done; I am saying that it ought not be done in this case.

The Hon. K.T. GRIFFIN: That is a different argument from the earlier part of the Attorney-General's argument in relation to an instruction but, if that is the basis on which he will consider the proposals that I will move in Committee, so be it, and we will have an opportunity to explore all the issues that are raised by both the Bill and the amendments that I will propose.

It is competent and not inappropriate to consider any matters relevant to the matter that is before a Committee and, although the principal Bill deals only with increases in penalties, which the Attorney-General has said is a relatively minor matter, the fact is that it is very much related at least to the material that he used in his second reading explanation in introducing the Bill. It will be important for the Committee to consider those ranges of issues that are raised both by the Bill in respect of the penalties that are increased and the objective that is sought to be achieved by that increase—an objective that is set out more fully in the second reading explanation. I recognise that the Attorney will not vote against the motion for an instruction to the Committee; I appreciate that and recognise that we will have an opportunity to really debate the substance of this in Committee.

Motion carried.

In Committee.

Clause 2—'Penalty for trespassing.'

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

Page 1—After line 14 insert new paragraph as follows:

(aa) by striking out the passage 'unlawfully enters or remains on an enclosed field' and substituting the passage', without lawful authority, enters or remains on an enclosed field or a cultivated field, or knowingly enters or remains on any other land,';.

In the light of the fact that we have already considered clause 1 and are now considering clause 2, and I have some earlier amendments that will have to be considered by way of recommital, you may, Mr Chairman, allow some flexibility in the consideration of the range of amendments which really form a package to deal with a problem that the Bill itself does not deal with.

The Bill raises only the penalties, but it is not just penalties that concern those rural property owners who have experienced difficulties with trespassers, for whatever reason. The reason which is most readily advanced and which is stated by the Attorney-General as the reason for bringing in this Bill at this time is the way in which those persons seeking the so-called 'magic mushrooms' on private property trespass on that rural private property, creating concern to property holders and occupiers.

One of the difficulties in the principal Act is that it deals with a limited range of behaviour. It applies only to those parts of the State as are specified in proclamations made by the Governor, so that it is a governmental decision. It relates only to enclosed fields, which are defined as an area of land which is enclosed by fences, hedges or walls and which has sheep or cattle grazing or a cultivated crop thereon, or is an orchard or vineyard. The fences, hedges or walls, while they may have breaks in them, nevertheless are the criteria for determining whether or not there is an enclosed field. Section 5 of the principal Act provides that a person who unlawfully enters or remains on an enclosed field shall be guilty of an offence and, in section 6, that a person who unlawfully remains on an enclosed field after being requested to leave it shall be guilty of an offence.

During the second reading debate, I made the point that many orchards and vineyards are now not enclosed and could not come within the definition of an enclosed field under section 4. There are also many enclosed fields that do not have sheep or cattle obviously grazing upon them, nor do they have a cultivated crop on them, yet they would be quite obviously used for agricultural purposes.

There are also parts of rural properties which are enclosed and which may be scrub used for grazing, and this is obviously not encompassed by the definition of 'enclosed field'. The solution to the problem that I see with the principal Act that is not resolved only by an increase in penalty is, first, to apply the principal Act in a larger area of the State, that is, areas within a council area (not being an urban area, not being unalienated Crown land and not being exempted by the Governor from the application of the Act) where the Governor thinks it is necessary or desirable to do so for the purposes of establishing rights of way for vehicular or pedestrian traffic.

It is also important to redefine the property to which the principal Act will apply. I will be seeking later to redefine an enclosed field to mean 'an area of land that is enclosed by fences, hedges or walls' without also having to be an orchard or vineyard, or having a cultivated crop on it, or sheep or cattle grazing on it. Therefore, an enclosed field in itself would be property subject to the principal Act. I also want to apply the Act to a 'cultivated field', which in my amendments (which we will consider later) means 'an area of land that is not enclosed by a fence, hedge or wall but has on it an orchard, vineyard or cultivated crop of any kind'. That splits up the present definition so that an enclosed field and a cultivated field will stand alone. Then, I do not think it is necessary to apply it to urban areas.

Urban areas, quite obviously, will be subject particularly to sections 17 and 17a of the Police Offences Act, now to be the Summary Offences Act. 'Urban area' means the metropolitan area, which my amendments define as meaning 'various municipalities and any area of land defined on the public map as a township', so it will not extend to Mount Gambier, Port Pirie, Port Augusta or any of the other urban areas defined on the public map as a township. Then I will seek to amend section 4 of the principal Act to define who has lawful authority to enter or remain on any land.

That is related to clause 2 of the Bill, which seeks to increase the penalty in section 5 for an offence where a person unlawfully enters or remains on an enclosed field. My amendment to clause 2 will seek to extend that offence to a person who, without lawful authority, enters or remains on an enclosed field or a cultivated field or knowingly enters or remains on any other land. 'Without lawful authority' is to be defined as 'a person who enters or remains on any land if he is the owner or occupier of the land, is authorised by or under any Act or law to enter or remain on the land, or has the permission of the owner or occupier to enter or remain on the land, or he enters or remains on the land for the purpose of seeking from the owner or occupier permission to be on the land, or he enters or remains on the land for social or business reasons relating to the owner or occupier of the land, or he enters or remains on the land for the purpose of dealing with a situation of emergency'.

If the person is on the property and is not within any of those provisions, there is not lawful authority and an offence occurs. The reference in the amendment to clause 2 on page 1 to 'knowingly enters or remains on any land' is to a reference to land that is known by the person who is trespassing to be private and occupied land. I appreciate the flexibility that has been allowed to enable me to deal with the ambit of the amendments in the way that I have because of the difficulty of amendments for additional clauses prior to clause 2.

Essentially, I want to widen the offence provisions so that it is not necessary to establish an unlawful intention in entering or remaining on private rural property, but it is necessary merely to establish that a person is on the property without lawful authority. There are difficulties in the extent to which the present Act can be applied. There are difficulties in ensuring that persons who are on a property without permission and are creating a nuisance or other concern are unlawfully on the property. To some extent my amendments will go towards an offence of trespass, but only where there is not lawful authority to be on the land.

Later I will seek to give the Governor power by regulation to exempt conditionally or unconditionally a specified person or persons of a specified class from the application of the legislation or any specified provision of it. Therefore, there will be flexibility in the way in which it will be applied. I believe that the scheme that I have explored with the Committee will go a long way towards resolving the concerns of those who reside on rural property in relation to unwarranted trespass on their property, not only by so-called magic mushroomers but also by many others who trespass for a variety of reasons, and still preserve the rights of certain groups of people to be on the property provided they have lawful authority.

The Hon. C.J. SUMNER: With your indulgence, Mr Chairman, the Hon. Mr Griffin explained all of his amendments, and I seek the same indulgence by way of reply. I must oppose the amendments and propositions put forward by the honourable member. He raised some questions about the principal Act. It may be that some definitions in the Act have been overtaken to some extent by time. I point out that most of the problems that have occurred with trespassers in the Adelaide Hills, for instance, with magic mushroomers doing damage, have been able to be successfully prosecuted under the Trespassing on Land Act. There have been a number of successful prosecutions.

The Hon. K.T. Griffin: There have been a number of unsuccessful prosecutions, too.

The Hon. C.J. SUMNER: Principally, prosecutions under this legislation have been successful. It has been the principal method of prosecution for the offence of being unlawfully on the land in the case of magic mushroomers. The Government introduced the Bill to try to make that enforcement effective by increasing the deterrent value of the fines involved. I believe that, although it might be possible to make some points about the Trespassing on Land Act, 1951, and its definitions, I do not believe that that justifies the wholescale rewrite of the law of trespass in which the honourable member is now involved.

As I said before, I do not believe that the problems perceived with the definition of 'enclosed field' should automatically lead the honourable member to a complete rewrite of the law of trespass. I do not think we should make any mistake about what the honourable member's amendments do: they rewrite the law of trespass and make trespass a criminal offence in this State. That is not the tradition of the common law or the British system of law. While I do not suggest that that should be immutable for all time, I believe that making pure trespass a criminal offence is something that we should not embark on without a great deal more thought than has been put into these amendments.

As I said when speaking to the motion for an instruction (and I maintain again), I do not believe that this Bill to increase penalties should be used as a vehicle for a substantial rewrite of the law of trespass. The honourable member's amendments, particularly with respect to his criteria for lawful entry onto a property, provide that in a rural area a person who comes on to a landowner's property for the purpose of collection for charity is committing an offence. It is not lawful for a person to collect for charity from rural landowners. If a person in a rural area loses his way and happens to walk across a field to a landowner's house to find his way, or if he just happens to walk across the land because he has lost his way, he is committing a criminal offence.

Really, does the Opposition want the criminal law to extend to that sort of activity? The Opposition talks incessantly about deregulation and makes points all the time about excessive laws. However, it now introduces one of the most comprehensive rewrites of the law of trespass that this State has ever seen, that this country has ever seen and that the British common law countries of the world have ever seen. I do not know of any law in any British Commonwealth country that takes the law of trespass as far as the honourable member and the Opposition seek to do with this series of amendments.

I pointed out in my second reading reply that in the United Kingdom, for instance, it is quite common for people to trespass on private landowners' land for the purposes of

hiking and bush walking and the like. I have done it myself on many occasions without any problems from the landowners or people in the area. If the honourable member wants to rewrite the law of trespass and make it a criminal offence in all circumstances, no matter how innocent, let him go back to his teachings at the Law School. Let him start from first principles and try to come to some coherent position on the law of trespass, but please do not in this context bring into this Parliament a law which is greater regulation of people's activities. The law of trespass does involve a careful balance between the rights of landowners and property owners to quiet enjoyment of their property and the rights of individuals to go innocently about their business.

This rewrite of the law of trespass introduced by the honourable member, Mr Griffin, in support of the Opposition will make what has hitherto been quite innocent behaviour by innocent citizens a criminal offence. If, for instance, a person is on private rural land by way of this amendment and that person has entered the land perhaps for the purpose of seeking from the owner or occupier permission to be on the land or, even more importantly, if he enters or remains on the land for social or business purposes relating to the owner or occupier of the land, that landowner can turn that person into a criminal by saying, 'I do not want you here any more.' The person may enter a property, he may be a salesman selling tractors to the landowner, a very common occurrence—

The Hon. R.C. DeGaris: Not very often.

The Hon. C.J. SUMNER: As soon as the landowner decides he does not want to know the man anymore he says, 'Get off,' and that person is then committing a criminal offence. Under this law a person can enter quite legally and legitimately a landowner's property, go to the farm house for the purpose of conducting business, a sale or whatever, and by saying 'I do not want to have anything to do with you' that person is then committing a criminal offence by being and staying there. In other words, this innocent entry is converted in an instant to illegal criminal activity by one word from the landowner.

The Hon. R.C. DeGaris: It is only a crime if he does not go to the landowner.

The Hon. C.J. SUMNER: That may be the case, but the point I am making is that his initial entry on to the land may be authorised by the law in order to do business, or for social purposes. There might be an argument with the person. The person might have gone there for a game of cards and there might be a bit of a fuss, and the landowner says, 'I have had enough of you, get off,' and he says, 'Come on mate, what about our discussion?' The landowner says, 'No, get off' and rings the police. Technically, that person is committing an offence by remaining there. It does involve a rewrite of the concepts of the law. Innocent behaviour becomes criminal behaviour by the actions of some other person not related in any way to the mental element of the offender. An innocent person comes onto the land, gets lost or whatever, and is committing an offence. Let us stop and think. Do we want to do that? Do we want to be the first country, the first State, the first common law jurisdiction in the world to make trespass, pure trespass, a criminal offence?

The Hon. K.T. Griffin: That is an ill-considered statement.

The Hon. C.J. SUMNER: Well, I do not know. I do not believe, on the information I have been provided with, that there is any situation in the common law countries that make pure trespass an offence. Already I would suggest that the Trespassing on Land Act with which we are dealing probably goes further than most other common law jurisdictions, although it does refer—and this is a limiting aspect of the Trespassing on Land Act—to being unlawfully on the land and therefore can be related to the Police Offences Act provisions which talk about being unlawfully on the premises. In other words there has to be some immoral or ulterior purpose for being on the land as opposed to just being innocently on the land that is involved. Even the Trespassing on Land Act does not make pure innocent trespass an offence, but it does make unlawful trespass an offence, and I believe that the magic mushroomers and the way they carry on would have in the past been held to be unlawfully on the premises, just as a Peeping Tom is held to be unlawfully on the premises.

