LEGISLATIVE COUNCIL

Tuesday 14 May 1985

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

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Friendly Societies Act, 1919—Regulations—Insurance and Loan Limits.

Land Tax Act, 1936—Regulations—Exemptions and Land held in Trust.

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

By Command—

Advisory Council for Inter-government Relations—Report, year ended 31 August 1984.

Pursuant to Statute—

Controlled Substances Act, 1984—Regulations—

Declared Poisons.

Prescription Drugs.

Drugs of Dependence.

Prohibited Substances.

General.

Food and Drugs Act, 1908—Regulations—Artificial Sweetening Substances.

Narcotic and Psychotropic Drugs Act, 1934—Regulations—Repeal.

Planning Act, 1982—

Regulations—Development Control, West Torrens.

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

Land division at Hallett Cove.

Single transportable classroom, Amata Primary School.

Additional classroom, Flagstaff Hill Primary School.

Public toilets at Parachilna.

Construction of workshop, Naracoorte College of TAFE.

Extension of quarry operations, Section 411, Hundred Randell.

Storage shed, Long Street Primary School, Whyalla.

Siteworks, Port Neill Primary School.

Establishment of tram depot at Glengowrie.

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

Pursuant to Statute—

Fisheries Act, 1982—Regulations—Fish Processors.

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

Pursuant to Statute—

Woods and Forests Department—Report, 1983-84.

QUESTIONS

DEFAMATION ACTIONS AGAINST MINISTER

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about defamation actions against him.

Leave granted.

The Hon. J.C. BURDETT: The Minister of Health has been the subject of a number of defamation actions, particularly by doctors. Information has come to hand that at least one of these actions has been settled, and it has been suggested that a large out of court settlement has been made to the defamed doctors. My questions are as follows:

1. What defamation actions against the Minister of Health have been settled or otherwise resolved, and on what basis?

2. What amounts, if any, have been paid for costs, damages or otherwise out of public moneys to meet claims against the Minister?

The Hon. J.R. CORNWALL: Actually, no defamation actions against me as the Minister of Health have been settled. There was an action taken by Whyalla radiologists apropos of certain matters that were drawn to public attention by me as the shadow Minister of Health.

In fact, no monetary award was made against me or the newspaper involved. There was a settlement of some costs, which I met personally. There have not been any matters settled in regard to the period in which I have been Minister of Health. To the best of my knowledge only one action is outstanding and I am strenuously denying it. Frankly, that is an ongoing matter about which it is not appropriate for me to canvass in Parliament or anywhere else. As to any furphy that the Hon. Mr Burdett might be trying to start that there has been—

Members interjecting:

The Hon. J.R. CORNWALL: You are peddling rumours in Parliament quite irresponsibly. There was a clear implication in the question that there had been a large cash settlement that had been met from public funds. That is a gross lie: there has been no settlement of any action. To the best of my recollection there is only one action outstanding and I am strenuously defending and denying it. That is all I have to say on the matter. Frankly, I think that the Hon. Mr Burdett ought to be more responsible than trying to peddle rumours and innuendo in this Parliament, or anywhere else, more particularly in view of the fact that the preselection is now over. No. 5 should not find it necessary to peddle falsehoods in this Parliament, or anywhere else, in the circumstances.

Mr SPLATT

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

Leave granted.

The Hon. K.T. GRIFFIN: It was reported several weeks ago that Mr Splatt had lodged a claim, I think, for $1.2 million against the Government as a result of the decision of the Royal Commission into his conviction which the Council will be aware cost taxpayers more than $1.5 million. It is not clear from the report upon what grounds Mr Splatt is relying, how his claim is calculated or even what the Government's attitude to it is. My questions are:

1. Has the Government been served with a claim?

2. What are the grounds of the claim? How much is it for? How is it made out?

3. Will the Government oppose or agree to the claim?

The Hon. C.J. SUMNER: No claim has been lodged in the sense of legal proceedings having been instituted, but a claim has been made on behalf of Mr Splatt by his solicitors. That fact was reported, I think, in the daily press about two or three weeks ago. The Government is now considering the application for compensation and I expect a decision to be made in the reasonably near future. It is the Government's view that Mr Splatt does not have any claim at law, but the question that will have to be considered by the Government is whether an *ex gratia* payment of any kind should be made to Mr Splatt in light of the fact that he spent about six years in prison and the findings of the Royal Commissioner (Mr Shannon QC) that it would be unjust and dangerous to allow that verdict to stand.

RIVERTON HIGH SCHOOL

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

Leave granted.

The Hon. I. GILFILLAN: During 1969 plans were put forward to construct a new high school at Riverton. Now, 16 years later, nothing has been done to alleviate the problems at the school. Student numbers, I am advised, have risen from 209 in 1979 to 225 in 1984 and to 275 in 1985. In an attempt to accommodate the increasing student numbers, old classrooms from other schools have been crammed on to the small school site. The result is a hotch potch of wooden buildings of various ages jammed on to a grossly overcrowded site, with virtually none of the facilities and comforts that most schools take for granted. Obvious signs of stress among teachers and ancillary staff are evident. In spite of constant submissions to the Minister of Education over recent years, no indication has been given as to when major redevelopment will take place. I ask the Minister:

1. Will the Minister take appropriate and immediate action to ensure that the students and teachers at Riverton High School do not continute to be denied a reasonable standard of accommodation and amenities?

2. Will the Minister indicate what plans are approved and when they will be acted on?

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

GRAND PRIX

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about the Grand Prix.

Leave granted.

The Hon. R.J. RITSON: I do not rise to knock the Grand Prix—I hope that it goes well—but a number of anxieties are arising in the community about certain aspects of it. I therefore rise to seek from the Minister some reassurance on a couple of points, particularly in terms of emergency medical transport and access to the Queen Victoria Hospital. The Queen Victoria Hospital has the only tertiary level nursery in the State for the emergency treatment of very sick, very small babies. It is the only hospital of that degree of expertise, in the eyes of some members—

The Hon. J.R. Cornwall: Tertiary level services for neonates are available at Flinders.

The Hon. R.J. RITSON: The question is whether the Queen Victoria Hospital will be virtually blocked off from the western suburbs in terms of emergency access by not just the Grand Prix complex itself but the altered traffic dynamics as people use alternative routes and as the population of the city increases at that time. Further anxiety was expressed to me by obstetricians concerned about rapid access to that hospital to attend obstetric cases.

Of all the medical disciplines, obstetrics is the one that can produce the most urgent requirement for immediate attendance by medical staff. It has even been suggested to me that the congestion could be bad enough as to require alternative arrangements for emergency air transport by helicopter. I could not answer my constituent when he raised these problems with me, but I am sure that the Government has experts in urban transport, measuring traffic flows now and predicting changes in the traffic dynamics. Considering these objects, it would not be good if a single life was preventably lost due to congestion.

Will the Minister outline to the Council the stage at which planning and consideration of these problems has reached and the sorts of measures that will be employed to overcome any such difficulties with emergency transport?

The Hon. C.J. SUMNER: The Grand Prix office and the Government are concerned to ensure that disruption to people in Adelaide during the Grand Prix is kept to a minimum. Obviously, there will be some disruption to the normal activities of South Australians. I think that that is accepted by the community as being something that they have to accommodate in order to get this event in Adelaide. I do not have any details of the particular matters that the honourable member has raised, except to say that they are the sorts of things with which the Grand Prix office is concerned—access to hospitals, disruption to residents, traffic flows, and the like—to try to ensure the minimum possible disruption during the week of the Grand Prix.

I am happy to have the honourable member's queries referred to the Premier and, thereby, to the Director of the Grand Prix office for further consideration. Indeed, I would ask the honourable member, if he wishes to take this matter up direct, to feel quite free to contact Dr Hemmerling, who is the Director of the Grand Prix office, and express his concerns and get an up to date report on what planning is in train for those issues.

The Hon. R.J. RITSON: I have a supplementary question. Will the Attorney-General obtain that information for me by way of a written answer and supply it by post during the recess? I would be happy for it to be incorporated in *Hansard* without having to bring it back to the Parliament.

The Hon. C.J. SUMNER: I have no objection to doing it, but I again invite the honourable member, if he wishes, to ring Dr Hemmerling at the Grand Prix office.

The Hon. R.J. Ritson: But it would be a good starting point, when I go and see him, if I could get a report.

The Hon. C.J. SUMNER: I will obtain an answer for the honourable member and correspond with him. Again, I invite him to do it direct.

NURSES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about the 38-hour week for nurses.

Leave granted.

The Hon. L.H. DAVIS: Honourable members will recall that last year the 38-hour week was introduced for nurses in incorporated hospitals and that some debate took place during the Budget debate regarding the extra cost that would be involved in the introduction of the 19-day working month for nurses in South Australian public hospitals. On 30 October the Minister of Health indicated that the best full year estimate of the cost of introducing a 19-day working month for nurses in public hospitals was $4.5 million. It was by no means clear from that estimate whether that was a gross or net cost.

Subsequently, in a written and fuller explanation of this subject in response to my questions raised during the Budget debate, the Minister indicated in a memorandum dated 4 December that the estimated cost of the introduction of the 38-hour week for nurses in incorporated hospitals would be $6.326 million; that was a net cost after offsets, or a gross cost of $8.1 million. Clearly, that indicated a significant blow-out on the estimates that the Minister had given this Council originally in late October. In addition, the Minister admitted that some public hospitals were experiencing difficulty in recruiting additional nursing staff.

Has there been any variation in the estimated gross and net costs of the introduction of the 38-hour week for nurses

in public hospitals in the current year 1984-85? What are the expected additional gross and net costs for 1985-86 following the introduction of the 19-day month for nurses? Finally, what progress has been made in the recruitment of the additional 430 to 450 nurses for incorporated health units in South Australia?

The Hon. J.R. CORNWALL: I do not have at my fingertips the figures specifically with regard to nurses. However, I do have the latest estimates of the full year costs of the 19-day working month to the total health industry, including the incorporated units, the incorporated hospitals and the non-incorporated areas such as the Royal District Nursing Service and Minda Home. Those were not figures that were given originally, nor was the very significant cost of the blue collar workforce. The position is that the negotiation of the 38-hour week as a 19-day working month was undertaken appropriately by the Public Service Board in matters that involved awards that go across the entire health spectrum and therefore have ramifications for the whole system. Industrial negotiations are always conducted by the Public Service Board.

The Public Service Board in turn worked with an oversight committee which was set up in conjunction with the Trades and Labor Council, so all of those negotiations were conducted under the aegis of the Minister of Labour with the oversight committee and thence to the Public Service Board and the appropriate unions. The latest all-up estimated cost for the financial year 1985-86 (remembering that this is for all of the incorporated hospitals and units plus the non-incorporated areas like the RDNS and Minda, and includes the nursing workforce, other members of the white collar workforce including the Salaried Medical Officers Association, and all of the blue collar workforce and porters and orderlies and all of those people who go to make up the health village or the total population servicing any one of these health units) is around $17 million. Offsets have been put in place to the extent possible at this time. However, we feel that, with the larger hospitals in particular, some very careful scrutiny ought to be involved and will involve the Health Commission to ensure that strenuous efforts are made to achieve all of the offsets. Mark you, the offsets are not very great in areas like nursing because, quite frankly, you either have nurses in a ward or you do not, so there are not a lot of areas in which we can manoeuvre in terms of cost savings by offsets.

With regard to progress in recruitment, that is a long and very creditable story, I am happy to say. A large number of things have been put in train. Regarding nurses who can be recruited back into the workforce while still holding a practising certificate (that is, nurses who have not been out of the active workforce for more than five years), we are actively setting up hospital-based 24-hour child care centres. The first will open at the Royal Adelaide Hospital within weeks. There will be an extension of the existing child care service at Flinders Medical Centre. I recently announced further details of a child care centre which will be established at the Queen Elizabeth Hospital. We are also looking at more flexible working hours. The leader in this field currently is the Royal Adelaide Hospital, where the Director of Nursing is looking at more flexible working hours, permanent part-time work, job sharing and a generally enlightened approach to working conditions for the workforce. There has also been an active recruitment campaign. I would hope that very few people in the State at this stage are not aware through the regular advertisements that have been inserted in recent weeks and months that there is an active campaign to recruit nurses back into the workforce.

With regard to those nurses who have been out of the workforce for five years or more, we are currently running refresher courses at the Queen Elizabeth Hospital and the Royal Adelaide Hospital (55 places are currently being offered). We are also in an advanced state of negotiation with the Commonwealth Department of Employment and Industrial Relations for substantial funding under the skills in demand programme. It is hoped to achieve additional Federal funding for this purpose to conduct additional refresher courses, which would provide about another 180 places for retraining registered nurses, and an additional 150 places for retraining enrolled nurses. They are just some of the things we are doing to get, I hope, a large number of nurses—both enrolled and registered—in South Australia back into the workforce.

In addition, we are looking at the practicability of recruiting nurses overseas on a visitor basis (in other words, a visitor's visa) for a period of 12 months. That would enable us to have a great deal of flexibility to employ on a 10½ month basis and then, as we began to fill the vacancies, we could regulate the supply and demand with a fair bit of fine tuning. We are also looking at the desirability of recruiting overseas nurses, particularly from the UK, on a permanent basis. However, I make it absolutely clear that that would only be done in the first instance with regard to areas where we have quite chronic shortages and have had chronic shortages for some years: they are the specialist areas of intensive care, theatre sisters and nurse educators. It is most certainly not the Government's intention that we should recruit nurses by immigration on a permanent basis in any significant number.

Given the current state of unemployment and the fact that we are literally creating something in excess of 1 000 permanent positions in nursing in the next few years, it is imperative (and I cannot stress that too much) that the maximum number of those vacancies are filled by local people—by South Australian men and women. They are some of the things that are being done. In addition, we are currently in an advanced state of planning to continue intakes in hospital-based nursing skills, while taking further steps to expand tertiary-based nurse education in this State. In one way and another, there is a very active programme that is in place or being developed to ensure that to the extent possible we have a steady supply of nurses—preferably local nurses—to meet the inevitable demands which both the 38-hour week and the move to tertiary education will create during the next six or seven years.

CHILD CARE

The Hon. ANNE LEVY: Has the Attorney-General a reply to the question I asked on 2 April about child care and the ASER project?

The Hon. C.J. SUMNER: There is no specific provision for child care facilities in the ASER project design. The Government sees the need for child care in this area of the city as going beyond the precincts of the ASER site and will address the issue from that viewpoint.

TROUBRIDGE REPLACEMENT

The Hon. K.L. MILNE: I seek leave to make a brief statement before asking the Minister of Agriculture, representing the Minister of Transport, a question about the *Troubridge* replacement.

Leave granted.

The Hon. K.L. MILNE: In January 1984 the Minister of Transport received a report 'The Investigation of the Operations of MV *Troubridge* and Future Sea Services to Kangaroo Island'. On the matter of the replacement of MV *Troubridge* the committee recommended that:

The MV *Troubridge* be replaced as soon as possible with a modern, more efficient vessel capable of carrying a similar volume of cargo and passengers as the existing ship, and operating on dual fuel (gas/diesel) at 13 knots between Outer Harbor and Kingscote (estimated cost $11.4 million).

The MV *Troubridge* be disposed of by possible sale as a seagoing vessel (estimated value $1.3 million).

Since that time the Department of Marine and Harbors has been convening meetings of the *Troubridge* Replacement Design Committee. The committee has been investigating a design known as the '67.1 DWL proposal for *Troubridge* replacement'. My questions are:

1. What is the composition of the *Troubridge* Replacement Design Committee?
2. What are the terms of reference of the committee?
3. Has the 67.1 DWL proposal been changed and, if so, to what extent?
4. What is the purpose of having the Department of Marine and Harbors convene meetings on the replacement of a vessel to be owned by the Commissioner of Highways?

The Hon. FRANK BLEVINS: I will refer the question to my colleague in another place and bring down a reply.

COUNTRY DOCTORS DISPUTE

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

Leave granted.

The Hon. J.C. BURDETT: On 3 April 1985 during the course of the debate on a motion of no confidence against the Minister of Health, the Minister said:

I turn now briefly to far more positive matters: enough of the Council's time has been wasted already this afternoon, so I will conclude by talking about the country doctors dispute briefly and Medicare generally, particularly in the light of the very positive information that was announced yesterday. I come direct from the fountain of wisdom because I spent some time yesterday with my friend and colleague Bob Hawke and my friend and colleague Neal Blewett . . .

Further down, the Minister states:

The country doctors dispute in South Australia is very close to settlement. In many ways it was a Clayton's dispute: it should never have occurred. It can certainly be settled within a matter of weeks.

It is now six weeks and it has certainly not been settled.

The Hon. C.J. Sumner: That is what he said.

The Hon. J.C. BURDETT: It certainly has not been settled. Do you mean six weeks, 52 weeks—what do you mean?

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C BURDETT: The dispute has not been settled. The Minister further stated:

There is no reason why this matter cannot be settled very quickly.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: It is not right. It is a matter now of six weeks. Can the Minister advise the Council what steps have been taken, how far down the track settlement is and when at last it can be expected that this dispute that has gone on for more than 12 months can be settled?

The Hon. J.R. CORNWALL: I have referred to this matter consistently as the alleged country doctors' dispute, the Clayton's dispute, and that was never more true than it is at the moment. There is a standing offer to country doctors to accept 90 per cent of the scheduled fee, which would return them to an equitable base. On our estimate the earnings that they had from hospital practices with public patients before 1 February 1984—that has been a standing offer as a basis of settlement of this matter for a long time. It is a fair offer, which amounts to about $50 a week net.

Some doctors in the country have been demanding through an ambit claim what would amount to about $150 a week net. That is the sort of money which, frankly, is not available. It would be inappropriate and irresponsible for this Government, in times of restraint and at a time when the rest of the community at large is being asked to abide by the prices and incomes accord and to exercise some restraint, to cave in to the excessive demands.

The Hon. J.C. Burdett: They are asking for 100 per cent of the increase—

The Hon. J.R. CORNWALL: The poor Hon. Mr Burdett may have struggled into No. 5 on the ticket, but his knowledge of his shadow portfolio has not improved commensurately with his survival. He interjects and says that all they want—

The Hon. L.H. Davis: Where were you on the ticket?

The Hon. J.R. CORNWALL: No. 4. It is entirely possible that next time round I will be No. 3. That is a matter for another debate. I have not had the same meteoric rise as my colleague and friend the Leader in this Council but, on two occasions in the past 10 years when it has been my onerous duty to go to the electorate, I have been on both occasions in a winning position on the ticket and, when it is my lot to face the electors again in almost five years hence, I will again be in a winning position on the ticket. The matter of pre-selection is nothing that I have ever had to concern myself with.

The PRESIDENT: Order! It has not much to do with this question either.

The Hon. J.R. CORNWALL: Yes, it has little to do with this question. The Hon. Mr Burdett said all the doctors are asking for is 100 per cent. He peddles the falsehoods. He has become a peddler of falsehoods flushed by his recent success. The well documented fact is that for 10 years, since 1975, doctors performing service for public patients in country hospitals have been paid 85 per cent of the agreed Commonwealth medical benefits schedule fee or $5 less than that fee, whichever is the lesser amount. That has not—

The Hon. R.J. Ritson: That is before—

The Hon. J.R. CORNWALL: That has not changed. The Hon. Mr Burdett and the Hon. Dr Ritson should not peddle the falsehood that suddenly we have reduced the basis on which country doctors are remunerated for treating public patients in our hospitals from 100 per cent to 85 per cent. It has always been 85 per cent for the past 10 years. Let us be clear about that—

The Hon. R.J. Ritson interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Since the introduction of Medicare—let me say that in South Australia it has been introduced with a minimum of fuss overall. In metropolitan Adelaide there has been hardly a ripple with the introduction of Medicare. I am sure that is a grave disappointment—

The Hon. R.J. Ritson: Two years for an operation!

The Hon. J.R. CORNWALL: Ah! Read the press release that will go out later this afternoon and the honourable member will find out about waiting lists.

The Hon. R.J. Ritson interjectng:

The Hon. J.R. CORNWALL: Another falsehood that the Hon. Mr Burdett and the Hon. Dr Ritson have tried to peddle is that somehow there was an explosion in waiting lists. I am releasing a report today that shows that there has been little if any change in waiting lists *viz-a-viz* two, three or four years ago. Let us put the waiting list to rest, too.

The Hon. R.J. Ritson interjecting:

The PRESIDENT: Order! The Hon. Dr Ritson will have the opportunity to ask a further question if he likes, but he has interjected sufficiently.

The Hon. J.R. CORNWALL: I wish that he would ask me about waiting lists, because I am the full bottle and he should stop peddling falsehoods and trying to create alarm, even in this election year. Since the introduction of Medicare there has been a fairly dramatic change in the ratio of public to private patients attending at country hospitals.

An honourable member: Indeed!

The Hon. J.R. CORNWALL: The honourable member has not suddenly made a great discovery: that has been a matter of public record since the first statistics were available, before the middle of 1984.

When that happened we said, 'Yes, there obviously has been some fall in the income of country doctors treating public patients in the hospitals.' There has been no fall and, indeed, there is a negotiated 14 per cent rise that they got through the Commonwealth medical benefits schedule—two rises last year, amounting to almost 14 per cent. That was appropriate: nobody cavilled with it. They have had no drop in income for treating patients in their rooms down the street. The majority of their incomes as GPs is derived from that source.

There has been no drop in treating private patients in our public hospitals, using our public, taxpayer-provided facilities. There has been a drop, albeit a relatively marginal one because of the increased number of public patients, in the hospital section of their practice, for which they are paid at 85 per cent of the scheduled fee, or $5 less than the total scheduled fee, whichever is the lesser amount. So, if, for example, a surgeon does a procedure with a scheduled fee of $200, he is paid $195 for that and he does not pay a penny piece for using the taxpayer-provided facilities of the hospital. So, it is not bad.

The Hon. Mr Burdett and the Hon. Dr Ritson are demanding that we go along with this minority of country doctors who are demanding money with menaces and who say that the $50 a week net that the Minister and the Government have offered is not enough. They say, 'We demand that they be given $150 a week net rise.' The $50 returns them to an equitable base. That is and will remain the standing offer.

Federally, the whole Medicare thing now, as far as practical considerations are concerned, is settled. Arising out of that settlement we anticipate about $15 million in additional capital funding for our major teaching hospitals over the next three years. As far as the local business is concerned, it is business as usual, anyway. I would think that the doctors would be very wise to accept their $50 a week pay rise as soon as possible. They should not hold their breath waiting for $150: they will become terribly cyanosed.

The Hon. J.C. Burdett: So it is not settled.

The Hon. J.R. CORNWALL: It is settled: they are working.

EQUAL OPPPORTUNITY ACT

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about the proclamation of the Equal Opporunity Act.

Leave granted.

The Hon. DIANA LAIDLAW: As members will recall, the shadow Attorney-General raised the question of proclamation of Acts last Thursday, at that time in relation to the Controlled Substances Act, which the Government had taken 14 months to proclaim. That Bill, like the Equal Opportunity Bill, was introduced with a great deal of fanfare, attracted much media attention and considerably raised the expectations of many people in the community. The Equal Opportunity Bill was passed by both Houses following a conference on 6 December last and I understand that it was assented to on 20 December last year. However, I have been advised that it has not yet been proclaimed, and questions have been raised as to why it has taken so long when the Government was so enthusiastic about this Bill at the time of its introduction. Is it a fact that the Equal Opportunity Act has not been proclaimed, that is, that it is not law? What are the reasons for the hold-up? Can the Attorney advise when it will be proclaimed?

The Hon. C.J. SUMNER: The Act has not been proclaimed: that was anticipated at the time that it was passed. There are resource implications to the passage of this Act. Once it is proclaimed, some additional resources may be needed in the office of the Commissioner for Equal Opportunity because of the extra areas covered by the legislation. So, at present, the Commissioner for Equal Opportunity is assessing what additional resources may be necessary. However, once that has occurred and is in place, consideration can be given to the proclamation of the Act. That will be considered in the context of the 1985-86 Budget.

I assure the honourable member that we will do it as soon as possible, but, as I am sure that she will realise, there could be problems if the Act was simply proclaimed without providing the Commissioner for Equal Opportunity with the necessary wherewithal to deal with the complaints that might be received.

NUCLEAR ACCIDENTS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about nuclear accidents.

Leave granted.

The Hon. ANNE LEVY: I understand that a United States military document, which was obtained under the freedom of information provisions in that country, states that security provisions established by the Pentagon would exclude all participation of local authorities should there be a nuclear accident of any sort involving United States nuclear material in any foreign country. I further understand that the Director-General of the Australian Natural Disasters Organisation disputes this claim, and that in the Senate it has been stated that should a nuclear accident occur in Australia, either from a reactor or from weapons on a United States ship, local authorities would be involved in any cleaning up required, with the co-operation of the United States authorities.

In the Senate it was stated that while the United States authorities would accept full liability for any damage, the Commonwealth Government would provide assistance in the form of instrumentation for radiation monitoring and decontamination, but that the State authorities would be in charge of co-ordination of responses to any nuclear accidents that might occur.

If the State authorities are responsible for dealing with any nuclear accidents or emergencies that might arise, have our South Australian emergency or disaster services any detailed plans for dealing with such an accident and have such plans been discussed with the Commonwealth or the United States authorities? If no detailed plans exist at present, is there any intention of preparing them so that we are ready to cope with any nuclear emergency that may arise in South Australia?

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

FREEDOM OF INFORMATION

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about freedom of information.

Leave granted.

The Hon. R.I. LUCAS: Over the past 2½ years a number of questions have been directed to the Attorney-General about the speed with which he and the Government have been introducing the promised freedom of information legislation. Comments have been made, certainly in this Council and to me since the last occasion, that the Government has been very tardy indeed. On the last occasion that I can find—in August of last year—the Attorney indicated that an implementation unit, consisting of some 4½ or 5 public servants, would be established in 1985.

They would operate for three months to educate Government departments in the operation of freedom of information legislation, and then for a 12-month period by administrative act Cabinet would authorise freedom of information to be implemented on an administrative basis. We are now some five months—almost half way—into 1985. I have not read or heard any announcement from the Attorney-General that his promise of August 1984 has yet started. Perhaps he has done it silently; I do not know.

What is the current situation with respect to the outline plan that the Attorney-General gave in August last year? Has there been any change to his proposals? If there has been no action up until the current period, when does the Attorney-General envisage some action occurring with respect to freedom of information?

The Hon. C.J. SUMNER: Once again, the major problem with freedom of information is the question of resources. There is not much point in introducing legislation for a scheme relating to freedom of information or anything else unless one has the resources to cope—from a governmental point of view—with the inquiries that are made. It is important, whether we are talking about equal opportunity, freedom of information, or whatever, that before the Government is in a position to receive complaints it has the mechanisms and resources in place to cope with those complaints. Quite simply, the problem with freedom of information is that it can be very costly.

The Hon. R.I. Lucas: Are you backing off now?

The Hon. C.J. SUMNER: No. Therefore, in assessing how and when freedom of information is to be brought in, we must take into account the experiences in Victoria, and in particular in the Commonwealth, where I understand there have been substantial costs involved. The implementation unit has not yet been established. I did indicate 1985, and it is still 1985. Freedom of information proposals are being considered in the context of the 1985-86 Budget, and that matter is presently before the Treasurer, as the honourable member would realise.

The Hon. R.I. Lucas: It will go ahead in 1985 though?

The Hon. C.J. SUMNER: That is the current intention of the Government. However, there is the other possible option, which is the introduction of freedom of information legislation—

The Hon. R.I. Lucas: Just prior to your going out of office!

The Hon. C.J. SUMNER: That may well be, and you can pay for it.

The Hon. R.I. Lucas: The cynic might say that it is very good for Oppositions.

The Hon. C.J. SUMNER: Well, there is no need to be cynical. The Government has indicated its view on freedom of information—

The Hon. R.I. Lucas: But you weren't going to legislate.

The Hon. C.J. SUMNER: Yes, we were; we were always going to legislate.

The Hon. R.I. Lucas: No, you changed your mind. You said that—

The PRESIDENT: Order! The Hon. Mr Lucas has asked a question and should listen to the answer.

The Hon. C.J. SUMNER: I did not say that the Government had changed its mind. I said that another option was the introduction of freedom of information legislation. At this stage there has been no change in the Government's position as I outlined in August last year. I can tell the honourable member that the implementation unit has not yet been established; freedom of information proposals are being considered in the context of the 1985-86 Budget; and two years ago I would have been quite happy to have freedom of information legislation immediately.

The problem is that we have to attempt to minimise the cost to Government, and thereby to the community, of the provision of information. Interstate and Commonwealth evidence is that the cost has been very substantial. Therefore, when we introduce freedom of information legislation or the administrative phase (however it is introduced), we must ensure that costs are kept to a minimum and that the public receives benefit from information which the Government has and which it ought to be entitled to receive. At the same time, there must be some protection in relation to unreasonable demands on the public purse.

In summary, the position is as I outlined last year. The implementation unit has not yet been established and freedom of information will be considered in 1985-86 Budget context. There is the other option of legislating so that at least we know, on the Statute Book, what the Government will be dealing with in concrete terms as far as the resources are concerned. But, that is not the decision that has been taken at this stage.

WIND POWER

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Mines and Energy, a question about wind power.

Leave granted.

The Hon. I. GILFILLAN: The Australasian Wind Energy Association believes that South Australia is very fortunately placed to harvest wind power for the production of electricity. One of its pamphlets states:

> Demonstration windfarms should be considered as a matter of urgency for South Australia . . . Local firms would then have the opportunity to gain 'hands on' experience. After about a year's operation, local manufacture could begin, either under licence or by combining the best features of each type of machine. It could be expected that machines would pay for themselves through sales of wind generated electricity.
>
> There is an urgent need for Australian firms to acquire 'hands on' experience with modern wind generators prior to local manufacture. Overseas manufacturing is rapidly developing. If action is not taken soon, Australia may be dominated by imported machines, denying benefits to local firms and a source of permanent employment.

I am convinced that the Government is aware that we must and should develop our local industry's capacity to produce wind energy producing equipment. Will the Minister say what is the timetable for prototype development of wind power equipment in South Australia? Where are current prototype development projects proceeding? Does the Minister see the potential for developing local South Australian based manufacture of wind generating equipment? If so, when and how? If not, why not?

The Hon. FRANK BLEVINS: I will refer those questions to my colleague in another place and bring back a reply.

COAL

The Hon. R.C. DeGARIS: I ask the Attorney-General: as the Premier has made announcements in relation to arrangements made with West German people to develop gasification and liquefaction of some of our coal supplies, will the Government make a full statement as to arrangements that have been made, which coals will be investigated, whether it is gasification and liquefaction, and whether any investigations will be made for gasification *in situ* with South Australian coals?

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

REPLIES TO QUESTIONS

The Hon. C. J. SUMNER: I seek leave to incorporate in *Hansard* without my reading them a number of answers to questions that have been asked previously during the session.

Leave granted.

LONG SERVICE LEAVE (BUILDING INDUSTRY) BILL

In reply to the **Hon. K.T. GRIFFIN** (12 March).

The Hon. C.J. SUMNER: I refer to a question which you directed to me during the recent debate regarding clause 12 of the Long Service Leave (Building Industry) Amendment Bill. Clause 12 of the Bill increased the period for which a person can be outside the industry from 18 months to 36 months. In response to your question I wish to advise that it is estimated that between 800 and 1 000 workers will be affected by the amendment.

FUTURES MARKETS

In reply to the **Hon. K.T. GRIFFIN** (2 April).

The Hon. C.J. SUMNER: In October 1984, the Commonwealth Attorney-General's Department for and on behalf of the Ministerial Council for Companies and Securities released an exposure draft of a Futures Industry Bill, 1985, together with an explanatory paper, and invited comments from the public by the end of January 1985.

The public submissions are presently being considered by Ministerial advisers, who will in due course report to the Ministerial Council, which will then decide what amendments, if any, to the draft Bill are required, prior to its introduction into Federal Parliament. It is proposed that the Futures Industry Act, when passed, will form part of the co-operative scheme for the regulation of companies and the securities industry and accordingly will follow the same legislative format as applies to other legislation within the scheme.

On this basis, therefore, the Futures Industry Act will be passed by the Commonwealth Parliament, the legislation being expressed to regulate the futures industry in the Australian Capital Territory. The Commonwealth legislation will be applied as laws of each State with necessary modifications and adaptions by a Futures Industry (Application of Laws) Act, which will be required to be passed by each State Parliament. Until such time as the Futures Industry Bill is settled and approved by the Ministerial Council, one will not be able to say when a Bill for an act applying the Commonwealth law to South Australia will be introduced to the South Australian Parliament.

As I indicated to the honourable member earlier, the question of regulating the futures industry through the framework of the law regulating the securities industry will be considered in the context of the Ministerial Council's deliberations on the draft Bill.

NUCLEAR SHIPS

In reply to the **Hon. K.T. GRIFFIN** (13 February).

The Hon. C.J. SUMNER: In response to your questions in this matter I advise as follows:

1. No.
2. There are no existing arrangements for such visits.
3. No.

COURT DELAYS

In reply to the **Hon. K.T. GRIFFIN** (28 February).

