LEGISLATIVE COUNCIL

Thursday 28 March 1985

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

COFFIN BAY WATER SUPPLY SCHEME

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

Coffin Bay Water Supply Scheme.

QUESTIONS

EAST END MARKET

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Agriculture a question about the East End Market.

Leave granted.

The Hon. M.B. CAMERON: Honourable members will remember that last year there was some controversy about a move by the Minister of Agriculture to shift the East End Market to the Samcor paddocks at Gepps Cross. At the time the Minister appeared to run into a degree of difficulty with some of his compatriots. The Minister for Environment and Planning was quoted on 29 October 1984 as saying that he believed that undertakings given by the ALP when in Opposition would rule out a produce market in the former Samcor paddocks at Gepps Cross.

His comments were made after the member for that area, and Speaker in the House of Assembly, Mr McRae, said that people would be wasting their time and money preparing submissions on the relocation of the East End Market to the Samcor paddocks. He stated at that time that the Labor policy clearly prevented the market being relocated to the site of the South Australian Meat Corporation's former eastern paddocks. Mr McRae said that the proposal recommended in a major report to the Government was just not on. The Minister of Agriculture had said that he favoured the site but called for public comment before 21 December.

On 3 January this year an article appeared in the *News* indicating that the Department of Agriculture had received and was assessing 100 submissions on the proposal to relocate the East End Market. A spokesman for the Minister said at that time that the Department was assessing these and that the next month the Hon. Mr Blevins was expected to make his recommendation to Cabinet on the fate of the 112 year old market site. That would have made it February. My questions are as follows:

Does the Minister continue to support the relocation of the East End Market to the Samcor paddocks at Gepps Cross?

Why has Cabinet delayed the decision, because it is obviously now very much later than the original planned date?

Is there disagreement between the Minister of Agriculture and the Minister for Environment and Planning and perhaps the Speaker (who is the local member for the area)?

Can we expect an answer, before the next election, on this issue, which is quite clearly causing problems in Government ranks?

The Hon. FRANK BLEVINS: First, I must correct one statement made by the Hon. Martin Cameron—that I wanted to move the East End Market to the Samcor paddocks at Gepps Cross. That is incorrect. The position was that the Government commissioned Mr Eric Kime, the operator of the Flemington Market in Sydney, to act as a consultant to the South Australian Government to prepare a report on the desirability or otherwise of moving the East End Market and the other operations that occur there from the present location to another site, to assess the sites available within the metropolitan or near metropolitan area, and to bring down a report to the Government. Mr Kime did that. From memory, he listed about seven options, and his preferred option was that referred to by the Hon. Mr Cameron.

My response to the report was that it was a very good report and I commend it to the Hon. Mr Cameron to read. It was a report that hung together very well and one, certainly, that I would eventually be happy to take to Cabinet for discussion. The report was subjected to public comment and, as the Hon. Mr Cameron said, more than 100 comments were made about it. Very few, if any, supported Mr Kime's principal recommendation. In fact, the industry did not support the principal recommendation for a range of reasons, which I am sure people in the industry would detail to the Hon. Mr Cameron if he chose to contact them. Mr Kime was in no way given a brief to work through political problems, land use problems or any problems of that nature: it was a very limited brief about the best thing to do with the East End Market in an ideal world.

The honourable member asked why there was a delay in Cabinet: there is no delay in Cabinet at all. No recommendation has been taken to Cabinet and there has been no Cabinet discussion on the proposal. That will probably not occur until the middle of the year. In answer to the third question, 'Is there any conflict between the Minister and one of his Cabinet collegues?' the answer is 'No, none whatsoever.' In answer to the fourth question, 'Will a Cabinet decision be made before the next State election?' I can only say that the Hon. Mr Cameron will just have to wait and see. I certainly intend to take something to Cabinet in the middle of the year, but the Hon. Mr Cameron will get no joy from that, because I certainly will not foreshadow here what I will take to Cabinet.

COSTIGAN INQUIRY

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

Leave granted.

The Hon. K.T. GRIFFIN: In October last year the Costigan Royal Commission presented its final report to the Federal Government, which contained some very serious findings about the activities of the Port Adelaide branch of the Federated Ships Painters and Dockers Union. I raised questions with the Attorney-General about the allegations in and findings of that report as they affected the South Australian branch of that union.

The final report found that the Port Adelaide branch was involved with other States in workers compensation frauds: use of false names, addresses, and dates of birth, and social security and taxation frauds. It singled out the Port Adelaide branch for special comment about extortion rackets. When I raised the matter with the Attorney-General—and the matter was raised in the other House with the Premier—it was indicated that there would be an urgent investigation by Crown law officers to determine whether criminal proceedings should be taken against Painters and Dockers officials in South Australia. At the time, the Attorney-General indicated that he expected to have a report by the end of 1984. My questions to the Attorney-General are:

1. Has the Attorney-General yet received that report and, if he has, what recommendations are made with regard to prosecution of union officials in South Australia?

2. If it has not been received, could he indicate when the report is expected?

3. If recommendations have been made in that report, will the Government lay any charges against union officials, following the findings of that Costigan Report?

The Hon. C.J. SUMNER: A number of matters were raised by the honourable member in the question that he asked last year. One related to possible deregistration proceedings. That was referred to the appropriate Minister for report. On my information, the Ships Painters and Dockers Union is not a registered union in South Australia, and therefore no action can be taken by the State Government in that regard. As far as the commission of criminal offences is concerned, parts of the Costigan Report that were made public were referred to the Crown Prosecutor and the Commissioner of Police. I have some indication from the Crown Prosecutor of his assessment of the report and whether any action is possible under it. I still have to discuss the matter with him again, but his preliminary view is that there is insufficient evidence to proceed against people as a result of allegations in the Costigan Report.

Apart from anything else, at least in relation to the Ships Painters and Dockers and their activities in South Australia, one of the major problems is that the alleged events occurred some four or five years ago and there would be, in the Crown Prosecutor's view, some difficulty in mounting a case purely from an evidentiary point of view. Following the honourable member's question, I referred the matter to the appropriate authorities. I have some preliminary responses but I should be able to provide a more detailed reply to the honourable member next week.

FINGER POINT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Fisheries a question in relation to the sewage effluent at Finger Point.

Leave granted.

The Hon. I. GILFILLAN: In relation to anything that the Minister may be unable to answer immediately, I trust that he will follow his normal precedent of undertaking to obtain the details. It is in that spirit that I ask the questions. I have consulted with and taken advice from the Mount Gambier chapter of the Australian Conservation Foundation which also shares concern for the matters I raise in these questions.

Are water samples taken regularly for testing from Finger Point? If so, how frequently are they taken? What tests are carried out on the samples? Where are the samples taken in relation to the pipe outlets? Has any study at all been conducted into the effects of sewage outflow on marine life in the area? What are the results obtained from any tests that have been conducted, including the following: biological oxygen demand, heavy metal levels, pH, phosphate, arsenate and nitrate levels? What are the standards for sewage entry at Finger Point? What are the standards for discharge in the Mount Gambier sewerage system, for example, what is discharged by, say, Mount Gambier Co-operative Dairy, and on what are these standards based?

The Hon. FRANK BLEVINS: The questions are more properly directed to the Minister of Water Resources. I will direct them to the Minister and bring back a reply in the fullness of time.

MILLIPEDES

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

Leave granted.

The Hon. L.H. DAVIS: This morning's *Advertiser* carried a report that the shadow Minister of Agriculture (Mr Chapman) has called on the State Government to establish a task force, including representatives of the CSIRO, the Department of Agriculture, local government, the South Australian Health Commission and Treasury to investigate the level of funding required to tackle the millipede problem in South Australia. The Hon. Mr Blevins was quoted in the *Advertiser* as saying that the millipede issue was not a funding problem but was a scientific problem and that, if money was the answer, all the money needed would be made available immediately. As the Hon. Mr Blevins is on record claiming that he has never been misquoted, I take it that that is an accurate reflection of his position. It is commonly agreed that the solution to the millipede plague is a biological control agent which will have no wider impact on the environment than to control the millipede. Clearly, more money spent on research may speed up this all-important research process.

I should declare an interest in this matter in that the ubiquitous little pest arrived on Norwood Parade some time last week and was discovered in my shower. My questions to the Minister are:

1. Does the Minister support the proposition put by the shadow Minister of Agriculture yesterday? Does he believe there is merit in that proposal?

2. How much money is being spent on millipede research in the current financial year?

3. Does the Minister believe that sufficient moneys are currently being expended on the millipede problem in South Australia?

The Hon. FRANK BLEVINS: In answer to the first question, about what I thought of the statement yesterday by the shadow Minister of Agriculture, I thought it was a silly statement. It was quite irresponsible to suggest to people with this problem that all it requires is money, that nothing is being done now. That is grossly irresponsible and quite unfair to the people who are suffering from the problem. As I said and as was reported in the media today the problem is not a financial one: it is a scientific or entomological problem. A considerable amount of money has been spent. Certainly, appropriate levels of money have been spent both by the previous Government and this Government in tackling the problem. My understanding is that Dr Baker from the CSIRO is the foremost Australian authority on this problem, and has been working for the CSIRO and the Department of Agriculture on it. It has been our pleasure to have sent Dr Baker, I think to South America and Europe, as and when requested by him to further his investigations.

The Hon. L.H. Davis: Who paid for the trip?

The Hon. FRANK BLEVINS: We paid. We were happy to do so. My information is that the most likely permanent solution to the millipede problem is to introduce some kind of control agent. The most promising control agent that has so far been identified is a parasitic fly, which is quite widespread in Portugal, I believe. Dr Baker on one or more occasions has been to Portugal and has made some attempt to introduce the fly into South Australia. The problem with all biological control agents is that one has to be absolutely certain before one introduces the control agent that it will only be effective on the particular pest that one is attempting to control.

Australia, like most places in the world, has introduced biological control agents that have turned out to be worse than the pest it was intended to control. There is a long list of such agents, most of which will be known to honourable members opposite. This procedure has to be carefully controlled. The CSIRO and the Department of Agriculture, with assistance from the Waite Institute, are going through the process of attempting to develop the control agent (the parasitic fly) in South Australia, and when they have established a sufficient stock, colony, or whatever the term is for a significant number of these parasitic flies, they will test them under very strictly controlled conditions before releasing them into the community.

The Hon. Diana Laidlaw: Is Dr Baker working on millipede research at the moment?

The Hon. FRANK BLEVINS: Dr Baker is not an employee of the South Australian Department of Agriculture: he is an employee of the CSIRO. It may well be that Dr Baker's role is not to develop the parasitic fly in the laboratories, or whatever they are doing at the Waite Institute. That may not be his part in this project. He has a particular role as a scientist: he is a specialist and, I understand, a very good one.

As I said, it is a scientific problem: it is not a funding problem. The South Australian Government has made quite clear for two years—and I am sure the previous Government would have done the same—that had it been a question of allocating funds to solve this problem then the funds would readily be available, because everyone is aware of the unpleasantness of this particular pest.

However, as a matter of record, the Hon. Mr Davis wanted some (I believe, deserved some) detailed information on what has been spent to date on the problem. I will point out the level of spending to date that has been made available by the Department of Agriculture and others and what has been requested by the scientist concerned. Whenever a request has been made by Dr Baker for further funds to inquire into this problem or to develop his control agent those funds have been made available. The State funds that were spent in the financial year 1979-80, which was the period of the previous Government, were $10 000; the CSIRO contributed a similar amount. In the financial year 1980-81, $45 000 was contributed from State funds and the CSIRO again contributed a similar amount. In 1981-82, State funds spent were $28 750, with a similar amount being allotted by the CSIRO. In 1982-83, $18 500 was expended, again with a similar amount from the CSIRO. In 1983-84, $7 800 was expended, and again a similar amount was expended by the CSIRO. In this financial year (1984-85), $23 300 has been expended. In addition a quarantine insektary, costing $108 000, has just been completed at Northfield Research Laboratories, which will be used to quarantine imported parasites of Portuguese millipedes. In addition, other biological control programmes are being undertaken by the Department of Agriculture.

To precis some of the remarks that I made earlier, the first phase of the Portuguese millipede biological control project was jointly funded by the Government of South Australia and the CSIRO. Dr Geoff Baker conducted research on the ecology of the millipede at the University of Adelaide, and was employed to search Portugal for suitable biological control agents. Dr Baker reported that a parasitic fly, *Eginia* species, was the natural enemy most likely to be useful in South Australia. He noted, however, that this fly parasitised few millipedes in Portugal. The level of parasitisation varied from very low levels to a maximum of 30 per cent. It is possible that the parasite may act differently in a new environment, but there is no way of determining this other than by liberating the flies in the field. That is the point that I was making earlier: it is all very well to say that this fly is successful in Portugal, but here in a different environment we have to be very careful before we introduce it.

In the second phase of this programme, the CSIRO forwarded three shipments of parasitised millipedes to Adelaide in quarantine. Because of the low abundance of the parasites at the time of collection only a few were received in Australia. None of the parasites from the first two shipments emerged, and numbers in the third shipment, now in quarantine, have now declined to the point where little hope is now held for being able to establish a breeding colony.

The Chief of the CSIRO Division of Entomology has been informed of this event, and has suggested that it may be possible to arrange further shipments of the parasite via the CSIRO's European field station. This would be subject to negotiation with the South Australian Government on funding.

One of the difficulties facing this research programme is that the parasite involved has not been the subject of research elsewhere in the world, and so its biology and ecology is not well known. There are problems with identifying millipedes which have been parasitised and with identifying whether the parasite eggs are alive. Of the present batch of millipedes most have now died but the eggs of the parasites have not developed. The Acting Director of Plant Services Division will meet with other Department of Agriculture staff involved in the programme to discuss the future direction of research in this field. As a result of this meeting recommendations will be made concerning the strategy for the coming years.

It should be stressed that the problem surrounding the control of millipedes is not a financial one but a scientific one. Because of that a large injection of funds would serve no purpose whatever. If it were simply a matter of providing money the Government would be prepared to provide it immediately. In the past any funds that have been requested by scientists studying the problem have been provided and that practice will continue. However all scientific research takes time and any claims that a large injection of funding will provide a quick answer can only be seen as being misleading and mischievous.