Prosecutions have been taken successfully against people who are on premises for the purpose of peering through windows. So, yes, both the Police Offences Act and the Trespassing on Land Act do deal with a situation of being unlawfully on land or premises. In that sense it does not in any way make pure trespass a criminal offence. The amendments moved by the Hon. Mr Griffin do. I think it is a hotch-potch. He provides that lawful entry shall apply if it be by the owner or the occupier, if one is authorised by any law to enter, if one has the permission to enter, if one enters for the purposes of seeking permission to remain, if one enters for social or business reasons or if one enters for a situation of an emergency. If one enters for any other reason one is committing a criminal offence.

If one happens to wander across the land innocently and gets lost because there are no signs or fences up but one gets out of one's car and wanders across the land to look at something, for instance, a kangaroo in the distance a couple of hundred yards away, that is now being made a criminal offence by this amendment. It is purely innocent behaviour that is being penalised; furthermore innocent behaviour, initially innocent behaviour, can become criminal just by the landowner deeming it to be criminal. I do not think that is a satisfactory way to legislate. I have dealt with the whole of the amendments because I will be voting against them all.

The Mitchell Committee did not recommend making trespass on land a criminal offence, and the Government will not agree to make pure trespass on land a criminal offence. If there are some problems with the definitions of being unlawfully on land perhaps they can be looked at in another context. Presently we are concerned with giving greater teeth to an Act which has been used effectively to deal with the sort of problem we have had in the Adelaide Hills. If the honourable member wants to go further I invite him to go back to the drawing-board and come up with something, but not something that attacks innocent behaviour in the way that this legislation does.

The Hon. I. GILFILLAN: I have not had a chance to read this amendment right through and certainly not to have studied it in any detail, it having been put on file at 5.15 p.m., so the time allowed for its deliberation has been inadequate. The Democrats have a major concern for the rural community, and my Parliamentary Leader the Hon. Lance Milne's social partnership has stipulated particularly the emphasis that must be placed on the farming community in all contexts—economic, social, and in this case the Act dealing with trespass, because it so vitally concerns that section of our society. It is all very well for the Attorney-General to speak with great feeling about civil liberties and what rights are being destroyed with possible amendments to the Trespassing on Land Act but from some experience and with some sympathy I know that for those on the receiving end it is often a very disturbing—

The Hon. C.J. Sumner: Receiving end of what sort of things?

The Hon. I. GILFILLAN: Trespass.

The Hon. C.J. Sumner: Trespass? Doing what?

The Hon. I. GILFILLAN: The effects of what are intrusions into rural land which are covered by the current legislation. There is no penalty for being there.

The Hon. C.J. Sumner: Like what?

The Hon. I. GILFILLAN: Leaving gates open, wandering through the land.

Members interjecting:

The Hon. I. GILFILLAN: The interjections could go on listing *ad infinitum* the sort of interference and upset that trespassers can cause to the rural population. The Democrats are sympathetic to a proper and fair assessment of the law of trespass so that it does give the rural sector reasonable protection. It is a delicate balance, because there are the freedoms to enjoy the land for all citizens that must be taken into consideration. The point I want to make is, first, we have had absolutely nothing like adequate time to consider the implications of these amendments.

The Hon. Peter Dunn interjecting:

The Hon. I. GILFILLAN: If the honourable member wants the Democrats to make decisions at that rate—if that is the rate at which the Liberals deal with matters as profound as that—we have a pretty sorry future for enacting proper legislation. I have had no approaches from the UF & S to whom we normally turn for discussion of matters concerning the rural population. That would be an essential requirement in making a sensible decision regarding these amendments. I believe that, without agreeing with the general thrust of the Attorney's comments about trespass, he has recognised, first, that it seems inappropriate to bring these amendments into a Bill that is dealing, as far as I can tell, only with the degree of penalties, and that a more appropriate vehicle would be a private member's Bill from the shadow Attorney-General, and giving us sufficient time so that we can properly study it.

In these circumstances we are unable to support the amendments: not because we disagree necessarily with their contents but because, first, we have not had time to study them and, secondly, we would need more time to consult with the people who are most vitally concerned. For those reasons we will find it impossible to support the amendments. That is sad because there has been much work done. Indeed, I have much respect for the quality of work that the shadow Attorney puts into the material he brings before this place. I hope at another time and through another vehicle we will have a chance to deal with it properly.

The Hon. PETER DUNN: The Hon. Mr Gilfillan has said that he has sympathy with the rural community. Like the Hon. Mr Gilfillan I too am a member of the rural community and I share his concern.

The Minister asked for examples of people being unlawfully on land. I refer to cases, especially involving motor bikes, because trespassers are in and out of land quickly but still do considerable damage at times. Four wheel buggies also cause damage. True, it is not such a problem in my area but it is in unfenced areas such as orchard country, and I can understand that considerable problems could be created.

I am concerned that strict trespass provisions would create problems and could be severe. The biggest problem that I have is how one would police such a provision in sparsly populated areas such as my district. A number of problems exist with people trespassing, especially people shooting from roads at feral animals, foxes and rabbits. Generally, farmers do not mind that but often larger animals are shot such as a sheep or a beast and people will go in and recover those animals for one of several reasons.

The Hon. I. Gilfillan interjecting:

The Hon. PETER DUNN: I presume they do, but usually they have set out deliberately to do this act and they do not seek permission—they would not anyway. It is usually done in the dead of night. Also, in the station country we have the problem of people getting lost and needing guidance to reach their destination. Often considerable trespass is involved and that causes a problem in such areas, especially if people interfere with water supplies and so on. I have a problem with the strict trespass provision. However, it does flag a problem encountered by the rural community but it is not so evident in the more sparsely populated areas as it is in the Adelaide area where people get their big number 10 boots or shoes stamping around in delicate areas, say, market gardens.

People tramp around because of the soil types and the amount of fertiliser used. This usually encourages mushroom hunters. It is not only mushroom hunters who are of concern but also people looking for wildflowers. They do so without properly contacting property owners in the area, although it would be common decency to contact landowners before entering land. I would be willing to grant permission and 70 per cent or 80 per cent of land holders would agree to people coming on to their property if they were given prior warning. That leaves us with about 20 per cent or 25 per cent of people who do not ask. The amendment seeks to cover those people. It is an indictment of our society today.

The Hon. J.C. BURDETT: I support the amendments of the Hon. Mr Griffin. The Attorney has talked about a criminal offence that perhaps conjures up the image of an indictable offence, something like murder or breaking and entry. The offence created is a simple offence. I suppose that it is fair enough to call it a criminal offence if one is talking about the criminal law as opposed to the civil law. In the area of breaches of the law—offences against the law—it is not an indictable offence, it is not what is normally called a criminal offence. It is a simple offence like exceeding the speed limit and so forth.

The matters raised by the Hon. Mr Griffin in his definition for the purposes of this Act that a person has lawful authority to enter or remain on any land, I would have thought it hard to specify all the matters that can give a person lawful authority to enter or remain on any land. I thought he has done it successfully. It is a good way of addressing the question. I agree with the Hon. Mr Dunn that we do not want to make anyone who sets his foot inside a fence guilty of not what I would call a criminal offence, but guilty of an offence.

I believe the Hon. Mr Griffin has carefully spelt out those situations where that should not apply. The Attorney referred to the person who did not know. We are talking about definitions of an enclosed field or cultivated field but, if the person did not know, I am not sure that the offence created by the Bill, with the Hon. Mr Griffin's amendments, would be an absolute offence anyway, so I would think it is possible to argue that lack of knowledge—

The Hon. C.J. Sumner: At the top of page 4 it says, 'without lawful authority . . . knowingly enters or remains on any other land'.

The Hon. J.C. BURDETT: That is an argument in favour of the Hon. Mr Griffin's amendment, which provides:

> by striking out the passage 'unlawfully enters or remains on an enclosed field' and substituting the passage ', without lawful authority, enters or remains on an enclosed field or a cultivated field, or knowingly enters or remains on any other land,';.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Knowing it to be private. That is the intent of the amendment.

The Hon. C.J. Sumner: It is making it a criminal offence.

The Hon. J.C. BURDETT: It is not a criminal offence; it is a simple offence. The intent of the amendment is to introduce the element of knowledge—the element of *mens rea*—that it is only an offence if it is knowing. It is a difficult area, as the Hon. Peter Dunn pointed out. No one

would want to ensnare in the law anyone who innocently wandered across a piece of land picking daisies or whatever. But the law in its present form is lacking in guts. It does not enable the landowner to have proper protection, whether the persons on the land are after magic mushrooms, or whatever. There is no proper protection and that protection should be provided. The Hon. Mr Griffin's amendments do this and also provide protection for the innocent person and spell out the circumstances—and that is not easy to do—where that person is innocent.

There is the further protection that the offence has to be knowing—that a person has to knowingly enter or remain on any other land. 'Without lawful authority' is defined. In this difficult area of excluding the innocent trespasser but providing protection for the landowner in regard to the person who wrongfully enters on land, the Hon. Mr Griffin has steered a fairly good course and has ensnared the guilty and left the innocent alone. There is no doubt that the people in the Adelaide Hills who have been to see the Attorney-General and other people are really upset that they do not presently have any real protection.

The Hon. C.J. Sumner: They do. There have been a number of prosecutions under this Act.

The Hon. J.C. BURDETT: There have been some, but the Attorney-General knows that the landowners in those areas are totally dissatisfied with their contacts with him.

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

The Hon. J.C. BURDETT: They are.

The Hon. C.J. Sumner: I have seen them every time that they have come to see me.

The Hon. J.C. BURDETT: They are totally dissatisfied with the attitude of the Attorney, and with the state of the law. The United Farmers and Stockowners are also totally dissatisfied with the Attorney-General at the present time. There should be more protection. Let us leave the emotion alone. The amendments moved by the Hon. Mr Griffin set out a reasonable form of protection without being unfair to any innocent person. I certainly have much pleasure in supporting the package of amendments moved by the Hon. Mr Griffin.

The Hon. C.J. SUMNER: I am very surprised that a lawyer of the Hon. Mr Burdett's standing in the community and with his length of service would so glibly get up and support such a package of amendments and a fundamental rewrite of the law of trespass in this State without further consideration. I am surprised perhaps not at the impertinence of honourable members opposite—perhaps it is not arrogance—but certainly bravado, to come into this Council and in one or two days completely rewrite the law of trespass in this State. Honourable members have claimed to be friends of the landowners. The Hon. Mr Gilfillan not only claims to be a friend of the landowners, but he is one.

The Hon. R.C. DeGaris: He is allowed to be.

The Hon. C.J. SUMNER: Of course, and I think that is very good. But let us not all claim credit for being friends of landowners. Members of the Government are also landowners.

The Hon. J.C. Burdett: Like you.

The Hon. C.J. SUMNER: Well, I am a property holder in the city but apart from a fairly nondescript fibro cottage at Moonta Bay I have never personally held rural land. However, I have some connection with the rural community having been brought up in the Mid-North on the northern Yorke Peninsula. My ancestors started in two rural areas: Mount Torrens for one branch of the family, and Bute and Alford for the other branch of the family. Members opposite and the Hon. Mr Gilfillan do not have a monopoly of virtue in understanding the problems of rural landowners. I have some concern about some of the issues that have been brought to my attention by them and by the United Farmers and Stockowners.

The Hon. I. Gilfillan: Why not bring in a Bill?

The Hon. C.J. SUMNER: That is what we have done.

The Hon. I. Gilfillan: You are not dealing with this issue.

The Hon. C.J. SUMNER: That is not true. We have dealt with the issue in two particular ways during the past 12 months that are quite significant. The first was in relation to section 17a of the Police Offences Act where we provided that—

The Hon. K.T. Griffin: That was my Bill.

The Hon. C.J. SUMNER: But we amended it. I did not think that the Bill was satisfactory in the form in which it was introduced but, after some discussions and a deal between the Hon. Mr Griffin and me, we allowed the Bill to pass. Nevertheless, making a criminal offence of being on premises or land where there is a substantial interference with the enjoyment of the landowners' occupation of that land and the offender is told to leave, was already an intrusion into the general law relating to trespass as a criminal offence. That was a significant piece of legislation that supported the position put by landowners. Again, I am introducing this Bill following representations from landowners. To suggest that the Government has done nothing and that members opposite alone have a monopoly of virtue in supporting the rural community is simply not true. I have considered the issues put to me by the landowners and have taken action in two areas. I do not believe (I accept what the Hon. Mr Gilfillan says) that we should at this stage rewrite the law of trespass.

I believe it is urgent that we pass the Bill as introduced by the Government. It is urgent because it has been requested because of particular problems that exist, and we should pass it as soon as possible. If we are going to go through the procedure put forward by the Hon. Mr Griffin, I believe that much more consideration would need to be given to it. I do not believe that the Bill will pass in this session and we will, therefore, be left without the penalties that the Government has put forward to deal with the particular problem that will probably occur in the Adelaide Hills.