The Hon. C.J. SUMNER: The information requested by the honourable member is as under:

1. Waiting Times for Trials:

	Civil	Criminal
1.1 Supreme Court	13.4 Months	1-4 Months
1.2 District Court	32 Weeks	15 Weeks
1.3 Adelaide Local Court		
(a) Small Claims	14 Weeks	—
(b) Limited Jurisdiction	40 Weeks	—
1.4 Adelaide Magistrates Court		
(a) One Day Trial	—	13 Weeks
(b) Two Day Trials or More	—	26 Weeks
1.5 Port Adelaide Court	—	21 Weeks
(a) Small Claims	15 Weeks	—
(b) Limited Jurisdiction	24 Weeks	—
1.6 Holden Hill	—	15 Weeks
2. Waiting Periods for Committal Proceedings:		
2.1 Adelaide Magistrates Court	—	Urgent matters are allocated early dates—other matters 13 week delay.
2.2 Port Adelaide Court	—	Short matters—no delay. Matters exceeding ½ day—24 weeks.
2.3 Holden Hill Court	—	Short matters—no delay. Matters exceeding ½ day—15 weeks.
3. Number of Cases:		
3.1 Supreme Court	939	68
3.2 District Court	1 615	146
3.3 Adelaide Local Court		
(a) Small Claims	360	—
(b) Limited Jurisdiction	980	—
3.4 Adelaide Magistrates Court		
(a) One Day Trial	—	659
(b) Two Day Trials or More	—	272
3.5 Port Adelaide Court	—	522
(a) Small Claims	74	—
(b) Limited Jurisdiction	74	—
3.6 Holden Hill	—	96

4. Reasons for Delay:

4.1 Supreme Court:

- For the past five years the volume of business in all jurisdictions of the Supreme Court has exceeded the disposal of capacity of the available judges and masters. This has led to a gradual lengthening of delays in the civil, criminal and masters jurisdiction. The problem is intensifying as the volume of business continues to increase. However, as I pointed out at the time the honourable member raised the question, the Government has agreed to appoint one extra master in the Supreme Court, which should assist in improving to some extent the turnover of cases in that jurisdiction.

4.2 District Court:

- Similarly to the Supreme Court, the reason for the delays is as a result of the increase in volume of business. The problem has worsened recently in the District Court due to the non-availability of some judges who are absent on sick leave. When the court is restored to full strength, the civil and criminal lists should improve. In the meantime the Government has appointed an acting judge in the jurisdiction, which should help improve the turnover of cases. Also, during last year the list in the District Court was not unreasonable and some assistance was provided to the Supreme Court.

4.3 Magistrates Court:

- Once again, the delays in the Magistrates Court are due to an increase in the volume of business, coupled with the fact that the Chief Magistrate believes that individual trials are taking longer. The Government, however, has appointed an acting magistrate, who took up his position in April. It is hoped that the appointment of this extra magistrate will alleviate the problem to some extent.

5. Delays in Obtaining Bail:

The specific matter raised in the honourable member's question was extracted from a Report on Bail in South Australia prepared by the Office of Crime Statistics. The case quoted was merely an example of problems that can occur. In the case sighted by the Office of Criminal Statistics, the problem was outside the control of the court or the Courts Department. There is, generally speaking, very little delay in applications for bail coming before the court.

5.1 Supreme Court:

- Applications for bail pending appeal—10 to 12 days.
- Applications for bail pending trial—dealt with on next arraignment day.
- Applications where bail has been refused by a lower court—within three days of filing.

5.2 District Court:

- Applications for bail dealt with on the following working day.

5.3 Magistrates Court:

- Applications for bail dealt with on the following working day.

QUESTIONS ON NOTICE

GOVERNMENT EMPLOYMENT

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General:

1. What was the number of public servants in each Government department as at 31 December 1984?

2. What was the number of teachers in the State education system as at 31 December 1984?

3. What was the number of daily paid and weekly paid employees in each Government department as at 31 December 1984?

4. What was the number of employees in the Health Commission as at 31 December 1984?

5. What was the number of police employed as at 31 December 1984?

The Hon. C.J. SUMNER: The reply involves largely statistical material, which I seek leave to have inserted in *Hansard* without my reading it.

Leave granted.

Reply to Question

1. The number of public servants in each Government Department for December 1984 is shown in the table below.

2. The number of teachers in the Education Department for December 1984 was 13 609.9 in terms of full time equivalent positions.

3. The number of daily/weekly paid employees in each Government department for December 1984 is shown in the table below.

4. The number of employees in the Health Commission for December 1984 was 20 011.8 in terms of full time equivalent positions.

5. The number of police employed for December 1984 was 3 341.0.

Employees in Departments (Full-Time Equivalent), December 1984.
(excludes CEP employees)

Department	Public Service Act	Weekly Paid
Agriculture	861.7	194.9
Arts	114.4	45.0
Attorney-General	172.0	0.0
Auditor-General	79.5	0.0
Community Welfare	1 142.4	166.2
Corporate Affairs	98.0	0.0
Correctional Services	744.4	6.6
Courts	404.2	11.0
Education	877.3	485.0
Electoral	13.0	0.0
E&WS	1 574.5	3 176.0
Environment and Planning	472.3	204.8
Fisheries	96.8	1.0
Highways	965.1	1 719.0
Labour	330.4	2.7
Lands	900.4	22.5
Local Government	278.6	78.0
Marine and Harbors	272.9	513.0
Mines and Energy	290.9	118.5
Police	396.5	74.5
Premier and Cabinet	109.1	2.0
Public Buildings	858.9	1 256.0
Public and Consumer Affairs	410.8	4.0
Public Service Board	158.5	0.0
Recreation and Sport	59.3	6.0
Services and Supply	600.5	187.6
State Development	55.1	0.6
Technical and Further Education	491.0	414.0
Tourism	111.6	2.0
Transport	484.2	5.8
Treasury	245.3	0.0
Woods and Forests	252.2	1 191.0
Ministry of Technology	18.0	0.0
Other	13.0	15.0
Special weekly paid line	0.0	79.0
Total	13 952.8	9 981.7

SPECIAL WATER LICENCE

The Hon. I. GILFILLAN (on notice) asked the Minister of Health: Regarding the water licence of Roxby Management Services:

1. Why are three supplementary studies required by the draft environmental impact statement still not completed and available for public comment?

2. Has the Government consultant who produced the biological study been paid?

3. Who requested this report be redrafted for public scrutiny?

4. Who was responsible for granting the special water licence before these studies were completed and publicly released?

5. *(a)* What consideration has the Government given to the cultural, recreational and survival needs of people who

use the mound springs locality, and the effect that the change in water quality may have on the ability of South Australians to use the Lake Eyre South region in the future?

(b) When will a list of existing users be properly completed?

The Hon. J.R. CORNWALL: I regret that the answer to that question is not available, although all the information is public knowledge, which no doubt the member is aware of.

The Hon. I. Gilfillan: In that case why can't you forward the answer? It's disgraceful.

The Hon. J.R. CORNWALL: Since the opportunity will not arise again, I give the honourable member an undertaking that I will write to him with the details.

The Hon. I. GILFILLAN: I take it from the Minister's undertaking that he will write to me with an answer. If that is the case, I am happy for this question to drop off the Notice Paper.

The Hon. J.R. CORNWALL: That is so.

ASER DEVELOPMENT

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General:

1. Have any documents relating to the ASER development other than the heads of agreement executed in October 1983 yet been finalised and signed by the parties to the ASER development?

2. If yes, what documents have now been finalised and executed?

3. If the documents have not been finalised and signed, why not, and what is the extent of expenditure by the various parties so far on the development?

4. If the documents have not yet been finalised, when is it expected that those documents will be finalised and signed?

The Hon. C.J. SUMNER: The replies are as follows:

1. I refer to the Premier's statement in the House in March 1985. The position remains as so explained.

2. Not applicable.

3. I refer again to the Premier's statement. The South Australian Superannuation Fund Investment Trust and Kumagai Gumi have subscribed to date a total to $20.8 million towards the project.

4. I refer again to the Premier's statement of 27 March. In relation to the final design of the office block, I can now report that APT has submitted to the Minister of Environment a substantially revised design for the building. As required under the ASER Act the Minister has submitted the design to the Adelaide City Council and the City of Adelaide Planning Commission for comment. The Minister is required to allow 30 days for comment.

S.A. SUPERANNUATION FUND INVESTMENT TRUST

The Hon. L.H. DAVIS (on notice) asked the Attorney-General:

1. What is the current valuation of investments held by the South Australian Superannuation Fund Investment Trust?

2. What is the expected commitment of the South Australian Superannuation Fund Investment Trust to the cost of development at the Adelaide Railway Station by way of equity and loan funds?

3. Can the Minister indicate any other private or public sector superannuation fund in Australia which has invested as large a percentage of total investment funds in one project as has the South Australian Superannuation Fund Investment Trust in the Adelaide Railway Station Redevelopment?

The Hon. C.J. SUMNER: The replies are as follows:

1. As at 31 January 1985, total investments of the fund had a book value of $334.5 million.

2. As at 30 June 1987, the Trust expects to have committed the following amounts to the ASER project:

Equity Capital—$20 million.

Subordinated Debt—$10 million at 14 per cent.

Indexed Loans—

$40 million for 40 years at a real rate of return of 5½ per cent per annum, secured as a first charge on leases from the Government fully covering the repayments required.

$18 million for 20 years at a real rate of 5½ per cent per annum, secured as a first charge on property costing $140 million.

The exposure of the fund to the ASER scheme is therefore the equity capital and the subordinated debt, a total of $30 million out of an expected total assets at that time of $500 million, i.e. 6 per cent of total investments.

The ASER Project consists of three independent commercial components—a hotel, a casino and an office block. The nature of the Trust's investment in the ASER scheme is discussed at length in its latest report which was tabled in Parliament on 25 February 1985 and from which the above information has been extracted.

3. The (Commonwealth) Superannuation Fund Investment Trust has invested a greater percentage of its fund in one project. (At the time of completion it is expected that The Grosvenor Place project investment will represent 7 per cent to 8 per cent of the investment portfolio). Other public superannuation funds have invested substantial percentages, but slightly under 6 per cent (4½ per cent to 5 per cent) of their funds in a single project. Information giving details of the investment portfolios of individual private funds is not readily available.

GAS

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

1. Why is the price of gas sold to NSW different from the price of gas sold to South Australia?

2. What are the factors, including charges, which make up the South Australian price of $1.62 per gigajoule that are not included in the NSW price of $1.01 per gigajoule?

3. What is the gross profit margin allowed in each case?

4. What proportion of the revenue from gas and liquid sales from the Cooper Basin go to the South Australian Oil and Gas Corporation?

5. What was the total amount of revenue paid to South Australian Oil and Gas Corporation for the financial year 1983-84?

6. What were the gross profits from that revenue for the financial year 1983-84?

7. Does the Government consider that all or a portion of these profits should be used to reduce the price of gas to the Electricity Trust?

8. In view of the fact that the liquid scheme has increased enormously the profits of the Cooper Basin producers, will the Government immediately initiate an inquiry to ascertain what is 'a reasonable and adequate profit, having regard to all economic and relevant factors' as set out in clause 10 (2) of the Cooper Basin (Ratification) Act, 1975, which effectively placed the responsibility on the Cooper Basin producers to provide gas for the State's energy requirements?

The Hon. FRANK BLEVINS: I regret that the answer to that series of questions has not been supplied to me. I

suggest that the Minister of Mines and Energy, who will be responding to the member, will do so by letter, as there will now not be an opportunity to have the question answered in the Council.

The Hon. I. GILFILLAN: I cannot take authority for the treatment of this question, as it is in the name of the Hon. K.L. Milne. I therefore ask that it be put on the notice paper for the next day of sitting.

CORPORATE ACCOUNTING INFORMATION

The Hon. I. GILFILLAN (on notice) asked the Attorney-General:

1. Is it true that employees made redundant have, by the Federal Metal Industries Award, been granted preference over other unsecured creditors to an amount of 30 per cent of their redundancy entitlement?

2. Is it true that financial accounts of companies can be prepared based on the intentions of the company directors not to retrench employees at the end of their accounting period?

3. Is it true that, if the directors change their opinion relating to retrenching employees at any time in their companies' next financial period, then the previous financial accounts are no longer 'true and fair' representations of their financial standing?

4. Is it true that after considering the implications of Questions Nos 1, 2 and 3 that a trap is set for creditors who have allowed credit based on the financial accounts prepared prior to the directors changing their minds?

5. Is it true that creditors extending unsecured credit facilities can no longer place trust in their client's financial accounts which were ultimately based on the directors' intentions?

6. Is it true that redundancy severance payment liabilities associated with the employees of:

(a) PHR Airconditioning Pty Ltd (in liquidation 21.3.85); and

(b) Brian Lane Airconditioning Pty Ltd (in receivership 20.3.85)

has compounded financial problems of the above two companies and their creditors?

7. After the Minister has investigated the effect this liability has had on the above two companies, could the companies report to the Parliament exactly what the costs of these liabilities were to them and what effect it had on their creditors?

The Hon. C.J. SUMNER: The replies are as follows:

1. No. Priority of payments are regulated by bankruptcy legislation in relation to employers who are private individuals and the companies legislation in relation to employers which are corporations. Announced amendments to the Companies Code are now contained in the 1985 amending Bill and, as such, they are not law.

2. Yes. This statement is correct in that, until an employer has made a definite decision within the meaning of the award, the provisions relating to severance pay are not activated and until that decision is taken there is a *prima facie* inference that the employer's previous intention was not to retrench employees.

3. The terms of the award and accounting practice are relevant in answering this question. Firstly, it is not a question of directors changing their opinion but rather of a positive decision by the employer company to retrench.

Secondly, various assumptions, practices and principles are relied upon in the preparation of financial accounts. The profit or loss resulting from the trading activity of a particular time period is determined by matching the income of that period against the expense of that period.

The matching process involves accruing some items of revenue and expense in order that they are recognised in the appropriate trading period and the associated assets and liabilities are disclosed in the balance sheet as at balance date. Severance payments are one type of expense which may be accrued or provided for. It is therefore a question of fact as to whether severance payments are recognised in the appropriate accounting period and to the appropriate extent. As I indicated earlier, the precise accounting treatment is for the accounting profession to determine. In determining whether previous financial accounts were 'true and fair' they obviously would not be in a situation where the employer was at the time liable to pay severance payments and they had not been brought to account or sufficiently brought to account and the unrecognised monetary liability was material.

Furthermore, directors are required to prepare reports for the Annual General Meeting of the company which give particulars of any matter or circumstance that has risen since the end of that financial year and that has significantly affected or may significantly affect:

(i) The operations of the company;

(ii) the results of those operations; or

(iii) the state of affairs of the company;

in financial years subsequent to that financial year; and referring to:

(i) likely developments in the operations of the company; and

in financial years subsequent to that financial year.

4. No. This is an overstatement of this situation. As I have previously indicated, the situation is not one of directors changing their minds but one of a positive act, namely, making a decision to retrench. To imply that an award which imposes a liability to pay severance payments is the basis for a trap for other creditors is a gross overstatement. Severance payments are just one of many items of business expense to be accounted for.

5. No. Just because an expense (namely, severance payments) is imposed upon employers it will not make their financial statements any less reliable; nor, obviously, will it make them any more reliable. Credit providers are generally aware of the limitations of the information contained in financial statements and of the basis upon which those statements are prepared. In any event, credit providers do not rely entirely upon historical financial data when assessing creditworthiness but also access more sophisticated and current information.

6. *(a)* Mr Campbell, the Provisional Liquidator of PHR Air-Conditioning Pty Ltd, has advised that he is not in a position to answer this question at this stage.

(b) An agent for the Receiver and Manager of Brian Lane Air-Conditioning Pty Ltd (Mr R. Gaffney) has advised that no claims for redundancy payments have been made or are anticipated in this administration.

7. The Minister has no power to require liquidators or receivers to report to Parliament.

BUILDING SOCIETIES ACT AMENDMENT BILL (1985)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Building Societies Act, 1975. Read a first time.

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

That this Bill be now read a second time.

The Building Societies Act, 1975, came into operation on 17 April 1975 and there have been a number of amendments

since that date, the latest amendments being passed in December 1984. The 1984 amendment was designed to allow societies, with the approval of the Commission, to provide services to its members that are incidental to its main objects and to conduct agency business of kinds approved by the Commission. It is now desired to allow societies to participate in 'revolving credit' transactions subject to the Commission's approval. The expansion of facilities provided by building societies as proposed in this Bill, whilst still preserving the predominant role of a building society, which is the provision of housing finance, will, in the Government's view, assist to maintain the competitiveness of building societies in the Australian finance sector.

The reasons for this Bill are virtually self-explanatory—recent developments in the banking and finance sector necessitated urgent deregulatory measures for societies to maintain their competitive position in the market place. This Bill therefore seeks to allow building societies the opportunity to provide 'revolving credit' facilities. Such a provision will be subject to the approval of and such conditions as may be imposed by the Corporate Affairs Commission. The Bill is consistent with the broad deregulatory nature of the amendments passed in December 1984.

This Government is supportive of the important role conducted by the building society co-operative industry in its provision of housing finance and other financial services and introduces this Bill to assist building societies to actively compete in the changing deregulated environment of the Australian finance sector. Clause 1 is formal. Clause 2 inserts new section 35a into the principal Act. This section will allow the society to issue credit cards in conjunction with an organisation such as Visa, to provide cheque account facilities for its customers and to conduct any other business involving 'revolving credit' transactions.

The Hon. K.T. GRIFFIN: The Attorney-General's officers kindly made an advance copy of this Bill available to me because, this being the last sitting week in this session, it is important for the power granted by this Bill to be enacted before we rise at the end of this week; otherwise, building societies will not be able to proceed with a programme of development of other services for their customers before we resume, presumably towards the end of July or in early August (unless, of course, there is an intervening election). I had presumed from debate on the amending Bill earlier this year that building societies were to be authorised to enter into arrangements that would allow Visa card facilities, for example, to be made available to their customers.

Discussions suggested that there was some technical difficulty with them doing that, and this amendment is to put that beyond doubt. If that is the case, the Liberal Party would want to overcome that technical difficulty to ensure that building societies have a capacity to provide further services to their customers. We have indicated that there is a need for building societies to remain competitive because of the quite significant deregulation of the financial sector in Australia that has occurred over the past six months and, of course, with foreign banks coming into Australia on a fully competitive basis, that will mean more competition not only for banks but also for building societies, credit unions and other credit providers of the sort that can be compared with building societies—that is, mutual or co-operative societies.

In that context, it is important for building societies to have facilities for customers that will enable those customers to use building societies as a one stop shop for all of their credit and banking service needs. When we debated the amending Bill earlier this year we did focus to some extent on facilities like travel agencies and I think that there is no harm at all in building societies being able to provide those sorts of services to their members. It is interesting to observe in passing that, notwithstanding the general thrust of public opinion towards deregulation, and the Government's support of that, not so long ago building societies were on their hands and knees to the Premier seeking some variation in their interest rates on housing loans.

I make no comment about whether or not that should have been granted, but I just note the fact that on one occasion, notwithstanding the focus by the Government on deregulation for building societies, it denied an increase to building societies and, on the second occasion, appeared to enter into a horse trading exercise that resulted in permission to increase interest rates on housing loans. I suppose that that is one of the thorny problems that Governments will have to address at some time in the future, if the banking sector is released from present controls on housing loan interest rates.

I have noticed in the past week or two that the Federal Government has removed the limit on interest rates on loans up to $100 000. That must surely mean some further pressure for other deregulation of interest rates within the banking and credit providing sectors, including building societies and credit unions. That is really a matter that I observe in passing. Suffice it to say, and for me to repeat, that this Bill appears to facilitate the provision of services to members of building societies to ensure that they remain as competitive as possible and to provide, as much as possible, a one stop shop facility for services. While it is subject to the approval of the Corporate Affairs Commission, I am prepared to support the Bill in that spirit. Therefore, I support the second reading.

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

SELECT COMMITTEE ON ARTIFICIAL INSEMINATION BY DONOR, *IN VITRO* FERTILISATION AND EMBRYO TRANSFER PROCEDURES IN SOUTH AUSTRALIA

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

That the Select Committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON THE CHURCH OF SCIENTOLOGY INCORPORATED

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

That the Select Committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON NATIVE VEGETATION CLEARANCE

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

That the Select Committee have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SELECT COMMITTEE ON TAXI-CAB INDUSTRY IN SOUTH AUSTRALIA

The Hon. BARBARA WIESE: I move:

That the time for bringing up the report of the Select Committee be extended to Thursday 16 May 1985.

Motion carried.

MENTAL HEALTH ACT AMENDMENT BILL

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

That the Select Committee on the Bill have leave to sit during the recess and to report on the first day of the next session.

Motion carried.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 May. Page 3957.)

The Hon. J.C. BURDETT: I support the second reading of this Bill which, as the Minister said, simply sets out to clarify the present position. Apparently, there had been some doubt that the determinations of the conciliation committees might not have the force of law in regard to Health Commission staff and staff of incorporated hospitals. This has been relied on in the past. There is no reason why what is decided by the awards of these committees should not be correct, and it would be a tragedy if they were in fact queried. For these reasons I support the second reading. The Bill simply clarifies what has always been regarded as a proper and satisfactory procedure. I support the second reading.

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

TRANSPLANTATION AND ANATOMY ACT AMENDMENT BILL (1985)

Adjourned debate on second reading.

(Continued from 8 May. Page 3960.)

The Hon. J.C. BURDETT: I support the second reading of the Bill, which relates to what appears to be a terrible scourge of our time—the disease of AIDS. I think this disease has shocked the nation because it has afflicted innocent people, including children, people who have received blood transfusions and, it is suggested, people undergoing other procedures from people who have either been afflicted by the disease or who have been carriers of the disease.

I do not think it is appropriate to be too judgmental about the people who have initially contracted the disease or who are carriers, but there is no doubt about the result, which is quite tragic and dramatic. Young people—in fact anyone at all—who receive blood transfusions can be at risk. What this Bill is said to do by the Minister—and I am sure he is correct—is to implement an agreement arrived at by the Ministers of Health in December 1984 in regard to false or misleading information given by persons who are making donations of blood or semen.

No attempt was made to discriminate against a class: it is simply a question of creating an offence of prescribing a penalty in respect of persons who wish to donate blood and semen. I might at this stage pay a tribute to the many people in our society who donate blood. It is necessary for the kind of treatment carried out that there be a source of blood donors. Because of this risk it is necessary to make some inquiries to indicate whether donors belong to the risk areas, the areas of people who have been found from experience to provide risk in this matter.

Of course, it is essential that people give correct information, and the penalty proposed is $5 000. Much has been made of uniformity and I agree that the prescription of the offence ought to be uniform between the States. One State—Queensland—operated unilaterally before all this had been really considered by the Health Ministers but, in regard to the other States, I entirely agree that the nature of the offence, the prescription of the offence, ought to be uniform.

I am not so sure that it is necessary that the penalty be uniform. The penalty of $5 000 is inadequate in the circumstances and should be doubled to $10 000 because, while the offence ought to be kept in perspective (it is an offence of false information) and ought to bear some relativity to other offences in other areas of false information, it is necessary to look at what the consequences of that false information may be. The consequences can be serious indeed, namely, that an innocent person may die and die a not very pleasant death. A child or some other innocent person may die as a consequence of receiving blood from a person who is a carrier of the disease AIDS.

Surely, the least that can be expected of blood donors, when asked relevant questions which may relate to whether or not they are carriers of AIDS, is that they should give a correct answer. They should realise that the consequences of a false answer may involve a child or someone else dying.

The Hon. M.B. Cameron: They could be murdering people.

The Hon. J.R. Cornwall: They can be charged for murder—

The Hon. J.C. BURDETT: The Hon. Mr Cameron interjects and says that they could be murdering people. The Minister of Health interjects that in such a case a person could be charged with murder or manslaughter. That is as it may be, and that may be arguable, but that is no reason why there should not be an adequate penalty for this offence, and a penalty that has regard to the consequences of the breach—

The Hon. J.R. Cornwall: You are playing cynical politics.

The Hon. J.C. BURDETT: It is not cynical politics at all. The plain fact of the matter is that, when we look as members of Parliament at what penalties we impose for an offence that we create, we should look at the consequences. If the consequences are such that they are likely to be fairly minor and no-one is likely to suffer any great detriment, the penalty should be relatively low, generally speaking. However, where the consequence is very serious and is a matter of death then, as with the law of murder and the law pertaining to assault occasioning grievous bodily harm and so forth, the penalty ought to be suitably severe.

I have kept in my thoughts about doubling the penalty that the penalty ought to be in line with other penalties pertaining to false or misleading information. There is no suggestion of imprisonment, which one could have thought of, but it seems to me that the consequence of the breach ought to be taken into account and, for those reasons, I will be moving an amendment in Committee to double the penalty to $10 000.

I support the principle of the Bill and I commend the Government and Ministers in other States for introducing it. As I said, AIDS has been a shocking scourge on our society. The various Governments acted quite promptly and in a responsible manner. They did not act quickly and injudiciously: they sought advice and proper research as to the nature of the problem and determined that there ought to be created a special offence if one provided false or misleading information in such circumstances.

Those matters are properly uniform in prescribing the offence, but there is no particular reason why the penalty should be uniform. Parliament should signify the seriousness with which it regards this offence by proposing a more serious penalty than that set out in the Bill. It is true, I guess, that monetary penalties are always arbitrary and always subjective. That means that not only the people who propose the Bill but Parliament and members of Parliament may also apply their minds to the matter of penalty. I believe

that this penalty is not sufficient to act as a deterrent and to signify the abhorrence of Parliament for this offence. The penalty should be doubled, but for the reasons I have mentioned about the Bill itself I have pleasure in supporting the second reading.

The Hon. J.R. CORNWALL (Minister of Health): This is probably an appropriate time to reply to the matters raised by the Hon. Mr Burdett, rather than leaving it to the Committee stage. As to whether the penalty ought to be $5 000 or $10 000 is not a matter about which I feel strongly enough to go to the barricades.

However, it is a nonsense to talk about uniform penalties because if the Hon. Mr Burdett really wanted uniform penalties in line with the Oaths Act he would have to propose a penalty of two years imprisonment. So, let us put that nonsense to rest. I only hope that this is not a piece of irresponsible politicking. AIDS, and the control of that very serious disease, is far too important a subject for any of us to play politics with it.

It is not surprising, on the other hand, that members in this Council or anywhere else are unable to agree as to what might be the appropriate penalty. I will come back to the matter of the proposed maximum penalty of $5 000 in a moment. I make it clear, however, before proceeding any further, that my plea for uniformity around Australia was made at the Health Ministers' Conference on 19 December 1984 where, having agreed that there ought to be legislative proscription and a spelling out of a specific penalty for a false declaration, all Ministers present (the six State Ministers, the Minister for the Northern Territory and the Federal Minister for Health) agreed that we should have a penalty. When I appealed for some sort of consensus around the table, none was forthcoming.

Queensland already had drafted a Bill, literally during a dinner adjournment, when the tragic death of the two young infants due to AIDS from contaminated blood occurred last year. Queensland already had in place penalties of two years imprisonment or $10 000. Subsequently, Western Australia introduced a series of penalties; the maximum penalty for the maximum offence of false declaration stands now in its Statute books at three years imprisonment. New South Wales at this stage still has the matter under—if Max Harris will pardon me—active consideration.

Victoria, on the other hand, has set a maximum penalty of $2 000. So, clearly, this appropriately crosses political barriers. Three years imprisonment in Western Australia is the toughest penalty in the country; $2 000 maximum fine in Victoria is the smallest penalty in the country. It is difficult to know: it is a subjective value judgment.

What has prompted me to try to steer a middle course is that we have to exercise some caution not to put the male homosexual community on the defensive or to put them in a position where they will not co-operate for one reason or another with the public health authorities. AIDS (acquired immune deficiency syndrome) at this time in the Western world is overwhelmingly a disease of the male homosexual community. If we are to stop the further spread we must have their co-operation. It is important in this respect to remember that the incubation period for AIDS is anything up to three years. We know that already out there in the South Australian community cases are incubating that will show up clinically at varying times, and at any time, in the next three years.

Since we cannot put up fences and since we know from blood testing and sampling that has been done that the disease is already incubating in the community, and we have already had one death, what we must do and what we have been attempting to do in recent months is to put everything in place that is possible to deal with the treatment of the inevitable cases that will occur, although I pray that they will be relatively small compared with Sydney, for example, and particularly compared with the United States. We have put in place a number of initiatives and training programmes to ensure that when clinical cases occur, as they inevitably will, nursing staff, paramedical staff and the health professions generally in hospitals, are well trained to isolate the problem and to cope with it to minimise risk to themselves and to ensure that there is no risk to any other patient.

At the same time, we have put a comprehensive series of things in place very rapidly, and it does great credit to our public health authorities generally, and to Dr Scott Cameron, the Chairman of the AIDS Advisory Committee, in particular, that we have been able to move so competently and so quickly. We were the second country in the world to have adequate blood testing procedures in place.

The position now is that because of $1 million, which has been committed for the next 12 months, much of it from the State Treasury, tests can now be done at doctors' rooms and at hospitals' outpatient areas for the high risk groups. There is no need for any person who feels that he or, in the case of intravenous drug-using females, for example, she may be at risk to go to the Blood Bank in order to get a blood test.

One of the real fears in the early days was that if these tests were available only at the Blood Bank, people from high-risk groups would go along specifically with the idea of getting a blood test, in which case there was a risk, albeit small, that their blood might somehow become available for transfusion. We have ensured that we can keep the high-risk groups very much away from the Blood Bank. They can have tests, as indicated, either from their local doctors or at the major public hospitals. So, we have all of that in place very quickly.

We have managed to keep the blood services in this State steady and in good order. Again, there is particular credit to Dr Bob Beal, the Director of the Blood Transfusion Service, who has acted almost above and beyond the call of his profession. His performance, in both the realms of professional competence and of the public information service, which he inevitably had to provide in the potential crisis that arose some months ago, does great credit to him, to the Red Cross Blood Transfusion Service and to the medical profession in this State. So, I pay a tribute there.

As I said, it is imperative that we have total co-operation from South Australia's male homosexual community. The disease at this time is overwhelmingly a disease of male homosexuals. It is important that we are able to disseminate adequate information to these groups, that they are all made aware of the risks, and, once they have been made aware of the reasons, that under no circumstances should they be blood donors.

Just as importantly, of course, it is imperative that they be made aware of the modes of transmission. One does not get AIDS by shaking hands. There are a very limited number of modes of transmission, which are now well defined. Certain things can be done and avoided in order to stop the spread of this very nasty disease. It is important in all those circumstances that we do not jeopardise the very good communications that have been established between my office and the gay community, between the Communicable Diseases Control Unit and the gay community, and particularly between Dr Scott Cameron, as Chairman of the AIDS Advisory Committee and the male homosexual community.

When one accepts that point, as one inevitably must, the question arises as to what is an appropriate penalty. I think that the question of what is an adequate penalty could never be answered. An adequate penalty for anyone who would maliciously donate blood knowing that he was an AIDS

carrier probably should be life imprisonment. On the other hand, the criminal law is there to deal with such people, and if it could ever be proven that someone maliciously gave blood knowing that he was an AIDS carrier and that that blood was to be used in subsequent transfusions—whether for haemophiliacs, who must have very large amounts of blood products, for neonates (very young infants) who for one reason or another need blood in situations where their immune systems are sometimes barely functionable, or to any of these other susceptible groups—one could certainly make out a case for life imprisonment.

However, that is not really what we are about: we are about putting in place an adequate deterrent for making a false declaration with regard to a number of diseases—not merely AIDS but, for example, hepatitis, hepatitis B in particular, and malaria. As I said, to play with this for purposes of some sort of political gain or to cynically politicise the debate would be recklessly irresponsible. I would have to give the Opposition the benefit of the doubt on this one, because I know that any eight people sitting around a table—as the Health Ministers proved in Melbourne—have eight different solutions. In my customary charitable manner, I will assume that it is simply a difference that arises between average reasonable people.

I caution about going too far on the side of penalties which might tend to have the adverse effect of driving members of the homosexual community underground. There is a well defined denial mechanism amoung some homosexuals. One of the reasons why male homosexuals were a disproportionately large group of blood donors prior to the advent of AIDS, so the researchers tell me, is that there was a macho principle—the idea that big, strong men could give good red blood. We have to try to overcome that. We also have to be very careful about driving away existing heterosexual donors who in no way come into the high risk groups. With the tests that we have available—and as I said we are the second country in the world to have them in place—we have, according to the experts in these matters, about a 98 per cent accuracy. Although 98 per cent is very good for any biological blood testing, it leaves the potential for 2 per cent of false positives, or one in 50 of those tests showing up as false positives.

In the event that happens, then inevitably the people with the false positives will have to go through a further series of refined tests that are available only in places like the Fairfield Infectious Diseases Hospital. During that time they will have the possibility hanging over their head that the full weight of the law will descend on them, their having gone along as a healthy heterosexual who is in no way involved in activities which would put them among the high risk group, such as promiscuous homosexuals or intravenous drug users, to name two. Those individuals have gone along in good faith and, when suddenly a false positive turns up, realistically or not, while undergoing further testing to eliminate the positive, those people could well believe that there was a chance that they would finish up with a $10 000 fine. If we push this matter too far, it is possible that it may have an adverse effect on our splendid blood transfusion services.

The other point is that, while perhaps the Queensland penalties originally may have been appropriate (two years imprisonment or $10 000 fine), they were put in place before blood testing for AIDS became available. For all those reasons, I think on balance that the $5 000 maximum fine is probably appropriate. Having said that, I repeat what I said at the outset: the important thing about this is that we adopt a tripartisan approach to it. It is far too important a matter for us to become locked into some sort of mortal political combat on it. I appeal to honourable members to continue this debate in the responsible spirit that it deserves. I commend the Bill to the Council and make it clear that I will call for a division on the foreshadowed amendment, but will then abide by the numbers and the indication from the Council.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Insertion of new s. 38a'.

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

Page 1, line 19—Leave out 'Five' and insert 'Ten'.

The purpose of this amendment is to double the penalty from $5 000 to $10 000. Adverting to the matters raised during the Minister's second reading reply, I agree with him that the Health Ministers throughout Australia are to be congratulated because they have got in place quickly the mechanism to reduce as much as possible the spread of this terrible disease.