If the parasite is eventually established in South Australia, there is no certainty that it will be able to reduce millipede numbers below nuisance level, nor inhibit its spread into new areas. However, any reduction in numbers caused by the parasite will make other forms of control easier. I inform members who are living in areas where the millipede is a problem that if they contact the Department of Agriculture its representatives will be pleased to advise them on the best ways of controlling this pest. I hope that that response to the Hon. Mr Davis's question (for which I thank him) is satisfactory. It is a pity that his interest was only prompted on finding the stranger in his bath or shower. I gave quite extensive answers to questions relating to this problem last year, but do not remember the Hon. Mr Davis being one of the questioners then. However, now that he has shown this new found interest in this pest I congratulate him on that and hope that he will follow carefully over the years the efforts that the CSIRO and the Department of Agriculture take to control what is a very nasty pest.

CEP FUNDS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour, a question about the guidelines for the use of CEP funds.

Leave granted.

The Hon. ANNE LEVY: I am sure that most members are aware that jobs provided with CEP funds have a target

of 50 per cent females for any CEP job other than those under the JALOR programme. There are also targets relating to Aborigines, migrants, and disabled people that vary from one part of the country to another. I know that the Department of Labour in South Australia has been trying hard to fill the relevant proportions from these different groups including 50 per cent females, and has instituted certain programmes to try to raise the number of females employed using CEP grants.

Some time ago that figure of 50 per cent had not been achieved, and the proportion of females employed under CEP's was 33 per cent. Since then further efforts have been made in relation to this matter, and I understand that the figure is now not too far from 50 per cent. It has come to my notice that a suggestion is floating around that this guideline of 50 per cent females being employed under CEP's should be abolished on the ground that it is so difficult to achieve. Apparently, the people making this suggestion are unwilling to even have this figure as a target. I further understand that the whole question of CEP guidelines is likely to be discussed at a Commonwealth level involving people from the Commonwealth and all State Governments. I believe that the South Australian department has applied itself to try to fill these quotas, and I am sure that our Government recognises the importance of having this target of 50 per cent females on these programmes. Can the Minister assure us that, in any discussions regarding guidelines for CEP recipients, all representatives from South Australia will strongly resist any proposal to remove the 50 per cent target for females employed under Commonwealth Employment Programmes.

The Hon. C.J. SUMNER: I will obtain an answer to that question for the honourable member.

TAB TAKINGS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Recreation and Sport, a question about a drop in TAB takings in the country.

Leave granted.

The Hon. PETER DUNN: Today's *News* records a statement by the Minister of Recreation and Sport, Mr Slater, that there is no evidence to suggest that TAB turnover in country areas has been affected by the switch in radio broadcasting of race meetings from 5DN to 5AA. The Minister went on to say that the turnover had declined in certain areas where the 5AA signal could not be picked up, but that overall turnover was up 12 per cent. The Streaky Bay agency was quoted by the Minister as its turnover being 12.4 per cent up on the same time last year.

I have figures from the TAB agency at Streaky Bay for February and March of this year. I will give a list of commissions gained by that agency from investments made: 3 February, $589; 10 February, $365; 17 February, $264; 24 February, $342; 3 March (after the TAB had been taken over), $370; 10 March (when it started to decline), $239; 17 March, $73; and 24 March, $33. It seems to me that the Minister has got his figures mixed up and must have taken a 12 month period if he thinks that turnover has risen by 12.4 per cent at Streaky Bay, when in fact during the past couple of weeks in March turnover was less than a third and then an eighth of previous comparable takings.

Whence did the Minister obtain his figures, and does he still maintain that there has been a rise in turnover when on comparing the month of March for 1984 and 1985 that is shown not to be so? Will he ask station 5AA to increase its power output, or ask the Streaky Bay station to relay race broadcasts on mid-week days when such races are run?

The Hon. C.J. SUMNER: I will seek a reply and advise the honourable member.

HOCKEY STADIUM

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Recreation and Sport a question about the proposed hockey stadium.

Leave granted.

The Hon. R.I. LUCAS: Last June the South Australian Hockey Joint Council sent letters to South Australian State and Federal politicians requesting support for a multi-sport development to be established at the South Australian women's memorial playing fields at St Marys. It was to become the South Australian hockey headquarters and contain a stadium of international standard for the playing of hockey. I am sure that we would all support the development of an international hockey stadium if at all possible somewhere in South Australia and possibly at the memorial playing fields at St Marys.

However, quite a number of problems have arisen in relation to this proposal and I understand that the Trust has a number of concerns and has written to the Minister of Recreation and Sport and is awaiting a reply. I understand there are also problems because of a difference in the views of the South Australian Hockey Joint Council and those of the Trust regarding the exact siting of the proposed stadium on the playing fields. I do not want to go into all the problems. I hope that the Minister will reply pretty soon to the Trust and set up consultation with the Trust about the problems.

I am informed that the Department of Recreation and Sport has employed a consultant to try to resolve the differences of opinion between the Trust and the Hockey Joint Council. Will the Minister provide the name of the consultant who was employed, the terms of reference to which the consultant is working, the estimated cost of the consultancy and the expected date of receipt of the report from the consultant. Further, will he say whether the consultant or any of the principals of the consulting company are in any way connected with the South Australian Hockey Joint Council or the South Australian Women's Memorial Playing Fields Trust?

The Hon. C.J. SUMNER: I will refer that question to my colleague and bring back a reply.

'KOOROOROO'

Consideration of the following resolution received from the House of Assembly:

That this House resolves to recommend to His Excellency the Governor, pursuant to sections 13 and 14 of the Botanic Gardens Act, 1978, disposal of the house known as 'Koorooroo' in the Mount Lofty Botanic Garden, part section 840, volume 2017, folio 108; and that a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

Adjourned debate on motion of the Minister of Health:

That the resolution of the House of Assembly be agreed to.

(Continued from 21 February. Page 2759.)

The Hon. C.M. HILL: The Minister said in his address when moving this motion that members would have the pleasure of seeing the plan of the proposal on the display board in the Council. I have been waiting since 21 February

for the plan to be displayed, but that has not yet happened. Not only that, but also the board itself seems to have disappeared from the Council— but that is another matter. It is a great pity that a Minister of the Crown who makes such comments in this Council does not stand by them and see to it that such things occur. I recall that when some members on this side were Government Ministers we took extreme care to assist the Council and its members by providing details of this kind.

The Minister said that in July 1979 a parcel of land at Stirling was purchased with the intention of consolidating it with the then Mount Lofty Botanic Gardens, and there was a residence on that piece of newly acquired land. The Botanic Gardens Board now finds that, as there is already a house on the original parcel of land, there is no need for the Board to retain the ownership of the second house. A factor influencing the Board, no doubt, is that the subject property requires maintenance and repair and it is estimated that about $15 000 to $20 000 would have to be expended for maintenance. It is interesting to note that the purchase price of the 2.57 hectares in 1979 was $80 000, and it is now expected that the house property alone will bring that same sum.

The Board, under its Act, cannot dispose of real property without the approval of both Houses of Parliament. The House of Assembly has consented and, taking into account all these factors, I see no reason why this Council should not approve the sale. I intended to ask the Minister how the Board proposed to dispose of the property, but I note that he is away on official Ministerial business and so I cannot put that question to him. However, I hope that the house is sold eventually with some care in that I presume that it will be sold by public auction, which is the fairest and most proper way to dispose of public property: public auction is seen by the public as being the fairest and most proper means of sale. I do not object to the motion, although again I point out that, if Ministers indicate to the Council that plans will be displayed on the display board in this place so that we can all see them, it is the Minister's responsibility to ensure that that happens. If it does not happen, as in this instance, the Minister should be criticised for his oversight.

Motion carried.

EXECUTORS COMPANY'S ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 March. Page 3496.)

The Hon. L.H. DAVIS: This is a short Bill. Its intention is clear, but nevertheless it raises complex and important matters that have previously been addressed by the Parliament. The Executor Trustee and Agency Company of South Australia is the oldest private trustee company in South Australia. It has, for many years, been listed on the Stock Exchange. Members will recollect that seven years ago Executor Trustee became the subject of a creeping takeover from Industrial Equity Limited, which represented something of a threat to the control of Executor Trustee.

In 1978, Industrial Equity indicated that it held some 10 per cent of the Executor Trustee's issued capital, notwithstanding the fact that there was a provision in the Articles of Association of Executor Trustee which limited shareholdings by any individual to 1.67 per cent of the capital. The capital referred to both A and B class issued shares. Industrial Equity, which is the investment vehicle for the wellknown entrepreneur Mr Ronald Brierley, had found a way around the restricted provisions of the Articles by registering shares using a number of different subsidiaries of Industrial Equity.

The Labor Government of the day passed amendments to the Executor Trustee and Agency Company's Act, (the company is incorporated under Statute) to give Executor Trustee the power to disallow the voting rights of the shares which were held by Industrial Equity. However, Mr Brierley is a formidable investor and he was not particularly fazed by the amendments that were passed in 1978. He pressed on and continued accumulating a holding in Executor Trustee. The Executor Trustee Company, not surprisingly, retaliated by refusing to register any further purchases made by Industrial Equity or its subsidiaries on the grounds that they were acting beyond the provisions laid down in the Articles of Association.

Then, in 1981, the State Government, a Liberal Party Government on this occasion, sought to clarify the matter by passing further amendments to the Executor Trustee Act which gave Executor Trustee Company the right to demand the sale of any shares that were disputed, and which gave Executor Trustee Company the power to effectively prevent acquisition of any shares unless those shares were registered. The Executor Company under the provisions that had been established by Act of Parliament could refuse their registration. By the time those amendments were passed in 1981, Industrial Equity had increased its shareholding in A and B class shares to the point where it owned a total of 37 per cent of the issued capital of Executor Trustee Company.

Given that Executor Trustee Company was not a large company by Australian standards in terms of its issued capital (at that time in 1981 I would surmise that its issued capital would have been valued at no more than $1.5 million to $2 million), nevertheless it had become a matter of some public interest. The dilemma which faced both Governments—the Labor Government in 1978 and the Liberal Government in 1981—was to determine whether or not the forces which normally operate in the market place should be allowed to do so in this case, given that Executor Trustee was, after all, a public listed company. However, as I have already observed, the Articles of Association had been quite specific in the sense that they had limited shareholdings by any one individual to 1.67 per cent. Mr Brierley had sought to find a way around it.

The Hon. R.C. DeGaris: That had a beginning in the 1880s.

The Hon. L.H. DAVIS: That is right. The Hon. Mr DeGaris quite correctly observes that that Article limiting shareholdings to that upper limit of 1.67 per cent had been a long standing Article. There is no question of that. However, as I have observed, Mr Brierley sought to find a way around it.

The second set of amendments that was passed in 1981 had given the Executor Trustee Company the right to demand the sale of disputed shares; alternatively, if that holder of disputed shares failed to sell, then they faced forfeiture of those shares to the South Australian Corporate Affairs Commission. Industrial Equity was given a deadline in April 1981 of April 1981 which it ignored. It did not sell the shares by the deadline date and the Corporate Affairs Commission, under the provisions of the legislation which had been passed by the Parliament, was deemed to become the beneficial owner of all holdings of Industrial Equity in the Executor Trustee Company that were over and above the maximum 1.67 per cent limit.

Industrial Equity refused to budge and took action to recover dividends which it claimed was owing to it. Generally, it could be described as a legal imbroglio. There was a stand off, with both parties not giving any ground. Notwithstanding the second set of amendments that was passed in 1981, Industrial Equity continued to persist with its

interest in Executor Trustee Company and built up its shareholding to something in excess of 40 per cent to 45 per cent and that, of course, would give controlling interest, without doubt, in real terms to Industrial Equity.

In October 1983 the ANZ Banking Group, which had come to the rescue of the struggling Bank of Adelaide- FCA Group in 1979, had discussions with Executor Trustee with a view to taking over that company. Its interest in Executor Trustee came to a head late last year, some 12 months after the initial approach and negotiation with Executor Trustee, when it offered shareholders $7 a share, which was almost twice the value that the share market placed on those shares at that time.

However, perhaps to the surprise of many people, the State Bank announced a counter bid of $8, $1 more than the initial offer by the ANZ. It came to light subsequently that on 21 November 1984 the Chairman of the State Bank, Mr Lew Barrett, and its Chief Executive, Mr Marcus Clark, had discussions with the Executor Trustee company with a view to making a takeover offer. It is worth noting that the State Bank's approach to the company was made one full year after the initial approach from the ANZ Bank. Certainly, it is not uncommon for companies to engage in a battle for another company that is seen as a valuable addition to existing operations.

The Hon. Anne Levy: It's dog eat dog.

The Hon. L.H. DAVIS: The honourable member says that it is dog eat dog. I do not see it as that: it is the real world. In Parliament, hopefully, we would take into account the situation that exists in the real world. In this case the State Bank bid of $8 was overshadowed by a second bid by the ANZ Bank of $8.75. At that stage there was some criticism of the Government because, just before Christmas 1984 (20 December), the Government decided to intervene in the takeover by putting its full weight behind the State Bank bid for the company.

It decided it would oppose the ANZ Bank's attempt to acquire the Executor Trustee company. The Attorney-General, who was in charge of negotiations, said that the Government's move was consistent with its intervention in the market in 1978 when Mr Brierley had his problems through having acquired 34 per cent of the Executor Trustee company's issued capital in contravention of the articles of association. I am not sure what the Hon. Mr Sumner meant when he said that it was consistent with the intervention in the market in 1978. I would have thought it had nothing to do with the events of 1978.

Here we had a situation where a privately owned banking group—the largest banking group in Australasia—had made an offer on the market for the Executor Trustee and Agency group. In Committee I will be asking the Attorney whether the ANZ Bank had any discussions with the Government prior to making that offer public, given that that bank must surely have realised that without the Government's blessing the takeover could never have been consummated, given the limitations that existed on individual shareholdings pursuant to the articles of association. So, the Government intervened in a most extraordinary manner, and that intervention was attacked by the Opposition at the time, and it was attacked by a large number of people in the business community. I refer to the comments of the Chairman of the Stock Exchange of Adelaide Limited, Mr Malcolm McLachlan, who stated:

> It is quite apparent that an individual shareholder of Executor Trustee could be financially disadvantaged by the Government's proposed action.

He further stated:

> We believe the Government's intended legislation represents a contravention of the free market principle espoused by the Stock Exchange on behalf of the investing public.

