HOUSE OF ASSEMBLY

Tuesday, February 21, 1978

The SPEAKER (Hon. G. R. Langley) took the Chair at 2 p.m. and read prayers.

APPROPRIATION BILL (No. 1)

His Excellency the Governor, by message, recommended the House of Assembly to make appropriation of such amounts of the general revenue of the State as were required for all purposes set forth in the Supplementary Estimates of Expenditure for the financial year 1977-78 and the Appropriation Bill (No. 1), 1978.

CONSTITUTIONAL MUSEUM BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

BOTANIC GARDENS BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

PETITIONS: PETROL RESELLERS

The Hon. R. G. PAYNE presented a petition signed by 205 residents of South Australia, praying that the House would reject any legislation that could cause petrol resellers to trade seven days a week until 9.30 p.m.

Mr. WILSON presented a similar petition signed by 158 residents of South Australia.

Mr. BECKER presented a similar petition signed by 570 residents of South Australia.

Mr. DEAN BROWN presented a similar petition signed by 57 residents of South Australia.

Mr. ABBOTT presented a similar petition signed by 59 residents of South Australia.

Mr. HARRISON presented a similar petition signed by 22 residents of South Australia.

Petitions received.

PETITION: MINORS BILL

Mr. BECKER presented a petition signed by 144 residents of South Australia, praying that the House would reject any legislation that deprived parents of their rights and responsibilities in respect of the total health and welfare of their children.

Petition received.

QUESTIONS

The SPEAKER: I direct that the following written answers to questions be distributed and printed in *Hansard*.

DRY CREEK BRIDGE

Mr. GOLDSWORTHY (on notice):

1. Will tenders be called for the construction of the Dry Creek bridge on the Port Wakefield road?
2. Who is doing the piling work for this bridge?
3. Who is doing the earthworks for the bridge?
4. What contracts will be let to private enterprise?

The Hon. G. T. VIRGO: The replies are as follows:

1. No.
2. Marine and Harbors Department.
3. Highways Department.
4. Contracts will be let for prestressed concrete beams, bearings and plaques, and for the hire of formwork and some machinery.

GEPPS CROSS BRIDGE

Mr. GOLDSWORTHY (on notice): What was the final cost of the Gepps Cross bridge on Grand Junction Road over the railway line?

The Hon. G. T. VIRGO: It is expected that the final cost of the bridge will be in the order of $560 000.

SCHOOL FACILITIES

Mr. GUNN (on notice):

1. How many "90-day notices" have the Minister's departmental officers served on schools to upgrade their facilities in laboratories and workshops?
2. Have discussions taken place with the Minister of Education in relation to these notices and, if so, what were the results of such discussions?

The Hon. J. D. WRIGHT: The replies are as follows:

1. Since the industrial safety code regulations came into operation on September 1, 1975, 17 90-day notices have been served on schools.
2. No, not with the Minister of Education.

CABINET MEMBERS

Mr. EVANS (on notice):

1. Have South Australian Cabinet members at any period during the past 15 years been entitled to a fee for attending meetings other than Cabinet meetings, outside normal business hours (that is 9 a.m.-5 p.m.) and if so—
   (a) what were the periods when the practice operated;
   (b) what was the monetary entitlement when first introduced;
   (c) if the practice of paying the fee has been stopped, what were the reasons;
   (d) was the fee increased at any time and if so—
      (i) to what amounts was it increased; and
      (ii) what were the dates of the increases;

   and
   (e) what have been the amounts received by each Cabinet member for each fiscal year that the practice has operated?
2. If the detail is not available for the whole of the 15-year period, what are the details for the period for which the information has been retained?

The Hon. D. A. DUNSTAN: To my knowledge, no Cabinet member during the past 15 years has received fees from the State Government for attending meetings other than Select Committees of the House: I cannot, of course, answer in regard to fees relating to Liberal Ministers who probably received Board fees from private bodies.

GRADUATE TEACHERS

Dr. EASTICK (on notice):

1. What number of teacher trainees graduated from each of the South Australian Colleges of Advanced Education with teacher training facilities in the years 1975, 1976 and 1977?

2. What number of students from each of the colleges were offered appointments following the 1977 graduation and what percentage of the total graduates from each college do these offers represent?

3. If there is disparity in the percentage of trainees offered appointment from any particular college or colleges, or alternatively from any particular course or courses of training, what are the details and what reason or reasons can be ascribed to explain the individual disparities?

4. Has a review of the courses on offer or the number of trainees to be permitted to enter each course been undertaken in recent weeks and, if so, when and what are the details of the review and/or the decisions subsequently taken?

5. What is the current prospect of new employment opportunity in the area of teaching for the scholastic years 1978 to 1983, inclusive?

The Hon. D. J. HOPGOOD: The replies are as follows:

1. The figures below for 1975 and 1976 were supplied by the Board of Advanced Education. The figures for 1977 are Education Department figures of graduates of the various colleges who applied for employment with the Education Department. The totals of graduates in 1975 and 1976 include many serving teachers who have completed their diplomas by studying part-time. Also included in these totals are people who graduated from Dip.T. courses, and then remained at C.A.E. for a further year to gain an Advanced Dip.T.

Tertiary Institution	1975	1976	1977
Adelaide C.A.E.	280	252	234*
Kingston C.A.E.	80	104	121*
Murray Park C.A.E.	291	477	328*
Salisbury C.A.E.	177	177	50*
Sturt C.A.E.	278	425	264*
Torrens C.A.E.	555	663	319*

* numbers who actually applied

2. At February 16, 1978, the following figures apply:—

Tertiary Institution	No.	%
Adelaide C.A.E.	116	45·8
Kingston C.A.E.	66	53·7
Murray Park C.A.E.	230	68·7
Salisbury C.A.E.	33	63·5
Sturt C.A.E.	180	67·2
Torrens C.A.E.	156	49·7

3. At February 16, 1977, 55·4 per cent of applicants for appointments to primary schools and 36·3 per cent of applicants for secondary schools had been offered appointments. The primary vacancies were increased by the policy of providing non-contact time to primary teachers and by the transfer from primary schools to secondary schools of approximately 100 secondary teachers who were placed in primary schools at the beginning of 1977. Their transfer from primary schools to secondary schools reduced the number of vacancies available to applicants for placement in secondary schools. Also, secondary enrolments are declining and the demand for teachers in secondary schools is falling. The situation is best described as one where the number of teachers employed in secondary schools is being held constant rather than one where employments are increasing. The different employment rates for primary and secondary schools explain the different percentages of employments between the colleges. Those tertiary institutions which concentrate on the training of teachers for placement in secondary schools have lower employment percentages than those institutions which train teachers for primary schools.

4. The Board of Advanced Education is currently undertaking a review of the intake requirements into teacher education for 1979 courses and will be making its recommendations to colleges at its April meeting. The board will be analysing information on possible teacher requirements of the Education Department in the light of the most recent intake and will be determining the pre-service teacher education students to be taken in on the basis of assumptions about possible loss rates of existing teachers in future years.

5. The latest estimates of new teacher requirements for the period 1978-83 inclusive are tabulated below:—

	Primary	Secondary	Total
1978	588	288	876
1979	630	280	910
1980	560	320	880
1981	520	400	920
1982	580	500	1 080
1983	570	580	1 150

The above tabulated figures incorporate the latest information on teacher wastage. These, of course, are revised annually, and as a consequence estimates of teacher demand can vary accordingly.

COMMUNITY WELFARE ACT

Mr. WOTTON (on notice): What action has the Minister taken to inform members of the Police Force of their obligations under section 82 *(d)* of the Community Welfare Act, and when was this action taken?

The Hon. D. W. SIMMONS: None. The attention of members of the Police Force was specifically directed to the amendments of the Act by a notice published in the *South Australian Police Gazette* of April 20, 1977.

Mr. WOTTON (on notice): What action has the Minister taken to inform registered teachers employed in and attached to his department and in non-government schools of their obligations under section 82 *(d)* of the Community Welfare Act, and when was this action taken?

The Hon. D. J. HOPGOOD: No information has been forwarded to registered teachers employed in Government and non-government schools regarding their obligations under section 82 *(d)* of the Community Welfare Act. However, a working party representative of the Education Department, the South Australian Institute of Teachers, and the Community Welfare Department is currently drafting a circular containing such information for distribution to teachers. The information should be available in schools within the next three weeks.

BURRA ROAD

Mr. GUNN (on notice):

1. What plans has the Government to seal the Burra to Morgan road?

2. Has a traffic count been carried out on the road, and, if not, will action be taken to have such a count?

The Hon. G. T. VIRGO: The replies are as follows:

1. There are no plans to commence sealing the Burra-Morgan road for at least five years.

2. Yes. Traffic counts are carried out periodically on this road and, in 1977, average daily figures were

approximately 100 near Burra and Morgan, dropping to 40 over the middle section of the road.

LETHAL DOSE TEST

Mr. EVANS (on notice):

1. Is the Minister of Health aware, whether in some overseas countries, in what is known as the Lethal Dose 50 per cent test, the following substances have been forced down live animals' throats to ascertain what amounts will kill 50 per cent of the animals so treated: weed killers, packaging materials, toiletries, detergents, floor polishes and anti-freeze liquids?

2. To the knowledge of the Minister of Health, have any of these or similar materials been Lethal Dose 50 per cent tested in Australia, in particular, South Australia?

3. Is the Lethal Dose 50 per cent test performed in South Australia for non-medical research and, if so, are any of the laboratory animals force fed by means of a tube into the stomach with the substance being tested?

4. If the Lethal Dose 50 per cent test is performed in South Australia, is the person conducting the experiment obliged to publish, or otherwise make known, whether the deaths of the 50 per cent of the live animals used was due to the toxicity of the substance tested, or due to the rupture of the stomach or other organ malfunction?

5. What alternatives are there to the use of live animals for toxicological experiments?

6. Can the Minister say whether in the United Kingdom in 1972, less than one-third of the experiments conducted on live animals was for medical research and if so what is the corresponding proportion in South Australia?

7. Is South Australia amongst the few places on earth where it is still possible for a person to experiment on live animals held under the influence of curare?

8. What tests have been carried out in South Australia on live animals for the benefit of research in other States or countries?

9. Will the Government take steps to control legally Lethal Dose 50 per cent testing of non-medical products and ensure that this practice is subject to adequate inspection?

The Hon. R. G. PAYNE: The replies are as follows:

Yes, I have no doubt that in several overseas countries the Lethal Dose 50 per cent of the substances mentioned is determined by running the substances into the stomachs of animals. I do not agree that this represents "forcing substances down the throats of live animals".

2. No.
3. No information available on private organisations.
4. See 3.
5. None.
6. No.
7. No.
8. No statistics are available.
9. Not applicable.

POSTAL VOTING

Dr. EASTICK (on notice):

1. What was the name of each of the persons who comprised the "clerical facility" which processed postal voting for each of the 1975 and 1977 State elections?

2. What individual, group of individuals, or organisation owns and/or leases the premises at 10 King William Road, Wayville, and what amount, if any, was paid for rental in 1977, when the premises were used to house the special clerical facility?

The Hon. PETER DUNCAN: The replies are as follows:

1. The names of each of the persons who comprised the "clerical facility" which processed postal vote applications for each of the 1975 and 1977 State elections are as follows:

1975	1977
D. Peterson	Y. Douglass
K. Shaughnessy	A. Valderemao
A. Mayfield	L. Valderemao
D. Woods	T. Valderemao
P. Baker	Y. Valderemao
M. J. Sims	J. Farquharson
Y. Douglass	C. Dunning
J. Green	D. Campbell
	A. Mayfield
	L. Mayfield
	D. Woods
	L. Woods
	M. Sims
	M. Shaughnessy
	G. Chenoweth
	J. Williams
	C. Hughes
	J. Lee
	D. Lee

2. The owner of the premises at 10 King William Road, Wayville, is N. B. Douglas, Electoral Commissioner. No payment was made for the use of the premises.

NORTHERN RAILWAY

Dr. EASTICK (on notice):

1. Is it intended to build any more railway stations on the section of line between Smithfield and Gawler and, if so, when and at what estimated cost?

2. What progress has been made towards a regional passenger exchange arrangement for existing or future stations on the northern metropolitan line and when is it anticipated that the first facility will be operational and which one will it be?

The Hon. G. T. VIRGO: The replies are as follows:

1. Areas have been set aside for additional stopping places should they be required in the future.

2. There are proposals for bus routes to serve stations on the northern line with interchange areas and car parks. However, no implementation programme has yet been prepared.

MURRAY RIVER WATER

Dr. EASTICK (on notice):

1. What damage, if any, has been caused to irrigated crops utilising Murray River water during the period January 1, 1977, to date, and what are the details?

2. Is there evidence of damage to crops or home gardens in the metropolitan area during the same period, and what are the details?

3. What is the projected salinity of Murray River water over the foreseeable future?

The Hon. J. D. CORCORAN: The replies are as follows:

1. In general, little visible damage has been seen in irrigated tree crops utilising Murray River water during the period January 1, 1977, to the present, except where overhead irrigation systems are used on crops which absorb salt through their leaves (mainly stone-fruit, almonds and citrus). In these cases, leaf burn has occurred with varying degrees of severity, but yields have not noticeably been affected. Vegetable crops and pastures

have shown no visible signs of salinity damage.

2. There is no apparent evidence of damage to crops or home gardens in the metropolitan area during the same period, as measured by inquiries reaching the Home Gardens Section of the Department of Agriculture and Fisheries.

3. Current predictions are that salinity at Renmark is expected to decrease steadily from the current value of about 740 EC to 650 EC during the next four weeks. At Waikerie, salinity is expected to rise to 1 100 EC in late February before decreasing steadily to 1 000 EC in early March.

JOSEPH VERCO

Mr. BLACKER (on notice):

1. What is the work programme for the fisheries research vessel *Joseph Verco* for 1978?

2. How many crew are engaged on the vessel?

3. What is the cost of operation of the *Joseph Verco* on a per day basis?

4. What qualifications and experience do the skipper and crew have?

The Hon. J. D. CORCORAN: The replies are as follows:

1. The vessel is programmed for 115 days at sea during 1978 for work on hydrology, rock lobster, prawns, trawling by-catch, crabs, whiting and snapper, and abalone. Time has also been allotted for annual leave of crew, fitting of trawling gear and some structural alterations, when the vessel is not at sea.

2. Six.

3. $1 126 a day.

4. Skipper—certificate of service (skipper GI), certificate of service marine engine driver, radio telephone operators certificate, 13 years seagoing experience.

Mate—certificate of competency (skipper GI), certificate of competency (mate foreign going), radio telephone operators certificate, 5 years seagoing experience.

Engineer—certificate of competency, marine engineer (coastal), 7 years seagoing experience.

Two deckhands and cook—Each has relevant experience for the duties performed.

HOSPITALS FUND

Mr. BLACKER (on notice):

1. What funds have been received into the Hospitals Fund from the Lotteries Commission in each of the past five years?

2. How have these funds been allocated and what criteria were used for such allocation?

3. Which hospitals have actually received assistance from the fund?

The Hon. D. A. DUNSTAN: The replies are as follows:

1. The amounts paid into the Hospitals Fund by the Lotteries Commission in each of the last five years are as follows:—

Year	Amount
	$
1972-73	1 895 822
1973-74	2 353 614
1974-75	3 344 542
1975-76	5 195 279
1976-77	5 488 524

The Hospitals Fund also is credited with moneys from the Totalizator Agency Board, unclaimed dividends from racing clubs, and stamp duty on motor vehicle insurance policies.

2. Altogether, credits to the Hospitals Fund are considerably less than annual expenditures by the State on the provision, maintenance, development and improvement of public hospitals, and equipment for public hospitals. Therefore, when the amount of this programme is established each year, a decision is made about the amount to be met from other State funds and the total contribution required from the Hospitals Fund to supplement it. A wide range of factors are taken into account in reaching this decision and, since the decision is made in aggregate, no attempt is made to identify final allocations with any of the separate sources of initial finance.

3. Hospitals which have received assistance from the Government are set out in appendices I, II, and III of the Treasurer's Statements and Accounts. In 1976-77 these appeared on pages 42 to 46 of that document. Alternatively, they can be found on pages 562 to 566 of the Auditor-General's Report.

BOARD MEETINGS

Dr. EASTICK (on notice):

1. How often do the following trusts or boards meet:
   (a) Electricity Trust of South Australia;
   (b) State Government Insurance Commission Board;
   (c) Metropolitan Milk Board;
   (d) Savings Bank of South Australia Trustees; and
   (e) Motor Fuel Licensing Board?

2. How many "half day" public hearings did the Motor Fuel Licensing Board hold in each of the financial years from 1974-75 to date?

The Hon. D. A. DUNSTAN: The replies are as follows:

1. *(a)* Electricity Trust of South Australia, normally meets on 1st and 3rd Monday of each month.
   (b) State Government Insurance Commission Board, fortnightly.
   (c) Metropolitan Milk Board, one half-day meeting each week.
   (d) Savings Bank of South Australia Trustees, fortnightly.
   (e) Motor Fuel Licensing Board, once a month and, in addition, conducts hearings as required into applications received.

2. Financial years 1974-5, 250; 1975-6, 108; 1976-7, 130; 1977-8, 66 (up to February 17, 1978).

STUDENTS

Dr. EASTICK (on notice):

1. What number of primary and secondary students, respectively, have enrolled at the State's schools for the current academic year?

2. What number of primary schools will provide all-year reception of beginners?

3. How many beginners are expected to enroll in the year 1978 and how many of these were enrolled at the commencement of first term?

The Hon. D. J. HOPGOOD: The replies are as follows:

1. The number of students enrolled at primary schools for 1978 is 145 171. The number of students enrolled at secondary schools for 1978 is 84 152. It should be noted, however, that the secondary school figure is a "head" count and is therefore reasonably accurate.

The primary school figure is "enrolments", and therefore contains some double counting which will not be eliminated until the department has accurate figures from the schools as to transfers. The actual figure which will be known accurately after February 24 is likely to be about

142 000.

2. The number of primary, junior primary and area schools operating age five continuous intake is 320.

3. In 1978, it is expected that about 21 000 five-year-olds will enrol. Of these, 10 032 enrolled at the commencement of first term.

TEACHERS

Mr. DEAN BROWN (on notice):

1. How many new teachers have been employed by the Education Department during the period August 1, 1977, and January 31, 1978?

2. What is the estimated number of graduates from either universities or colleges of advanced education who have applied for employment with the Education Department during the last six months?

3. What is the estimated number of unemployed teachers in South Australia as of February 1, 1978?

4. Has the Education Department or any other Government official officially warned students entering universities or colleges of advanced education that there would be a gross surplus of teachers and, if so, when was the warning made and what was the nature and distribution of the warning?

5. Will all qualified teachers be considered equally by the Education Department when employing teachers, or will persons on unemployment benefits have preference over teachers who have found alternative employment?

The Hon. D. J. HOPGOOD: The replies are as follows:

1. No permanent appointments were made between August 1. and the end of the 1977 school year. At February 16, 1978, 1 116 offers of permanent appointment had been made to teachers seeking employment with the Education Department. Of these, 843 were students exiting from tertiary institutions.

2. The numbers are as follows:

Tertiary institutions:	No.
Adelaide University	164
Adelaide C.A.E.	253
Flinders University	163
Kingston C.A.E.	123
Murray Park C.A.E.	335
Salisbury C.A.E.	52
Sturt C.A.E.	268
Torrens C.A.E.	314

3. 2 599 applications for permanent employment have been received, and 1 116 appointments have been offered. It should be noted that a call for employment as temporary teachers drew about 600 responses from teachers who had earlier applied for permanent employment, and some teachers, additional to those who sought permanent employment for 1978, are available as temporary employees.

4. All student teachers at tertiary institutions were advised as follows:

February, 1977—

Notice to students enrolled in courses of teacher education in universities and colleges of advanced education, 40/17/3560:

I am writing to you to inform you about your employment prospects with the Education Department when you have successfully completed your course of teacher education. The overall numbers of new teaching appointments for 1978 will depend upon the loss rate among teachers in 1977, and, also, upon the funds provided in the 1977-78 Budget for salaries of teachers. Present indications are that because of the implementation of the policy of providing non-contact time for primary teachers there are likely to be more vacancies in primary and junior primary schools than in secondary schools in 1978.

In future, exit students from tertiary institutions will have to compete equally with South Australian teachers seeking re-employment as well as with teachers from other sources who have qualifications to meet any special needs of the department.

Applicants were also advised of employment prospects at advisory meetings which were held at all tertiary institutions in the middle of 1977. It should be noted in this context, that change in the resignation rate of teachers over the past four years is significant. It has declined from 12·6 per cent for 1974, and from 11·7 per cent in 1975, to 5·5 per cent for 1978. That is to say, the rate has more than halved over the past four years, the period when this year's exiting students were in training, as follows: 1974, 12·6 per cent; 1975, 11·7 per cent; 1976, 7·9 per cent; 1977, 6 per cent; 1978, 5·5 per cent.

If the resignation rate were to return to the level of 1973-74, there would be no surplus of teachers.

5. Applicants will be placed according to suitability for employment as teachers, irrespective of other factors, such as personal hardships, sex, marital status, and so on.

WEEDS OFFICER

Mr. MILLHOUSE (on notice): Is there, in the Environment Department, an officer responsible for research into control of weeds in natural vegetation and, if so, who is the officer responsible and when did he take up his present duties and, if not, is it proposed to appoint such an officer?

The Hon. J. D. CORCORAN: No, but such a position is under consideration.

ENVIRONMENT DEPARTMENT

Mr. MILLHOUSE (on notice):

1. How many persons, holding senior positions in the National Parks and Wildlife Service of the Environment Department, have resigned in the last 12 months?

2. Who are they?

3. What position, respectively, did each hold?

4. What was the reason in each instance, for the resignation?

5. Has each position thus made vacant since been filled?

6. Is it expected that other senior officers in the division will be leaving it within the next three months and, if so, who is expected to leave and for what reasons?

The Hon. J. D. CORCORAN: The replies are as follows:

1. In terms of the Environment Department's definition of senior officer—nil.

2. Vide 1.

3. Vide 1.

4. Vide 1.

5. Vide 1.

6. No.

MR. GEORGE CORNWALL

Mr. MILLHOUSE (on notice):

1. Has Mr. George Cornwall resigned as an officer in the National Parks and Wildlife Service of the Environment Department and if so—

(a) when does the resignation take effect; and

(b) what are the reasons for his resignation?

2. What position does Mr. Cornwall at present hold and how long has he held it?

The Hon J. D. CORCORAN: The replies are as follows:

1. Yes.
   (a) February 24, 1978.
   (b) Because he was disenchanted.
2. Senior Ranger (northern Region) since July 16, 1973.

BIRD TRAPPING

Mr. MILLHOUSE (on notice): Has the inquiry by a Government investigations officer in the Crown Law Office, following allegations contained in a letter received by the National Parks and Wildlife Service concerning the trapping of birds, yet been completed and, if so, what is the result of the inquiry and, if not, why has it not yet been completed and when is it expected that it will be completed?

The Hon. J. D. CORCORAN: Yes. A report is expected shortly.

WEEDS VEHICLE

Mr. WOTTON (on notice): Was a vehicle purchased by the Government for the use of a research officer to be appointed for the control of weeds in natural vegetation as a member of the staff of the National Parks and Wildlife Service and, if so, where is that vehicle now and for what purposes is it being used?

The Hon. J. D. CORCORAN: No.

NATIONAL PARKS AND WILDLIFE SERVICE

Mr. WOTTON (on notice):

1. How many senior officers are there in the National Parks and Wildlife Service?
2. How many of these officers have—
   (a) practical park management experience; and
   (b) recognised qualifications which qualify them for such positions?
3. What are the names of the officers in *(a)* and *(b)*, respectively?

The Hon. J. D. CORCORAN: The replies are as follows:

1. Four.
2. *(a)* All four.
   (b) All four.
3. Mr. R. G. Lyons, Mr. A. R. Gobby, Dr. S. Barker, Mr. D. D. Cordes.

OFFICER TRANSFERS

Mr. MILLHOUSE (on notice): Is it proposed that officers from the Environment Department be transfered to the Housing and Urban Affairs Department and, if so—

(a) why;
(b) when; and
(c) who are the officers and what are their present positions?

The Hon. J. D. CORCORAN: No.

BELAIR HOUSES

Mr. DEAN BROWN (on notice):

1. During the duplication of the railway line east of the Belair railway station and the associated construction work were any railway houses at Belair structurally or superficially damaged and, if so, what was the extent of this damage?
2. How many houses in the Belair area reported damage as a result of this work and what are the names and addresses of each person reporting such damage?
3. What compensation will be paid to persons whose property was damaged as a result of this construction work?

The Hon. G. T. VIRGO: The replies are as follows:

1. There has been no reported damage to any railway houses at Belair.
2. A complaint was received from Mr. and Mrs. Halstead, Sheoak Road, Belair, of damage alleged to have occurred as a result of this work.
3. Not known. Under the terms of the general conditions of contract, the contractor, Messrs. A. Davies & Sons Pty. Limited, absolved the Rail Division from liability.

WRITS

Mr. DEAN BROWN (on notice):

1. On how many occasions during the last three years have Government Ministers used the Crown Solicitor or his staff to issue writs for libel, and/or slander, and/or defamation?
2. For each writ so issued—
   (a) which Minister was involved;
   (b) on what date was the writ issued;
   (c) who were the defendants;
   (d) does the writ still apply or has it been discontinued and, if so, when;
   (e) have any cases been settled out of court and, if so, what were the terms of settlement and who paid the legal costs; and
   (f) what damages have been awarded in any case and who has received the money?
3. If damages were awarded against the defendant, was the money paid to the Treasury or to the Minister concerned?
4. Where the writ has been discontinued and the plaintiff has agreed to pay the legal costs of the defendant, has Government finance been used to pay these costs and, if not, who has paid the costs?

The Hon. D. A. DUNSTAN: The replies are as follows:

1. Five.
2. *(a)* One writ involved the Premier, another the Minister of Labour and Industry; the other three the Attorney-General.
   (b) The Premier's writ was issued on December 9, 1977; the writ for the Minister of Labour and Industry on April 29, 1977; and those for the Attorney-General on September 13, October 27 and December 14, 1977.
   (c) The defendants to the Premier's writ are; John William Turner and Advertiser Newspapers Ltd. Defendants to the writ issued on behalf of the Minister of Labour and Industry were Dean Craig Brown and Advertiser Newspapers Ltd. The defendants to the Attorney-General's writs are; Elmore Royce Schulz and Advertiser Newspapers Ltd.; Alexander Thomas Fitzpatrick and Advertiser Newspapers Ltd.; Helen Lesley Gebhardt and Border Watch Pty. Ltd. respectively.
   (d) The only writ discontinued is that issued by the Minister of Labour and Industry. The proceedings were discontinued against the Advertiser Newspapers Ltd. on May 5, 1977, and on May 6, 1977, against the honourable member.
   (e) The only matter settled out of court is the writ issued by the Minister of Labour and Industry.

The matter was concluded with the assistance of private solicitors. Particulars of the settlement are, no doubt, well known to the honourable member.

(f) No damages have been awarded in any case as yet.

3. See 2.

4. The writ issued by the Minister of Labour and Industry was discontinued and in accordance with Government policy, the costs were paid by the Government. The relevant Cabinet policy is as follows: "In general, the Crown Solicitor will act on behalf of a Minister of the Crown only in legal proceedings where the matter concerns the Minister as a Minister of the Crown or acts or omissions of that Minister in his capacity as a Minister. Such legal assistance may be withheld altogether or provided by instructing solicitors outside Government employment where the circumstances of the case so require.