As the Minister has said, internationally we have been one of the first nations to act; there is no question about that. The only bone of contention is the matter of this amendment, namely, that of penalty. The Minister has conceded that there were different views. As he said, in Queensland before the blood test was available and acting very quickly, it was $10 000 or two years imprisonment. In Western Australia, it is three years imprisonment; in Victoria it is $2 000; and New South Wales, I understand, is still to propose the penalty.

The Minister did not accuse me of acting for political gain. He was, as he said, quite charitable about that, but I would suggest that I have, or anyone in this or the other Chamber has, as much right as he to propose the proper remedy. I agree with the Minister that it is difficult to arrive at what is just the appropriate penalty: it is necessarily subjective, arbitrary and very difficult indeed.

The point I make is that, because of the serious consequences of the offence which is being created by this Bill, we ought to be sure that the penalty for this offence is adequate. The Minister has raised the suggestion that, if a person maliciously and knowingly gave false information as a result of which a person died, he could be charged with homicide, murder, or manslaughter. This may be somewhat dubious and difficult to prove, but we are dealing with the offence which is created by this Bill as a whole if it becomes law, which it will, because the Bill will have bipartisan and tripartisan support, as the Minister said. We ought to ensure that the penalty for this offence which we are now creating is adequate having regard to the consequences that may flow from such an offence.

I certainly take the point that the Minister made in his second reading explanation about not alienating the male homosexual community. We do not want to do that, because that community is known to be one of the high-risk communities in the matter of carrying the disease. Certainly, we need their co-operation. We do not want to discriminate against them in any way. The point is that this offence is only giving false and misleading information. It does not matter whether you are a male homosexual or anybody else. If you are giving false and misleading information which may lead to the death of a child or anybody else, that is what we are looking at. We are not looking at the class of people, the male homosexuals, heterosexuals or anybody else: we are looking at the offence which they are committing in giving false and misleading information. I do not believe that by doubling the penalty from $5 000 to $10 000 we will be losing their co-operation. We are seeking to penalise only those people who give false and misleading information and no-one else.

It is a difficult question indeed, as the Minister at least by implication has acknowledged. Because the nature of this

offence is simply giving false and misleading information and nothing else—not homicide—I do not believe it should carry in itself the penalty of imprisonment, as happened in Queensland before the blood tests were developed, and in Western Australia. I think that a heavy monetary penalty is the appropriate one. In these days of inflation, when money does not have the same value as it had before, and we are looking at an offence like this which can have such an horrendous effect, it seems to me that a $10 000 is not too much. The imprisonment comes in if the penalty is not paid, and the usual default penalty in South Australia is, I think, one day's imprisonment for each $25 of penalty, which, with regard to $10 000, would mean imprisonment of more than a year, which is quite a serious penalty.

I accept what the Minister said in his second reading explanation in the spirit in which I think it was meant, namely, that this ought to be a reasonable debate, and that we are both addressing a subject in which the appropriate penalty is difficult to finalise. I accept the term 'appropriate' which he used in this case. My suggestion is that the appropriate penalty, to take it into a bracket which is seriously regarded and which will be a deterrent and not alienate the 'at risk' communities would be $10 000, double that which is provided in the Bill.

The Hon. J.R. CORNWALL: I want to appeal to everyone in South Australia with regard to AIDS. This is relevant to the level at which we set this penalty for a false declaration, I believe, in order to avoid hysteria in any shape or form. To date, I believe that we have done extremely well. We have done it, I suppose, in a characteristic South Australian way. There has been sensible discussion and perhaps some irresponsible discussion at the extremes and the peripheries of the debate. However, by and large we have had very good co-operation, particularly from the print media and the journal of record. I did not like the title 'Operation Blood Watch', I must say, but we have had very good co-operation.

It is important to remember that we have gone from a position where 18 months or maybe two years ago we did not even know what caused this problem. So, literally the first attempts at control in the United States in particular were just based on good principles of disease control. Then there was an emerging picture and, of course, the concentration of an enormous amount—almost a formidable amount—of medical research. As a result of that, we have since isolated the HCLV3 virus, the human cell leukaemia virus type 3, and we know the modes of transmission. We know that it can be controlled by following relatively simple precautions. None of us need be in other than the most remote danger of ever contracting AIDS. As I said earlier, you do not get it by shaking hands and you do not get it by a whole variety of normal human activities and endeavours. It is important that we keep that in perspective.

So, we have come a long way. People ought to be aware that, by being sensible, their chances of ever coming into contact with AIDS, let alone contracting AIDS, are so remote as to be barely able to be calculated. I have been waiting for Dr Ritson to nod, but he will not give me the approbation, one way or the other; but, that is the basic point.

The Hon. R.J. Ritson: I would say 'So far'. It is a new disease.

The Hon. J.R. CORNWALL: That has been the behaviour of the virus to date in the Western world. The behaviour quite possibly of a similar virus on the African continent over perhaps the last 200 or 300 years may well have been rather different, but then again rather more benign.

The Hon. R.J. Ritson: Often, too, new diseases attenuate with time—through the decades and centuries.

The Hon. J.R. CORNWALL: Certainly. The general message at this time is to not panic—no hysteria, there is no need for it; be sensible and go about your normal business and you will have very little to worry about. If you are a member of an 'at risk' group (particularly a male homosexual) find out, if you do not already know, the simple sorts of precautions you can take to absolutely minimise the chances of contracting the disease. Although we know there are some people out there incubating at the moment, let us take every possible and sensible precaution to ensure that we stop the spread of the disease to the absolute extent possible where it is at this moment.

It is a complex virus. There is no point in being unduly optimistic about a vaccine becoming available in the near future, although I never underestimate the ability and capacity of the medical and paramedical professions. The other thing is that at this time it is unlikely that we will see an effective treatment, on all the advice that I get, in a relatively short time frame. Regrettably, vaccination and treatment are not immediately in prospect, but adequate control measures are. That is the simple message. We have done it well in South Australia to date. I appeal for ongoing co-operation from all the people who have made that possible. On balance, I repeat what I said at the outset: there ought to be a substantial penalty for a false declaration, but on the other hand we do not want to become draconian and create unnecessary fear and cause people not to disclose matters and to catch up the false positives unfairly in that net. I think the maximum penalty proposed by the Government is reasonable. I repeat that I am prepared to abide by the indication of numbers in the Committee, but I intend to call for a division on the amendment.

The Hon. J.C. BURDETT: I am certainly prepared to abide by the decision of the Committee. As the Minister has said, it is a difficult debate. The Minister raised the question that we ought not to create any degree of panic. I agree with that and, particularly having regard to the penalties proposed in other States, I do not believe that $10 000 will create any degree of panic. Whether it is $5 000 or $10 000, I do not think it will make any difference in that regard. However, I believe that it may make some difference in relation to deterrence. A fine of $10 000 is a very real deterrent (being double in money terms). I believe that $5 000 is not sufficient.

The Minister made the point that the chance that any individual has of contracting AIDS is fairly remote, and I accept that. As the Hon. Dr Ritson suggested by way of interjection, at the present time it is remote—but it may not be in the future. Remote as it is, the terrible prospect of an innocent person—perhaps a child—dying by reason of a simple procedure such as a blood transfusion is fairly horrifying. I think that makes it essential that we propose proper penalties for persons at risk (namely, male homosexuals, or anyone else for that matter) giving false and misleading information in this area.

The Hon. J.R. Cornwall: What are proper penalties?

The Hon. J.C. BURDETT: I will return to that in a moment. The penalties ought to be adequate. In relation to proper penalties, this applies to every Bill which we pass and which creates an offence and sets a penalty: we are always faced with the same question as to what is a proper penalty. Whether the Minister is right or whether I am right is difficult to judge, I guess. I am saying that, because of the consequences that apply to this offence, which we are now properly creating by this Bill, it seems to me that in today's money terms $5 000 is not enough and $10 000 is appropriate.

The Hon. I. GILFILLAN: I confess to not having listened diligently to all the debate. On balance we are inclined to support the amendment, not so much on the basis of punishment and penalty, but in an attempt to provide a signal of the real significance of the consequences to those who

may not be conscious of it. Although that in itself may not have significant results, it appears to us that the higher figure is more appropriate.

The Hon. J.R. CORNWALL: As I have often said in this Chamber, I may not have many skills, but I have an ability to count to 11 or 12. In all the circumstances and in view of the Hon. Mr Gilfillan's indication of support for the amendment, I will not call for a division on it.

Amendment carried.

The Hon. R.I. LUCAS: I seek information from the Minister or his officers in relation to the screening tests now being used and, in particular, any research information that may be available with respect to the percentage of false positives and false negatives. I do not wish to enter into a debate about it now, but will the Minister undertake to provide whatever research information is available to him and his officers on that important subject?

The Hon. J.R. CORNWALL: There was a furphy of a story which came from overseas a few weeks ago suggesting that the accuracy of these tests was very much open to question. I cannot recall the exact percentage supposed to be inaccurate, although it was alarmingly high. In fact, it was such a high percentage that the tests would have been almost worthless. The two American companies that have been given contracts to provide testing material in Australia—

The Hon. R.I. Lucas: Which ones are they?

The Hon. J.R. CORNWALL: I do not have the names at the moment but I will provide that information and other relevant material to the honourable member by mail during the recess. I have been assured by Dr Scott-Cameron and by all of the professionals involved in the pre-testing—and members will remember that there was a pre-testing period before the tests were introduced to the blood bank, the IMVS and Flinders Medical Centre for testing blood donated and for testing 'at risk' groups on blood sent in from doctors around the State—that on all the best information available here and in the United States the tests currently being used in South Australia are about 98 per cent accurate. No biological test in this area is ever 100 per cent accurate. In fact, accuracy of 98 per cent in any seriological testing procedure is generally regarded as being highly accurate.

The Hon. R.I. Lucas: Is it the 2 per cent of false positives that you are talking about?

The Hon. J.R. CORNWALL: By and large, the 2 per cent could be false positives or false negatives.

The Hon. R.J. Ritson: In treating any seriological or biological testing, false positives are more common.

The Hon. J.R. CORNWALL: That is perfectly clear. It is true that about 2 per cent is regarded as being somewhere near the norm in any biological or seriological testing. As the Hon. Dr Ritson quite rightly says, of that 2 per cent the incidence of false positives would tend to be rather higher than the incidence of false negatives, so that overall we are probably looking at an accuracy of around 99 per cent (on all the evidence given to me). I am not speaking as 'John Cornwall, biologist' but as 'John Cornwall, Minister of Health', and I am using information given to me by experts in the field. However, I certainly undertake to have an appropriate roundup of the literature to bring the Hon. Mr Lucas up to date. I will mail it to him during the break and, if there is anything there of particular interest to other members, between the two of us and the marvellous invention of the photocopier I am sure that we can disseminate that information.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

AMBULANCE SERVICES BILL

In Committee.

(Continued from 9 May. Page 4063.)

Clauses 2 and 3 passed.

Clause 4—'Grant of licence.'

The Hon. J.C. BURDETT: Of the two amendments on file in my name, I move:

Page 2, lines 18 to 24—Leave out subparagraphs (ii) and (iii) and insert new subparagraphs as follows:

(ii) one person employed in the St John Ambulance Service elected by a secret ballot of such persons conducted by the Electoral Commissioner;

(iii) one person engaged as a volunteer in the St John Ambulance Service elected by a secret ballot of such persons conducted by the Electoral Commissioner;

The first and major thing I would say in support of the amendment is that it follows the recommendation of the Select Committee which, as we have heard, was a most successful one and was a perfect example of the Parliamentary process and the committee process. The Select Committee sat for 14 months and the unanimous recommendation was that there be one employee representative and one volunteer representative on the Board.

The Bill provides for two employee representatives and one volunteer representative. That is what it is all about. The amendment, like the unanimous recommendation, provides for one representative from each group. My first point in further support of the amendment is that the Select Committee proposed the fine balance of people having various areas of expertise—of the St John organisation itself, the council, the association and the Brigade, of people like lawyers, accountants, doctors, members of the public and the paid staff and volunteers. The Bill would upset that balance.

Further, it was certainly discussed within the Select Committee that this Board ought to operate as a board of directors: it ought not to concern itself with the day-to-day operations but to operate in the way that a board of directors operates. In such a case the question of representation by number is not so important. I understand the problems that I am sure the Minister has had. I am sure the problem is that there are two unions involved, at least—the Miscellaneous Workers Union and the Ambulance Employees Association (AEA). I understand that both those organisations would have wanted some slice of the action and that also the Federated Clerks Union has employee members in St John.

The point I make is that it is not a question of numerical representation: it is a question that each area of legitimate interest be represented. Concerning people in 'hands on' situations, the two relevant areas of interest are the people who do the job—the paid staff and the volunteers. My suggestion is that it is quite adequate and sufficient for the purpose of the Ambulance Board that each of those areas be represented by one person and that there is no justification in having two of one and only one of the other. For those reasons it seems that it would make sense to support this amendment which follows the unanimous recommendation of the Select Committee and proposes that one person from each area—one paid staff member and one volunteer member—be on the Board.

The amendment seeks to do another thing. The Bill is not perfectly clear that the paid staff representative, for example, must be a member of the paid staff. If one looks at the Bill one sees that it would be at least verbally arguable that the paid staff representative could be anyone at all, whether employed by the St John Council or not who was elected by those people who were members of the paid staff, and the same applies with regard to the volunteers.

If one looks at the words of the Bill, it appears to be possible that the person elected by the volunteers would not need to be himself a volunteer. The first purpose of this amendment is to make it one and one. The second purpose is to make it abundantly plain that the paid staff representative must himself be a member of the paid staff and the volunteer representative must himself be a volunteer in the St John Ambulance Service.

The Hon. ANNE LEVY: I take slight issue with the Hon. Mr Burdett in some of his statements. He says that his present amendment is exactly what was recommended by the Select Committee. This is not the case. The Select Committee specifically said:

> . . . a member representing St John Ambulance Service employees below the level of superintendent, elected by secret ballot.

The first amendment that the Hon. Mr Burdett sent around on file said:

> . . . a person employed in the St John Ambulance Service, not being a person holding rank above that of centre officer elected by secret ballot of such persons conducted by the Electoral Commissioner.

The Hon. Mr Burdett is departing from the recommendations of the Select Committee in two respects: he has not put in that those voting should be below the level of superintendent or centre officer; he is also saying that it is one person who is employed in the St John Ambulance Service, which was not stated by the Select Committee. The Select Committee said that there should be a secret ballot of the employees below the level of superintendent to elect a member of the Board. It said nothing about what the qualifications of that person should be. It merely said that that person should be elected by employees below the rank of superintendent.

If the Hon. Mr Burdett is so keen to follow the Select Committee Report and not depart from it at all, he should revert to what the Select Committee said. He is complaining that the Bill before us departs from the Select Committee in putting in two members, which is, I agree, an alteration from the Select Committee Report, but the Hon. Mr Burdett has brought in two departures from the Select Committee Report. This is unwarranted, particularly if his justification is that we must follow the Select Committee Report.

The Hon. J.R. CORNWALL: I hope that during this debate, which is virtually an extension of the Select Committee debate, we can return to the *entente cordiale* that was arrived at in the writing of our final report. There are two matters: the first is the question of this subclause of the Bill as it has come here presented by me on behalf of the Government, which talks about two persons employed in the St John Ambulance Service. Normally, with these sorts of subclauses where we are going through a number of persons who will be nominated or elected to a board, and the trade union movement is involved, that clause will contain a reference to a person proposed or nominated by or selected from a panel supplied by the United Trades and Labor Council of South Australia.

The Select Committee Report was a departure from the basic norm in that sense. That was a compromise that was arrived at by the half a dozen members of that Committee. When I started to consult on the draft Bills—and the one before this Council is about the sixth draft because a great deal of consultation went on about the early drafts of this Bill, based on the Select Committee Report, both with the former members of the committee and the other interested parties such as St John, the Miscellaneous Workers Union and the Ambulance Employees Association in particular—it became obvious that in any fairly conducted ballot (and since the ballot will be conducted by the Electoral Commissioner, clearly it will be a fair ballot) the Ambulance Employees Association members would have the numbers. There is no chance—or, at the outside, only a remote chance—that a member of the Miscellaneous Workers Union would become the person elected to that Board.

I take the Hon. Mr Burdett's point—and I have made the same point myself on many occasions, and made it only the other day in relation to the State Supply Bill—that once a person is elected to or nominated to a board of directors of any sort he or she is there to represent the best interests of that organisation to which the board applies; he or she is no longer there to represent the vested interest that may have nominated or elected him. It was in that sense and with that understanding that the recommendation of the Select Committee was made, but for me it was something of a dilemma in that the two principal unions made a representation pointing out that they would both like to be on the Board.

The only way in which that could happen in practice, to do it by ballot, was for two positions to be made available. I take the point that that in turn creates some difficulties: the volunteers would immediately say, 'It is only fair that we should have two'; the St John Council would then say, 'It is only fair that we should go from two to three', and so it goes on. One starts out with a board of nine and goes to a board of 11, which becomes a board of 13: I can see all those difficulties. Because I am in such a reasonable mood today, I will abide by the indication during debate as to whether or not I should go to the barricades and divide on the amendment.

The second point is that the Select Committee clearly indicated that the person who was to be elected from among the employees should be elected by a ballot of persons below the rank of superintendent. So, maybe the Hon. Mr Burdett is trying to prove that two wrongs make a right in this circumstance, or maybe he has been nobbled by some of the senior officers of the existing ambulance service. I hope that neither of those is correct. Maybe he has just used his powers of logic and decided for reasons that are totally unclear to me that it should be from a ballot conducted amongst all employees and in clear distinction from what was recommended by the Select Committee.

I really cannot follow that. If there is an indication from the Hon. Mr Milne when he makes his contribution in a moment to this debate that he does not support the subclause introduced by the Government and, in fact, wishes it to be reduced from two back to one, as was originally proposed by the Select Committee, then the Government would have no option but to consider that seriously, since the Opposition and the Democrats between them have the majority in this Chamber. However, I put it very strenuously to the Hon. Mr Milne and his colleague, the Hon. Mr Gilfillan, that what is good for one is good for the other.

If the Bill before the Parliament is to be amended at all, then the logical way to amend it would be to go back to the original Select Committee recommendation. Because I am a reasonable man with reasonable colleagues like the Hon. Anne Levy, I think we could give serious consideration to accepting an amendment which inserted in the appropriate place, 'Below the rank of Superintendent'. I certainly cannot accept the amendment as it presently stands because it is not in line with what was originally recommended by the Select Committee. That Select Committee sat for 14 months, after all, and made unanimous recommendations. If it is good enough for me to indicate that I would be prepared to consider ceding the Government's proposal, then I think the Opposition should indicate that it would be prepared in its proposed amendment to return to the letter and intent of the Select Committee recommendation.

The Hon. J.C. BURDETT: It is amazing that the Minister is now being moralistic saying that we can return to the exact letter of the Select Committee, when he departed from it in the first place. He said that there should be two instead

of one from the paid staff, which was pretty dramatic. I do not know that the question of paid staff below the rank of superintendent really matters very much because, as I understand it, there are only two superintendents in the paid staff, one metropolitan and one country. Therefore, we are not excluding anyone very much. Eventually after discussion, I have come to the conclusion that because we are having democratic elections those able to vote in regard to paid staff and volunteers should be members of the paid staff and volunteers. Democracy means democracy—one has it or one does not have it.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: Yes, they are.

The Hon. J.R. Cornwall: You may not be able to influence the vote; they are the bosses.

The Hon. J.C. BURDETT: If there is to be a democratic election it is perfectly proper to let all the paid staff and all the volunteers vote. If anyone wants to move an amendment in relation to a rank, as to a centre officer which is more appropriate than a superintendent with regard to paid staff, and a superintendent with regard to the volunteers, that is one thing. However, there are two major principles that I maintain. One is that there should be one paid staff and one volunteer and that the other be as proposed in the amendment, that the paid staff person on the Board be a member of the paid staff and not be myself, the Hon. Anne Levy, the Hon. Lance Milne, a union secretary, or whatever. When one is trying to get that sort of expertise on a Board of Directors the person should have that expertise and be a member of the paid staff. The same applies to volunteers.

We really have three principles in issue. The first concerns whether there be two paid staff and one volunteer, or one paid staff and one volunteer. On that point I am adamant that it should be one of each. The second concerns whether the paid staff representative should be a member of the paid staff and whether the volunteer should be a volunteer in the St John Ambulance Service. On that point I am adamant that they should be. The third concerns whether one says anything about rank and ensures that the persons who can vote and who are on the Board are persons with hands-on experience—not above the rank of centre officer in regard to paid staff, not above the rank of superintendent in regard to volunteers. I am more easy on that. Surely, if one has a democratic election, one involves everyone. The people who have the vote can do their lobbying and should be able to get up people who are in the hands-on position, if that is what is required.

I make no bones about supporting the amendment as I have moved it which, in principle, arises out of the Select Committee report. There are other aspects of the Bill which do not comply with the report, and I spoke about those during my second reading speech. In relation to the amendment the three issues are: whether there should be one or two from each; whether the persons on the Board should be members from the class that votes (namely, paid staff or volunteers); and, whether the ranks be stated to ensure that those persons are in the hands-on position. While I do not feel as strongly about the last issue as I feel about the other two, I put the point of view that it is not necessary to impose those conditions and that my amendment is sound. If the whole of the paid staff vote and the whole of the volunteers vote, they are mostly in the hands-on position, and that should be adequate.

The Hon. ANNE LEVY: I wish to comment on one of the remarks made by the Hon. Mr Burdett. He was insisting that all employees of St John be eligible to take part in the secret ballot, but is ignoring that these senior members of St John, who are in management positions, are also members of the St John Council. As such, as the Bill stands, they already are able to vote for the two persons who are appointed by the St John Council. They are also probably members of the St John Brigade and have some say in the one person who is appointed by the council having been nominated by the St John Ambulance Brigade. It seems to me that these senior employees already have plenty of say in voting for members of the Ambulance Board, probably through the Brigade and certainly through the council, which appoints two people.

Therefore, the question of these people not having a say in the membership of the Ambulance Board is quite incorrect. By permitting them to vote for the employee representative they are having far more say than anyone else. This is unjust. Senior management is going to have a say in the other categories of people being elected to the Ambulance Board. It is not the slightest bit undemocratic—in fact, more democratic—for them not to have two bites of the cherry and to not be eligible for voting for the employee representative on the Board.

I do not know whether it would be appropriate for me to test the water by suggesting an amendment to the amendment moved by the Hon. Mr Burdett, namely, by inserting after the word 'persons' the words 'below the level of superintendent', so that it would read 'One person employed in the St John Ambulance Service elected by a secret ballot of such persons below the level of superintendent conducted by the Electoral Commissioner'. Would it be in order for me to move that?

The CHAIRMAN: With the leave of the Committee.

The Hon. ANNE LEVY: I seek leave to move that amendment to the amendment.

Leave granted.

The Hon. R.J. RITSON: I had hoped to get the call to speak to the previous amendment as it stood, but I guess that the Committee has the amendment to the amendment before it at the moment. I trust that you, Sir, will give me enough latitude to discuss the content of both of them in general. I refer, first, to the question of the two employees to be appointed to the Board and the question of those places being designated for particular unions. That is a very alarming departure from the Select Committee's report. I support everything that the Hon. Mr Burdett said on this point.

Board membership is for the injection of expertise into a group of people who would be responsible for overall management. It is not the place to have faction fights on matters of industrial disputation within the membership of the Board; nor is it a place for experiments with worker participation or worker control. The Hon. Ms Levy will recall that during the deliberations of the Select Committee the matter of open recruitment was discussed, and the honourable member was very enthusiastic about the importance of open recruitment. I believe that there is already open recruitment.

There is at present some open recruitment of salaried ambulance crews and the Hon. Ms Levy was very keen to cover the rights of persons to serve as volunteers without necessarily being members of the Brigade itself. I would have thought that to begin to specify that two people must be members of particular unions is as much a move towards legislation for compulsory union membership as it would have been for compulsory Brigade membership had the Bill also specified that the volunteer representative be a member of the Brigade. These positions are designed not to represent the Brigade against specified unions but to give the two different types of persons with different types of work experience the opportunity to contribute their knowledge to the function of the Board.

Proper and good provision is made for improved industrial relationships and proper representation of all factions in the industrial relations committee which has been set up within the structure, but that is not the Board: that is set up for

the sane solving of faction disputes, disputes as to pay and conditions. That is where those disputes are dealt with—not within the Board itself. If this provision were to become law, it would give a blessing to faction fighting within the Board, and we would be right back where we were in 1980. So, I really want to see the Select Committee's recommendation followed on that point.

Regarding the specification that the person elected should come from the class of persons who elected him, I am equally firm in my support of the Hon. Mr Burdett's attitude to that. It would be possible for a union to elect to that Board from some other area of industry a union leader perhaps of great political fervour who may never have had any contact with an ambulance service in his life. The dangers to the chances of industrial peace for the ambulance service of something like that happening are tremendous. Indeed, when the two are read in conjunction, the naming of the two unions, the increase in numbers of the two unions instead of the one unnamed employee, and the freedom for him to be elected from any industry whatsoever outside the ambulance industry make it look as if it is an exercise in compulsory unionism, worker control and all sorts of things. So, I will be fighting that one.

Concerning the elections being those of people below the rank of superintendent and of station officer, it seems to me that that it is of little importance. I take the point that the Hon. Ms Levy raised, namely, that the very small number of those senior officers have already had a substantial vote elsewhere and, in a sense, would be getting two bites of the cherry. However, it is fact that, if one looks at the numbers within the ambulance service, one sees that the vast majority of the lower ranked employees are members of the AEA whilst the Miscellaneous Workers Union has membership of the more senior officers. Although the numbers are such that it is virtually inevitable that the person so elected would indeed be a member of the AEA, that is no reason to specify this in the Act.

I support the Hon. Mr Burdett's initial amendment and for that reason oppose the amendment to the amendment moved by the Hon. Ms Levy. However, I would confess that, if anything had to be lost, I would prefer it to be the point on the rank of the persons voting, if that is the only way in which it is possible to resolve this matter. I hope the Hon. Mr Milne will support the original proposition by the Hon. Mr Burdett.

The Hon. K.L. MILNE: I see nothing extraordinary about all this. I accept the Hon. Anne Levy's explanation about the principles involved and about the level of Superintendent. I also accept the principle to which the Hon. John Burdett has referred. I reiterate that the members of this Board will be appointed for their expertise. That refers particularly to members of the paid staff and the volunteers. That is introducing a small measure of industrial democracy or worker participation, of which I am sure we all approve and which indeed is approved in the Select Committee's report. Members of the Board will not be on that Board to discuss working conditions and union issues.

Sometimes one finds that employees wish to be represented by their union organisers or officers. That is a mistake because, when such people get on a board of this kind, they find that there is a conflict between their duty as a director and their duty as a union representative. Therefore, it is much better for staff representatives to be chosen from the staff of the organisation concerned. That is a basic principle to which we should adhere. Therefore, I support the amendment moved by the Hon. John Burdett, with the addition of the amendment moved by the Hon. Anne Levy.

The Hon. ANNE LEVY: Having consulted with Parliamentary Counsel about the wording that should be used here, I seek leave to withdraw my amendment to the Hon. Mr Burdett's amendment and to move another amendment thereto.

Leave granted.

The Hon. ANNE LEVY: I move:

After the word 'service' in the Hon. Mr Burdett's amendment insert the words '(not being a person holding rank above that of Assistant Superintendent)'.

I do not think that this amendment will alter the intent of what I was saying, but Parliamentary Counsel says that it is the wording that should be used here. I will not canvass my arguments again.

The Hon. Anne Levy's amendment carried; the Hon. J.C. Burdett's amendment as amended carried.

The Hon. R.I. LUCAS: I have a few comments about non-amalgamating services. Clause 4 (1) sets up the granting of licences to various services and I think that it is the appropriate one under which to raise this matter.

The CHAIRMAN: Yes.

The Hon. R.I. LUCAS: I wish to pursue with the Minister what is intended by his comment in his second reading speech that each of the non-amalgamating services will be granted a licence to provide an ambulance service for a period of three years. Page 44 of the Select Committee's report indicates that there are nine non-amalgamating ambulance services in the State at Boolera Centre, Burra, Jamestown, Karoonda, Onkaparinga, Orroroo, Peterborough, Riverton, and Whyalla. I declare a personal connection with the Riverton non-amalgamating service. However, it is not the only such service in South Australia. The Select Committee report says that these services cover a large proportion of the State (1.5 million hectares) with a resident population of 80 000 persons.

The Minister said in his second reading speech that the non-amalgamating services would be granted a licence to provide a service for a period of three years. I take it that during that period there will be negotiations with those services to bring them within the ambit of the new Board. However, at the end of the three-year period, if the Minister is still the Minister responsible, is it his intention that even if the non-amalgamating services objected they would be brought within the ambit of the Act contrary to their wishes at that time?

The Hon. J.R. CORNWALL: It is not a question of what the Minister may or may not want at that time. I said in my second reading speech:

The Government, the Select Committee and the St John organisation believe that the ambulance transport needs of the entire South Australian community would be best served by a single, Statewide ambulance service.

I also said (and this is the part that is directly relevant to what the Hon. Mr Lucas has raised):

The proposed Ambulance Board will negotiate with the nine services to achieve amalgamation, having regard to their desire to retain a degree of independence for their services, for the decision making processes of the Statewide service, to be informed and democratic.

Of course, it is a nine person Board—four members from the St John organisation in general (one from the Brigade, one from the Association and two from the council), an employee representative, a volunteer representative, a lawyer or accountant, a doctor, and a member to represent the interests of the South Australian public generally. We do not even have a person from the South Australian Health Commission.

It will be an independent Board, and it will certainly be as independent as any hospital board and, indeed, it will be a good deal more independent, I suggest, than any hospital board. The licences will be issued for three years. The St John organisation (which runs the Statewide Ambulance Service, with the exception of the nine non-amalgamated services), the Government, members of the Select Commit-

tee, the Health Commission and everyone else to whom I have spoken all agree that it is quite silly to have a little group in the Mid North, one or two in the Hills and the Air Ambulance Service at Whyalla continuing the pretence that they are independent or autonomous in the true sense of the word. They use all the back-up resources of St John—the technical support services. They use the carry fees and charges of St John. Indeed, they get into a bit of double dipping there because they put everything into their local bin without contributing to the general pool.

No-one wants to take away their independence and their quite proper right to represent local communities in some senses in a fiercely parochial way. There is nothing wrong with that at all, just as there is nothing wrong with a school or hospital or any other local organisation or institution representing the positive side of parochialism. However, the Ambulance Service is charged currently (and the State Ambulance Board will be specifically charged) with the business of running an integrated Ambulance Service, just as the South Australian Health Commission is charged with the business of running an integrated health service.

We really cannot have a lot of little individual components doing their own thing. It is the intention that common sense will prevail, that negotiations will proceed and that the nine services will amalgamate over the nine-year period on conditions agreed with the Board. With regard to the Whyalla based Air Ambulance Service, it has already indicated to the Select Committee that it would be satisfied and indeed happy to negotiate with the Health Commission to mutually agree on independent consultants who would look at how that can be best organised and achieved, so that everyone's interests are protected. Frankly, there is no intention of confrontation—constructive or otherwise. The whole matter will be negotiated.

Ultimately, if I am still Minister of Health, it will be my intention (and I think it would be the intention of any sensible Minister of Health from whatever side of the political fence, and I think it would certainly be the view of the State Ambulance Board, and most certainly we know that it is the unanimous view of the senior people in St John) that amalgamation to complete a single Statewide integrated, co-ordinated and rational service ought to occur. All of the fears that have been expressed by people in the Mid North—and there are a few wild men in the Mid North (Jamestown and Riverton seem to be two places in particular, and Booleroo Centre has its quota)—indicate that they are fiercely independent, but not necessarily rashly independent.

The 46 services that have already amalgamated have not had any of these terrible things happen to them which the non-amalgamating services believe may occur. The Select Committee talked to representatives from the non-amalgamating services and it was my judgment that we established quite good and constructive dialogue, even in the short period they were before the Select Committee. In short, it will be the State Ambulance Board as an independent body that has the carriage of these negotiations. I confidently expect that they will be satisfactorily concluded over the three-year period. In conclusion, as I have said on many occasions about that dirty word 'autonomy', I think in the context of the health industry generally it is a word that should not be used, because none of us is autonomous in the literal sense. The Health Minister is not autonomous, the Commission is not autonomous, and the individual health units are not autonomous, if one takes it in the literal sense, because we are all—

The Hon. C.M. Hill: What about the Keith Hospital?

The Hon. J.R. CORNWALL: That is not part of the Health Service over which I have a view and responsibility. The Keith Hospital is a category 3 private hospital. The private hospitals, apart from licensing, do not come within the orbit or ambit—

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: No, they rejected that. As a suitor, I only take a knockback once; I very rarely go back a second time. That is something that I learned more than 30 years ago. None of us is autonomous in the literal sense: we are mutually interdependent and these services, although they say they are financially independent, rely on carriage charges, subscriptions and significant hospital payments for conveying patients from the Mid North to metropolitan teaching hospitals. They take taxpayers' dollars, subscriptions, and they also take local donations. They have a substantial amount of their income from those carry charges between hospitals. I am not complaining about that, but they cannot have it both ways. They cannot boast of a financial independence based on their local autonomy and at the same time take substantial taxpayer funding which is provided for carrying patients between hospitals. In the longer term, yes, I believe they will amalgamate; I believe they must amalgamate. If all else fails, let me say this: one can be independent only so far as your financial support will allow.

The Hon. R.I. LUCAS: I reject the last part of the Minister's statement. In my view, payment for carriage of patients is certainly fee for service. Payment is being made for a service and that is simply what it is all about.

The Hon. Frank Blevins interjecting:

The Hon. R.I. LUCAS: Do you want to hold up the proceedings of the Council?

The Hon. Frank Blevins interjecting:

The Hon. R.I. LUCAS: Do you want to hold up the proceedings of the Council? I am happy to accommodate you.