The Hon. Mr Gilfillan, in the case he put for the Democrats being supportive of the rural community, said that there were problems—damage to crops and the like. Most of the things that happen on land in relation to damage are already covered by offences. The problem is how one polices them. Changing the law will not help if there is not adequate policing or if there cannot be adequate policing. A lot of the problem in rural areas is that breaches of this sort of law, whether it be damage by dune buggies, or motor bikes, are difficult to police. The difficulty is how one polices it. In the great majority of cases there is already an offence constituted—damage to fences or stock and those sorts of things—which is covered by the substantive criminal law. The problem is finding the people who do it.

In many rural areas there is only one policeman, who may have to travel 50 or 100 kilometres to get to the spot if it is in the more remote areas. It is not so difficult closer to the metropolitan area, but even then it is difficult to have the police on the spot in order to apprehend the people, no matter what laws one has. Certainly, the Hon. Mr Griffin has indicated that in his view there is a problem that is not addressed by the legislation. We have acceded to a number of the requests made by the UF & S in the rural community. We have not been completely blind to its concerns, but I repeat that I do not believe that we ought to amend the law in the way suggested by the honourable member. It really involves a major turnaround in the traditional approach that we have taken to the law of trespass: the Hon. Mr Burdett would not deny that, and I do not believe that the

Honourable Mr Griffin would either. I do not really believe that that is what we should do tonight.

The Hon. I. GILFILLAN: I do not want to repeat what I said before. We recognise that this is not the right occasion to effect this substantial reform of the Act, but I take this opportunity of getting some clarification for the sake of the Council, me and others interested. The Attorney says that there are offences already established to cover a lot of these abuses. I have been speaking to a farmer on the banks of the Murray. He has several problems: one is that houseboats move up and down the River, can call anywhere and often have trail bikes on board, which move off the boats. In certain areas alongside the river there are 100 links of public land and then it becomes private. A lot of landowners under those circumstances do not fence, so there is not a very clear demarcation. Those off road bikes or trail bikes abuse the situation on the farm: they leave gates open and go through stock. The offence of interfering with stock is probably very difficult to prove, even if one has the identification: I do not know. That is one thing that I would like comment on: are the offences all there in place?

Is there a restriction on the ability of a landowner to act in offences of this nature if the boundary of the property is not clearly defined or marked by a fence? Do notices act significantly in some way? I get a 'no' from the Opposition benches, whose members are following closely the case that I am making: obviously the situation is not adequately covered. I would like an comment from the Attorney or from people in the Opposition—the shadow Attorney if he wishes.

The Hon. C.J. SUMNER: I recall in this Parliament some few years ago a proposition being developed by the Government—if it did not reach the Parliament, it certainly was in the public arena—and the Hon. Don Simmonds, as Minister for the Environment, dealing with off road vehicles and the problems that they cause on private property. That raised a storm of protest from the people who are involved in riding the motor bikes or off road vehicles. The proposition was to have certain areas in the State set aside for off road vehicles and to try to keep them off private property.

That, as I said, was a fairly controversial proposition and was not proceeded with by the incoming Government in 1979. It would have involved some regulation in this area, and that is the problem that one faces. One is always faced, no matter what one wants to do, with potentially more regulations.

The Hon. I. Gilfillan: Is it an offence for a trail bike to go through stock?

The Hon. C.J. SUMNER: If it caused damage to stock, yes. The honourable member is talking about a criminal offence now.

The Hon. J.C. Burdett: A simple offence. You are misusing the word.

The Hon. C.J. SUMNER: It is an offence, as the honourable member knows. That was decided by the High Court in a case in which I was involved: *Hall v Samuels.* A breach of a local government by-law is an offence.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: The honourable member is being pedantic: he knows as well as I do that that is a criminal offence.

The Hon. J.C. Burdett: It is not. It is no different from jay-walking: it is a simple offence.

The Hon. C.J. SUMNER: It is an offence. It is a contravention of the law of the land, which is criminal.

The Hon. J.C. Burdett: It is a simple offence.

The Hon. C.J. SUMNER: It is subject to fine. If one does not pay the fine one can go to gaol.

The Hon. J.C. Burdett: Like parking.

The Hon. C.J. SUMNER: It carries a conviction: one is convicted of an offence.

The Hon. J.C. Burdett: It is a simple offence.

The Hon. C.J. SUMNER: I am not sure what point the honourable member is trying to make.

The Hon. J.C. Burdett: It is quite different from an indictable offence, which is a criminal offence.

The Hon. C.J. SUMNER: We have just dealt with the Police Offences Act in this State. Assault police is not an indictable offence: the honourable member is saying now that that is not a criminal offence.

The Hon. J.C. Burdett: Yes.

The Hon. C.J. SUMNER: The honourable member should go back to his law school and learn the law—Glanville Williams—before he comes in with inane interjections of that kind. The question that the Hon. Mr Gilfillan raises is to what extent the current law covers, for instance, off road vehicles. I merely make the point, first, that there was a proposition to regulate off road vehicles, which was not proceeded with, but I will not labour that point.

Secondly, off road vehicles that are on private property are certainly subject to the civil processes and civil law. Trespass has always been a civil wrong. It is always possible for landowners to take action. It is possible for landowners to get injunctions against people who continually trespass on the land with motor bikes or buggies, but as far as the criminal law is concerned the question is whether or not there is any other offence. Damage to cattle, stock and fences would be covered.

The Hon. I. Gilfillan: You will not commit trespass if the area is not fenced.

The Hon. C.J. SUMNER: One commits the civil wrong of trespass.

The Hon. K.T. Griffin: You can sue for damages.

The Hon. C.J. SUMNER: One can sue for damages or something of that kind. One can refer to a number of offences: sections 114 and 270a of the Criminal Law Consolidation Act deal with injuring and attempting to injure cattle: a section of that Act confers a very broad definition on the word 'cattle'; section 100, destroying trees, shrubs; section 101, damaging trees, vegetables, etc; section 102, destroying fences; section 39, common assault; section 270a, attempting to commit common assault. Section 126 of the Criminal Law Consolidation Act provides:

> Any person who unlawfully and maliciously damages real or personal property either of a public or private nature the damage not being punishable by the foregoing provisions of this Act, and being of an amount exceeding one hundred dollars, shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding two years;

So, unlawful and malicious damage to property is covered. Section 264 of the Criminal Law Consolidation Act, which deals with intimidation or annoyance, states:

> Uses violence to or intimidates such other person, his wife or children, or injures his property.

There are Police Offences Act provisions: being unlawfully on the premises—section 17, which we dealt with before; section 42, larceny of things attached to land; section 43, wilful damage to property; section 76, powers of arrest of the owner of a property where he finds any person commiting an offence on or with respect to that property.

A number of offences are available for use at present. One would need to look at individual circumstances to determine whether or not there was a criminal offence committed as opposed to a civil wrong of trespass. Purely innocent trespass is a civil wrong for which a landowner can seek damages. If a person walks across a landowner's property that is trespass, but nothing flows from it because no damage has been caused. However, if the trespasser opens a gate and lets all the sheep out and they get run

over or lost, the landowner can sue for the loss of those sheep, sue for damages caused by the trespass.

If there was damage to the fence a criminal offence could be involved, so there are a number of offences available, for instance the one that the honourable member mentioned so far as the Murray River is concerned. If it were just driving on a track on private land, I do not believe that that would be a criminal offence unless some aggravating circumstance was associated with it. The problem that the honourable member raises is the whole question of how one regulates people in the environment when many more people are using it and taking advantage of the bush, outback and the facilities for tourism and recreational purposes that are available. If there is only one houseboat on the Murray River with one dune buggy or motor cycle aboard one does not need regulations to deal with it. But when there are 50 or 60 houseboats chugging up and down the river every day with 300 or 400 motor bikes on them, how does one handle that? Does one make it a criminal offence or deal with it in some other way as proposed pre-1979 to provide specific places for people to have off-road recreational activity? It becomes a more complex issue then. There are some offences. They do not cover all the cases of innocent trespass, but I return to the fact that some fundamental issues are involved if we are going down that track.

The Hon. K.T. GRIFFIN: I have every sympathy with the Hon. Mr Gilfillan about the time we have had to consider this very important question. I draw attention to the fact that the Bill was introduced on 19 March and in eight days the Opposition has endeavoured to come to grips with the problem drawn to its attention and to put amendments on file that it believes will go a long way towards solving concerns presented to it by rural property holders and occupiers. I can recognise that even eight days is not adequate, but when one is in Opposition one has to try to facilitate the Government's business.

The Hon. C.J. Sumner: I'll put it off for as long as you like. If you want more time to consider the matter we will put the Bill off.

The Hon. K.T. GRIFFIN: I have made my decision on what I want to do, but I am just pointing out that the Bill came in on 19 March and that we in the Opposition have tried to facilitate consideration of it. The Government had representations made to it some months ago about this matter and there have been several statements made about it. The Minister of Agriculture made several statements saying that things seemed to be okay, and even in this month's *Farmer and Stockowner* (and the Attorney will be delighted to see this) there is a headline 'Sumner Revamps the Trespass Act', when all he has done is increase penalties. It is not a revamp of the legislation, as everything stays the way it was before except the penalties. It is the Opposition that ought to get the headlines for endeavouring to really revamp the Trespass on Land Act because what it has tried to do is come to grips with the real issues that are of concern to rural property owners and occupiers, and those issues related to people trespassing and causing concern.

They may not be committing offences as such, and if they are not committing offences as such they are not unlawfully on the premises. Nevertheless, they cause concern because they are walking around the property and the property owner does not know what they are like, what they are doing or what they will do if they are asked to leave. That heightens the concern of the property owner or occupier.

I have been on a property as an invitee when there have been trespassers on that property. The owner and I went up to the people involved and told them that they were not really meant to be there and asked them would they leave, only to be treated to a mouthful of abuse. In that case it may be offensive language, although it is not in a public place, so that under the Police Offences Act it would not be an offence. However, it is disconcerting and alarming in such circumstances and what I am trying to do is come to grips with that sort of problem.

The Attorney-General has criticised what I have been trying to do. He has thrown in the matter of deregulation, but this has nothing to do with regulation or deregulation. He knows as well as I do that the subject of deregulation in the community is about Government interference in business and in activities requiring licences and fees, and obligations to be met and returns to be filed—that is what regulations are about. We are about removing that sort of Government interference. This Bill is not regulating in that sense but is endeavouring to provide for rural property owners and occupiers a reasonable level of protection and to ensure that their property is not abused and, more particularly, that the disconcerting, annoying, irritating behaviour that occurs in many instances of trespass is met head on.

The Attorney-General has suggested that a number of apparently unforeseen circumstances would be innocently caught by the Bill. I point out that in the definition of 'lawful authority' a wide range of behaviour is permitted, and the additional regulation making power provides a power by regulation to exempt a specified person or persons of a specified class from the application of the Act. So there is a mechanism there for dealing with the unforeseen innocent behaviour.

The other point I make is in response to the Hon. Mr Gilfillan's questioning about the application of the legislation to unfenced property. I made the point earlier that the Bill applies only to an enclosed field, which means an area of land which is enclosed by fences, hedges or walls and which has sheep or cattle grazing thereon or has a cultivated crop thereon, or is an orchard or vineyard. There is a provision that the area shall be deemed to be enclosed by fences, hedges or walls notwithstanding any gap or break in such fences, hedges or walls. I have made the point that many orchards or vineyards are just not fenced.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: The Murray River, too. The principal Act does not apply to such properties.

The Hon. C.M. Hill: And properties up around Ashton and Norton Summit.

The Hon. K.T. GRIFFIN: Yes, and also the Adelaide Hills, Coonawarra, Clare Valley, the Riverland and all around the place. The Bill does not apply, and what I have been trying to do is broaden the scope of the definition of properties that are subject to this Act and to come to terms with the issue to achieve a real revamp of the Act, not just focus on the penalties that the Attorney-General has spoken about in his public statement and statements in this Council.

The Hon. I. GILFILLAN: I indicate to the Committee that, if the Opposition seeks to divide on the amendments, I will abstain, and I will advise my colleague to do likewise, because I do not believe that I want to vote against the amendments. I am fully aware of the significance of the problem, but I do not understand enough of the implication of the amendments to be seen and recorded as opposing them.

The Hon. C.J. Sumner: All you are doing is holding it up. The Liberal Party and the UF & S must decide whether they want the Bill as it is introduced or nothing at all. That is all that is being offered at the moment. I can put the Bill off until the next session. The Government will not agree to a complete rewrite of the law of trespass in this manner, and I do not care what the Democrats do on that point.

The Hon. I. GILFILLAN: On a point of order, Mr Chairman, is the Attorney expected to stand if I am to hear what he is saying.

The CHAIRMAN: That is true; the Attorney should stand.