The comments of the Finance Editor of the *Advertiser,* Mr Ian Porter, of Friday 28 April 1984 was even more trenchant, when he stated:

> It is simply not tenable that the State Government be able to jump into the middle of a takeover battle and decide who will win and lose. The State Government's behaviour has been unacceptable to all but a very few in the corporate world. More especially as it is a signatory to the uniform Companies Code which sought to iron out this sort of maverick behaviour by the States. Not only has the State Government taken it upon itself to deny ETA shareholders the high price now available, it has also cut short the normal bid and counter bid process that might have seen the price go higher.

That is a measure of the concern expressed by leaders in the business community, by financial commentators and by the Liberal Opposition at that time. However, it was then subsequently announced that the State Bank would match the ANZ Bank offer of $8.75. In early January the ANZ Bank finally conceded defeat and said it would accept the State Bank's $8.75 offer for its 20.2 per cent holding in Executor Trustee and Agency Company.

In consideration of the fact that it was giving up its attempt to acquire the company it received some assurance from the Government that it would be allowed to establish its own trustee company in South Australia. In fact, it was announced that legislation would be introduced to Parliament in the next session to allow the ANZ Bank to set up the ANZ Executor and Trustee Company South Australia Limited. In his response to the debate or in Committee I hope the Attorney-General will indicate where that legislation is, because it has not yet surfaced.

Effectively, the Executor Trustee and Agency Company Board had Hobson's choice. In the end it recommended acceptance of the $8.75 a share State Bank offer which, of course, had been similar to that of the ANZ. Given that the Government had consistently intervened effectively to prevent the ANZ from acquiring the company, there was no other choice, as the directors of the company had to act in the interests of its shareholders. In the end, they recommended acceptance of the offer. That was the situation, which, financially at least, in the end would appear not to have disadvantaged the company shareholders.

It is a moot point to raise at this stage, given that the takeover offer by the State Bank is *fait accompli.* If free market forces had been allowed to prevail, the takeover offer for the Executor Trustee company could have been even higher.

The Hon. C.J. Sumner: Who requested the interference in the market in the first place? The Board of Executor Trustee.

The Hon. L.H. DAVIS: That is for the Attorney-General to say. He does not have to. This unhappy and unsatisfactory saga has come to an end with this legislation. However, clause 2, as drafted, will effectively allow the State Bank of South Australia to pass on the Executor Trustee company at a future time, because it excludes the application of that 1.67 per cent limitation of shareholders in the Executor Trustee company from any agency or instrumentality of the Crown. That means that at a further time the State Bank could transfer the Executor Trustee company to the Department of Forests or the State Government Insurance Commission.

The Hon. C.J. Sumner: Or TAB!

The Hon. L.H. DAVIS: Or TAB. This would complement its ever expanding empire! We believe that the legislation should reflect the fact. The Bill should accept the *fait accompli* that the Council has been presented with, namely, that the State Bank has more than 50 per cent of the shares in the Executor Trustee company. The takeover should not be interfered with by Parliament. I have on file an amendment

that seeks to recognise the reality, namely, that the State Bank already has more than half the issued capital of the Executor Trustee company: that should be recognised and nothing else done that would further cloud what has already been a quite remarkable history for this long established company. I hope that the Attorney-General accepts the wisdom of my remarks, and the amendment I have on file.

The Executor Trustee and Agency Company has served South Australians well over many years in a variety of ways. I also cast no aspersions on the quality of management and leadership in the State Bank. All South Australians should be pleased with the leadership given to this newly merged bank by Mr Tim Marcus-Clark and its Chairman of the Board, Lew Barrett. I regretted that the Attorney-General saw fit to interfere in the market place in such a way that he effectively squashed the ANZ's legitimate right to make a bid for Executor Trustee given, first, that it had expressed an interst a full year before the State Bank had done so and, secondly, that the ANZ was not unfamiliar with trustee operations, having already taken over the failing Trustee Executor Company in Victoria.

The Government was seeking to advantage one bank that was bidding against another larger Australia-wide bank. It is a bad principle. I was amazed that the Attorney-General sought to intervene in that fashion. Australia has moved very rapidly to deregulate its capital markets. The rapidity of change has been quite breathtaking—during the past two years the Australian dollar has been floated; institutions have been allowed to have an interest in stockbroking houses; the deregulation of interest rates in banks; and some 16 foreign banks have been admitted into the Australian banking system.

For a bank to take an interest in a trustee company is a relatively new development. In Australia during the past two years there has been a breakdown in the barriers that have traditionally existed between insurance groups, stockbroking firms, banks, and trustee companies. Some countries in the world, Canada being a notable example, have sought strenuously to maintain pillars between these four separate groups in the belief that, if those pillars are broken down, difficulties will emerge and conflicts of interest occur. These are matters of fact and cannot be stopped, but may lead to problems for legislators in the future.

Members on this side of the Chamber accept the reality, but record their concern at the manner in which this takeover has been handled by the Government.

The Hon. R.I. LUCAS: I agree with much of what the Hon. Mr Davis has said, and will not repeat it. However, this Bill indicates the fundamental difference between Labor Governments and what would be the attitude of Liberal Governments. The State Labor Government, led by the Attorney-General, has deemed that only a State Government instrumentality, such as the State Bank, is an appropriate enough organisation to take over Executor Trustee. The Attorney-General is doing everything in the Government's power to ensure that a reputable, financially sound company, such as the ANZ Bank, will not be supported in its takeover bid. The Liberal position, as indicated by the Leader of the Liberal Party, John Olsen, and the shadow Attorney-General, the Hon. Trevor Griffin, is that, with the commitments given by the ANZ with respect to Directorships and management control being retained in South Australia, it would not stand in the way of free market forces, as the Hon. Mr Sumner has done.

I have grave doubts about the need for the basis of this legislation restricting share ownerships to 1.67 percent. To at least in part back that argument and show that I am not the only pebble on the beach, I quote from an article by the Finance Editor of the *Advertiser*, Mr Ian Porter, on 28 December 1984. He states:

> Further tampering with these laws—

that is, laws such as the 1.67 per cent ownership rule—

> instead of simply abandoning them—will only prolong the mischief and delay ETA's entry back into the real world. Last century, when corporate law was decidedly undeveloped, trustee companies did need protection from the unscrupulous. But the steady and quickening development of company law has made much of the trustee law obsolete.
>
> The general laws outlining what is expected from company directors in terms of fiduciary duties have made obsolete the restrictions under which trustee company directors have to act. Under these conditions, it would seem to matter little whether the trustee company is independent or part of a group. In fact, given the constraints on trustee directors and where they can invest estate funds, it would seem that a trustee company would stand to benefit from becoming part of a financially stronger group.
>
> If an extra measure of protection is deemed necessary, then the State Government could retain those parts of the Trustee Act which stipulate where estate moneys may be invested, although the extreme conservatism imposed in other States has often seemed to deprive the testators of real-world returns from their estates.

The views of Mr Ian Porter merit consideration by those of us in this Council. As I have said, I have certainly grave doubts about the whole basis of this sort of legislation, particularly when it is used by an Attorney-General like the Hon. Mr Sumner in the way he used this legislation and threatened various courses of action through the course of the events of the takeover of ETA.

This sad and sorry case is an indication of a major weakness in the administration of the Attorney-General in South Australia. As the Hon. Mr Davis pointed out, the Attorney-General was roundly condemned by virtually all business and financial commentators, not only in South Australia but also nationally for his interventionist approach with respect to this matter. The Hon. Mr Davis referred to one quote, but I will refer to an editorial from the *Advertiser* on 27 December. It states:

> . . . it is a very different proposition to distort market competition and create an unreal situation as has been the unhappy and messy consequence of the ETA intervention. It must be remembered that the directors appealed to the State Government for help during the Brierley raid. By succumbing to that pressure to retain control of ETA in SA hands, the Government of the day created a precedent that does not augur well for South Australia's image in the eyes of Australia's business community in general.
>
> To some extent the Bannon Government has been caught in a cleft stick. ANZ opened the bidding for ETA at the bargain price of $7 a share, but the State Bank upped the ante to $8 a share. This prompted the Corporate Affairs Minister, Mr Sumner, to maintain with consistency that the Government would use the 1978 legislation to retain control of ETA in South Australia and the ANZ Bank responded promptly by raising its bid to $8.75. Whereupon, the State Government, its authority challenged, came out fully in favour of the State Bank offer and ruled the ANZ Bank out of order. In other words, the Government was compelling shareholders to accept a bid 75c below the best offer to date and had committed itself to an unfortunate foray into the financial world that will, in the long run, do it no credit.

I interpose that it is not the Government, but in particular the Minister of Corporate Affairs (Hon. Mr Sumner), who has done himself no credit at all in business—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: If the Attorney-General is very proud of this, he has a very funny set of standards. It has done the Attorney-General no credit at all He is clearly on very sensitive ground, knowing that the full weight of financial and business opinion is strongly against him.

The Hon. C.J. Sumner: I lunch with the captains of industry once a week and they have never mentioned it.

The Hon. R.I. LUCAS: I do not think that the Attorney dines with the captains: perhaps with the privates.

The Hon. C.J.Sumner: I lunched with the National Bank the other day. He did not even mention it.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: This leading State newspaper, the *Advertiser* goes on:

Few have come out of this affair with much credit.

That would include the Attorney-General.

The Hon. C.J. Sumner: What about the directors?

The Hon. R.I. LUCAS: They will get their share in a minute. The quote goes on:

The Government is forced to live with a questionable policy; the board of ETA appears to have been less than frank with shareholders in the early days of the bidding and to have ignored the opportunity to obtain a better price. And by forcing shareholders to accept the lower $8 bid [at that stage] the Government could well be denying them a fair market price.

That is the crux of the problem for the Attorney-General. He was trying to enforce on shareholders in a company in South Australia less than a fair market price by his grossly interventionist policies. After that *Advertiser* editorial, the Attorney would have thought that his face was somewhat saved in public by the agreement of the State Bank to increase its takeover offer from $8 to $8.75 and thereupon match the offer of the ANZ Bank. However, even after this matching bid from the State Bank, the Attorney cannot get away from his responsibility for possibly denying fair justice to the shareholders of this company. The Attorney, in effect, by his threatened action had cut short the bid and counter-bid process that is so much a part of the free market place that we supposedly have here in South Australia and in Australia.

In cutting short that bid and counter-bid process—and the Hon. Mr Davis referred to the comments by Ian Porter on that where he backed up that comment—the Attorney was possibly depriving the shareholders of the company of an even greater return for their shares in a takeover, not necessarily by those two companies but possibly even from a third or fourth company that might have been attracted into the market place. As the Hon. Mr Davis has beaten me to the punch in quoting Mr Ian Porter from the *Advertiser,* I will quote not the Finance Editor but the Economics Editor—

The Hon. C.J. Sumner: No less?

The Hon. R.I. LUCAS: No less than the Economics Editor of the *Advertiser,* the foremost State daily newspaper, Mr Malcolm Newell who, I am sure, is widely respected by all, even, I am sure, the Minister of Corporate Affairs, with respect to his very intelligent and lucid articles on small business in South Australia. Malcolm Newell states:

Some market analysts believe the present offer level [$8.75] represents a very good buy for the purchaser, given the asset base of ETA and its goodwill value. If this were the case, any move by the Government to compel acceptance of the $8.75-a-share offer would still put shareholders at the disadvantage.

So, it is not just a lowly back-bencher who is making a claim in this Council: the Corporate Affairs Minister is denying fair justice to shareholders of this company. As the Corporate Affairs Minister indicates, no less than the economics writer for the *Advertiser* and many others have commented on this matter, but time prevents me expanding on that.

The final point I raise—and a point that I will pursue with the Attorney-General in the Committee stage, or perhaps he might responds to it in his reply to the second reading debate—relates to the extent of the commitment, if any, given by Government to the ANZ during early stages of negotiation. An article by Bryan Frith appeared in the *Australian* of 4 December, as follows:

It must be considered unlikely that the ANZ would bid for ETA without first satisfying itself that the State Government would not object. More to the point, the 5.4 per cent which the ANZ has conditionally agreed to buy from IEL is more than three times the existing statutory limitation in ETA.

This is the point about which the Hon. Ms Levy was interjecting earlier (quite out of order, of course). The quote continues:

It is unthinkable—

quite strong words—

that the bank would enter into such an agreement—

that is, with IEL—

without the green light from the Government.

I am sure that Bryan Frith is not suggesting that the Government gave a written guarantee to the ANZ, but what he is suggesting, and what I would like to pursue with the Corporate Affairs Minister—

The Hon. C.J. Sumner: Who is Mr Frith?

The Hon. R.I. LUCAS: He is a learned writer with the *Australian.*

The Hon. C.J. Sumner: Is he the Economics Editor?

The Hon. R.I. LUCAS: It does not say, actually, so I do not know whether it is in economics or finance. Mr Frith makes some claims that are worthy of answer by the Corporate Affairs Minister. I am sure that he is not suggesting that there was anything in writing, but during the negotiation stage was there a nod of the head or a wink by the Corporate Affairs Minister or officers representing him and the Government to ANZ with respect to the actions that they had taken up to that point?

I believe that the ANZ Bank has been treated shabbily in this whole exercise by the Corporate Affairs Minister and the Government. I am sure that we will get 20 minutes of froth and bubble from the Attorney-General about selling out South Australian companies and about dreadful companies like the ANZ taking over South Australia, as well as a whole range of other rhetoric that comes from interventionist Corporate Affairs Ministers like the Hon. Mr Sumner.

It is time for South Australian companies to stand on their own two feet to a far greater extent than an interventionist Minister like the Hon. Mr Sumner would have them do. At least the Hon. Mr Sumner's Federal colleagues (in one respect, the Hon. Mr Keating) have shown a commitment to the private enterprise system that belies the Party to which he belongs. It certainly is not the sort of commitment that an interventionist Corporate Affairs Minister like the Hon. Mr Sumner has demonstrated on this matter.

I will not be concerned at all about froth and bubble rhetoric from the Corporate Affairs Minister if he says that, in speaking as we have done today, we are intending to sell South Australian companies down the gurgler. It is the role and responsibility of South Australian management to get off their backsides, as other South Australian companies (such as Adelaide Steam) have done, and that it is not in the best interests of the national economy for interventionist Ministers like the Attorney-General, and his Government, to be erecting barriers in finance and trade between South Australia and the rest of Australia.