The question of the Government meeting any amounts ordered to be paid, or agreed to be paid, by a Minister in settlement of any such legal proceedings will be the subject of a Cabinet decision in each case. Where the Crown Solicitor has acted for a Minister any legal costs recovered in those proceedings will be paid into General Revenue."

POLICE ESCORTS

Mr. BECKER (on notice): What is the breakdown and source of Police Department receipts for charges for escorts and special services totalling $422 379 for the financial year ending June 30, 1977?

The Hon. D. W. SIMMONS: The receipts for charges for escorts and special services totalling $422 379 comprised the following amounts:

$162 384 for the supply of wide and long load escorts to companies and other parties involved in the transport industry; money and pay-roll escorts mainly to State Government departments and statutory bodies.

A small amount of this revenue refers to escorts performed for the Australian National Railways Department, banks and private organisations.

$129 390 for practical driver testing undertaken by police officers.

$77 614 for copies of road traffic accident reports, burglary and other reports to interested parties, e.g. insurance companies, members of the public, etc.

$43 179 for reimbursement of salaries of police officers and other departmental personnel associated with commercial prosecutions, Police Credit Union, Police Hospital Fund, Police Pensions Fund and other minor miscellaneous charges.

$34 for badges issued to persons licensed under the Marine Stores Collectors Act.

$526 for burglar alarms and direct lines for emergency use connected from private premises to police switchboards.

$5 265 for reimbursement of motor mileage incurred by police officers in the execution of their duty, e.g. conveyance of drunks and DUI offenders, mileage in attending court as witnesses and at show displays.

$2 042 for hire of Police Auditorium and other departmental accommodation to outside organisations and individuals.

$465 for commission mainly in relation to licences issued under the Hawkers Act.

$1 480 mainly for the supply of visa clearance certificates to members of the public.

TRAFFIC LIGHTS

Mr. WILSON (on notice): Is it intended to construct pedestrian-activated crossing lights on Stephen Terrace, Walkerville, adjacent to Walkerville Primary School and, if not, why not?

The Hon. G. T. VIRGO: Pedestrian-activated crossing lights will not be installed at this location as the existing school signs, flags and Safety Salls are considered to provide adequate protection for school children under the prevailing traffic conditions. However, this matter will be kept under review.

DRUGS

Mr. WILSON (on notice): Has the Hospitals Department instituted an inquiry into the supply and costs of supply of drugs from hospital out-patient departments and, if so, when will the inquiry be completed and will the results be made available?

The Hon. R. G. PAYNE: Yes. The results of the working party's investigations should be completed by the end of March, 1978.

DENTAL SERVICES

Mr. WOTTON (on notice):

1. Have any school dental services provided dental treatment for age pensioners?

2. Has any instruction, either verbal or written, been given to school dental officers that pensioner services be discontinued and, if so, when was that instruction given?

3. Are negotiations currently under way for both Federal and State Ministers of Health to provide regionalised free dental treatment for pensioners and, if so, at what stage are negotiations and, if not, will the Government investigate the possibility of commencing such services?

The Hon. R. G. PAYNE: The replies are as follows:

1. Yes, a limited service is being provided in some country areas.

2. No. However, dental officers have always been advised that this limited service may be provided in approved areas only when the school dental programme will not be affected.

3. The provision of free dental treatment for pensioners is regarded as a Federal responsibility and has been discussed at previous conferences of Australian Health Ministers.

VAUGHAN HOUSE

Mr. MATHWIN (on notice):

1. Was the 14-year-old girl who slashed her wrists in the incident in November, 1977, at Vaughan House under the care and control of the Minister or the Community Welfare Department at the time of her detention at that institution and if so—

(a) how long was she detained in Vaughan House;

(b) when was she admitted; and

(c) when was she discharged;

and, if not—

(a) on whose authority was she detained;

(b) in which assessment unit was she detained?

(c) when was she admitted; and

(d) when was she discharged?

2. How many girls were admitted to Vaughan House in each of the weeks from October 10 to December 10, 1977, respectively?

3. Were any of those girls not under the care and control of the Minister or Community Welfare Department when they were admitted?

4. If any were not under that control, on whose authority were they detained?

5. What method was used for the handling of these children in their particular unit?

6. What method is at present being used in assessment 2 of that institution?

7. How many incidents occurred in Vaughan House in each of the weeks commencing November 13, 20, and 27, 1977, respectively, and—

(a) how many involved injury to inmates;

(b) how many involved injury to staff;

(c) what type of injuries were sustained; and

(d) was there any structural damage involved and, if so, what was that damage?

The Hon. R. G. PAYNE: The replies are as follows:

1. Yes.

(a) 14 days.

(b) 23/11/77.

(c) 6/12/77.

2. Week commencing October 10—5
17—4
24—7
31—5
November 7—4
14—10
21—7
28—7
December 5—7

3. No.

4. —

5. Basic residential care. This involves providing all living necessities including meals, medical care and management of hygiene. It also includes the counselling of residents, behavioural observations for assessment purposes, programming of activities during the day and evening. Residents also attend the Education Department school at the centre during normal schools hours.

6. Same as 5.

7. Week commencing November 13—Nil
20—3
27—Nil

(a) Two.

(b) Nil.

(c) Self-inflicted cuts, bruising to arms.

(d) No structural damage, but fire damage to curtains, linen, woodwork and paintwork, estimated at $88.

ELECTION FEES

Dr. EASTICK (on notice):

1. What fee for services was paid to—

(a) Assistant Returning Officers;

(b) Presiding Officers engaged at scrutiny;

(c) Assistant Presiding Officers engaged at scrutiny;

(d) Presiding Officers not engaged at scrutiny;

(e) Assistant Presiding Officers not engaged at scrutiny;

(f) Poll Clerks engaged at scrutiny;

(g) Poll Clerks not engaged at scrutiny; and

(h) Doorkeepers,

at the July 12, 1975, and September 17, 1977, elections respectively?

2. How do these fees compare with fees paid by the Commonwealth for the same services?

The Hon. PETER DUNCAN: The replies are as follows:

1. Fees paid for the services of polling staff at July 12, 1975, and September 17, 1977, general elections were as follows:

	State 12/7/75 $	State 17/9/77 $
(a) Assistant Returning Officers	43	86
(b) Presiding Officers engaged in scrutiny	38	76
(c) Assistant Presiding Officers engaged in scrutiny	33	66
(d) Presiding Officers not engaged at scrutiny	31	62
(e) Assistant Presiding Officers not engaged at scrutiny	28	56
(f) Poll Clerks engaged at scrutiny	28	56
(g) Poll Clerks not engaged in scrutiny and	23	46
(h) Doorkeepers	21	42

2. Fees payable for similar services at the last two Commonwealth elections are as follows:

	19/5/75 $	21/5/77 $
(a) Assistant Returning Officers	49·70 to 62·60	85·80 to 100·20
(b) Presiding Officers engaged at scrutiny	44·00 to 49·00	78·10 to 83·00
(c) Assistant Presiding Officers engaged at scrutiny	41·60	67·40
(d) Presiding Officers not engaged at scrutiny	35·80 to 39·80	67·70 to 72·20
(e) Assistant Presiding Officers not engaged at scrutiny	33·80	58·40
(f) Poll Clerks engaged at scrutiny	35·60	62·80
(g) Poll Clerks not engaged at scrutiny	28·90	54·40
(h) Doorkeepers	26·00	48·00

The range of fees paid by the Commonwealth for certain staff is calculated according to the number of tables in a booth. The State fees are a standard rate.

FISHING LICENCES

Mr. GUNN (on notice):

1. Are people who hold B class fishing licences allowed to employ others to assist them?

2. Has the Government any plans to restrict or prohibit current fishermen who are authorised to hire employees to assist them in the scale fisheries and if so, why?

The Hon. J. D. CORCORAN: The replies are as follows:

1. Yes.

2. The Government has imposed a "freeze" on the hiring of additional employees by licence holders. This is in line with its decision to conserve fish stocks by restricting further effort in the scale fishery.

CURB

Mr. GUNN (on notice):

1. Has the Government accepted the report of the committee set up to examine uniform regional boundaries for Government departments?

2. Can the Government give an undertaking that no existing State Government offices will be transferred from Whyalla?

The Hon. D. A. DUNSTAN: The replies are as follows:

1. Cabinet approved the substantive recommendations of the report of the committee on Uniform Regional Boundaries on August 9, 1976. However, the Co-ordinating Committee on Regional Administration was subsequently established with terms of reference requiring that a Whyalla task force be set up to "re-examine critically, in the light of current employment problems being experienced in Whyalla and any other special factors, whether the CURB proposals regarding Government departments in Whyalla should be pursued, and report to Cabinet."

2. The Whyalla task force has completed its study of the implications of the CURB proposals as they relate to departmental services in Whyalla. The recommendations have been considered by the Co-ordinating Committee on Regional Administration and will be considered by Cabinet shortly.

POWER STATION

Mr. BLACKER (on notice):

1. When were tenders called for the proposed new Northern Spencer Gulf power station?

2. How many tenders were received?

3. Has a tender been let and if so, to whom?

4. When is it envisaged that construction work will commence?

The Hon. HUGH HUDSON: The replies are as follows:

1. Construction of the Northern power station will involve the letting of about 50 contracts valued between $5 000 and $80 000 000 each. So far the following tenders have been called:

(a) Site investigations on January 13, 1977.
(b) Turbo-generators including condensing and feed heating plant on January 18, 1977.
(c) Boiler plant on February 24, 1977.
(d) Test piling on June 30, 1977.
(e) Site preparation on November 22, 1977.

2. *(a)* 7.
(b) 10.
(c) 7.
(d) 3.
(e) 11.

3. *(a)* Ground Test Pty. Ltd.
(b) No contract yet let.
(c) No contract yet let.
(d) Situpile Pty. Ltd.
(e) No contract yet let.

4. The site investigation and test piling contracts are complete. The first site preparation contract will be let shortly for work to commence in May, 1978.

INDUSTRIAL DEMOCRACY

Mr. TONKIN: Why does the Premier persist with the South Australian Government's commitment to the ultimate implementation of the Labor Party's industrial democracy policy for the private sector when this policy is now clearly recognised as a major factor in discouraging investment and development in this State? In spite of his numerous conflicting statements in the past and again this afternoon, when he appears to have done a further back flip, the Premier has again clearly indicated his Government's ultimate intention to legislate for industrial democracy in the private sector. His present qualified approach does not change the longer-term policy.

The threat of the implementation of the Labor Party's industrial democracy legislation is now, more and more frequently, advanced by manufacturers as the reason for not expanding their South Australian plants and for not establishing new industries here. Excessive workers' compensation provisions, coupled with high levels of rates and taxes, are also recognised as having an inhibiting effect on development, but industrial concerns have made clear that they will not put their investment at risk by putting it into the South Australian private sector which is under threat of compulsory industrial democracy. The lack of industrial development in the private sector and the increased costs—

The SPEAKER: Order! I think the Leader is now commenting.

Mr. TONKIN: I have almost finished, Mr. Speaker. I am just stating a fact. The lack of industrial development in the private sector and the increased costs and charges which will be passed on to the public following industrial democracy in Government departments and authorities will have a doubly crippling effect on the prosperity and well-being of all South Australians.

The Hon. D. A. DUNSTAN: The Leader cites as facts things which are simply the result of his own wild imaginings.

Mr. Tonkin: Rubbish!

The Hon. D. A. DUNSTAN: That is exactly what the Leader talks. He said that there were reasons concerning industrial democracy, workers' compensation, and the like, which were cited by industrialists as the reasons why they did not expand their manufacture in South Australia. The Leader apparently overlooks that it was pointed out recently by my colleague the Minister of Labour and Industry that the major industries in South Australia had announced major expansions amounting to more than $100 000 000 worth of investment just recently.

Members interjecting:

The SPEAKER: Order! Since the Premier has been replying to the Leader's question, Opposition members have interjected three or four times. Many times, Opposition members have complained about the lack of time available to them in Question Time. I do not think, in view of the interjections, that they have any cause for complaint.

The Hon. D. A. DUNSTAN: The Leader of the Opposition constantly runs down the State concerning industrial development, and says there is more industrial development going on elsewhere, but he cannot cite a single fact to support it—not one. If he looks at the figures of development of manufacturing industry jobs, this State, of the three industrial States, is doing the best and has consistently done so under this Government. The Leader says that I have done a backflip on this. Again, he has not cited a word to support his contention, so I shall read to him what I said yesterday, as follows:

> Today, I have mentioned a number of legislative changes my Government is considering. Yet, we are not legislating for industrial democracy. The South Australian Government recognises that its industrial democracy policy must proceed and develop pragmatically. It must also be flexible, able to adapt to suit the individual needs of different organisations and groups of workers. Any legislation will not be prescriptive. We will not lay down a blueprint for industrial democracy and insist that it will do the job. Worthwhile changes in this area will not be brought about by coercive means. However, the South Australian Government is committed to removing legislative obstacles to industrial democracy. There is also a need for facilitative or enabling legislation.

I point out to the Leader that I cited yesterday what was the Government's policy on industrial democracy, the

policy which was announced at the last State election, and the policy set out in the tripartite committee's report on industrial democracy. That is and remains the Government's policy on industrial democracy.

I find it extraordinary that the Leader now uses our industrial democracy policy as something which he wants to latch on to in attacking the Government of this State, because I can inform him that, so impresseed are his Federal colleagues with the industrial democracy policy of this State, that I have had a request from the Federal Minister that, as Minister in the Federal Government, he should address a world conference on industrial democracy organised by this Government to be held at the end of May. We have acceded to that request and have welcomed his constructive participation, which contrasts so markedly with the nonsense talked by members opposite.

MERRY-GO-ROUND

Mr. SLATER: Can the Attorney-General provide information relating to an application for renewal of a licence in respect of an amusement device and the need to provide a certificate of safety before the renewal of such a licence? This matter was brought to my attention by a constituent who received a letter from the Liquor and Places of Public Entertainment Licensing Branch, Public and Consumer Affairs Department. The letter states:

> In the interests of public safety it is now required that every application for a licence and every application for renewal of a licence in respect of any amusement device in or upon which persons are carried must be accompanied by a certificate of safety signed by a competent authority. Would you please make provision for such a certificate in respect of your merry-go-round prior to lodging your next application.

The merry-go-round operated by my constituent was built by him and has been operated by him for about 10 years. He has also sought information from Mr. Smith, Inspector of Places of Public Entertainment, about who might be regarded as a competent authority from whom such a certificate could be obtained.

As he was not able to find out who was the competent authority, I ask the Minister whether he can give information about the situation, particularly regarding who the authority might be who would issue the certificate of safety for the merry-go-round. I add that my constituent rang the Labour and Industry Department thinking it might be able to assist him in relation to inspecting the merry-go-round, but it was unable to do so.

The Hon. PETER DUNCAN: It appears that the honourable member's constituent is alleging that he is on a bit of a merry-go-round; I will certainly try to assist him to get off of it. I am not in any way a competent authority about this matter and, offhand, I do not know what sort of expertise would be necessary for a person to be competent to check the safety of merry-go-rounds. As I imagine that there is someone in South Australia with such competence, I will make inquiries and inform the honourable member in due course of the result of that inquiry.

INDUSTRIAL DEMOCRACY

Mr. DEAN BROWN: My question is subsequent to the question asked by the Leader. Can the Premier say whether his statement that, because of the economic climate, industrial democracy legislation will not be introduced immediately is an admission that the Australian Labour Party industrial democracy policy will increase costs and unemployment and inhibit industrial development in this State? I had quoted to me an exact transcript of the Premier's speech, part of which was reported in the *Advertiser* today, in which he said that because of the economic climate no pressure was being placed on the private sector organisation to undertake industrial democracy programmes. Earlier, in answer to the question asked by the Leader, the Premier quoted part of his speech. He left out what I believe is the most significant part (it was a misquote, I believe, of what he said), and I refer to the *Advertiser* report which quotes the Premier as saying:

> No major industrial democracy initiatives that involve structural changes will be brought about by legislation in the private sector until the 1980's.

One only needs to read that black and white statement to realise that legislation will be introduced in the 1980's to bring about structural changes, through industrial democracy, to the private sector. I draw to the Premier's attention the reply he gave in this House on September 9, 1976, in reply to a question I asked as follows:

> Will the Premier clarify current Government policy relating to the need for legislation for the introduction of industrial democracy in the private sector?

In reply, the Premier said:

> It is therefore not the Government's intention to introduce legislation on this matter.

That is a black and white statement, and is a complete contradiction of the statement made by the Premier in his speech. I ask the Premier to clarify what he meant when he said that these matters should not be introduced in the present economic climate. The only inference that can be drawn from that is that this would increase costs and unemployment and frighten away any industrial development in this State.

The Hon. G. T. Virgo: Fraser is the expert at increasing unemployment.

The SPEAKER: Order! The honourable Minister is out of order.

The Hon. D. A. DUNSTAN: If the honourable member had obtained a copy of my speech he would have seen exactly why. I said in the speech:

> At the moment, as you are well aware there is a general malaise throughout the manufacturing industry. There is also considerable uncertainty as a result of the structural changes being forced upon Australian industry by technical innovations. Like the worker concerned about his job security, many firms are focusing their attention on questions of survival. They are often not responsive to initiating industrial democracy programmes during the present economic climate.

That is because of the real problems that they have in the general economic malaise. That was the basis of it; it had nothing to do with costs at all, nor did anything in my speech suggest that. So far from causing greater costs to organisations, industrial democracy programmes are likely to improve the output and productivity of organisations markedly.

That is pointed to by numbers of employers who are already involved in experiments in this area. As to the other remarks of the honourable member, he carefully took what I said out of context: that is his usual course. What I have said, and have repeated in this House, is that we are not going to impose industrial democracy by compulsory legislation, but what we have to do from time to time (and we have already done it in one or two instances) is to provide means, necessarily through legislation, of removing obstacles that now exist to industrial democracy programmes. For instance, in relation to structural changes in company law, as things

stand a worker-director may be in some difficulty sitting on a board (if worker-directors do get to boards on private or public companies) simply because the requirements of the present law are that the responsibility of the director is not to workers, not to shareholders, and not to the public, but to the notional entity of the company, whatever that may mean.

Mr. Dean Brown: What's wrong with that?

The Hon. D. A. DUNSTAN: I think directors should have some duty to the public, to workers, and to shareholders. I believe that it may well be necessary for us to bring about some structural change of that kind in company law in order to enable responsibilities, such as those which exist in several other Western countries and which are being advocated widely now, to be able to occur and occur with the consent, mind you, of the companies concerned.

Mr. Tonkin: You can't have it both ways.

The SPEAKER: Order! The honourable Leader is out of order.

The Hon. D. A. DUNSTAN: The honourable Leader is being his deliberately obtuse self.

Mr. Mathwin: Now, now; it's not political—

The SPEAKER: Order! I call the honourable member for Glenelg to order, and ask him to cease interjecting.

The Hon. D. A. DUNSTAN: The Leader never understands because he does not want to understand. That is something that is becoming increasingly obvious to the people of South Australia.

Mr. Dean Brown: Read what you said in *Hansard.*

The SPEAKER: Order! The honourable member for Davenport is out of order. He has interjected on several occasions. Honourable members complain about the lack of time for questions but they still continue to interject while questions are being answered.

PORT ADELAIDE BUILDING

Mr. WHITTEN: Can the Minister of Marine provide any information concerning progress of construction of the new building of the Marine and Harbors Department that is being constructed on Ocean Steamers Road at Port Adelaide? From observation, it seems that the building is nearing completion of the structural stages. Some windows have been installed and fixed, giving the impression that the building may soon be ready for occupation so that several hundred additional employees may be able to work in the Port area.

The Hon. J. D. CORCORAN: The honourable member having been good enough to tell me that he would seek this information, I called for a report from the Director, Marine and Harbors Department. The report is as follows:

> Structural work on the new building is nearing completion. Work has commenced on construction of the observation room on the roof of the building. Windows and ceilings have been installed in about one half of the building. Installation of partitioning has commenced. Schedules of furniture requirements have been completed and, during the past week, discussions have been held with officers of the Public Buildings Department concerning style of furniture, colour schemes, and interior design generally. These discussions have also involved staff representatives, whose response was most favourable to the proposals submitted. Car parking and landscaping plans have been completed and have been discussed with staff representatives. Work in this area has not yet commenced.
>
> This department is maintaining a close and happy relationship with the Project Architect, Mr. Kevin Hocking, and his staff from the Public Buildings Department, and this department is generally pleased with the way in which the project is proceeding. It is understood that work is on schedule and that the building should be completed by the end of August or early September. As regards the date of occupancy, this is somewhat uncertain as it depends on the supply of furniture and furnishings.

I agree with the honourable member that this will be a great boost to the city of Port Adelaide. Indeed, I believe that it will be very good for the department because, for the first time, its officers will, in the main, be all together.

RADIOACTIVE MATERIAL

Mr. GOLDSWORTHY: Can the Minister of Mines and Energy say what was the result of the scientific study, which was instituted last year, of the dispersal of radioactive material in the Maralinga area in South Australia's North-West? A report, I think, from memory, in August last year, announced that a study was to be made under the guidance of the Australian Ionising Radiation Council assisted by the Australian Radiation Laboratory, the Australian Atomic Energy Commission, the Bureau of Meteorology, the South Australian Environment Department, and the South Australian Mines Department. The report stated that the land, which was formerly within the atomic test range, would be returned to general use, but there has been no report of the results of that investigation.

The Hon. HUGH HUDSON: From recollection, shortly after the Maralinga issue surfaced last year, checks were made on surface radioactivity, and no significant readings were found. Subsequently, I think that the Australian Ionising Radiation Council made a further report to the Commonwealth Government; it had already reported some time previously to the Commonwealth suggesting that a programme of monitoring the whole Maralinga area should be undertaken. At one stage, I presume that this proposal got buried at the Commonwealth level, because of the restriction on funds that had been imposed, but later last year approval for the monitoring programme was given by the Commonwealth Government. As part of that programme, the Mines Department is involved to the extent of monitoring ground water in that general area to ascertain whether there has been any leaching out of the buried radioactive substances in the ground water. I understand that this programme was proposed to be undertaken over a period. I have not had a report on it yet but, in view of the honourable member's question, I will check on the position and find out precisely what stage has been reached in relation to the proposed monitoring programme.

LOCK COAL

Mr. KENEALLY: Can the Minister of Mines and Energy say whether the Government is currently negotiating with the Japanese company, Mitsubishi, in relation to the development of the coal deposit at Lock? My question results from a sensational front-page report in the most recent *Sunday Mail,* under the heading "$600 000 000 000 coal find. Japanese may invest in South Australia". As the coal deposit at Lock is the result of exploration work carried out by the South Australian Mines Department, I should appreciate the Minister's informing the House of the basis of the press report.

The Hon. HUGH HUDSON: I thank the honourable member for his question. He indicated that he was interested in this matter, because he was concerned that

any future coal should be made available so that the life of any power station at Port Augusta would be ensured. I make several points perfectly clear. First, Mitsubishi has not indicated any interest in investing in any South Australian coal deposit. Secondly, the *Sunday Mail* journalist responsible for the story was officially informed that the Mitsubishi delegation had expressed no interest in investing in South Australian coal before the story was published.

The journalist concerned spoke to my press secretary by telephone at his home on Friday evening. My press secretary informs me that he gave the journalist background information from a number of previous statements I had made publicly about the Lock deposit. Some of this background information appears, reported with varying degrees of accuracy, in the final report. For example, I said in a speech last Thursday night:

> The extent of the field has not yet been delineated and the latest assumption is that there is at least 150 000 000 tonnes of coal.

The report states:

> S.A. Mines Department tests have shown the deposit, 18 kilometres west of Lock, contains 150 000 000 tonnes of coal.

The *Sunday Mail* report states:

> Meanwhile, it was learnt yesterday that the Minister of Mines and Energy, Mr. Hudson, has called tenders for the building of the new $400 000 000 power station at Port Augusta.

In fact, I made a public statement on September 6 last year, which said in part:

> Mr. Hudson also announced today that tenders had already been received by the Electricity Trust for the new northern power station from six overseas countries. The Premier, Mr. Don Dunstan, announced last week that the power station would, with associated developments at Leigh Creek, cost approximately $400 000 000.

That was nearly six months ago. The journalist was also given information, which I have made public on several occasions, about the need for a decision to be made within the next 18 months or so about the fuel source that would be needed to serve the power station to be built after the new northern power station.

My press secretary informs me that he told the journalist that Lock was one of a number of deposits under investigation for this purpose, but that much work remained to be done to evaluate it. Some of this information appears in the final report. I am informed that the journalist said that he had some indication that the Japanese may be interested in investing in South Australia but that, in the light of this information, he did not intend to pursue the issue. The journalist then rang my press secretary at home again on Saturday morning and said that, although he had abandoned the idea on the previous evening, he now wished to pursue the issue of Japanese investment in the Lock coal deposit. He also wanted to know why the Mitsubishi delegation was in South Australia if it did not want to invest in the Lock coal deposit.

My press secretary immediately rang the Deputy Director of the Mines and Energy Department, Mr. Keith Johns, at his home and was given a categoric assurance that there had never been the slightest suggestion of Japanese investment in the Lock coal deposit or any other coal deposit by any of the delegation from Mitsubishi. Mr. Johns then authorised my press secretary to make the following statement to the journalist in answer to his two questions in the capacity of official spokesman for the Mines and Energy Department:

> The Japanese delegation have not indicated any interest in investing in South Australian coal. They have come to review what is happening by way of development in South Australia.

I presume that they may have had certain discussions with the Electricity Trust. My press secretary phoned that statement to the journalist concerned at his home on Saturday morning. No part of that statement appears in the report as that statement would have given the direct lie to the headline in the *Sunday Mail.*

I repeat what I said in a statement to the *Advertiser* on Sunday evening:

> The *Sunday Mail* story was a beat-up. They had no basis for it except the kind of phony speculation that misleads people. The economic viability of Lock coal is yet to be demonstrated. The purpose of the combined Mines Department and Electricity Trust of South Australia search for coal over the last 18 months has been to determine a local fuel for the power station to be constructed after the northern power station. The northern power station is being built at Port Augusta, and will use Leigh Creek coal. If the Lock deposit is economically viable the Electricity Trust of South Australia would have first priority in its development.

I add that I have had no contact whatever with Mitsubishi. I would also like to repeat the following statement that I made in a public speech last Thursday night:

> The Government believes it has a responsibility to guarantee the continued supply within the State of power, heating and light from conventional indigenous sources until at least the end of this century.

Having regard to the circumstances I have quoted, I suggest that the *Sunday Mail* needed a sensational story to head its paper on Sunday, because it had had significant advertising about the *Sunday Mail* (an explosion in the *Sunday Mail*) on television, and the price of the *Sunday Mail* went up on Sunday by 5c from 20c to 25c. This story, which is a complete and utter phoney, was known to be a beat-up by the journalist concerned and by the *Sunday Mail.* I think that the standard of journalism and publishing is absolutely appalling, and it is not the first time that the *Sunday Mail* has indulged in this sort of thing. It has reached the stage where it is almost true to say that, whatever you believe in the press, you cannot believe anything you read in the *Sunday Mail* apart from some sporting results.

INDUSTRIAL DEMOCRACY

Mr. WILSON: In the light of the Premier's statement on industrial democracy today, what is the Minister of Education's attitude to the doctrine of "collegiate responsibility", which was the subject of a recent referendum in the South Australian Institute of Teachers, and what stance will he take in negotiations with that body? Proposition (5) in a recent referendum carried out by S.A.I.T., when referring to the management of departmental schools, states:

> The division and allocation of tasks should be conducted in accordance with the general principle of collegiate responsibility.