The Hon. C.J. SUMNER: I will do that, and I will answer the honourable member. The fact is that that will achieve nothing. I make the Government's position crystal clear: if the honourable member abstains and the Bill passes this Chamber and is transmitted to another place, the amendments will not be accepted there and it will be returned to this Chamber. If there is a deadlock and the amendments remain in the Bill, the Government will not pass it.

An honourable member interjecting:

The Hon. C.J. SUMNER: The honourable member can let it go to a conference, but there is no point. The Government will not, in any circumstances, accede to these amendments at this moment in these circumstances. In my view it is quite improper to legislate in this way. I do not know whether members realise what we are debating at this moment: we are debating a complete reversal of the traditional concept of the law of trespass in this State as has existed in the common law system for centuries. In effect, that is what we are doing.

There has been no Law Reform Commission inquiry on it. The Mitchell Committee recommended against making pure trespass a criminal offence. I am not suggesting that there are not problems. The Government has attempted to address those problems on two occasions: last year with section 17 of the Police Offences Act and this year by increasing the penalties in this Bill. If the Democrats want more time to consider the Bill, I am happy to adjourn it for as long as they require. I do not believe that Parliament would be in a position to consider the amendments by the time we rise in May. We just do not have the time. The amendments would have to be circulated and referred to possibly the Law Reform Commission. As I have said, the amendments completely change the law of trespass in this State. I am not going to be a party in this Parliament to making legislation on the run on such a significant issue. If the Hon. Mr Gilfillan wants to abstain or vote, that is fine. I do not want to apply any pressure. I am saying that the Government will not in any circumstances agree at this moment. Quite frankly, it would be grossly irresponsible.

The Hon. I. Gilfillan: I'm not asking you to.

The Hon. C.J. SUMNER: No, but if the Democrats abstain it will enable the Bill to pass this Chamber and go to another place, where the amendments will not be accepted. The Bill will then be transmitted back to this Chamber. Members can have a futile conference—I do not mind. We will not shift at this moment. The UF & S and its supporters and the Liberals can have the Bill in its present form as it was introduced to increase the penalties. The police already use the Act to deal with problems. We are increasing the penalties to make the deterrent more effective. If the Hon. Mr Griffin in June or July or some time after he has given the matter more consideration wants to introduce a private member's Bill, that is his right. I am happy to adjourn consideration of the Bill. If Parliament wants a Bill, it has one in its present form. I think that is reasonable. I invite the honourable member to consider his proposition at some later stage but not as part of this legislation.

The Hon. I. GILFILLAN: Quite obviously, abstention is not an intention to force the Government into an attitude towards the amendments. In my earlier comments I made quite clear that I was not committing the Democrats to support or oppose the Hon. Mr Griffin's amendments because we have not had a chance to read them properly, let alone understand them. Neither do we want to be seen to be voting against what could be potentially very effective measures in dealing with trespass. My comments earlier to the shadow Attorney-General were to the effect that I felt a far more appropriate vehicle for his proposition was a separate Bill. It would certainly be much more convenient, from my point of view, if he considered doing just that. I do not intend to be caught up in a political point scoring exercise where the Democrats are used as the dummy.

I am taking this area of trespass very seriously. I have listened to what I hope was constructive debate in the main, hoping to contribute to an eventual end result which is of benefit to all sides, both the landowners and those who use it. The steps in the Government's Bill have consensus. I understand that they have unanimous support; I have not heard any criticism of them. It seems a great shame to me if the situation cannot benefit from the implementation of the Bill forthwith. This is where the responsibility and judgment must fall to the Opposition in what it wants to do.

There is no way that the Democrats will be pushed into being shown to oppose what could, under closer study, be revealed as effective penalties to diminish the effect of trespass and to create a better situation. I will not be caught in that trap. If the measure is adjourned, I am all for that, because we will have more time to deliberate. I do not back away from the point that I consider it inappropriate to saddle a clearly defined measure with many other ramifications. That is a cumbersome way to deal with legislation, but so be it if that is the Opposition's decision. My decision to abstain is based on the situation in which I currently stand. It is not a judgment either for or against the amendments; it is a recognition that we have a continuing problem of some substance in the rural sector in relation to trespass. It seems to me that the only sensible way to deal with this, if this is pushed to a vote and a division, is to abstain.

The Hon. K.T. GRIFFIN: I intend to proceed with my amendments. I think that is perfectly proper, notwithstanding the statements that have been made. It is really a matter for each member of the Committee to determine their attitude, whether by way of Party decision or individual decision. I believe the matter is important enough to proceed, and we are entitled to take the first available opportunity to consider this Bill and such amendments as we believe are necessary. If I were to withdraw from my amendments, it would mean that there would be no consideration of this matter in another place for the rest of this session. I do not intend to adopt that course.

The fact is that, if the Bill with amendments is passed in this Chamber, it will be transmitted to the House of Assembly where it will be considered. I think it is proper that those matters be considered because, as I say, there is no private member's time left in another place. It is better to do it now at the first opportunity when a Government Bill is before us. I am not persuaded that it is a matter that should be withdrawn.

The Hon. C.J. SUMNER: The honourable member says that there is no private members' time, and there is not any private members' time left, but I do not believe that if there were private members' time, that this is the sort of Bill we could consider in the next six weeks: that is, in the next weeks of sittings. It is just too fundamental a rewrite of the law and it is legislation on the run. I must confess that I feel some regrets about having agreed to the instruction because it was the sort of circumstances, as I said then, when what we were trying to do was to tack on to this Bill a complete rewrite of the law. We gave the instruction. I made my point then that I hoped that the Council would not allow the issues to be aired. That was really the basis upon which the instruction was given, to allow the issues to be aired.

I said when I spoke on the instruction that I did not think this was verging on a situation where there ought to be opposition to an instruction. The Opposition is placing on file a fundamental change in the law in this particular

matter. I can only repeat that the people have to decide what they want. They either want a bird in the hand at the moment, which they can get with this legislation of the Government's which does go some way to meet the requests and the concerns of the landowners, or they can have nothing. I am not suggesting that there ought not to be something done at some stage, if the Hon. Mr Gilfillan has some concerns with the problems of trespass, or the Hon. Mr Milne, the Hon. Mr Feleppa, or the Hon. Mr Blevins, or the rural sector. If there are concerns about trespass again the Government has not closed its eyes to the submissions that have been put to it. We have accepted the submissions on occasions. We have to be sure that we are on the right track, and that what we are doing is not going to have a whole range of side effects about which we do not know. It is for that reason that it is verging on the irresponsible to try and attach these amendments to this particular legislation. If there is a need for the rewrite of the law of trespass then let the honourable member do it; introduce it as a private member's Bill; get the comments from the law reform agencies; and put the Bill up. The fact of the matter is this, that if clauses such as the honourable member seeks to introduce in this Bill dealt with another area of the law, they would, without doubt, be referred to the Law Society for comment.

They would probably be referred to the judges of the Supreme Court for comment and to the South Australian Law Reform Committee for comment. There would be a proper research done on the situation in the other countries where trespass has become a criminal offence. All this would occur before one would introduce a Bill like this. I think that is sufficient grounds for opposing it. We need not go any further. I think the Hon. Mr Gilfillan could find sufficient grounds for opposing it. Perhaps he would agree that we should not have granted the instruction. He now finds that the Opposition is pushing him into a corner by no doubt suggesting that if he does not vote with them it will be used politically against him, and that is his concern. We are going to go through a political charade here for the next few days in this Council and the House of Assembly and a conference. The end result can only be one thing as far as the Government is concerned and that is the Bill that is before us because for the reasons I have outlined I will repeat, we will not countenance these amendments at this particular point of time in these circumstances. It would be grossly irresponsible for the Parliament to do it. I believe that a legislator of the experience of the Hon. Mr DeGaris would probably agree with that. The fact is that this would be referred for consideration by committees of inquiry, be looked at by the legal profession, and by the people concerned, by civil liberties groups and by the UF & S, and none of that has happened.

The Committee divided on the amendment:

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

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

The CHAIRMAN: There are 10 Ayes and 10 Noes. So that the matter can be further discussed in another House and to allow further debate, I give my casting vote for the Ayes.

Amendment thus carried.

Progress reported; Committee to sit again.

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

That the Committee have leave to sit again on the next day of sitting.

The Bill in its present form is not acceptable to the Government. It is a complete rewrite of what was a simple Bill, and the Government does not intend to pick up this Bill or allow Government time for it. It is simply not the Government's Bill any more.

Motion carried.

POLICE OFFENCES ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendment:

Clause 32, page 6, after line 44—Insert new subsection as follows:

(4a) Where it is decided not to charge a person who is apprehended on suspicion of having committed an offence, the member of the police force who is in charge of the investigation of the suspected offence shall ensure that the person is, if the person so requires—

(a) returned to the place of apprehension;

or

(b) delivered to another place that may be reasonably nominated by the person.

Consideration in Committee.

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

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

One amendment has been made by another place. The proposition was put to us that, where a person was detained following arrest for the period of four hours for the purposes of investigation and that investigation involved the taking of the person from one place to another, the person should be returned, if not charged, to the place at which the person was apprehended or some other place nominated by the person. That proposition was acceptable to the Government and was moved in another place. It is a reasonable safeguard, combined with the other stringent safeguards that exist in the legislation following the apprehension of a person, the other safeguards being the right to have a solicitor present, the right to call a friend, the right to an interpreter, the right to remain silent, and the right to be advised of all those rights. This is an additional protection for an accused person and I believe that it is acceptable.

The Hon. K.T. GRIFFIN: The Opposition is willing to support the motion to agree with the amendment made by another place. It is a reasonable proposition that someone who has been apprehended on suspicion of having committed an offence, who is questioned and then released, should not be released at a point that is so far distant from the place of apprehension as to be a burden on that person. As I understand it, the police and other persons likely to be affected by the provision are satisfied that it is a proper provision. I am certainly willing to support it. I have reached that conclusion independently, anyway, that it is reasonable. The Opposition supports it.

Motion carried.

CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL (No. 2)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Classification of Publications Act, 1974. Read a first time.

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

That this Bill be now read a second time.

It provides for the suspension from operation of the sections of the Classification of Publications Act Amendment Act which make it an offence for a person to sell, display or deliver for sale a film (or video tape) that has not been classified. The Bill allows for these sections to be brought into operation by way of subsequent proclamation.

It was the Government's intention to proclaim the recent amendments to the Classification of Publications Act, which will result in the withdrawal from sale of X type video tapes and initiate compulsory classification of all video tapes for sale or hire, as soon as possible. Indeed, it had been hoped to proclaim the legislation to operate on and from 1 April. (Obviously the Government is anxious not to postpone that date because to do so would result in the continued availability of X rated tapes, which is not the desire of this Parliament.)

The industry is concerned that many of the G, PG, M and R type of video cassettes that they currently have on their shelves have not been formally classified by the Commonwealth Film Censorship Board in Sydney. This would mean that once the legislation is proclaimed to come into effect they would have to withdraw many video tapes from circulation until a formal classification is issued by the Film Censorship Board. The industry estimates that some 2 500 titles would be directly affected.

The Commonwealth Film Censor has verified this figure and has advised that, of the 2 500, possibly as many as 2 000 titles could presently be available through normal retail outlets. This represents a considerably high proportion of all video tapes available for retail sale. The Commonwealth Film Censor has also advised that at the present rate of classification the backlog of 2 500 could be cleared over a period of five months.

It seems reasonable, therefore, to allow the industry a little further time before introducing a compulsory classification system. This would then alleviate the need for them to remove from their shelves these particular tapes. (I am informed that some of the films/tapes which fall into this unclassified category are *Blue Fin, Chariots of Fire, Empire Strikes Back, Annie, Champions, High Road to China,* etc.)

The Government's intention is to bring these particular suspended provisions into operation in about four months time, or at such time as the Commonwealth backlog has been caught up. The Classification of Publications Act Amendment Act which recently passed through Parliament will be brought into operation as soon as this particular amendment has been passed and assented to. As a precautionary measure for the period until the suspended provisions are brought into operation, the Bill provides that it will be an offence to sell, display or deliver on sale a film that has been determined by the Classification of Publications Board or by the Film Censorship Board to be beyond an R classification. The suspended provisions will, of course, when they come into operation, cover that ground and more by prohibiting the sale of any film that is not classified as a G, PG, M or R film.

The opportunity is being taken to include in this further amending Bill amendments to sections 18a and 19. Section 18a presently makes the person having the control or management of premises in which an offence involving a restricted publication is committed also guilty of an offence. Section 19 presently provides for the seizure and forfeiture of restricted publications involved in certain offences against the Act. The amendments proposed will extend the application of these sections so that they will apply to any offences against the Act involving publications; whether classified or not. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on the day on which the Classification of Publications Act Amendment Act, 1985, comes into operation. Clause 3 amends section 18 of the principal Act which sets out offences against the Act. The Classification of Publications Act Amendment Act, 1985, which is to come into operation on a day to be fixed by proclamation, provided for a new subsection (3) making it an offence for a person to sell, display or deliver on sale an unclassified film. The clause makes amendments providing that this new offence is to come into operation on a day to be fixed by proclamation in order to enable its operation to be postponed to some day after the commencement of the Classification of Publications Act Amendment Act, 1985.