The CHAIRMAN: Order! Does the Hon. Mr Lucas wish to continue the debate? I will handle the interjections.

The Hon. R.I. LUCAS: Thank you for your protection, Mr Chairman—

The Hon. Frank Blevins interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: —from the ceaseless interjections of the Minister. I hope that during the three years the negotiations can be successful so that a voluntary marriage or amalgamation can be arranged between the non-amalgamating services and the Board. I do not support compulsory incorporation of those services into the Board, just as I have not accepted compulsion with respect to a number of other things, including amalgamation of councils and the like. I wanted to raise other aspects concerning clause 4, in particular, subclause (3) *(h)*. Did the Minister receive any submissions asking for that provision to be deleted? Was it suggested that the council employ all staff of the ambulance service on terms and conditions agreed to by the Health Commission? If the Minister did receive such submissions, why did he decide not to change that provision?

The Hon. J.R. Cornwall: Can you explain the question again?

The Hon. R.I. LUCAS: Was the Minister asked to delete the existing provision and replace it with a provision along the lines that the St John Council would employ all staff of the ambulance service on terms and conditions agreed to by the Health Commission? If the Minister did receive a submission, why did he not agree with it?

The Hon. J.R. CORNWALL: I received a submission from the lawyer acting for the St John Council. I rejected it after consultation with other members of the Select Committee as well as senior officers of the Health Commission. The major reason for rejection was that it was against the general spirit and intent of the legislation recommended by the Select Committee.

The Hon. R.I. LUCAS: The Minister disagrees with the submission that the Select Committee was recommending—that the council employ all staff of the ambulance service on terms and conditions of the Health Commission. The representations made to me were that the Select Committee agreed with the view and recommended that the St John Council employ all staff of the service on the terms and conditions.

The Hon. J.R. CORNWALL: The council will employ all staff under the proposed licence—that is contained in the Bill.

Clause as amended passed.

Remaining clauses (5 to 9) and title passed.

Bill read a third time and passed.

THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 May. Page 3904.)

The Hon. L.H. DAVIS: The Opposition supports the amendment to the principal Act. The Bill effects changes that have been agreed to by Flinders University Council. It seeks to abolish the transitional provisions in the current legislation and effects changes to definitions. There are machinery provisions and the central thrust of this Bill relates to the jurisdiction of the Industrial Commission. The Bill extends the jurisdiction of the Industrial Commission over general staff. Academic staff, at present, are not fully covered by the Industrial Commission but are covered under a Federal award.

As has been already noted in the second reading explanation, there has been some disagreement between the University Council and the academic staff about whether or not the South Australian Industrial Commission should be given jurisdiction over the academic staff. This matter has been resolved and the University has indicated that it is happy with the provisions of the Bill.

It is worth noting that the University was established in 1966, 19 years ago, in the shadow of Adelaide University. In that intervening period Flinders University has achieved an enviable record in research, as has already been noted in another place. Flinders University boasts the highest research grants per capita of any Australian university. It is highly regarded in medical research and also has as its Vice Chancellor Professor Keith Hancock, who has recently completed an exercise for the Federal Government in the industrial relations arena. I must say that I have been pleased to have been on the Flinders University Council over the past six years. I have a high opinion of the quality of the leadership and administration at the University. I am pleased to note that there is no disagreement from any Party about the content of this Bill, and I have much pleasure in supporting its second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank the honourable member for his remarks and for his expressing support on behalf of the Opposition.

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

RURAL INDUSTRY ADJUSTMENT AND DEVELOPMENT BILL

Adjourned debate on second reading.

(Continued from 8 May. Page 3962.)

The Hon. M.B. CAMERON (Leader of the Opposition): This Bill seeks to bring about some rationalisation of funds available to the rural industry. It is a very sensible approach, which has been announced as policy by the Opposition on a previous occasion, not long ago. We are very pleased to see that the Minister has taken up our suggestion and is bringing it into force. It is an area in which there have been a number of problems over a period, and this will certainly mean that all funds available to rural industry will be handled consistently and by the one body. The Opposition supports the Bill.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank the Leader of the Opposition for his support for the Bill. It is a sensible measure. I do not know that anyone can claim particular credit for the idea. It is a very obvious idea, which did not need a genius to work it out, and even I managed to do that. Again, I thank the Opposition for its assistance in getting it through promptly.

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

[Sitting suspended from 5.53 to 7.45 p.m.]

CORRECTIONAL SERVICES ACT AMENDMENT BILL (1985)

Adjourned debate on second reading.

(Continued from 8 May. Page 3963.)

The Hon. K.T. GRIFFIN: The Opposition is prepared to support this Bill. It is not of such significance as to warrant us again reiterating our stand on the question of prisons and parole. There are, of course, other occasions when we have done that during this session on Bills of much greater significance than this. Undoubtedly, there will be occasions in the future when we draw attention to what we see as grave deficiencies in the Government's legislation relating particularly to parole and the treatment of prisoners.

This Bill is essentially a rats and mice Bill, which does relatively minor things. For that reason, we will not seek to move amendments relating to the general principle affecting prisons and parole. The matters to which the Bill directs attention are, first, to require the courts to fix the date of commencement of a period of imprisonment and a related non-parole period where it is imposed to take effect on the completion of a current term of imprisonment and a related non-parole period.

Secondly, it allows deduction by the authorities from a prisoner's credits of amounts that are necessary to repay a loan to the prisoner by the permanent head for items which the prisoner may have purchased (such as a television set), such moneys having been loaned through the Prisoners Loan Fund Committee. Thirdly, it forbids the opening by prison officers of a postal vote by a prisoner to the Electoral Commissioner.

Fourthly, the Bill allows a prisoner's property to be delivered to him, on release, although not necessarily immediately on that release, but when the relevant property officer is on duty. Fifthly, it requires notice of a hearing before a visiting tribunal to be given to a prisoner, to withdraw the right to be legally represented and to allow the tribunal to proceed if the prisoner refuses to attend.

In relation to the first and second matters, there is no difficulty at all. The Opposition thinks that there is common sense in requiring a court to fix the date of commencement of a particular period of imprisonment and related non-parole period so as to put those two matters beyond doubt. We think it is proper for the authorities to have power to

deduct from a prisoner's credits amounts necessary to repay a loan which may have been made for the purpose of purchasing some necessities (such as a television set). In relation to the opening by the prison officers of a postal vote by a prisoner, I only make the point—and it is really only technical—whether that embargo is sufficient or whether it should be a reference to a postal vote by a prisoner—not just to the Electoral Commissioner but to a Returning Officer.

I must confess that since the Bill came in, and because of the pressure with the Electoral Bill last week, I have not had a chance to check that out, but the Minister may care to give some consideration to it, because technically it may be that a postal vote, or a declaration vote as it is now to be called under the new Electoral Bill, is from memory to be forwarded to the Returning Officer. So, there are really two points there: one is whether 'postal vote' is an adequate description of the vote, and the other is whether reference to the Electoral Commissioner is technically correct.

In relation to the fourth objective of the Bill, the Opposition recognises that it may not be appropriate to have a prison property officer on duty at all times of day and night where prisoners may be released after the normal working hours, and we can see that, although a prisoner may be put to some inconvenience to return to collect his or her property after release, nevertheless that is outweighed by the desirability of releasing a prisoner at perhaps a time other than normal working hours.

In relation to the fifth objective, the only point I make is in respect of the general principle. The second reading explanation indicates that the Government seeks to refer all matters which involve a breach of Statute to magistrates rather than to the Visiting Tribunal, so that, in accordance with the practice which I now understand applies within the prison system, a prisoner probably will not lose days remitted for good behaviour if another offence is committed. To that extent, it is no longer necessary for a Visiting Tribunal to have before it the prisoner and for the prisoner to be legally represented if adequate notice has been given by the Tribunal to the prisoner. I can understand some difficulties there. I do not agree that there should be no loss of remission for poor behaviour, but that is the way in which the Government is dealing with it at the present time, and to that extent the Bill is consistent with that practice.

So, no matters in the Bill are of significance. The Opposition continues to criticise the Government obviously in relation to its own record of conduct within the prison portfolio. However, we will reserve our major criticism of this for other opportunities on more significant occasions than dealing with a rats and mice Bill such as this. I support the second reading.

The Hon. FRANK BLEVINS (Minister of Correctional Services): I thank the Hon. Trevor Griffin for his support of the second reading. I agree with his description: it is a rats and mice Bill before there is a clean reprint of the Act. It contains items that have some importance but certainly not of the importance that would warrant a full scale debate on the differing philosophies that the Parties have regarding correctional services.

Certainly, the point that the Hon. Trevor Griffin made about the technicalities of the clause relating to the non-opening of postal votes is very valid. I will take that up with the State Electoral Commissioner and seek his views on it. I can assure the Council that before the next State election, if this is found to be technically inadequate—

The Hon. K.T. Griffin interjecting:

The Hon. FRANK BLEVINS: I will check it out in the morning—then we will certainly do something about it in the House of Assembly.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: I take this opportunity to ask the Minister when it is proposed to bring the whole of the Correctional Services Act into operation. As I recollect, the Act was passed in 1982—about three years ago. We have now had some three Bills to tidy up aspects of the Act as well as to make major changes, with which the Opposition did not agree, particularly in relation to parole, conditional release and other matters of substance. It concerns me that we are still operating essentially under the Prisons Act, and I wonder whether the Minister can give an indication as to when the whole of the Act is likely to be brought into operation.

The Hon. FRANK BLEVINS: I can tell the honourable member precisely: it will be as soon as it is practicable to do so. Whilst it is true to say that the Bill was passed in 1982 and that we are working under the Prisons Act, that really is not presenting any difficulties whatsoever. The Prisons Act has been amended also while the various amendments to the Correctional Services Act have been put through Parliament. I think that we are now within a matter of weeks of the Correctional Services Act being proclaimed.

However, it is a brave Minister of Correctional Services who says that, because I have said that on a number of occasions only to be confronted with opinions from various bodies that to proclaim the Act in its present form would create more difficulties than it solved, and that before amendments were made it could not be proclaimed. I think I have been told that on three occasions. I am hoping that it is three times lucky and that now the Bill and the regulations are in such shape as to enable proclamation without creating any problems. I point out again that working under the Prisons Act, as amended, is not really creating any difficulties, although I will be delighted when the Correctional Services Act is proclaimed, which will occur as soon as it is practicable to do so and which I hope will be within a matter of a very few weeks.

Clause passed.

Remaining clauses (3 to 8), schedule and title passed.

Bill read a third time and passed.

POTATO MARKETING ACT AMENDMENT BILL

Adjourned debate on second reading

(Continued from 8 May. Page 3961.)

The Hon. K.T. GRIFFIN: This Bill seeks to make significant changes to the structure of potato marketing in South Australia. Whilst it puts a sunset clause on the operations of the Act for another two years, it effectively removes the penal powers, which will have the consequence of emasculating the operation of the marketing scheme established by the legislation.

The Potato Board was established in 1948 as a result of the operation of a war-time measure to regulate the growing and availability of potatoes. In 1948 the State Government, after representations from the potato industry, was persuaded to enact the principal Act which is now the subject of this amending Bill. Prior to that, under the war-time Commonwealth national security regulations, there had been an effective mechanism for regulation of the industry. The Act was brought into effect after a poll of potato growers. It is interesting to note in section 2 of the principal Act that the Act came into operation when declared to do so by proclamation by the Governor, but that a proclamation was not to be made unless a poll had first been held on the question

of whether the Act should be brought into operation and a majority of the total number of persons who voted at the poll should have voted in the affirmative.

The legislation was enacted by the State Parliament at the request of the potato industry and was brought into effect after a poll of the industry and a majority of the industry had supported its establishment. That was in 1948. Some 37 years later, after an orderly marketing scheme had been in operation for that 37 years, this Bill is before us to effectively abolish that scheme.

It is abolished without a poll of potato growers being held and after a report from a working party where a majority supported the continuation of the Board and the orderly marketing scheme in one form or another. I will deal with that in a little more detail later. Under section 25 of the principal Act it is interesting to note that a scheme is set out as follows:

(1) In the year 1951, and in any third year thereafter, not less than one hundred growers registered under this Act may present a petition to the Minister asking that a poll shall be taken to decide whether this Act shall continue in operation.

Subsection (2) provides:

If such a petition is received a poll shall be held not later than the thirty-first of July in the year following the year in which the petition is presented, on the question whether this Act shall continue in operation after the thirtieth day of September following the holding of the poll.

Subsection (3) provides that the Returning Officer for the State—and that would obviously be the Electoral Commissioner—is to conduct every such poll and, subject to the regulations, every registered grower was to be entitled to one vote at the poll. The poll was to be conducted by postal voting. Subsection (6) provides:

If a majority of the total number of registered growers who vote at the poll, vote against the continuance of this Act, then this Act shall have no operation as regards any potatoes sold on or after the first day of October following the holding of the poll.

Subsection (7) provides:

Subject to this Act and the regulations, the poll shall be conducted in such manner as the Returning Officer for the State deems proper.

There is a mechanism within the principal Act for the conduct of a poll at the request of not less than 100 growers as to whether or not the marketing scheme ought to continue in operation. If a majority of the growers vote in favour of the termination of the scheme, then that will follow at the date specified in the section.

The scheme came into operation as a result of a poll of growers and there is provision for it to be terminated by a poll of growers, yet we have in the Bill a provision for abolition without a requirement for that poll. There is no doubt that the Parliament, being sovereign, is entitled to do that if it so wishes, but I suggest to the Council that that is really contrary to the spirit of the scheme. Even if there were provision for a poll without necessarily requiring a minimum of 100 growers to request it, it would be preferable to the abolition by the stroke of the legislative pen proposed by this Bill.

The working party to review the Potato Marketing Act supported by a majority the continuation of the Potato Marketing Board and a system of orderly marketing in one form or another. The Minister established that working party in July 1984. It comprised a number of members representing different interest groups. From the Potato Board was the Chairman, Mr Muir; and the Manager, Mr Bannister. The Combined Potato Industry Committee representatives were Mr J. Mundy, Mr R. McDonald, Mr B. Nicol, and Mr K. Martin. From the Department of Agriculture were Mr Webber, the Chief Regional Officer; and Mr Lewis, the Senior District Officer. Another member was a person under the title of marketing specialist, Mr G. Keen of Keen Brothers Pty Limited.

There has been some criticism that the Chairman of the Board and the manager were members of the working party to review the operation of the Potato Marketing Act. I can understand that criticism in the sense that those two persons would have a particular interest in seeing the continuation of the orderly marketing scheme in some form or another. As it turned out, they had differing points of view as to the way it should continue. Nevertheless, there was criticism that they had a vested interest. I suppose though the same could be said of the so-called marketing specialist, Mr Keen, of Keen Brothers Pty Ltd, who is a noted supporter for abolition of the Board, and from the Combined Potato Industry Committee there were those who obviously had publicly known and differing points of view and had vested interests in the way in which the working party would finally report.

I do not think that one can level any criticism at any of the individuals for being members of the working party and having their vested interests. After all, they were invited to participate by the Minister, who in fact established that working party. The terms of the working party were as follows:

Having regard to the recommendations of the South Australian Ombudsman's Report of January 1984:

1 Review the current arrangements for the marketing of South Australian potatoes and provide recommendations for future strategies and corporate planning;

2. Review the Potato Marketing Act, 1948 and recommend any necessary amendments relating to:

- the composition and size of the Board,
- permanency of its marketing operations,
- provision for a promotional and advertising council,
- Any additional or clearer definitions that may be required, and
- provisions for holding growers polls.

They were the terms of reference and, as a result, a report has been presented to the Minister.

The Ombudsman's Report of January 1984 was a reference to an investigation by the then Ombudsman in respect of the marketing of potatoes and deficits in the unwashed whites and red pools by the Potato Board of South Australia during January and February 1982.

As I understand it, there were complaints to the Ombudsman that in 1981 there had been a situation in which in a minor way there were overpayments and there was a small deficit. The Ombudsman himself, as was his wont, made his own recommendations about the way in which the Potato Marketing Scheme ought to be structured. The report indicates that the Ombudsman observed:

The lack of adequate planning could be associated with the fact that the Board exists on a three-year tenure.

According to the report, the Ombudsman then proposed a structure as follows:

(1) Total membership of the Board could be retained at nine, with an independent Chairman, appointed by the Governor in Executive Council.

(2) Grower representation could be reduced to four (from five).

(3) Merchant representation could be reduced to 1 (from 2).

(4) Retailers should retain one representative.

(5) A new member representing the consumers should be included in a reconstituted Board.

(6) A full-time executive member with extensive experience in administration and marketing should be appointed permanently to provide the Board with vital continuity and give staff a strong position in dealing with grower pressures in marketing.

(7) The Potato Marketing Act be amended so that the Board concept becomes permanent by removing the provisions for the holding of polls of growers.

So, the Ombudsman had a viewpoint as to the retention of the marketing scheme and the Board, but in a structure that was, according to his recommendation, to be varied to give

additional representation to consumers and greater professionalism in its administration.

The report of the working party was released last week, as I understand it, when this Bill was introduced. There really has been no opportunity for consideration of the recommendations by the industry, and the Bill does not reflect even the recommendations made by a majority of the working party. There has been some criticism of the recommendations in that those who comprise the majority have some vested interest in it. However, I mention once again that, after all, the working party was established by the Minister for the purpose of reviewing the Potato Marketing Act, knowing of those vested interests.

When it was being established by the Minister, according to one item of correspondence, the Minister said in a letter to Mr Mundy of the Combined Potato Industry Committee in April 1984:

I share your desire to see early resolution of the complexities facing the potato industry. However, I expect that it will take up to six months to review and report on the Potato Marketing Act, and after a period of consideration by the parties and preparation of legislation the amendments are unlikely to be ready earlier than for the Budget session of Parliament in September 1985.

I repeat that there has been no opportunity for those who are vitally concerned in the industry to address the recommendations of the working party and the Bill that has been introduced. That means that the opportunity for reasoned and rational debate has not been available to those persons nor to the community at large. Instead, the Bill has been rushed into the Parliament and is to be passed without such consultation. The recommendations of the working party are numerous. In relation to statutory marketing recommendation 1 states:

That, in view of the working party being unable to reach agreement on this basic issue, it was decided by a majority of five to three that the following position be adopted:

1. That statutory marketing of potatoes be retained at this stage subject to—

2. Fine tuning of the various critical areas of the present system to the satisfaction of a majority of the working party.

There was also a recommendation that the Board should adopt certain corporate objectives, as follows:

1. To market the South Australian potato crop and assist in the development of exports or other contractual arrangements outside South Australia.

2. To maintain for South Australian consumers adequate supplies of good quality potatoes at prices that reflect prevailing market forces.

3. To return to growers the best possible price commensurate with the quality delivered.

4. To administer the Act whilst simultaneously creating and promoting an environment wherein all reasonable commercial opportunities may be taken. In this regard the Board shall ensure that in matters of licensing all relevant factors are taken into consideration; establish such committees as are necessary; conduct any liaison with individuals and Governments for the maintenance of that environment; and generally act as a forum for the presentation and resolution of industry viewpoints.

5. To actively promote the sale of potatoes using funds contributed by growers, retailers or others.

Recommendation 5 is as follows:

That the present provisions for the conduct of growers polls pursuant to section 25 of the Act be amended to prescribe that—

- such polls may be conducted every fifth year on presentation to the Minister of a petition by 40 per cent of the growers registered under the Act;
- voting at these be compulsory for all registered potato growers and, if 51 per cent of all registered growers vote against continuance of the Act, it shall have no operation as regards any potatoes sold after the prescribed day;
- the restrictions on the casting of more than one vote at elections under section 7 of the Act also should apply at polls under section 25.

Recommendation 7 deals with public accountability, as follows:

The Act be modified to require increased public accountability by the Board for its actions and performance. Mechanisms need to be developed to ensure information is provided so that informed judgments can be made about the Board. This could include annual reports (including a financial audit), regular public meetings, triennial management audits and having a senior Department of Agriculture officer oversighting the Board's operations. In the context of management audits the working party wishes it to be clearly understood that these should not incur significant additional costs to the budget of the Potato Board.

They are the recommendations and, without any consultation with the industry at large in respect of them and other recommendations of the working party, we now have this Bill.

In fact, there are complaints about the Board and about the question of accountability and the conduct of its business, but that does not seem to the Opposition to be a sufficient basis upon which precipitate action should be taken to abolish the Board within a matter of two years.

Of course, there is acknowledged to be disagreement within the industry as to whether or not the Board and the consequent marketing scheme should be retained. As I understand it, the majority of growers in the South-East appear to be of the view that it should be abolished, whilst elsewhere there seems to be a majority view that it should be retained. Also, there are conflicting views about whether or not the Board has been able to ensure consistent quality of product and whether or not the best price has been available to growers and consumers, and there have been questions about accountability and marketing.

Generally it is acknowledged that the promotion of the Board has been adequate, that growers have achieved some stability in returns, and there has been some stability of supply. There has been no price fixing by the Board. People in the industry have long enough memories (certainly, it is before my time) and tell me that before the establishment of the marketing scheme there was some chaos in the potato growing and marketing industry and that one of the things they fear is that that may return if the orderly marketing scheme is abolished.

Various predictions have been made as to what may happen when the penalty provisions of this Bill are essentially emasculated and the Board continues for two years. On the one hand, it is suggested that there should be some special terms and conditions laid down on the use of the funds and assets of the Board which have been accumulated over a long period. On the other hand, others in the industry believe that, because of the removal of the penalty provisions and the ultimate abolition of the Board, the small grower particularly will be at the mercy of merchants and major retailers, and that a significant number of the smaller growers will be forced out of business, not on the basis of efficiency or lack of it, but on the basis of exploitation of those smaller growers by the major retailers and merchants, allowing monopolies to develop.

That will not necessarily mean either cheaper prices or better quality. The point needs to be made about monopolies that on both sides of the political fence there is a general caution and, in some respects, an aversion to monopolies, recognising that they are not operating in a free market situation but that they, in fact, dominate the market place. Of course, that is one of the reasons for a Trade Practices Act at the Federal level seeking to ensure that there is appropriate competition and that monopolies are, in many respects, accountable.

In many instances they use their crude power to wipe out the smaller operators. However, there is a need to ensure that small and efficient businesses are protected. That applies not just to the potato industry but also to a whole range of small business activities. They have to be competitive and efficient, but at least in the retail sector—and I know I am digressing—one of the major problems is the substantial penalty rates, which they can ill afford to pay, but they

must ensure that their business is open at hours sufficient to compete with the larger businesses.

However, in respect of small businesses in the potato industry concern has been expressed to the Opposition that, as a result of the abolition of the Board, there will be much greater pressure on the small grower and that over the next three to five years a substantial number of small growers will be forced out of business. It is interesting to note in that context and while talking about the large retailers that it is the practice of one supermarket chain to pay within 60 days and not seven days. If you do not like it, you can take your goods off the shelf. However, I understand that co-operatives and boards with substantial market muscle are able at least to put greater pressure on some of the larger retailers to ensure that they are not held to ransom by that sort of attitude. If in fact the Board is abolished, and I suspect that the numbers will be with the Government on this issue—

The Hon. C.J. Sumner: You don't support abolition?

The Hon. K.T. GRIFFIN: I will come to that in a minute—then quite obviously the potato growers, in particular, will need to take advantage of co-operatives legislation and seek every available opportunity to combine their activities on a marketing front to ensure that they do have adequate marketing muscle.

One of the other concerns voiced by the rural sector is that abolition of the potato marketing system will be a threat to other orderly marketing schemes, such as in relation to wool, wheat and barley marketing, and so on.

One has to recognise that there are occasions where orderly marketing schemes are necessary to ensure that that sort of market muscle which monopolies and the big operators can exercise is not used to the disadvantage inequitably of the small producer. It is always a difficult area and it is always easy to say that there should not be any sort of orderly marketing scheme, but I think that orderly marketing schemes should be seen more in the context of a Trade Practices Act type of provision which encourages competition and ensures that the small producers are not left to the mercy of the weak.

Some will argue that if there is a marketing board for potatoes, why should there not be a board for onions, tomatoes and other vegetable produce, but one has to recognise that potato, in the dietary context, is a staple food, whereas tomatoes, onions and those other vegetables are not. I have had instances drawn to my attention where potatoes are the medical alternative to bread, milk and other sorts of food, so that they do play a very important part in the diet of many people.

The Opposition is concerned about the way in which this Bill has been brought in, with no consultation on the working party's recommendations, which are for retention of the scheme; there has been the precipitate introduction of a Bill ultimately to abolish the Board. There has been no consultation with the industry in respect of alternatives to the marketing scheme that is provided in the legislation. There was not an independent review of the system to asscertain whether there could be a more readily acceptable remedy to the problems in the industry.

Because of the way in which it has been handled—the Bill has been brought in without consultation and the Board is to be abolished without a growers' poll, contrary to the way in which the scheme was brought into operation in 1948 and contrary to section 25 of the Act, which already provides for a growers poll—

The Hon. C.J. Sumner: You are very conservative!

The Hon. K.T. GRIFFIN: I may be conservative, and I am proud of it. I will remain conservative, because I do not see the need to change on every issue for the sake of change. On many other issues I am a progressive, and I am pleased to be: that is part of my political philosophy and that of the Liberal Party. In the context of this Bill, it is the way in which it has been dealt with, the fact that it will leave a vacuum within the industry, and that there has been no consultation that prompts the Opposition to approach it with considerable caution and to indicate that on those grounds it is not prepared to support the Bill.

The Hon. M.B. CAMERON (Leader of the Opposition): This is an unusual situation, but I find myself at odds with the decision arrived at, as outlined by the Hon. Mr Griffin. The big mistake that was made in relation to the Potato Board was resurrecting it in 1949. It has not had a place since then, and it is a pity that we now have to decide its future here in this place. I remember quoting in the Council the words of the Hon. Mr Story, who spoke on the amendments that were brought in to bring in special penalties. I will quote them again so that honourable members will understand that really I am the conservative in this matter: I am not absolutely certain, but I think that I am the conservative. The Hon. Mr Story said:

> This legislation provides for orderly marketing, and I have always said that if you are going to make yourself a socialist, make a good job of it, and that is what this does. I support the Bill.

Despite what the Leader has said, I think that that tends to put the Hon. Mr Griffin more on the other side of the fence than I am. However, that is a matter—

The Hon. Peter Dunn: Are you saying that he is a socialist?

The Hon. M.B. CAMERON: That is what the Hon. Mr Story said at the time; I would not say it. The time has come for the potato industry to face up to the fact that it can sell its product without the need for penalties, restrictions and all the other things that go with this orderly marketing scheme called the Potato Board. The Potato Board has some strange, restrictive powers on potato growers in this State. The problem is that it cannot restrict potato growers in other States. Therefore, potatoes can be grown in any quantities anywhere and brought to this State and sold.

The Hon. Frank Blevins: If they are in the right size bag.

The Hon. M.B. CAMERON: I was just coming to that. The only restriction appears to be that recently—and this I gather was the trigger for what is occurring tonight—some fellow from Victoria deliberately sold potatoes in the wrong size bag. I have sympathy for the rebel, and I think that he has probably done the right thing. He has made us have another look at this industry.

South-East potato growers do not want to be interfered with in the way in which they sell their potatoes. The Board has tended to ignore people who are selling potatoes outside the Board; 14.5 per cent to 15 per cent of potatoes are sold outside the Board. That has been put into the too hard basket, and no action has been taken, except in relation to this poor sod who happened to sell potatoes in the wrong size bag.

I do not see that there will be the dire problem that has been predicted by people who have expressed opinions in the past few days on behalf of small growers. At last, the small growers will be able to sell to people who come to the paddock and ask to buy a bag of spuds. They will not be subject to the restrictions such as in section 20 (1), which provides:

> *(a)* fix the quantity of potatoes or the proportion of his crop of potatoes which a grower may sell or deliver at any time or place specified in the order and prohibit the sale or delivery of potatoes in contravention of that order;
>
> *(b)* prohibit either absolutely or except on such terms and conditions as the board thinks fit any person or class of persons from selling or delivering potatoes or any class of potatoes to any person or class of persons other than the board or class of persons nominated by the board;

(*b*1) prohibit either absolutely or except on such terms and conditions as the board thinks fit any person or class of persons from buying or taking delivery of potatoes or any class of potatoes from any person or class of persons other than the board or class of persons nominated by the board;

(*c*) regulate and control the sale and delivery of potatoes;

It goes on and on.

The Hon. R.I. Lucas: The fixed maximum and minimum prices.

The Hon. M.B. CAMERON: Yes, the fixed maximum and minimum prices; it goes on with everything to do with potatoes—who will wash them and that they will not get a licence to wash unless the Board considers that it is in the public interest. Honestly, it has got to the stage where those sorts of restrictions in modern society are redundant. Potato growers do not have this problem and need not fear the future. They can sell potatoes in the same way as onions, tomatoes, pumpkins, zucchinis, peas, beans, and other vegetables—in a reasonable way through normal outlets. I do not believe that they have the problems that they are talking about.

When the time comes, potato growers will find that other markets appear; that people want to go to the paddock and buy potatoes from them; that there could well be more room for the small grower because potatoes will be bought in bulk; and that more potatoes may be bought than have been bought in the past. Certainly, I have always found it objectionable that in the South-East when one goes past a paddock where people are digging potatoes and asks whether one can buy a bag, the reply has been that it is prohibited because the Board inspector might be on the road watching. In the past, Board inspectors have been up in the Hills chasing people at midnight on trucks trying to ascertain whether they are delivering potatoes illegally to some merchant in town.

The Hon. Frank Blevins: And the reverse onus of proof.

The Hon. M.B. CAMERON: Yes, and the reverse onus of proof applies. One has to prove that one was not doing it. It really has got past a joke.

The Hon. C.J. Sumner: What is so special about spuds?

The Hon. M.B. CAMERON: Precisely. I do not think there is anything. I think that spuds are at the same level as every other vegetable.

The Hon. C.J. Sumner: The Hon. Mr Griffin does apparently.

The Hon. M.B. CAMERON: Well, every member is entitled to his views, and let me assure you that very strong views have been put by people who fear the future because they have been under the shelter shed since the beginning of the war. They have never had to face up to the problems of their own marketing, and they will not find it so bad once they actually do it. They will find that it is quite reasonable and that it can be done. They will not find that it is such a fearful process. In fact, they may find that there is an advantage. Some small concerns will be raised in Committee, and they will be associated with the assets of the board and the board will go for the next two years.

I want to make it absolutely plain that there is nothing new in my attitude in relation to this measure. I have always believed that the Potato Board was a potentially redundant institution in this State, and I have not changed my view. I will support the Bill, because I believe that the sort of restrictions that are being placed on potato growers in this State are not justified. There is only one other board in Australia, namely, that in Western Australia. I wonder what the poor old spuds do in Queensland, New South Wales, Victoria and Tasmania. How do they live with themselves without this protection? Heavens above, they must have a dreadful life. I think we ought to allow the industry to grow up and face up to the modern forces of the market place. The potato growers will find that it is not such a fearful experience as they are all saying it will be.

The Hon. I. GILFILLAN: I think that there are reasons why certain sectors of primary industry need and lean on orderly marketing. Lots of sectors have envied those which have had orderly marketing. It is unfortunate that this particular situation appears. I say 'appears' because I certainly have not had a chance to look at the working party's report, nor have I had the time to study the situation adequately to have confidence in this. However, it appears as if the Potato Board has certainly gone off the rails in certain aspects and that there are unfortunate consequences of the way in which it has been exercising its responsibility and authority.

However, I feel that there are very good reasons why the Bill has a two year sunset clause. I hope that the Minister will express, if he has not done so already (I do not know whether he did in his second reading explanation) an opinion on whether, if there is a massive show of support and enthusiasm for the continuation of the Potato Board and for orderly marketing, before the sunset clause comes into effect, legislation could be drafted to give it a further life.

It is unfortunate that the timing of the Bill has meant that the South Australian Fruit and Vegetable Growers Association has been misled, as I understand it, into believing that there would be no legislation until August 1985 or later. This working party's report certainly has not had the attention that it should have had. I think I heard the Hon. Trevor Griffin say that there was no term of reference for penalties in there. The penalties aspect of the Bill causes me some concern. I am not sure that the penalties in the Bill, if they are just in monetary terms, will be a deterrent. In the Committee stage I will ask the Minister whether in fact he sees any advantage in reviewing the actual monetary level since the Bill removes any relationship in this respect to the value of the crop.

I do support that measure. I think it is quite unacceptable that the penalties should be directly related to the varying value of a crop, and I refer to the quite substantial amounts of money that could be involved in penalties for relatively minor offences.

We have had approaches from the Potato Board seeking our support in its continued role, and members of the Potato Board have assured us that they are fulfilling a very important part in providing stability and profitability for the potato industry. The UF&S General Secretary has distributed a paper in which he has extolled the virtues of orderly marketing, and Mr Greg Harris, from the Fruit and Vegetable Growers A· ociation, has also approached us urging us to keep the marketing board in place, saying that it was the envy of several other areas of his Association.

There are no two ways about it: the South-East Potato Growers Association (and maybe that is where some of the enthusiasm for South-East resident politicians comes from) does not mince its words. I want to read into *Hansard* a letter from the Secretary of the South-East Potato Growers Association Incorporated, dated 13 May, as follows:

Dear Mr Gilfillan,

On behalf of the Association's President, Kent Martin, I wish to pass on to you the decisions of the executive committee meeting of the Association held yesterday with Mr Allison, MP.

1. The Association would like the sunset clause as proposed in Mr Blevins's Bill, re the Potato Board, to be shortened to be 'as soon as possible', but we will compromise and settle for 30 June 1986. The Association is very concerned that the assets of the Board may be frittered away.