It is time for the likes of the Corporate Affairs Minister here in South Australia to take on the mantle, at least in part, that people such as Paul Keating have taken on in respect of finance. I think that when he responds the Attorney-General must remember that the ANZ Bank gave commitments, of which he is aware, with respect to directorships and management control in South Australia if its bid was successful.

I support much of what the Hon. Mr Davis has said and will support his amendment in Committee. However, I intend to move an amendment to allow in future for reputable, soundly based financial companies, whether South Australian, Australian or other, to be given the same advantage that the State Bank has been given by the interventionist Mr Sumner in this Bill.

The Hon. C.J. SUMNER (Attorney-General): That was an astonishing contribution. I would have thought that the honourable member could make some kind of constructive comment or analysis of the situation instead of engaging in a little bit of fairly inane rhetoric of his own and attempting somehow or other to brand me as an interventionist Minister and the blackest of all people in relation to this matter. He seemed almost to be like a broken record. The words 'interventionist Minister' were used in every 10 words of what he had to say. Let me put that quite clearly on the record for everyone here to hear and for the people of South Australia to know: I am proud of the decisive action taken by the South Australian Government in this matter to retain the Executor Trustee and Agency Company in South Australia as a South Australian owned company.

The fact of the matter with respect to financial institutions, in particular banks, is that the only South Australian owned bank at present is the State Bank of South Australia. As a result of the takeover of the Bank of Adelaide and its finance company, the only banking institution in South Australia that is controlled in South Australia and has its head office here is the State Bank of South Australia. I do not resile from any action that was taken by the Government to strengthen that institution as a dynamic part of the financial sector in South Australia and as a dynamic part of promoting economic development in this State.

The fact of the matter is that the private sector, at least with respect to banking, has failed to retain a banking head office in South Australia. It has only been the State organisations that have enabled that to occur. I believed at the time that this matter arose that it was reasonable for the State Bank to be given an opportunity to bid for and obtain this company at what I believe was a fair market price.

The Hon. R.I. Lucas: What about the shareholders?

The Hon. C.J. SUMNER: I will get to them in a moment.

The Hon. R.I. Lucas: You sent them down the gurgler.

The Hon. C.J. SUMNER: No, not at all. This was a fair market price for the Executor Trustee and Agency Company to retain that company as part of South Australia and particularly as part of a South Australian financial institution, the State Bank of South Australia. I am afraid that the honourable member is way off beam in most of what he has said. I could agree with a number of things that he said with respect to South Australian business and its need to get out, sell itself and ensure that they run profitable, efficient companies that are able to compete in the Australian economy, because we cannot have protection of a blind kind to completely insulate South Australia from the rest of the national economy.

That is accepted by the South Australian Government. On the other hand, it is also true that during the period of the previous Liberal Government a large number of private enterprises were taken over and their head offices were moved from South Australia, despite assurances to the contrary. Elders, of course, was the most prominent and notorious of those, and problems with the Bank of Adelaide commenced somewhat earlier. The actual and complete demise of the Bank of Adelaide occurred following the election of 1979, despite comments and commitments made by the then Premier Tonkin that the Bank of Adelaide would be saved for South Australia. I am not quite sure how statements made by Premier Tonkin, as a member of the honourable member's Party, fit in with his open go, *laissez faire*, free market philosophy.

The situation might well have been different, as far as the South Australian Government is concerned, had there not been intervention in the market in this case. However, what the honourable member has failed to recognise and comment upon is that it was the Board of Directors of ET&A that came to the Government of the day in 1978, I believe, requesting action by the Parliament to prevent a takeover of the ET&A by Industrial Equity, the Brierley interests. The Parliament of this State—not only the House of Assembly but also the Upper House, the Legislative Council in this State, which did not have a Labor majority—voted to support the board of ET&A intervening to stop that takeover by the Brierley group. If the honourable member wants to complain about intervention in the market he should go back to that time. He can blame the Government of the day and members in this Parliament at that time.

The Hon. R.I. Lucas: Where were you then?

The Hon. C.J. SUMNER: I was not in the Government, no.

The Hon. R.I. Lucas: Where were you? On the back bench?

The Hon. C.J. SUMNER: I think I had just come into office, but as I recall in any event—

The Hon. R.I. Lucas: I thought you were Attorney-General.

The Hon. C.J. SUMNER: I was Attorney-General when the legislation was brought in.

The Hon. R.I. Lucas: Well, there you are. You are responsible for it.

The Hon. C.J. SUMNER: I recall that when the legislation was introduced I was Attorney-General, if the honourable member wants to get pedantic about it. All I am saying is that when that issue arose—

The Hon. R.I. Lucas: All that shows is that there was intervention back in 1978.

The Hon. C.J. SUMNER: In fact, the legislation was initially introduced by Attorney-General Duncan, but that is neither here nor there. For better or worse, the intervention began in 1978 at a time when it was supported by both Houses of Parliament, including the Liberal members. I do not know whether the Hon. Mr Davis was in the Parliament at the time or, if he was, which way he voted, but the Hon. Mr Cameron was certainly here.

The Hon. M.B. Cameron: I voted with grave reservations.

The Hon. C.J. SUMNER: With grave reservations, but the honourable member voted to block the Brierley takeover of ET&A. That is the fact of the matter. It had the support of the Parliament.

The Hon. L.H. Davis: I'm not talking about that; I'm talking about right now.

The Hon. C.J. SUMNER: The honourable member does not understand the history of the matter. I am saying that there was intervention in the market in 1978 to protect ET&A as a South Australian company. There was support for that intervention by the Hon. Mr Griffin in this Parliament—and by the Hon. Mr Davis when he entered Parliament—to amend the ET&A Act to ensure that the legislation that was passed in 1978 was sustained. The Hon. Mr Davis voted for that. He did not oppose that legislation. He did not move—

The Hon. L.H. Davis: What was being done was illegal. It was quite different from the present situation where there is a legitimate takeover bid going on.

The Hon. C.J. SUMNER: Whether or not it was legal, the matter was being litigated in the court. If the honourable member had strong objections to the ET&A restriction on shareholdings that had been brought in in 1978 when he was not a member of Parliament, in fact he is being hypocritical. The measure was introduced by an amending Bill, which was before the Parliament again in 1981 at the instigation of the then Attorney-General, the Hon. Mr Griffin. The Hon. Mr Davis sat there and supported the Hon. Mr Griffin in regard to continued intervention in the market regarding the shares of ET&A. He did not squeak about it; he did not make one criticism of it and he supported fully—

The Hon. L.H. Davis: It couldn't be unscrambled at that stage. You know that!

The Hon. C.J. SUMNER: Just a minute. The honourable member could have unscrambled it. He could have moved an amendment to remove the restrictions on the shareholdings of ET&A and he knows that. If he had honestly believed in free markets at that time, he would have done that, but he was a back-bencher in a Liberal Government and he was not prepared to come out and criticise the Attorney-General or the Premier of the day. Oh, no! But when it is the Labor Government that continues a policy of intervention in the interests of retaining ET&A as a South Australian company (and that is the philosophy we are talking about) the honourable member quibbles, he says that we are intervening in the market. I justify the Government's intervention in the market in this case: whether it was justified initially I will not go into. It was initially supported by the Parliament at the time, including Liberal members. However, the basis of the initial intervention in 1978 at the request of the Directors of ET&A (let us face it) to the Government on behalf of the shareholders was for intervention—

The Hon. L.H. Davis: Why?

The Hon. C.J. SUMNER: To protect ET&A as a South Australian company. That was supported by the Hon. Mr Griffin.

The Hon. L.H. Davis: It was quite different in 1984. They were happy with the takeover, but they were not happy in 1978, and there was a restriction in the articles.

The Hon. C.J. SUMNER: They cannot have it both ways. The directors came to us in 1978 and said, 'We don't like Mr Brierley. We want restrictions on the shareholdings. This is a South Australian company and it should remain a South Australian company.' They noticed four or five years later that the price of shares had increased and they found that they would be caught holding the baby because they had advocated that the shareholdings should be lifted. They did that in 1984 because they knew that there was about to be an increase in the price of ET&A shares. That is why they wanted to get out. They were caught in a cleft stick by their original intervention. They considered that if the intervention had been maintained the price would have stayed at a lower rate and they would not have been able to make money from it.

What members opposite are saying is that the shareholders, through their directors, should have been able to argue for retention of their shares in 1978 but that as soon as it appeared that their shareholdings, because of the restrictions on the retention of the number of shares—and I am not sure whether the Hon. Mr Cameron will sit down—

The Hon. M.B. Cameron: Why do you want me to sit down?

The Hon. C.J. SUMNER: Because the honourable member is interrupting proceedings.

The Hon. M.B. CAMERON: I rise on a point of order. I believe that the Attorney-General is not addressing his remarks through the Chair, and that is why he feels he has been interrupted.

The ACTING PRESIDENT (Hon. Peter Dunn): There is no point of order.

The Hon. C.J. SUMNER: That is the simple fact of the matter. The shareholders wanted intervention in 1978.

The Hon. R.I. Lucas: The shareholders or the directors? There is a difference.

The Hon. M.B. Cameron: Who called for a division? Who was the only dissentient voter? You have been having a shot at me. Just leave me alone.

The ACTING PRESIDENT: Order!

The Hon. C.J. SUMNER: I was making the point that there were Liberal members in the Parliament who supported the ET&A restriction on shareholdings.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I am sure that the Hon. Mr Cameron, if that is his view, can put it to the Parliament. But the shareholders—

The Hon. R.I. Lucas: The shareholders didn't—

The Hon. C.J. SUMNER: The honourable member does not seem to understand that I understand that, if the shareholders are unhappy about what the directors do, at the next meeting of shareholders they can vote out the directors.

The Hon. R.I. Lucas: It would be too late then.

The Hon. C.J. SUMNER: It would not have been too late. They could have voted out the directors and got a new set of directors, and they could have come back to the Parliament and said, 'We don't want intervention.' The directors are responsible.

The Hon. R.I. Lucas: Come back to the real world.

The Hon. C.J. SUMNER: Okay then, if the honourable member does not believe in shareholder control of the directors, that is his business.

The Hon. R.I. Lucas: No.

The Hon. C.J. SUMNER: The directors are there to look after the interests of their shareholders. The argument of members opposite is that it is all right in 1978 for the directors on behalf of the shareholders to come to the Government and say, 'We want a restriction on the shareholdings.' In 1984, they realised that that was perhaps not the right thing to do, and that the price of shares would be much higher if the free market operated and someone else came in to take them over. So they wanted to get their money out of it. They forgot whether the company should be controlled in South Australia. That all went out the window. All the rationalisation, all the justification for the 1978 intervention has gone out of the window in the scuttle to pick up a few bob. That is what happened. To say that we have not given a fair market to the shareholders—

The Hon. R.I. Lucas: You screwed the shareholders.

The Hon. C.J. SUMNER: That is absolute nonsense. Any suggestion of that kind—

The Hon. R.I. Lucas: You've denied them the possibility of a fair price.

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

The Hon. R.I. Lucas: That is true.

The Hon. C.J. SUMNER: They got a fair market price and they were lucky to get it. As I said before, in 1978 they did not want the free market to operate. They cannot in 1978 put as a justification that they want control of the company to stay in South Australia and then complain when the Government, consistent with that policy, consistent with the previous intervention in 1984, says 'Yes, we will buy you out but we are going to buy you out in such a way that the company remains in South Australia.' That policy was perfectly consistent with what had happened in 1978 with the support of Liberals in this place. It was endorsed by Liberals in 1981 when the Hon. Mr Griffin introduced legislation. That is why I find it astonishing that the Hon. Mr Davis and the Hon. Mr Lucas now quibble about it. The only reason they are quibbling is because the Hon. Mr Griffin is not moving this particular Bill.

The Hon. L.H. Davis: Are we still allowed to speak?

The Hon. C.J. SUMNER: Yes, indeed. All I would put to the honourable member is that he should have been a little bit more honest—particularly the Hon. Mr Lucas in his criticism of the Government and his quoting of these learned financial advisers certainly did not give the full story. The Bill is justified, and the Government's action is justified. Market competition was distorted in 1978 with the support of Liberals in this Council. We did not deny a fair market price to the shareholders. They obtained a fair market price, but in any event the shareholders—

The Hon. R.I. Lucas: How can you say that? You don't know that.

The Hon. C.J. SUMNER: In any event the shareholders, having asked through their directors for intervention in 1978, cannot complain if in 1984 the Government, in pursuit of the same policies as in 1978, takes action to ensure that that company remains in South Australia. That is what the Government has done.

I am proud of the Government's taking that action. I believe it was justified and that it had the support of the South Australian community just as the amalgamation of the State Bank eventually had the support of the South Australian community following the demise of the Bank of Adelaide. I am pleased to see that the State Bank will have another arm to its financial armoury. I also indicate that the Government has been fair as far as the ANZ Bank is concerned, because that bank has been given permission—and we will facilitate this by legislation—to establish its own executor or trustee company in South Australia.

An honourable member: Reluctantly.

The Hon. C.J. SUMNER: No, it was not reluctant at all. They came to us after this announcement and there was no hesitation about it at all. The Premier said, 'There is no problem; we will facilitate that,' and it will be facilitated.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Limitation of the size of shareholdings that may be held by individual shareholders or groups of associated shareholders.'

The Hon. L.H. DAVIS: In the second reading debate, I raised two matters which unfortunately the Attorney-General did not address. First, it is a known fact that the ANZ initially opened negotiations to take over the Executor Trustee Company in October 1983. Can the Attorney say whether or not the Government at any stage was privy to that fact and, if so, when? Secondly, I raised the matter of Industrial Equity shares. What is the current status of those shares? Has that matter been resolved? Perhaps it would be appropriate to get a response from the Attorney before proceeding with my amendment on file.

The Hon. C.J. SUMNER: With regard to the allegation that the ANZ started discussions about the takeover of ETA in October 1983, I cannot recall the precise dates as to what happened, but at some point in time (I could check it no doubt if it was important), I think during 1984, the directors or some of the directors and legal advisers of ETA saw me and expressed some concern whether they had done the right thing in 1978 in making the request to Parliament for action to prevent a takeover, and they suggested that there might be other suitors who would be prepared to pay a reasonable price for their shares.