The clause also inserts a new offence that in effect prohibits the sale of any film determined under the principal Act or a corresponding law to be not suitable for classification as a G, PG, M or R film. This new offence and the supporting evidentiary provision will, under the clause, expire when the new subsection (3) comes into operation. Clause 4 amends section 18a of the principal Act which provides that where an offence against the Act is committed in relation to a restricted publication the person having the control or management of premises in which the offence was committed is also guilty of an offence unless he establishes the defence under subsection (2). The clause amends this section so that it will apply in relation to any publication whether or not classified as a restricted publication.

Clause 5 amends section 19 of the principal Act which authorises a member of the police force to enter premises upon which an offence relating to the exhibition, sale or distribution of a restricted publication is reasonably believed to have been committed and to seize any copies of restricted publications upon those premises. The section provides for forfeiture of restricted publications involved in an offence against the Act. The clause amends this section so that it will apply in relation to any offence against the Act involving a publication whether or not classified as a restricted publication.

The Hon. K.T. GRIFFIN: The Opposition supports this Bill. It recognises that there is a problem with the backlog of video tapes not classified by the Chief Commonwealth Film Censor and that that will create considerable difficulties for video tape outlets with videos either for sale or hire. In the light of the fact that the Opposition has been successful in persuading the Government and the Democrats that a compulsory classification scheme is necessary, and with the banning of X rated and worse tapes and the proposed ER tapes, we are satisfied, to facilitate the proper implementation of the scheme, that there should be further time allowed for the Commonwealth to catch up in its classification process.

If the amending legislation passed several weeks ago is brought into effect without any consideration for retailers who have video tapes that are not classified, then it would make a farce of the scheme and would bring the law and the Parliament into disrepute. I do not believe that that should be permitted. The effect of this Bill will be to bring into effect everything that we have so far passed except that part which creates an offence to sell an unclassified video tape. If that stood alone it would mean that where an X rated video tape were offered for sale the police, in prosecuting, would have to rely on the courts to determine that that particular video tape was indecent or obscene under section 33 of the Police Offences Act.

Of course, under the scheme that is to come into operation, that was not envisaged. It would have been an offence to have sold an unclassified film, which includes a video tape or film which has been refused classification. Therefore, other provisions of the Bill will make it an offence to sell certain video tapes—if they have been refused classification by the State or the Commonwealth; have been classified under South Australian law as category 2 restricted publi-

cations; are classified under a corresponding law otherwise than as a G, PG, M or R film; or are in a category of some other prescribed film—that gives the Government more flexibility.

It is important to ensure that the law is workable and that where an offence is created it is prosecuted. Obviously if section 18 (3) and section 18 (3a) come into effect it would mean that the police would have to turn a blind eye to the sale of some of the quite innocuous films, such as those referred to by the Attorney-General in his second reading explanation, where they have not yet been classified.

The Attorney-General indicated that he would propose that the Government bring into effect section 18 (3) and section 18 (3a) of the amending Act within about four months. I want to address one or two questions to the Attorney-General on that to see whether it can be more specifically defined, not in the Bill, but in terms of Government action or intention. I will do that during the Committee stage. I am prepared to support the Bill and to facilitate its progress in this Council. My colleagues in the House of Assembly, I understand, are likewise prepared to facilitate it on the basis that the package of legislation, other than section 18 (3) and section 18 (3a), will come into effect on 1 April. I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): I appreciate the honourable member's intimation of support and the co-operation that he has shown in enabling the Bill to come before the Parliament in this way. We are not talking about a policy matter: it is just a technical matter to ensure that the industry is not unfairly disadvantaged by being caught up in a new classification system when it had acted in its businesses on the basis of a pre-existing system. In other words, it extends the transitional period and, its being basically a technical matter and not a policy matter, I am pleased that the honourable member has agreed to facilitate its passage and that he has intimated that his colleagues will do the same in another place.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It is transitional only in respect of the compulsory classification aspect of the legislation and the banning of X. If the legislation is passed in the House of Assembly tomorrow the ban on X will operate from the Executive Council proclamation on Thursday next—Maundy Thursday.

The Hon. K.T. Griffin: It will not be 1 April?

The Hon. C.J. SUMNER: We had intended 1 April. It will now have to be Thursday 4 April.

The Hon. K.T. Griffin: I thought that you might have been having a special Executive Council meeting, still to meet the 1 April deadline.

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

The Hon. K.T. Griffin: But you will give some consideration to it?

The Hon. C.J. SUMNER: We can certainly do that: we may still be able to do that. I figured that another three days would not matter very much seeing that the original intimation that we gave was six to eight weeks from the time that the legislation was passed. If the honourable member wishes me to do that, he can perhaps ask me a question in Committee.

I was concerned to indicate that I appreciate the Opposition's co-operation. Once it is passed, we will move to proclaim that section of the legislation relating to the banning of X, providing an extended transitional period for the compulsory classification.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Offences.'

The Hon. K.T. GRIFFIN: Can the Attorney-General be a bit more specific about when the suspended sections will come into operation? He said in the second reading explanation that it would be approximately four months or as soon as the Commonwealth had caught up. That may mean that it may be quite a bit longer than four months, and I do not really want to see it going on indefinitely.

The Hon. C.J. SUMNER: The Government does not want to see it going on indefinitely, either, but if for some reason the Commonwealth does not classify as quickly as it has indicated that it will be able to, I do not want to be in a position where we still have 500 titles unclassified in four months and are forced to proclaim the legislation at that time.

The compulsory system will come in as soon as it is practicable to introduce it. It is anticipated that that will be four or five months. I have written to the Commonwealth Attorney-General and indicated that because all the other States are accepting this compulsory classification system it is imperative that the backlog be removed as quickly as possible. I have suggested to him that further staff should be trained for the task and that the matter be dealt with as quickly as possible. Whether that will have any effect on him, I do not know, but I have certainly made the request. I certainly do not want to see the legislation unproclaimed for an indefinite period. I will certainly aim to get it proclaimed in about four or five months. If it is not, I will be happy to report to the Parliament the reasons for a delay beyond that period.

The Hon. PETER DUNN: Do films that are brought in for film festivals come under the term 'prescribed film'?

The Hon. C.J. SUMNER: That is dealt with under a different Act: the Film Classification Act. They are not videos: they are films for public exhibition. Often, films for film festivals are granted exemptions from the normal classification procedures. They are films classified by the Commonwealth Film Censor for public exhibition; we are talking here about videos classified for private sale or hire. That does not impact at all on film festivals.

The Hon. K.T. GRIFFIN: In respect of the Commonwealth's task of classifying, I hope that it moves more quickly than the four to five months. I am surprised that some of the films that have been referred to by the Attorney are not classified. They have been shown on television publicly and I would have thought that they would bear the relevant G, PG and M classifications, anyway, so that it would be relatively simple to bring the classifications up to date and merely check those available for sale or hire to ensure that the content is identical with the content of the films that have been classified for public television.

The Chief Commonwealth Film Censor has indicated in an annual report a year or so ago that the process is one where documentation is used a lot, relying on the integrity of the distributors where the films are available for public exhibition or television, and the majority of films are classified in that way. So, I hope that the Chief Commonwealth Film Censor would be able to use that sort of system in the process of classification to ensure that it is done as soon as possible.

As the Attorney says, we have a situation where other States also have a compulsory classification system. As I understand it, some of them may have even brought their legislation into effect and disregarded the true impact of their own legislation but, if that is the case, that is their business. I would much prefer to do what we are doing through this Bill, that is, to recognise the difficulty and take some legislative steps to facilitate the transition, while still effectively banning the X and worse category films. I place on record my hope that it can be done more quickly than the four to five months indicated.

The Hon. C.J. SUMNER: I agree with the honourable member—we hope so, too. I have expressed that wish by letter to the Commonwealth Attorney-General when asking him to provide more resources for the catch-up of this backlog.

Clause passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

ELECTORAL BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 3573.)

The Hon. R.C. DeGARIS: I have already dealt with a number of the matters in this Bill. The last matter I spoke on was the change in the voting system that the Bill provides with and my opposition to that change. The Bill also provides for photographs of all candidates but I see no reason at all for such a provision. The second reading explanation indicated that photographs could be used where candidates are of a same name. I cannot see how the inclusion of a photograph would solve that problem. If a returning officer decides that any further information is required a decision can be made about that. Such a provision relating to extra information is to apply to all candidates in that election.

The Hon. Peter Dunn interjecting:

The Hon. R.C. DeGARIS: That is right. That would be about as valuable as a photograph, I think. It appears unnecessary to have that provision in the Bill. There may be ways other than using a photograph to solve the problem. However, I cannot recall one such occasion when there has been any need for a photograph. I cannot recall one occasion. I think that the last time two candidates with the same name and similar given names contested an election was in Kavel where E.R. Goldsworthy was one candidate and R. Goldsworthy the other. The electors had no difficulty with the names and made the correct decision at that election. I oppose the need for photographs unless a returning officer sees an absolute need for their use.

The voting system changes in question applies to both the Legislative Council and the House of Assembly. The present voting method for the Legislative Council is such that if there is a mistake in the sequence of numbers on a ballot paper it can still be valid up to the point where the mistake is made. For instance if a person votes 1, 2, 3, 5, 6 and 7 in the Legislative Council that vote remains valid up to the break in the sequence. In other words, 1, 2, and 3 are formal votes for the first three candidates. As I understand the Bill, where that happens and there is a vote 1, 2, 3, 5, 6, 7, etc., the returning officer can reallocate the numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 as long as the 11 people are voted for in that election. The same system will apply in the House of Assembly as long as there is a number 1 the others can be reallocated. A problem arises when a vote states 1, 2, 2, 3, because that cannot be reallocated.

However, the numbers 1, 3, 4, and 5 can be reallocated. The numbers 1, 50, 51, 71, and 81, as I understand the Bill, can be reallocated to a correct sequence of numbers. There is then a problem if someone says 1, 50, 50, 70, and 81, because that cannot be reallocated unless there is a Party ticket that applies, when once again those numbers can be reallocated. I do not agree with this provision and will oppose it.

In relation to mobile polling booths, with the permanent postal vote—which I understand is retained in the Bill as the new registered declaration vote—there is no need for mobile booths. There appears to me to be more ability to abuse principles in a voting system with such a concept than anything else in the Bill. Therefore, I will oppose the proposal of mobile polling booths.

The question of prisoners' voting has been touched on by a number of members, and I support their views. The proposal regarding prisoners' voting is unacceptable. A prisoner should remain on the electoral role at his normal place of abode until such time as he moves to a new address. A transfer to an electorate on the assumption that a person may move to that address appears to cut across the whole basis of electoral legislation. The point is that no-one else can make such a change of address except a prisoner. Why should not a person who is travelling overseas, for example, and who decides to move from Burnside to Brighton on his return in, say, 12 months also make application to change his electorate before his return? There is only one person who can make a change before he actually moves, and that is a person who is a prisoner.

The Hon. Peter Dunn interjecting:

The Hon. R.C. DeGARIS: That is another question which I think has been decided by Parliament. I tend to agree with the honourable member. Parliament has made a decision in regard to prisoners, that they should have the right of a vote.

The Hon. Peter Dunn interjecting:

The Hon. R.C. DeGARIS: That is exactly right. I hope that the honourable member continues to think that voting is a privilege—although sometimes it is not. There would be an outcry if it was permitted that anyone else could decide to change their address or their name on the electoral roll some time before they actually made that change. A prisoner can do that. I believe we should retain the position where a person who is a prisoner remains on the roll at his place of abode before he went into prison.

I refer to the age of enrolment. The provisional enrolment procedures also appear to me to be unacceptable. There can be no guarantee that a person aged 17 years will be in the same electorate at the age of 18 years. There is no need for provisional enrolment. If we permit that, a further statement must be made by that person as to his place of residence when he turns 18 years. To enrol a person in a particular electorate at 17 years with no guarantee of his place of residence at 18 years appears to me to lead to abuse of the enrolment procedures, and I oppose the proposal.

The question of misleading advertising is most difficult to accept. One can see a continued process of applications for injunctions and other difficulties in relation to where fact begins and ends and where opinion begins and ends. All of us like to see accurate statements and advertisements at election time, but in the fire of an election campaign it is difficult for any court to make a decision on matters that may come before it. I can remember only one political advertisement as an example, and perhaps other members may remember more.