2. The Association wishes it written into the Act that the assets are to remain in the industry, for the benefit of growers as they originally provided the assets, and that the Minister must consult with the industry as to exactly where the assets are to be placed.

Yours sincerely, John Kirby, Secretary.

I think that the numbers are substantially in favour of the Bill. I have had no indication of amendments that may be coming forward. There may be a little exploratory work on penalties. It will be very unfortunate if this Council treats the sunset clause as purely an extended death sentence. I think that it is unfair of the Minister if in fact he is really only drawing out a time span with absolutely no intention of reviewing the situation as it may evolve over two years.

The Hon. Frank Blevins interjecting:

The Hon. I. GILFILLAN: I remind the Minister that I am not criticising: I am actually hoping that this is the case, and the Minister's interjection gives me confidence that it is.

Members interjecting:

The Hon. I. GILFILLAN: Even so, the Democrats and Labor in opposition can wield an enormous amount of influence.

Members interjecting:

The ACTING PRESIDENT (The Hon. C.M. Hill): Order!

The Hon. I. GILFILLAN: Obviously, too much potato has been eaten at dinner-time, as there is far too much wind around. I indicate the Democrats support for the second reading and we will be looking sympathetically at what transpires within the next two years. The Democrats hope that there will be a genuine poll of growers and an indication that a serious attempt will be made to put the house in order. As far as the Democrats are concerned, at this stage the sunset clause is just a reconsideration stage and definitely not a signed, sealed and delivered termination of the Potato Board. I indicate that we support the second reading of the Bill and we look forward to discussion on the matter of penalties in particular and to some assurances from the Minister, either in his summing up or the Committee stage, as to his real intentions in relation to the Potato Board.

The Hon. PETER DUNN: This Minister moves with the speed of light. It seems only a week or so ago that he was in this Council explaining in a Ministerial statement that he was relieving one Victorian merchant of penalties and fines that had been imposed on him and saying that the Government had picked them up. Now, a short time later, we are seeing a very drastic change to the Potato Marketing Board—so drastic that it signs the death knell of that organisation. The trouble at the moment, and the biggest problem with this Bill, is the speed with which this action has been taken. It could have been slowed down, thus giving smaller growers a chance to gather their thoughts.

Everything one grows takes time, and it takes sometimes 12 months or two years to programme oneself to supply a market. What the Minister is doing here is saying to these growers, 'Tomorrow you will stop'. The effect of the Bill, by cutting out penalties, is to neuter whatever powers the Board has. I admit that those powers were limited, anyway, when one looks at what could come in across the border. Orderly marketing for big crops and for marketing overseas and where one is marketing against strong competitors is possibly an effective way of getting the best return for the producer. In many cases that evens out prices to consumers.

However, statutory marketing may be different in the case of potatoes. The Potato Board, with a small output of 80 000 tonnes a year in South Australia, probably does not generate a large enough revenue to make it fully effective as a statutory organisation. There are five areas of South Australia where potatoes are grown. There are widely spread, from Virginia to the border in the South-East, and so it is difficult under this system to organise growers on a collective basis. Therefore, since 1948 the Potato Board has been able to keep together a group of farmers, who are a real polyglot of producers.

These producers come from a range of ethnic groups. They are people from different backgrounds: some have moved from broad acres into vegetable growing, and some have moved from other vegetable industries into the potato industry, so the growers have varying outlooks on this industry. The Potato Board has kept them together during this period. The very good reason for its being able to do that was that it was able to collect moneys from them to put to good use. I understand that 80 cents per tonne of potatoes grown in this state was channelled into research.

Also, a sum of about $2.70 per tonne is used for promotion, and I think that is a very worthwhile scheme. Any foodstuff that has strong competitors from other States needs plenty of promotion, and the Board has been able to collect this money because it has been able to regulate the tonnage on to the market.

I believe that when the Board is disbanded (this appears to be so from what the Hon. Mr Gilfillan has said, and we are demonstrating liberalism at its best, because the Hon. Mr Cameron also believes so) it will be very difficult for this group to collect that money. I do not think that one can possibly envisage passing the hat around to collect money from each individual grower. I think there will be severe difficulty in doing that, so I envisage that promotion will drop away markedly, as will research. The Department of Agriculture, which is administered by the Minister, is demanding dollar for dollar for research. Whatever industry it is in—

The Hon. Frank Blevins: They request dollar for dollar.

The Hon. PETER DUNN: Yes, it requests dollar for dollar, as the Minister correctly pointed out. But, to get full value, it would like dollar for dollar to promote research policies. Research is very important today. Possibly up until about 10 years ago there would have been one potato on the market, and that was it. However, following the diversification of the industry into chips, the washed potato, and the newer varieties with thin skins that can be cooked in their jackets (for example, the Pontiac) we have seen a great variety enter the market. That is due to research and, although not all of it has occurred in South Australia, no doubt a lot of the increase in production and the varying types of potato has been due to research that has been carried out in this State. That research will be difficult to maintain, because the Board will find it difficult to collect that money. I am not saying that it cannot in the future set up in a co-operative or a Board under its own management, but I believe that problems will be involved with that. The Hon. Mr Griffin has laid down, in very exacting terms, what has happened to the Board. The working party and the Ombudsman have looked at it, and each one has come down with conflicting reports.

The Hon. C.J. Sumner interjecting:

The Hon. PETER DUNN: As well as he could look at it. I dare say that his was another opinion. He did look at it and formed an opinion. I return to the problem of collecting funds for research and promotion because, regardless of all those reports, this money will disappear and dry up. I believe South Australia is the highest consumer of potatoes in the Commonwealth. That indicates to me that the promotion process has been very successful in South Australia. The Potato Board, to its credit, must be given recognition for that, because it obviously has us growing more and more potatoes. Indeed, I can see evidence of that when I look around this Chamber.

The problems are compounded in this State. If we have a look at what is happening in the irrigated areas on the Murray River and on the other tributaries of that river, particularly in the Griffith area, we see potato growers growing up to 750 hectares of potatoes. The South Australian average is only 10 to 12 hectares. That puts us in the very small league of potato growers. I know there are larger ones than that, but there are also some smaller. I have been given

information that that is about the average size of potato growers' holdings, particularly in the northern part of the State.

Land values in that area around Griffith are considerably cheaper than they are here. I understand that their cost of water is also much cheaper, so they have a big advantage over growers in this State. However, I believe that growers in this State will have an advantage—

The Hon. Frank Blevins: They can send them in now.

The Hon. PETER DUNN: Yes, I appreciate that they can send them in now, and they have been doing so. They have also been used as competitors when the bigger retailers have been negotiating prices. They go to those areas where there is a surplus of potatoes, ask the price for a particular week and then go back to the Board or an individual and negotiate a price. The Board has kept its end up by competing successfully with them on the basis of quality. I must say that the potatoes one obtains today are superb; very rarely does one obtain a bag of potatoes with two-thirds of them covered with shoots and eyes. Potato growers have lifted their game and the potato we receive today is very good.

Potatoes that come on to the market can be regulated by bringing on potatoes starting in the north of the State and gradually moving south. There is a long period when we get nice fresh washed potatoes. I do not see that changing, because the physical features of South Australia provide an advantage. However, I believe there will be problems for smaller growers when the larger growers in central New South Wales start getting the flush of their harvest. They take as many potatoes as they can to the Sydney market, and when prices start to drop there I anticipate that they will bring their potatoes on to our market in greater loads than they are doing now, even though we are competing with them very successfully on a quality basis.

Housewives will buy a poorer quality potato if they can get it more cheaply. Potato growers in New South Wales have the advantage of being quite large, and they have cheaper soils and cheaper water. They will bring their potatoes on to our market to get rid of them at a cheaper price, thereby ruining some of the smaller growers. I am asking the Minister to delay some of this slightly—not knock it out completely—to allow smaller growers to adjust. I will ask many questions about that in the Committee stage. They can still bring in these potatoes in bulk or in the correct sized packs, as opposed to the merchant who brought them in from Victoria.

The Minister has been very heavy-handed in his handling of this Bill. I think he could have given the Board more time to advise and tell the growers that they would have to adjust their production for the market. Many growers have now purchased their seed for summer sowing in November and December. Some areas are finishing harvest and others are in full swing. We are now seeing that they have their seed and therefore they have spent a considerable sum of money to purchase it only to realise that, if they are to adjust their production to match the market, it is a bit of a hit and miss affair at the moment. I suggest to the Minister that perhaps, had we left the penalties on until about the end of November, that would have allowed smaller producers to change to another crop, if they believe they will be affected by the loss of the Board. Much of this is because, as the Hon. Mr Cameron mentioned, they have been under the umbrella of the Board, which has wet-nursed them during that period.

I think that the people concerned should change their mental attitude. They may say that the old potato is not the profit maker it has been in the past and that they will shift into something else. We are not giving them any opportunity to do that. We are saying that, as from the day the Bill is proclaimed, there are no penalties; there are fines but they are minimal, and if anyone wishes to break into that area and bypass the Board they can do so quite easily—have no fear: some retailers will do that, and do it quite openly. The small producer will be the butt of this legislation, but his fears could have been allayed slightly had the Minister left the demolition of the Board until about November when we have an in-between season for potato growing.

I understand the growing of wheat, and it is the same as someone saying to me on about 30 October, when my crop is ready to reap, 'Sorry mate, we have no market—bad luck'. That would be brutal. If I had known that in April or May I would not have sown that much wheat but changed it to barley, oats or some other product. I am suggesting to the Minister that he could delay until that break in the potato harvesting season.

The Hon. R.I. LUCAS: I welcome the support of the Minister of Agriculture for my addressing the ramifications of this important legislation. As an old Mount Gambier boy, I could not let the opportunity pass to comment on this Bill. As the Hon. Mr Cameron indicated earlier, the South-East is an important potato growing area in South Australia. From information supplied to me by the efficient shadow Minister of Agriculture I am told that 78 out of 319 registered growers in South Australia are from the South-East—some 25 per cent. They provide approximately (I seem to get different figures from different sources) some 37 per cent of the total product in South Australia, according to the shadow Minister.

Being aware of the possibly different views of South-East growers, I obviously needed to consult people such as the Hons Harold Allison and Martin Cameron—people well versed in the problems of potato growers in the South-East. I also received a submission from the South-East Potato Growers Association, and I want to refer briefly to that submission. That Association indicated that during a recent survey of its grower members, 70 per cent of whom returned the survey sheets, 90 per cent stated that they were not in favour of the Board's marketing their crop and felt confident that they could market their own crop. That is quite a stark figure, showing how many did not want the South Australian Potato Board to market their crop, as they felt that they could do better marketing their own crop. Further on in the submission, signed by Kent Martin, President of the Association, it is stated:

> We believe that for the long term good a free market situation would be in the best interests of the industry. Growers marketing on their own initiative would be encouraged to:
> 1. be more cost efficient;
> 2. rationalise supplies; and
> 3. provide a range of products as required by the trade.

It further states:

> As we observe in the demise of the Tasmanian authority, and the enormous pressures facing the Western Australian Board, statutory marketing authorities are comfortable and reliable, but with a perishable article in the State system find it difficult to be competitive.

Kent Martin is obviously distinguishing between boards such as the Potato Board and national authorities such as the Wheat Board. He goes on to say:

> The CER agreement and the increased production in Tasmania due to freight equalisation is placing our markets under further siege and only the strong efficient growers with as few restrictions as possible will survive in this State.

Clearly, the view that Kent Martin and the South-East potato growers are putting is that, even with the South Australian Potato Board, we are going to be in a pretty competitive situation with respect to the dumping of products from either New Zealand or interstate. As I indicated earlier and as agreed to by the Minister, there is nothing under the present legislation to prevent the sale of potatoes from

interstate or possibly New Zealand on the South Australian market.

The South Australian potato industry will have to compete with interstate and possibly international producers even if the present Board were to continue in existence. I liken it to the situation applying when we debate tariff protection. It is a matter that I would like to take up with the Minister. We have the situation—

The Hon. C.J. Sumner: Do you support high tariffs?

The Hon. R.I. LUCAS: No. We have people like the Minister and the Attorney defending high tariffs on the basis that they will protect jobs in manufacturing industry, for example. However, with the most highly protected manufacturing industry, such as cars or clothing, over the past 10 years one finds that they have lost more employment than any other manufacturing industry base.

It is exactly the same situation with regard to the Board. The market situation with respect to interstate and international competition in South Australia will mean that, even with the restrictions of the present Board, small growers, if they are inefficient, will go to the wall and the bigger and more efficient producers will be the ones to survive. That is what ought to be happening with respect to whatever industry we are considering, in this case the potato industry, regarding which the Minister of Agriculture appears as an economic rationalist. Once we get into an industry closer to his own back yard, such as the steel or manufacturing industries, then suddenly the wet cloak or the rising damp cloak goes over the Minister and the Labor Party and we do not see economic rationality.

The Hon. C.J. Sumner: That's not very fair.

The Hon. R.I. LUCAS: It is very fair. Accusations of high tariffs can be directed to certain members of the Liberal Party as well. What I am saying can be directed to every member of the Australian Labor Party, including the Attorney and the Minister of Agriculture—

The Hon. C.J. Sumner: The Button plan involves much less protection than plans of conservative Governments up to that time. Furthermore, the deregulation of financial institutions—

The Hon. R.I. LUCAS: Madam Acting President—

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

The Hon. R.I. LUCAS: Thank you, Madam Acting President. I would be delighted to get into a debate with the Attorney-General and the Minister of Agriculture on economic rationality with regard to manufacturing industry. However, my point is that, as with manufacturing industry, with the high protection it had and the fact that it continued to lose jobs, so would have been the case with—

The Hon. C.J. Sumner: Mainly under conservative Governments.

The Hon. R.I. LUCAS: No. The greater number of jobs were lost between 1972 and 1975.

The Hon. C.J. Sumner: That was not due to protection: that was because of the 25 per cent.

The Hon. R.I. LUCAS: Not only that, when the Attorney-General's own Commonwealth colleagues were in power, but my point is that the same thing was going to happen to the South Australian potato industry. Even with the protection afforded by the South Australian Potato Board to the small growers, because of the cost advantages of some interstate growers (so eloquently outlined by the Hon. Peter Dunn), the simple situation is that, if someone can produce a product of the same or better quality more efficiently and more cheaply, it is rather hard to justify, in my view, that he ought not to be the one to be encouraged. Perhaps those growers who are not as efficient and who are producing a more costly product need to improve their situation, look at the cost advantages or economies of scale with respect to increasing acreages, or look at diversifying the products as well.

The Potato Marketing Act contains some quite onerous provisions, some of which the Hon. Martin Cameron has already referred to in relation to section 20. I do not wish to refer to those again, but I will refer to some other provisions of the Act. Section 18 provides that anyone who wants to grow a potato has to be registered by the Board. Section 19 provides that anyone who wants to carry on business as a wholesale potato merchant must be licensed.

The Hon. C.J. Sumner: It's not that everyone who wants to grow a potato has to be registered.

The Hon. R.I. LUCAS: It provides that a person shall not grow potatoes for sale or sell potatoes grown by him unless he is registered by the Board as a grower.

The Hon. C.J. Sumner: That's not everyone.

The Hon. R.I. LUCAS: If one wants to grow them for oneself, that is all right. If the Attorney-General wants to split hairs, I will agree with him. He is technically correct; he has found me out. Under section 19a, if anyone wants to carry on business as a potato washer he has to be duly licensed. All sorts of reasons can be offered for the Board's not agreeing to one being a potato washer, such as that it is not in the public interest.

The Hon. C.J. Sumner: Do you think you could get into that?

The Hon. R.I. LUCAS: I do not know: it does not sound like an overly skilled job. I do not see why the provision under section 19a that brings in public interest in relation to one being a potato washer needs to be a restrictive power of the Potato Board. A person is not allowed to be a potato packer unless he is duly licensed by the Board. Once again, if the Board decides that it is not in the public interest for a person to be a potato packer, that person cannot carry on the business of potato packing.

We are talking not only about growing: we are talking about regulation of the whole industry, from registration of growers right through to merchants, washers, packers and God knows what else. Section 21a I think is the reverse onus of proof provision to which the Minister referred earlier. I have certainly spoken against reverse onus of proof provisions in other Bills before the Parliament. On a quick look, it appears that that is the offending section. I was not previously aware of that, but now that I am, I am certainly opposed to that as well.

The Hon. Frank Blevins: The more you look at it?

The Hon. R.I. LUCAS: I did not like it in the first place, but the two other provisions—

The Hon. C.J. Sumner: You don't support reverse onus of proof anywhere.

The Hon. R.I. LUCAS: I did not say that: I said that I have opposed it on previous occasions. I think we have to make out a pretty powerful case. The onus of proof should be on the Minister or the Government, that is, to show why there should be a reverse onus of proof. Did that satisfy the Attorney?

The Hon. C.J. Sumner: Very good!

The Hon. R.I. LUCAS: I now refer to two other provisions in the Act. First, on a quick reading, once again there is no provision at all for an annual report to the Minister and then to Parliament. Some might argue that there are no taxpayers' funds involved, but, if one looks at section 16a, one sees that the Treasurer may, from time to time, execute a guarantee for the repayment of any sum being the whole or part of a loan made to the Board on the security of a mortgage or charge over the assets of the Board. There are other provisions under that section.

I do not know whether or not that provision has been exercised, but if we have given protection by Statute to the Potato Board the very least it owes us is an annual report of some description to the Minister and, through the Minister, to the Parliament. Finally, the provision that appeals

against the decisions of the Board should go to the Minister is one that certainly, with due respect to the present Minister, I would not support.

The Hon. C.J. Sumner: You would not support it? Why not?

The Hon. R.I. LUCAS: No. I am informed that there is such a provision in other legislation, particularly in the agriculture and fisheries area, but I had hoped that a better appeal mechanism rather than appeal to the Minister would be possible.

The Hon. C.J. Sumner: Why? What is wrong with an appeal to the Minister?

The Hon. R.I. LUCAS: If the Attorney-General goes back to the 1948 debates and sees the reason why the appeal to the Minister was put in, I do not think that he will take up the argument. I will not pursue that matter now, because I will be criticised for going on for too long.

The Hon. C.J. Sumner: You want to take policy out of the hands of the politicians and put it with the courts? Is that right?

The Hon. R.I. LUCAS: Bring him to order, Mr Acting President. I am trying to get through this as quickly as possible. The Attorney is making it extraordinarily difficult, because he is being unduly provocative. The important question that needs to be addressed is: why do we need a Potato Board when, for example, as the Hon. Mr Cameron pointed out, we do not have a tomato board, cauliflower board and so on.

An honourable member: A Brussels sprouts board?

The Hon. R.I. LUCAS: A Brussels sprouts board: honourable members can pick whatever they like. I do not accept the argument that there is any specific reason why the potato ought to be picked out from other vegetables and be given the protection of the Board.

The Hon. Peter Dunn: It is a staple diet.

The Hon. R.I. LUCAS: We have heard the argument about the staple diet. Also, some growers have argued that it is the biggest money earner of the vegetables, but neither of those arguments is unduly persuasive as to why the potato grower ought to be protected, yet the tomato grower ought not to be protected if that is the argument for a Potato Board. If the Potato Board is protecting the small growers and if that is the only way in which we can do that, surely we must immediately bring in a tomato board, other vegetable boards or whatever to protect all the growers in the vegetable industry against the vagaries of the Woolworths, the Coles, Associated Co-Operative Wholesalers and whoever else is screwing the small growers of tomatoes and so on.

I support the provisions in the Bill for, in effect, a two year delay in proceedings because that will give the industry, the Minister and everyone the opportunity to consider some options for the future. To that extent, I agree with the Hon. Ian Gilfillan. I have my own views, but I am not an expert in the area and do not profess to be. Certainly, one suggestion that has been put forward by the South-East potato growers—and I do not profess to be an advocate for it, but it should be raised as it has not been raised yet—

The Hon. Frank Blevins: It has some appeal.

The Hon. R.I. LUCAS: It is an option that needs to be looked at. The Minister says that it has some appeal, not necessarily endorsing it, and that is a suggestion from Kent Martin, who states:

> If the Act loses its marketing powers it should be re-vamped as a commission type body—

such as a potato commission—

> with minimal budget and staff to deal with industry such as:
> 1. Collection of levies.
> 2. Collection of statistics.
> 3. Educational promotion.
> 4. Research development.

The Hon. Frank Blevins interjecting:

The Hon. R.I. LUCAS: I am not sure. Kent Martin goes on:

> It could be funded by a number of means:
> 1. Revenue from accumulated assets.
> 2. Grower registration levy.
> 3. Levy at first transaction point.
>
> A body of this type should have wide industry backing as the present Board performs all of these functions with grower support. I cannot emphasise too strongly that if the present system is dismantled entirely—

I think that he means 'entirely immediately'—

> there would be no chance of reconstructing another body to perform these functions.

Another option is the system of industry structures that the Hon. Mr Cameron has talked about, such as co-operatives, in relation to the small seeds, and the apple and pear industries. I do not know whether he mentioned them in his speech today, but certainly he has mentioned them to me privately. The Hon. Mr Cameron is more expert in rural matters than I am and has argued that growers in the industry can meet many of their goals that they thought were being met by the Potato Board through the sorts of structures that exist in those two industries.

I am not in a position to say whether or not that is the case, but they are a couple of options that I hope will be considered by the Minister during the next two years before the Board finally, in its present form, dies. Obviously, there are many other options that his advisers and people from the industry will be able to put to him prior to a decision having to be taken. I do not often agree with the Minister of Agriculture. It is not often that he is seen as an economic rationalist. However, on this occasion, I give credit to him. I support the second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank members opposite for their contributions. The Hon. Mr Griffin said that the Opposition was opposed to this measure, but from subsequent speeches it was obvious that that was not 100 per cent accurate—some Opposition members were in favour of the Bill. I congratulate the Hon. Mr Griffin and the Hon. Mr Dunn for making the best out of a very bad job. It is not for me to question their sincerity, as they were doing a job for the people for whom they felt they had a responsibility. However, with the greatest of respect, they were totally unconvincing and certainly did not change my mind one iota.

I will deal briefly with the points raised by the Hon. Mr Griffin. The honourable member had either not read the Bill or did not understand it. That can be the only explanation for his view that the Potato Board is being abolished. Of course, it is not being abolished; it is not even being altered. What is happening is that, if the Parliament in two years time does not take some action, the Potato Board will then be abolished—if the Parliament so chooses. I see nothing terribly wrong in that. If the Potato Board cannot, in two years, justify to growers, consumers and the Parliament that it should exist, then I would argue that there is no reason for its existence. Perhaps that could be decided here today.

The Hon. Mr Griffin raised the question of the working party. I make no criticism of individual members of the working party—none whatsoever. I appointed them. If there is any criticism on the make-up of that working party, then that criticism falls on me, and I accept it. However, I point out that I am a very quick learner. I do make mistakes from time to time, but I learn from them very quickly and seldom make the same mistake twice. We are in this Bill inserting a sunset clause and removing these excessive fines that can be imposed on people for breaches of the Act. We are not removing all the penalties at all. For a first offence under this Act the penalty is $400, and for a subsequent

offence it is $600. It seems to me that if you are going to have—

An honourable member interjecting:

The Hon. FRANK BLEVINS: The maximum fine for a first offence is $400 and for a second or subsequent offence $600. We are removing the additional fine which can be levied and which is the value of the potatoes. It virtually involves confiscation of the potatoes, except that nobody physically wants to handle the things. So, they are fined the equivalent amount. About six or eight weeks ago an individual was fined in the region of $12 000 for having potatoes in a sack that was the wrong size. It was a 50 kg sack, rather than a 67 kg sack, or vice versa. I do not know, and I do not think it matters two hoots what size the sack was, as long as there was no general misrepresentation. Whatever size the sack was, that was printed on the outside.

The Hon. Peter Dunn: I understand that it was the Transport Workers Union that negotiated for the 50 kg bag.

The Hon. FRANK BLEVINS: I am not particularly interested in who negotiated it. That is not the point. I think it is absurd that somebody should get fined in the order of $12 000 for having a potato in a particular size bag. We are removing that and ensuring that it comes before the Parliament in two years. That is all that this Bill does. If the result of this Bill is that potato growers feel that the Board is no longer worthy of support and they act outside the Board's jurisdiction, there is another clear demonstration that the Board is not wanted. It really is in the hands of growers.

Some reference was also made to the Ombudsman. I read the Ombudsman's report on this. I cannot pretend that I understood every word of it, and I challenge anyone who reads it to do so. The Hon. Peter Dunn indicates that he did not, either, so I am in very good company. The Hon. Mr Griffin is sitting there very quietly not indicating at all whether he understood it.

The Hon. C.J. Sumner: And the Hon. Mr Lucas doesn't think he should have been investigating it anyway.

The Hon. FRANK BLEVINS: I just wonder what the former Ombudsman's attitude would be, now that he is a de-regulation guru.

The Hon. M.B. Cameron: And whether he's changed his views.

The Hon. FRANK BLEVINS: Yes. It will be interesting to find out. I am sure that Mr Bakewell will be only too delighted to tell us in a very entertaining manner. The question of monopolies also came up from the Hon. Mr Griffin. I could not quite work out what he was on about. He was castigating monopolies for all the dreadful things they do, yet what we are talking about is a monopoly on the potatoes. We are trying to ensure that, if there is to be a monopoly on the growing and marketing of potatoes, it acts in the public interest.

The Hon. K.T. Griffin: Coles and Woolies.

The Hon. FRANK BLEVINS: The Hon. Mr Griffin says that he was frightened of the monopolies of Coles and Woolies.

The Hon. K.T. Griffin: I didn't say that.

The Hon. FRANK BLEVINS: Well, that is what he was saying.

The Hon. C.J. Sumner: I just heard it.

The Hon. FRANK BLEVINS: That is exactly what he said. He said that these retailers were going to bash the potato growers and their monopolies and the Trade Practices Commission was there to bash them in turn. So, there are monopolies you like and monopolies you do not like. Apparently the Hon. Mr Griffin likes the monopoly of the Potato Board but he does not like the monopoly of these very competitive retailers, with very small margins. I am not exactly sure what the Hon. Mr Griffin's position is, except I concede that he had a very difficult job to do.

I think he was serious about raising the question that, by putting these amendments to the Potato Marketing Act, we were in some way threatening the orderly marketing of wheat, wool and barley, to name just three. I remind the Hon. Mr Griffin that it was a Labor Government that brought in these stabilisation schemes and the orderly marketing of wheat and wool, and that there was a great deal of protest from the Party that he represents in this place against these socialistic measures. Now, all of a sudden, he is a great defender of these socialistic measures. Again, the inconsistency in Mr Griffin's speech was quite staggering. However, as I am a charitable person, I concede that he had a very difficult job to do.

The Hon. Mr Cameron's contribution was, as always, lucid, concise and accurate. In essence, he said that there was no justification for having a Potato Board at all and that small growers in particular would be set free from this monolith that requires these massive penalties to beat them into line to grow and sell their potatoes as demanded by that Authority. I agree with that view, which puts me in conflict with the view espoused by the Hon. Mr Dunn, who stated that it would be to the detriment of small potato growers. The Hon. Mr Dunn also stated that insufficient time had been given to the Potato Board and the potato industry to get its house in order. I do not know how much time they want. This Act has been going since the war, and that just about pre-dates me and everyone here except the Hon. Mr Milne and the Hon. Mr Hill—so, there are only two people here who have ever bought a free enterprise potato: everyone else has been eating nationalised potatoes since the day they were born!

I really think that, after having been in existence since 1948, the Board has had more than a fair go to persuade growers, consumers and this Parliament that it is providing a reasonable service. Anyway, it has another two years in which to justify its existence on its own or in another form.

For the benefit of the Hon. Mr Gilfillan, I stated quite clearly in my second reading explanation that if the potato industry comes to me or any other Minister with sensible measures for the continuation of the Potato Board or for the orderly marketing of potatoes in any other way I will certainly give every consideration to that.

The Hon. I. Gilfillan: Would you take notice of a poll?

The Hon. FRANK BLEVINS: I will not necessarily take notice of a poll where the majority insists on oppressing the minority by fines that can go up to $12 000 for having a potato in a one sized bag or another. If that is the strength of the measures required by the majority to force their view on a minority, probably at the expense of the consumer, then the answer is, 'No, I will not'.

The Hon. Mr Dunn belaboured at some length a point in relation to interstate potatoes; how they were growing these vast tracts of inferior quality potatoes in New South Wales, which were brought here and dumped at lower prices. This Bill does not change any of that. That can be done now; it is covered by section 92 of the Constitution, and if potato growers in another State want to bring potatoes here they can do so. They do it all the time. Therefore, I could not quite get the point that the Hon. Mr Dunn was attempting to make.

The Hon. Mr Lucas entertained us in his usual way. He attempted to broaden the debate into an attack on protection in general. I would be happy to have that debate with him, but at some other time. I point out that under this Federal Government there has been probably more rationalisation in manufacturing industry than under the previous Liberal Government, which was completely under the thumb of the big manufacturers—that was no secret. All the big manu-

facturing firms (in their short term interest only) demanded certain things of the previous Federal Government, which gave in to them. That, to a great extent, is the cause of the problems we have today in manufacturing industry.

The Hon. C.J. Sumner: He also quoted the high tariffs in the Whitlam period as the cause of the decline in manufacturing industry. What arrant nonsense! He obviously has not read any history.

The Hon. FRANK BLEVINS: None whatsoever, because the biggest reduction in tariff that ever occurred in this country was an across the board 25 per cent cut during the period of the Whitlam Government.

The Hon. R.I. Lucas: Did you support that?

The Hon. FRANK BLEVINS: I supported it strongly. As I stated in the second reading explanation, there are still problems with, for example, the assets of the Board. That is why I did not move to abolish the Potato Board forthwith. I have given an assurance to the industry that I am delighted to consult with it as to what should happen to the Board's assets and liabilities. The Combined Potato Industry says that it already has a strategy, something it has had on its books for some time, knowing that some day the inevitable would happen and somebody would catch up with the Potato Board, if it was brought to the Parliament's attention, so I do not foresee any difficulty there.

I will certainly take notice of growers as to what happens to those assets, because, as I understand it, they are the assets entirely of the growers. There is no Government money there and, if there is no Government money involved, the Government will not be laying any claim to the funds. A couple of schools of thought have arisen already: one is that there should be a simple sale of assets and distribution of the proceeds to the registered growers after liabilities have been deducted, and that is one point of view that has some merit—the merit of simplicity. There is another point of view, a little more foresighted, that wants to establish a research fund, or something of that nature. Depending on the views of growers, that is what will happen after the liabilities of the Board have been taken care of.

I think that the fears of some growers that the Board will dissipate their assets are quite unfounded. To some extent I think that that is a greater slur on the Potato Board than is the two year sunset clause. To say that the Board would dissipate its assets not in the interests of growers is something I do not believe. However, I will certainly be keeping my eye on any disposal of assets by the Potato Board, and I am sure that there will be a lot of growers in this State keeping an eye on that also. Therefore, I do not see that as a genuine problem. I think that this debate has been interesting, particularly the conflicts that have arisen within the speeches of various individuals, let alone amongst members of the Opposition.

The Hon. M.B. Cameron interjecting:

The Hon. FRANK BLEVINS: We will see. I do not mind that. It has been an interesting debate, and I stress again that this Government believes in deregulation in a serious way and not merely in abolishing Acts, such as the Camel Destruction Act, and so on. That is trotted out by honourable members opposite in relation to deregulation, but that is not very significant whereas this is a significant piece of deregulation that the Government commends to the Council.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Offences and penalties.'

The Hon. I. GILFILLAN: In moving to amend section 21, which deals with the penalties, has the Minister considered lifting the monetary value of penalties?

The Hon. FRANK BLEVINS: The Government has considered the question of penalties and has taken quite a deliberate decision to lower them. There is no question of penalties being increased under this Act. We are in the process of reducing the penalties. We feel that the remaining penalties of $400 for a first offence and $600 for a second offence and subsequent offences are more than adequate.

The Hon. I. GILFILLAN: In considering the actual value of the crop which is quite often handled under certain circumstances and which may be infringing some of the regulations and thereby incurring a penalty, does not the Minister agree that penalties of $400 and $600 may be a small price that a grower may very cheerfully pay in order to obtain the advantages of breaking certain regulations?

The Hon. FRANK BLEVINS: I do not think that at all. I do not think potato growers are any more criminally minded than any other section of the community. The Act still applies and the penalties are there. The court will decide what the appropriate penalty is and the Government is quite happy with that. If we were to take the suggestion (and I say it is a suggestion) by the Hon. Mr Gilfillan that the penalties be increased, then we revert to the situation we had before. When you have a position, first of all, where nobody could seriously see any justification for the Act in the first place or for the regulation of potatoes in this way, I think, to then suggest that the penalties for contravening the Act for the remaining 24 months should be increased is quite out of kilter with what the Bill is attempting to do and that is to reduce penalties.

The Hon. PETER DUNN: I mentioned earlier that the Minister had brought this Bill in very quickly. Can he indicate when he intends to proclaim it?

The Hon. FRANK BLEVINS: It will be proclaimed as early as it is practicable to do so. I do not anticipate any delays.

The Hon. PETER DUNN: All I am asking for is a little clemency in relation to some of these people so that they may adjust. I think I explained in some detail in my second reading speech that any rural industry needs a little bit of time for adjustment. I think many of these smaller growers have built into their system the amount of potatoes they wish to grow for next year. I explained that a number of them had paid quite a large amount of money for their seed for the summer sowing that starts in October or November.

I think it would be prudent for the Minister to delay it until the period between the seasons. If we are getting potatoes from the Eastern States, why not allow the Board to maintain its authority until there is a break in the potato growing season? I am simply asking the Minister to delay it until that time.

The Hon. FRANK BLEVINS: That is not possible. I point out the sunset clause is two years. How long does the Hon. Mr Dunn want? It has been going now for almost longer than all of us. We are giving the Board another two years to get its act together. The Board exists in exactly its existing form. I resisted the temptation to alter the Board or its authority and to go through the Act section by section, chopping out some of the atrocities that it contains. In the heat of the moment, I could have gone through it like the avenging angel.