This proposition received a positive vote of 64·5 per cent. Dealing with the referendum in an article in the most recent issue of the *Teachers Journal,* Mr. John Murrie, who is a member of the negotiating body of S.A.I.T., made the following personal statement:

> Collegiate responsibility implies that the staff collectively make decisions affecting the school. In the long term, the present hierarchy of principal and deputy principal is eliminated.

He further says:

> Principals of schools are an elite clique who may (with a

secret smugness perhaps) see themselves as paragons of virtue and wisdom well suited by merit and experience to run a school.

Mr. Murrie continues:

And, in the end, teachers must accept the responsibility for bad decisions, made collectively, and they must be prepared to exercise sanctions against teachers who refuse to conform to the collective agreement, as principals are now expected to do.

Time does not permit me to quote the whole of this article but it needs to be read very carefully by all members, because, if it represents the view of the Government as well as S.A.I.T., it has very important repercussions indeed. It conflicts somewhat with a statement made by the Director-General of Education (Mr. J. Steinle) in a recent letter to members of the teaching service, which states:

Responsibility for improvements in the quality of education in a school must rest with the Principal, acting in consultation with teachers and parents.

The Hon. D. J. HOPGOOD: It is not clear to me from the size of the affirmative vote of that referendum that in fact this means that the particular proposition automatically becomes institute policy. As I recall, it is necessary for there to be a two-thirds majority.

Mr. Wilson: Yes, it is two-thirds, but they said they would still negotiate on that basis.

The Hon. D. J. HOPGOOD: Sure, I think my stance is to wait and see what the institute comes up with on the specifics of the thing. There is no doubt that it is my policy and that of the Government that we should expand collective decision making in schools, and that headmasters and principals should be encouraged to get together with their staffs and to make decisions on that basis. This is something which has been happening increasingly in the schools.

The referendum to which the honourable member referred arose from the so-called Endersby report, a document with which is associated a gentleman who is now on the executive of the Institute of Teachers. I have had one or two preliminary discussions with people from the institute as a result of that referendum, but the advice I have received from them is that at this stage a good deal of debate still must occur in the institute before a definite stance is arrived at. So, I am waiting for that matter to be concluded within the institute, at which point we shall be in a position to discuss the matter further.

Mr. Wilson: What are your views about responsibility?

The Hon. D. J. HOPGOOD: In relation to the specifics of the matter, I think the institute has to make up its own mind on exactly how it would want to see authority flowing within the schools. This would then be the point at which the Government would want to get involved and to have proper negotiations. It is clear that the legal position is as was laid down by the former Director-General, Mr. Jones, in his freedom of authority memorandum in 1970. The real effect of that memorandum was somewhat of a drawing back of the bureaucratic aspects of authority, the department, which left very much the principal in charge, and that was not quite what was intended, because two other important inputs are involved: one is the parents and the other the staff.

The whole notion of collective decision-making by the staff was very much in its infancy. School councils at the time had no statutory recognition. Therefore, there was not an opportunity for these areas of responsibility to step in, so the vacuum was very much occupied by the principal. I am not committing the department in any way to a wholesale dragging down of the responsibility of the principal as we know it, but we would want to encourage a greater input into decision-making from teachers and parents. We are looking for more flexible ways in which that can happen. If what comes up from the present ferment within the institute can assist us, we would look at it sympathetically.

TRADING HOURS

Mr. ABBOTT: Can the Minister of Labour and Industry say whether closing times for shops, particularly new and used car yards, as laid down in the new Shop Trading Hours Act, are not being observed? I understand that some large dealers have complained to the Minister over the actions of some smaller dealers, particularly at weekends. Is the Minister aware of the problem and, if so, what action is being taken to remedy it?

The Hon. J. D. WRIGHT: The honourable member asks whether the new regulations and laws are being observed. In some aspects, they are; in others, they are not. I would condemn those people who are not observing them, because it is my firm belief that the Government has given South Australia fairly flexible and liberal shopping and trading hours in those areas to which the Government has given its attention.

Mr. Chapman: Do you say you are hesitating about prosecutions?

The Hon. J. D. WRIGHT: If the honourable member will do me the courtesy of listening, he will find out about prosecutions. In those circumstances, people should be honouring the provisions of the Act, and not placing themselves in a position where there is a continual need to inspect the areas. The position at the moment is that, following the passing of the legislation, my inspectors have visited about 85 per cent of car outlets; 15 per cent have still to be visited, but it is not possible, with the staff available at the moment, to cover them all. They have had 33 calls to visit as a result of complaints by other car yard people complaining that opposition yards were opening outside the regulated and controlled hours. It is most difficult to catch somebody selling a car, as people do all sorts of things to try to overcome that.

Mr. Gunn: They wouldn't have to be too smart.

The Hon. J. D. WRIGHT: They would be much too smart for the member for Eyre—they would not have to be very smart to be too smart for him. As a consequence of those visits and those complaints, we have issued 22 letters of warning. Warnings are usually issued in circumstances where the officers are not confident they can take the matter to court and get a conviction. It is not much use going to the court if we cannot prove that an infringement had taken place. As a consequence of these warnings we have had four successful prosecutions. It is my firm belief that some sort of action or some new legislation that will determine the car yards from breaking the law may be necessary. Not only are they not obeying the law but also they are obtaining an unfair advantage over opposition car dealers who are obeying the law. Yesterday, one dealer said to me, "I am not sure what is going to happen in this industry when daylight saving finishes." He meant that they are on an equal footing now, because anybody who is open until 9 p.m. now is obeying the law, but, when daylight saving finishes and the closing time is again 6 p.m. (I am not quite sure of the time from memory), more people will obviously break the law.

That dealer (and he is an honourable dealer) says that he has been able to build up his business only because of the new trading hours. Those people who are not obeying the law in these circumstances will continue to trade outside those hours, but they will be able to do this only

until we are able to catch them or find a solution to this problem, because the Government and I intend to stamp out unfair trading practices and prevent these people from breaking the law.

It has been suggested by the member for Florey that it would be a good idea to take their licences away. I do not intend to do that, but I am seriously considering bringing in legislation that will force car yard proprietors to erect a 9ft. wall around their properties. In those circumstances customers would not be able to look in and the dealer would not be able to run back and put the chain on the gate every time an inspector appeared. I think, in many ways, this would certainly stop unlawful car dealing.

Members interjecting:

The SPEAKER: Order! I cannot hear the answer to the question. Members must stop interjecting.

The Hon. J. D. WRIGHT: There is nothing strange or humorous about the suggestion that we will introduce legislation for walls to be erected. Shops have walls and roofs; the only difference between a shop and a car yard is that the car yard will not be required to have a roof. It is necessary to stamp out this practice. Departmental inspectors have too many duties to perform concerning wages and health and welfare matters without having to run around spending most of their time trying to catch people who are deliberately flouting the law. I am giving serious consideration to this matter, and I will report to the House in due course if we are not able to control it.

SHOPPING HOURS

Mr. BECKER: Can the Minister of Labour and Industry say what arrangements the Government has made, or will make, to allow retail traders to open on another evening until 9 p.m. in lieu of Good Friday, or when Christmas Day falls on a Thursday or Friday? I understand that the Retail Traders Association has approached the Minister seeking an alternative evening for traders in the central shopping district in lieu of Good Friday, claiming that this matter was overlooked when the shop trading hours legislation was being considered. I understand that section 12 (5) of the Bill may allow the Government to make a proclamation that would overcome the problem foreseen by retailers in the central shopping district, not only for Good Friday but also when Christmas Day falls on a Friday. I believe that that will happen next in 1981, and that Christmas Day falls on a Thursday in 1980. I understand that retailers outside the central shopping district will also seek an alternative evening for late trading.

The Hon. J. D. WRIGHT: The honourable member is correct. About two weeks ago the Retail Traders Association applied to the Government to change Easter Friday trading back to Thursday. I made that recommendation clear to Cabinet, and Cabinet agreed. Apparently, there has been a change of heart by the association, as it has made further submissions on behalf of its members. I am now negotiating with it, but it should be said that people other than shopkeepers and consumers should be considered in reallocating this holiday. Shop assistants have to be considered and, with the holiday coming up, it is necessary to consider their position. At present we are talking to the Retail Traders Association which is consulting its members in different sections of Adelaide. I will recommend to Cabinet next Monday what should be done, and I will announce the decision as soon as possible so that the House will be aware of the situation.

CONSUMER AFFAIRS

Mr. HEMMINGS: Can the Minister of Prices and Consumer Affairs indicate when an office of the Public and Consumer Affairs Department will be set up in Elizabeth? Elizabeth has been developed as a regional centre in the past 20 years, and at this stage most Government departments, State and Federal, and State instrumentaiities have offices in that area in order to serve the people of the northern region. I receive many complaints from constituents concerning consumer affairs, and at present they have to travel to Adelaide to make their complaint. This causes some problems, such as taking time off from work, and my constituents are losing money unnecessarily.

The Hon. PETER DUNCAN: As honourable members will be aware, this matter is close to my heart, as applies to the member for Napier. I am pleased to be able to provide information on this matter because I imagine that it will interest all members, involving as it does the important city of Elizabeth. The first further office of the department to be opened will be in Murray Bridge and that will complete the programme of regionalisation in country areas, funds having been made available for this purpose during the present financial year. The question of new offices of the Public and Consumer Affairs Department in the metropolitan area was dealt with in the Premier's policy speech for the recent State election, and the Government's proposals were endorsed. Subject to funds being available, it is proposed that the first office in the metropolitan area will be established at Elizabeth and, subsequently, offices will be established in Port Adelaide, Noarlunga, and in the Tea Tree Gully area.

Mr. Chapman: All Labor areas!

The Hon. PETER DUNCAN: They were the places that were promised in the policy speech to have offices of this department. These areas are to be serviced because they are further from the city than are most other parts of the metropolitan area. The honourable member suggests that they are all A.L.P. areas, but the interesting thing is that all regional offices opened to date, apart from the office at Port Augusta, are in Liberal areas. So much for the honourable member's stupid comment.

Mr. Chapman: But only—

The SPEAKER: Order! The honourable member for Alexandra is out of order.

The Hon. PETER DUNCAN: Subject to the availability of funds, the offices will be opened progressively in the next financial year, and I expect that the office in Elizabeth should be open before next Christmas.

ELECTORAL OFFICERS' PAYMENTS

Dr. EASTICK: Can the Attorney-General say who authorised the payment of the sums that were distributed to poll clerks, assistant returning officers, and others on the occasion of the September 17, 1977, election? The last occasion on which the sums to be paid to the returning officers and others were determined was in 1975, and this did not occur again until January, 1978. However, the reply to a Question on Notice given this afternoon stated that the sum paid for services in the September election was that amount now authorised by alteration of regulations that was made in January, 1978—some months later than the actual disbursement of the sums involved. It is with that evidence that I seek the detail of authorisation from the Attorney-General, as the Minister responsible for the Electoral Department.

The Hon. PETER DUNCAN: As I do not have the

information with me, I will obtain it for the honourable member.

BRUSH FENCING

The Hon. G. R. BROOMHILL: Has the Minister for the Environment considered recent reports claiming that the use of brush for fencing is causing damage, particularly to parks and roadside vegetation? In last weekend's *Sunday Mail* appears a report attributed to the Society for Growing Australian Plants that points to the fact that, after about 40 years of brush fencing being erected in this State, there is now a shortage of the vegetation required for brush fences, that people are therefore looking to wider fields, and that, in some of our national parks particularly, some of the roadside growth is being removed for the purposes of providing brush fences. The report made it appear that there was some real risk of damage to the general State as a result of the removal of this type of brush for fencing.

The Hon. J. D. CORCORAN: I, too, read the newspaper report, and called for a report from the department. The report states:

> Demand for brush fencing is heavy and interstate interest is increasing.

My department's comment is that no statistics are available, but the claim is probably true. The press report continues:

> The demand will lead to over-exploitation of the species.

The comment is that this could happen. The commercial broom bush grows on the heavier loam flats of the mallee country, and most of these flats have been or are in the process of being cleared for cereal growing. The areas of brush remaining are, therefore, decreasing every year and it is extremely doubtful whether South Australia could supply an interstate market. The press report continues:

> Broom regenerates, but will only survive three cuttings.

The department's comment is that little is known of the growth habit of the species, but Ms. West is a respected botanist and her claim could well be true—further research is necessary to establish that. The report continues:

> Cutters have resorted to taking it from parks and roadsides.

The department's comment is that there is some truth in this, though such illegal cutting does not, as yet, appear to be on a large scale. A recent case of roadside cutting has been reported to the department from Murray Bridge, and from time to time there has been illegal cutting in such conservation parks as Ferries-McDonald, Peebinga and Scorpion Springs.

There has also been a recent report of illegal cutting in Mount Shaugh Conservation Park. National Parks and Wildlife Service staff are aware of the problem and maintain surveillance for illegal cutting in these and other parks. Large scale cutting in parks is unlikely. There are relatively few areas of suitable loam flats within their boundaries and the brush is, as a result, of restricted occurrence. The press report continues:

> Parts of South Australia could revert to arid sandy desert as a result of brush cutting.

The department's comment is that this is most unlikely. Brush cutting is highly selective and there is no wide-scale denuding of vegetation.

Mr. J. Williams, the brush fence contractor quoted in the report, is quite correct in stating that there is a far greater risk to flora and fauna from continuing land clearance for agricultural purposes.

In summary, whilst there is no danger of erosion resulting from brush cutting, Ms. West's concern is well founded. Demand is rising, but the brush resource is constantly declining. Her suggestion for commercial growing of the species could well be a necessity if we wish to have attractive and useful brush fences in the future. We should examine whether it is necessary to have some control over the present unrestricted harvesting. Certainly, I will ask my officers to consider that aspect.

NOARLUNGA COLLEGE

Mr. ALLISON: Does the Minister of Education approve of the South Australian Board of Education's reported plans to build a college of advanced education at Noarlunga, a college that might add considerably to the number of teacher trainees entering the employment market in the middle to late 1980's and, if he does approve, can he say how the plans are compatible with his recent request for a special meeting of Ministers of Education to examine the problems of unemployment amoung qualified teachers? In the *Advertiser* of December 9, 1977, a report stated that the South Australian Board of Education had plans to build a college of advanced education at Noarlunga despite an over-supply of teacher graduates this year. The report continued:

> A working party, set up by the board to examine education needs in the area, has met three times since August. Under Chairman Dr. P. I. Tillett, Director of the Education Department's research and planning department, and a member of the board's planning and development committee, the working party has surveyed the aspirations and reactions of matriculation students in the post-secondary area. The working party is expected to report in six months.

The report concludes with a rather disturbing statement that there will be problems in employing all the graduates, but that the pressure and opportunities will be at a quite different level from those relating to school leavers and that the presence of a surplus of well educated graduates should in the long term create pressures that will stimulate industry and demand.

That report, coupled with the newly released statistical evidence from Occasional Paper No. 1 of the Committee of Inquiry into Post-Secondary Education in South Australia, which gave estimates of supply and demand for teachers in South Australia from 1978 to 1985, shows a marked decline in needs for teachers in the primary sector to 1985 and a slight increase in the secondary sector to 1985, but indicates that even by 2 000 there will be no appreciable increase in staff needed over today's figure.

Mr. Gunn: Good question!

The Hon. D. J. HOPGOOD: It was not a particularly good question, because I believe it should have been, "Will the projected college of advanced education at Noarlunga be training any teachers?" What has happened is that a misleading newspaper report has come back to haunt both the honourable member and me. True, there are plans for a college of advanced education at Noarlunga, which I certainly support, but there is no current intention that that college should be involved in training of teachers.

Honourable members, particularly the member for Mount Gambier, would know that not all colleges of advanced education are involved in teacher training. Roseworthy Agricultural College is not involved in teacher training, and the Institute of Technology on its three campuses is not involved in teacher training, either.

From time to time I have received complaints (and I am thinking in particular about my former district) from people at Hallett Cove who had to commute to the Levels in order to do certain courses in the electrical field. I

would not be at all surprised if other metropolitan members had not had the same sort of complaint. We believe there will be a considerable expansion in the demand for graduates and diplomates in many of these areas that are covered by the Institute of Technology. It is that form of college of advanced education about which we are talking.

Where the newspaper got the idea that teachers would be trained there I do not know, unless the newspaper assumed that all colleges of advanced education train teachers.

The other point I should make is that it is possible that what will be built at Noarlunga will be some sort of joint development between the Board of Advanced Education and the Further Education Department, because, whatever one might say about the future demand for graduates and diplomates, there is no doubt that there will be a continuing sustained demand for technicians at various levels. What may well eventually evolve is a community college that will be able to offer courses in both what is presently known as the advanced education sector and the TAFE sector. That is as much information as I have now. At present both the board and the Further Education Department are negotiating with the South Australian Housing Trust, but it is possible that the animal that eventually evolves will be a hybrid between the two.

REGENCY ROAD TRAFFIC LIGHTS

Mr. WELLS: Will the Minister of Transport give urgent consideration to installing pedestrian activated traffic lights at Regency Road to service the needs of Nailsworth High School? I have been approached by officers of the school council who are extremely—

Members interjecting:

Mr. WELLS: Are you going to listen to what I am saying, or do you want the floor?

The SPEAKER: Order! The honourable member—

Mr. WELLS: Well, shut up!

The SPEAKER: Order! I wish that the honourable member for Florey would not use those words. I also wish that the honourable member for Alexandra would not interject. It is awkward for the Chair to hear the question. The honourable member for Florey.

Mr. WELLS: It is awkward when one rises in one's seat and hears that sort of thing minute after minute.

The SPEAKER: Order! I hope that the honourable member will continue with his question.

Mr. WELLS: I will have something to say about that later. About 50 per cent of the students at Nailsworth High School must cross this dangerous road twice daily. In fairness to the Minister, I would say that approaches have been made by the school council to the Enfield council and to the Highways Department, but to no avail. Perhaps the Minister is not aware that children attending a special class at this school cannot cross any road at any time without protection. The staff at this school do an excellent job in ushering all students across this road twice a day, but they are aware of the danger that is involved should students cross the road without supervision. I respectfully ask that the Minister give urgent consideration to this request.

The Hon. G. T. VIRGO: I shall be pleased to have the matter examined and inform the honourable member of the result.

At 3.9 p.m., the bells having been rung:

The SPEAKER: Call on the business of the day.

LOTTERY AND GAMING ACT AMENDMENT BILL

Second reading.

The Hon. D. W. SIMMONS (Chief Secretary): I move:

That this Bill be now read a second time.

This short Bill restores to the principal Act, the Lottery and Gaming Act, 1936-1976, offences relating to betting with bookmakers and totalizator betting. These offences were transferred from the principal Act in 1976 to the new Racing Act, 1976. It is now considered that the wide evidentiary provisions contained in the principal Act which apply generally to unlawful gaming are required for prosecutions in respect of these offences.

Clause 1 is formal. Clause 2 provides for the enactment of new sections 63 and 64. New section 63 (1) provides that it is an offence to act as a bookmaker unless licensed under the Racing Act, 1976, or in contravention of any condition of such a licence or a permit under that Act. New section 63 (2) provides that it is an offence to make a bet with a person if the acceptance of the bet by that person would constitute an offence against new section 63 (1). New section 64 (1) provides that it is an offence to conduct totalizator betting unless authorised under the Racing Act, 1976, or, if so authorised, in contravention of any provision of that Act or the totalizator rules under that Act. New section 64 (2) provides that it is an offence to make a bet with a person if the acceptance of the bet by that person would constitute an offence against new section 64 (1). The penalties for these offences are the same as the penalties in respect of illegal bookmaking under the Racing Act, 1976.

Mr. EVANS secured the adjournment of the debate.

MINING ACT AMENDMENT BILL

In Committee.

(Continued from February 16. Page 1618.)

Clause 2 passed.

Clause 3—"Interpretation."

Mr. GUNN: Can the Minister clarify the meaning of the definition of "fossicking"? Constituents at Coober Pedy, in particular, where much fossicking takes place, have told me that it has been known for people to earn over $1 000 a week from fossicking. These people would like to know whether a person who goes out fossicking and starts disturbing the surface of the earth will be regarded as "fossicking". They are a little concerned that people might claim to be fossicking, without pegging or any of the other necessary requirements for the registration of a claim, when they could really be mining. I would like this matter clarified to make sure that people do not abuse this provision to the detriment of the genuine miner.

The Hon. HUGH HUDSON (Minister of Mines and Energy): Certainly, action will be taken to ensure that people will not abuse this provision. A similar situation applies within the fishing industry in relation to a person who does not have a licence to sell fish. The kind of equipment used and the size of the catch are the tests that one would apply as to whether or not there was an intention to catch fish to sell or whether it was a genuine intention to catch fish only for one's own use.

Mr. Gunn: That's not a very good example.

The Hon. HUGH HUDSON: That is an illustration and, by and large, it is fairly difficult these days to catch fish and sell them if you do not have a proper licence. The licensing of those people entitled to sell fish has probably been the most critical change in that area. There is a slight danger

that some people might attempt to get around this provision, and it may be neccessary in future to amend the Act to return it to its previous state. This change in definition is intended to allow the genuine fossicker to carry out his activity without the present necessary legal requirements. If anyone goes out to the opal fields allegedly fossicking with extensive equipment or, in the process of fossicking, is disturbing much earth, one would immediately have suspicions as to whether the expressed intention not to sell the minerals was correct. I would think in those circumstances that the circumstantial evidence surrounding the activity would be sufficient to lead to action being taken.

I give the assurance clearly that we will see to it that appropriate action is taken if there is any evidence that this provision has been abused. It may be neccessary in the future to consider another amendment to the Act. I ask the honourable member to recognise particularly the problems of members of mineral clubs in South Australia who are genuinely involved in collecting and displaying minerals, and other activities ancillary thereto, and who are quite properly described as fossickers in the way in which this definition has been written. These are the people to whom some greater degree of freedom is intended by this change in definition.

Mr. GUNN: I appreciate the undertaking of the Minister. I do not think anyone wishes to deny to people who are members of properly constituted clubs the opportunity to engage in this activity. I do not think the Minister gave a good example when he compared the conditions laid down under fishing legislation to the position relating to opal mining. The Minister must know that many people are selling fish illegally.

The Hon. HUGH HUDSON: No longer to the organised market because then the fish dealers run the risk of losing their licences.

Mr. GUNN: They employ one of the oldest tricks of the game. They sell their fish at fractionally less than the current market price to a person legally permitted to sell. The same problem may take place in relation to this provision because no-one really knows whether or not a person who finds opals while fossicking sells them. That will be the problem in administering this activity. There is no registration of buyers, and most transactions are carried out in cash. I should not be surprised if representations were made shortly for amendments to this provision. However, I shall pass on to the people concerned the undertaking given by the Minister.

The Hon. HUGH HUDSON: If there were general support (and this was the purpose of the analogy with fishing, although the penny did not drop for the honourable member) for the licensing of opal dealers, this would give us a much better chance of tracking down the illegal mining that goes on. Quite apart from any definition of fossicking there might be in this amendment, one of the main problems in the opal fields is the degree of illegal mining. As the honourable member has indicated, it is hard to track that down, because there is no licensing of opal dealers.

Mr. Gunn: Are you advocating licensing?

The Hon. HUGH HUDSON: I am not prepared at this stage—

Mr. Gunn: Are you—

The Hon. HUGH HUDSON: I do not want to be misrepresented by the member for Eyre.

Mr. Gunn: I wouldn't want to do that.

The Hon. HUGH HUDSON: No, I'll bet.

The CHAIRMAN: Order!

The Hon. HUGH HUDSON: I would think that, if we are ever to have effective regulation of this industry in the interests of opal miners, there will have to be at some stage registration or licensing of opal dealers. For that to be effective, some degree of support from the industry itself would be required. If one is doing a number of things in this area without the support of the industry, they are likely to be ineffective anyway. There is a case for registration or licensing of opal dealers. I should have thought the honourable member would recognise that case and even support it on the same basis as I would, namely, that, if there were support within the industry for it, it is something the Government should do.

Mr. GUNN: On the matters canvassed by the Minister regarding licensing as well as in relation to other matters affecting the Act as it appertains to opal miners, my views are well known. I have always said that I am pleased to support any responsible course of action, as recommended by the appropriate representatives of the opal-mining industry. That is my view in relation to the matter advocated by the Minister or any other matter. The Minister was right in saying that it is useless to endeavour to give effect to any legislation unless it has general support.

Clause passed.

Clause 4 passed.

Clause 5—"Exempt lands."

Mr. GOLDSWORTHY: Clauses of this type have given rise to concern, for instance, in relation to the exploration licence taken out by the Uranerz organisation. The Minister is aware that licences for extensive exploration through the Adelaide Hills were granted, when any Crown land in the area was exempt. A licence was taken out to explore on the town oval at Gumeracha.

The Hon. Hugh Hudson: It was not. There is no way they could explore on the town oval at Gumeracha. There is no legal right to do that. That was part of the existing definition of exempt lands.

Mr. GOLDSWORTHY: They were served with a notice by the agent acting for Uranerz.

The Hon. Hugh Hudson: Illegally.

Mr. GOLDSWORTHY: It appears that notices were being illegally served. However, it seems strange that people who have titles to private property can have notices served on them, whereas all Government lands seem to be exempt in terms of this clause. Less nuisance and less damage would be caused by people scratching around on some of the extensive Crown lands than would occur on private property.

The Hon. HUGH HUDSON: The provision in relation to exempt lands simply means that the owner of the land has complete control over whether or not exploration takes place. A council oval is part of exempt land, and the Gumeracha council had complete control over whether or not it would allow exploration on that land. Barry Maloney Field Services, the agent acting on behalf of Uranerz, was not entitled to issue such a notice in relation to the Gumeracha oval. The current provision in relation to exempt lands states, in part:

(a) land that is lawfully and genuinely used—
  (i) as a yard, garden, cultivated field, plantation, orchard or vineyard;
  (ii) as an airfield, railway or tramway;
  (iii) as the grounds of a church, chapel, school, hospital or institution;
(b) land that constitutes any parklands or recreation grounds under the control of a council;
(c) any separate parcel of land of less than two thousand square metres within any city, town or township;

Mr. Goldsworthy: You said orchards?

The Hon. HUGH HUDSON: Yes. That is all exempt land. It is proposed to add the provisions of clause 5 to

those categories. That means that, instead of the company concerned having a right to explore in a certain area subject to the conditions imposed by the Minister, if it wants to explore on exempt land, it has to deal with the owner and get the owner's permission to explore. It is subject entirely to the decision of the owner whether or not it is allowed to explore on a vineyard or in the grounds of a church, chapel, school, hospital, or institution, or any recreation ground under the control of a council.

Whether it would be possible to explore in an area vested in the Minister of Works, for example, for the purpose of waterworks would be subject to the Minister's approval. This seems to be a better way to proceed rather than the way in which I proceeded in the Uranerz case, saying to the Minister of Works, "Will you indicate what conditions, if any, you require to be imposed regarding the watershed areas that were covered by the exploration licence that was applied for?" The Engineering and Water Supply Department then indicated its position. Rather than doing this through the Mines and Energy Department, it seems better that it should be done directly with the owner of the land concerned. That is all that is done by these additions to what is exempt land.

Mr. Gunn: Wouldn't the 21-day notice apply to private landowners under this?

The Hon. HUGH HUDSON: One cannot enter at all if it is exempt land—

Mr. Gunn: Other than exempt land?