I remember the advertisement of the 'Great Train Robbery' in 1975 where the claim was made that the Government would have a $600 million loss to the State by the actions of the Legislative Council in defeating the transfer of the railways to the Commonwealth; or the advertisement seemed to point out that the Government would have a benefit of some $600 million in that transfer of the railways to the Commonwealth. How can one determine whether that advertisement is misleading or not? In my opinion it was misleading and grossly misleading, as anyone who read the Bill on the transfer of the South Australian railways to the Commonwealth knew. What judgment could be reached if an application was made for an injunction on that advertisement? I am quite certain that the Government would argue there was nothing misleading in that advertisement. I am also quite sure that the Government could quote

Liberal advertisements that it believed were misleading, but the Liberal Party would strenuously disagree with that view. Are we to see in an election period of, say, three weeks a series of actions taken to prevent advertisements from appearing? I see no advantage in this provision and will oppose it.

In regard to voting machines, I have expressed my views before in debates in this Council. I will say again that eventually voting machines will arrive for use in this State. At present, experimental use can be undertaken, but if we are to use voting machines this needs to be covered by provisions in the principal Act—not by regulation. That is most important: a great change in the actual legislation concerning the use of voting machines will be required. I would agree that if we are to move to machine voting in this State the actual coverage of those voting machines should be in the principal Act and not by regulation.

I have spoken very quickly on a number of issues that have been covered by other speakers in relation to this Bill. I believe there are a number of issues that are of very great importance to the provisions related to voting in this State. It is quite true that the Labor Party has, I believe, tried very hard to get as few informal votes as possible, believing that the informal votes that do occur are disadvantageous to the Labor Party. As I said, I do not believe that that is so and I do not believe that in many of the provisions it is introducing it will reduce the informality of voting. I make the claim again that, if we want a drop in informal voting in this State, the most efficient way to do that is to move towards voluntary voting. You would then have very, very few informal votes recorded in this State.

I refer again to the question of the informal vote in Price. I thought it was about 12 per cent and the Hon. Mr Griffin quoted it as 17 per cent in the last election. There were two candidates in Price, yet there was an informal vote of well over 10 per cent. That must have been deliberate informal voting. As I pointed out, even if this Bill goes through, there is not one vote that would have been a formal vote that was an informal vote recorded in that election. Therefore, I think we should maintain the present situation and not look on voters as being people who have no ability to record a vote where there is more than one, two, or three candidates, or voting from 1 to 11. In the existing procedures if there is a mistake made, then a vote can be valid up to the point where that mistake is made. I believe that that is perfectly fair and just, and I do not think there is any need to make any change to save the informal votes, because I believe in that system the informal vote will always be reasonably low in relation to the voting system we have, except where people deliberately go into the polling booth to record an informal vote. I support the Bill at the second reading and hope that a number of amendments will be made before I vote for it at the third reading.

The Hon. C.M. HILL secured the adjournment of the debate.

REMUNERATION BILL

Adjourned debate on second reading.
(Continued from 26 March. Page 3499.)

The Hon. K.L. MILNE: Once again Parliament is confronted with the problem of fixing salaries for members of Parliament, judges, statutory officeholders and other special people paid by the taxpayer. The Government is proposing a Remuneration Tribunal. I suppose that is better than nothing, but the history of wages tribunals has not been all that good, especially when the Tribunal has to hand down decisions on salaries of people more senior in the community than are the members of the Tribunal.

I will listen to the argument advanced in Committee; at this point I believe we would support a Tribunal. The Council must realise that South Australia has a distinct economy quite different from that of New South Wales, Victoria or Queensland, yet where there are Federal awards they apply to South Australia, whether or not South Australia can support them. Also, it is my view that the Federal Arbitration Court has handed down decisions in the interests of industrial peace and with scant regard to the state of the economy of the country. The South Australian Industrial Court has done much the same. It gives me the impression that it has considered it its duty to get South Australian wages up to the interstate level, whether or not it suits the South Australian economy.

It has never really understood its proper role in a State such as ours. It has achieved its objective of bringing State awards to a parity with other States, but ever since then the State's manufacturing base has been in trouble. It has deteriorated and diminished, and of course trade union membership is diminishing with it. At the same time, the Public Service and teachers unions have increased in numbers and salary levels, and we have had the idiotic situation of fewer and fewer people in the private sector, including the UTLC unions, paying for more and more people being paid by the taxpayer.

Further, their salary expectations are probably beyond what South Australia can afford. The Council knows that I am in favour of either doing away with the Conciliation and Arbitration Commissions and courts and replacing them with something similar to the Austrian social contract. My main reason is that it is nonsense that one must have a dispute before one can go to conciliation and arbitration. That is ridiculous. I can see clearly that what the Prime Minister is trying to do is to adopt something along the conciliation lines of Austria, Sweden and perhaps Germany and other countries that have come round to the idea of talking together rather than having a dispute before one gets together. It is not much good then because both sides are angry.

However, that is another matter. I mention it because one of the decisions in this remuneration Bill will be to fix the base rate for South Australian judges. Our judges complain that they are being unfairly treated, and from what I have heard, both from the Chief Justice and others, their attitude is amply justifiable.

When I first read of the salaries, they seemed enormous to me, and so they are. The Hon. Mr Cameron quoted the present salaries of our judges, but he quoted the 1982 figures by mistake. The correct figures were—

The Hon. M.B. Cameron: They were not my figures; I was quoting from an article.

The Hon. K.L. MILNE: The salary figures at the moment are for the Chief Justice, $83 442 per annum and an allowance of $2 500; and for the puisne judges, $78 894 and an allowance of $1 500. In anybody's language, those are high salaries, and we can start from the base that the judges are not really in danger of starving to death. Nevertheless, when one looks at the other States, one finds our judges are the lowest paid in the mainland States, and by a considerable margin.

That is not necessarily a criterion, as I have just said. What happens interstate does not necessarily say we have to match it. I do not think we have any intention of doing that. Their salaries are supposed to represent 95 per cent of the average of the mainland States and, Mr President, I think you will remember this was a Liberal Government formula, but the 95 per cent has been honoured more in

the breach than in the attainment, as I shall explain in the Committee stages.

When looking at salaries, we should be looking at the tax free allowances, and they have a non-contributory superannuation scheme and six months leave every seven years. Nevertheless, our judges' salaries are such that it will soon be difficult to get the best legal brains in the State to go on the bench. They are beginning to feel that it is possibly like going on the rack. That I think is a bit of an exaggeration.

Judges have traditionally made some sacrifices when leaving a successful legal practice, but the extent of the difference is now causing trouble and I sincerely believe that that is the case. We intend to support the Government in at least partially rectifying what is obviously an anomaly in judges' salaries. It is not really a case of what they deserve—it is a matter of what South Australia can afford, and the judges are well aware of that, and I feel sure will agree to use restraint. My only hope is that we, as members of Parliament, will do the same, and request all those people under this Act and give a fairly good indication to the new Tribunal that everybody they are considering will have to use restraint, because they are the people who should lead the way. The people who are going to be dealt with under this Tribunal, the whole list of them—Agent-General, Auditor-General—they are people who must use restraint the same as us, and if we cannot lead the way, who is going to?

After all, we must remember that, with salaries of the size of those being dealt with by this Tribunal, two-thirds goes straight to Canberra. It is not spent here at all—it goes straight to Canberra in income tax. Therefore, the net—

The Hon. C.J. Sumner: It will not after the tax summit takes place.

The Hon. K.L. MILNE: —increase when one gets to a salary of this size is really only relatively small. Perhaps I have said enough for this evening in view of the lateness of the hour. I simply say that we support the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their contributions and support of the Bill. I understand that some amendments will be moved in the Committee stage and the Government will consider them when they are moved. The fundamental point is that this Bill establishes the Tribunal for senior public officers, whether they be legislators, judges or members or employees of the Executive Government. Some very difficult issues are involved in this matter that will need to be addressed in the Committee stage. It is somewhat unfortunate that the matter has been made a political football by certain members in the Parliament.

The Hon. M.B. Cameron: What do you mean by that?

The Hon. C.J. SUMNER: The question is whether, if we have a Tribunal, we should allow the Tribunal to make an assessment on the normal industrial principles of the land.

The Hon. M.B. Cameron: On the wage principles now in force?

The Hon. C.J. SUMNER: Yes, but the foreshadowed amendment does not allow the Tribunal to do that, but says that no matter what the salaries are at present, whether or not they are justified and whether or not they are in accordance with current wage principles, they should be frozen, and subject to indexation from now on. That is the effect of the amendment foreshadowed by the Hon. Mr Cameron. It is really a matter of what is good politics and what is good Government. Unfortunately, the Government has the problem at the moment. There are problems with judicial salaries as has been outlined, in particular by the Hon. Mr Milne.

This Bill was an attempt to get all higher duty salaries out of the political arena and into an area where they could be debated rationally and assessed in accordance with proper industrial principles so that determinations could be made and accepted by everyone concerned—Parliamentarians, the Judiciary, senior public servants and, of course, accepted by the public, on the basis that the salaries have been arbitrated through a properly established Tribunal. However, for the moment the Bill is being supported. I thank members for that and will resume the debate in the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

PLANNING ACT AMENDMENT BILL (1985)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

In November and December 1984, Parliament passed amendments to the Planning Act, 1982, to suspend the operation of section 56 (1) *(a)* and *(b)* until 1 May 1985. Suspension of section 56 (1) was sought by the Government following a decision of the High Court of Australia in November 1984 in the matter *Dorrestijn v. South Australian Planning Commission.* While the matter before the High Court dealt with an application for the clearance of native vegetation, the judgment of the court had two general implications. First, the court found that the effect of section 56 (1) *(a)* was to allow expansion of an 'existing use' without any planning approval, and secondly the court found that section 56 (1) *(b)* had the effect of allowing a person who did not require approval for a certain form of development prior to the Planning Act, 1982, commencing in November 1982, to undertake that development after 1982 without any approval, despite any zoning changes since November 1982.

As a result of the judgment, the Government sought firstly to repeal, and later to suspend, the operation of section 56 (1) to ensure the maintenance of proper planning controls. At the time the suspension was considered by Parliament, the Government agreed to the establishment of a Legislative Council Select Committee into native vegetation clearance controls in South Australia. It is evident that the Select Committee will not complete its deliberations by 1 May 1985. Accordingly, the Bill seeks to extend the suspension period until 30 June 1986. During this period the protection provided by the planning controls (including those controlling vegetation clearance) under the Planning Act, 1982 will remain in force.

Clause 1 is formal. Clause 2 extends the suspension of section 56 (1) as already mentioned.

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

SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The object of this Bill is to improve the remedies available to the authorities acting under the South-Eastern Drainage Act, 1931, against persons who leave rubbish in, or otherwise block, drains in the areas administered under the Act. The authorities are the South-Eastern Drainage Board, the Minister and the District Council of Millicent. The areas they administer are the South-East, the Eight Mile Creek area (both defined in the Act) and the area of the District Council of Millicent respectively.

In April, 1984, Board employees discovered the carcasses of around 20 sheep which had been dumped in one of the major drains in the South East, Drain M. The matter was reported to the police and local authorities and, after consulting with them on the adequacy of evidence collected, the remains were burned. The police subsequently identified the offender, who admitted the offence, and it was decided to prosecute. Section 76 of the South-Eastern Drainage Act, 1931, creates an offence of obstructing or damaging a drain or discharging dirty water or noxious liquids into a drain. However, 20 dead sheep in a drain with a bottom width of 40 metres can hardly be called an obstruction.

The police, therefore, chose to prosecute under the Police Offences Act, 1953. The case was subsequently heard by two justices of the peace in June 1984, and a small fine was levied. Board expenses for disposing of the dead carcasses were not recovered at this hearing but the Board was informed they could be, subject to a separate claim and hearing. Subsequently, the Board did not take any further action to recover costs.

This case drew attention to the limitations of section 76 of the South-Eastern Drainage Act, 1931. Dumping of dead stock, noxious weeds and other forms of rubbish is a fairly common practice by some irresponsible landholders. The recent occurrence was the first time that the offender was identified and prosecuted. The Board considers the dumping of a large number of dead sheep in a drain to be a serious offence and, further, considers the small fine imposed for the offence manifestly inadequate. There is very little deterrent value in the small fine and the problems associated with the recovery of the Board's costs for the disposal of the carcasses has caused the Board concern.

Another problem that section 76 does not address at the moment is the planting of vegetation in drains. Drains are periodically machine cleaned and during one such recent programme difficulties were experienced with one particular drain where an adjoining landholder had planted trees in the drain. It is imperative that unrestricted access be available to all drainage works.