However, I thought that the cool calm of the next two years would be the appropriate time to do that. I stress that the Act will exist during that two year period, unless Parliament decides otherwise. The penalties of $400 for a first offence and $600 for second and subsequent offences stand. If greater penalties than that are required, it goes right back to the problem we are trying to solve, that is, someone being fined $12 000 for having potatoes in one size bag rather than another.

The Hon. I. Gilfillan interjecting:

The Hon. FRANK BLEVINS: I have no intention of doubling any penalties under this Act. In all conscience, the

Government cannot suggest that the offence of selling potatoes in a way that is not prescribed in the Act is a crime that is worth fining someone for in the first place.

The Hon. I. Gilfillan: That's the maximum.

The Hon. FRANK BLEVINS: That is what I am saying: I do not think there should be any fine at all. I do not see why someone should not be able to grow and sell a potato if they wish. I cannot get over that threshold question.

The Hon. I. Gilfillan interjecting:

The Hon. FRANK BLEVINS: I am, and I stated that quite clearly. The Hon. Mr Gilfillan has admitted that he has not read the second reading; it would have shortened proceedings greatly if he had done so. Certainly, if we are going to have penalties, as far as I am concerned, the penalties presently in the Act, without this additional penalty, are more than enough.

The Hon. PETER DUNN: I am not terribly worried about the penalties as such, but I remind the Minister that a number of growers have perceived over a long period of time their crops for this season, and they programmed themselves back in January, February and December last year. We have successfully said right here and now from the date it is proclaimed, whether it be tomorrow or next week, that we are going to affect those people selling their potatoes and the amount they can sow. I am not trying to alter the sunset clause, and I am not trying to alter the initial fine.

The penalties remain and, if the Minister were to proclaim this Bill at the break of the season, that would give growers a chance to restructure their programmes and cut back on their potato crop by 10 per cent and enable them to grow more cabbages or carrots. I cannot see what harm that will do. As the Minister has said, it has run on for a long time. I do not see what harm an extra couple of months will do. However, it will allow growers to programme themselves into changing their crop at the break of the season. Will the Minister consider that?

The Hon. FRANK BLEVINS: I will not consider it, because I think it is absolutely irrelevant. I will go through it again for the Hon. Mr Dunn. I think he has discharged any obligation that he thought he had to potato growers. However, we will go through it again.

It is a two year sunset clause, so the Act is there for two years unless the Parliament decides otherwise. The penalties are unacceptable to the Government. It was unconscionable that the courts should be compelled to fine somebody $12 000. I do not blame the courts but rather the law, which in this case is silly. Given that the Government has clearly stated that and demonstrated its commitment to that view by remitting these fines, those additional penalties—whether or not they stay in the Bill—are really no longer enforceable, because the Government is not prepared to allow that amount of money to be taken from people for such a trivial reason. In all conscience we cannot do it. Therefore, even if the Opposition may have the numbers (which it may have) to block this Bill, it still leaves the Cabinet in a position where it will not enforce on citizens of South Australia fines of that magnitude for such a trivial action.

The Hon. M.B. CAMERON: I wish to indicate support for the Minister's view on fines. The actions of the Board were not on in pursuing people when in fact 15 per cent of potatoes were being sold illegally in the South-East and the Board was ignoring that and was prepared to pursue other people.

The Hon. Peter Dunn: They were being sold over the border.

The Hon. M.B. CAMERON: That does not matter. they were being sold illegally, and the Board was not pursuing the matter.

The Hon. R.I. Lucas: It turned a blind eye.

The Hon. M.B. CAMERON: That is right. How can we increase fines or retain them when the Board has been prepared to ignore people who have been doing the wrong thing in the industry? Its whole attitude has been wrong. I have listened to the debate and heard people say that the majority of growers support the Board. If they do, we will not need the fines. The honourable member is saying that we will keep the fines and the high penalties for that period, but that the moment this Bill is proclaimed everyone will flock away from the Potato Board. If that is the case, the growers do not support it. One cannot have it both ways. Either the growers support it—and if they do they do not need fines—or they do not. It is very simple in my mind—I might be simplistic—but what people have been saying puts a doubt in my mind as to whether growers support the Board.

If growers are so apprehensive that they think that the moment the fines or special penalties are reduced there will no longer be a Board, it cannot have grower support. I suggest that it is not a good argument. As to the question of people having bought their seed, I guarantee that if they are potato growers they will plant the potatoes this year regardless of the situation and will no doubt find that markets will be opened up. The potato market will be just as great as it is now.

The Hon. FRANK BLEVINS: The question of proclamation of this Act does not arise as it comes in on assent and not by proclamation.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 9 May. Page 4103.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports the Bill, which results from the recommendations of the Select Committee on random breath testing. In fact, the Government has taken the recommendations even further than was suggested: from now on, after a person is convicted on a first drink driving offence and has paid all other penalties, that person will have to serve a period greater than 12 months on P plates. This is a fairly dramatic change because it means that the person with P plates must comply with probationary conditions and, in another Bill that we will be discussing tonight, probation conditions include a nil alcohol position.

This is a step towards educating people who have the tendency to drink drive not to drink at all, because they will have a 12-month period or greater to serve and comply with this condition (the term used is 'at least 12 months'). During 12 months they will have to drive under that nil alcohol provision and, if they are pulled up at a random breath test station during that period, they will have to be displaying P plates and will have to have a nil alcohol reading in their breath analysis.

That is a drastic step. If the probationary conditions are then not observed, the person concerned will go back to nil—and back to L plates—and then start again. Some people might say that that is pretty tough, but I say to those people, 'Too bad.' We have reached a stage in this society where something dramatic has to be done, especially in South Australia. Unfortunately, our road toll is rising this year and too many people causing the road toll have been affected by alcohol. Over 40 per cent of people killed on the road have a blood alcohol level over .08, and that is far

too high. Indeed, it is a clear indication that it is a major problem contributing to our high road toll.

Since the war we have lost four times as many people on the road as we lost in the entire Second World War: something like 150 000 people or more have died on our roads in Australia since the war. That is an enormous number of people. We have not really taken the matter seriously enough. The fact that only two or three a day are reported means that there is not the impact that there should be. In Australia we lose more than 3 000 people each year on the roads. In the entire Vietnam War we lost 680 people and we all know of the headlines of that time, yet the fact that we lose 3 000 people a year on the roads is left to one side. That is almost 10 people a day, too many Australians, too many young Australians—because far too many of the people killed are young Australians.

So, I urge support for this measure, because it takes a step forward in imposing penalties that might cause people to stop and think before they drive when they have been drinking. There is no doubt that the nil provision does work. The Hon. Ms Wiese and I went to Tasmania to examine this question on behalf of the random breath test Select Committee. From talking with young people, it was quite clear to us that the educational value of that system was enormous: people respected it. Young people were picking out safe drivers before they left for an evening. They knew that they had to have someone in the car who did not drink; they accepted that. I will say a little more about that in relation to the next Bill, which goes a little deeper into the measures recommended by the random breath test Select Committee.

However, it is terribly important that from now on every one of these measures is brought to public attention. There is absolutely no point in bringing in penalties like this if the public do not know about it. Unfortunately, we do rely on the major press outlets to make certain that the public hear about these matters. It would also require public expenditure. Committee members would know how much time and effort is put in in New South Wales to that part of the whole question of persuading people not to drink and drive. It is an area to which we have to address ourselves, but I also urge the major newspaper and television outlets in this State to get behind this campaign to stop drink driving and to get behind random breath testing.

Too often in the past there have been indications of lack of support. Whether those outlets like it or not, it does work: it has been proved. The six members of that committee are not stupid. We are responsible members of Parliament. We did not go in there with a predetermined point of view, but we did come out with a point of view that clearly supported random breath testing and increases in penalties. I urge honourable members to support this Bill.

The Hon. L.H. DAVIS: As a member of the random breath test Select Committee which recently reported to Parliament, and indeed as a member of the initial Select Committee which recommended random breath testing in 1981, I have much pleasure in supporting the second reading of this Bill. Of course, it is being introduced following the 32 recommendations of the random breath test Select Committee and is the first of a trilogy of Bills which seek to effect the major recommendations of that Select Committee.

I am pleased to note that the Government has accepted the recommendations of the Select Committee which were, incidentally, unanimous. This Bill removes the sunset provisions for random breath testing. Honourable members will recall that the first Select Committee put a sunset clause of some three years on random breath testing, with the understanding that the effectiveness of random breath testing would be reviewed at the end of that period. Further, honourable members will note that the random breath test Select Committee reflected on the fact that the random breath test operation in South Australia was not as effective as it might have been, through no fault of the Police Force but rather because of the fact that inadequate funds had been directed to its operation.

In addition, there were unsatisfactory administrative procedures, which have been corrected in this Bill. For example, greater flexibility is provided to the police in the siting of random breath testing stations. There is also some recognition of the fact that the police were hampered in their operations by people taking advantage of a very technical provision, which on two or three occasions, at least, meant that prosecutions failed because police testing the offending driver were not in uniform.

I am also pleased to note that the Government has accepted the recommendation of the Select Committee with respect to motorists who are detected with a blood alcohol content level exceeding .15. It is commonly agreed that anyone with a blood alcohol level in excess of .15 has a severe drinking problem. The statistics from the random breath test Select Committee indicated that a very large percentage of drivers caught drink driving either through random breath test stations or police patrols were over this limit.

For someone to be over .15 means that they have had possibly 20 drinks—20 glasses of beer, 20 nips of spirits, or 20 glasses of wine—in some four hours. That is an extraordinary amount of drink, and to be driving is to take no account of the lives of other people and, indeed, the lives of the passengers in that vehicle. So, the recognition that people such as these, with a blood alcohol level exceeding .15, should be referred to the Drug and Alcohol Services Council for assessment is a step in the right direction.

The blood alcohol level of .08 has been retained as the benchmark. Certainly, strong arguments have been advanced that that level should be reduced from .08 to .05. The Select Committee examined that argument carefully and was conscious of the fact that in all other States where random breath testing is in operation .05 is the limit. However, it noted that very few drivers of the total number of drinking drivers apprehended had a blood alcohol level of between .05 and .08. So, it recommended that .08 continue to be the benchmark for offences under this legislation.

My colleague the Hon. Martin Cameron has indicated that this Bill takes particular note of probationary drivers—those people who are driving on P and L plates. The Select Committee was particularly concerned that the next generation of drivers should fully recognise that drinking and driving do not mix, and therefore suggested a substantial tightening of provisions relating to P and L plate drivers in respect of drink driving offences.

The amendments to the Road Traffic Act also recommend changes to measures affecting P and L plate drivers. Particular mention is made in this Bill that in future P and L plate drivers will be allowed to have only zero blood alcohol level. In the initial recommendation made in 1981 by the first Select Committee into random breath testing, the P and L plate driver was permitted to have a .05 blood alcohol limit. That is now altered to zero.

Zero alcohol levels for P and L plate drivers have operated in Tasmania for almost a decade, and have also operated in some other States of Australia. I support that move. I believe that it reduces peer group pressure on drivers in their first years. Certainly, if we had a .02 limit it could be argued that drivers could have one or two drinks and that that would be acceptable. There is always the difficulty of alco-test machines being accurate at low levels. More importantly, it encourages people, when they are learning to drive and are inexperienced in traffic, to have one or two drinks believing that will be all right. A zero limit takes away that

peer group pressure and encourages drivers to concentrate on building up their experience as a driver.

It was encouraging to see in the statistics presented to the random breath test committee that the under 18 age group was under-represented in alcohol related accidents. Of course, one would expect that, because people under 18 years of age are not allowed to drink publicly, although there is nothing to prevent them drinking in homes. If we look further at the statistics, we can see that the number of drivers or riders killed or hospitalised with blood alcohol levels in excess of .08 is heaviest in the male age group of 18 years to 19 years, where 4.19 18 year to 19 year old males per thousand licence holders are involved in accidents where the blood alcohol level is in excess of .08. That is the highest figure of any age group, male or female, from 16 years through to the older age groups.

That clearly underlines the problem that the young driver is vulnerable to drink driving. I am pleased to see that the Government has accepted the recommendations of the Select Committee with respect to P and L plate drivers, and I have much pleasure in supporting the second reading.

The Hon. R.J. RITSON: This matter has been the subject of intense debate for many years and of two Select Committees. The Bill essentially tightens up loopholes which were discovered during the operation of similar legislation, and it increases penalties. The question of zero blood alcohol level for novice drivers has recently been the subject of some rather ill-informed criticism in the press by persons who have stated that, if one takes cough medicines, which contain alcohol, one will have some alcohol in one's blood and, therefore—and 'therefore' has a big question mark—some people may be unjustly punished. The fact of the matter is that the total quantity involved in a standard dose of the strongest alcoholic cough mixture is about one-twentieth of one drink. You will remember, Mr President, that when you partook in some experiments that subjects were given four times the strongest alcoholic cough mixture dose and, after a suitable time for the absorption of the alcohol therein they could not achieve any reading on the alco-test meter.

One of the reasons is that this meter is a relatively insensitive instrument. It reads to only two decimal places and will not record any alcohol in the breath below the .01 level. As I said before, with the .01 level representing one drink, the standard dose of an alcoholic cough mixture gives you about one-twentieth of a drink.

Furthermore, the calibration of the breath analysis unit, which is the unit to which one might be conducted if one apparently had a blood alcohol reading in excess of the statutory limit, has built into it a negative zero error. It is police procedure during the regular calibration and testing of these machines to build in a negative zero error of .005—that is about half a drink—in order to be fair to the public and to ensure that any minor inaccuracy is in favour of the person being tested.

So, I am totally unimpressed by the people who have raised that objection to the zero limit. They are people who use the 'I think' principle, which consists of examining no evidence and, as soon as a proposition is raised, one opens one's mouth and says, 'I think such and such', thereby demonstrating that one has not thought at all.

The .02 level is even more unfair to novice drivers because, when one is discussing accuracy or inaccuracy of instrumentation, it does not much matter where the limit is set. There has to be a limit somewhere, and whether the limit is zero, .02 or .1, I suppose people will always argue whether it was a smidgeon above or a smidgeon below. This requires a certain amount of common sense on the part of the enforcement agencies, and I just wonder whether it is common at all to see people prosecuted for driving at a speed of 60.05 km/h in a 60 km/h zone. I do not think the enforcement agencies are that stupid, and I do not think they will be in this case.

In the case of a suggestion of a .02 limit, we are really saying to a group of drivers, 'All right, you are a group of novice drivers aged for the most part 16 to 17 years. You are under the legal drinking age as far as public drinking is concerned, but you can drink and drive, but only to .02 although we do not know whether that will be one or three drinks.' That is putting a tremendous burden on these young people, and we would indeed get quite a bizzare range of anomalies and prosecutions if that level was set. It is much simpler to say, 'If you are a novice driver and you go out, you do not drink.' It would only be a blood alcohol level of .01 or more, consistent with having at least one full drink of alcoholic liquor, not a fraction of a drink in a cough mixture, that would be detectable. So, I am perfectly confident that a zero blood level for novice drivers is a much fairer proposition and that it would be subject to fewer anomalies than the .02 level which other people have argued in favour of.

The Bill also contains some matters which solve problems that previously existed for the police. The siting of testing stations was a sore point under the previous legislation. The site had to be proclaimed by the Commissioner.

It was inflexible to the extent that on occasions a unit set itself up on the proclaimed site only to discover that the physical layout of the verge of the road and other factors made it a dangerous place for setting up a unit, while on the opposite side of the road there was a suitable place but if a unit chose the safer and more suitable place, 100 feet away from the proclaimed site, prosecutions arising from detected breaches failed because the police were not conducting the testing at exactly the proclaimed site. This Bill remedies that situation.

The matter of police being in uniform is dealt with in this Bill. The original legislation and the intention of the original Select Committee was that when people are stopped randomly for the purpose of testing quite obviously they should be stopped by uniformed police and that, indeed, it would be too much to expect the general public to stop for people not clearly and obviously identifiable as people authorised to carry out this work. But again, due to the vagaries of statutory interpretation prosecutions failed because people although stopped by uniformed police and then tested in the caravan were tested by a police technician who was indeed in uniform but wearing a white laboratory coat over it.

It is wrong that prosecutions should have failed on that sort of technicality when the intention of the legislation was to ensure that the original stopping of traffic and requesting motorists to undertake a test was performed by uniformed officers. This Bill rectifies that problem. I support in general the efforts of the Government to take account of the recommendations of the Select Committee and to come to grips with this very serious problem of drink driving by closing some of the loopholes in what is in fact a series of Bills. For that reason I support the second reading.

The Hon. I. GILFILLAN: My colleague the Hon. Lance Milne and I congratulate the Government on introducing this Bill. We think it is a significant step forward in helping to reduce the road toll. I think that it has been helped significantly by the excellent report from the Select Committee. Further, we believe that there is now much more substantial public support for a wider use of random breath tests and a much lower tolerance for blood alcohol levels in drivers and for drink driving.

As a result of several road toll phone-ins (in which nearly 1 000 South Australians gave their point of view on what could be done to reduce the road toll) I was able to pass on to the Minister evidence of the very substantial, and in fact massive, support by the public for wider and more effective use of random breath testing units and for lower stipulated blood alcohol levels. It was absolutely apparent to everyone who had some contact with the phone-in that the public is very clearly aware of the incredible dangers of drinking and driving.

An interesting observation that was made in the South-East road toll phone-in related to several callers indicating that alcohol was a problem only to an individual, because the ability to handle alcohol varied with the individual. It dawned on me that that is a very widely held point of view by those who drink and drive.

Those people believe that they are all right and that it is other people who are the problem. Until we can eradicate that mental attitude, the whole aim of reducing the road toll will be frustrated. Therefore, I think that the requirement of a zero blood alcohol level for L and P plant divers is eminently sensible, as are the penalties involved. If we cannot condition the behaviour of the next generation of drivers coming on to the roads, we will continue to have a repetitive problem in this area, and legislation and penalties will merely chase the problem rather than solve it.

This Bill will make a substantial contribution towards safer roads in the future, because the penalties involved, coupled with the zero blood alcohol level requirement, will give current learners and P plate drivers and those who follow them a clear message that society will not tolerate a driver who is so thoughtless and irresponsible that he is prepared to drink and drive. Having gone through that period, I hope that these drivers will be conditioned so that, when the law allows them to drink and drive, they will have established a behavioural practice that if they do drink it will be moderately and that they will always be looking for some way to get someone who is completely sober to drive when they have been drinking or to find some other way of travelling.

In common with most honourable members, I have received a letter from the Royal Automobile Association complaining that there is an inconsistency in the penalties, that they could be unduly harsh under certain circumstances, and that the only appeal against a licence cancellation could be on the grounds of undue hardship under section 816 (8). I realise that some individuals will be substantially disadvantaged by a loss of licence, but I think that in the same vein I have acknowledged that severe penalties and absolute zero alcohol requirements will have a beneficial effect on P and L plate drivers. I think that that applies in this instance.

The RAA has pointed out that there could be a case where a driver's P plates drop off or the driver exceeds a 80 km/h speed limit by 10 km/h, resulting in a cancellation of his licence. If that is the unfortunate consequence, the message will quickly get about. I cannot stress too much that this involves the preparation of the drivers who are just starting to drive, so that they start with the right attitude. If they know that the glue they are using causes their P plates to drop off they will make sure that those plates stay on the second time, and probably the first time. This will create an attitude that has been missing for so long with our drivers, namely, that one has to attend to every small detail if one is going to take the responsible step of driving a motor vehicle on the road.

I have no qualification in my support for this Bill except to say that the RAA has every right to make the point that it has made. However, I believe that the advantages of the Bill far outweigh the disadvantages that some unfortunate individuals may have to suffer. This is in the common good and, after all, they can always get their licence again in due course. I repeat that the Democrats wholeheartedly support the Bill and believe that it is a substantial step forward. It certainly does not do all that can be done, and many more actions and steps should be taken to reduce the road toll. However, this is a substantial step forward which we wholeheartedly support.

The Hon. G.L. BRUCE: I support the Bill. I congratulate the Government on its promptness with which it has acted on the recommendations of the random breath testing Select Committee.

I also place on record, as Chairman of the committee, my thanks for the work that was done by that committee. It continued over a long period and, towards the end, it seemed as if the committee was not going to come up with a report in any reasonable time, but I can assure the Parliament and people of South Australia that right until the end the committee was taking evidence. It was not the fault of the committee that its proceedings lasted for such a long period.

I believe there are some misconceptions floating about in the community. The police showed the Select Committee the machines used for random breath testing and there is no way when you are blowing into the main machine that it can have a residue of anybody else's breath. It has been stated by outside organisations that, if somebody with a heavy concentration of alcohol is put on the machine, the next person to use it could pick up a residue of the previous person's breath on the machine. It was demonstrated to us beyond any doubt at all that the main machines are cleaned out thoroughly and they have no residue in them when a person uses them. There is no chance of any residue from the previous person being registered by that machine.

It was on the strength of those experts in the field who came along to the committee and gave evidence that the committee felt justified in recommending a zero blood alcohol level for drivers with P and L plates. The committee was also concerned that there could be some residue from cough medicine and other such things. As the Hon. Dr Ritson has already stated, we went through a practical experiment with far in excess of the amount of cough medicine or chocolate liqueurs that would enter a person's system. The six members of the committee registered zero on the machine.

If you are pulled in and show a positive reading on the hand held instrument, before you go on the main machine there is a 20 minute break. We were convinced by the evidence presented to us that in that 20 minutes there would be no sign of alcohol coming up on the main machine as a result of the minute amounts of alcohol that may be consumed in a chocolate liqueur, sweet or cough mixture.

I now come to the work done by the people who serviced that Select Committee and brought down the recommendations. We were served very ably by the Secretary to the Select Committee. We were also served very ably by Miss Christine Bull, who did a lot of the spade work that the committee was looking for.

I congratulate the members and also the Government on their promptness in introducing what I consider is a lifesaving measure. At no time do we say anywhere that people cannot drink. What we say is that people cannot drink and drive. As has been proven, the combination of those two things is lethal. I am coming to the conclusion very quickly that to be able to drive is a privilege: it is not a right that you should have a licence and be able to get on the road. People must earn that privilege.

I fully support what the Hon. Mr Cameron and other members have said that publicity must be issued to the community to make them aware of the responsibility that

rests them when they get behind the wheel of a motor vehicle. If they decide to drink, they must make arrangements for somebody else to take them home or to go by some other means of transport. We are not saying you cannot drink, but you cannot drink and drive. You must try to separate those two and that is why the zero blood alcohol level is there, because we believe that most of the people on P and L plates are learning. If you are going to learn to drive, you must also learn that you should not mix drinking and driving. If we had recommended .02, that would have given the feeling to somebody that they could have a couple of drinks whilst learning to drive. We felt they should be disabused of that notion and they should not be able, whilst learning to drive, to drink and drive. We are trying to reinforce the fact that you should not mix the two. I would commend the Bill to Parliament and hope it gets the speedy passage it deserves.

The Hon. FRANK BLEVINS (Minister of Agriculture): I am pleased to reply to this debate. I thank honourable members for their contributions. It is always very pleasant for a Government when a measure has tripartisan support, as does this measure. Because everyone agrees to it, it is extremely difficult for a Minister to respond to a second reading debate other than to pat the Government on the back, and also the Opposition and the Democrats for bringing this measure to this stage.

The Hon. Martin Cameron made a valid point about publicity in relation to these measures. I know that from time to time the media conduct extensive publicity programmes on road safety, particularly around holiday periods, and that they co-operate with the police. Apparently, one of our daily newspapers in South Australia does not believe in random breath testing, and wages quite a significant campaign from time to time against it. That is the prerogative of that newspaper, but I hope, as this measure has the overwhelming support of the people of South Australia, that that newspaper will come completely on side and will reinforce what Parliament is deliberately trying to do in this dreadful area of deaths and maiming on the roads.

I was disappointed about two aspects of the second reading debate: one relates to the Hon. Legh Davis, who had some criticism of the previous random breath testing system. He said that it was not totally successful due to unsatisfactory funds being made available to the police. I thought that that was a totally unnecessary comment. When one looks at the genesis of random breath testing in this State, one realises that it was introduced by a Liberal Government in a manner that, quite frankly, was ridiculous. From memory, when in Opposition I moved for the Bill that was introduced by the then Government to be referred to a Select Committee. I think that the original Bill provided for random breath testing to occur six times a year, that it had to be widely advertised, and so on. I regret the Hon. Mr Davis's criticism. I thought it was quite unwarranted, particularly when one looks at the history of this measure. However, that is only a small point.

I am also disappointed in the attitude of the RAA over the past couple of days. As I understand it, the role of the RAA is to represent its members and work in their interests. It is certainly not in the interests of RAA members or any other drivers on the road to criticise in any way the random breath testing legislation, particularly when that criticism is ill-informed and completely incorrect. It would have been no trouble whatsoever for the RAA to obtain the correct information.

The Hon. Bob Ritson gave a very clear explanation this evening about, first, the necessity of a zero blood alcohol level and, secondly, the furphy about drinking cough medicine, having a chocolate liqueur or some sweets containing liqueur (I am not quite sure what they are—mine runs to apple pie). Apparently, some people have sweets drenched in liqueur and it has been suggested that somehow that would disadvantage people who are compelled to have a zero blood alcohol level. I am not sure, but I think that that matter was raised in this Chamber on a previous occasion, and I think it could have been the Hon. Dr Ritson himself who raised it. However, the Hon. Dr Ritson did not rely on his suspicions: he went and tested what would happen and arrived at the facts.

The fact is that there is no effect at all on the testing methods by having a liqueur chocolate or a drink of cough medicine—none whatever. I have heard the Hon. Bob Ritson stating that publicly—I heard him on air and read his comments in the press weeks or even months ago. For the RAA to come up with that now and say that that is a problem shows that it is acting out of ignorance. There is no necessity for that at all, as the information is readily available.

The Hon. R.J. Ritson: In fairness to the RAA, that criticism was absent from its submission on this Bill.

The Hon. FRANK BLEVINS: I heard it when I woke up this morning.

The Hon. R.J. Ritson: It was present in the news report but missing from the lobby that they sent to me in Parliament.

The Hon. FRANK BLEVINS: Yes, I woke up to the RAA putting out this incorrect and ridiculous statement this morning.

The Hon. R.J. Ritson: Perhaps they did not make it.

The Hon. FRANK BLEVINS: I heard a representative stating it loud and clear, and I was very annoyed. As a member of the RAA, I expect better representation than that.

The Hon. Diana Laidlaw: You're not going to withdraw your membership?

The Hon. FRANK BLEVINS: No, I am not. The RAA is so structured that I do not even get a vote, do I? The structure of the RAA follows something like the Potato Board—it is rather odd. However, that is someone else's problem at this time.

The Hon. Mr Gilfillan congratulated all and sundry, quite properly, and made the point that this was just one measure. He is quite correct: road safety is a continuing process, one to which this Government is committed, as was the previous Government and as its members now in Opposition still are. It involves little or no Party politics—certainly not on the original Select Committee of which I was a member. I am sure that there was none in the recent one, and for me the area of road safety is gradually moving out of Party politics—if it has not done so already—and the people of South Australia will be the beneficiaries of that.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Driving whilst having prescribed concentration of alcohol in blood.'

The Hon. FRANK BLEVINS: I move:

Page 2, line 7—Leave out 'subparagraph (ii)' and insert 'sub-subparagraph B of subparagraph (i)'.

I am advised that the amendment corrects a wrong reference and is of a drafting nature only.

Amendment carried; clause as amended passed.

Remaining clauses (6 to 10) and title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 9 May. Page 4106.)

The Hon. M.B. CAMERON (Leader of the Opposition): This is the second of the Bills dealing with random breath testing. It deals mainly with learner permits and probationary drivers. As already indicated, a zero blood alcohol level will be the level required of a person operating on a P or L plate. I have some feeling of satisfaction that this level has finally been introduced. Indeed, I recall introducing a Bill in 1981 to bring this matter into force, but it then failed because of a move for a .02 level. It was the belief of the then Government and myself that .02 was an unsatisfactory level for young people: one would have to explain when they got their P plate that they could have one or two drinks but that was all.

The Hon. R.J. Ritson: That might or might not put them over the limit, but no-one could tell them.

The Hon. M.B. CAMERON: Yes. We all know that within a peer group of young people it is far easier for people to tell their mates that they will not have any drinks at all than to have one or two. Once they are on the way it might not seem too bad, but then a person might drink a third and a fourth, and away they go. It is far easier to have a nil alcohol level and train people from the start of their driving careers that they cannot drink and drive. All the other learning experiences go on at the same time. It is enough to learn to drive without having the two combined. Therefore, it is with some pleasure that I see this matter introduced. When I first introduced it I had a number of teenage children, who are now diminishing in number, although there are one or two to go—

The Hon. Frank Blevins: Only because they are growing older!

The Hon. M.B. CAMERON: I get that feeling, too. I have reached half a lifetime this year—

Members interjecting:

The Hon. M.B. CAMERON: Yes, I am here for 100 years. The second matter in the Bill brings in a probationary condition of 80 km/h. I have detected a large inconsistency in the Bill in new subsection (3) *(b)* which would permit a P or L plate driver to drive at 80 km/h in the city area, 20 km/h above the limit, and at 80 km/h in country areas, which is 30 km/h below the limit. In the city the increase of 20 km/h above the speed limit would attract only demerit points but, in the country, 1 km/h above 80 km/h would attract six months loss of licence.

There seems to be some inconsistency, and I point this out to the Council to explain the amendment that I have had distributed in the last few minutes. The amendment brings change to that situation. Briefly, it means that the six-month penalty of loss of licence will not occur until a P or L plate driver exceeds any speed limit by 10 km/h. Whether one exceeds a school crossing limit, the 60 km/h limit in the metropolitan area or the 80 km/h limit outside the metropolitan area, one will not attract the six months loss of licence until one exceeds that limit by 10 km/h.

However, between the speed limit and the extra 10 kilometres one would still attract the normal fine for speeding offences. I felt that that inconsistency should be corrected: I trust that that matter will be supported. Learner drivers, of course, will have to be accompanied by an appropriate licensed driver. A breach of any of the conditions associated with P plates and L plates will result in the cancellation of the learner's permit or probationary licence for six months and a learner or probationary driver will be forced to recommence the probationary period. There is a right of appeal to a local court on this matter.

If any driver displays only one plate on a motor vehicle, an offence is committed and the offender can be fined up to $100 or can expiate the offence by paying $25. However, he or she will not attract the penalty of six months loss of licence unless both plates are off the vehicle. The Select Committee's recommendations, of course, were associated with zero blood alcohol levels and the display of a P or L plate at a random breath test station.

It is very important that the police take seriously the matter of P or L plate drivers at random breath test stations. The L plate drivers would be easier to detect than the P plate drivers, but it will be in the hands of the police. If they see a person whom they consider to be too young to be driving without a P plate, they must take steps to establish whether or not that person is a P plate driver, which will mean asking for the drivers licence to be produced or the name and address of the person so that they can establish the facts. If they establish that the person is a P or L plate driver, that person will be guilty of a breach of conditions relating to P or L plates.

That will attract the same penalties as if the blood alcohol level of the person was above the nil alcohol limit. That was one of the concerns and recommendations of the committee. Failure to display plates at a random breath test station would attract the same penalties for a P plate driver as if he or she was above the nil limit. This is very important, otherwise it would be far too easy for young people to avoid problems associated with a nil blood alcohol level at random breath test stations by just not attaching their plates. Of course, then the level only has to be below .08.

Because I was a little concerned, I considered this matter at length and it has been taken into account. I urge the Council to support the Bill. As I indicated, I will move an amendment to bring in what I regard as rational provisions relating to speeding offences. I trust that the Council will support those measures in Committee.

The Hon. R.J. RITSON: I support the second reading of the Bill. Briefly, I make one comment about the problem of P plates. The committee had difficulty in trying to make things as easy and as quick as possible for the police, recognising that they would have to differentiate between different types of drivers. Obviously, if a person is driving a vehicle fitted with P plates the police will take note of lower blood alcohol levels. Of course, in South Australia drivers are not required to carry their licence whereas in other States (particularly New South Wales) there is that requirement and there are penalties for not doing so. That makes it easier for the police to differentiate in this way. I was surprised to note the form in which the committee's intention was drafted.

The intention of the committee was not that a simple technical offence of failing to display a P plate should be punished in this way, but rather to find a way of imposing a substantial deterrent on those persons who use the technique of removal of the P plates in an attempt to avoid the penalties for drink driving. Although I was somewhat appalled at the lack of insight displayed by the RAA in its comments on the zero blood alcohol level, I was impressed with its submission on this point.

In principle, I agree with the Hon. Mr Cameron as far as he intends by his amendment to make the display of P plates in relation to random breath testing and the manipulation of the plates or their absence to avoid the zero level an offence subject to the strict penalty without unduly crucifying people for minor transgressions that do not have any relationship to the intention of avoiding the drink driving consequences.

I would be interested in Committee to hear a more detailed explanation of the exact way in which the proposed amendment does this. I even wonder whether some additional words might be found to make the policy and intention clearer still, but I will wait on the Hon. Mr Cameron's explanation in Committee. I would just like to be sure that it does exactly what we hope it does and does not have any loopholes or anomalous stringencies. Perhaps I might confer with members and with Parliamentary Counsel on that point in a moment. I support the principle of what the Parliament is trying to do here and I support the second reading.