They were concerned that, with the collapse of the Victorian Trustee Company and the takeover of that operation by the ANZ Bank, what was happening in the trustee company arena was that most of them were becoming subsidiaries of larger financial institutions, and that Executor Trustee and Agency Company would be left on its own as a trustee company without any large backers. Therefore, it might wither on the vine over a period of time, presumably with an effect on the price of the shares that the shareholders had. So they raised in a tentative way with me whether or not the Government would consider any proposal to lift the legislative restrictions on the shareholdings of the company. It was discussed and I referred them to the Corporate Affairs Commissioner (Mr McPherson) for continuing contact should they wish to pursue this particular matter. There was no formal approach, on my recollection, to the Government until later in 1984.

The suggestion from the Government and the Corporate Affairs Commissioner to the bank was that, if it wished to proceed and make a formal suggestion to the Government, it should let us know when it wanted to do it. That was never forthcoming in 1984 until the ANZ offer became public in late 1984. The bank saw me again in late 1984, and indicated that it would possibly be interested in making a bid for the shares of the company but, at that stage, I did not give them any undertaking about what the Government would be willing to do.

As it turned out, the matter went public and into the public marketplace. No undertakings were given at any stage that the Government would introduce legislation into Parliament to remove the shareholding restrictions on ETA shares. That is my understanding of the position. In regard to Industrial Equity shares now, they were forfeited under the legislation to the Corporate Affairs Commission. Mr Brierley disputed that and went to the Supreme Court. Negotiations are proceeding, and I do not believe they have yet been finalised.

The Hon. R.I. Lucas: Have you sold them to the State Bank?

The Hon. C.J. SUMNER: No.

The Hon. R.C. DeGARIS: I have listened to both the reply of the Attorney and to the speeches of the Hon. Mr Davis and the Hon. Mr Lucas with much interest. I would be interested in the Attorney's comment on what I have to say. First, there is a difference between the two situations of 1982 and the sale of Executor Trustee. In the original 1885 Executor Trustee legislation shareholdings were restricted in regard to individuals and companies. It was a peculiar Bill that was introduced 100 years ago. It provided for a restriction on the shareholding of any person in the company, but there was no restriction about who owned the company—whether they be South Australian or not. Indeed, it could have been an entirely interstate shareholding. However, there was a restriction on the size of shareholdings in the company.

One could even say that it was almost the beginning of the first statutory authority in a different or peculiar way. The difference between the actions of 1981 or 1982 and now is that the size of the shareholding was further restricted in that legislation concerning holdings to be held by individuals or companies, and the present situation of a total takeover of the company. What I have said has been accurate and I would like the Attorney to comment, as the position between the situation in 1982 and now is an entirely different situation.

The Hon. C.J. Sumner: When? The initial legislation was in 1978.

The Hon. R.C. DeGARIS: Yes, and there was a further Bill in 1981. The situation here is entirely different from the situation that occurred in the previous legislation.

The Hon. C.J. SUMNER: The Hon. Mr DeGaris is quite right. The point I tried to make in reply was that, had the free marketeers opposite, the Hon. Mr Lucas, had he been here, and the Hon. Mr Davis, and had they been dinkum in their philosophical position, they could have used that opportunity to express their concern about the interference in the market in shares of ETA, and the Hon. Mr Davis could have moved an amendment to lift that restriction. That is a fact. All I am saying is that in 1981 a Liberal Government maintained the policy that had been adopted by Parliament with Liberal Party support in 1978—

The Hon. R.C. DeGaris: And in 1885!

The Hon. C.J. SUMNER: —and in 1885 of interference in the market.

The Hon. R.C. DeGaris: The point I am making is that it is an entirely different situation now to that which was covered.

The Hon. C.J. SUMNER: It is certainly different from that covered in 1981. That was to attempt to make the legislation of 1978 effective, and make it work. All I am

saying is that, if Parliament and the Hon. Mr Davis in particular in 1981 had considered that the legislation was bad—that the intervention in the market was bad—he could have moved to do something about it, but he did not. He now comes along and decides to have two bob each way and condemns the Government and me in particular for the interventionist approach—unless he is going to support the legislation. All I am saying is that the Government's action in this matter is consistent with the view that Parliament has taken on ETA and its shareholdings since 1978.

The Hon. R.C. DeGARIS: I find it rather difficult to explain what I mean. I am sure that the Attorney does not understand what I mean. There has always been a restriction on the shareholdings in the company right from the first legislation of 1885, but there was no restriction even then on where those shares were to be held, be it in South Australia or outside. The position now is that the decision made is to have the shareholding in South Australia. That is the subtle difference between the two situations.

The Hon. C.J. SUMNER: That may be, but the fact is that in 1978 intervention was designed to ensure that control of the company remained in South Australia.

The Hon. R.C. DeGaris: That had nothing to do with it.

The Hon. C.J. SUMNER: That is not correct. It was certainly the basis on which it was put to Parliament. They did not want the Brierley group, an interstate group, to take over. The directors put it to us on that basis that there were South Australian shareholders and that there might have been interstate shareholders, but primarily the basis of the argument was that they did not want Brierley and they wanted South Australia to take control of the company.

The Hon. R.C. DeGARIS: Even if it had been Adsteam making the takeover, the same legislation would have appeared. It was not a question of IEL being a national or international company or the question being raised about South Australian control. I am trying to say that the reason for the Government's opting to keep the company in South Australia is a new approach to Executor Trustee, while the 1978 and 1981 legislation was following the general idea of the 1885 legislation. There is a change in the approach of the legislation in this matter.

The Hon. L.H. DAVIS: I thank the Hon. Mr DeGaris for his comment: that is my view. The Government in 1984 determined that it would accept a takeover offer, that it would countenance a takeover offer for the company. Having done that, the argument surely is that that takeover company should be an acceptable one. Given that the ANZ Bank is the largest banking group in Australasia, I would have thought it would have been reasonable to argue it would be acceptable to the Government. I was interested to hear the Attorney say that he was not aware that the ANZ was to launch a takeover before it was actually made public, in a sense, even though he may have had discussions with Executor Trustee, it had not passed a view one way or the other on it.

It is remarkable that the Directors of Executor Trustee would have confided in the Attorney-General about the possibility of that offer coming into the market place, yet not had a clear view as to what the Attorney's opinion was on the takeover when it came along, given the restrictions that exist—

The Hon. C.J. Sumner: What are you suggesting, that I am not telling the truth?

The Hon. L.H. DAVIS: No, I am not suggesting that. It seems an extraordinary set of circumstances given that the ANZ made a public offer which was later made impossible by the Government's decision which was made public through the Attorney. In relation to clause 2, given that it is a *fait accompli* that the State Bank has more than 50 per cent of the issued capital of Executor Trustee, the Opposition accepts that fact and believes that it should be recognised in legislation rather than having the broader provision suggested by the Government in its original proposal. I hope that the Attorney-General will accept the amendment. In my view he would need a very good reason to continue to support the proposition he set down in the clause as it now stands. I move:

Page 1, lines 16 and 17—Leave out 'Crown, or an agency or instrumentality of the Crown' and insert 'State Bank of South Australia'.

The Hon. C.J. SUMNER: The amendment does not do anything. The State Bank owns the company and presumably can sell it to whoever it likes, including another Crown instrumentality.

The Hon. R.I. LUCAS: Will the Attorney-General expand on that answer?

The Hon. M.B. CAMERON: I understand that the Executor Trustee restrictions will still apply. This Bill will enable the Crown or an agency or instrumentality of the Crown to hold more than the restricted shareholding. The Hon. Mr Davis is making certain that the State Bank is the instrumentality that takes over Executor Trustee, but the restriction will still be there that no-one but the State Bank can have shareholdings above that same amount.

The Hon. C.J. SUMNER: As I said, the Government is indifferent. It would still be possible, if the State Bank wanted to sell the shares to another instrumentality of the Crown.

The Hon. L.H. Davis: Under your policy.

The Hon. C.J. SUMNER: Or anyone else's for that matter.

The Hon. M.B. Cameron: The restriction disappears once the Bill is passed?

The Hon. C.J. SUMNER: No. The restriction still applies.

The Hon. M.B. Cameron: So it can only sell a portion.

The Hon. C.J. SUMNER: Yes. Once the State Bank has bought the shares the State Bank would then be able, if it wanted, to dispose of some of them to another instrumentality of the Crown or a private operator, I suppose. However, that is not the intention, as I understand it, of the State Bank at this stage. We are indifferent to the whole thing.

The Hon. M.B. Cameron: So you will support it?

The Hon. C.J. SUMNER: We are indifferent: we do not mind.

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

Page 1—

Lines 16 and 17—Leave out 'Crown, or an agency or instrumentality of the Crown' and insert 'State Bank of South Australia or a person approved by the Treasurer under subsection (5)'.

After line 17—Insert new subclause as follows:

(5) The Treasurer may, after obtaining the written advice of the Auditor-General, approve a person (not being the Crown, or an agency or instrumentality of the Crown) for the purposes of subsection (4).

Whereas the Hon. Mr Davis's amendment limits the application of this Bill to just the State Bank and does not allow other Government instrumentalities such as the SGIC to become involved, my amendment operates from the basic principal I put down during the second reading—that the Government and interventionist governments want Government instrumentalities to take control of companies like this. I believe we should make provision for private enterprise, and accept the need for a soundly based financial company to take over the Executor Trustee in future. The Government's original Bill, which allows the Crown or any other instrumentality of the Crown to be exempted, indicates that the Government and the Minister, together with representatives from the State Bank, must have had some intention in mind when drafting the legislation. Allowances have not just been made for the State Bank, but for a time in future for another Government instrumentality to be exempted in the same way. Obviously, allowances are being made for a future occurrence when the State Bank might

want to offload to, say, the SGIC or another Government instrumentality. There is no other reason why the Government would have moved the amendment in the form it did rather than in the form that the Hon. Mr Davis indicated. There must be a reason.

The Government and Minister would not have done it without discussions with representatives from the State Bank. Clearly the State Bank would have had to be involved—possibly all the Directors, but at least some representatives. Therefore, we have representatives from the State Bank and the Government moving an amendment in this form: leaving it open for the State Bank in the future to offload, if it wants, the particular company to other Government enterprises. I am seeking to say that the Government and State Bank Directors have agreed that there is some possibility, perhaps slight, that in the future it wants some flexibility to offload to other Government instrumentalities, for example, SGIC. My amendment seeks to ensure that in that event it would be offloaded to what I would call a soundly based private enterprise company and not another Government instrumentality. The form of words before us are such that I have used the following in my amendment:

State Bank of South Australia or a person approved by the Treasurer under subsection (5).

So, the final decision would be for the Government and the Treasurer of the day. I accept that there is much concern about certain companies getting hold of estate moneys. So, therefore, to try and win support in Committee I put in what some might see as a protection: that is, if it is approved by the Treasurer, having obtained the written advice of the Auditor-General beforehand.

There has been some suggestion that rather than the Auditor-General I should have put in the Corporate Affairs Commission or that in addition to the Auditor-General I should have put in the Corporate Affairs Commission. Nevertheless, in Committee, I am testing a principle that the Treasurer or the Government of the day would make a decision for an option that clearly the Government and the State Bank must have foreseen, albeit a slight chance at some time in the future, but would have to get some sort of advice, whether it be from the Auditor-General or the Corporate Affairs Commission, to convince them that we are talking about a soundly based company and not sailing too close to the wind to be allowed to take control of what clearly previous Governments and particularly this Government have seen as a sensitive question of estate moneys in the company.

The final aspect of the amendment to which I refer is that, because it is a decision left to the Government and the Treasurer of the day, the Government and Treasurer of the day can seek certain conditions from the private enterprise company, let us say, the ANZ again. As I indicated in my second reading speech, the ANZ, I understand, on this occasion had given commitments with respect to the directorships and management control to the Government. It may be that the Government of the Hon. Mr Sumner's persuasion may, for its own reasons, want to pursue certain commitments like that. My amendment would not preclude a Government of the Hon. Mr Sumner's persuasion, or of any persuasion for that matter, from seeking conditions or commitments to an offer from a private enterprise group.

All that I am seeking to do is to open it up for some time in the future not to the Government enterprises to which the Attorney wants to open it by way of this Bill but to what I would call reputable and soundly based private enterprise companies in the future.

The Hon. M.B. CAMERON: The Opposition does not support this amendment. I can understand the reasons for the Hon. Mr Lucas's moving this amendment. He is taking a very pure stand in relation to this matter, but we are recognising reality in this Bill. This situation has occurred: it is now reality. It is a fact that if the State Bank decided to rid itself of the company it could do that in blocks of shares to whomever it sees fit, as at the moment. There is still the restriction that is placed in such a way that if it decided to shift them now—if the Government accepts the amendment moved by the Hon. Mr Davis—away from the State Bank it could do so only in lots of 1.67 per cent.

So, while having some feeling of support for the sentiments of the Hon. Mr Lucas, we have to accept that this situation has now arisen, however much we might regret the disappearance of the company from the free enterprise system. It has occurred, so we will not support this amendment.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I hope that the Attorney's comment that the Government opposes my amendment is on the record.

The Hon. Mr Davis's amendment carried.

The Hon. Mr Lucas's amendment negatived; clause as amended passed.

Title passed.

Bill read a third time and passed.

CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 March. Page 3597.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this short Bill. It is, I guess in terms of its effect on the State, of minor importance, but nevertheless it is important because it stops a potential nuisance in the South-East drainage system—or not necessarily stop it but it certainly provides penalties that are more sufficient than presently exist and may provide a deterrent to people who feel inclined to dump noxious objects in the drainage system. No matter how one feels about the drainage system, drains do pass through other people's properties and it is essential that they are kept free of noxious liquids and objects that create offence.

I know that in many cases they are used near my place by children for catching yabbies and it is quite wrong that people use them for dumping. The second reading explanation referred to the dumping of 20 dead sheep. I have personal knowledge of this situation and the person involved. I am quite certain that he will not do that again. I trust that the additional penalties will ensure that other people feel less inclined to take that action because it is a quite serious thing to do and something which I and other honourable members certainly do not support. The Opposition supports this Bill.

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

ELECTORAL BILL

Adjourned debate on second reading.

(Continued from 27 March. Page 3595.)

The Hon. I. GILFILLAN: I will make some general observations about this Bill and then spend a little time on detail that I hope will be considered by other members, particularly Government members, before the Committee stages. It appears to us to be, on balance, a constructive Bill improving the general electoral situation in South Australia. I will not canvass the major thrust in this area because that has already been done and will no doubt be worked over in fine detail when we get into Committee. I turn first to the dispute between those who are likely to support or oppose the voluntary voting amendment put forward by the Opposition.