Clause 1 is formal. Clause 2 replaces section 76 of the principal Act. Subsection (1) of the new provision extends the ambit of the offence to include the matters already mentioned. Subsection (2) provides a daily penalty where an offender fails to comply with a notice to remedy the contravention. Subsection (3) provides that the offender is liable for the authority's costs in remedying the contravention and that these costs may be recovered as a debt or summarily. This means that the authority can sue in a court in the normal manner or alternatively can obtain an order for payment of the costs from the court of summary jurisdiction which convicts the offender. To allow flexibility subsection (4) provides a mechanism by which something, which would otherwise be unlawful under the section, may be done. For instance an authority may wish to encourage the revegetation of drainage reserves. Subsections (5) and (6) are self-explanatory.

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

RACING ACT AMENDMENT BILL (1985)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the principal Act, the Racing Act, 1976, relating to TAB football betting. The Bill is designed to enable the TAB to conduct betting on SANFL football matches. There will be provision for three football bet types, viz.

'Footywin'—where a team is selected to win within a nominated score range.

'Footytreble'—where the investor is required to select, from three TAB nominated matches, the three winning teams and the combined winning score range.

'Footyscore'—where the investor is required to select from a TAB nominated match, the exact winning score in goals and points.

It is proposed that 'Footytreble' and 'Footyscore' net investments will jackpot, if not won, to the next week's nominated match/matches. It is estimated that, in the first full year of operation, 'Footybet' will generate approximately $600 000 turnover. A total deduction of 20 per cent would apply to each bet type, of this 1 per cent would be allocated to the TAB Capital Fund; after all operating expenses of the TAB are met, which are expected to be in the order of 10 per cent, the residual profit is to be allocated equally between the SANFL and the Recreation and Sport Fund.

I consider that the opportunity to wager on football would create a new source of betting turnover and, therefore, would not constitute a substitution of racing investments. With regard to the introduction of another form of gambling there has been no evidence of any detrimental effects on the community in Victoria where betting on football matches has been available for approximately five years. As the gambling figure per capita is very much lower than that of Victoria, I consider there is room for a gambling form of this comparatively harmless kind, without the likelihood of any significant effect on the community in South Australia.

Clause 1 is formal. Clauses 2 and 3 amend headings in the principal Act. Clause 4 makes a consequential amendment. Clause 5 inserts definitions of terms used in the new provisions relating to totalizator betting on football matches. The clause also makes consequential amendments to section 5 of the principal Act.

Clause 6 makes a consequential amendment. Clause 7 amends section 51 of the principal Act to provide that it will be a function of the Board to conduct totalizator betting on football matches. Clause 8 repeals section 56 of the principal Act. The substance of this section appears as new section 69 in Division II which deals exclusively with totalizator betting on races. Clauses 9 to 12 make consequential amendments. Clause 13 inserts new section 69 into the principal Act. This section incorporates the substance of existing sections 56 and 69. Clauses 14 to 22 make conse-

quential amendments. Clause 23 inserts new Division III into Part III of the principal Act. The new provisions are in the same form as the provisions of Division II relating to totalizator betting on races.

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

DANGEROUS SUBSTANCES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Dangerous Substances Act provides for the safe keeping, handling, conveyance and use of toxic, corrosive, flammable or otherwise harmful substances. This Act repealed the Inflammable Liquids Act, 1961, and the Liquefied Petroleum Gas Act, 1960, which provided for the safe storage and use of flammable liquids and liquefied petroleum gas respectively. This Bill amends the Dangerous Substances Act to make two minor administrative alterations to the Act.

The first is to give the Director of the Department of Labour a power of delegation so that the licensing function and other functions vested in the Director can be carried out on his behalf. This amendment will significantly improve the practical operation of the Act by allowing a nominated officer in each of the department's regional offices to authorise, on behalf of the Director, the issue of licences such as those required to keep petrol and liquefied petroleum gas in tanks and stores. Also there are occasions when it would be administratively convenient for the Chief Inspector to be able to act under the delegated authority of the Director.

The second alteration to the Act concerns the arrangement under which licences were granted for existing premises, on or in which flammable liquids or liquefied petroleum gas was kept at the time the Act was brought into operation. One of the significant advantages of the Act is its authority for regulations to incorporate the requirements of standards published by the Standards Association of Australia. The use of these standards greatly assist in achieving uniformity of requirements between States and providing requirements which have been developed with maximum industry involvement.

Two such standards, AS 1940 'SAA Rules for Storage and Handling of Flammable and Combustible Liquids' and AS 1596 'SAA LP Gas Code' have been called up in regulations made under the Act to provide for the safe keeping of flammable liquids and liquefied petroleum gas. The relevant requirements of these standards must be met before the Director can grant a licence for this purpose under section 15 of the Act. Generally, the requirements of these standards are more stringent than those of the repealed Inflammable Liquids and Liquefied Petroleum Gas Acts.

When the Dangerous Substances Act came into operation it was intended that all registrations and approvals under the Inflammable Liquids and Liquefied Petroleum Gas Acts in respect of the keeping of these substances would continue under the new Act. Where there was an inconsistency between the requirements of the two standards mentioned above and the condition of the individual premises involved, then steps would be taken to require the eventual compliance of those premises with the respective standards, in so far as that was possible, but that in the meantime the premises could be licensed at the discretion of the Director.

This arrangement has not proved to be satisfactory from a strictly legal viewpoint in that some premises could not, for valid reasons, comply with these standards thus creating the anomaly of being licensed but not complying with prescribed requirements. The only feasible solution to this difficulty is to insert a saving provision which deems premises existing at the date of operation of the Act and complying with the relevant repealed Act to be lawfully licensed. The Bill gives the Director the power to require these premises to be brought into compliance with any prescribed requirement which may be necessary to ensure the continued safe keeping of dangerous substances.

Clause 1 is formal. Clause 2 inserts a new section 9a empowering the Director to delegate any of his powers or functions under the principal Act to the Chief Inspector or any other officer engaged in the administration of the principal Act. Clause 3 amends section 15 of the principal Act which provides for the granting of licences in respect of premises used for the keeping of certain dangerous substances. The clause inserts new subsections (5) and (6). Proposed new subsection (5) provides that the Director shall be deemed to have been empowered to grant a licence in respect of premises that were not in compliance with prescribed standards (as required by subsection (2)) if the premises were being lawfully used immediately before the commencement of the principal Act for the keeping of any prescribed dangerous substance. Proposed new subsection (6) is designed to make it clear that the conditions of a licence in respect of any such premises may comprise or include conditions requiring the premises to be brought into compliance with any prescribed requirement.

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

BOILERS AND PRESSURE VESSELS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill amends the Boilers and Pressure Vessels Act by providing two new concepts in respect of the design and operation of boilers and pressure vessels. First, it requires manufacturers or installers of new boilers or pressure vessels of a prescribed class to have their design drawings and calculations independently checked by an expert for adequacy of design before submitting it to the Department of Labour for approval.

Currently, before a boiler or pressure vessel can be constructed or manufactured the Act requires plans and specifications to be approved by the Chief Inspector of Boilers, who must be satisfied that the design, materials and method of construction are suitable for safe operation. All such plans and specifications submitted for approval are checked by staff of the Department's Engineering Services Branch

for compliance with the relevant regulations and codes of practice which, in the main, are standards published by the Standards Association of Australia.

The examination of highly complex submissions such as those involving large boiler installations for powerhouses place a heavy demand on the Department's resources. It is considered that, because of the high level of technology associated with this type of plant, the responsibility for the safety of the design and construction should rest with the applicant organisation. This will require a proposal to construct or install a new boiler or pressure vessel to be accompanied by a report (prepared by an independent person who, in the opinion of the Chief Inspector, is an expert on the subject of the report) certifying that the proposal meets the necessary criteria for safe operation. A person who undertakes the preparation of an expert report must have no pecuniary interest in the design, construction, manufacture or installation of the boiler or pressure vessel.

This will enable the Department's staff to carry out spot checks to monitor the quality of these complex proposals before approval is granted and continue to comprehensively check the smaller boiler or pressure vessel designs. The second new concept introduced in this Bill is to enable organisations operating large boiler or pressure vessel installations to be exempted, under certain conditions, from the need to have a Government inspector carry out an inspection and issue a certificate of inspection to permit continuity of operation.

The Boilers and Pressure Vessels Act presently requires every registered boiler to be inspected as far as practicable at least once in every year. Where an inspector considers that a boiler is safe to operate for the ensuing year he issues a certificate of inspection to that effect. In the majority of organisations operating large boiler plant, staff are employed who have the necessary expertise to carry out periodic inspections required by the Act. The Bill permits such organisations to carry out their own inspections provided the Chief Inspector is satisfied, by means of an expert report furnished by the organisation, that the boiler is in a safe and proper condition to be operated for the period under consideration—a maximum of 12 months for boilers and 24 months for pressure vessels.

The advantages of this arrangement to industry will be that shut-down and maintenance schedules will not need to take into consideration the availability of Government inspectors for that period. All boilers and pressure vessels operated by an organisation which takes advantage of this option would be included in the exemption provision on the basis that if the in-house expertise was considered sufficient for the largest or most sophisticated plant then it would be more than adequate for the smaller items. A separate report would of course be required for each boiler or pressure vessel.

This arrangement will also permit boilers and pressure vessels located in remote areas of the State, such as plant in country hospitals, to be assessed for safe operation by competent maintenance contractors on the submission of a satisfactory report. While the role of inspectors would then be of an auditing nature involving spot checks and similar methods to ensure full compliance, there would be no diminution in safety standards and requirements, as the responsibility for these matters would rest with competent persons who are fully familiar with their respective plant.

One other major alteration to the Act is in respect of the penalties which may be imposed. All penalties have been increased, with the maximum penalty now being $20 000. This maximum applies in two important areas. One is section 28 of the Act which requires an owner of a boiler or pressure vessel to comply with the written directions of an inspector where, in his opinion, the boiler or pressure vessel is likely to be or become dangerous to life or property if used in its present condition. The other is new section 48a, which makes it an offence for a person preparing an expert report to be negligent in that task or to make a false or deliberately misleading statement in the report.

It is essential that where penalties are provided as a deterrent they are in keeping with the present economic conditions. While these amendments will allow industry more flexibility in respect of the safety inspections of boilers and pressure vessels, suitable checks and safeguards are provided to ensure continuation of the high standard of safety presently applying to the operation of boilers and pressure vessels in South Australia.

Clauses 1 and 2 are formal. Clause 3 makes an amendment to section 4 of the principal Act, the section which deals with interpretation. A new definition is inserted, namely, that of 'expert report'. That expression means a report by a person with qualifications and experience such that in the opinion of the Chief Inspector he is an expert on the subject matter of the report.

Clause 4 provides for the repeal of section 16 of the principal Act and the substitution of new section 16, which deals with approvals for the design and construction of boilers and pressure vessels. Under new subsection (1), a person shall not construct or manufacture a boiler or pressure vessel or install a boiler or pressure vessel manufactured outside the State otherwise than in accordance with a notice of approval of the Chief Inspector. Under subsection (2), the Chief Inspector may approve construction, manufacture or installation conditionally or unconditionally, and add to, vary or revoke any condition of approval. Under subsection (3), the Chief Inspector shall not issue a notice of approval unless he has received two copies of the plans, specifications, drawings and design calculations relating to the boiler or pressure vessel, and, in the case of a boiler or pressure vessel of a prescribed class, an expert report on the adequacy of its design. Under subsection (4), the Chief Inspector in considering an application for approval may have regard to a relevant standard of the Standards Association of Australia or any other standard he considers relevant. Under subsection (5), the Chief Inspector shall not issue a notice of approval in relation to a boiler or pressure vessel referred to in subsection (3) *(b)* unless he is satisfied that the person who prepared the expert report had no pecuniary interest in the design construction, manufacture or installation of the boiler or pressure vessel.

Clause 5 amends section 17 of the principal Act by increasing from $500 to $5 000 the penalty for an offence under subsection (2). Clause 6 amends section 18 of the principal Act by increasing the penalty for an offence under subsection (1) from $500 to $5 000. Clause 7 amends section 25 of the principal Act by increasing the penalty for an offence under that section from $1 000 to $5 000. Clause 8 amends section 26 of the principal Act by increasing the penalty for an offence against subsection (3) from $1 000 to $5 000.

Clause 9 repeals section 27 of the principal Act and substitutes new section 27 which deals with certificates of inspection. Under subsection (1), a person shall not operate, or cause or permit to be operated, a registered boiler or a registered pressure vessel unless a certificate of inspection is in force in relation to it. Subsection (2) qualifies subsection (1) by allowing a 28 day period of grace after the expiration of a certificate. Under subsection (3), an inspector shall not issue a certificate of inspection unless satisfied that the boiler or pressure vessel concerned is in good repair and is safe to operate. Under subsection (4), a certificate of inspection expires at the end of 12 months in the case of a boiler and 24 months in the case of a pressure vessel. Under subsection (5) the Chief Inspector may exempt a boiler or

pressure vessel from the requirement to have a certificate of inspection for a period of 24 months, if he is satisfied on the basis of an expert report that it is in good repair and is safe to operate. Under subsection (6), such an expert report must be in writing, contain the prescribed particulars and any other information required by the Chief Inspector, and be signed by the person making the report and the owner of the boiler or pressure vessel.