The Hon. L.H. DAVIS: I inadvertently referred to a trilogy of Bills that introduce primary recommendations of the Select Committee on random breath testing. That is an error: two Bills relate to this measure and the other is an unrelated matter. I take the opportunity to reflect on several points which came out of the Select Committee on random breath testing and which are pertinent to the Bill amending the Motor Vehicles Act. As my colleague the Hon. Martin Cameron has already observed, the amendments now before us seek to enforce provisions relating to L and P plate drivers, picking up again the provision for zero blood alcohol level for L and P plate drivers and the maximum speed.

Again, I agree with the Hon. Martin Cameron that there seems to be a defect in drafting, and I indicate my support for his amendment on file, which seeks to put into effect the recommendation of the Select Committee on random breath testing. The proposal before us is rather impractical and goes a good deal further than the proposal of that Select Committee.

In relation to this matter of road safety and drink driving, it is reassuring to members of the Parliament to see that in the face of random breath testing over three years public opinion has hardened in favour of that road safety measure. Indeed, Fischer and Lewis, in surveys conducted in South Australia from 1981 to 1984, demonstrated that support for random breath testing had grown from 59 per cent in favour in October 1981 (which wasthe date random breath testing was introduced in this State) to 72 per cent in 1984, with a majority in all age groups, male and female, favouring random breath testing.

That increase in public opinion in favour of random breath testing is also mirrored in other States where it has been introduced. This is more particularly so in New South Wales where, following its introduction in December 1982, 1 000 000 drivers were tested in the calendar year 1983 out of a total of 3 000 000 licensed drivers. In other words, one in three drivers was effectively tested in New South Wales in the calendar year 1983, notwithstanding that public opinion in that State had hardened quite dramatically to the point where 90 per cent of people favoured random breath testing. I am sure that the Minister would agree that there are not too many matters of public interest where such a high percentage of the community indicates support.

Another point which is pertinent to this discussion is the question of the police image. Fears were raised when the random breath test committee first met in 1981 that the police image would be dented; that people would resent the police standing out on roads and pulling people in at random. In fact, as the Select Commitee on random breath testing recently reported, in the first three years of random breath testing in South Australia the police received only two official complaints both objecting to the introduction of random breath testing rather than any procedure that the police had undertaken in carrying it out.

The South Australian police have demonstrated efficiency, courtesy and sensitivity in handling this matter over the past three years. I place on public record my tribute to the work they have done in what is a difficult and somewhat thankless task. Another matter of some importance when the committee first met in October 1982 was in relation to civil liberties. Again, little evidence was received three years later about the importance of civil liberties in any discussion on random breath testing. The report of the Select Committee on random breath testing when noting the submission of the South Australian Branch of the Road Trauma Committee of the Royal Australasian College of Surgeons in relation to civil liberties, stated:

> Assessing breath alcohol is a non-invasive procedure and constitutes no risk to the subject. This is in contrast to the risk which, although minor, exists in compulsory chest X-ray surveys conducted in the past in programmes to control tuberculosis. The public officers conducting the tests run some risk in being involved in an accident and every effort should be made to standardise procedures which minimise this risk.

That puts in some perspective the question of civil liberties. The community at large realises that at airports, where luggage is searched regularly for drugs and weapons, it has to accept the obligation to minimise the danger to others. Random breath testing is very much a non-invasive procedure. It is carried out with a minimum of fuss in South Australia, taking one or two minutes at the most. South Australians have become used to that method of minimising road fatalities.

Finally, in commenting on matters which are pertinent to this Bill, I must say, as my colleague the Hon. Martin Cameron has already observed, that there has again been a hardening of community attitudes towards zero blood alcohol levels. I supported the Hon. Martin Cameron's amendment in 1981 when we sought to introduce zero limits for P and L plate drivers. That was not supported in this Council, but it is now receiving unanimous support. That reflects a hardening in community attitudes, a growing realisation and responsibility on the part of the community that we all have a role to play in road safety measures.

However, it is of some concern that, at the same time that this Parliament is meeting to set new standards for young drivers on our roads so that a new generation of drivers will have a greater responsibility towards their fellow drivers and passengers than have the generations who have gone before them, road safety education in South Australia is at an all-time low. Indeed, we received very persuasive evidence on the Select Committee which underlined that fact. The Royal Automobile Association referred to the student drivers education scheme which is operating in schools as being severely limited by resources and fragmented in its approach.

That view was also supported by the co-ordinator of the road safety and driver education curriculum project of the Education Department in evidence that he gave. In fact, the committee was told that, whereas two people were employed on road safety education and curriculum development in the period 1978 to 1983, that number had been reduced to one. Whereas in 1981, 1 500 students in 75 secondary schools were involved in the school driver training programme, that number currently is training under 1 000 students in fewer than 50 secondary schools. That is a terrible misallocation of resources—at a time when the community—indeed the Government and all political Parties—is recognising the importance of road safety, and the enormous damage that it does not only in terms of fatalities but also in terms of accidents, hospitalisation, loss of work, family bereavement, and all the other associated problems stemming from road accidents that education in this area has weakened in recent years.

So, I urge the Government to give this some priority. This is not a legislative measure that I am suggesting: it is a matter of money being reallocated in the Education Department to ensure that proper priority is given to training

young people directly and indirectly in road safety. Having said that, I support this measure to amend the Motor Vehicles Act, and I have already indicated my support for the amendments that the Hon. Martin Cameron has placed on file.

The Hon. FRANK BLEVINS (Minister of Agriculture): Again, I commend honourable members who have addressed themselves to the second reading. The speeches in the main were constructive. I thought it was a great pity again that the Hon. Mr Davis chose to be critical of some aspects of road safety. I thought that that was unwarranted. For at least five years, if not longer, both the Labor Party and the Liberal Party in this Council and the other place have given each other credit for doing the maximum that was possible at the time. Of course, if any Government had access to unlimited funds, it would like to do much more, but both Governments have done in my opinion the best that was possible at that time, and I do not think that criticism of this Government is warranted, any more than criticism of the previous Government would have been warranted, given the circumstances at the time.

I am pleased that on behalf of the Opposition the Hon. Martin Cameron supported the second reading. Again, I thank other honourable members who made a contribution to the second reading debate.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Learner's permit.'

The Hon. M.B. CAMERON: I move:

Page 2, lines 6 and 7—Leave out 'on a road in any part of the State at a speed exceeding 80 kilometres per hour' and insert 'at a speed exceeding by 10 kilometres an hour or more a speed limit that applies under the Road Traffic Act, 1961, or this Act'.

Page 3—

Line 13—Leave out 'Two hundred dollars' and insert 'One thousand dollars'.

After line 18—Insert:

(5aa) The holder of a learner's permit shall not drive a motor vehicle on a road in any part of the State at a speed exceeding 80 kilometres an hour.
Penalty: One thousand dollars.

and

(b) by inserting after subsection (5d) the following subsection:

(5e) Section 175 of the Road Traffic Act, 1961, shall apply in relation to—

(a) an offence against subsection (5) of contravening the condition referred to in subsection (3) *(b)*;

or

(b) an offence against subsection (5aa),

as if a reference in that section to an offence against that Act were a reference to an offence against subsection (5) or (5aa).

This is a lengthy amendment, and I have already explained the general purpose of it. It is to cut across what seemed to be an anomaly in that a person could exceed the speed limit by 20 km/h in the city and yet be 30 km/h under the generally imposed speed limit in the country. In the city, one would be subject to a minimum penalty, while in the country one would lose one's licence for six months. As there seemed to be something wrong there, I have, in consultation with the Minister of Transport (I must point out, through the Hon. Mr Bruce), provided for a situation where the generally accepted excess that is allowed—and that is 10 km/h—before penalties really become heavy is allowed under this legislation. The P or L plate licence holders could be subject to six months suspension, but in relation to that intervening 10 km/h regarding the speed limit there will still be penalties, although they will be minimal.

The Hon. FRANK BLEVINS: I accept the amendment, but I point out that it is a very complex amendment and, after passing through the Council, it will have to be considered by the House of Assembly, where the Minister of Transport will have carriage of the Bill. While on the surface the amendment seems to be reasonable, and I am prepared to accept it, I stress that on closer examination it may not be acceptable to the Minister of Transport. However, that is something that will have to be dealt with in the Lower House.

I do not anticipate that that will happen, but to cover myself I am stating that, although on the surface it is fine, it will be examined in detail by the Minister of Transport tomorrow. If further amendment or discussion with the Hon. Martin Cameron is required, that will take place between the Minister who has carriage of the measure and the mover of the amendment.

The Hon. M.B. CAMERON: That is perfectly acceptable. It was understood that, because this amendment had to be drawn up at a late hour tonight, there will be further examination of it. I am certainly prepared to look at any further changes that might be found to be necessary between tonight and tomorrow.

The Hon. I. GILFILLAN: I do not fully understand the amendment as drafted, but I understood the Leader of the Opposition to imply that there would be a different penalty for a driver travelling at 80 km/h in the city compared to that applying to a driver travelling at 80 km/h in the country. That does seem to be an anomaly. However, I have very strong reservations about the tolerance level in the speed limit.

I think that the remarks that I made earlier about the impact in the preparation and the behaviour conditioning of young and inexperienced drivers is very important. There ought not to be this idea that perhaps one can go just a little bit over the speed limit and it will be all right. I can see good justification for sorting out an anomaly (if it the situation is as I understood the Leader to imply), and that adjustment would have my full support.

However, I am very nervous about offering a cushion that would encourage people to assume that, although the speed limit is 80, 90 or 110 km/h, they can always go a little bit over it and be all right, because I think that that is part of the condition from which we are suffering, namely, that speed limits are there just to sort of keep a wary eye on and that we can always go over them. From that point of view, I have serious reservations about the amendment.

The Hon. M.B. CAMERON: I wish that I could be as perfect as the Hon. Mr Gilfillan. I understand his reservation, but the real problem is that in a driving situation it is very easy to waiver in speed within a certain area.

The Hon. I. Gilfillan: Right, then 70.

The Hon. M.B. CAMERON: Let me finish. The problem is that at present, if one applies the absolute speed limit, at 61 km/h a driver goes from no penalty to six months suspension of licence. That is a pretty drastic penalty. What I have done is make certain that the drastic penalty occurs at 10 km/h over the speed limit. However, between 60 km/h and 70 km/h there is still a maximum fine of $1 000. It is exactly the same as the Road Traffic Act. There will not be any tolerance, as the honourable member is saying, unless there is an administrative tolerance applied by the police, and that is a matter for the administration of the Act. There is a penalty there, but it is not the penalty of six months suspension of licence, which is a pretty dramatic penalty for a person who has a slight speed waiver in a driving situation. I have that problem from time to time, as I am sure the Hon. Mr Gilfillan has. It is difficult to continually keep one's eye on the road, particularly in the Coorong where one of the things one has to watch out for apart from one's speed is kangaroos. We nearly hit five the

other night. After that I spent more time watching the road than watching my speed.

The Hon. G.L. BRUCE: My understanding of the situation is that, prior to this amendment being introduced, a tolerance of at least 20 km/h was allowed in built up areas, which included country towns or built up areas where a 60 km/h speed limit applies. An L or P plate driver could get up to 80 km/h and incur demerit points with no loss of licence, but on a country road where a 110 km/h speed limit applies he was not allowed to go 1 km/h above that 80 km/h limit. It seemed an anomaly that there was a 20 km/h variance allowed in the built up area, from 60 km/h to 80 km/h, but no tolerance at all was allowed a person in the country for driving above 80 km/h.

This amendment attempts to equalise the position so that, if a driver travels at 10 km/h above the speed limit, there is an absolute penalty and he loses his licence for six months. That seems to equalise matters. If the Hon. Mr Gilfillan wants to question the Hon. Mr Cameron further it could be to the advantage of the Minister in the other place to have this debate in front of him to see where we are going with this amendment. I think that the Committee needs to hear comment on this amendment, because it is a far change from what we have in front of us.

The Hon. I. GILFILLAN: I will make my comments, and the Leader of the Opposition can respond. It seems to me that to allow the speed of 60 km/h to be exceeded by 20 km/h in a built up zone is an equally, if not more, irresponsible act. I do not see that one should be encouraging these levels of tolerance. I am sympathetic to the point that the Hon. Martin Cameron is making, but there is an upper limit and if exceeding that upper limit involves a really substantial penalty then a driver adjusts to driving below it. Many people have complained about speed limits in built up areas. I think that, if an amendment is to be introduced, it should incorporate a more severe penalty for exceeding the speed limit in those areas. This relates only to the time a driver is using P plates, and it is not as though it is a great imposition on somebody, having to drive at below 80 km/h in the country during the period of driving with P plates.

The Hon. M.B. CAMERON: That could well be, but do not forget we are now providing for P plate provisions to apply to other people. There will be all sorts of people driving with P plates, not only young drivers, but older ones. For instance, drivers convicted of drink driving will be back on P plates for at least 12 months, so this provision extends further than it did previously.

I have tried in this Bill to get rid of a situation where there would have been an excess of 20 km/h which did not attract the six months penalty. I have halved that in the city and allowed 10 kilometres in the country, but at the same time introduced another penalty, which is the same penalty for any other speeding offence and that will be from 60 to 70 km/h. I do not want you to gain the impression that I have removed all the penalties and that there is going to be a new limit of 70 km/h or 90 km/h. That is not the case. I have put in a new penalty, which is the old penalty under the original Act, with the necessary fines and those fines are pretty high. They are not small; they are up to a maximum of $1 000 and that is pretty substantial. I have increased that maximum from $200 to $1 000. Previously, under P plates, the penalty was $200 and I have increased that maximum to $1 000, so I have in fact taken harsher action even in that intervening period.

The Hon. I. Gilfillan: Have you altered the condition for exceeding the limit in the built up area?

The Hon. M.B. CAMERON: Yes, I have reduced it from 80 to 70 km/h—10 km/h. With that 70 km/h you now attract a six month suspension. Previously, you did not attract that penalty until you got to 80 km/h, so in fact I have brought that back and in the range from 60 to 70 km/h, I have increased the fine five times. That is a fairly substantial increase.

The Hon. I. GILFILLAN: A lot of people have expressed the opinion that fines are an inequitable form of control. There is nothing like the loss of licence to act as a deterrent. You say you have doubled the fine. That certainly has an impact, but the real deterrent is the loss of a licence.

The Hon. M.B. CAMERON: I agree with that. I have in fact made it tougher on the P plate driver.

The Hon. FRANK BLEVINS: I am an interested spectator in this debate. I point out to the Hon. Mr Gilfillan that fines are by no means a soft option. I think one third of the intake at Adelaide Gaol is there for non payment of fines. A goodly proportion if not the majority of them relate to traffic offences, so they finish up in gaol. To suggest that fines are a softer option than loss of licence depends on how much money you have.

The Hon. I. Gilfillan interjecting:

The Hon. FRANK BLEVINS: I know, but this amendment corrects an anomaly. It also strengthens the penalties that apply for that grey area for which we have to make some provision. So, there is no question of soft options creeping into the Bill or that anybody has lost their nerve at the last minute when confronted in black and white with these penalties. I think the reverse is the case. The Hon. Martin Cameron has attempted to toughen the penalties in certain areas, but at the same time make them fair for those people who break the law in built up areas and also for those people who break the law on the open road where the normal speed limit is 110 km/h.

I think it should also be borne in mind that we are restricting people to 80 km/h in the non-metropolitan areas so, whilst they are in breach of the law by going over 80 km/h, is not in breach of the general law: it is in breach of a specific law that applies to them. So again you could argue the justice or otherwise of that, compared with breaking the general 60 km/h law that applies in the built up areas.

I think what the Hon. Martin Cameron has attempted to do is excellent. If, on close examination tomorrow, the amendments do not do precisely what the Hon. Martin Cameron said—I have no reason to think they will not, but with the Parliamentary Counsel working under pressure at this time of night after 16 hours it is possible that they do not quite do that—we have the safeguard of the Bill going back to the other place for further examination there.

The Hon. I. GILFILLAN: I do not consider the penalties of a fine or a term of imprisonment as soft options. It is the deterrent for breaking a driving rule. It appears from opinions, both mine and others, that the loss of licence is the one penalty which impinges on virtually everyone. The ability to pay a fine varies from individual to individual. I would hate to think that someone who cannot pay a fine must serve a term of imprisonment. I do not think that that is a particularly salutory exercise for anyone to go through. If we really want to make a dramatic impact in relation to a deterrent, the loss of licence appears to be the strongest approach.

I have now recognised the intention of the Leader of the Opposition, and I agree that it is worthwhile attempting to correct that anomaly. I hold to my earlier point of view that it is better to have a hard and fast upper limit and not have the soft grey area in between.

The Hon. G.L. BRUCE: I refer to the speed limit of 10 km/h or more in the Road Traffic Act, which also takes in school crossings or men at work. It is not limited to the built-up area or 80 km/h zones. They were not in before. It takes into account any speed zone imposed on the road less than 60 kilometres an hour.

The Hon. FRANK BLEVINS: I think I introduced the term the 'grey area', and I should not have. The Hon. Mr Gilfillan says that there should be a hard and fast upper limit and that is the end of it. I think the Hon. Mr Gilfillan should reflect on that. If you are saying to the public that it is equally as heinous to drive at 61 kilometres an hour in a built-up area as it is to drive at 141 km/h and that they should both attract the same penalty, you are holding the law up to ridicule. No reasonable person will agree that that is a reasonable position to adopt. There are graduated penalties in this area as there are in other areas of the law. If someone steals an icecream from a shop, they are not gaoled for 25 years, as may be the case for an armed bank robber. However, both acts involve the offence of theft.

The Hon. I. Gilfillan interjecting:

The Hon. FRANK BLEVINS: There is no area at all. It recognises the reality that certain offences are not as serious as others. That is a perfectly reasonable proposition. The area between, whether it is 60 and 80 or 60 and 70 (as the Hon. Mr Cameron wants), is debatable in relation to the steps. I think the principle is perfectly sound. I think I introduced the term 'grey area'; I should not have done that, because it is quite misleading. It is not a grey area at all—it is a very clear area. It is clear that within that range it is not as serious an offence to exceed the speed limit as it is in areas further up the range.

The Hon. M.B. CAMERON: I point out that what the Hon. Mr Bruce said is quite correct. Previous to this, the Bill did not apply to P plate drivers. They could drive up to 80 kilometres an hour over a school crossing, over a pedestrian crossing, or past men at work in a 25 km/h speed zone. They were not subject to any loss of licence at all. That seems somewhat ridiculous in the metropolitan area, and that is why this change has been made.

In the process we have increased the fine five times. If the Hon. Mr Gilfillan thinks that all people on a speeding offence should lose their licence, that is another matter altogether. This amendment simply brings about consistency with the Road Traffic Act with the additional penalty that a person with an L plate who was driving at more than 10 km/h above the limit will be suspended from driving for six months. That is a severe penalty and makes it consistent throughout the State, which it was not before.

Amendments carried; clause as amended passed.

Clause 4—'Certain licences to be subject to probationary conditions.'

The Hon. M.B. CAMERON: I move:

Page 3, after line 40—Insert paragraph as follows:

(ca) by striking out from paragraph *(d)* of subsection (1) the passage 'on a road in any part of the State at a speed exceeding eighty kilometres per hour' and insert 'at a speed exceeding by 10 kilometres an hour or more a speed limit that applies under the Road Traffic Act, 1961, or this Act'.

Page 4—

After line 32—Insert paragraph as follows:

(ga) by striking out from subsection (5) the passage 'Two hundred dollars' and substituting the passage 'One thousand dollars'.

After line 39—Insert:

(5b) The holder of a licence endorsed with conditions pursuant to this section shall not drive a motor vehicle on a road in any part of the State at a speed exceeding 80 kilometres an hour.

Penalty: One thousand dollars.

and

(i) by inserting after subsection (9) the following subsection:

(10) Section 175 of the Road Traffic Act, 1961, shall apply in relation to—

(a) an offence against subsection (5) of contravening the condition referred to in subsection (1) *(d)*;

or

(b) an offence against subsection (5b),

as if a reference in that section to an offence against that Act were a reference to an offence against subsections (5) or (5b).

These amendments follow on from the previous amendments.

Amendments carried; clause as amended passed.

Remaining clauses (5 and 6) and title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 May. Page 4104.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this Bill, which is a fairly dramatic step upwards from personalised number plates. We will have a situation now where there will be a public auction of certain number plates. Following that auction and a person obtaining that number plate they can then dispose of it by selling it to other persons. It will be very interesting, if we ever get a capital gains tax, to see what happens in relation to the price of number plates. We may well find that people will have to pay a capital gains tax on the No. 1 plate in South Australia. However, that is a matter that we will be watching with some interest in another Parliament. I see no great objection to the measure.

I am always surprised by the desire of people to identify themselves in some way separately from other people in the community. I am always happy to remain anonymous in case I make a mistake in my driving. We never know when we will be recognised by someone who will hold that mistake against us for the rest of our life. I once lost an election by one vote. When I do something wrong I do not want people to recognise me in case that happens again. We support the Bill, although I do not think it will solve the financial problems of the State or Australia. However, if people want to buy a certain number plate—and it is obvious that there is a desire in the community for that facility—

The Hon. K.T. Griffin: Ego trips.

The Hon. M.B. CAMERON: One cannot reflect on why people do it. All sorts of people are involved. I am sure that the Hon. Mr Griffin has friends, as I have, who do it. If that is what people want, so be it. They will be able to have their number own plates. I will be interested to see what happens at the auctions.

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: I do not believe that. Since I have been in this place I have seen all sorts of promises made about what would happen to certain funds. I do not want to go into detail, but the Highways Fund was to receive money from petrol, and the Hospital Fund was to receive money from the lotteries. Somehow it is a great idea to start with and that gets everything going, but slowly and surely it erodes and the money goes back to general revenue. You will never convince me on that.

The Hon. J.R. Cornwall: It passes through the Hospitals Fund on the way to general revenue.

The Hon. M.B. CAMERON: Yes, it goes into the Hospitals Fund but does not go to hospitals. I used to be young and gullible when I first came here, and I used to accept that argument. I do not accept it any more, and in my time here I will never be persuaded to support such a measure again which promises to give money to something that looks attractive at the time, because it will not happen—it will change.

The Hon. G.L. Bruce: You're old and cynical.

The Hon. M.B. CAMERON: I am very old and cynical, particularly at this time of night. The Opposition supports the Bill.

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

ROAD TRAFFIC ACT AMENDMENT BILL (1985)

Adjourned debate on second reading.

(Continued from 8 May. Page 3959.)

The Hon. G.L. BRUCE: The Government is pleased to accept this Bill, which was introduced by the Hon. Martin Cameron. The highest level of consultation has taken place with the Hon. Martin Cameron and the Minister of Transport. In fact, as late as this morning the Hon. Martin Cameron, the Minister of Transport and I were present at a meeting in the Minister's office at which were representatives of the Highways Department, the Police Department, the RAA, the Registrar of Motor Vehicles and the Road Safety Division of Transport.

After discussion and a thorough examination of the Bill, consensus was achieved. In Committee I will move one slight amendment which will not structurally alter the Bill but will clarify it slightly. The Government supports the Bill, wishes it a speedy passage and sincerely hopes that it fulfils what the Hon. Martin Cameron is trying to achieve.

The Hon. M.B. CAMERON (Leader of the Opposition): Negotiations have been going on with the Government about this matter and it is with some pleasure that I note that it will finally come into law in South Australia. It has caused concern to many people in this community for a long time. It is a measure not unknown in other areas of the world where people do have to conform to certain driving standards. When one is travelling on a divided highway, one keeps to the left unless overtaking.

There are some slight alterations to the Bill to take into account the problem on the main South Road in that only one lane will have to be kept clear. That certainly appears to be sensible. I trust the drivers in this State will know that from now on they have to allow people behind them to pass. If they are driving slowly they have to get over to the left hand side and obey those advisory signs, as they are now, on freeways of the State that say, 'Keep left unless overtaking'. No longer can those signs be ignored by the community: they will have the force of law. People will be required to conform to what they say—'Keep left except when overtaking'. Too many people in this State have been forced into risk situations because others have been travelling slowly in the right hand lane. People have had to take a risk and pass on the inside. There are certainly risks associated with that action. I am certain that that has been the cause of a number of accidents, in some cases quite serious accidents, because people have been absolutely frustrated by the driving behaviour of people who are travelling far too slowly in a lane that should be left aside for those travelling at normal speeds on the road.

I am pleased that the Government will accept this Bill. I trust that it will pass through the Lower House in this present session so that it will have the force of law immediately. I do not wish to speak again, but I indicate that the amendment to be moved by the Hon. Gordon Bruce has my support. It is to be introduced as a result of discussion with the Minister of Transport this morning.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Duty to keep to the left.'

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

Page 2, line 5—After 'driver' insert 'is about to make, or'.

This amendment helps clarify the situation where someone is turning right and cannot get into the lane some miles ahead of having to turn right. It applies in the situation where a person has to get into that position to make a right hand turn so that he will not block and hold up traffic in that right lane.

I believe that the amendment will be accepted by the Hon. Martin Cameron, as he has indicated, and that it will strengthen the Bill. I understand the concern and interest of the Hon. Martin Cameron in this Bill. As one who has used the major freeways—not so much South Road, but the Mount Barker Road and so on—I know that it is rather frustrating when one gets into a situation where two cars are both going nowhere near the speed limit and one cannot pass either of them. It is very inconsiderate of those motorists. Because of the publicity that we hope will be attached to this new law—I am sure that the Hon. Mr Cameron will make sure that plenty of publicity is given to it in the South-East—one will get a blast from the driver behind when he wants to pass, and some common sense and courtesy should apply on the highways, making travelling much safer and more pleasant where a freeway has two lanes.

The Hon. FRANK BLEVINS: I support this clause, and the Bill as a whole. I remember, going back many years, raising this matter in this Council with various Ministers as a very fresh faced back-bencher and getting absolutely nowhere. All that I can say to young people coming in to this place is that, if they persist and persevere over the years, as the Hon. Martin Cameron and I have done, eventually they will succeed. I cannot understand why over the years there has been any opposition to this measure. It is logical and sane, and why previous Ministers have refused to do it I have no idea. Their explanations have been utterly unsatisfactory and illogical. All that I can say is that I congratulate the Hon. Martin Cameron for his persistence and the Minister of Transport for his common sense in agreeing to this private member's Bill.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

CONSTITUTIONAL CONVENTION

Adjourned debate on motion of Hon. C.J. Sumner:

Whereas the Parliament of the State of South Australia by joint resolution of the Legislative Council and the House of Assembly passed on 26 September 1972 and 27 September 1972 appointed 12 members of the Parliament as delegates to take part in the deliberations of a convention to review the nature and contents and operation of the Constitution of the Commonwealth of Australia, and to propose any necessary revision or amendment thereof (hereafter 'the convention):

And whereas the Executive Committee of the convention has now resolved that eight members of the Parliament of the State of South Australia should be appointed to take part in the further deliberations of the convention:

And whereas the convention has not concluded its business:

Now it is hereby resolved by the Parliament of the State of South Australia:

(1) That all previous appointments (so far as they remain valid) of delegates to the convention are revoked.

(2) That for the purposes of the convention the following eight members of the Parliament of South Australia shall be and are hereby appointed as delegates to take part in the deliberations of the convention: The Hon. G.J. Crafter, M.P.; The Hon. T.M. McRae, M.P.; The Hon. K.L. Milne, M.L.C.; The Hon. C.J. Sumner, M.L.C.; Ms S.M. Lenehan, M.P.; and three members of the Liberal Party.

(3) That for the purposes of the convention the following three members of the Parliament of South Australia shall be and are hereby appointed as substitute delegates to take part in the deliberations of the convention if required to do so: The Hon. I.

Gilfillan, M.L.C.; Mr J.P. Trainer, M.P.; and one member of the Liberal Party.

(4) That each delegate or substitute delegate shall continue to act as such until the House of which he is a member otherwise determines, notwithstanding the dissolution or prorogation of the Parliament.

(5) That the Attorney-General for the time being, as an appointed delegate (or in his absence an appointed delegate nominated by the Attorney-General), shall be the leader of the South Australian delegation (hereafter 'the leader').

(6) That if, because of illness or other cause, a delegate or substitute delegate is unable to attend a meeting of the convention or any session or part of a session of the convention, the leader may appoint any member of the Parliament to attend in place of the delegate or substitute delegate.

(7) That the leader may from time to time make a report to the Legislative Council and House of Assembly on matters arising out of the convention, such report to be laid on the table of each House.

(8) That the leader shall provide such secretarial and other assistance to the delegation as it may require.

(9) That the leader shall inform the Governments of the Commonwealth and other States of this resolution.

(Continued from 9 May. Page 4070.)

The Hon. M.B. CAMERON (Leader of the Opposition): I intend to move amendments to this motion. I note that 'three members of the Liberal Party' and 'The Hon. K.L. Milne, M.L.C.' are used in paragraph (2). I recall that the Liberal Party was invited to submit four names, and that four names were submitted. I am somewhat surprised to find that the Attorney-General has not used those names which were given to him by Mr Olsen. It is my contention that the major Parties of this Parliament, in particular the Opposition, should have a representation of four members to this convention, the same as the Government.

Other Parties are represented in the Parliament. It is interesting how one Party can be selected. Perhaps one of the Independents should be a delegate to this convention, because there are two Independent members in the House of Assembly; perhaps one of their names should be drawn out of a hat. I do not accept that one Liberal Party member should be replaced by a member of the Australian Democrats. Certainly, in relation to substitute delegates, the same would occur. I do not want to get into a major row at this time of the night on this issue. I ask that the Attorney-General accept the names that I now move. I move:

In paragraph (2) that the words 'The Hon. K.L. Milne M.L.C.' and 'and three members of the Liberal Party' be deleted.

It was disgraceful that we were referred to in that way.

The Hon. C.J. Sumner: Because you did not nominate your people.

The Hon. M.B. CAMERON: We nominated four, as you asked.

The Hon. C.J. Sumner: We asked for three, not four.

The Hon. M.B. CAMERON: I am not interested in what you asked for. I am saying what we gave you. Constitutional Conventions are supposed to arrive at decisions with some spirit of agreement. You have started off very nicely and have just about joined that fellow up there. I will commence my amendment again. I move:

In paragraph (2) the words 'The Hon. K.L. Milne, M.L.C.' and 'and three members of the Liberal Party' be deleted and replaced by the words 'Mr J.W. Olsen, the Hon. B.C. Eastick, the Hon. M.B. Cameron, and the Hon. K.T. Griffin,'; and, in paragraph (3), that the words 'The Hon. I. Gilfillan M.L.C.' and 'and one member of the Liberal Party' be deleted and replaced by the words 'The Hon. E.R. Goldsworthy'.

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

To amend the Hon. Mr Cameron's amendment by deleting 'The Hon. M.B. Cameron' and substituting 'The Hon. K.L. Milne'.

The PRESIDENT: I cannot accept that as an amendment, because it maintains the *status quo.*

The Hon. C.J. SUMNER (Attorney-General): No, that is not right, because with the *status quo* no members of the Liberal Party are named. It merely refers to three members of the Liberal Party, so clearly it is a justifiable amendment to the amendment. The motion as stated is in that form only because the Liberal Party would not nominate its members. Clearly, the Hon. Dr Cornwall's amendment is in order, because it does not maintain the *status quo.*

The Hon. K.L. MILNE: The Democrats certainly do wish to be represented, and I, in particular, would like to be represented, because I was prevented from talking at the last convention. The shadow Attorney-General from the Liberal Party in Canberra talked so much that many of us did not get a chance to speak. It was quite unfair and, if we are talking about the spirit of the convention, that was ruined from the start by the Leader of the Opposition bouncing down for about half a day: he ruined the spirit of the convention right at the beginning by the speech that he made, and it was rather a tragedy. I can say quite truthfully that the spirit of consensus had nothing to do with the numbers of people in the various delegations. It was a matter of attitude from the start. Our attitude would be one of consensus on a convention like that.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.L. MILNE: The Liberal Party's was not—I will argue about this if you want to, but I am asking that consideration be given to allowing the Democrats to go to this. I think that it would only be fair in the circumstances.

The Hon. K.T. GRIFFIN: I do not particularly want to debate what happened at the last convention, but I draw the Hon. Mr Milne's attention to the fact that in terms of voting on the floor of the convention there were many resolutions on which all the Liberals present did not agree, even though quite obviously they had had some discussions during the course of the convention about the issues that were being raised. However, the Labor Party caucused and voted *en bloc* on every resolution. Let the Hon. Lance Milne take note of that. Further, the convention was not ruined because of the behaviour of any Liberals; it was because of the caucusing and the voting *en bloc* by members of the Labor Party from around Australia.

In relation to the present resolution and the amendment, the Executive Committee of the Constitutional Convention was concerned that at the last convention there was inadequate time for delegates to present a coherent point of view in the limited time that was available, and it was concerned also about the cost of delegates attending the convention. As a result we agreed that the numbers should be reduced, in the case of the States, from 12 members in a delegation to eight members. With a delegation of 12 members, obviously there was more flexibility, but with a delegation of eight there is very much less flexibility, if any at all.

In looking at the numbers in this Parliament, one can see that in the House of Assembly there are 23 Labor Party members, 21 Liberal members, two Independent Labor members, and one National Party member, while in the Legislative Council there are nine ALP members, two Australian Democrats, and 11 Liberal members—making a total in the Parliament of 32 ALP members, 32 Liberal members, two Independent Labor members, two Australian Democrats and one National Party member. On those figures it is quite reasonable to have four Liberal members and four Labor members in the reduced delegation. I understand that in New South Wales, where there are many more Independents than there are in this Parliament, there has been a recognition that the official Government and official Opposition should each have four members in the delegation.

I am not sure what has happened in the other States. The Attorney-General is starting off this debate, and the convention, on a difficult note by seeking to reduce the Liberal Opposition's representation on the basis of those figures. That is why I support the amendment moved by the Hon. Mr Cameron.