The Hon. HUGH HUDSON: If it is other than exempt land, the notice applies. We are dealing with exempt land, and one cannot enter exempt land and do anything unless one has the full permission of the owner. On other lands, there is a right of entry after giving certain notice, and that right of entry can be disputed before the Wardens Court, but in cases of exempt lands the matter is under the complete control of the owner of the land.

Mr. GOLDSWORTHY: In the case, then, of a property where the owner has some orchard land and also some grazing land, a notice could be served to go on to the grazing land but not on to the orchard?

The Hon. HUGH HUDSON: Yes.

Mr. GOLDSWORTHY: There is much misunderstanding about the Uranerz operation because they went to people who were orchardists only and served notices on them.

Clause passed.

Clause 6—"Special conditions attaching to mining of radio-active materials."

Mr. GOLDSWORTHY: This clause gives effect to the Governments policy on uranium. The Minister made no secret of the fact that the main purpose of this Bill was to give effect to that policy. It was highlighted in the Minister's second reading explanation. I pointed out in the second reading debate that the Opposition believes this policy to be quite misguided in the present climate, particularly in view of the Federal Government's stated policy in relation to uranium. It seems quite silly for the Government to proceed with this legislation in this form without an Australia-wide consensus on the future of uranium.

This is the one clause which gives effect to the Government's policy. Other clauses in the Bill are desirable, but the Minister tended in his explanation to play down those other clauses and said that most of them were relatively minor. For those reasons, I oppose this clause.

The Hon. HUGH HUDSON: I think it has to be pointed out that, while the Opposition may oppose the Government's policy on uranium, it is not being sensible when it opposes this clause, because the powers given by this clause are necessary powers should there ever be any mining of uranium or other radioactive substance. The powers that exist under the Mining Act at present are not adequate to control the issuing of a mining lease where it is proposed to mine uranium or some other radio-active substance. We have the example of the stockpiling of radioactive substances. That is one of the matters covered in this clause.

This clause provides that, if any uranium or radioactive substance is stockpiled, the Crown retains ownership and control over that stockpile. That is vital from the point of view of controlling what happens in that situation. Surely we have seen enough of the Port Pirie situation to recognise that Government control in these matters has to be fairly stringent, because handling dangerous substances is involved. I have previously pointed out to the honourable member that uranium and radioactive substances occur in association with other minerals. Almost no form of mineral production can take place without some uranium or radioactive material being produced as a by-product and ending up, even if it is in very small quantities, as part of the tailings that result from that mining operation.

The provisions in this clause certainly give the Government effective power to stop the mining of uranium at the present time. That is the Government's policy: the Government stated at the last election that its policy was in favour of a moratorium, and it is entitled to implement that policy.

Mr. Goldsworthy: We're entitled to oppose it.

The Hon. HUGH HUDSON: Right! The Opposition is opposed to that policy, but I suggest that the Deputy Leader is not being consistent in his attitude, because, if he wants to permit the mining of uranium or other radioactive substances, the conditions that currently can be applied under the mining Act are not good enough in relation to the issue of a mining lease, and the powers that are set out here are the kinds of power that are necessary. I do not mind the Deputy Leader's publicly opposing the Government's policy on this matter (that is fine), but I do not want him, even if he has convinced himself, to convince his colleagues unnecessarily to oppose what, after all, in the circumstances is sensible legislation.

Mr. GOLDSWORTHY: The Minister is now trying to play down this aspect of the Bill, which does give effect to the Labor Party's policy—a complete moratorium on the mining of uranium. The Minister said, in his explanation of the Bill, that it has also become necessary to amend the Mining Act to make it consistent with the Government's present policy on uranium mining. There it is in black and white. That is what the Bill is all about, and that is what this clause is all about.

The Hon. Hugh Hudson: It's not what the clause is all about, not entirely.

Mr. GOLDSWORTHY: Not entirely, but we have put a different complexion on the whole shooting match.

The Hon. Hugh Hudson: Read the words.

Mr. GOLDSWORTHY: I have read the words, and the Bill, several times. I know that under the terms of this Bill the Minister can give effect to the Government's present misguided policy in relation to uranium mining. I am under no misapprehension about what we are doing. By voting against this clause we are, in effect, voting against the Labor Party's present uranium policy, which is for a complete moratorium on uranium mining at present. It is spelt out here that the Minister has control. We do not want the Minister to exercise that sort of control, and the only protest we can sensibly make is by opposing this clause.

The Hon. HUGH HUDSON: I charge the Opposition

with wanting to permit the mining of uranium without the imposition of effective conditions that would allow such mining to be controlled. If the Opposition says that it did not really mean its vote in March of last year and that it now favours, and favoured the day after the mining of uranium, and if the Leader prior to the 1977 State election said that the Opposition would permit the mining of uranium under appropriate environmental conditions, how are they going to be opposed?

If the Opposition is opposed to this clause, allegedly on the grounds that it is opposed to the Government's policy, it is using the wrong grounds to oppose the clause, because effectively it is voting for a *carte blanche*. Effectively it is voting for a Government's not being able to impose suitable conditions should uranium mining be allowed to go ahead. The Government's position is that uranium mining should not go ahead at this stage until the Government is satisfied that it is safe to supply uranium to a customer country. That does not preclude the possibility that, at some future stage, the Government may become convinced that it is safe. At this stage the Government is not so convinced.

Mr. Tonkin: Are you speaking for yourself or the Government?

The Hon. HUGH HUDSON: I am speaking for the Government and for myself as Minister. I think it is sensible that the Government should be satisfied on this matter, and it is not at the moment. What this clause provides (and I ask members opposite to consider the words) is as follows:

> (1) Subject to this section, no person shall carry out mining operations (other than prospecting) for the recovery of any radioactive mineral unless he is the holder of a mining lease upon which the Minister has endorsed an authorisation to carry out mining operations for that purpose.

So he has to get the authority of the Minister. Subclause (2) provides:

> An authorisation to carry out mining operations for the recovery of a radioactive mineral may be granted upon such conditions as the Minister thinks fit and may be revoked upon breach of any condition.

These are the effective provisions, and the Government has made clear that it will not grant a mining lease for the mining of uranium. Whether that is the position of this Government or not, if in future any mining lease is granted, the Government of the day will have to be able to impose appropriate conditions and have stringent powers without the effect of any appeal to a court or to anyone else. In voting against the clause, the Opposition is voting against the imposition of appropriate conditions on the issuing of a mining lease for the mining of uranium.

Mr. Tonkin: You've changed your mind.

The Hon. HUGH HUDSON: If we did not change our mind and were defeated, and mining leases were applied for, the Government would not have the legislation and might not have the legal power to refuse such a lease, and it certainly would not have power to impose appropriate conditions. By opposing this clause the Opposition is saying that if it gets into Government, people will be allowed to mine uranium without the imposition of sensible or effective conditions. It is utterly irresponsible in voting against the clause.

Mr. TONKIN (Leader of the Opposition): It must be difficult for the Minister to defend a situation to which he does not subscribe, but he is doing it well in the circumstances. I give him a guarantee that in Government we will be very quick to introduce legislation—

The Hon. Hugh Hudson: How quickly can you call Parliament together? Within 10 days?

Mr. TONKIN: —with all the necessary safeguards, and these were listed by the Liberal Party before the recent election and also during this debate. If the Minister is counting on the fact that no election is due for several years, let me say that we will be happy to consider appropriate legislation when this Government changes its mind on the question of uranium. I do not think anyone believes that the Government will not change its mind: the only thing in doubt is when it will do so. How long will it beg the question and continue to hold a stance that becomes more ridiculous every day? When the Government admits to changing its mind, we will be pleased to consider the necessary safeguards to be included in the legislation. The Minister knows he has the numbers to pass this clause but, if it is defeated, we will consider any safeguard he proposes and to add some of our own.

Mr. Millhouse: I would like to know what they are: we never hear what the safeguards may be.

Mr. TONKIN: If the honourable member had been present more frequently, he would have heard those conditions listed in this debate. I suggest that he read *Hansard*.

The Hon. HUGH HUDSON: I charge the Opposition with utter hypocrisy in this matter: it is not debating the words in the clause, but is saying that it opposes the Government's policy on uranium and opposes this clause, although it would allow an imposition of satisfactory conditions if a mining lease were granted. It is saying that, if the Government does not change its mind and the Opposition gets into power, it would pass retrospective legislation. Either it is proposing to pass retrospective legislation or it does not intend to impose effective environmental conditions. The Opposition wants *carte blanche* for uranium mining to go ahead without those conditions: if it wants effective conditions imposed on uranium mining, it will vote for the clause: if it does not, it is showing rank hypocrisy.

Mr. GUNN: We have just seen a hypocrite in action. The Minister's attitude and stance to this clause are clearly contrary to those that his colleagues put into effect in Government. The Minister went around the world hocking a report.

The Hon. HUGH HUDSON: I rise on a point of order, Mr. Chairman. About six times I have accused the honourable member of lying about this matter. I do not know how many times it has to be said that something is untrue yet the honourable member still repeats it. He gets into the gutter and cannot get out of it.

The CHAIRMAN: I point out to the Minister that it is not appropriate to use the word "lies".

The Hon. HUGH HUDSON: I withdraw that word and substitute "untruths".

Mr. GUNN: Thank you, Mr. Chairman.

The Hon. HUGH HUDSON: I rise on a point of order, Mr. Chairman. A uranium enrichment plant has nothing to do with this clause, which deals with conditions that would be imposed over the mining of uranium, and the honourable member should be asked to stick to the clause.

The CHAIRMAN: I uphold the point of order. This is not a second reading debate, and I ask the honourable member to confine his remarks to the clause.

Mr. GUNN: Thank you, Sir, for your ruling in which you asked the Minister to retract his incorrect and untruthful statements about me.

The Hon. Hugh Hudson: No, I didn't retract anything: I substituted "untruths" for "lies".

Mr. GUNN: I realise that the Minister is having trouble containing himself, because, as we are all aware, he was the architect of the pro-uranium mining policy in this State, but he has had his wings clipped by Caucus, and has had to adopt an anti-uranium attitude. If this clause is

passed, the Government will have the so-called power to allow people to mine uranium and stockpile it, and that is a ridiculous proposition. I want to know from the Minister and the Government how many people would exercise this right. The information I have had from people involved in the industry is that they have no intention of using it.

Mr. Arnold: It's like being licensed to grow wheat, and not being allowed to sell it.

Mr. GUNN: That is right. Millions of dollars would be involved in my own district, and you, Mr. Chairman, would know something about Roxby Downs. I wonder whether these people will exercise this option if the clause is passed. I understand that, before the project could take place, an open-cut mine of some thousand feet would have to be dug. People would not invest that kind of money in order solely to mine copper, because too many copper mines throughout the world are now in serious financial difficulties. The State Government has followed the pro-Uren line, which is completely irrational, which is not supported by all the evidence, and which was not supported by the two Fox reports that were initiated by the Whitlam Government, by Mr. Connor, by Mr. Whitlam or by Mr. Hawke, and was not originally supported by the present South Australian Minister. A report only yesterday, in the *Advertiser*, under the heading "Idiot fringe in conservation", states:

> Extremists were doing "a great deal of harm" to the cause of conservation in Australia, British environmentalist, Prof. Kenneth Mellanby, said yesterday.

That is the South Australian Government's attitude: it has joined the idiot fringe. It has explained to the people of this State and to informed people throughout the world that it has attached its waggon to the idiot fringe. It is doing much harm to the people of this State and to the nation. The Minister has said that a future Liberal Government would not have power over these particular mining operators, but he knows that the Federal Government grants export licences. The Federal Government must decide whether uranium will be exported from Australia. The Minister well knows that the Federal Government has been far more responsible than were his colleagues when in Government. They had a policy to export uranium, and all they wanted was the money. The present Federal Government wants to export uranium because of its economic benefit to the country, but it has attached far more conditions to its sale than has any other nation that possesses uranium.

If the Minister thinks that because little South Australia will not export uranium it will stop nuclear plants throughout the world, he is living in a fool's paradise. Perhaps we are in a fool's paradise in South Australia, not only because of this action but also because of other actions of the South Australian Government. It is time the Government faced reality in relation to the export of uranium. If the Minister wants to return to reality, he should read the editorial in yesterday's *News*, before resorting to personal abuse. When one gets to know the Minister, one realises that, every time he resorts to such personal attacks on the Opposition, he is skating on thin ice. No matter what the subject is, every time he attacks us personally, we know that we are on the right track. I oppose the clause, because it is not in the interests of the people of this State or of Australia as a whole.

The Hon. HUGH HUDSON: The Government's policy is clear. It is one of a moratorium, which implies simply that not yet will there be a decision to mine uranium. It does not matter in what misrepresentation the member for Eyre indulges, the Government's policy will be as I have explained it. The honourable member complains about personal abuse, but he continually indulges in the most outrageous misrepresentation. Whatever anyone says to demonstrate that what the member for Eyre has said is a misrepresentation, he will persist in it. He is not a respecter of the truth; he does not care about the truth.

Mr. Gunn: I take strong exception to that. That's untrue.

The Hon. HUGH HUDSON: The honourable member is not a respecter of the truth. The honourable member mentions the idiot fringe on the conservation side. It is only because we have to deal with the idiot fringe of the Liberal Party that we have to endure all these nonsensical arguments in this place.

Mr. GOLDSWORTHY: In his second reading explanation, the Minister said:

> It has become necessary to amend the Mining Act to make it consistent with the Government's present policy on uranium mining, which is to permit prospecting for uranium but to withhold approval to the mining of any discovery until the Government is fully satisfied that it is safe to provide uranium to a customer country.

The CHAIRMAN: Order! I point out to the honourable member that he must not quote from a Minister's second reading explanation when we are in Committee.

Mr. GOLDSWORTHY: I refer the Committee to that quote from the Minister's explanation. It is clear what the clause is all about. I point out to the Minister that, as the Federal Government is at present preparing legislation in this area, for South Australia to act in isolation would be stupid. The Minister also referred to the March resolution of last year. I point out, as I have done previously, that the Leader—

The Hon. Hugh Hudson: Have you changed your mind?

Mr. GOLDSWORTHY: It is not a matter of changing our mind; the Labor Party knows all about that. Since March last, the second Fox report has been tabled, its recommendations have been studied, and the Federal Government has come down with 11 points and has issued a detailed statement and analysis of the situation in relation to uranium. For the South Australian Government to act in isolation, as it is seeking to do, particularly in this clause, is idiotic.

The Committee divided on the clause:

Ayes (25)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Duncan, Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson (teller), Klunder, Millhouse, Olson, Payne, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Noes (18)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Dean Brown, Chapman, Eastick, Goldsworthy (teller), Gunn, Mathwin, Nankivell, Rodda, Russack, Tonkin, Venning, Wilson, and Wotton.

Pair—Aye—Mr. McRae. No—Mr. Evans.

Majority of 7 for the Ayes.

Clause thus passed.

Clauses 7 to 11 passed.

Clause 12—"Application for registration."

Mr. GOLDSWORTHY: The second reading explanation given by the Minister does not seem to add up to what is provided in this clause. In his explanation the Minister stated:

> Clause 12 provides that a precious stones claim may be abandoned and repegged without reference to the warden's court, even though part of the area of the old claim is included in the area.

New subsection (9) provides:

> Where a precious stones claim lapses or is forfeited, no claim covering any of the area of that previous claim shall, without the authority of the warden's court, be pegged out by

or on behalf of the person who held the previous claim.

The Hon. HUGH HUDSON: Previous Section 46(9), which this proposed subsection will replace, provided:

> Where a claim lapses or is abandoned or forfeited, land that was previously comprised in the claim shall not be again pegged out by or on behalf of the person who previously held the claim without the approval of the warden's court.

In rewriting the subsection, the words "or is abandoned" have been omitted.

Where a claim is now abandoned it can be repegged, or a new claim can be repegged involving portion of the old claim, without recourse to the warden's court. Previously if the claim lapsed or was forfeited or abandoned the matter had to be referred to the warden's court, whereas now the abandonment case has been removed.

Clause passed.

Clauses 13 and 14 passed.

Clause 15—"Cancellation of miners right or precious stones prospecting permit, etc."

Mr. GOLDSWORTHY: The Minister's second reading explanation in relation to clause 15 states:

> Clause 15 provides that, where a miners right or a precious stones prospecting permit has already expired, the warden's court can then make an order prohibiting the person in question from obtaining a further right or permit.

The way I read clause 15 it says nothing at all about that. Instead, it provides:

> (1) The warden's court may upon the application of the Director of Mines make either or both of the following orders:
>
> *(a)* an order cancelling a miner's right or a precious stones prospecting permit;
>
> *(b)* an order prohibiting a person from holding or obtaining a miner's right or a precious stones prospecting permit for a period specified in the order, or until further order of the warden's court.;

The Hon. HUGH HUDSON: The former section 68 (1) contained a loophole. If an application for a miner's right or precious stones prospecting permit was made and heard by the warden's court, once the miner's right or permit had expired, the court could not make an order. When one applied to the warden's court under the previous provision for an order that would have prohibited a person from holding or obtaining a miner's right or precious stones prospecting permit for a period specified in the order, one could only get that order if the matter came before the warden's court before the existing miner's right or permit had expired. If they had already expired, the warden could not make an order.

That loophole is closed by the amendment. Where the warden would have made an order prohibiting a person from having a miner's right or precious stones prospecting permit for a given period, if, under the previous arrangement, his previous right or permit had not expired, the warden will now be able to make that order, even though the previous right or permit had expired.

Clause passed.

Remaining clauses (16 to 20) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (REMUNERATION OF PARLIAMENTARY COMMITTEES) BILL

Returned from the Legislative Council without amendment.

CONTRACTS REVIEW BILL

The Hon. PETER DUNCAN (Attorney-General) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received.

The Hon. PETER DUNCAN: I move:

> That the report be noted.

I seek leave to continue my remarks.

Leave granted; debate adjoined.

Later:

The Hon. PETER DUNCAN: Members have now had the opportunity to read the Select Committee's report. They will have noted the long and detailed report that the committee has presented to the House on this matter. I believe the report is a good one. The officer of the House who assisted the committee carried out his duties in a thoroughly expert manner, and the committee received every assistance from him. The committee also had the benefit of officers from my department.

Mr. Tonkin: No more than you needed at times.

The Hon. PETER DUNCAN: No more than we needed, but most adequate. We also had assistance from Mr. Mason, of the Consumer Affairs Branch, who was an expert assistant to the committee. I want to place on record on behalf of the committee my thanks to the officers who assisted it. At its 10 meetings, the members of the committee carried out its business expeditiously, and I would like to thank the members who served on the committee for their co-operation. It is fair to say that I have served on many Select Committees and on this occasion I think all members had a positive approach to the task at hand. The committee went about the matter concerned in the normal way. We received the written submissions attached to the report in appendix B, as well as oral evidence from persons listed in appendix A. Many matters were raised in the submissions, and the committee took them all into account in determining what to include in the report.

I do not particularly want to go into the report in great detail at this stage. When we move into Committee, I propose to deal with the recommended amendments in some detail. I think it is fair to say that the committee hearings provided a useful opportunity for members to hear from the public their views on the proposed Act, and the committee, after hearing that evidence and reading the submissions, became satisfied that there was a need for this type of legislation to deal with certain undesirable practices in the area of contracts that became quite apparent from the evidence before the committee. The committee was satisfied that the proposed Act is worth while and as presented with the amendments recommended is a constructive measure. The committee recommends that the Bill be passed with the amendments set out in appendix C.

Mr. NANKIVELL (Mallee): As a member of the Select Committee I would like to thank those officers involved in assisting us in what was a somewhat difficult task, since we were breaking new ground in Australia with this type of contract legislation. I think that, had it not been for the expert advice and for the well-presented papers that came before the committee summarising the progress made, it would not have been possible for the members of the committee to have maintained continuity of thought because of the mass of evidence submitted to the committee by a wide cross-section of people. The conclusions of the committee were:

> That from the evidence presented to it the committee is satisfied that the Bill proposed is a worth while and constructive measure.

I think that is well put because there was a difference of opinion on many points but I think the basic difference of opinion rested in two specific areas. They rested in the areas of the problem of indefeasibility of title so far as contacts involving the transfer of real estate are concerned and also there was considerable concern by me and my

colleague over the breadth of the definition of "unjust", which covers an extraordinarily wide area of concern. We understand from information given to us by the Attorney-General (and I may say without being patronising that he was an excellent Chairman in dealing with a difficult subject)—

Mr. Millhouse: Is this report unanimous or not?

Mr. NANKIVELL: No, the conclusions are written in such a way that they appear to be unanimous but there are some areas of difference, and I believe that there are some amendments to be brought forward relating to the area of difference. We only agreed to a principle; we are not necessarily agreeing to the Bill.

Mr. Millhouse: You say the Bill is worth while and constructive. That's not really taking it much further.

Mr. NANKIVELL: The general concept behind the Bill is worth while. Without doubt there is a tremendous range of contracts entered into by the public dealing with a vast number of subjects. Copies of contracts submitted to us by the Consumer Affairs Branch showed that the areas of concern were contracts dealing with building, swimming pool construction, house improvements and renovations, insurance, travel, rental, dance studios and vehicle sales. I cannot understand how anyone would sign some of these contracts. I can understand how someone would sign one or two of the contracts submitted to us, because they cannot be read without a magnifying glass. These are all contracts with interstate companies and they are no longer being used in this State. We have specified a certain type of print, and that means that the print must be of a large enough size to be read. Some of the contracts submitted to us would lead one to believe there was a real need to do something about improving the form of contracts. Therefore, I believe that the legislation is worth while.

I also believe that the evidence submitted to us and the manner in which it has been dealt with is constructive. In reply to the member for Mitcham, I do believe that the Bill is worth while and constructive in a limited sphere. The Bill is the first of its kind and we are in a hurry with it because I understand Victoria, New South Wales, and the Australian Capital Territory are considering similar legislation and, although the Minister did not say it, he gave an undertaking to the committee that, once agreement was reached between all parties on some uniformity in this legislation, if this Bill was not adopted by all parties concerned it would be withdrawn and brought into line so that we would have uniform legislation.

Mr. Millhouse: That will make confusion worse confounded.

Mr. NANKIVELL: The honourable member would agree, after having looked at it quickly (and I appreciate the fact there is a tremendous amount of evidence he has not had a chance to look at and certain parts he has been unable to see), that this will be a lawyers' Bill because there is so much in it that has yet to be determined. So many decisions have to be made before one knows whether existing contracts are in fact acceptable contracts. Standard contracts have always been accepted in various areas of commercial activity as the form such a contract should take, but it is not known yet whether they will be challenged in a court and, if challenged in a court, whether they could be held to be unjust and therefore set aside.

All sorts of matters have yet to be resolved in the area of how far the Bill will affect the commercial and business community, as well as looking after the interests of a few people who, it would seem, have been tricked into signing contracts which they have not read, involving problems for those concerned as well as for other people. I can quote a number of cases of extraordinary contracts having been signed for the purchase of houses. I can quote the case of a constituent who bought a $35 000 house on a deposit of $400. The first problem occurred when the vendor presented a bill for $2 000 to cover registration of the mortage, and so on. The purchaser just did not understand the contract. By the provisions of clause 5 (5), the Bill will assist the court in deciding what may or may not be an injustice. Such things are probably covered, and therefore an appeal against such a contract would probably mean that there was every chance of the contract's being set aside.

Mr. Millhouse: Are the amendments set out in the appendix to the report unanimous?

The SPEAKER: Order! The honourable member will be able to ask that question in due course.

Mr. NANKIVELL: The amendments as set out were agreed to by the Select Committee.

Mr. Millhouse: Unanimously?

Mr. NANKIVELL: Yes, the amendments were unanimous. They did not alter the sense of the Bill; they simply took into account matters raised by concerned people. The procedure adopted by the committee was that, having arrived at the schedule of amendments, the parties who raised the issues were written to, the proposed amendments covering the points they had raised were submitted to them, and they were asked for their comments and their criticism. Only after we had received this further criticism from some of the principal witnesses, agreeing that the amendments took into account the points raised by them, was the amendment approved. The amendments were unanimously approved. The significant thing is that the amendments we are putting in here improve the Bill. The principal arguments all the way through the evidence were against the concept of a Bill of this sort, a Bill of such an overriding nature.

Mr. Millhouse: Did any member of the Select Committee want to make other amendments?

The SPEAKER: Order! The honourable member will have an opportunity to speak.

Mr. NANKIVELL: I am happy to answer the honourable member, although perhaps his questions should be directed to the Attorney-General, who was Chairman of the Select Committee. I should have thought that any amendments other than those would be possibly being prepared at the moment. The significant thing is that, if we accept the concept of this Bill, the amendments made to it as a result of the evidence presented to the Select Committee have improved it. They have considered points overlooked initially, and they have made the Bill more understandable and more precise in certain areas. I do not say that I support the Bill in total as it is here. That is another matter.

Mr. Millhouse: That's what I've been trying to get at.

Mr. NANKIVELL: The honourable member has been asking devious questions. If we must have a Bill of this sort, if it is the policy of the Government to introduce such a Bill, as a member of the Select Committee I have endeavoured, along with other members, to ensure that the Bill was fair and just and that it covered the aspects affecting the community that it was the policy of the Government to cover. That does not say that I approve of it as a Bill.

Mr. Millhouse: Tell us whether you do or not. Do you approve of it?

The SPEAKER: Order! The honourable member for Mitcham will have an opportunity to speak.

Mr. NANKIVELL: He is going to speak very learnedly, because he has been getting evidence from me, wanting to know what the Law Society has had to say, because he cannot be offside with the Law Society.

Mr. Millhouse: I want to know what you think of the Bill.

The SPEAKER: Order! The honourable member for Mitcham is out of order.

Mr. NANKIVELL: In direct reply to the honourable member, the drafting of the Bill is all right.

Mr. Millhouse: Why can't you give an unqualified answer?

Mr. NANKIVELL: I am not going to do that.

The SPEAKER: Order! The honourable member for Mitcham is out of order.

Mr. Millhouse: Yes or no?

Mr. NANKIVELL: I shall have an opportunity to vote on that.

The SPEAKER: Order! I call the honourable member for Mitcham to order.

Mr. NANKIVELL: I shall have an opportunity to vote on that. It will depend on certain things. Let me deal more specifically with some of the principal points of concern. If it were not for some specific areas of concern, I could unhesitatingly answer "Yes" to the honourable member's question. However, I am still not satisfied that certain aspects of the Bill are dealt with conclusively by the amendments. The principal area of concern relates to where a third party is involved in the transfer of a title in a contract involving real estate. If a contract is challenged and set aside after the transfer of title, who owns the title and how is it to be transferred back to the original vendor?

I do not think the Attorney-General has made a statement, but I ask him to deny that he said that, in this respect, he hoped to bring in certain amendments to the Real Property Act to clarify this decision. He gave an undertaking to the Select Committee that he would not proclaim this legislation until those amendments had been made and this point had been cleared. At the moment, I have strong reservations, because I believe that there will be extreme difficulty in the mechanics of this provision of the Bill as it relates to the Real Property Act.

I was also concerned about the wide spread of the Bill, which overrides certain other Acts. The Real Property Act and also the Consumer Credit Act will have to be amended to avoid conflict with the powers of this legislation. Section 46 of the Consumer Credit Act sets out to do much the same things as this Bill will do, although in a restricted area. Other amendments may be necessary before the legislation can work properly. To pick up all the areas in which there has been concern about the form of contracts, such as dancing studio contracts, and so on, the Bill has had to be cast in very wide terms, introducing very broad definitions to assist the court in determining what is unjust.

Mr. Millhouse: It doesn't assist the court at all.

Mr. NANKIVELL: The court is asked to take these things into account.

Mr. Millhouse: It is of no assistance to the court; it is just left to the court.