Clause 10 amends section 28 of the principal Act by increasing the penalty for an offence against subsection (2) from $1 000 to $20 000. Clause 11 amends section 29 of the principal Act by increasing the penalties for offences under subsections (2) and (3) from $1 000 to $5 000.

Clause 12 amends section 33 of the principal Act. That section specifies that Part IV of the principal Act (dealing with certificates of competency for operations of boilers and pressure vessels) does not apply in relation to certain machinery. The effect of the amendment is to provide that the Part does not apply to an internal combustion engine of no more than one megawatt or an internal combustion engine with fully automatic controls approved by the Chief Inspector.

Clause 13 amends section 34 of the principal Act by increasing the penalty for offences under subsection (1) from $500 to $1 000, and the penalty for offences under subsection (2) from $500 to $5 000. Clause 14 amends section 40 of the principal Act by increasing the penalty for offences under subsection (1) from $500 to $1 000. Clause 15 amends section 41 of the principal Act by increasing the penalty for offences under that section from $500 to $5 000.

Clause 16 amends section 45 of the principal Act by increasing the penalty for offences under that section from $500 to $5 000. Clause 17 amends section 46 of the principal Act by increasing the penalty for offences under that section from $500 to $5 000. Clause 18 inserts new section 48a into the principal Act. New section 48a deals with expert reports. Under subsection (1), where a person who prepares an expert report does so negligently, or the inspection or other work on which the report is based is done negligently, or the person makes a false or deliberately misleading statement in the report, he is guilty of an offence. Under subsection (2), if the Chief Inspector is not satisfied as the the accuracy or sufficiency of a report, he may require further reports to be provided, or have an inspector report upon the matter.

Clause 19 amends section 49 of the principal Act by increasing the penalty provided under subsection (2) from $500 to $5 000, and increasing the penalty provided under subsection (3) from $200 to $500. Clause 20 amends section 51 of the principal Act. Provision is made enabling the making of regulations prescribing fees in respect of matters the subject of amendment in this measure. Provision is made to increase the penalty which may be imposed for breaches of the regulations from $500 to $5 000. Provision is also made for the regulations to incorporate standards or codes of practice of the Standards Association of Australia or any other prescribed body.

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

URBAN LAND TRUST ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The South Australian Urban Land Trust was reconstituted in 1981 from the former South Australian Land Commission which was originally established in 1973. The principal effect of that reconstituting legislation of the previous Government was to substantially reduce the role of the Urban Land Trust. Its powers to develop land in its own right, and to compulsorily acquire land for a future urban land bank, were repealed. The revised role was described as that of an urban land banker.

In 1984 the Urban Land Trust Act was amended to enable the Trust, with the approval of the Minister, to undertake development on a joint venture basis. The principal purpose of that amendment was to enable development to proceed in the Golden Grove area and thus to assist in ensuring a continuing adequate supply of developed allotments for home building purposes. The present Bill seeks a number of further amendments to the Act of which the principal change is to provide the Trust with limited powers of compulsory acquisition of land.

Since coming to office the present Government has undertaken a number of actions designed to facilitate land development and ensure continuity of supply of broadacre land and developed allotments for home purchasers. In addition to initiating the development of Golden Grove in the North East area, the Government has rezoned land at Morphett Vale East to supplement the supply of broadacre land available to the development industry and thus ensure that sufficient new allotments are available to house buyers in the southern metropolitan area. In addition, in line with the Government's deregulation policy, a number of amendments have been introduced to the Planning Act, 1982, to eliminate unnecessary delays and costs to developers undertaking new land subdivision. Cognisant of the need to plan for the next decades, the Government has also initiated a study of longer term development strategies for Metropolitan Adelaide.

Public sector land banking represents a key element in this process of planning for the future of the urban area. Land banking enables development to take place in an orderly manner. It avoids fragmented development on the urban fringe which would mean parcels of land being locked up in non-residential uses and housing development leapfrogging to outer areas. Land banking facilities the programming and provision of costly government services to new urban areas, reduces speculation in land and keeps prices down. Public sector land banking also provides considerably more certainty for the private sector. Indeed, it is principally due to the far sighted actions of a previous Labor Government in acquiring broadacre land at Morphett Vale East and Golden Grove, that the present Government has been able to respond so quickly to the recent, much welcomed revival of the housing industry.

However, with the progressive release of this and other land, the land bank assembled by the former Labor Government in the mid 1970s, through the agency of the Urban Land Trust, is quickly being depleted. If we are to maintain the same important capability for the future, it is clearly imperative that this metropolitan land bank be progressively replaced. The power to compulsorily acquire land is an important component in facilitating this land bank replacement programme.

In the past, public sector land purchase generated considerable controversy, mainly because the former South Aus-

tralian Land Commission was seen as a direct competitor with the private development industry and as able to secure land at an unfair advantage. However, the present Government has reached a relationship of partnership with private industry in meeting the demands of the market place and the community in general. There is common agreement that through land banking, Government resources will be able to combine with the skills and investment of private industry to meet the demand for new residential land.

The development industry has, on a number of occasions recently, expressed the view that compulsory land acquisition is an important element of land banking. The industry believes that public sector land banking is important in ensuring that the private sector is well placed to respond to market demands. The acquisition provisions in the present Bill have been prepared in consultation with the Executive of the Urban Development Institute of Australia—South Australian branch, which has expressed support for the proposed provisions.

Reinstatement of compulsory acquisition powers will enable the Trust to play an effective role in the market place, particularly where owners are reluctant to sell. It will, at the same time, provide owners subject to aquisition with the protections contained in the Land Acquisition Act. In particular, the Bill provides that the Trust shall not acquire land containing a person's principal place of residence, except at the request of the owner. Moreover, developers are safeguarded in that acquisition power would not apply where the developers can demonstrate a firm intention to proceed with commercial or residential development.

The Bill provides safeguards both for existing owners and developers, whilst at the same time providing the Government with the tools necessary to carry out its important role in ensuring the ongoing health and prosperity of the urban land market. In addition to these provisions, the Bill also seeks three further amendments to the Act. These are as follows:

First, the deletion of Commonwealth Government represention on the Trust. This amendment arises from the fact that all moneys owing to the Commonwealth have now been repaid and the Commonwealth has no continuing role in the Trust's operations. Accordingly, the Bill proposes that this category of membership should be replaced by 'a person who in the opinion of the Minister has appropriate knowledge and experience relating to the development and provision of community services'.

The second amendment proposed reflects the concern of this Government to ensure that future development is managed in a way that will ensure that metropolitan Adelaide continues to develop in a manner which has regard to both physical and social objectives in the planning of new urban areas. Accordingly, the Bill makes specific provision for Ministerial directions relating to the goals of creating a sound physical and social environment and of ensuring proper co-ordination with various public authorities.

Thirdly, the Bill seeks to extend the disclosure of interest provisions of the Act which currently apply to members of the Trust to apply also to officers of the Trust, together with the introduction of a provision for penalty where appropriate. Those measures will ensure that the Trust's operations are seen to be conducted with complete propriety. Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. The clause provides for different provisions to be brought into operation at different times. Clause 3 amends section 8 which provides for the membership of the Urban Land Trust. Paragraph *(c)* of subsection (1) provides that one of the members is to be a person nominated by the Minister after consultation with the appropriate Minister of the Commonwealth Government. This paragraph is replaced by a new paragraph providing for the appointment of a person who in the opinion of the Minister has appropriate knowledge and experience relating to the development and provision of community services.

Clause 4 substitutes a new provision for section 13 which provides for the disclosure of interests by members of the Trust. Under the new provision a maximum penalty of $2 000 is fixed for failure by a member to disclose to the Trust any direct or indirect interest that the member has in a contract, or proposed contract, made by or in the contemplation of, the Trust and for contravention of the requirement that a member not take part in any deliberations or decision of the Trust with respect to a contract in which he has a direct or indirect interest. Any such disclosure is to be recorded in the minutes of the Trust. The clause provides that where disclosure is made in relation to a contract, the contract is not to be void, or liable to be avoided, and the member is not to be liable to account to the Trust for any profits derived from the contract.

Clause 5 amends section 14 of the principal Act which provides for the powers and functions of the Trust. The section presently provides that the Trust may only acquire land with the prior specific approval of the Minister and that the provisions of the Land Acquisition Act, 1969, do not apply in relation to acquisition of land by the Trust. The clause replaces these provisions with a new provision providing that the Trust may, with the prior specific approval of the Minister, acquire land in accordance with the provisions of the Land Acquisition Act, 1969. The clause inserts a new provision designed to make it quite clear that the power of the Trust to engage in the division and development of land is limited to broadacres development or joint ventures with private developers. The section presently provides, at subsection (6), that the Trust is, in the performance of functions subject to the general control and direction of the Minister. The clause amends this provision so that it is clear that the Trust will be bound to comply with any directions given with a view to the proper co-ordination of the Trust's activities with those of other public authorities or with a view to the creation of a sound physical and social environment in any new urban areas developed with the Trust's assistance.

Clause 6 inserts a new section 14a dealing with the acquisition of land by the Trust. Proposed new section 14a (1) provides that where the Trust acquires land and proposes to lease the land before it is made available for the establishment and development of new urban areas, it shall offer the person from who the land was acquired the opportunity to lease the land on fair terms. Proposed new section 14a (2) provides that the Trust may not acquire by compulsory process any dwellinghouse occupied by the owner as his principal place of residence; any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes; any premises used as an office or rooms for the conduct of a business or profession; or any land in respect of which subdivision development is being or has been carried out.

'Subdivision development' is defined for the purposes of the proposed new section as development of land by the carrying out of works for the provision of roads and services to individual allotments of a size not more than 2 000 square metres, being allotments that are to be used for residential purposes. Proposed new section 14a (3) empowers the Trust to acquire premises of the kind referred to in subsection (2) where it is acquiring adjoining land owned by the same person and that person does not wish to retain the premises. This provision is intended to make it clear that acquisition under the Land Acquisition Act may proceed in those circumstances even though the Trust and the owner are unable to agree on a price but wish to use the compulsory

acquisition provisons of the Land Acquisition Act to fix the appropriate compensation. Proposed new subsection (4) provides that where the Trust has served a notice of intention to acquire land that the proprietor proposes to use for subdivision development or commercial building development (development by the construction of premises to be used for industrial or commercial purposes, the proprietor may within three months serve notice on the Trust advising the Trust that he wishes to proceed with the development and setting out particulars of the proposed development as required by the regulations, and, in that event, but subject to proposed new subsection (5), the Trust will be prevented from acquiring the land by compulsory process for the period of two years from the date of service of the proprietor's notice.

Proposed new subsection (5) provides that the Trust will not be prevented from acquiring land proposed to be used for subdivision development unless the proprietor had already obtained planning authorisation under the Planning Act for the development, or had made due application for such authorisation and within the three month period obtains the authorisation or satisfies the Minister that the granting of the authorisation is imminent. Proposed new subsection (6) provides that, if within the two year moratorium period, a substantial commencement is made in the development, then the land may not be acquired by the Trust by compulsory process after that period. Proposed new subsection (7) provides that where the Trust acquires land within three years after the first notice of intention to acquire and had been prevented for any period from acquiring the land as a result of the operation of subsection (4), the compensation to which the proprietor is entitled is to be assessed as if the acquisition had been effected as soon as practicable after service of the first notice of intention to acquire.

Clause 7 inserts a new section 16a requiring an officer or employee appointed for the purposes of the administration of the Act to disclose to the Trust any direct or indirect interest that he has in a matter in relation to which he is required or authorised to act in the course of his duties and prohibiting him from acting in relation to the matter except with the approval of the Trust. The proposed new section fixes a maximum penalty of $2 000 for contravention of the section.

Clause 8 inserts a new section 21a providing for a person authorised in writing by the Trust to enter upon any land and conduct any survey, valuation, test or examination that the Trust considers necessary or expedient for the purposes of the Act. Reasonable notice must be given to the occupier of the land before entry is made. The section provides for an offence of hindering an authorised person in the exercise of his powers under the section and confers upon the owner of land a right to compensation (to be assessed by the Land and Valuation Court) for any damage or disturbance caused by an authorised person. The clause also inserts a new section 21b providing for the summary disposal of proceedings for offences against the Act.

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

ADJOURNMENT

At 11.3 p.m. the Council adjourned until Thursday 28 March at 2.15 p.m.