My position on this matter is that as citizens we have a moral obligation to comply with certain requirements of society. One of those obligations is to comply with the law. There are no ifs and buts about that: the law is the law and if one contravenes it one suffers the penalty. Society benefits from proper laws. It seems reasonable that those who cannot avoid the consequences of a law should be encouraged to participate in choosing the people who make those laws. The only way that that can be guaranteed in our democracy is for the biggest possible percentage of our society who will be affected by the law to have a say in who is going to make those laws.

Therefore, it is reasonable, in my opinion, that there is an obligation to attend the polling booth. Once that obligation is fulfilled it is reasonable and logical to say that those who have objections to performing the voting procedure should be allowed a dignified and respectful way to register that as their opinion, having complied with the law. The current situation is that it is illegal for anybody not to fulfil the requirement of casting a vote; that means, by default, that anyone who does not fill in a paper or who deliberately defaces a paper is contravening the intention of the Act.

I feel that the advantage of the obligation to attend a polling booth is overwhelming when compared to the vagaries of a voluntary system in which it seems quite obvious that extra activity, financing and encouragement of people to get to a polling booth and special forms of transporting people to those booths can allow vested interests to have a disproportionate influence on the end result. The weather can affect voting on a certain day. The attitude in the media in the immediate build up to an election can have a vast influence on those people who will feel stirred to make the effort to get to a polling booth on voting day.

These, in my opinion, are totally undesirable factors to overwhelm what would be an expression of voting intention across the population at large. It is on that basis that I am a firm supporter of the obligation to attend at a polling booth, while at the same time it is essential that there is a proper and recognised way for those who present at the polling booth to not have to go through the farce of either filling in a bit of paper or feeling guilty because they are doing something wrong. There should, in fact, be an acceptable alternative, that is, to be able to place an unmarked ballot paper in the box. They would, in fact, be significant and statistically important as a reflection of the wish of the population. From that point of view, there will be advantages.

The Hon. R.I. Lucas interjecting:

The Hon. I GILFILLAN: They might have won already. The proportional representation campaign, which the Democrats have pursued with fortitude and determination for years, unfortunately did not bear fruit in the original draft of this Bill, and we intend to move an amendment to clause 4(1) to alter the definition of 'electoral district' from 'in relation to a House of Assembly election—a district for the return of a member of the House of Assembly' to 'in relation to a House of Assembly election—a district for the return of several members of the House of Assembly.' This will allow the issue of proportional representation to be aired once again in this Council. I must confess that we are not optimistic about success, but I want to emphasise our conviction that, until there is a system of proportional representation for the House of Assembly, there will not be real democracy or effective electoral representation for the people of South Australia.

Criticisms have been made of the voting procedures under this Bill, particularly in regard to the Legislative Council, in that there could be merely the expression of a voting intention by a Party to fulfil the number of vacancies and to avoid the responsibility for preferences to be effective. We believe it is important in regard to both the Legislative Council and the House of Assembly that preferences are established and recorded as a matter of compulsory requirement. The Hon. Trevor Griffin, or perhaps the Hon. Ren DeGaris, lamented the fact that at the last election the Democrats, and I believe the ALP, fielded 11 candidates, so that those people who only wanted to comply with the law had the option not to express preferences. Under the Bill as it is presently drafted, that situation will be overcome, because it will not matter how many candidates are nominated by a Party: all the names on the card must be marked and preferences will eventually flow on. Thereafter, it will be to the advantage of no Party to fill the vacancy numbers with nominations.

There has been criticism of the move to introduce a registered how-to-vote card for the House of Assembly. We believe that one of the basic aims of any electoral reform is to encourage as many electors as possible to vote, and for those votes to have significance provided they are as near as can be gauged an accurate interpretation of that voter's intention. It is quite likely that some people will be unclear about how to vote but they may have a genuine intention of voting with quite a genuine idea of how they want to vote. Where that is possible in practice, it is important that the legislation allow for the vote to be expressed and counted. I believe that the Bill allows for that to happen in regard to the House of Assembly, particularly with the proviso that it is unlawful for a person to advocate marking just one square as the means of voting. That will prevent any Party using that method of voting to encourage its supporters to take the easy way out.

However, it is an intelligent and understanding response to people who are a little bewildered and intimidated by the voting procedure, and that is not a criticism. People may not be clear about what to do, but they might have made an obvious attempt to mark their preferred candidate. It is reasonable then, and the same logic applies to the Legislative Council, that if that is the only mark and if it is quite clear that a person has made that mark alongside the name of a candidate of his preferred choice, the preferences will be automatic as the Party or the candidate has registered with the Electoral Commission.

The Hon. Peter Dunn interjecting:

The Hon. I. GILFILLAN: We must understand that everyone is not as smart or as confident as are Legislative Councillors. There are times when I am quite nervous in the polling booth. Those who will make a mark have either not had the resources to get someone or the temerity to ask someone to go in with them. This is an improvement on our electoral legislation.

Yesterday the Hon. Dr Ritson implied that I was the holder of enormous electoral power and persuasion because I had shown some interest in the lot of prisoners at Yatala. I wish that a few more members of this Council and of the other place would take some interest in the prisoners at Yatala. I believe there are benefits from that point of view, and whatever electoral advantage may accrue to me could be spread wider. I make plain to the Council and to the Hon. Bob Ritson that I do not believe that prisoners should

have the option to choose for which electoral district he or she will enrol.

However, in discussion with those who considered the drafting of the Bill I was advised that that is not their intention: the intention is that, where a prisoner has been enrolled, where he or she has had a recognised place of residence or has close relatives who have a permanent place of residence, that person will be enrolled in that situation. There will be no option.

The Hon. Peter Dunn: The Bill doesn't say that.

The Hon. I. GILFILLAN: Exactly. The astute Opposition has picked up the very point that I picked up. The Bill does not say that, and so this matter must be considered more closely. The adviser admitted that the Bill does not say that, but that point can be considered further in Committee.

We intend to move a short and succinct amendment in relation to the distance from the polling booth at which how to vote cards can be handed out: we will amend the distance from six metres to 500 metres. I will not expand on that further except to say that it will affect those with perhaps more athletic prowess or those with motorised facilities, but we will see how the argument goes. If this action reduces the number of how to vote cards that are shoved into people's hands and the waste of paper, energy and effort, it will have good effect.

The Hon. R.C. DeGaris: Can you prevent someone from handing out a how to vote card on private property next to the polling booth?

The Hon. I. GILFILLAN: I do not think so.

The Hon. R.C. DeGaris: Five hundred metres might not be too good.

The Hon. I. GILFILLAN: I do not believe that that can be done. Clause 49 (2) *(b)* relates to an election to fill a vacancy in the membership of the House of Assembly which has been declared void by the Court of Disputed Returns: the Speaker of the House of Assembly may issue a writ for a by-election. The use of the word 'may' should be changed to 'shall' as that would seem to be more appropriate since the Speaker has an obligation in this respect. Clause 55 (2) relates to a double nomination and provides:

> Where two or more elections are to be held under this Act on the same day, a person is not entitled to be a candidate in more than one of those elections and, if at the declaration of nominations, it appears that the same person is nominated as a candidate in more than one of those elections, each of those nominations shall be invalid.

That refers to an avenue through which someone can sabotage a *bona fide* candidate in that both nominations will be declared invalid if it only appears that that person has nominated in more than one election. That needs some sorting out.

Clause 56 (2) has a list of what are obligations on a nomination paper. I suggest that it is prudent to include in one of those obligations the need to show the intention to lodge or not lodge a how to vote card, instead of leaving it to the conditions in clause 66 (3). It seems that there is no reason why a candidate should not indicate at this stage whether he or she intends to lodge a how to vote card, a voting ticket.

Clause 57 contains a power of the returning officer with the concurrence of the Electoral Commissioner to reject a nomination if in the opinion of the returning officer the name under which the candidate is nominated is obscene, frivolous or has been assumed for an ulterior purpose.

An honourable member interjecting:

The Hon. I. GILFILLAN: It may be in the present Act. I would need clarification that the same restriction applies as is on clause 1, which says that the returning officer for each district shall at the hour of nomination attend at his office, and so on. If the returning officer may, with the concurrence of the Electoral Commissioner, reject a nomination, I believe there should be some requirement that that is done as soon as the decision is made, so that a candidate is aware of this rejection, as soon as is practicably possible, and that that may require to be worded into the Act so it is beyond ambiguity.

In clause 66 there is the question of 48 hours as a period of time in which a candidate or group of candidates in an election may, before the expiration of 48 hours after the closing of nominations for the election, lodge with the returning officer one or two voting tickets. It may be a convention that the 48 hours does exclude a weekend. It is not clear to a layman, as I am, that 48 hours could be a Friday and could have elapsed by Monday. I believe that is not the intention of the Bill and it needs either further clarification or some explanation; it is not clear to me. I notice there is a restriction to the lodging of only two voting tickets. This is not parallel to the Federal Act, which I understand allows three.

I would be asking why there is this difference between the two pieces of legislation. It seems that if this is an argument sustainable for the Federal arena it is reasonable for our State legislation as well. Clause 97 contains a description of the counting for the Legislative Council. Subclause (5) provides:

> If—
>
> *(b)* the series is non-consecutive by reason only of the omission of one or more numbers from the series,
>
> the ballot paper is not informal by reason of the fact that the series is non-consecutive, but it shall be renumbered so as to convert the series into a consecutive series.

It seems as though this would allow almost the most extraordinary connection of numbers in a ballot sheet to still be approached with an effort to legitimising it as a vote. I do not find it clear in its explanation and I find it quite bewildering in its consequences. I look for an explanation of it and, if it is unsatisfactory, I hope we can obtain an amended wording which makes it absolutely plain what is the limit of chaos of numbering which can still be considered a reasonable attempt at a vote.

I have been approached by members of the media, who have expressed serious concern about clause 118, which requires the name and address of the author to appear at the end of almost any election related article or letter. Apparently the Attorney's office had assured some journalists that the clause is intended to apply only to election advertising, but that does not appear to be its effect. It has been put to me that this new clause goes much further than the existing requirement for newspapers to print somewhere on their news pages the line that the responsibility for election comment is taken by the editor or publisher. The main objection (of the journalists) is not in relation to the author's name appearing on an article—most journalists are only too happy to have their byline attached—or in relation to the address requirement, which can be avoided by using the newspaper's address. Their objection is logistical, that it is impossible to include the name and address at the end of each and every article that touches on election matters. The Attorney apparently does not have that intention.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: The shadow Attorney raises the point that it is a matter of what the Bill says, and this is where we do have to be most diligent to ensure that we are not diverted by intention and explanation and that the wording of the legislation is as clear and unambiguous as can possibly be. Clause 128, dealing with the issue of inducing people to vote, provides:

> (1) When a polling booth is open for polling, a person shall not—
>
> *(a)* canvass for votes;
>
> *(b)* solicit the vote of any elector;

(c) induce an elector not to vote for a particular candidate;
(d) induce an elector not to vote at the election.

At the moment what is in paragraph *(d)* would be inducing an elector to break the law. It does not seem to be properly placed in what are otherwise cautions of more or less unethical behaviour in the context of an election. However, it may be that if my amendment is successful, with not to vote being the legal way of not marking a ballot paper, that may need to be varied. To emphasise the point that is apparent to me in reading clause 128, it is including what is a flagrantly illegal act with other inappropriate cautions for behaviour around a polling booth.

Subclause (2) seems to blur the distinction between the polling booth itself and the enclosure that surrounds it. For my own satisfaction, that needs to be properly investigated in the Committee stage to ensure there is no confusion. Subclause (2) concludes by providing that these grounds shall, for the purposes of subsection (1), be deemed to be part of the polling booth. That may be satisfactory, but I would ask that that question be addressed eventually.

Clause 131, dealing with the forging of electoral papers, provides for a penalty of $5 000 or imprisonment for six months. It has been suggested to me that forging electoral papers is a heinous crime in our society, and, on reflection, that is how it appears. There can be only one motive and that is to seek power over other people. There can be no other reason that I can see why a person would go to the trouble of forging an electoral paper or uttering a forged electoral paper knowing it to be forged. For that reason the penalty may be appropriately raised. I would suggest that doubling the penalty to $10 000 or 12 months imprisonment is a little more appropriate.

Finally, I have had a chance, at great speed and with apologies to the shadow Attorney, to look quickly through a copy of his second reading speech. I would like to make two observations on that. As usual it is a long and valuable document of explanation and criticism on this substantial piece of legislation. I am not persuaded, as he is, that the measures do lead to first past the post. I think that is a fairly bizarre interpretation of the method of voting, and I do not for a moment see any way the current legislation could be manipulated to achieve it. If he is drawing inferences as to intentions, I do not want to be part of that.

Referring to the uncertainty of the informal vote compared with protest and/or deliberate abstention it seems to me—I may be reverting possibly to argue my own case—that there ought to be a formal and dignified way for people who are obliged to attend a polling booth to still comply with the law and lodge a proper vote. I am not certain whether the shadow Attorney has had a chance to consider that in detail. I would like him to give thought to that.

His comments on photographs were a worthwhile analysis of the situation and deserve to be looked at in detail by the Government. Regarding the declaration of voting, I see his concern that there could be frivolous use of this opportunity, that people who prefer to play tennis and other lighthearted pastimes will choose to look for a declaration form of voting. That does not fill me with as much anxiety as it does the shadow Attorney, because I still believe the main aim is to encourage as many people as possible to vote and, provided they vote in an acceptable form, if they choose to vote before they are subject to the influences of the last few days of the election campaign that is their business.

I support the ability for people of 17 years of age to enrol if they wish, on the basis that it is important for us to encourage our community to vote. It is a good thing for young people to be thinking of their responsibility and to be encouraged to exercise their responsibility as voters, which is again why I do not share the shadow Attorney's concern about what he regards as potential politicising at secondary school level.