The SPEAKER: Order! The honourable member will have an opportunity to speak.

Mr. NANKIVELL: I shall be pleased to have the honourable member's legal comments instead of his continual interjections. If he disagrees, let him get up and say so; let him not try to make a speech by way of interjection. The legislation is very wide. When we look at the definition of "unjust", I believe that by using that definition we will bring in just about every conceivable contract, and there is particular concern with real estate.

There is one aspect of the Bill which is pointed up in the report and which I think, as this is a lawyer's Bill, is probably unfair in some ways: that the Bill is silent on matters of costs. No-one knows what will be the story if this legislation is challenged in court. We set out what the jurisdiction of the courts will be in relation to hearing cases, but we are leaving it to the court to exercise its discretion as to whether or not costs should be awarded against the unsuccessful parties or how it will award costs in litigation of this form. This is another area about which I express concern.

As the honourable member is a lawyer and an active barrister, I have no doubt that he will have an absolute bonanza out of this Bill when it becomes an Act. Until many areas of uncertainty are tested by the court and proven, and until many of the areas we are attempting to cover are proven, whether this Bill will achieve anything is an unknown factor. In the meantime, it will be State legislation, and there could well be substantial loopholes in it which I believe will be exploited until there is uniformity.

I believe that a contract which is entered into by two parties and which is finalised and registered in another State will probably void itself in relation to action under this Bill. If this legislation is as good as we are told and it is adopted by other States and we get some uniformity, this will ultimately be dealt with. In the meantime, I support the adoption of the report, although I express the reservations now that I did in committee.

I indicated the areas where there was some difference between members of the committee. They were not wide, and I believe that the amended Bill is infinitely better than the Bill as introduced, and in that sense it is a greatly improved Bill, but until we are certain of the breadth of the Bill by its being tested in certain areas in the courts there will be considerble alarm in the business community as to whether many existing contracts will stand up. It is probably unfortunate that we have moved so quickly in some of these areas before they have been thoroughly tested. We are putting the cart before the horse in the introduction of this legislation. I support the Bill at this stage, or the report of the Select Committee.

Mr. MILLHOUSE (Mitcham): If drawing teeth for a dentist is as difficult as it is to get information out of the member for the Mallee as to where he stands on this matter, I am glad I am not a dentist. Even in his last sentence he did not say whether he supported the Bill or not. He skated right around it and eventually ended up by saying "I support the Bill" and then went on to say "or rather, I support the adoption or noting of the report", or something like that. We did not get from him (and presumably he is leading for his Party) his Party's attitude to the principle of the Bill. I think it will be quite wrong if we go on with the debate today past this stage and consider the various clauses of the Bill. I do not know whether other honourable members who belong to other Parties have had a chance to digest this report, but it was given to me about an hour ago, when it was tabled in typed form. It runs into 19 pages of report. Much of it can be discarded because it is only words, but it should at least be read.

Mr. Mathwin: But you've read some of the evidence, haven't you?

Mr. MILLHOUSE: How could I possibly have read any of the evidence?

Mr. Mathwin: It's available; it's been tabled.

Mr. MILLHOUSE: It may have been tabled this afternoon, but I have not had the slightest opportunity to read it. If we are to go on with this report, I protest most vigorously against that course of action. As the member for the Mallee said (and on this he was correct), this is lawyers' law. Most of the law of contract is common law.

Mr. Nankivell: Now you have a copy of the report, perhaps you can tell me some of the more detailed aspects

of it.

Mr. MILLHOUSE: This Bill will have far-reaching effects, and the member for the Mallee said at least that. He referred to the definition of "unjust". Nobody knows what that can possibly mean. As to saying that it gives any guide to a court in how to interpret the word, that is absolute nonsense. I do not believe it is right for members in this place to be presented with this report, with two and a half pages of amendments, and told to get on with it straight away. Not only we but also people outside in the community should have an opportunity to digest the report and the proposed amendments before we have to debate them. Having said what I have about the honourable member, I must acknowledge that he was kind enough to give me a copy of the further submissions of the Law Society, apparently on seeing this Bill. I had asked the Attorney-General, before I got this today and before I spoke to the member for the Mallee—

The SPEAKER: Order! It is "the member for Mallee".

Mr. MILLHOUSE: I see. He was a little vague about it, but I rather gathered from him that he thought the Law Society thought the Bill was all right now. Of course, it does not. I am going to quote some of the things that Mr. Morgan, the President of the Law Society, said in his submission dated only yesterday (which shows how recent all of this is) about some of the things the Law Society says about the Bill in its present form.

Mr. Bannon: It is the committee of the Law Society, not the Law Society itself.

Mr. MILLHOUSE: The member for Ross Smith says that this is a committee of the Law Society. I point out to him that, while it may be signed "Company and Commercial Committee of the Law Society Inc., P. R. Morgan, President," he is the President of the Law Society, and the heading of the submission (and the member for Ross Smith knows this as well as I do, so why does he not look at the beginning rather than at the end)—

Mr. Bannon: Because that's very significant.

Mr. MILLHOUSE: Well, what is the heading of the damn thing?

Mr. Mathwin: Let the intellectual give his explanation.

Mr. MILLHOUSE: It says, "Further submissions of the Law Society of South Australia with respect to the Bill for a Contracts Review Act." I do not care a damn who wrote it. It has the imprimatur of the society and the signature of the President on it; that is good enough for me.

The Hon. Peter Duncan: And you have your instructions.

Mr. MILLHOUSE: I have no instructions at all; I had to get this from the member for the Mallee.

The SPEAKER: Order! It is "the honourable member for Mallee".

Mr. MILLHOUSE: Right, Sir. The submission starts in this way:

> 1. The Law Society—

not a committee of the Law Society—

> repeats the preliminary matters set out in its submission of December, 1977, where it expresses the following views:
>
> *(a)* It acknowledges that there are many instances of harsh or oppressive contracts and that some reform is needed.

I think the honourable member for the Mallee has taken that into account, anyway.

The SPEAKER: Order! I hope that the honourable member for Mitcham will call the honourable member by his correct title—"the honourable member for Mallee."

Mr. MILLHOUSE: The letter continues:

> *(b)* It opposes the approach that renders all contracts and some other instruments liable to review.
>
> *(c)* It urges that the matter be subjected to far more intense study before the Act is passed.

That is exactly what I am saying: it is an insult to Parliament and an abuse of Parliament to bring in a report like this on a difficult Bill and expect us to debate it immediately without any opportunity to read or understand the purport of the report. The submission continues:

> 2. The society made certain comments with respect to matters of detail in the Bill. Various amendments have been suggested, some of which are without doubt designed to comply with the comments made by the society. However, the society takes the view that many of the amendments have raised more doubts and difficulties and, in some vital instances, no attempt has been made to correct important and basic matters raised in its submissions. It seems obvious that further alteration is required.

Members can say what they like about the Law Society and my being a member of it, but I suggest that a comment like that merits some response from Parliament, and that it is absurd for us, in the light of that, to go ahead without having any opportunity to discuss the matter with members of the Law Society or Mr. Morgan, or those of us who are able to evaluate the suggestions made. There is no chance for a private member in the situation in which I am placed. I have not been on the committee, and I have not had the opportunity to keep up with what is going on, because its deliberations are confidential. How can I evaluate the suggestions of the Law Society to ascertain whether they are right or wrong? I say to members of the committee with the utmost respect that, even if I knew who was for and who was against (and I would suspect what had happened there), I am not prepared to accept their judgment on this matter. I want to make my own. Incidentally, on the question of voting, it seems to me from what the member who preceded me has said that he and his colleagues on this side were rather led by the nose by the Attorney-General, who was able so to frame the report as to make it impossible for them to oppose it.

The Hon. PETER DUNCAN: I rise on a point of order. Is it proper for the member for Mitcham to reflect not only on the work of the committee but also on the Standing Orders that specifically lay down the way in which a report of a Select Committee is to be presented?

The SPEAKER: I uphold the point of order; I think the honourable member should stay away from that area. There is ample material for him to study certain sections of it.

Mr. MILLHOUSE: The third paragraph of the submission states:

> 3. We comment in detail on the proposed amendments as follows:
>
> *(a)* Clause 3, page 1: The addition to the definition of contract not only does not improve matters: it makes them worse. Is it intended to include an instrument transferring title to assets other than land? The proposed amendments probably exclude many instruments that the proposers of the Bill intend to include: for example, bills of sale, consumer mortgages, share transfers.

Mr. Nankivell: I suggest that he didn't read the amendments properly to make that comment.

Mr. MILLHOUSE: Does the honourable member mean that I have to accept either what he says by way of interjection or what the Law Society says without my being able to examine the clause? My point is that I am not getting a chance, and neither is any other member, to evaluate the report of the committee in the light of comments that may be made by people who know something about this subject.

The Hon. Peter Duncan: You'll have the opportunity in

Committee.

Mr. MILLHOUSE: Later today, or on another day?

The Hon. Peter Duncan: Later today.

Mr. MILLHOUSE: What chance will that be? That was as hollow as are many things that the Attorney has said about this.

The Hon. G. R. Broomhill: Do you want to go home?

Mr. MILLHOUSE: I want to have a few days not only to digest the Bill but also to let other people in the community react to the report of the Select Committee. That is what we should give. If Parliament is not to become merely a rubber stamp for the Government, that is what we would get. The submission continues:

> *(b)* Clause 3, line 13: The definition of "court" may have unforeseen consequences.

Again there is clear evidence that more thought is required.

Mr. Bannon: Nonsense!

Mr. MILLHOUSE: I am afraid that I do not defer to the honourable member's opinion on this matter: he is not even a legal practitioner.

The Hon. Peter Duncan: But you grovel before the Law Society's opinion.

Mr. MILLHOUSE: I do not grovel before the Law Society's opinion, but I respect the opinion of Mr. Peter Morgan. Let me now turn to paragraph 4, which states:

> 4. The society is gravely perturbed that some of its detailed suggestions appear to have been ignored. These include:
>
> *(a)* The definition of "unjust" gives no real test of what is "unjust".
>
> *(b)* The revocation of clause 5 (4) and other alterations concerning land under the Real Property Act make it clear that the Act would be a vital inroad into the principle of the "indefeasibility of title" under the Real Property Act. This aspect will be dealt with more fully later but in itself would certainly justify a reference to the Law Reform Committee.

It goes on in this way. I have seen only the submission of the Law Society which had probably been prepared in haste, almost in as much haste as I have had in looking at the Bill and preparing to speak in this debate. No doubt other bodies in the community may feel the same. I will read the conclusions of the Law Society, as follows:

> The society even to a greater extent than before:
>
> *(a)* opposes the passing of the Bill in its present form;

Apparently, the Liberals will vote for it.

Mr. Dean Brown: No fear!

Mr. MILLHOUSE: I have been trying to find out from the speech of the member for the Mallee whether he would support or oppose the Bill. I take it that the member for Davenport will oppose it. Am I right?

Mr. Dean Brown: I will vote for it at the second reading stage and oppose it unless suitable amendments are made in Committee.

The SPEAKER: Order! This is not a family gathering.

Mr. MILLHOUSE: We are not in the same family. The conclusions continue:

> *(b)* urges that the whole question should be subject to far more intensive study and reflection before further action is taken;
>
> *(c)* suggests that the matter be referred to the Law Reform Committee;
>
> *(d)* offers to assist in considering any other draft legislation in this area.

In the light of that comment from a body that I respect (although other members may make their own judgments), I cannot support the Bill in the form in which the Select Committee has recommended that it be passed. I am surprised that other members on this side anyway would be prepared to support it. That submission may be completely wrong: I am not suggesting it is necessarily completely right, but I want an opportunity to make up my mind. I think that, for a Bill that is as far-reaching as this one is, many members of the public who are interested should have the opportunity to make up their minds before we vote on it. As at present advised, on the little I know and on the skimpy look I have had at the report, I must oppose the Bill.

Mr. DEAN BROWN (Davenport): I will make a few brief comments about the report, especially regarding aspects of the definition of "unjust". I believe that the most critical part of the Bill (and certainly this came out in evidence presented to the Select Committee) was the definition of "unjust". In the scope of the legislation it has to be determined whether it included any contract that seemed in any way unfair or unjust, or whether it confined it to severe cases of injustice, especially cases that were oppressive, harsh, or unconscionable.

I will deal briefly with some of the evidence presented to the Select Committee on this matter, and I will take specifically the definition of "unjust" in clause 3, as follows:

> "unjust", in relation to a contract, means—
>
> *(a)* harsh or unconscionable;
>
> *(b)* oppressive;
>
> or
>
> *(c)* otherwise unjust,

Virtually every submission we received commented on this area. First, the Parliamentary Counsel pointed out that the definition of "unjust" was critical. A submission from the Young Lawyers Association stated that practical effectiveness would depend on the interpretation placed on "unjust". A submission from the Australian Finance Conference stated that the concept of "unjust" was far too wide, and recommended that the definition be narrowed down. It suggested that the legislation should confine itself only to "unconscionable" and that this should apply to the seller who tried to take more than 80 per cent of the cake rather than just his fair share of 50 per cent. The Law Society also picked up the definition of "unjust" and touched on it in its initial submission (not the one with which the member for Mitcham has dealt). The Real Estate Institute, the South Australian Association of Permanent Building Societies, and the Housing Industry Association also commented on this matter.

That gives a broad indication of the many people who objected to the definition of "unjust". I am unable to accept the definition that was finally accepted by a majority of the Select Committee, and that was one of the two reasons why I voted against the general recommendation of the committee that the legislation, as amended, be adopted by the House. I considered that the definition needed to be restricted to deal only with those cases that were harsh, unconscionable or oppressive. I think that the members of the committee quickly appreciated the kind of cases with which we were dealing in such circumstances. The one case cited by everyone as an example of a harsh or oppressive contract was the case of *Egan v. the South Australian Railways.* Egan was to do some contract work for the railways on the line between Peterborough and Broken Hill. That specific case has already been brought to the attention of the House, because it involved the construction of certain railway bridges, which eventually developed cracks. That is the classic case we are trying to cover in this kind of legislation. The Peden report, from New South Wales, also quoted that at length as the specific and classic case which should be covered.

I think that note should be taken of the original and subsequent submissions from the Law Society, and especially that from the Australian Finance Conference, which was particularly outstanding. It was a tribute to the people who prepared it, and it showed a real grasp of the legislation not only as proposed in South Australia but as currently applies in the United States of America, Canada and the United Kingdom. It is worth pointing out that, from memory, the American and Canadian legislation has a restricted definition of "unjust" and "unconscionable", and I believe that we should adopt the same practice here.

The Select Committee's report indicates that uniform legislation is likely to be adopted, at least in some States, within the next 12 or 18 months. Therefore, we are considering legislation that has been introduced on a so-called temporary basis. I believe it would be unfortunate if this temporary legislation was so broad in its coverage and so severe in its effects that it began to impinge on normal commercial practice in this State and thus substantially increased costs, especially as there is every scope and reason, if necessary, to increase the scope of the legislation after seeing how it works for two years.

Therefore, I believe that the House should be looking at finally adopting legislation which tends to be restrictive and which, at the same time, meets the real need that the Select Committee agreed existed, namely, to ensure that some action can be taken as regards harsh, oppressive or unconscionable contracts.

The other area on which I will touch briefly was touched on by the member for Mallee, namely, whether or not realty should be included. The indefeasibility of the Torrens title is in question, and I intend to see that amended, if possible, to ensure that the Torrens title is kept in its current state. I believe that amendments should be moved, and I hope that particularly the member for Mitcham, who has spoken so strongly on the Select Committee's report, will support them. I think that they tend to cover some of his fears, but I am not sure that they cover all of them. They certainly cover some of the points raised by the Law Society. I go back to the most recent submission of the society, or the Company and Commercial Committee of the Society—

Mr. Millhouse: Do you really say seriously that it is only from the committee, in view of the heading? In any case, what difference would it make if it were?

Mr. DEAN BROWN: I do not wish to develop that argument. It does not worry me whether the submission comes from the Company and Commercial Committee or whether it comes from the Law Society itself. The point it raises, which is still valid and which the member for Mitcham has pointed out, is that it still does not like the legislation, because it is far too broad and far too general. It states the following three grounds:

> The Law Society repeats the preliminary matters set out in its submission of December, 1977, where it expresses the following views:
>
> *(a)* It acknowledges that there are many instances of harsh or oppressive contracts and that some reform is needed.

All of the committee members admitted that, and I would certainly support it. The statement continues:

> *(b)* It opposes the approach that renders all contracts and some other instruments liable to review.

I support that point of view. The statement continues:

> *(c)* It urges that the matter be subjected to far more intense study before the Act is passed.

I believe that the committee has given the matter intense study. I should like to see uniform legislation adopted, at least by Victoria, New South Wales, South Australia and perhaps Queensland, before any legislation was introduced, especially as I understand that Victoria is close to considering similar legislation, and evidence was also presented that New South Wales apparently has a draft Bill before Cabinet.

Mr. Millhouse: What's the great virtue of uniformity?

Mr. DEAN BROWN: I should have thought that there was a great deal of benefit as regards companies that have offices in each State. It is then possible to have uniform contracts that meet only one set of criteria, rather than different contracts that might have to be amended because of the different legislation in each State.

Mr. Millhouse: They could still be interpreted differently.

Mr. DEAN BROWN: That may be so, but I think there is still benefit in uniformity. I am sure that the member for Mitcham would agree that Australia, as a Federation, has caused increased costs in commercial practice by having different legislation in each State.

The Hon. Peter Duncan: Even in interpretation, the High Court would ensure some degree of uniformity.

Mr. DEAN BROWN: Of course it would. The other aspect of the Bill that concerned me greatly when it left the House was the fact that the legislation did not bind the Crown. I was pleased that every witness who presented evidence to the Select Committee believed that the Crown should be bound. Initially, the Attorney-General resisted those pleas to have the Crown bound but then—

The Hon. Peter Duncan: Initially, I said that the Bill already did it, but that I would clear up the matter.

Mr. DEAN BROWN: If I remember rightly, there was a dispute on the matter because the Parliamentary Counsel claimed that the Bill did not bind the Crown.

Mr. Millhouse: He and the Attorney were at odds, were they?

Mr. DEAN BROWN: They were. I specifically asked the Parliamentary Counsel that question, and he said that the Bill did not bind the Crown.

Mr. Millhouse: The Parliamentary Counsel won?

Mr. DEAN BROWN: It has been recommended in the report that the Bill be amended to bind the Crown. I am pleased to see that the Attorney has decided that the Crown needs to be bound specifically by this legislation. That recommendation was adopted unanimously by the Select Committee.

It would be farcical to introduce such contract legislation that did not also include the biggest party to contracts in this State, the State Government. I support that aspect of the report. I will support this motion; however, I intend to try to amend the Bill during the Committee stage and, if the amendments are not accepted, I will be forced to vote against the Bill at the third reading. I urge Government members to accept the amendments that we intend to put forward. I believe this legislation is necessary but that it would be unwise, as I have outlined, for a number of reasons to jump completely overboard in trying to introduce such legislation.

Mrs. ADAMSON (Coles): I speak to this motion with a strong degree of protest.

Mr. Millhouse: You support me in that case.

Mrs. ADAMSON: I do indeed. I support the honourable member in what he had to say because it seems to me that the rights of this Parliament, particularly those of the Opposition, are being ignored completely by the Government in relation to this Bill. Members were tossed a document containing 26 pages dealing with very complex legislation that will have far-reaching effects and we were light-heartedly told by the Attorney that we would have an hour in which to study the document. However, during that hour we were supposed to be debating Bills and were

in the Committee stages of other Bills. At the same time, we were given a document in relation to a report from a Select Committee on another Bill which will have far-reaching effects on the community and which has been debated hotly in the community.

Speaking for myself as a newcomer, I just simply have not been able to comprehend all that is contained in these documents; I doubt very much whether any other member could have comprehended it. Those members who served on the Select Committee are the only members who can intelligently debate this Bill. The rest of us just simply cannot fulfil our obligations to our constituents or to our legislative function in this Parliament. That is an indictment of the Government and is an abrogation of our rights as an Opposition and an abrogation of the rights of the people we represent. I want to register a strong protest about that matter.

The House divided on the motion:

Ayes (41)—Mr. Abbott, Mrs. Adamson, Messrs. Allison, Arnold, Bannon, Becker, Broomhill, Dean Brown, and Max Brown, Mrs. Byrne, Messrs. Chapman, Corcoran, Drury, Duncan (teller), Dunstan, Eastick, Evans, Goldsworthy, Groom, Groth, Gunn, Harrison, Hemmings, Hopgood, Hudson, Keneally, Klunder, Nankivell, Olson, Payne, Russack, Simmons, Slater, Tonkin, Venning, Virgo, Wells, Whitten, Wilson, Wotton, and Wright.

Noes (3)—Messrs. Blacker, Mathwin, and Millhouse (teller).

Majority of 38 for the Ayes.

Motion thus carried.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

Mrs. ADAMSON: I move:

That progress be reported.

Earlier I protested against the lack of time given to members to study the Select Committee report. My understanding of the proceedings of this House is that the report—

The CHAIRMAN: Order! The honourable member cannot speak to the motion that progress be reported.

The Committee divided on the motion:

Ayes (18)—Mrs. Adamson (teller), and Messrs. Allison, Arnold, Becker, Blacker, Chapman, Eastick, Evans, Goldsworthy, Gunn, Mathwin, Millhouse, Nankivell, Russack, Tonkin, Venning, Wilson, and Wotton.

Noes (24)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, Olson, Payne, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pair—Aye—Mr. Dean Brown. No—Mr. McRae.

Majority of 6 for the Noes.

Motion thus negatived.

Clause passed.

Clause 3—"Interpretation."

The Hon. PETER DUNCAN (Attorney-General) moved:

Page 1—

Line 10—Leave out "and".

Amendment carried.

The Hon. PETER DUNCAN moved:

Page 1—

After line 12 insert paragraph as follows:

and

(c) any instrument—

(i) transferring title to land;

or

(ii) creating any interest in land:

Mr. DEAN BROWN: I vote against this amendment, because I shall be moving a new amendment to exclude "realty" in clause 5.

Amendment carried.

The Hon. PETER DUNCAN moved:

Page 1—

Line 13—Leave out definition of "court" and insert definition as follows:

"court" means—

(a) the Supreme Court;

(b) any local court of full or limited jurisdiction;

(c) the Credit Tribunal; or

(d) the Industrial Court of South Australia.

Amendment carried.

Mr. DEAN BROWN: I move:

Page 1—

Line 17—Leave out "or" and insert "and".

After line 17 insert "or".

Lines 19 and 20—Leave out all words in these lines.

The purpose of the amendment is to restrict the definition of "unjust", as I explained during the debate on the report of the Select Committee. I believe that this is by far the most critical amendment. It restricts the effect of the legislation to certain cases where a contract can be proved to be harsh, oppressive, or unconscionable. Unless that is done, I believe that this will have almost diabolical consequences on commercial practices in the State.

The Hon. PETER DUNCAN: The Government opposes this amendment. A uniform scheme is being discussed at the moment by several States. When I refer to uniformity in this area, I do not suggest that there is a proposal for a national uniform scheme. Victoria, New South Wales, Tasmania, South Australia and Queensland are considering legislation on this matter, as is also the Australian Capital Territory. The Attorneys-General for those States and the Commonwealth Attorney-General, in the instance of the A.C.T., have expressed their view that where legislation of this nature is to proceed it is most desirable that it should be uniform.

I do not wish the Committee to think that there is any proposal for a national uniform scheme in this area, because that is not the case. The States that are proposing to move are proposing to move towards uniformity. I think it was mentioned that I gave an undertaking to the Select Committee (and I now repeat that undertaking to the Committee) that, where there is any arrangement for uniformity between the various States, the Government undertakes that it will repeal any legislation which is then applicable in South Australia to this matter and introduce the uniform scheme. The Government believes it is very important that, to the greatest possible extent, company law should be uniform throughout the nation.

Concerning the proposal to delete the words "otherwise unjust", I refer, first, to the report of Professor Peden, who undertook a study into so-called harsh and unconscionable contracts for the New South Wales Government. In his report, he uses the words "harsh or oppressive or unconscionable or unjust". In South Australia, we have simply used the words "harsh or unconscionable, oppressive or otherwise unjust". That was the formula proposed in Professor Peden's report, a formula which has been used in many jurisdictions overseas, including the United Kingdom.

We are looking at a situation which is not new to the law but which has existed in certain areas for some time. I refer particularly to section 15 (1) *(e)* of the State industrial legislation, the provision dealing with dismissals generally, where the legislation uses the words "harsh,

unjust, or unreasonable". That legislation has been in existence for a considerable time, and a large body of law sets out what those words mean in that context. There is no reason why the law that has come into existence there cannot be applied in this situation. I am sure the courts will be quick to use the precedents established in that area for the purposes of interpretation of this legislation.

Mr. Millhouse: Don't you think it might be hard to persuade the Supreme Court to follow a precedent of the Industrial Court? That's what you are suggesting.

The Hon. PETER DUNCAN: I do not accept that that is the case. I think the Supreme Court will look at those precedents. Certainly, it might reflect on them and apply its imprint to them. Nevertheless, the basic body of law for the interpretation of this section is there. I want to quote to the Committee a couple of extracts from Professor Peden's report. At page 27, referring to his clause 8 (1), he states:

> For the reasons outlined in the comments on clause 7, the phrase "harsh and unconscionable" has been expanded, but has not been taken so far as to include a contract or provision which is merely "unfair", since this might be taken to cover situations in which, although the contract favours one party, there has been no abuse of power or lack of fairness in the conduct of the favoured party.

At page 28, in the second paragraph, the report states:

> The reference to the public interest is intended to direct the courts' attention to the underlying purpose of the *Bill*, namely, to prevent unjust dealings which offend against community standards of business morality.

I do not believe that there will be any difficulty before the courts in interpreting this matter. It is important that words in this form be part of the Bill as it leaves the Parliament, not only because, in my opinion, the words "harsh or unconscionable and oppressive" do not go far enough, but because I think the well-known tendency of the courts to read down legislative formulations of this type should be countered by the inclusion of the words "otherwise unjust", to ensure that Parliament's intention that the courts will be able to relieve parties to unjust contracts will be carried into effect. It is important, for those reasons, that the clause should stand as printed.

Mr. NANKIVELL: The Attorney is right in saying that it was the intention of the Bill to make this definition as wide as possible. I think it is correct to say that one of the reasons for doing that is to pick up contracts such as those relating to dancing schools. I point out that they are only one or two areas in which this applies. A vast area of legislation relating to contract will be affected by spreading the dragnet as wide as this and in using the words "otherwise unjust" and then, later in the Bill, setting out a whole series (as I said, a shopping list) of reasons which might be taken into account by the court and to which the court shall have regard in deciding whether or not it is unjust.

Until we have a wider definition by the court of "unjust" than that presently available to us in the limited jurisdiction of the Industrial Court, we will have a wide area of business and commercial contract writing where there will be extreme uncertainty about whether existing, current and long-standing contracts being used for all sorts of purposes will, in fact, stand up. We have a wide area in the commercial and business spheres where contracts are drawn as day-to-day procedures. They are part and parcel of the operations of banking, finance houses and many other areas where nearly every transaction requires a contract, and that contract is in existence.

Those contracts may have been prepared by the major party and not entered into by common consent and it may have been the case of a contract submitted by the lender to the borrower saying, "You accept it or you do not". Notwithstanding that, it is an agreed form of contract that has not been challenged but may now be open to challenge. Because of the possibility of many of these existing forms being upset as a result of this wide definition of "unjust", I support the amendment.