The Hon. J.R. CORNWALL: I seek leave to further amend my amendment by reinserting the name 'The Hon. I. Gilfillan, MLC' in clause 3. The name 'E.R. Goldsworthy', as I understand it, is added by the Hon. Mr Cameron's amendment, but the Hon. Ian Gilfillan's name has been deleted. I accept the name 'E.R. Goldsworthy', but believe it is entirely appropriate that the name 'The Hon. I. Gilfillan, MLC' be reinstated.

Leave granted.

The Hon. C.J. SUMNER: There has been a vicious attack by Opposition members—

The Hon. M.B. Cameron: You are disgraceful! You are taking out the Leader of the Opposition!

The PRESIDENT: Order! The Attorney-General has the floor.

The Hon. C.J. SUMNER: As I recollect, from the time the first Constitutional Convention was held, perhaps not the 1973 one but certainly subsequently, there has been representation from the cross benches. I recall that Mr Justice Millhouse attended Constitutional Conventions on some occasions, particularly when he was a member of the Australian Democrats or the New Liberal Movement.

The Hon. R.I. Lucas: Why don't you give Martyn Evans a guernsey instead of one of yours?

The Hon. C.J. SUMNER: Obviously, all the Independents cannot be represented.

The Hon. R.I. Lucas: Why not; there's two of them?

The Hon. C.J. SUMNER: That is correct and I suppose we could have selected them.

The Hon. R.I. Lucas: You'll support his amendment?

The Hon. C.J. SUMNER: No.

The Hon. R.I. Lucas: That has destroyed your argument.

The Hon. C.J. SUMNER: It has not. The view we have taken is that there can be representation from the cross benches. On the cross benches, I suppose, that there are the Hon. Mr Milne and the Hon. Mr Gilfillan in this place and Mr Evans and Mr Peterson, and possibly Mr Blacker, in the other place.

The Hon. M.B. Cameron: You're just currying favour with the Democrats.

The Hon. C.J. SUMNER: No, we are not. The tradition has been supported by the Opposition Liberal Party on a previous occasion.

The Hon. R.I. Lucas: We will support Evans.

The Hon. C.J. SUMNER: I am pleased to know that the honourable member will support Mr Martyn Evans in the Lower House. That may be useful at some stage in the future. As I recollect the composition of the Constitutional Convention from this State there has been a member from the cross benches at each convention, and that has been an Australian Democrat. On this occasion the Government does not see any reason to vary that practice. I do not know why honourable members opposite want to exclude (as they apparently do) cross bench representation from what should be a reasonable and non political attempt to come to grips with reform of the Constitution. That is why we have taken the view that there is some case for a broader representation at the Constitutional Convention.

I hope the Hon. Mr Milne and the Hon. Mr Gilfillan note the Opposition's view on this. Quite frankly, despite all their protestations about their own independence and not voting as a block, they want to squash out of the deliberations of the Constitutional Convention people from the cross benches in this Parliament, that is, people from the minor Parties.

The Hon. M.B. Cameron: You are a joke. You are taking the Opposition of this place out.

The Hon. C.J. SUMNER: We are not; you are.

The Hon. M.B. Cameron: You are.

The Hon. C.J. SUMNER: You are the Leader of the Opposition.

The Hon. M.B. Cameron: You know that the Hon. Mr Griffin has to go and now you are taking me out deliberately.

The Hon. C.J. SUMNER: You are the Leader of the Opposition and you have sufficient clout in the Liberal Party; then, no doubt, you can get on the ticket. Let me make it quite clear what they are doing. They want to exclude the minor Parties from representation.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The proposition the Government is putting is the same as the proposition for the previous Constitutional Convention where there were six Government members, five Opposition members and one Australian Democrat member. The numbers have been reduced for the Brisbane Convention, but the principle I put forward still applies. The next time I hear members opposite bleating about how independent they are and how they believe in the glories of liberalism and independence, then I will refer them to the Hon. Mr Milne and the Hon. Mr Gilfillan. They, of course, will know that on this occasion honourable members opposite from the Liberal Opposition wanted to squash representation from the minor Parties at the Constitutional Convention, so I would ask honourable members to support the amendment moved by the Hon. Dr Cornwall, to the Hon. Martin Cameron's amendment and then to support that amended amendment.

Members interjecting:

The PRESIDENT: Order!

The Council divided on the Hon. Dr Cornwall's amendment to the Hon. Mr Cameron's amendment:

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

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

Majority of 1 for the Ayes.

Amendment to amendment thus carried; amended amendment carried.

Motion as amended carried.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly with amendments.

LIFTS AND CRANES BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

It is a feature of legislation concerning industrial safety matters that it requires continuous review and revision to reflect contemporary techniques and machinery design and use. The Lifts and Cranes Act, 1960 has not been the subject of substantial review since 1972.

The purpose of this Bill is to replace the existing Lifts and Cranes Act with a new Act thereby updating and consolidating the statutory requirements for the safety of all lifts and cranes used throughout the State, with certain exceptions. The Bill incorporates some new concepts in respect of design approval and inspection requirements for lifts and cranes.

The regulation of the use of passenger and other lifts has been legislatively provided for since 1908 when this Parliament enacted a Lifts Regulation Act. In 1960 this Act was repealed by the Lifts Act which incorporated safety requirements for cranes but with certain exceptions, for example, machinery used in mines and cranes used in factories or for agricultural purposes. The Lifts and Cranes Act (as it was renamed following a 1971 amendment) was amended in 1972 to apply to cranes used in factories and on construction work on the basis that 'there is no need to have different acts apply to the safety of cranes depending upon where they are installed or used'.

Since the 1972 amendment, restrictions in the scope of the Act and operational difficulties have arisen due to the progress of technology and a reappraisal of industry's obligation to provide and maintain safe equipment. For example, the manufacture of cranes in Australia has declined significantly in the face of competition from overseas manufacturers in such countries as Japan and the United States of America. The resulting increase in the number of cranes, particularly mobile cranes, being imported into Australia complete or ready-to-assemble has created acceptance difficulties because of differing national codes of practice for design and construction. The Bill allows recognition of overseas codes of practice where they provide an equivalent standard of safety to that required by the Standards Association of Australia.

The present Lifts and Cranes Act provides that the design of every new lift and crane must be examined and approved by the Chief Inspector of Lifts before construction or erection is commenced. In the case of very large or complex equipment a considerable investment of departmental time is necessary to check design drawings, calculations and circuitry to ensure that the requirements of relevant safety standards are met. In such cases the Bill proposes that the applicant organisation be required to establish the safety of the design and construction by means of an independent expert report. Spot checks to monitor the quality of these complex proposals will be carried out before approval is granted.

The inspection and testing of lifts for safe operation is carried out annually by employees of lift manufacturers or lift maintenance contractors. The present Act requires these annual inspections and tests to be witnessed by an inspector employed by the Department of Labour. The Bill permits the period between inspections witnessed by a government inspector to be extended to two years. Departmental advice is that this will allow the Department to utilize its resources more effectively and still maintain a high standard of inspection to ensure the safe operation of lifts. For annual inspections not witnessed by an inspector, the owner of the lift will be required to submit to the Chief Inspector an expert report on the condition of the lift, certifying that it is in good repair and may be safely operated for the following twelve months.

The present requirements for registration of lifts are such that all lifts must be registered on an annual basis on or before 31 January in each year. This requirement is now inconsistent with more flexible registration provisions of other Acts administered by the Department. This Bill permits the registration of lifts and cranes to be aligned time-wise with registrations required under other Acts and will enable the Department to include registration fees under this Act on a single account to organisations whose activities attract registration fees under other Acts administered by the Department.

The Bill also provides for the recognition of certificates of competency issued by other States. For example, a certificated crane driver from Victoria will be able to operate the appropriate class of cranes in South Australia for a limited period without the need to be issued with an equivalent certificate under the Lifts and Cranes Act. The same flexibility will apply to mobile cranes registered or approved in another State and used for limited periods on work sites in South Australia. In view of the considerable amount of construction work carried out by companies in more than one State, this reciprocal arrangement will assist in removing some of the regulatory impediments in this area.

During the drafting of the Bill, it became clear that it would not be practicable at this time to apply its requirements to lifts and cranes used in mining operations and petroleum exploration work, both off-shore and on land, because of the specialised nature of the equipment. The safe use of such equipment is presently controlled by the legislation provided under the relevant Acts for mining and petroleum exploration.

While the Bill allows a limited degree of self-regulation for lift inspection purposes, balancing requirements in the form of expert reports and increased penalties will maintain the present high standard of safety associated with the operation of lifts in this State.

The provisions of this Bill have been fully discussed with industry and union representatives and approved by the Industrial Relations Advisory Council. I believe these provisions provide effective and flexible requirements for the safe use of lifts and cranes applicable to today's industrial environment.

Clauses 1 and 2 are formal. Clause 3 repeals the Lifts and Cranes Act, 1960. Clause 4 provides for interpretation. Some of the more significant definitions include 'crane', 'hoist', 'lift', 'lifting apparatus' and 'owner':

'crane' means a power-driven lifting apparatus capable of moving materials simultaneously in a horizontal and a vertical plane;

'expert report' means a report by a person whose qualifications and experience are such that he is in the opinion of the Chief Inspector an expert on the subject of the report;

'hoist' means a power driven lifting apparatus other than a crane or lift;

'lift' means a lifting apparatus consisting of a car or cage attached to or installed in a building or structure the movement of which is controlled by girders. The expression includes chair lifts, escalators, moving walks and any other apparatus declared by proclamation to be a lift;

'lifting apparatus' means an apparatus designed or adapted to raise or lower persons or materials;

'owner' in relation to a lift—means the owner, lessee or occupier of the building in which the lift is used, and where the lift is being installed or worked upon, the contractor engaged in the installation or work. In relation to a crane or hoist—means a person taking the crane or hoist on hire or lease, or the owner, lessee or occupier of a building or structure in connection with which the crane or

hoist is used, or a contractor engaged in installing or working upon the crane or hoist.

Subclause (2) provides that a reference in the measure to any lifting or other apparatus includes a reference to supporting and enclosing structures, machinery, electrical service, equipment and gear used in association with the apparatus.

Clause 5 deals with the application of the measure. Under subclause (1) the measure does not apply to an apparatus used for an activity regulated by the Mines and Works Inspection Act, 1920, the Petroleum (Submerged Lands) Act, 1982, or the Petroleum Act, 1940. The Governor may, by proclamation, declare that the Act does not apply to a specified apparatus or class of apparatuses. Clause 6 provides that the measure binds the Crown. Clause 7 provides that the measure does not derogate from the provisions of any other Act, or limit any civil remedy.

Clause 8 provides in subclause (1) that the Chief Inspector of Industrial Safety under the Industrial Safety, Health and Welfare Act, 1972, is the Chief Inspector of Lifts and Cranes. The Governor may appoint inspectors (subclause (2)) and each inspector is to have a certificate of inspection (subclause (3)) which must be produced at the request of a person in relation to when the inspector is exercising a power under the measure (subclause (4)). Clause 9 provides in subclause (1) that an inspector may for the purpose of determining whether the measure is being complied with—

(i) enter at any reasonable time upon and inspect any premises or anything upon the premises;
(ii) remove, examine or test anything;
(iii) require a person to answer a question;
(iv) require a person to produce books, documents or records;
(v) copy books, documents or records;
(vi) require a person to produce for inspection any certificate, exemption or notice granted or given him under the measure.

Where he suspects on reasonable grounds that an offence against the measure has been committed, an inspector may seize and retain evidence of that offence. An inspector may give such directions as are reasonably necessary for the effective exercise of his powers. Subclause (4) provides that where an inspector considers that the use of a crane, hoist or lift would be dangerous, or would expose a person to risk of injury, or that the measure is not being complied with, he may give such directions as he thinks necessary to the owner to prevent the risk of injury and ensure compliance with the measure, and require the owner to ensure that the crane, hoist or lift is not operated until the direction has been complied with. Under subclause (6) it is an offence to hinder or obstruct an inspector in the exercise of his powers under the measure, and an offence under subclause (7) to refuse or fail to comply with a direction given by an inspector.

Clause 10 provides in subclause (1) that it is an offence to construct, modify or install a crane, hoist or lift otherwise than in accordance with a notice of approval under this clause. Under subclause (2) the Chief Inspector may approve in writing of the construction, modification or installation of a crane, hoist or lift subject to any conditions he specifies. Under subclause (3), the Chief Inspector shall not issue a notice unless the person who proposes to construct, modify or install the crane, hoist or lift has provided him with—

(a) two copies of the plans and specifications of the crane, hoist or lift;
(b) in the case of a crane, hoist or lift of a prescribed class—an expert report on the adequacy of design of the crane, hoist or lift;

and

(c) such other information as the Chief Inspector may require.

Subclause (4) sets out the standards to which the Chief Inspector may have regard in determining whether to issue a notice. Under subclause (5) the Chief Inspector must not issue a notice in relation to a crane or hoist of a prescribed class unless satisfied that the person who prepared the expert report had no pecuniary interest in the design, construction, modification etc. of the crane or hoist. Under subclause (6), a person who proposes to construct, modify or install a lift must give notice of the fact to the Chief Inspector. Under subclause (7) an approval in force under the repealed Act continues in force as if it were an approval under this Act. Clause 11 forbids the operation of cranes, hoists or lifts of prescribed classes unless they are registered (subclause (1)). Where an application is made in writing with the prescribed fee (subclause (3)), the Director may register it for such term and subject to such conditions as he may specify (subclause (4)). The Director may add to, vary or revoke a condition of registration (subclause (6)) and it is an offence not to comply with a condition of registration (subclause (7)). Subclause (8) provides that registration shall not occur until an inspector, after making an inspection, has approved of the operation of the crane, hoist or lift. Subclause (9) sets out the circumstances under which the Director may cancel registration, including a request by the owner, a change in ownership, removal from the State for more than twelve months and failure to pay a prescribed fee. Notice of a change in ownership must be given to the Director within thirty days of its occurrence (subclause (10)) and where such notice is not given, the previous owner and the new owner are each guilty of an offence (subclause (11). Notice must be given to the Director of removal from the State and retention outside the State for a period in excess of twelve months under subclause (12). Subclause (13) is transitional and relates to registration in force under the repealed Act.

Clause 12 imposes an obligation on the owner of a crane, hoist or lift to maintain it in a safe condition. Under subclause (2) a person erecting or maintaining a crane, hoist or lift must perform the work in a safe and workmanlike manner. Clause 13 provides, in subclause (1), that a person must not operate, or cause or permit to be operated, a lift unless a certificate of inspection is in force in relation to the lift. Under subclause (2) an inspector must not issue a certificate of inspection unless he is satisfied on the basis of a full and proper inspection that the lift is in good repair and may be safely operated. A certificate of inspection expires twelve months after the date of being issued or on the commencement of a modification to the lift, whichever occurs first. Subclause (4) provides, subject to subclause (5), that where the Chief Inspector is satisfied by an expert report made on the basis of a full and proper inspection of a lift that it is in good repair and may be safely operated, he may exempt the lift from the operation of subsection (1) for twelve months. Under subclause (5) the Chief Inspector must not grant such an exemption unless a certificate of inspection relating to the lift was issued by an inspector within the preceding twelve months. Subclause (6) provides that an expert report must be in writing, contain the prescribed particulars in relation to the lift and any other information required by the Chief Inspector and be signed by the person preparing the report and the owner of the lift.

Clause 14 provides that the owner of a crane or hoist shall cause it to be inspected in such manner and at such intervals as are prescribed. Clause 15 provides that it is an offence for a person under the prescribed age to operate a crane, hoist or lift or to be permitted to operate a crane, hoist or lift. Subclauses (2) and (3) provide for the granting by the Chief Inspector of exemptions from compliance with subclause (1) in relation to cranes, hoists or lifts that, in his

opinion, can be operated safely by a person under the prescribed age.

Clause 16 prohibits the operation of cranes of a prescribed class unless the operator holds a certificate of competency or a provisional certificate of competency (in which case supervision is required). Subclause (2) provides for the granting of certificates of competency by the Chief Inspector to persons certified fit by a medical practitioner and who have complied with the necessary conditions. Under subclause (3) a provisional certificate of competency may be granted by the Chief Inspector to persons certified fit by a medical practitioner and who have fulfilled the prescribed conditions. Under subclause (4) the Chief Inspector has the power to cancel or suspend either form of certificate for good cause. Subclauses (5) and (6) are transitional. Certificates of competency and learner's permits in force under the repealed Act, remain in force, subject to this measure, for the period for which they were granted or last renewed.

Clause 17 provides that where an accident occurs involving a crane, hoist or lift and as a result a person is injured or a structural member of the crane, hoist or lift is damaged, the owner must forward a notice describing the circumstances of the accident to the Chief Inspector within twenty-four hours. Clause 18 provides for a review by the Minister of any decision of an inspector under the measure (subclause (1)). An application for a review does not suspend the operation of the decision in respect of which the review is sought.

Clause 19 provides in subclause (1) that where a person by whom an expert report is prepared deliberately makes a false or misleading statement in the report or is negligent in preparing the report or in carrying out work on which the report is based, he is guilty of an offence. Under subclause (2), if not satisfied with an expert report, the Chief Inspector may require further expert reports or require an inspector to make a report.

Clause 20 provides that where a body corporate is guilty of an offence all members of its governing body are liable to prosecution unless they can establish that they could not by the exercise of reasonable diligence have prevented the offence.

Clause 21 provides that offences against the Act shall be disposed of summarily. Clause 22 is an evidentiary provision. An allegation contained in a complaint that a specified person held a specified office or that a specified authority was or was not in force at a specified time, is, in the absence of proof to the contrary, deemed to be proved (subclause (1)). Under subclause (3) 'authority' means any approval, registration, certificate, provisional certificate or exemption granted, issued or given under the measure.

Clause 23 provides that the Director may exempt a person who applies for that purpose from compliance with any specified provision of the Bill subject to such conditions as he may specify. Under subclause (3) an exemption shall not be granted by the Director unless he is satisfied that compliance with the provision is not reasonably practicable and the granting of the exemption will not endanger the safety of any person. Subclause (6) provides an offence in the case of failure to comply with a condition of an exemption.

Clause 24 provides that a notice or other document required to be given to a person may be given personally or sent to the person's last known place of business or residence. Clause 25 provides for the making of regulations.

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

REMUNERATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment, with amendments, and had made consequential amendments as indicated in the annexed schedule:

Schedule of the amendments made by the House of Assembly to the amendment of the Legislative Council:

Legislative Council's amendment:

Limitation on powers of Tribunal in fixing certain salaries.

23. (1) The following provisions apply, subject to this section, in relation to the salaries of members of the judiciary—

(a) as from the 1st day of October, 1984—

(i) the salary of the Chief Justice of the Supreme Court shall be 95 per cent of the average of the salaries of the Chief Justice of the Supreme Court of New South Wales, the Chief Justice of the Supreme Court of Victoria, the Chief Justice of the Supreme Court of Queensland and the Chief Justice of the Supreme Court of Western Australia as at the 1st day of October 1984;

(ii) the salary of a puisne Judge of the Supreme Court shall be 95 per cent of the average of the salaries of a puisne Judge of the Supreme Court of New South Wales, a puisne Judge of the Supreme Court of Victoria, a puisne Judge of the Supreme Court of Queensland and a puisne Judge of the Supreme Court of Western Australia as at the 1st day of October 1984;

(iii) the salary of a Master of the Supreme Court shall be 85 per cent of the salary of a puisne Judge of the Supreme Court;

(iv) the salary of the President of the Industrial Court shall be the same as for a puisne Judge of the Supreme Court;

(v) the salary of a Judge of the Industrial Court (other than the President) shall by 85 per cent of the salary of a puisne Judge of the Supreme Court;

(vi) the salary of the Senior District Court Judge shall be the same as for a puisne Judge of the Supreme Court;

(vii) the salary of a District Court Judge (other than the Senior Judge) shall be 85 per cent of the salary of a puisne Judge of the Supreme Court;

(viii) the respective salaries of the Chief Magistrate, the Deputy Chief Magistrate, the Supervising Magistrates, the Senior Magistrates, the Stipendiary Magistrates, the Supervising Industrial Magistrate, and the Industrial Magistrates shall be increased by 4.4 per cent:

(b) as from the 6th day of April, 1985, the salaries referred to in paragraph *(a)* shall be increased by 2.6 per cent;

(c) for the purposes of any other statutory provisions governing the remuneration of members of the judiciary, the salaries fixed by the foregoing provisions of this subsection shall be deemed to have been fixed by determination of the Tribunal;

and

(d) any salary to be fixed by the Tribunal in relation to a member of the judiciary not mentioned in paragraph *(a)* shall be fixed as an appropriate proportion of the salary of a member of the judiciary who is mentioned in that paragraph.

(2) Notwithstanding any other provision of this Act, while this section remains in force, no determination shall be made by the Tribunal affecting the salary payable to—

(a) a Minister of the Crown;

(b) a member or officer of the Parliament;

or

(c) a member of the judiciary—

(i) occupying a judicial office referred to in subsection (1) *(a)*;

or

(ii) in respect of whose salary a determination has been made in accordance with subsection (1) *(d)*,

except in accordance with subsection (3).

(3) Subject to section 22, where a general variation of remuneration payable to employees under awards is made by order of the Full Commission under Section 36 of the Industrial Conciliation and Arbitration Act, 1972, the Tribunal shall make a corresponding variation of the salaries payable to—

(a) Ministers of the Crown;
(b) members and officers of the Parliament;
and
(c) members of the judiciary whose remuneration is subject to determination by the Tribunal under this Act,

with effect from the same date as is fixed by the order of the Full Commission.

(4) This section does not affect the power of the Tribunal to make a determination affecting remuneration other than salaries.

(5) This section shall expire on a date to be fixed by proclamation.

(6) The Governor shall not make a proclamation for the purposes of subsection (5) unless satisfied—

(a) that the principles of wage fixation as adopted by the Full Commission in its decision published and dated the eleventh day of October, 1983, no longer apply;
and
(b) that no other principles, guidelines or conditions apply by virtue of a decision or declaration of the Full Commission that are of substantially similar effect to the principles referred to in paragraph *(a)*.

(7) In this section—

'the Full Commission' means the Industrial Commission of South Australia sitting as the Full Commission.

House of Assembly's amendments thereto:

No. 1. Proposed clause 23, leave out paragraph *(c)* of subclause (1).

No. 2. Proposed clause 23, leave out subclauses (2) and (3) and insert subclauses as follows:

(2) Subject to section 22, where a general variation of remuneration payable to employees under awards is made by order of the Full Commission under section 36 of the Industrial Conciliation and Arbitration Act, 1972, there shall be a corresponding variation in the salaries payable to—

(a) Ministers of the Crown;
(b) members and officers of the Parliament;
(c) members of the judiciary whose remuneration is subject to determination by the Tribunal under this Act;
(d) officers whose remuneration is subject to determination by the Tribunal under this Act.

(3) For the purposes of other statutory provisions governing remuneration, salaries fixed under the foregoing provisions of this section shall be deemed to have been fixed by determination of the Tribunal.

(3a) Notwithstanding any other provision of this Act, while this section remains in force, no determination of salary shall be made by the Tribunal except—

(a) in relation to a member of the judiciary referred to in subsection (1) *(d)*;
or
(b) in respect of an office or position for which there is no determination of salary currently in force under this or any other Act.

Schedule of the consequential amendments made by the House of Assembly:

No. 1. Clause 22, page 6, lines 3 to 5—

Leave out 'no determination shall be made by the Tribunal reducing the salary of a member of the judiciary' and insert 'no reduction shall be made under this Act in the salary payable to a member of the judiciary'.

No. 2. Clause 24—Leave out the clause

CITY OF ADELAIDE DEVELOPMENT CONTROL ACT AMENDMENT BILL

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

PLANNING ACT AMENDMENT BILL (No. 2) (1985)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos 3 to 9, had disagreed to amendments Nos 1 and 2, had made an alternative amendment in lieu thereof and had made a consequential amendment, as indicated in the annexed schedule:

Schedule of the amendments made by the Legislative Council to which the House of Assembly has disagreed:

No. 1. Page 2 (clause 4)—After line 4 insert new paragraphs as follow:

(ba) by striking out from subparagraph (i) of paragraph *(b)* of the definition of 'division' in subsection (1) the passage 'five years' where twice occurring and substituting, in each case, the passage 'six years'.

(bb) by inserting after subparagraph (i) of paragraph *(b)* of the definition of 'division' in subsection (1) the following subparagraphs:—

(ia) the granting of a lease or licence or any dealing with a lease or licence or an agreement to grant a lease or licence if the lease, licence, dealing or agreement is subject to the written approval of the South Australian Planning Commission;

(ib) a contract for the sale and purchase of part of an allotment if the contract is subject to the granting of planning authorization required by this Act in relation to the division of the allotment contemplated by the contract;

No. 2. Page 2 (clause 4)—After line 14 insert new paragraph as follows:

(e) by inserting after subsection (1) the following subsection:

(1a) The South Australian Planning Commission may attach such conditions as it thinks fit to its approval of a lease, licence, dealing or agreement referred to in paragraph *(b)* (ia) of the definition of 'division' in subsection (1).

Schedule of the reason of the House of Assembly for disagreeing to the foregoing amendments:

Because the amendments do not allow for the proper functioning of the Act.

Schedule of the alternative amendment made by the House of Assembly in lieu of the amendments disagreed to by the House of Assembly:

Clause 4, page 2, after line 4—

Insert new paragraph as follows:

(ba) by striking out from subsection (1) the definition of 'division' and substituting the following definition:

'division' of an allotment means—

(a) the division, subdivision or re-subdivision of the allotment;

(b) the grant or acceptance of a lease or licence or the making of an agreement for a lease or licence—

(i) by virtue of which a person becomes, or may become, entitled to possession or occupation of part only of an allotment—

(A) that comprises a dwelling and curtilage; or

(B) on which there is no building that is suitable and is used, for human occupation;

(ii) the term of which exceeds six years or such longer term as may be prescribed or in respect of which a right or option of renewal or extention exists under which the lease, licence or agreement may operate by virtue of renewal or extension for a total period exceeding six years or such longer period as may be prescribed; and

(iii) that is not a lease or licence or an agreement for a lease or licence referred to in paragraph *(d)*;

(c) the grant or acceptance of a lease or licence or the making of an agreement for a lease or licence of a class prescribed by regulation; or

(d) the occupation of part only of an allotment by a person who has entered into a lease, licence or an agreement for a lease or licence referred to in paragraph *(b)* (i) and (ii) or paragraph *(c)* under which he is entitled to occupy that part of the allotment subject to prior planning authorization under this Act, and the verb 'to divide' has a corresponding meaning.

Schedule of the consequential amendment made by the House of Assembly:

Page 7, after line 31—Insert new clause as follows:

Insertion of new s. 42a

22a. The following section is inserted after section 42 of the principal Act:

Definition of terms in the Development Plan:

42a. (1) The Governor may, by regulation, define terms used in the Development Plan.

(2) Where, at the commencement of subsection (1), the Development Control Regulations, 1982, purportedly define a term used in the Development Plan, that term where used in the context to which the definition purportedly applies, shall be interpreted in accordance with that definition until the definition is amended, replaced or revoked by regulation under subsection (1).

(3) The Governor shall not make a regulation under subsection (1) unless the Chairman of the Advisory Committee has certified that the procedures required by subsection (5) have been complied with in relation to that regulation.

(4) An allegation, in legal proceedings, that the certificate required by subsection (3) was issued on a particular day shall, in the absence of proof to the contrary, be sufficient proof of that fact.

(5) Before regulations are made under this section

(a) the Advisory Committee must cause to be published in the *Gazette* and a newspaper circulating generally throughout the State an advertisement—

(i) setting out the text of the proposed regulations;

(ii) inviting interested persons to make written submissions to the Committee in relation to the regulations within a period specified in the advertisement (being not less than fourteen days from the date of publication of the advertisement); and

(iii) appointing a place and time for the public hearing referred to in paragraph *(b)*;

(b) at the time and place appointed for that purpose in the advertisement the Advisory Committee, or a sub-committee appointed by the Advisory Committee, must hold a public hearing at which any interested person may speak in favour of, or in opposition to, the proposed regulations;

(c) the Advisory Committee must make recommendations to the Minister in relation to the proposed regulations and shall forward with those recommendations copies of any written submissions made to the Committee in relation to the proposed regulations.

Consideration in Committee.

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

That the Legislative Council no longer insist on its amendments Nos 1 and 2 and agree to the House of Assembly's alternative amendment to clause 4, page 2, after line 4, and to its consequential amendment to page 7, after line 31.

I am sure the Committee will recall that amendments Nos 1 and 2, which were moved and agreed to in this Committee, were moved by the Hon. Mr Griffin following discussions with the Law Society of South Australia. They were agreed to and supported by me on behalf of the Government. Following further discussions when the Bill was returned as amended to the House of Assembly the technical advice from people learned in these matters was that we would be better to approach it by the form of words suggested in the amendment inserted in another place. The consequential amendments refer to the definition of terms in the development plan.

Again, that is a quite technical matter that could be summarised for the Committee more elegantly, eloquently and accurately by the Hon. Mr Griffin, who is learned in the law, than by a former equine veterinarian. I am really looking to the Hon. Mr Griffin for some assistance in this matter. Following discussions, I commend these amendments to the Committee and I thank the Hon. Mr Griffin for the co-operation that he has extended in these matters.

The Hon. K.T. GRIFFIN: I support the motion. The amendments arise from consideration of the Bill before Easter. At that time there was some discussion about the definition of the word 'division'. As the Minister has indicated, a form of words was considered at that time, but subsequent discussions have indicated that a more complex definition is necessary. The only concern I have relates to its complexity, but as a result of discussions it has been decided to proceed with that complex definition and review its operation. Essentially it deals with problems of leases and licences and the question of what is a division of an allotment for the purposes of the Planning Act for which planning approval is required and exempts certain leases, licences and agreements to lease or to grant a licence.

The consequential amendment relates to concerns that we expressed prior to Easter as to the amendment definition of terms in the development plan by regulation. As a result of the concerns that were raised, the Government and its officers have agreed that there should be a procedure by which proposed amending regulations are notified by the Advisory Committee by a notice in the *Gazette* and in a newspaper circulating throughout the State, and that the Advisory Committee would consider the proposed regulations and hear any submissions either in public or received in writing with a view to ultimately providing advice to the relevant Minister prior to the promulgation of the regulations.

There is a public consultation process in relation to amending the terms referred to in the development plan. That accords with the general procedure required for amendment of the development plan. In the light of those discussions and the amendments now before us, I am pleased to be able to support the Minister's motion.

Motion carried.

PLANNING ACT AMENDMENT BILL (No. 3) (1985)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill seeks the repeal of subsections (10), (11) and (12) of section 53 of the Planning Act; the provisions which require a third party appellant to seek leave from the Planning Appeal Tribunal to continue an appeal to formal hearing. Section 53 of the Planning Act provides that certain types of development application must be publicly notified, and any person may object to the proposal, and appeal to the Planning Appeal Tribunal if aggrieved by the decision. Prior to commencing formal appeal hearings, the Act provides for the holding of a compulsory conference of parties. Following this conference, a person who has lodged a 'third party' objection and appeal must seek the leave of the Tribunal to continue to a formal hearing.

Shortly after commencement of the Planning Act in November 1982 the Government appointed a committee to review the operation of the Planning Act. This committee finalised its deliberations and published its report in November 1983. The Planning Act Amendment Bill (No. 2), 1985, currently before Parliament has resulted largely from the recommendations of that committee. In its report, the committee recommended repeal of the requirement to seek leave to continue a third party appeal beyond the conference stage, as in its view the hearing required to determine whether to grant leave to the appellant would in practice be as lengthy and costly as the hearing itself, thus potentially adding to delays and costs. The committee concluded that the requirement for all appeals to seek leave was not justified for the few appeals denied leave.

The first draft of the Bill to implement the committee's recommendations contained the proposal to remove the 'leave to continue' provisions. The committee's view that the leave provision should be repealed was supported by a

judgment of the Land and Valuation Division of the Supreme Court, in which the court concluded that the grounds on which leave should be granted were twofold: first that the appeal was arguable on its merits, and second that the appeal concerned a matter of public importance. As the second ground would clearly limit legitimate third party appeals based on sound planning argument, but of private or individual importance only, the committee reaffirmed its recommendation.

However, in November 1984 the Planning Appeal Tribunal considered the Supreme Court case, and 'read down' its implications. Following that consideration, the Tribunal, as a matter of practice, heard appeal evidence concurrently with evidence on applications for leave to continue, and denied leave in many cases. As the sole basis used by the Tribunal was the 'planning merits' of the appeal, it was decided by the Government not to remove the 'leave to continue' provision. On 4 April 1985, the Land and Valuation Division of the Supreme Court again considered the leave to continue provision, and overturning the Tribunal's review, re-established the view that a third party appellant must show public importance to warrant leave to continue an appeal. This judgment is binding on the Tribunal, and effectively will require the Tribunal to deny leave to the great majority of third party appeals, whether arguable on the merits or not, as most appeals do not involve a matter of public importance.

The judgment of the Supreme Court effectively removes third party appeal rights in the majority of cases. As third party appeals are a fundamental feature of the Planning Act, it is proposed to amend the act to remove the requirement for a third party to seek leave, and accordingly grant all third party appellants the right to a full hearing. An alternative course of establishing criteria in the Act to govern the assessment of a leave application was considered. However, this approach was not favoured as a full hearing would still be required to determine whether leave should be granted. For these reasons I recommend speedy passage of the Bill.

Clauses 1 and 2 are formal. Clause 3 amends section 53 of the principal Act as already described.

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

URBAN LAND TRUST ACT AMENDMENT BILL

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

STATE SUPPLY BILL

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

STATUTES AMENDMENT (COURTS) BILL

Returned from the House of Assembly without amendment.

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE ACT AMENDMENT BILL

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

ADJOURNMENT

At 12.43 a.m. the Council adjourned until Wednesday 15 May at 2.15 p.m.