It would be excellent if secondary school students were encouraged to think about their own political judgments and decisions, and be aware of the political scene. We would benefit from having a far more informed and enthusiastically involved voting body as a result. However, I do agree with the shadow Attorney when he analyses the position of political advertising and the responsibility for it. If I remember correctly, he recognised that someone who authorises an election advertisement could be assumed to have at least made him or herself aware of the contents of the advertisement and, if it was found to be unacceptable, to refuse to give an authorisation. The Hon. Mr Griffin can indicate if I am misinterpreting his comments. I agree with him if he intended that the person authorising it must take responsibility for the contents. Otherwise it does not seem to be logical to go to the trouble of getting people to authorise advertisements. I wonder whether I am interpreting him correctly.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: I know that you did, but I am showing support for it. In regard to the injunction to control misleading material, I disagree with the shadow Attorney. I can see that there are concerns that if power for injunction could prevent publicity or campaigning procedure to go ahead it is subject to some injustice, but I believe it is outweighed by the alternative. To not have the option to protect the susceptible and sensitive electorate, prior to the build up to an election, not to be able to protect it from that, is a more serious risk than the alternative that the shadow Attorney identifies as suppressing a political campaign by a Party or individual.

Finally, I would ask that clause 120, which appears to preclude candidates from assisting with handing out how to vote cards (if they are still allowed) is at odds with the Federal Act. This has been an anomaly for some years. I have been a candidate in both areas. As a Federal candidate I can cheerfully help the cause by handing out how to vote cards all day but, if I am a candidate for a State election, I cannot. That situation could be looked at and justified before we let the Bill go through unamended. It would be preferred if candidates could take their part in handing out voting cards. We support the second reading.

The Hon. PETER DUNN: I want to concentrate my few remarks on clause 80, and to respond briefly to the Hon. Mr Gilfillan's comments about voluntary voting. Some country people do not wish to vote, so they vote under duress—a duress that they impose on themselves. I was a scrutineer at Leigh Creek last year for the Federal election, and it was remarkable to see the number of cards that had crosses or marks on them or were literally screwed up with nothing on them.

Having counted the cards we found that we were about 20 short, and they were found in rubbish bins or outside. We did not find some cards, which were obviously taken away by voters. That was easy to do because of the large Senate voting slip, and it was easy to hide the House of Representative slip in a pocket to take it away. In many cases people were not interested and would prefer a system of voluntary voting. That is one reason why voluntary voting is necessary.

True, there are many philosophical reasons that can be argued about whether we should or should not vote. One deals with the position in the country, and it impinges on clause 80, in regard to mobile polling booths. The Bill contains a clause to allow for mobile polling booths. The Federal election had a similar provision relating to it, but that was an absolute farce, because such polling booths

should be of benefit to us. However, in this modern age with fast communications and transport, there is no need to have mobile polling booths. They have been set up obviously to help in areas where people have difficulty getting to existing polling booths.

I refer to the position at Mintabie where, in the previous State election, the polling booth was stationed at Indulkana. Because the Pitjantjatjara Council would not allow Mintabie people to travel on Pitjantjatjara lands, there was difficulty in getting access to the polling booth. That difficulty was corrected in the long run, but there was much confusion on the day. However, now that we can have relatively easy postal votes allowing people to post a vote on the day of an election, and allowing seven days for it to be received by the Returning Officer, I do not see any difficulty.

There are other problems. If mobile polling booths are to exist they must be available to a wide section of the community. If these booths are available to some areas or groups, they should be available to others, for example, on remote stations. In that light, there is no necessity for mobile polling booths. In the very early days elections were held over a long period and were sometimes held over six days. We have progressed.

The Hon. R.C. DeGaris: They were at pubs, too.

The Hon. PETER DUNN: Yes, I know, but this Bill forbids that. One could not do that now. That was a good place because one collected a lot of people there. It was an ideal place to put a booth. We have progressed with communications and transport and now get around rather quickly. Few people in this State are not within relatively short travelling time from a polling booth. At the last Federal election three polling booths went from Alice Springs to Mimili, Mintabie and Marla. At Mimili there were nine votes; at Mintabie there were 26 votes; and at Marla there were 16 votes. If the cost of the polling booth was divided by the number of voters it would be a significant amount. Not only does one have to organise the vehicle to carry the booth but there are wages and mileage taken into account. Also, scrutineers would want to go from each political Party, and that cost would be astronomical. I cannot see why polling booths are necessary in those areas.

The provision in the Bill is simple, but may not be used. Perhaps the Minister, during his second reading reply, will indicate where he anticipates the mobile polling booths would go. When the Federal Act was first considered, the Aboriginal reserves in the north-west were first thought of. Most now have not less than 200 people, but more like 300 to 400 people in them. Therefore, there is no reason for mobile polling booths in those areas.

The Hon. Diana Laidlaw: What was the total number of votes recorded at those townships?

The Hon. PETER DUNN: It was 41.

The Hon. Diana Laidlaw: They did not vote by declaration or anything else?

The Hon. PETER DUNN: Obviously many did because there are a lot more people at Mimili than the nine who voted at the mobile polling booth. Therefore, it only covered a small amount of voters. The rest of the Bill has been canvassed very well by the previous speakers and obviously will be canvassed well by subsequent speakers. As I live in an area further away from the city than most members, I see no reason why mobile polling booths will be effective. I support the Bill.

The Hon. R.I. LUCAS secured the adjournment of the debate.

DANGEROUS SUBSTANCES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 March. Page 3598).

The Hon. PETER DUNN: The Opposition supports this Bill, which does several things. It gives the Director of the Department of Labour the power of delegation: in other words, licensing and other functions vested in the Director can be carried out on his behalf. It will simplify and rationalise the licensing of people who wish to handle materials such as petroleum and liquefied petroleum gas. That seems a simple provision.

The second provision concerns the arrangement under which licences were granted in relation to existing premises when the new Act came into operation. The Government's desire is to bring these premises up to the requirements of the Standards Association of Australia. Naturally, there was no intention to put those whose premises are presently not up to standard out of business; rather a gradual upgrading would be sought. Therefore, there was a conflict between the new Act and the regulations. This Bill seeks to redress that conflict. The third major provision relates to the authority to ensure that premises are upgraded. This move I also support.

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

BOILERS AND PRESSURE VESSELS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 March. Page 3600.)

The Hon. PETER DUNN: The Opposition supports this Bill. It is straightforward in its intent. In fact, it does three things. It requires manufacturers or installers of pressure vessels and boilers to commission and submit to the Chief Inspector an expert report in relation to the engineering of and calculations in connection with the boiler or pressure vessel. A question, of course, arises relating to who should pay for this special report. It previously fell to the resources of the Government to ensure that the pressure vessel or boiler was constructed safely. That I consider to be a fair position since it is the Government itself which sets the standards. Some projects are so large (for example, the development at Port Bonython) that a great deal of work would be required to meet the State's standards.

The Bill also seeks to facilitate the checking of boilers and pressure vessels already in operation. As the Government acknowledged in its second reading explanation, the annual checking of boilers can currently involve a great deal of effort and inconvenience. It would be sensible for these vessels to be checked during the normal shut-down stage when maintenance work is being done. As the Act presently applies, it simply requires that a check be done annually by an inspector of the Department. This can be difficult to achieve in some circumstances if, in fact, the work is carried out on an annual basis at all.

The second key provision contained in this Bill seeks to allow the company concerned to do the inspection job if authorised by the Chief Inspector. The responsibility is clearly the Chief Inspector's to determine who is an appropriate person to perform such a check and to authorise such a person to undertake a check and to supply the necessary special report.

Any special representation must come to the Chief Inspector for his assessment to ensure that it is satisfactory. Thirdly,

the Bill provides for increased penalties: penalties such as those for infringements relating to safety standards are raised substantially. This matter is recognised by the Opposition as being important. We need to ensure high standards, and appropriate penalties will help this goal. When dealing with items such as boilers and pressure vessels, it is vital that health, welfare and safety factors are at the top of the order. It is an important responsibility of the Parliament to ensure sensible levels of safety within the work force. The Bill increases the penalty from $500 to $5 000 for breaches of the Act. On behalf of the Opposition, I support the Bill.

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

TRESPASSING ON LAND ACT AMENDMENT BILL

In Committee.

(Continued from 27 March. Page 3591.)

Clause 2—'Penalty for trespassing.'

The Hon. C.J. SUMNER: I indicated yesterday that the sort of amendments moved by the Opposition were unacceptable to the Government and that this was no longer a Government Bill. Clearly, the nature of the amendments was such as to completely rewrite the Bill to deal with matters completely extraneous to its initial intention, which was to deal only with penalties. The Government was not prepared to countenance a complete rewrite of the law of trespass and the complete overturning in this way of some very fundamental principles in our law relating to trespass. I made that point throughout the debate last evening.

The Government's position is still very firmly that we will not pick up the Bill if it is amended in the way suggested by the Opposition. However, I believe that the penalties should be addressed as soon as possible and, if possible, before Easter, if the mechanics can be put in place for that. The Government is quite prepared to see the Bill proceed in this Chamber this evening to increase the penalties and then dealt with in the House of Assembly next week.

My statement of last night stands: the Government will not pick it up as a Government Bill if the Hon. Mr Griffin's amendments succeed, because I take the view that, because it will have changed so dramatically, it is no longer a Government initiative. I have brought the matter on again today to see whether or not the Committee is prepared to reconsider its earlier position and whether certain members may be prepared to relent on their earlier view, given that there is only one choice: that the Bill proceeds with the penalties because, if not, it will not proceed at all.

Yesterday I indicated quite clearly that, if members felt that there was a need to address the law of trespass, there was a way that that could be done. I suggested, for instance, that the Hon. Mr Griffin give careful consideration to the matter and introduce a private member's Bill; I also suggested that comments could be obtained from law reform agencies (the Law Society, the Judiciary, and the South Australian Law Reform Committee) so that sensible consideration could be given to the amendments. Yesterday I said:

> We will not countenance these amendments at this particular point of time, in these circumstances. It would be grossly irresponsible for Parliament to do it.

During the debate I conceded that in some respects there were concerns about the Bill and its definitions. Some of those concerns were outlined by the Hon. Mr Griffin, and I acknowledged them during the debate. However, I also expressed grave concern about making pure trespass a criminal offence. I think that would still be the Government's position.

However, if the Bill proceeds as it was introduced (to increase penalties) I am prepared to instruct an officer in the Attorney-General's Department to prepare a discussion paper on the Trespassing on Land Act and the general question of trespass and its relationship to criminal law along with the comments of the Mitchell Committee, which dealt with this topic. In New Zealand steps have been taken with respect to trespass, and other jurisdictions may be able to throw some light on what is a difficult problem.

As I have said, I am prepared to ask an officer of the Attorney-General's Department to prepare a discussion paper outlining the history and the current position of the law of trespass, outlining the history also of the Trespassing on Land Act, analysing the comments made on the law of trespass by law reform bodies, and outlining the law in other jurisdictions. The discussion paper would then be made available for public comment. Obviously it would be made available to the UF&S, the Law Society, the Judiciary, the police, criminal lawyers and members of Parliament for comment.

The Government would then collate the comments on the discussion paper to see whether or not and in what way the law may need amendment in this area, if at all. If people are not satisfied with the Government's position, clearly they would be able to either introduce a private member's Bill—if members opposite feel that is the way to go—or, as the Hon. Mr Milne suggested, a Select Committee could examine the question.

Before considering that option I strongly suggest to the Chamber that it is appropriate to have the facts first, to have a proper research or discussion paper prepared that outlines the issues, options, etc. I am prepared to do that. I think that this is a reasonable proposition that has been put forward by the Government. I point out that the Trespassing on Land Act has been in its present form since 1951. When the Liberal Party was in Opposition before 1979 a private member's Bill was introduced by Mr Goldsworthy in another place that was defeated.

At that time the then Attorney-General, Mr Duncan, said that he did not necessarily oppose all the provisions in Mr Goldsworthy's Bill but wanted time to consider the issues involved. Nothing was done following that, and indeed it is fair comment to say that from 1979 to 1982, despite the fact that Mr Goldsworthy, the then Deputy Premier, had moved as a private member that something should be done on the Trespassing on Land Act, nothing was done during the three years of the Liberal Government about that Act, even though, as I have said before, Mr Duncan when responding to Mr Goldsworthy's Bill indicated that perhaps some matters could be addressed.

All I am saying in that context is that this Government has taken some action on penalties and supported the proposition that saw sections 17a and 17b inserted in the Police Offences Act. I think that if the matter is to be dealt with it should be dealt with properly and responsibly. The mechanism to enable that to occur that the Government is prepared to offer the Council at this stage is a discussion paper which is in the initial stages. It should be available at the latest by the end of May, and if possible earlier.

The Hon. R.I. Lucas: This year?

The Hon. C.J. SUMNER: Yes. It would be available for public circulation. There could then be a period for public comment. The Government can determine its position, as can members, and if they are not happy obviously there is the option of a further private member's Bill or a Select Committee, which I understand the Hon. Lance Milne is proposing. I hope that members will see this as a reasonable proposition. I brought this matter back before the Chamber to put this suggestion to ascertain whether or not members opposite in particular would be prepared to relent on this

matter from their previous position. I know that the Hon. Mr Lance Milne voted with the Government last night and I appreciated his support. I think, so far as members are concerned, the proposition put forward by the Government is a reasonable one so that the Bill can proceed and be proclaimed as soon as possible after its passage through the House of Assembly next week.

The Hon. K.T. GRIFFIN: I remember that in April last year a Bill was rushed into the Parliament to make a most dramatic change to the provisions of the Planning Act to deny established rights in relation to property. It suspended existing use rights that had accrued over a long period of time to many people in both rural and urban communities. Although it purported to deal with vegetation clearance controls, in fact what it did was apply to existing use rights across South Australia.

That was a dramatic change in the law relating to planning and it abrogated rights which had been established over a long time. The Government brought that Bill in within about a day of giving notice to the Opposition and wanted it dealt with immediately. That is legislation on the run and it had a much more dramatic effect on the rights of people throughout South Australia than the Trespassing on Land Bill will have if it is amended in the form that the Opposition proposes.

I remind members that the Government brought this Bill in on 19 March. The Opposition has endeavoured to facilitate consideration of it, and it is perfectly responsible for the Opposition to seek to amend the Bill either in the form in which it appears or by way of adding to it. That is what we have done. It is an opportunity with a public Bill introduced by the Government to establish changes in the Trespassing on Land Act. It was a perfectly responsible and reasonable position for the Opposition to pursue.