The Committee divided on the amendment:

Ayes (18)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Dean Brown (teller), Chapman, Eastick, Evans, Goldsworthy, Gunn, Mathwin, Millhouse, Nankivell, Russack, Tonkin, Venning, and Wilson.

Noes (24)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Duncan (teller), Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, Langley, Olson, Payne, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Pair—Aye—Mr. Wotton. No—Mr. McRae.

Majority of 6 for the Noes.

Amendment thus negatived; clause passed.

New clause 3a—"Crown to be bound."

The Hon. PETER DUNCAN moved to insert the following new clause:

> 3a. This Act binds the Crown.

Mr. DEAN BROWN: The point was raised whether or not the Government originally intended the Crown to be bound. I refer to the evidence presented by Mr. M. A. Noblett, from the Minister's office, when I asked him the following question:

> The fourth point was whether you believed that the Bill should bind the Crown?

He replied, "Yes." I then asked:

> Could you give reasons why? Do you support the views expressed by Peden and the law reform submission?

He replied:

> Yes, his views, the Working Party of the A.C.T., and the Swanson Committee of Review of the Trade Practices Act, I think it was called.

Then he stated, in relation to the Trade Practices Act, that the committee, at paragraph 1025, said that it supported the Crown's being bound, and the Bill was subsequently amended to give effect to that recommendation. I asked Mr. Noblett whether he had any idea why the Bill did not bind the Crown, and he said that that was a policy decision that was out of his hands.

I think that, if one looks at some of the evidence presented, it clearly indicates that initially the Government did not intend to bind the Crown. Certainly, when it was raised, the Parliamentary Counsel quite clearly indicated that in his opinion the Crown was not bound. I know the Attorney raised one point about the common law there, but the Parliamentary Counsel said the Crown was not bound. I am pleased to see that the Government has now decided to bind the Crown, and I support the move.

Mrs. ADAMSON: This is a complex Bill requiring much detailed study. As I have already registered my protest about the lack of time being given for that study, I again move:

> That progress be reported.

Motion negatived.

New clause inserted.

New clause 3b—"Act to apply notwithstanding Real Property Act."

The Hon. PETER DUNCAN moved to insert the following new clause:

> 3b. This Act has effect notwithstanding the provisions of the Real Property Act, 1886-1975.

New clause inserted.

Clause 4—"Non-application of this Act in certain

cases."

The Hon. PETER DUNCAN moved:

Page 2, lines 3 to 13—Leave out subclause (2) and insert subclause as follows:

(2) Where the terms of a contract made before the commencement of this Act are varied after the commencement of this Act, this Act applies to the contract subject, however, to the following qualifications:

(a) no order shall be made under this Act affecting the operation of the contract before the date of the variation:

and

(b) a court shall only have regard to injustice attributable to the variation.

Amendment carried; clause as amended passed.

Clause 5—"Powers of court in respect of unjust contracts."

The Hon. PETER DUNCAN moved:

Page 2, line 14—After "unjust" insert "and that it is reasonable by the exercise of powers conferred by this section to remedy the injustice in a manner that is fair to the contracting parties and any other person who may have become interested in the subject matter of the contract".

Amendment carried.

The Hon. PETER DUNCAN moved:

Page 2, line 18—Leave out "so as to avoid the injustice".

Amendment carried.

The Hon. PETER DUNCAN moved:

Page 2, lines 22 to 29—Leave out subclause (3) and insert subclause as follows:

(3) Where a court makes an order under subsection (1) of this section, it may make such further orders as may be just in the circumstances of the case providing for—

(a) the return of property;

(b) the compensation of a party to the contract who has suffered loss by reason of the injustice;

(c) the compensation of a person who is not a party to the contract and whose interests might otherwise be prejudiced by the order under subsection (1) of this section;

or

(d) any other consequential or related matter.

Mr. DEAN BROWN: I move:

In proposed new subclause (3) to leave out paragraph *(a)* and insert paragraph as follows:

(a) the return of property (not being real property);

The effect of this amendment is, as outlined by the member for Mallee, that real property would not be involved or affected in any cancelling of contract or alteration of the clauses of a contract brought before the courts under this Bill if it were passed. It defends the Torrens title system, and that is important.

The Hon. PETER DUNCAN: The Government does not accept this amendment to my amendment. As we have dealt with several amendments, the Bill with this provision included would be out of context. Also, the Government believes that real property should not be put outside the ambit of this Bill. We believe that strongly, because, of all the types of property dealt with, real property is probably the most fundamental type of property to people, involving as it does their house and shelter. We believe that anyone who has been treated harshly, unjustly, or oppressively ought to have the opportunity of going to law to have his position righted and the wrong that has been done to him remedied. It would be unfortunate if real property were not included in the legislation, because many in South Australia who would otherwise be able to benefit from it would be denied the opportunity of doing so.

Mr. NANKIVELL: Whilst I agree with the Attorney-General that, because many of the contracts involved would be in that area, it would probably be unwise to exclude real property from the terms of the legislation, I remind him of his undertaking. It is important that he should again make the point to the Committee, if he is prepared to do so, that he realises the difficulties associated with the whole of this provision. If he believes that there is some possibility of its being remedied by some other means, what has he in mind?

The Hon. PETER DUNCAN: The Government undertakes to amend the Real Property Act to ensure that caveats can be lodged under section 184, I think, of the Act to protect people's interests temporarily in circumstances where those interests may be affected by the provisions of the Bill while legislation is under way as a result of the Act.

Mr. Dean Brown's amendment negatived; the **Hon. Peter Duncan's** amendment carried.

The Hon. PETER DUNCAN: I move:

Page 2—

Lines 30 to 40—Leave out subclause (4) and insert subclause as follows:

(4) A court shall not exercise its powers under subsection (1) of this section unless—

(a) it is satisfied that the exercise of those powers would not prejudice the interests of a person who is not a party to the contract;

or

(b) it has given any such person an opportunity to appear and be heard in the proceedings.

Line 41—After "determining" insert "whether a contract is unjust and".

Amendments carried.

The Hon. PETER DUNCAN: I move:

Page 3—

Lines 2 and 3—Leave out paragraph *(b)* and insert new paragraph as follows:

(b) any material inequality of bargaining power between the parties to the contract arising from—

(i) differences in intelligence or mental capacity between the parties to the contract;

(ii) differences in the cultural or educational background of the parties to the contract;

(iii) differences in the economic circumstances of the parties to the contract;

or

(iv) any other factor;

Lines 4 and 5—Leave out paragraph *(c)* and insert paragraph as follows:

(c) the commercial or other setting in which the contract was made and the circumstances of, and surrounding, the negotiations leading to the formation of the contract;

Line 9—Leave out ", or understood by,".

Line 11—After "and" insert "the intelligibility of".

Line 16—Leave out paragraph (h).

Line 17—Leave out "and".

After line 19 insert "and to any other matter that may be relevant".

Lines 20 to 23—Leave out subclause (6) and insert subclause as follows:

(6) In determining whether a contract is unjust a court shall not have regard to any injustice that arises from circumstances that were not reasonably foreseeable at the time of the formation of the contract.

Line 34—After "were" insert "fully".

Line 35—Leave out "$4 000" and insert "the amount mentioned in section 32 of the Local and District Criminal Courts Act, 1926-1976."

Line 38—Leave out "$20 000" and insert "the amount

mentioned in section 31 of the Local and District Criminal Courts Act, 1926-1976".

Line 40—Leave out "must" and insert "may".

Page 4—

Line 2—After "after" insert "full".

Line 6—After "been" insert "fully".

Lines 7 to 13—Leave out subclause (10) and insert subclause as follows:

(10) Where in proceedings for relief under this section it appears to the court that a person who is not a party to the contract has shared in, or is entitled to share in, benefits derived or to be derived, from the contract it may make such orders against or in favour of that person as may be just in the circumstances.

Amendments carried; clause as amended passed.

Clause 6 passed.

Clause 7—"Effect of this Act not to be limited by agreement, etc."

The Hon. PETER DUNCAN: I move:

Page 4, lines 25 to 28—Leave out subclause (3) and insert subclauses as follows:

(3) Where a person submits a document—

(a) that is intended to constitute a written contract;

(b) that has been prepared or procured by him or on his behalf;

and

(c) that includes a provision that purports to exclude, restrict or modify the application of this Act,

to another person for signature by that other person, the person submitting the document shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding two thousand dollars.

Amendment carried; clause as amended passed.

New clause 7a—"Onus of proof."

The Hon. PETER DUNCAN: I move to insert the following new clause:

7a. In any proceedings in which relief under this Act is sought the onus of proving entitlement to that relief lies upon the persons claiming to be entitled to that relief.

New clause inserted.

New clause 7b—"Act not to apply in certain circumstances."

The Hon. PETER DUNCAN: I move to insert the following new clause:

7b. This Act does not apply in relation to a contract under which a person agrees to withdraw, or not to prosecute, a claim for relief under this Act if the claim has been asserted before the making of that contract.

New clause inserted.

Clause 8—"Act not to derogate from existing laws."

The Hon. PETER DUNCAN: I move:

Page 4, line 34—Leave out "providing for relief against unjust contracts".

Amendment carried; clause as amended passed.

Title passed.

The Hon. PETER DUNCAN (Attorney-General): I move:

That this Bill be now read a third time.

The point I make concerning the Bill as it has come out of Committee can be summed up in the theme of some evidence given to the Committee, where one of the submissions pointed to the fact that most members of the public would be surprised to find that the law gave protection to a person who deliberately entered into a harsh, oppressive, or unjust contract. Most lay members of the public would, in the submission of one of the persons before the committee, be surprised to find that that was the case. I think, frankly, that that sums up the attitude of the remarks of the public at large.

Mr. Tonkin: Mr. Sperling.

The Hon. PETER DUNCAN: Was it? Whilst it is essential that there be some certainty in the contractual process, the law should not give protection to people who deliberately entertain contracts for the purposes of taking other people down in a manner that is harsh, oppressive, or unjust. That is the nub of the Bill that has now come out of Committee.

Mr. Mathwin: It should apply to the Government, too.

The Hon. PETER DUNCAN: It does apply to the Government. The Bill will be welcomed by South Australians as a reasonable and moderate measure that will provide much greater protection to them in their commercial dealings.

Mr. DEAN BROWN (Davenport): Unfortunately, the Bill as it comes out of Committee is, I believe, unacceptable, because of the broad definition of "unjust", which is far too wide in its scope and which will have severe consequences on commercial practices in this State. I therefore believe that the House should vote against the legislation. As I said in the second reading debate and on noting the report, I support the principle of the legislation but, unfortunately, the way in which it has come out of Committee is unacceptable, and I will vote against it.

The House divided on the third reading:

Ayes (24)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Corcoran, Drury, Duncan (teller), Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Keneally, Klunder, Olson, Payne, Simmons, Slater, Virgo, Wells, Whitten, and Wright.

Noes (17)—Mrs. Adamson, Messrs. Allison, Becker, Blacker, Dean Brown (teller), Chapman, Eastick, Evans, Goldsworthy, Gunn, Mathwin, Nankivell, Russack, Tonkin, Venning, Wilson, and Wotton.

Pair—Aye—Mr. McRae. No—Mr. Arnold.

Majority of 7 for the Ayes.

Third reading thus carried.

APPRENTICES ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

ELECTION OF SENATORS ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

[Sitting suspended from 6 to 7.30 p.m.]

RESIDENTIAL TENANCIES BILL

The Hon. PETER DUNCAN (Attorney-General) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received.

The Hon. PETER DUNCAN: I move:

That the report be noted.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

Later:

The Hon. PETER DUNCAN: The Select Committee on this Bill met nine times and took evidence from many organisations and individuals who had made submissions to the committee.

Mr. Goldsworthy: They were long meetings, too.

The Hon. PETER DUNCAN: They were particularly long meetings. On occasions the committee met all day. The members of the committee worked very hard. As Chairman of the committee, I want to say that the members of the committee put a great deal of work into the report that is now before the House; they worked diligently. I personally thank them for the co-operation that was so evident on the committee.

Regarding the preparation of the report, I place on record my thanks, and that of the other members of the committee, to the staff who so ably assisted us in our work. The Secretary of the committee was diligent in his approach to the work of the committee. I would also thank officers of my department who assisted the committee in preparing the report and in the more technical matters that were dealt with in its preparation.

It was particularly notable that the evidence presented to the committee showed clearly that there is a need for legislation with the aims of this Bill. The evidence showed conclusively that there were many problems in the area of landlord and tenant law, and it also showed the great urgency and pressing need for the law of landlord and tenant to be upgraded, modernised and consolidated into one piece of legislation that will be readily available to members of the public who are interested in this subject so that they can go to a Statute and generally be appraised of the law as it applies in this area.

I will leave the details of the committee's report until we deal with the proposed amendments later this evening in Committee. There are just one or two matters on which I should like to comment because they were causing some concern. However, I believe they have been resolved as a result of the committee's deliberations. First, was the question about whether or not a provision dealing with the matter of discrimination against tenants with children should be incorporated in clause 55 of the Bill. After careful deliberation the committee concluded that such a provision should be included in this legislation. This was one of those grey areas where some people had views one way and other people had different views. In balance, the members of the committee, after considering the legislation, felt that clause 55, which prohibits discrimination against tenants with children, was worth while and, accordingly, we have recommended that that provision be included.

The question of bond moneys and whether they should be paid into a fund was considered at great length by the committee. On this matter, too, the committee has come down in favour of the provision, with a minor amendment, as set out in the legislation. Those two matters were causing great concern when the measure was first proposed by the Government; they are measures which, in the light of more reasoned and detailed consideration, have been considered by the committee to be worth while. I conclude by simply saying that I believe this measure will be of great merit and worth to South Australia. I commend it to the House and commend the report of the committee to members.

Mr. EVANS (Fisher): I support the motion. I, too, give credit to the Secretary of the committee and also to the Attorney's staff for their help. I believe we had full co-operation from those people and that they worked as hard as any of us in getting the report to the point where it could be brought before the House this evening. I wish to place on record that it was at the request of the Liberal Party, because of public concern, that this matter was referred to a Select Committee. Although people may wish to say that it was scaremongering or scare tactics to refer the Bill to a Select Committee, it was necessary for the community, particularly landlords and tenants, to be given the opportunity to put their point of view to a Select Committee. The committee has achieved a lot. Some people may say that the amendments to be made are minor, but I believe that they are major amendments and that at least some of the members of the committee, including me, have a better understanding of the Bill now. I also admit that many of the people who gave evidence to the committee now have a better understanding of what the powers will be under the Bill. The suggested amendments will make it a better Bill when it is implemented.

The report, if implemented by Parliament in total, does not remove all the areas of complaint that exist in the community in relation to this matter. One would be optimistic if one expected that to happen. Those who predict that an extra work load will be created by putting this measure into practice are accurate in their assessment. If there is an increased work load an increased cost will be involved. People who gave evidence on behalf of tenants admitted that, in all probability, extra work would be involved. In fact, people who presented at least part of the Real Estate Institute evidence admitted that extra work would be involved. I submitted that those people might have an interest in supporting the Bill because of the extra work they might do and because, as managing agents, such work would create extra income.

It was interesting to note that the South-East representative of the Landlords Association of Mount Gambier, Mr. Fimmell, who is also President of the Real Estate Institute of that area, said that he had had no knowledge of his own organisation's submission or contacts with the Attorney-General in the preparation of this legislation. Mr. Fimmell agreed that there would be an increase in the work load and that that automatically meant an increase in cost. People who understand how much it costs to administer the rules and regulations expect extra costs to be involved. Those costs will eventually be passed on to people paying for rented accommodation.

The committee did not recommend that appeals should be allowed from the tribunal. The future of this legislation, if it is to be successful and fair to landlords and tenants, relies on the fairness of the tribunal. We do not know who will be on the tribunal or what expertise those persons will have. The committee received evidence suggesting that persons on the tribunal will be expert in certain areas, but they may not necessarily be legal practitioners. I have had difficulty when trying to have the Bill written in language that would explain the situation more fully and more easily for some persons who may not understand our legal terminology.

At this stage, appeals from decisions of the tribunal are not allowed or recommended by the Select Committee, except in regard to prerogative writs (and they are not easy to use). People, if not in this Chamber then in other parts of the building, have argued that those writs are not easy for the average citizen to use or come by. The other point evident from meetings held to try to explain the situation to people and from evidence given to the committee was that a large amount of rental accommodation in this State and in other States (witnesses from other States gave evidence on behalf of tenants' organisations) was owned by people who came here from lands that had different types of law and, particularly, different languages. It was difficult for them to understand our language, and they have been placed at a disadvantage in that respect. They were completely lost regarding legal terminology.

I support strongly the suggestion in the report that the Attorney-General carry out, through his department and I hope the Community Welfare Department, a public relations exercise to tell people, whether landlords or tenants, their responsibilities and rights under the Act. I say that because people from other lands place much value on owning property as a buffer and security in case later they do not have an income from normal work effort. To them, property ownership is like superannuation. Many are self-employed and all that they have for the future is a property which they have equity in and which they can let or capitalise on in some way.

These people have worked hard and diligently. They have not wasted money and have not put it into consumer goods. They have put it into owning property. I support strongly the recoginition of the rights of those people and of the sacrifices they have made, even though some of us may be jealous of how they have built up security for the future so that they will not be a burden on the communtiy through some form of community welfare. These people should not be disadvantaged by Parliament or by the wording of any Act.

The other matter not covered by the report is that the Crown is not bound by the Bill. The Housing Trust gave strong evidence that it should not be bound, as did the Highways Department, but even tenant associations said that they believed the Crown should be bound and virtually every other group or individual who was asked the question also said that. By clause 88, the Minister, at any time he so wishes, can exempt any person or any organisation from any part of the Act or from the whole Act. At least in principle we should bind the Crown and the Government should decide whether it should exempt the Housing Trust and the Highways Department from the whole or a part of the Act.

Parliament should recognise that, if the private sector is to be bound, so should the public sector be bound. I think it was Mr. Snell who gave evidence that he could see no difference between the public sector and the private sector; if anything the public sector had an advantage over the private sector, and should be bound as much as any other group. I will refer later to the matter of the giving of evidence (which we have not covered in the report), whereby a person can be bound to give evidence even though he may incriminate himself by doing so.

Doubtless, the evidence given to the committee showed that many landlords felt that, if it became more difficult to operate, own and maintain residential properties under the new provisions, they would strata-title their properties where possible or sell them as individual units, if they were already strata-titled. The majority of landlords felt that way. True, one landlord operating in a higher rental field than the average field of those who gave evidence said that he would not contemplate doing that: he was buying more property, because he saw the future there.

The Tenants Association did not believe that there would be a move out of the residential field and that people would strata-title and sell, but I am trying to find out from councils in the metropolitan area how many properties are being strata-titled so that they can be placed on the market. The only reason why people are moving into that field is that they fear that, if these tribunals do not act fairly and responsibly in regard to both parties, that will cause them to opt out of the field.

The Housing Trust has a waiting list of about four years for housing and, even though there is a surplus of rental accommodation in the private sector (and evidence was given of that), we cannot afford to force too may owners out of that field, because if we do so that will have an adverse effect on the building industry. If properties that are not strata-titled or that are strata-titled and let on a tenancy basis are sold for between $16 000 (and some are being sold for that price) and $30 000, many young people will buy them instead of building a new house or buying a house on an individual block for, say, $30 000 or $40 000. That would have a worse effect on a building industry that is sagging already. I believe that part of the problem now is that so many flats are being strata-titled that the building industry is being affected.

Many landlords did not understand the subletting clause in the Bill, and many persons who gave evidence did not understand the present law. I believe that the majority from the landlords' section who gave evidence did not understand the present law. They had difficulty regarding not being able to get out of a property, for six months, a tenant who wanted to be difficult, resulting in a big loss in rent in that time. They accepted that, if the tribunal could solve a problem in 14 days as suggested in the Bill, that would be reasonable and would save time and money. However, they still argued that they should have a right of appeal, because most people will not use an appeal provision unless they believe they have been unjustly treated. I do not think we should leave the appeal right out simply because doing so streamlines the provisions for settling disputes.

Persons who were concerned with subletting did not realise that, under the subletting provisions, once they sublet premises they became landlords and carried all the responsibilities of landlords. I had difficulty in trying to get written into the Bill words that would show in simple English that a person who sublet a property as a tenant then became not only a tenant but a landlord. If that could be conveyed to the public through a publicity campaign, I do not think there would be a great deal of subletting in future, because tenants would not wish to become landlords and carry the associated responsibilities.

It was apparent that some people were concerned about the date of operation of the Bill and its effect on existing leases and contracts. Such leases and contracts will run their full term before people need to be concerned about the provisions of the Bill. That will give an opportunity for people to understand the position before they have to worry about new leases.

Concern was expressed about clause 54, and people were worried about whether the landlord would have to pay the cost of stamp duty. The answer was that the tenant would have to pay the stamp duty involved in the contract. Many people were concerned that every matter would have to go before the tribunal. After we had taken evidence, landlords became aware that they would have an opportunity to go first to the Commissioner for Consumer Affairs. The committee argued that the landlord should have that opportunity, and that the Commissioner then could pass the matter to the tribunal for settlement. An alternative approach was that the complainant, whether landlord or tenant, could go direct to the tribunal for a resolution of the problem. Many people believed that it would be necessary for them to appear before the tribunal. However, the Attorney-General assured them that, in many cases, the tribunal would act on a letter or a telephone call, and try to settle the dispute without a formal hearing. That assurance allayed the fears of many landlords.

The Attorney has spoken about the provision that landlords are not permitted to use the knowledge of children in the family as a basis for refusing a tenancy. Clause 88 provides that a person or organisation can claim exemption for a property if it is believed to be unsuitable for children, whatever the reason. However, I believe that some people would use that provision in an attempt to

avoid the obligation to take families with children. In some cases, landlords would not be able to justify their argument. It is up to the one-man tribunal to decide. I accept the provision that is the subject of an amendment to be brought forward by the Select Committee. It is important to recognise that landlords are compelled at least to consider taking families with children. It may be argued that a family could be asked how many people were in the home. If someone said the family consisted of seven members, two adults and five children, the family could not be told that they were not acceptable because the family included five children. They could be told that there were too many people in the family, or that the prospective landlord did not like the look of their motor car. That is making honest people dishonest; I do not think anyone could deny that.

If the reason for refusing a tenancy was because of the number of children under a certain age, the family should have the right to be told that that is the reason, or some form of compensation should be offered, if there is extensive wear and tear on the property, because of carrying the extra number in the home. We believe this is a community responsibility. I am pleased to know that the Select Committee has gone some way towards this in its recommendations.

Concern was expressed that, under clause 41 (1) *(c)*, a tenant could call a tradesman to carry out repairs to the premises if he thought a dangerous or an emergency situation existed, sending the account to the landlord, without making a reasonable attempt to contact the landlord. I am pleased that the Select Committee has seen the wisdom of putting before the House an amendment to that clause, and I hope that amendment will be acceptable.

Tenants' organisations expressed concern that the landlord was compelled by the Bill to give his name and address but that, if he changed his name and address, he was not obliged to do so. That situation has been covered by an amendment to be brought forward. At the same time the Bill did not put an obligation on a prospective tenant to give his correct name and place of occupation. An amendment to cater for this position has been suggested by the Select Committee.

Genuine community concern was expressed by landlords, some of whom have only an equity in an establishment, in many cases not owning the property in total and being responsible for meeting heavy mortages and high interests rates. It was feared that the original provisions of the Bill could cause them some trouble. Some tenants, of course, have been treated shabbily by bad landlords; on the other hand, some bad tenants have treated landlords perhaps just as shabbily.

The Liberal Party publicised its concern about this matter at the recent State election, when its policy speech was given. As the Bill now stands, the policy of the Government is not far from the policy of the Liberal Party, as given at the recent election. The Bill, however, goes a little further. The principle involved—to get a fair go for the landlord and the tenant—is basically the same. I hope that, by the time the Bill has passed through this House, gone through the Upper House, and become law, a wide publicity campaign will have been carried out so that people will understand their rights and their responsibilities. I have no regrets about the meetings I called to make sure that people were aware of the contents of the Bill and what they should be concerned about. That encouraged more people to give evidence to the Select Committee, the members of which gained more views from the community. I support the motion.

Mr. GOLDSWORTHY (Kavel): I, too, support the motion. In my view, the report of the Select Committee is a good one, highlighting to me and to other members of the committee the value of such a Select Committee to this Parliament. It not only gives members of the public an opportunity to show their concern and to express their point of view, but it serves a most useful purpose, in my judgment, for members of this place. It is unfortunate that a report over which much time is spent must be considered in this House in such a short time. I do not think there is sufficient opportunity for members, other than those who were on the Select Committee, to come to grips with what the report is all about. I understand that, in New Zealand, part of the Parliamentary practice is to inaugurate committees on just about every piece of legislation coming before the Parliament, thus eliminating a great deal of the conflict and misunderstanding which can occur when legislation is before Parliament.

At one of the Commonwealth Parliamentary Association conferences I heard a speaker from New Zealand in this Chamber putting forward the view that there could be far more committee work of the Parliament, whereby differences of opinion could be thrashed out, evidence taken, a consensus reached, and a lot of ignorance (if I may put it in that way) on both sides of the House overcome. So, I found the Select Committee a useful exercise. At first, I had some grave reservations about the Bill, and it was apparent that many members of the public, particularly landlords, were very concerned about it. If members examine the appendices to the report they will see that most of the witnesses appearing before the committee were landlords. The witnesses for the tenants were usually fairly fluent advocates of the tenants' cause who were associated with the tenants associations.

I was not able to attend every meeting, but I attended most meetings and I do not recall any meeting at which I was present where a tenant turned up as an individual tenant. In contrast, we had a procession of landlords, who were mainly concerned about how this Bill would affect them and how it would make life more complicated for them.

Having heard all the evidence, I believe that this Bill should be supported. Government members of the Select Committee were receptive of the viewpoint put at the meetings by the Opposition members of the Select Committee; namely, the member for Fisher and me. I think the member for Fisher and I had something to do with the way in which the Select Committee's report has finally come out. I appreciate the fact that the Attorney-General was receptive of suggestions we made. If members have examined the evidence given to the Select Committee they will realise that the matters were well and truly canvassed at the nine meetings.

Mr. Mathwin: You would need to undertake a course in rapid reading to digest all the material.

Mr. GOLDSWORTHY: That highlights the point I made earlier. A fairly comprehensive report has been made, and the whole thing has to be debated and wound up on the same day. This is unfortunate; it would be better if members had time to examine the report, relate it to the Bill, and make up their minds. It is particularly difficult for Opposition members, because the Select Committee's findings cannot be reported to the Parliamentary Party before the report is laid on the table of this Chamber. This makes it very difficult for Opposition members to debate the Bill fully and to determine their stance. So, the Opposition must make decisions on the say-so of its representatives on the Select Committee, and that is not a particularly satisfactory arrangement.

I will not canvass all the matters raised by the member for Fisher, the shadow Housing Minister, who has led for

the Opposition in this debate, but I will point out a few significant features. It was surprising to know that many landlords and tenants were quite ignorant of the law. The Government undertakes education programmes in connection with consumer protection legislation and it prints brochures that are available from electorate offices. It will be necessary to undertake an education programme in connection with this legislation, which is consumer protection legislation. I do not think it will be very long before landlords and tenants become aware of their rights under this Bill.

Mr. Mathwin: There will be some empire building.