The comment of the Attorney-General that the amendments I propose radically change the law relating to trespass is an over-dramatisation and an over-reaction to the proposition which I put. I was seeking to give rural property holders and occupiers some reasonable protection from unwarranted intrusion upon their land. I ask the question: would people living in the city, perhaps without a fence around their front lawn, welcome a busload of people setting up card tables and picnicking? Even under the Police Offences Act, provided that they do not create any detriment to the property holder, they cannot legally be removed except by an action in the civil court. I do not think that anyone here would welcome that intrusion on to their urban property.

If one translates that into the rural scene, there are frequently people trespassing on rural property to the discomfort, annoyance and concern of people who own and live on those rural properties. We are trying to establish a reasonable regime by which persons with legitimate purposes and for legitimate reasons can be on private rural property. I have provided a number of exceptions as well as a power by regulation to deal with others. The Bill is nowhere near the sort of dramatic change in the law which the Attorney-General has suggested. It is a reasonable protection of the rights of privacy of people who live in the Hills and on other rural properties.

The Hon. C.J. Sumner: Why didn't you do something about it in the three years—

The Hon. K.T. GRIFFIN: We were looking at the legislation and having discussions, but because of other workloads which the legal officers had they did not give it a high priority. I do not think one can criticise the legal officers. It is not reasonable to make any reflection on public servants in respect of those matters, so I do not wish to pursue that point. This legislation was a matter that we were examining at the time, and I recognise that there were competing interests. However, now that the Bill is before us dealing with the question of penalties, which, as I said yesterday, is not the revamp of the Act which rural dwellers believe is occurring, I have taken the opportunity to bring in something that is reasonable and responsible.

I have every intention of persisting with that during the debate on this Bill. If members on the cross benches have changed their mind, there is nothing new about that. I am afraid that the Opposition will have to live with that. However, let me say that it will not go without comment. We want to persist with a reasonable regime to protect the privacy and rights of individuals in rural areas.

The Hon. K.L. MILNE: The Hon. Mr Griffin, in the early part of his speech, has proved precisely how irresponsible it was to bring in these measures in this way.

The Hon. J.C. Burdett: I can't understand that.

The Hon. K.L. MILNE: In attempting to justify how wicked the Labor Government was (and members opposite have justified that—I think it was) the Opposition has done exactly the same. Let us get away from that. From our position, to be confronted with five pages of amendments without any consultation or any prior notice is a bit hot. I hope everyone will agree that that was not quite the way to bring it about. Nevertheless, I think that we can make the best of it now.

The Hon. K.T. Griffin interjecting:

The Hon. K.L. MILNE: I am sorry that the Hon. Mr Griffin, as shadow Attorney-General, was involved. It is not his normal form to behave like that. It was not his idea to bring it in. Members in another place who applied the pressure wanted to do something for one electorate, but they are putting the rest of the State and people's rights at risk, and that is very mean.

The Hon. J.C. Burdett: That's not true.

The Hon. K.L. MILNE: It is near enough.

The Hon. Anne Levy interjecting:

The CHAIRMAN: Order!

The Hon. K.L. MILNE: I believe that the Attorney's statement was factual and sensible, and I will support what he intends to do. I am sure that that is the correct way for a house of review to behave. We would like to maintain our stance. We will move for the appointment of a Select Committee to inquire into all aspects of the Trespassing on Land Act if not in this session then as soon as possible in the next session.

The Hon. C.J. Sumner: After we have had a look at it.

The Hon. K.L. MILNE: Yes. Obviously, it would be sensible and courteous for us to say right now that, before, that we would want to look at the discussion paper and have discussions with the Attorney-General, his Department and the United Farmers and Stockowners.

The Hon. R.I. Lucas: Perhaps by the next decade the committee will report.

The Hon. K.L. MILNE: A fellow of the honourable member's age has a lot of time to wait. We would appreciate discussions with the UF & S, the Law Society, the South Australian Law Reform Committee, perhaps the Conservation Council, all kinds of people who are interested in these matters, some of the large landholders in special positions, such as those near Oakbank racecourse, and so on. There is a lot to be done. If that is done and if we are satisfied, it would not be necessary to proceed further. I am pleased to hear that the Government has decided to go on with the Bill, at least to go that far. I am sure that it can look forward to the co-operation of the Opposition in this matter, because it is in the Opposition's interests to do so.

The Committee divided on the clause as amended:

Ayes (7)—The Hons J.C. Burdett, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

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

Pairs—Ayes—The Hons M.B. Cameron, L.H. Davis and C.M. Hill. Noes—The Hons Frank Blevins, J.R. Cornwall and I. Gilfillan.

Majority of 1 for the Noes.

Clause as amended negatived.

Clause 3—'Remaining on field after requested to leave.'

The Hon. K.T. GRIFFIN: I regret that it appears I have lost the numbers. There have been some more conversations in the corridors of power. In the light of the last vote, it is not appropriate for me to move my amendment that is on file. However, there is one other with which I want to persist in respect of the redefinition of 'enclosed fields' and 'cultivated fields' in order to broaden the ambit of the Act. I will do that at clause 4 rather than clause 3.

I think that the decision that has been made will certainly not assist rural property owners and occupiers. This avoids the real question, and I am very disappointed that it is unlikely that we will be able to proceed with a real revamp of the Act while this Bill is before us. In the light of that, it would be inconsistent for me to move an amendment to clause 3, although, as I have indicated, I shall continue with my amendment to clause 4.

Clause passed.

Clause 4—'Duty to state name and address.'

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

Page 1, line 26—After 'is amended' insert as follows:

(a) by inserting after the passage 'enclosed field' the passage ', a cultivated field or other land'; and

(b)

I want to use this clause as a test clause for widening the definition relating to property which is affected by the principal Act. I realise that the clause does not contain the relevant definitions, which are contained in an earlier clause that I have not yet sought to insert. If this amendment is carried, I would then need to recommit the Bill in relation to minor drafting matters. As I have already indicated, the principal Act defines the land which is affected as an 'enclosed field'. An 'enclosed field' means 'an area of land which is enclosed by fences, hedges or walls and has sheep or cattle grazing thereon, or has a cultivated crop thereon, or is an orchard or vineyard'. If it is a mere orchard or vineyard without a fence, it is not covered, and, if it is an enclosed field which at some time or other may have sheep or cattle grazing on it, but does not at the time of trespass, then it is not covered by the Act.

I think that at least the Attorney-General and the Democrats ought to be prepared to accept that, since 1951 throughout the State there has been a significant change in the way in which property is fenced or not fenced and used, and, accordingly, accept my amendment. If the amendment is carried, later in the Committee stage I will seek to amend the definition. 'Enclosed field', is presently defined as 'an area of land that is enclosed by fences, hedges or walls', and the Bill describes a cultivated field as being '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 would recognise the fairly significant change that has occurred over the past 35 years and would go some way towards remedying some of the serious defects in the principal Act.

The Hon. C.J. SUMNER: The amendment is opposed. I indicated previously that, if the Trespassing on Land Act is to be maintained, some consideration may need to be given to the definitions in the Act. However, it is interesting to note that the Mitchell Committee recommended the repeal of the Trespassing on Land Act. It may be that the matter will be dealt with in some other way, following the presentation of the discussion paper that I have indicated will be prepared. At this stage I am not prepared to accept the honourable member's amendment. I believe that this matter should be considered as part of the discussion paper.

The Committee divided on the amendment:

Ayes (7)—The Hons J.C. Burdett, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

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

Pairs—Ayes—The Hons M.B. Cameron, L.H. Davis, and C.M. Hill. Noes—The Hons Frank Blevins, J.R. Cornwall, and I. Gilfillan.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 5—'By whom requests can be made.'

The Hon. K.T. GRIFFIN: I have some amendments to this clause but, in the light of the last two divisions, it is apparent that there is no likelihood that those amendments, if moved, will be carried. Therefore, I will not proceed with them.

Clause passed.

Title passed.

Bill recommitted.

Clause 2—'Penalty for trespassing'—reconsidered.

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

That clause 2 as originally in the Bill be reinserted.

Clause reinserted.

Bill reported with a further amendment.

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

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: So far as the Bill goes in relation to increased penalties, I indicated at the start that we would support it, so we are not going to do anything silly in relation to the third reading of the Bill—it ought to go through. However, I want to express my disappointment that the Democrats have supported the Government when previously they were at least divided on the merits of the amendments that I was proposing. I am disappointed also that the Bill does not really come to grips with the problems faced by those persons living in rural areas. I said, again at the beginning, that I did not think it was sufficient to merely increase penalties, because there is still the very real problem of establishing an offence—the offence of unlawfully trespassing.

It is quite clear, from the way in which courts have interpreted that, that it requires trespass for an unlawful purpose—that is, something contrary to the law. The mere fact of being on the property is not sufficient, even though creating some concern, unless—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: A peeping Tom is there for an unlawful purpose. There are deficiencies in the Act. It is all very well for the Attorney-General to say that there have been successful prosecutions. However, we have not heard how many potential prosecutions have not been proceeded with or even reached the stage of being considered for prosecution because of the inadequacies in the law. Until we get some information about the number of matters that have been drawn to the attention of the police, which have not been breaches but which have, nevertheless caused concern to property holders, one cannot say that merely because there have been some convictions the present Act works satisfactorily. I am disappointed that we have not gone further, but in so far as there is an increase in penalties there has never been any doubt that the Opposition has supported that part of the Bill in so far as it goes.

The Hon. C.J. SUMNER (Attorney-General): There is no need for the honourable member to be disappointed. He should be elated because, had his ill-considered and quickly cobbled together amendments been passed, I believe we would have been doing a disservice to the Parliamentary process. I repeat for the benefit of honourable members who did not hear it previously: the Government is going to prepare a discussion paper through an officer of the Attorney-General's Department to canvass the issues involved in the Trespassing on Land Act and other issues relating to trespass. That will be available for public comment and discussion with interested parties.

I also point out that honourable members opposite when in Government knew of this problem and did nothing about it for three years. This Government has acted in respect to this matter as far as penalties are concerned and also as far as the Police Offences Act is concerned. At this stage the penalties measure can proceed and pass the House of Assembly next week, provided the Opposition agrees. I indicated when I brought the matter back on today that I would not have proceeded with it had the Hon. Mr Griffin's amendments been persisted with. I suggested that the Council relent on its earlier position. I see that some members have relented, or at least enough of them, to get what I believe is a sensible resolution of the issue.

I am pleased that that has happened. The Bill is now in its original form as introduced by the Government. The Government is happy to proceed with it and at the same time to prepare a discussion paper so that the issues—I conceded yesterday that some issues needed addressing—can be addressed properly and not in the way that the Opposition wished to do it.

Bill read a third time and passed.

DISTINGUISHED VISITOR

The PRESIDENT: I notice in our gallery Professor John Gunn, Forensic Psychiatrist, London Institute, who is visiting South Australia. I welcome him to this late sitting of our Parliament. Some members may like to make his acquaintance when the Council rises.

LIQUOR LICENSING BILL

The House of Assembly intimated that it did not insist on its amendments to which the Legislative Council had disagreed.

ART GALLERY 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 impending adjournment, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The principal object of this Bill is to change the term of office for members of the Art Gallery Board from a fixed four year term to one not exceeding three years. This amendment will allow some appointments to be limited to one or two years, thus permitting smooth continual change-overs of office, and the resultant increased turnover of Board members should increase active commitment from members and wider community participation from the public. The greater flexibility in the range of possible terms of office will also enable shorter terms to be offered to candidates who might otherwise be deterred by such a long term commitment as four years.

Clauses 1 and 2 are formal. Clause 3 re-enacts, in modern drafting style, the provisions relating to the conditions of membership of the Board. A member may be appointed for any term that does not exceed three years.

The Hon. J.C. BURDETT secured the adjournment of the debate.

SOUTH AUSTRALIAN MUSEUM 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 impending adjournment, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The principal object of this Bill is to enable the Board of the South Australian Museum to increase its coverage of expertise. The means to achieve this are to increase the number of members from six to eight and to provide for variable terms of office. The need for expansion of the Board without altering the size of the quorum is based on two reasons: first, there is difficulty at times in obtaining a quorum. On occasions, various members have been interstate or overseas in connection with their own professions, or have been required at short notice to attend to urgent matters. A Board of eight members, rather than six, would permit members to meet their own commitments without the Board's function being curtailed.

Secondly, a larger pool of expertise is required by the Board to meet its responsibilities at the present time, and in the future. A Board of eight members would provide this more readily than one of six members. The change from a fixed four year term to one not exceeding three years will provide for staggered retirements, and will also enable more attractive terms of office to be offered to persons who might otherwise be deterred from joining the Board.

Clauses 1 and 2 are formal. Clause 3 increases Board membership from six persons to eight. Clause 4 provides for terms of office not exceeding three years, and brings the provision relating to removal from office into line with current similar Acts. Clause 5 is a consequential amendment.

The Hon. J.C. BURDETT secured the adjournment of the debate.

ADELAIDE FESTIVAL CENTRE 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 impending adjournment I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The principal object of this Bill is to enable the Board of the Adelaide Festival Centre Trust to increase its coverage of expertise. The means to achieve this are to increase the number of members from six to eight and to provide for variable terms of office.

The need for expansion of the Board without altering the size of the quorum is requested for two reasons: first, there is difficulty at times in obtaining a quorum. On occasions, various members have been interstate or overseas in connection with their own professions, or have been required at short notice to attend to urgent matters. A Board of eight members, rather than six, would permit members to meet their own commitments without the Board's function being curtailed.

Secondly, a larger pool of expertise is required by the Board to meet its responsibilities at the present time, and in the future. A Board of eight members would provide this more readily than one of six members. The Adelaide Festival of Arts (a separate organisation) is to nominate one member, thus giving it formal representation on the Board.

It is also felt that provision should be made for a deputy to be appointed to facilitate continuity of, in particular, the Festival's representation in the absence of its principal nominee for any reason.

Clauses 1 and 2 are formal. Clause 3 provides for the increase of the Trust's membership from six to eight persons. One trustee is to be appointed upon the nomination of the Adelaide Festival of Arts Incorporated. Various consequential amendments are made to the provision dealing with nominations and failures to nominate persons for appointment. New subsection (6) provides for the appointment of suitable deputies to the trustees.

The Hon. J.C. BURDETT secured the adjournment of the debate.

ADJOURNMENT

At 6.25 p.m. the Council adjourned until Tuesday 2 April at 2.15 p.m.