Mr. GOLDSWORTHY: That concerned me. We do not get consumer protection legislation for nothing. It was put to the Select Committee that rents would be increased as a result of this sort of legislation. I do not know whether such evidence was overwhelming, but certainly the taxpayers will have to foot the bill for the tribunal. People will be put on the public pay-roll to administer this legislation. From what the Attorney-General has said, I believe there will not be only one member of the tribunal: members will be appointed around the countryside.

Mr. Mathwin: Someone has to pay.

Mr. GOLDSWORTHY: The taxpayers will pay for the setting up of the tribunal. Bond moneys which will be accumulated in the fund are not to be deployed for paying for the tribunal. So, the taxpayers will pick up the tab. Tenants will class this as consumer protection legislation, and the public will pay for it. I hope there will not be a proliferation of jobs, as has occurred in some Government developments in South Australia. The growth of the Public Service in South Australia has far outstripped that of any other State since the advent of a Labor Government in 1970.

Mr. Mathwin: With many political appointments, too.

The SPEAKER: Order! The honourable member will have an opportunity to speak in this debate.

Mr. GOLDSWORTHY: Perhaps not many more will be added to the public pay-roll, but some will be added. So, we are not getting something for nothing. We hope that the benefits flowing to landlords and tenants will warrant the expense. There seemed to be an ignorance of the present law, and I hope this Bill will be more readily understood by the people concerned. Good landlords and tenants will not have much to fear from this Bill. If there is a harmonious working relationship at present between landlords and tenants, there is no reason why it should not continue, because there is nothing in this Bill to upset that relationship, except that tenants may be encouraged to approach the Commissioner for Consumer Affairs or the tribunal rather more freely than they would at present, when they must have recourse to a court. So, the number of complaints that will have to be settled by a third party will increase dramatically. The machinery existing at present is certainly not designed to settle these disputes easily, whereas the tribunal can promptly settle disputes, particularly those not of major dimensions.

I believe that there should be some measure to discourage frivolous complaints to the tribunal. No doubt some fee will be charged, but no fee has been fixed yet. If, in the judgment of the tribunal, it is thought that an appeal is frivolous, that fee should be retained. It is not sensible to have highly-paid public servants (and no doubt they will be highly paid) spending time listening to frivolous complaints, so there needs to be some disincentive to the long queue that will otherwise appear before the tribunal to have heard every little complaint a landlord thinks is justified if it is not going to cost him anything to complain.

One important proposal in the report is that aged persons' homes and the like will be exempt from the provisions of the Act. There was much evidence from people involved in such organisations put before the committee. The committee did not take long to come to the conclusion that they should be exempt from the provisions of the Act. That is mentioned in paragraph 14 of the report. Paragraph 15 has been dealt with by the member for Fisher, as indeed have most of the other matters.

It seems desirable to us on this side of the House that there should be a further appeal provision. I draw the attention of members to the last paragraph of the committee's report, which states:

> Your committee recommends that this Bill be enacted with the amendments set out in Appendix C.

There is an extensive set of amendments listed, which take care of most of the problems we saw in relation to the legislation. The paragraph continues:

> However, two members of your committee consider that two further amendments should be made; the Bill should bind the Crown and clause 27 should be amended to allow appeals from decisions of the Residental Tenancies Tribunal.

Every member of the House would realise who the two members were who sought to have that written into the report; it was the member for Fisher and me. For that reason we were happy to adopt the report as it appears.

In my judgment the most contentious clause in the Bill is clause 55 referring to the exclusion of tenants because they have children. Clause 88 provides for an exemption by application to the tribunal. Clause 55 probably created the most real worries as far as landlords were concerned. Most landlords were worried about the Bill, but most of their worries, it seemed to me, could be laid to rest except for that clause.

This was where there was a lingering concern about landlords not having absolute right to exclude people if they had children. I think the member for Fisher pointed out that there is an element of hypocrisy in this whole matter because landlords could exclude prospective tenants as long as they did not say it was because they had children, even if that was the real reason. That seems to me to be a hypocritical approach to the matter, but to try to explain it away in those terms seems to be quite unrealistic. A landlord could exclude a prospective tenant by saying he did not like the way he did his hair, but if the landlord said it was because the person had children, he would be liable. That seems a quite unrealistic approach to legislation.

Having said that, on balance the committee was prepared to write an amendment into the legislation so that the excessive damage which is likely to occur to properties where children are living could be compensated for from the fund. They could receive extra compensation relating to damage done by children. The contention of the landlords was that it did not matter whether it was a well-conducted family or not, if there were children on the premises more damage would occur. I do not think that any member of the committee could dispute that point.

On balance, realising as I do (and as I think the member for Fisher did) and all members on this side of the House do that the future of the country lies in family life, we should do our best to accommodate families. We want to protect landlords against excessive damage and we think that can be done if they prove that premises are unsuitable for children because they are multi-storey or near a busy street, because a landlord can apply to the tribunal and have those premises declared and he would not then be obliged to accommodate families with children in those circumstances. That was the first let-out for the landlords. The further provision, which is to be written into the Bill, relates to further compensation that will be available to

landlords for damage done over and above the normal damage and wear and tear. This seems to me to be a fair balance in this matter of excluding children from premises.

I pay a tribute to the committee as a whole. I believe it conducted its deliberations in a harmonious manner. The members of the staff and the member from the Attorney-General's staff who assisted helped us greatly. I commend the report to the House. I say again, it is unfortunate that other members of the House have not the time to study the report in detail so that they may refer to the appropriate provisions of the Bill. That seems to me to be a weakness in this system. I support the motion to note the report.

Mr. GROOM (Morphett): I support the motion. I pay a tribute to the Secretary of the Select Committee, the Attorney-General's staff and other members of the committee for the manner in which they conducted themselves.

I want to deal with a few points raised by the member for Fisher. One point concerned the question of appeals. Under the Select Committee proposal there would be no appeal on a question of fact. There would, because of the savings in relation to the prerogative writs, be appeals on questions of law. The object of the legislation is to provide a speedy remedy and it is not only the tenant who would be disadvantaged by appeal provisions because if there were appeals, say, on questions of fact and law, then for example a tenant could utilise the appeal provisions to lodge an appeal, say, in the Supreme Court, and sit there for another few months. Then, when the appeal is heard, or even before it was to be heard, he could move out and the landlord would have the trouble of chasing him around for arrears of rent, and vice versa. It is not only the landlord who would be disadvantaged by appeal provisions; it would be both. It is in the interests of both parties that there is a speedy remedy.

Most of the appeals that are dealt with from a lower court to, say, the Supreme Court, are not about questions of fact, but are about questions of law. The net effect of the Select Committee's recommendations is to preserve the existing practice. It is rare that an appeal on a question of fact is successful in the Supreme Court, and as the object of this legislation is to provide a speedy remedy, at least in respect of a determination of fact, that determination is final and conclusive.

But the protection is there. If the tribunal errs on a matter of law, one can use a prerogative writ, such as *certiorari,* which enables one to bring a remedy to the Supreme Court to quash the decision if there has been an error of law; there is *mandamus* if the tribunal fails to do its public duty: one can also take out a writ of prohibition if the tribunal exceeds its jurisdiction. So, on balance, the appeal provisions are sensible and in the interests of both parties, both of whom want speedy remedies for the determination of landlord and tenant disputes.

That has been sadly lacking in the existing legislation, under which landlord and tenant disputes can take up to six months to resolve. The landlord suffers and the tenant suffers because, under the existing legislation, a tenant is met with heavy legal costs if he wants to take out his rights against the landlord. So the recommendations concerning the appeal provisions are sensible and balanced.

In relation to the Crown being bound by the legislation, I think the evidence given by the Housing Trust was that the trust currently has about 82 000 houses and flats in South Australia, of which 39 000 are for rental purposes. The trust is obviously the largest landlord in South Australia, but it is in a very different position from that of the private landlord. The trust also provides welfare housing; it is not there to make exorbitant profits. It is there to see that it is run efficiently but not to make exorbitant profits, and the trust also provides welfare housing and rebates on rent, which are not provided by private landlords. Also, the trust is responsible to a Minister of the Crown who in turn is responsible to Parliament and no case has been presented before the Select Committee to justify the Housing Trust or the Crown (the Highways Department and the Teacher Housing Authority) being bound. Members of Parliament play their role because, if constituents have complaints against Government instrumentalities, they can take those complaints to their members of Parliament, who can take them up.

Mr. Mathwin: What about—

The SPEAKER: Order! The honourable member for Glenelg will have an opportunity to speak in this debate.

Mr. GROOM: So I do not agree there is any necessity for the Crown to be bound. In relation to the question that the member for Fisher raised, when he said there would be an increased workload, which would lead to increased costs, and the member for Kavel's view that the number of complaints would increase dramatically, I refer them to a report that appeared in the *Sun Herald* of February 12, 1978, dealing with the New South Wales situation. It is an article written by Mr. Bill Mellor, who reported that in New South Wales the number of landlord-tenant disputes to go before the Consumer Claims Tribunal had dropped sharply since the State Government moved to take control of bond money. He said that a spokesman for the Minister of Consumer Affairs, Mr. Einfield, said that tenants' claims for the return of bonds used to be 25 per cent of all cases before the tribunal but since November, when landlords were required to begin handing over bond money to the Government's Rental Board's tribunal, such complaints had totalled only 16 per cent of cases.

Mr. Goldsworthy: But that is taking—

Mr. GROOM: I will come to that; but the principle here was that, as soon as a Government agency was collecting bond money, the number of disputes dropped. I refer now to the report of Mr. Bradbrook and I will quote some of the things he had to say about complaints regarding bond money. At page 41 of his report he said:

> Statistics on the amount of the deposit required are also hard to obtain. The South Australian Commissioner for Prices and Consumer Affairs, Mr. L. H. Baker, informed the writer that of the total of 92 complaints relating to security deposits investigated by the Branch during the period May 1, 1973, to April 30, 1974, the total amount of money involved was $4 544—the most common single amount being $40 to $50.

Under existing legislation, it is out of the question for tenants to take an action to recover bond money, because they have to take time off from work, go to the local court, take out a complaint and pay money to get it served—all for $40 or $50. They end up forgetting about it but nevertheless they get into disputes with their landlords over it. On page 43 of that report we read:

> Investigations by the South Australian Prices and Consumer Affairs Branch have shown that at least 50 per cent of tenants' complaints in relation to the retention of bond money are clearly justifiable.

One person who gave evidence before the Select Committee was Mr. O'Halloran, who said he had been employed by the Commonwealth Legal Aid Department since June, 1974, He said that he estimated the number of complaints he had handled in the landlord-tenant area was some 700, at a conservative estimate, and I think he said (at page 513 of the evidence) that it was more likely to be in excess of 1 000. He went on, at page 518 of the evidence, to say that a substantial proportion of the people

who had complained had been complaining in relation to the retention of bond money. So it is obvious that this is a serious area of concern because there are some unscrupulous landlords (a relatively small proportion) who saw bond money as being one of the perks of the business and retained it for the most spurious reasons.

It is obvious from the evidence given before the Select Committee, and bearing in mind the Bradbrook report and the evidence of someone dealing with these matters through the Commonwealth Legal Aid Office, that this is one of the substantial grievances in landlord-tenant law. That is borne out by the fact that in New South Wales as soon as there was a common fund into which bond money is paid the number of disputes fell.

That will probably happen here. The legislation may trigger off some small increase in complaints initially but, once the standards have been set and people see how they are dealt with, I think there will be the same effect here as there has been in New South Wales. There is another benefit in having this common fund, and that is that in New South Wales some 71 000 bonds worth $11 000 000 have been deposited with the board. That produces a large amount of interest and, under this legislation, the interest that is produced by the common fund will be available for landlords who suffer damage at the hands of tenants. That has been one of the major complaints of landlords—concern at the damage done to their properties. For the first time, where wilful damage takes place to premises—I understand the situation under existing insurance contracts is that landlords find it difficult to get pay-outs in cases of wilful damage and consequently have to chase the tenants around which, in most cases, is practically impossible—the landlords will have a fund they can go to and obtain compensation.

Again, the benefit can be seen that in New South Wales the State Government estimates that about $4 000 000 a year will be produced in interest from this fund. That money is available for the purposes specified in the New South Wales legislation. The provisions here are similar because in New South Wales all bonds have to be handed over within seven days. The scheme also came in for fierce criticism from landlords, real estate agents and the State Opposition, which claimed that it was impotent and costly. So far, the functioning of the New South Wales tribunal has not borne out these fears. It is quite clear, as the member for Kavel said, that the larger number of persons coming before the Select Committee really had no idea what their existing rights were and had little conception of the existing law.

It came as a surprise to many to find that tenants had had at common law since the fifteenth century the right to sublet or assign without the landlord's consent. Those landlords were surprised to find that, if they did not include a provision in their agreements or did not have written agreements, the tenants did not need to refer to them. All clause 50 did in relation to subletting was put into codified form virtually the existing practice.

The member for Hanson will no doubt appreciate the benefits of the legislation because, as reported in the *Advertiser* of January 17, 1977, he found that tenants in the Glenelg District were being exploited. He said that many flats and other rental accommodation in the Glenelg area were substandard, and went on to refer to a situation on the South Esplanade, Glenelg, I think. The properties evidently were in a bad state of repair, and I gathered from the tenor of the report that the member for Hanson was calling for reforms to ensure that tenants were not being exploited at the hands of capricious landlords.

Mr. Becker: I have a better case than that.

Mr. GROOM: I mention that matter, because it is interesting that he uncovered that situation in the electorate of the member for Glenelg. These kinds of example show clearly that a need for reform exists. I believe that the Bill is one of the most significant reforms that has been introduced in this Parliament, and it will bring landlord-tenant relationships out of the fifteenth century.

I do not agree with the statements made by the member for Kavel and the member for Fisher that the provisions relating to children will make honest people dishonest. What the provisions do is impose a standard of moral conduct. There is no good reason why people in the ordinary course of events who have children, whether male or female, should be discriminated against. The main concern of landlords was the amount of damage that might be done by children. However, adequate remedies are available under the legislation, because there will be a bond fund that will produce a significant sum of interest that will be available for landlords, in addition to the bond money deposited with the tribunal. So, there will be no real fear of children causing excessive amounts of damage. I do not consider that that is a just reason for people with children being discriminated against.

The other concern (and this was a genuine concern) is that some premises would not be suitable for children, because the premises would be dangerous. Some of the examples given were the balconies of two-story premises on which a child might not be safe. Again, the Bill and the Select Committee's report acknowledge this matter, and there is adequate protection for those landlords who can, in proper circumstances, apply to the tribunal for an exemption under clause 88. The provision relating to discrimination against children is similar, I believe, to the provisions that exist in section 38, I think, of the New South Wales Landlord and Tenant Act. I do not intend to read the provision, which is set out in the Bradbrook report and which is substantially identical to the provision in the Bill we are discussing. That provision has operated satisfactorily in New South Wales.

The reason for the reform in relation to children was that in 1968 the Ontario Law Reform Commission investigated this problem and found that people with children were discriminated against in unfair circumstances. Young married couples with children had experienced difficulty in obtaining satisfactory rental accommodation simply because they had children. I think that this provision, again, increases the status of women in the community, because they will not be unduly prejudiced if they have a few children.

Mr. Becker: You wouldn't have them in your house.

The SPEAKER: Order!

Mr. GROOM: The provision imposes a standard of moral behaviour that is desirable in the community. Few people today would say to a person of dark complexion or to a coloured person. "You can't have these premises, because you're coloured." I do not believe that such behaviour continues. True, landlords can select tenants on other criteria, and the same situation will apply to children. There is no justification, except in the circumstances of dangerous premises, for children being discriminated against.

Mr. Mathwin: Would you want them in the house next to you?

The SPEAKER: Order! I have already called the member for Glenelg to order. I notice that he is on the list to speak, so he will have his opportunity then.

Mr. GROOM: I am surprised at the attitude of members who want to discriminate against people who have children. Children are part of our society, and they probably live next door to every one of us. One would not

think that any members opposite had once been children themselves, although from their behaviour on occasions I think that they are probably still children. The provisions dealing with controls on rent increases are almost identical to those in the existing Excessive Rents Act. The Excessive Rents Act provisions have proved completely innocuous, and this was predicted by the then member for Norwood (now the Premier) in 1962, when he said:

> There is a further difficulty in the way of tenants bringing applications to a court.

The Excessive Rents Bill was introduced by the Playford Government, and the Premier of the day indicated that he intended to authorise the Prices Commissioner to investigate these matters and to represent tenants legally. The problem with the excessive rents provisions was that a tenant had to go to the local court, pay a fee, and pay a lawyer. The member for Norwood at the time (now the Premier) clearly pointed this out. He predicted that, to prove his case under the Excessive Rents Act, a tenant would have to find a substantial sum before even getting into court, and that many tenants would not be able to do this or be able to pay the legal costs involved.

The then Premier gave an undertaking that a sum of money would be made available to the Prices Commissioner to investigate these matters. However, no sum had even been made available to the Commissioner and no legal action under the 1962 Act has ever been undertaken by the Prices and Consumer Affairs Branch to the present time. Investigations into reforms in this area have been continuing since 1973.

The Excessive Rents Act provisions are mirrored in the legislation, so that these will not unduly prejudice landlords, because they have been the law all the time. This legislation (and this was certainly contained in the committee's report) was to gather together most of the law regarding the landlord and tenant law in the one place, thus making it more accessible to the parties and codifying the law. Many witnesses had no idea under what legislation they obtained their rights. Some were not aware of the Landlord and Tenant Act, the Excessive Rents Act or the common law provisions. There was a complete lack of knowledge on the part of landlords in relation to their rights: this is no doubt true of tenants as well.

There is some fear on the part of landlords that they will spend a large amount of their time appearing before the tribunal, but the tribunal does not act altogether as a court. It can dispose of a matter as it sees fit. If there was a dispute, the tribunal could deal with it simply by an exchange of letters. The landlord could be asked to write, setting out his views, and the tenant could be asked to do likewise. The matter could, therefore, be dealt with expeditiously. So, this will not be onerous on landlords. In fact, good landlords have nothing to fear by the legislation because apart from getting to know the legislation, which in many respects mirrors the existing provisions, the only additional burden on the good landlord is the provision of an extra piece of paper to ensure that there is a written notice to quit. So, I cannot see how the Bill will increase costs: quite the contrary.

I have forgotten whether the member for Fisher or the member for Kavel said that landlords would get out of the field and strata title their units. Strata titling has been going on for some time. It has been my experience (and at least some of the witnesses who appeared before the Select Committee agreed with this) that in the Glenelg area some properties might have been sold and strata titled but they were subsequently let to tenants. So, they were purchased again for investment purposes only. Even if they were purchased as individual units, the people involved were purchasing them for investment, letting them out again to tenants and not living in them themselves.

I do not believe, therefore, that this Bill will so seriously prejudice a landlord that he will opt out of the field. Certainly, some will do so because of a gut feeling that they do not like any controls whatsoever. However, those people are involved not for long-term or genuine investment purposes but for speculative purposes, so they would get out of the field, anyway. I do not see that the arguments in relation to any of the provisions increasing costs are valid. If anything, the contrary applies, as has been shown in New South Wales, where there have been fewer disputes in relation to one of the most significant areas of landlord and tenant disputes.

The subletting clause could not possibly cause any inconvenience or hardship to landlords, because, under the existing practice, landlords are required, if they want some say in subletting or assigning, to have a clause inserted in their agreements providing that the tenant cannot sublet or assign without their consent. That is all that clause 50 does. Although it mirrors present practice, the clause goes one step further, and provides that a landlord cannot unreasonably withhold his consent. That is a proper situation.

Mr. Becker: What about tenants setting up massage parlours? You speak to some of your constituents about that and see how you get on.

Mr. GROOM: The honourable member seems to know more about that than I do. Regarding subletting or assigning, there is good reason why tenants should be entitled to assign in proper circumstances, for the following reason. I refer to the obvious situation, in which a person wants certain premises, has a two-year lease, and then gets transferred in the course of his employment for, say, six months. A landlord could take advantage of that situation and say, "I am sorry, but you must continue to pay the rent." Under the existing law, the landlord could sit back, still collect the rent, and have the property vacant. That would be an unfair situation, so a person who is genuinely transferred ought to have the right to assign to a suitable tenant. Again, the landlord's rights are preserved, because he can say, "I do not think the person that you have got me is suitable." However, the landlord's consent should not be unreasonably withheld.

I do not intend to go further into any aspects of the Select Committee's report. It is a balanced report, and one of the most significant reforms that have been introduced in this House. As I said earlier, it brings the landlord and tenant law out of the fifteenth century. The existing legislation fails to satisfy the needs of modern society, as has been shown by the hopelessness of the existing provisions in the Excessive Rents Act. Indeed, it is clear that a tenant needs assistance before he signs a lease and when a dispute occurs, because it is impracticable for a tenant who is trying to get back $40 to $50 in bond money to have to pay 10 times that sum to try to recover it. I support the motion.

Mrs. ADAMSON (Coles): In supporting the motion, I wish again to register my strong protest at the report's being presented with members being given so little time to consider it.

Mr. Millhouse: Then why did you support the motion?

Mrs. ADAMSON: The procedures of the House must be observed. I have my remedies, and I will use them in Committee.

Mr. Millhouse: If this matter proceeds now, there will be no opportunity for any proper debate on it.

The SPEAKER: Order! The member for Coles has the floor. The honourable member for Mitcham, who will

have an opportunity to speak, is out of order.

Mrs. ADAMSON: The Opposition should be congratulated for having moved that this Bill be referred to a Select Committee, because it is obvious that it has come out of the Select Committee with considerable amendments, notwithstanding the fact that still more amendments should be considered. The Deputy Leader described as unfortunate the fact that we have been given so little time properly to study or to have an intelligent debate on the report. It is worse than unfortunate: it is farcical.

Members were given copies of the report early this afternoon. The report consists of 10 pages, five pages of amendments have been suggested by the Select Committee; an additional half page of amendments have been put forward by the Attorney-General, two pages of amendments have been put forward by the member for Fisher, and a heap of evidence about 10 cm high has been taken by the Select Committee from about 100 people. From a quick scan thereof, I estimate that about 10 per cent of the people who gave evidence to the committee are my constituents. I bitterly resent the fact that I, as their representative, have not had an opportunity to study their evidence and to refer to it in debate in Committee.

Mr. Groom: Did they come and see you?

Mrs. ADAMSON: They did, and I should like Government members who are interjecting to know that, had it not been for the efforts of the Opposition, not nearly so many people would have given evidence to the Select Committee. I note, on page 1 of the Select Committee's report, the following:

> Your committee was pleased by the response to its invitation for interested persons to give evidence.

It was in response to massive representations by my constituents that I organised a meeting at which an interpreter could describe the Bill in Italian to those landlords of Italian origin who did not understand it, who wanted to give evidence, who were fearful that a Select Committee operated like a court of law, and who were doubtful as to their ability to present evidence to the committee.

I know that the member for Fisher did the same thing in relation to the Greek community, and that a subsequent meeting that he organised was attended by about 300 landlords. These brief statistics surely give the House some indication of the degree of concern that exists regarding this Bill. It has then come to us with barely any time at all before the debate has had to proceed. I suppose that we were expected to digest all this material with our dinner, because certainly that is the only opportunity the Opposition has had to consider the report since it was presented to us.

I am pleased indeed that the committee saw the wisdom of representation from Aged Persons Homes Incorporated, which sought exemption under the Bill, and that an amendment will ensure that that occurs. I note also that the committee does not agree that there should be appeals from decisions of the tribunal. Almost without exception, Opposition members consider that an order of the tribunal should be subject to an appeal. It is only just and right that that should be so. We have had strong representations to ensure that that should be so. Unfortunately, because of the time involved I have been unable to read the representation from my constituents. However, I know that it forms part of the record and that it should be taken into account by the House.

I note that, on page 6 of the report, the committee states that it believes the capital value of the premises is a relevant factor to be taken into account when determining whether rent is excessive. The committee has agreed that that clause should be amended.

On page 8 of the report reference is made to clause 88. It was interesting to see the member for Morphett's crocodile tears when referring to families with children. I am sympathetic to those families who are seeking accommodation, but I am also sympathetic to the problems of existing tenants who, by reason of age or occupation, namely shift work, may have been living in premises for some time and would have no redress if suddenly what was once a satisfactory abode became unsatisfactory because children who were not properly supervised lived alongside them. It could well be that exemptions from the provisions of clause 55 are catered for in clause 88; nevertheless, the landlord is still at the mercy of the tribunal. We can only wait to ascertain whether that is a satisfactory solution.

It seems to me to be entirely wrong that a Bill that applies to private landlords should not apply to the Housing Trust, the Highways Department or any other Government body. I know that landlords feel strongly about this matter, and I believe that the community as a whole regards it as only just that the law should apply equally to all people.

Opposition members who were on the Select Committee deserve to be congratulated, and the House should acknowledge their efforts for making the Bill more acceptable to landlords and tenants and more beneficial to the community. I know that those members made strenuous efforts to ensure that people could give evidence to the committee. I know that I made such efforts, principally on behalf of landlords of non-Australian origin, many of whom have worked unremittingly from dawn to dusk in order to accumulate savings to enable them to invest in accommodation that would result in an income for their old age or for their own families. These people were deeply concerned about the implications of the Bill. They may be somewhat reassured now by the amendments suggested by the committee and the amendments that will no doubt be moved in another place. These people should be considered, but in the Bill so drafted they were not.

I hope that debate on the amendments will be intelligent. For my own part, I doubt that anyone can effectively debate amendments that have been thrown at them at the last minute. As I have said, I bitterly resent the way in which the Government operates this House, because it means that none of us can be effective in noting the comments of our constituents and in raising those matters in debate.

Mr. DRURY (Mawson): I support the motion. I echo the sentiments of my colleagues regarding the assistance provided to the committee by the Attorney-General's staff. Much has been said about the desire to bind the Crown, that is, to bring the Housing Trust under the provisions of this Bill. Evidence given to the committee by a Housing Trust representative shows that the trust is already under seven controls: it is responsible to a Minister of the Crown; it is bound by the Housing Improvement Act; it is subject to an annual audit by the Auditor-General; it has restrictions imposed upon it by the Commonwealth-State Housing Agreement; it is subject to inquiries made by members of Parliament on behalf of constituents; people who live in a trust property have recourse to the Ombudsman; and the trust is also subject to a triennial investigation of its operations. If one wished to add any more controls, one would be doing the trust a disservice.

Mr. Becker: Do you think it should operate with a huge deficit each year?

Mr. DRURY: The trust has a responsibility to the community to provide welfare housing, which it must do if

the private sector cannot or will not do it. If the Bill becomes law it will, according to some witnesses, create a tremendous exodus of people from the rental accommodation business who will sell their property and strata title their units. As the member for Morphett has pointed out, strata titling has been going on in Adelaide since about 1973, and it therefore causes, to some extent, a decrease in the supply of rental accommodation. However, as my colleague pointed out, even if one did strata title a block of eight flats into eight units, each of those units could be let, and in some cases they are let.

It is not good practice for a tenant to carry out repairs on a property without taking reasonable steps to try to contact the landlord. The committee's report states that if a tenant takes the trouble to make reasonable efforts to contact the landlord in an emergency, cannot contact him and eventually has the repairs carried out, the landlord could not really object.

The setting up of a tribunal under this legislation has been well and fully discussed, as has the interest from the fund over which the tribunal will have control. The most contentious clause of the Bill deals with children. Having lived in flats in my early married life, I agree that flats of more than one storey are not suitable for children, whereas ground-floor flats would be. Landlords can gain an exemption for this purpose under a provision of the Bill, and I do not believe that any reasonable tribunal would disagree with that.

Another contentious matter to rear its ugly head was subletting. Many landlords who came before the committee were uncertain about the meaning of subletting under this Bill. They were under the impression that the tenant could sublet the premises to anyone he wished and then the landlord would be subject to all sorts of expenses and costs resulting from a bad subtenant. In effect, the subletting proposal is covered by a provision that if the tenant sublets he, in effect, becomes a landlord.

I am sure that many people who live in Adelaide and whose jobs require them to transfer interstate for a period are pleased about this provision. They will be less fearful about letting their properties for the period than they would have been previously.

Regarding the lack of provision for appeal, most witnesses thought that there should be such a provision. However, I refer again to an example I gave last week in regard to a constituent in the Morphett Vale area being evicted in rather abrupt circumstances. She was virtually locked out, and her personal effects and furniture were put under the carport. If this Bill had been law then and she had had the right of appeal and had exercised it, it could be that the landlord, who in this instance genuinely needed the premises, would have had much difficulty in reclaiming them. I put this to the House because, with the tribunal, we are providing a cheap and speedy form of justice. A person is not prevented from taking a matter further at common law.

Mr. Evans: What if they went straight to the tribunal?

Mr. DRURY: If she had appealed beyond the tribunal, the matter could have gone on and on anyway. My final point is in regard to fear expressed by landlords that the Bill would cause the rental accommodation market to be reduced. Evicence was given to the committee that this fear was not borne out in Canada. Also, where there was a restriction in rental accommodation, it was caused by other factors. I refer to this evidence of the Canadian experience, as follows:

> The Ontario experience, after adoption in 1970, and amending experience of its strength and weaknesses, is that there has been little adverse effect on housing markets from the laws. The Ontario Housing Minister wrote about these laws in response to questions, by saying:
>
> The impact on rental production of the introduction of amendments to the Landlord and Tenant Act is difficult to gauge. Rental production has fallen off in recent years, but this can largely be attributed to high interest rates, escalating costs and, more recently, to the introduction of rent controls.

Mr. Evans: Wasn't the Minister trying to justify his own legislation, and, in fact, there was not opportunity for counter evidence?

Mr. DRURY: Being a Minister in a Conservative Government, he may have needed that self-justification. I conclude my remarks by referring to the evidence, as follows:

> It is paradoxical that, with increasing interest rates, loosening of the supply of funds, declining capital gain on properties, and increased council by-laws have all reduced the rate of construction in housing markets, particularly in Victoria, that there is an excess of rental accommodation.

Mr. MATHWIN (Glenelg): I have read 269 pages of the evidence, and the whole of the evidence comprises 523 pages. We have had little opportunity to get down to the facts that we should have been given time to peruse so that we could debate the issue and I object to the situation in which we find ourselves. The Government brought in the report of the Select Committee as late as about 3.30 p.m. today. Only one copy of the evidence was available, although the staff was able to produce another copy later. That is all that has been available for the Opposition to build its case on. This is most unfair and it makes more obvious the reasons why the Government brought the matter before Parliament.

I congratulate members of the Select Committee generally, particularly Liberal Party members, on the marvellous job they did, as well as on the number of points they brought to light and on taking the opportunity that they were given to make the Bill reasonable. Of course, the measure is still subject to further amendments being carried. The original Bill would have been a pie in the sky measure, being full of a desire by the socialist Government to control landlords. The whole concern of the Government was control of landlords. The need for a Select Committee was proved by the fact that 95 persons gave evidence to it. In addition, other people made written submissions and did not come before the committee. If the Government did not believe it when it introduced the Bill, it ought to realise now that the committee was needed and it ought to recognise the excellent job that the Liberal Party members of the committee did.

Mr. Slater: What about the other members?

Mr. MATHWIN: They are still arguing about some ridiculous areas that it is socialist policy to keep out. The member for Mawson and, particularly, the member for Morphett, proved that.

Mr. Becker: Do you reckon they're a bunch of reds?

Mr. MATHWIN: No, but I think they are tinted a bit that way, and it is hard to find where the pink ends and the red starts. I have tried to take in the evidence of 95 witnesses so that I can debate the matter. Of course, the Government intends that this Parliament should be merely a rubber stamp for its legislation. It does not want the Opposition to have the opportunities that it should have.

All the witnesses whose evidence I have read stated that they believed that the Crown should be bound by the legislation. The member for Morphett has given a blatant excuse about the Housing Trust having so many houses. He has asked why the trust should be covered, because it builds certain types of housing, and the like. How would the member for Morphett react if a private investor, with much accommodation worth many thousands of dollars,

was involved? How would that honourable member deal with a suggestion that that person should not be bound? What was the honourable member's reaction about the number of church homes or other homes that catered for people?

Mr. Groom: They are exempt.

Mr. MATHWIN: They are if they apply, and this is only after pressure by members on this side exerted on defiant members from the other side, who formed the majority on the Select Committee.

Members interjecting:

Mr. MATHWIN: The member for Morphett knows it. Why did he not say so when he was speaking on this Bill? Let us get down to the nitty-gritty. I shall read some of the questioning in which the honourable member was explaining to some people who gave evidence how they could get around the law. In referring to clause 88, he told them, if they did not like it, how they could get out of it by saying certain things, yet he has the audacity to say in this place that this is a moral issue. Perhaps the honourable member will put it in the local paper.

The Hon. Peter Duncan: He will put some of this in the local paper.

Mr. MATHWIN: He may do that, if he wishes. One of his friends tried to do something similar. Mr. Crawford nominated against me some time ago, but he found he had hold of the wrong end of the alligator. I have had 20 minutes on this evidence, but I shall read some of it. On the report, we see a list of witnesses, 95 in all, and the list is detailed in appendix B. Many of the witnesses also made written statements. The report covers 16 pages on that aspect. The report also states that there is no simple solution. It states:

> Many witnesses complained of the difficulty of understanding the "legal language" of the Bill. This is a perennial problem with all legislation. There is no simple solution, but your committee has made some recommendations for amendments to the Bill which are designed to make the meaning of the provisions more readily understandable by a layman.

I contend that that is not enough. The Government has not gone far enough with that matter. Page 3 of the report contains the following statement:

> Your committee considers that the landlord has rights which must be protected and that this Bill recognises those rights. In particular a landlord must have the right to get rid of a bad tenant quickly. The provisions in this Bill for terminating the tenancy of a bad tenant are superior to existing provisions and will greatly assist landlords in protecting their property.

Yet, in the Bill they have been given 14 days. One can imagine what could happen in 14 days with a bad tenant.

The Hon. Peter Duncan: Do you realise you can have tenants there for six months at the moment?

Mr. MATHWIN: I know that. It is all very well for the Attorney-General, the great saviour of South Australia, to ask whether I can imagine what happens now. That is not the point. Before he nicked off to China, he introduced this Bill and he was going to make things pretty good. Now, because I criticise the fact that he is leaving the provision at 14 days for these tenants to be got out, he says that that is better than the present situation. Perhaps that is so, but 14 days is far too long when one considers the damage that could be done by bad tenants.

The matter of a right of appeal has been debated by members on the other side of the House. The right of appeal has been refused; there is no appeal to the tribunal that is to set up under the Bill.

Mr. Groom: You haven't understood it. There is provision for appeal.

Mr. MATHWIN: I have understood it: I have read the Bill. It is all very well for the member for Morphett, with his legal eagle mind—

The Hon. PETER DUNCAN: On a point of order, Mr. Deputy Speaker, the subject of the debate is the noting of the report. The Bill is not under discussion directly. The report is under discussion and, if the honourable member refers to the report, he will see quite clearly that the Select Committee has recommended amendments to change the situation as it existed previously in the Bill.

The DEPUTY SPEAKER: I uphold the point of order. The honourable member must confine his remarks to the report as presented to the House.

Mr. MATHWIN: The Attorney is frightened of my mentioning the matter, and he does not want me to talk about the Bill; that has been completely gagged by him. If I am to talk about the report, I presume that I am allowed to talk about the evidence given before the Select Committee. At page 87 of the transcript, the following extract appears:

> Mr. EVANS: Do you realise that, under the Bill, there is no appeal against the tribunal's decisions?—Yes. I find it difficult to follow the Bill.
>
> Would you, as an individual accept that a tribunal consisting of one person with no right of appeal is acceptable?—I think that there should be some means of appealing against something you consider to be wrong.

The witness on that occasion was Mr. Withall.

Mr. Groom: It has been recommended by the Select Committee that there be an appeal provision.

Mr. Millhouse: I don't think he's had a chance to digest it.

Mr. MATHWIN: I got this evidence at 7.30 p.m. Page 93 of the evidence contains the following extract:

> Mr. EVANS: In the Bill there is no right of appeal from the tribunal's decision. Do you believe there should be a right of appeal, or are you happy as the Bill provides?—I think there should be a right of appeal.

Further down on page 93, the following extract appears:

> Mr. GROOM: Do you agree that the Housing Trust is in a different position from the private landlord in that it has thousands of houses that are rented, or are on rental purchase?—Yes. They have an advantage over the landlord.
>
> But they are in a different position numerically?—I do not think it makes any difference if you have two flats or two thousand. You still have the same circumstances.

On both occasions Mr. Earle was the witness. Turning to page 117, we come to the evidence of Mr. Fimmell, as follows:

> Mr. EVANS: Seeing you have been an agent for the Housing Trust for at least some of the period of your business operations, do you believe it would disadvantage the trust if it were bound by the terms of this Bill in its operations as a landlord?—Yes, just the same as it would for any landlord or agent acting for a landlord.
>
> So you believe it disadvantages landlords in the private sector?—Certain parts of it. We did not say anything about clauses 1 to 29 so we must think they are all right. We have mentioned only those that we think are out of order.
>
> Do you believe the trust should be bound by the Bill if the private sector is?—Yes.
>
> Mr. GROOM: You do not think the numbers make any difference?—No; one client of mine has 70 flats: why should he be excluded when another has six?

And so the evidence on that section continues. Mr. Crichton, of the South Australian Housing Trust, gave the following evidence at page 175 of the transcript:

> Until I returned from the north on Monday, I thought the trust was to be exempt under the Bill. I have not gone through the clauses and related them to the effect they would

have on the trust. With various types of housing we must be aware of the family size and must seek information from prospective tenants about the children. The Housing Improvement Act, in Part IV, states that consideration must be given to the number of children.

This is evidence taken in regard to landlords refusing to give accommodation to people with children. Regarding the bond, Mr. Crichton said:

The trust has not called it a security bond. It has been a deposit.

So, the trust uses different names in this connection. On nearly every occasion the member for Morphett asked the same question. On page 180 of the evidence, the member for Fisher asked of Mr. Crichton:

The trust has had no problems in deciding the families that may go into any particular accommodation, depending on the number in the family? . . . Yes, we must consider the number in a family. We have to consider, too, the economic situation in some of the new forms of housing, the city-type housing.

So, the trust has an area in which it can discriminate against people who have children. Time and time again (and I have read less than half of the evidence), the member for Morphett explained how a landlord could get round the legislation in relation to children. At page 211 of the evidence, Mr. Groom asked of Mr. Pardey:

Are you under the impression the Act takes away your right to select tenants? . . . Take the children part, for instance, yes, I do.

You are still able to select your tenants on any other criteria other than discriminating against persons with children. That means that, if you have 10 prospective tenants who answer your ad, you can still choose on any other criteria you like.

The CHAIRMAN: You can ask how many people will be living in the flat? . . . But I cannot ask whether they have any children.

Mr GROOM: As long as you do not do that as a basis for refusing them the tenancy, you can? . . . It is up to me to prove I did not base my decision on whether or not they had children.

On that fact alone, but you can base your decision on any other criteria. For example, they just do not look suitable. I do not see, from what you have said, how your situation is going to change under this legislation because you are still able to select the tenants you want.

That is the advice given by the member for Morphett.

At page 212 of the evidence, Mr. Evans asked of Mr. Pardey:

Should you have a right of appeal?—It is normal, and I feel there should be one.

As the tribunal will consist of one person, what expertise would you expect that person to have?—As it is a legal document it should require a person with legal qualifications to administer it. It probably is not possible, but I would like to see a representative from landlords brought into it.

So, generally throughout the evidence there was an objection from people about the question of appeals, and witnesses were very concerned about the situation relating to children, and how those witnesses would handle the situation as landlords.

The Hon. Peter Duncan: He doesn't like tenants.

Mr. MATHWIN: It is not a matter of that: it is a matter of what is right. The member for Morphett said earlier that the trust has to face up to members of Parliament. It is the same for others. Surely the honourable member realises that people may come into his electorate office in connection with these matters. Such people come into my office appealing for help. If they tell me that they are having problems with their landlords, it is up to me to do what I can for them. If I cannot do anything on my own, I must raise the matter here or see the Minister. Why say that the Housing Trust has to be answerable to members of Parliament? It applies to everyone. Frequently, Government members name people and firms in this House; sometimes those members are not correct in doing so, casting a slur on the landlord or the firm named. Afterwards, when Government members collate the evidence and get down to the nitty gritty, they find that they were wrong, and that they caused great concern to the people or firms wrongly named in this place, which is sometimes called the coward's castle. Paragraph 35 of the Select Committee's report states:

Many landlords were concerned that there is no provision in the Bill making it an offence for the tenant to damage the landlord's property or to remove his possessions from the property. The committee is advised that such conduct is already prohibited by the general law and it is not necessary to make such provision in this Bill.

It would be much simpler if the public had some assistance. It is all right for the legal eagles on the other side to say that the public can take up these matters legally; that may be so, but what would be wrong with making the situation simpler for the public, so that the public could be assisted, instead of leaving the situation open for a legal battle, thereby enabling members of the legal profession to gain a financial benefit? I again protest at the manner in which this matter was brought into the House and at the short period that members have had to peruse the Select Committee's report. It is an absolute disgrace that we have been handed a 523-page file to assess in little more than an hour.

Mr. WILSON (Torrens): I will be brief for two reasons: first, most of the material has already been covered and, secondly, the member for Mitcham is to speak after me, and I would like to give him as much time as possible. As a new member, I believe that the Select Committee system is of interest. One is bewildered when one comes into this House by the forms of the Parliament. In the short experience I have had, I believe that the Select Committee system has proved to be one of the better forms of the Parliament.

Certainly this Bill will be a much better one because of the results of the report we are discussing tonight. I had grave reservations about the original Bill and some reservations about the Bill as it will be amended. There is no doubt that it is a better Bill because of the result of the deliberations of the Select Committee and, so far as they have gone, I compliment them on the work they have done. This issue has caused much concern in the community, as other members have already said. I wish to quote from a letter I received from a landlord, a man I respect highly and a man who has been fair to his tenants. I believe that, generally, his tenants have been fair to him because of the way he has treated them. He sums up in this letter what I think is part of the concern that the community feels about the whole issue. He states, in part:

The implementation of this Act could have the effect of creating two classes of rental accommodation. The first, where the owner will use all means at his disposal to ensure that his tenants will be satisfactory and will increase his rental charges to cover any possible loss due to tribunal decisions. The second, where the owner will rent unfurnished premises to allcomers with no concern for conduct, or occupation or tenancy volume. This could create slums of the present and the future. It is admitted that recourse to a tribunal to settle differences between a minority of tenants and landlords would be a progressive step as is the case in other areas of trade but it is entirely unnecessary to impose such a large volume of regulations into an area which is already

functioning to the satisfaction of the majority of "buyers" and "sellers" of rental accommodation.

A prospective tenant is a fool if he accepts rental accommodation without a clearcut statement in writing of the terms of his occupation. Likewise, a landlord would not "sell" his rental accommodation if the conditions are harsh and subject to doubt. I have for eight years owned a block of eight furnished flats. The rental is $40 a week and the bond $50. During this period it has been necessary on only two occasions to request tenants to vacate; one for excessive noise, disturbing other tenants, and one for sexual activities causing distress to a third person.

In that letter he mentions the tribunal. Despite the alterations to the tribunal contained in the report of the Select Committee I wonder whether the machinery of the tribunal is going to cause hardship to both landlords and tenants, because there must be a delay in the deliberations of the tribunal. It seems to me that because of this there will be rental accommodation remaining vacant while the tribunal deliberates.

This means that landlords will increase their rents to cover this contingency. I hope that the tribunal will work with expedition in hearing the cases before it. I wonder how it is going to regulate its activities to do that. There are three other points I wish to make. Of course, the member for Morphett could not have made the speech tonight that he did if the Bill had remained in the state in which it was before the report of this Select Committee was brought down. Many of the things that he mentioned contained clauses that would have been unacceptable, I believe, to this Parliament. Because of the report of the Select Committee they have at least been modified to what we can consider to be a satisfactory compromise.

Mr. Millhouse: How do you know that?

Mr. WILSON: Well, the time the committee has deliberated.

Mr. Millhouse: Have you been able to check any of it?

Mr. WILSON: I will finish on that point in a moment. One of the clauses concerned aged persons homes, which has already been well covered. It was obvious from the original Bill that that had to be altered. I wonder what sort of Bill we would have got if we had not had a Select Committee investigate the matter.

The other matter that pleases me is the children's clause, if I can call it that, because landlords can now apply for exemption where their premises could be considered dangerous to children. At least that is a humane, proposed amendment to the Bill. Finally, I believe that if this Bill passes the Parliament the Attorney-General will have to take steps (and I believe there is some mention of this in the report) to provide much publicity because it is obvious, as has been pointed out by other speakers, that the public at large does not understand what is proposed in the Select Committee report, and certainly what was proposed in the original Bill.

Finally, I am dismayed that we have only received the Select Committee report today. I said at the beginning of my remarks that I was pleased to see the results or how a Select Committee can work, but I am dismayed that members of this House have been given so little time to consider a 26-page document, not to mention the evidence that has been given before that committee. I believe that is a disgrace and I hope that it never happens again.

The Hon. PETER DUNCAN (Attorney-General) moved:

That the time for the adjournment of the House be extended beyond 10 p.m.

Motion carried.

Mr. MILLHOUSE (Mitcham): If the member for Torrens really hopes that this will never happen again, he will not vote in favour of the motion that we have before us now to note this report. I suggest to members of the Liberal Party, if I may try to put some backbone into them, that on a Bill like this where they are protesting against the procedures of the House being abused (as they are tonight) they should take every opportunity to oppose what is going on and they should not allow this motion to go through with their support. Yet, so far as I can tell from the speakers who have already taken part in this debate, that is precisely what they propose to do. They have said that they do not like it, that it is a disgrace and so on, yet they are going to support it. I, for the life of me, cannot understand why they are so pusillanimous.

This debate has been a complete farce and a complete waste of time. It is quite impossible for anyone, unless he happened to be a member of the Select Committee, or unless he was given some advance notice of the contents of the Select Committee report (and perhaps members on the other side did discuss it in Caucus, for all I know they did, and they have had plenty of time to consider it) to receive a report like this, as we did this afternoon (and it is the second one like it in the one day), digest it, compare it with the submissions that have been made to all members, not only to members of the Select Committee, about the Bill, and to decide whether the amendments which are proposed are good, whether they are sufficient, whether they should be opposed, or whether they should be supported.

The Government is showing the utmost contempt for Parliament today in what it is doing for the second time on this Bill. It is using this place as a complete rubber stamp and apparently the Liberal Party is going to allow the Government to walk all over it yet again. I am not prepared to do that and I say now that I will do what I did this afternoon; I propose to oppose this particular motion because it is the only way that I will have an opportunity of voicing my disapproval and taking some action about it. One of the members of the Liberal Party came up to me a few minutes ago and said that we have got to abide by the procedures of the House. I do not think she knew what that meant, but that is what she said.

However, even if we do regard the procedures of the House, let us remember that the purport of this debate is to allow us to examine and discuss the contents of the report, and there will be no other opportunity to do that. As I have said, no honourable member can do that and do it justice in the time we have. So the only way to protest is to vote against this motion, which I propose to do.

Let us remember what we have had on this Bill. We have had, I suppose, as many protests and representations on it as any we have had before us in the last few years. I certainly have. It is perhaps best summed up by a constituent of mine who wrote to me about the Bill protesting about the whole thing in November. He is a senior public servant, and this is what he said in part of his letter:

My wife (and family) and I have been both landlords and tenants for a number of years in the past and present. We believe we have been good tenants and fair landlords. Any matters have always been settled amicably by mutual agreement and there have been no disputes requiring outside settlement. While I realise that there are bad landlords and bad tenants, I can see no reason why people who can manage their arrangements on a fair and reasonable basis should have to be bothered with yet another piece of bureaucratic interference with the inevitable administrative charge attached . . . We are not letting low-cost accommodation. It is expensive and good, appealing to a certain clientele and therefore does not come realistically into the category of low-cost housing—it is an investment in a particular field. The

> return is little enough as it is without further rapacious inroads being made by a one-eyed socialist philosophy thinly disguised as a concern for aggrieved tenants. If the return is not worthwhile, we shall not let at all: we shall invest in something else and the variety of accommodation needs of people to which we are contibuting will be lessened. I am fed up with the "bad apple in the box" syndrome and the persistent harping by Mr. Duncan that the consumer is always the victim of unfair or unscrupulous traders. I am fed up with this kind of humbug when the real aim is further socialisation of our society.

Whether or not one agrees with that, it is typical of the protests we have had on this Bill. I have protested about the way in which Parliament is being used as a rubber stamp in this matter. If this Bill is pushed through tonight, which is the Government's programme, it will be an insult to everyone in the community who has made representations about the Bill to us, who has written to the newspapers or to the Select Committee, or has done whatever he has done.

This is regarded politically as a significant measure; it should be treated in that way by Parliament and due time should be allowed for it to be debated. There is no way in which, without about a week's delay, this report can be properly debated in the House. The standard of the debate we have had shows that, because hardly any member has addressed himself even to one point in the Bill or in the report itself. Not only should we have that chance but there should be an opportunity for people in the community to make their response to the Bill as it will be when the amendments proposed by the Select Committee are made; but there is to be no opportunity for that. There cannot possibly yet have been any report at all, even a newspaper report, of the Select Committee report, which was laid on the table today. Why should not people in the community who are affected by this have a chance to express their opinions before we have to vote? There is no answer to that but that they should have that opportunity.

I have looked at some of the representations made to me and then I have looked in the Select Committee's report to see whether they are acted on. In most cases they are not even mentioned. For example, this is one I have from a copy of a submission made to the Select Committee on clause 18, I think, of the Bill. This was the submission:

> The tribunal has 14 days or more in which to hear and determine proceedings. This could be far too long as complaints often need quick determinations and investigation where damage to property results and the tenant may leave the State or otherwise disappear before the tribunal is in a position to make an order for exemption. Suggestion: That the tribunal be required to hear complaints within no longer than seven days of application.

As far as I can see, on a quick look at the report, that is not even dealt with; not a word is said about that point. If that is the case, there must be dozens, if not hundreds, of other points which were made and not even covered in the report. Apparently, we are told that we must trust the judgment of the five members of the Select Committee, three of whom are Government members, so they are committed anyway before they begin. I speak with respect of the member for Morphett, who made a sensible speech tonight, but he completely ignored this matter in defending the Bill. Those members are already committed and we are told that we must accept what these five members of the House have decided, and not have any opportunity ourselves to exercise an independent judgment; I do not like that. I was chided a little this afternoon for referring to the Law Society when discussing the Contracts Review Bill; I can do the same here if I want to and I shall for a moment.

We have members of the House who are members of the legal profession. We have a copy of the long submission made to the Attorney-General by the Law Society on this Bill in November of last year, and attached to it was a long paper which had been prepared as far back as 1976—submissions on the landiord and tenant law in this State and suggestion for amendments. They were not carried into effect in the Bill and, as far as I can see now by a quick look, they have not been put into effect by the report of the Select Committee. I am told by the Attorney-General that not even an attempt has been made in this Bill (and this is in contrast to the Bill we were discussing this afternoon) to acquaint the Law Society with the recommendations of the Select Committee. People may laugh at lawyers and say we are out only to feather our own nests. If that were the case, we would be delighted to let the Bill go through as it is. It is such a botch that it will be like so much Labor Party legislation—a bonanza for the legal profession.

But that is not the point of the representations made by the Law Society. We believe, as members of the profession, that the law should be made as satisfactory —in other words, as certain and as smoothly operating— as possible in the interests of the community. The Law Society is in a position to exercise some degree of judgment on these matters and yet no opportunity is to be given to it to do that. I do not think there is any point in my saying any more about it. This is a thoroughly bad procedure on a Bill which does not deserve this fate. Whatever we may think of it—it is controversial and has 92 clauses in it—it deserves a proper debate in this place. I certainly would not have supported a Select Committee if I had thought it was simply to be made a vehicle to effect the wishes of the Government, and to avoid, as we now are avoiding, proper debate in this place.

Mr. BECKER (Hanson): On November 23, 1977, when debate was proceeding on this legislation, I was allowed about two minutes to speak. I was annoyed that I was denied the opportunity to speak at length to the Bill as it was then presented to the House, because I was told that it was to be referred to a Select Committee. However, I take this opportunity to congratulate two colleagues of mine, namely, the member for Fisher, who insisted that the legislation be referred to a Select Committee, and the member for Kavel, on the work they have done in trying to improve the legislation. As I understand the legislation now before us, I cannot support it. True, I have been a member for about eight years, and I have constantly called for—

Mr. Groom: What about the tenants you say were exploited?

Mr. BECKER: If the honourable member listens, he will learn a lot this evening. The Attorney-General could not be taught anything. We know that Max Harris has got his number—

The SPEAKER: Order! There is nothing about Max Harris in the Bill. I hope that the honourable member will stick to the Bill.

Mr. BECKER: I am sorry, Mr. Speaker. It is a pity that we could not enlist his aid. The many amendments that have come forward from the Select Committee, the weight of evidence that was taken, and this long and detailed report all prove that the original piece of legislation was probably one of the worst drafted Bills that has been presented to the House during my eight years here. I have approached Attorneys-General in the past seeking legislation to protect landlords and tenants—something that was fair to both sides; yet, I still cannot see that type of legislation before us.

Mr. Groom: You'll leave substandard housing in the Glenelg area?

Mr. BECKER: If the honourable member were to come with me tomorrow, I could show him some more substandard accommodation. We need legislation to protect landlords and tenants, but I remind the member for Morphett, who thinks that he is an instant expert on everything, of a letter I have received. (I was not aware that this debate was coming on today, otherwise I would have brought in my file consisting of many hundreds of pages—I do not keep dossiers, like the Labor Party does.) The letter states, in part:

> My wife was going to write you about the bad state of our home when we returned.

The couple had been living in Germany for two years while the husband was studying solar energy. The letter continues:

> She was also going to send you the four-page fine print binding contract of tenancy that is the norm in Germany, protecting the landlord from the tenants.

I believe that this is a supposedly democratic socialist Government, but I cannot understand why this Government could not have looked farther afield at other countries when considering its own legislation. What worries me (and we read this early in the report) is the following:

> Your committee believes that an extensive education programme, directed to both landlords and tenants, will be necessary to inform both parties of their rights and obligations and that multi-lingual explanations of the new law, in simple language, should be readily available.

There is something wrong in this Parliament if we have to go to those lengths and pay such costs to explain Government legislation. We cannot take pride in the legislation when the committee must make that kind of comment. The report continues:

> Many witnesses complained of the difficulty of understanding the "legal language" of the Bill.

That is normal; we had that only recently. With the Attorney-General's drafting, the legal profession, as the member for Mitcham knows, has said that one could drive a truck through the legislation we have been debating recently. That is another slant at the Attorney-General by the Select Committee. The report also states:

> Your committee is of the opinion that although the number of recorded complaints will probably increase, that the good landlord (and tenant for that matter) has nothing to fear . . .

I agree with that. There would be a small number of poor landlords or poor tenants. We hear only about what the tenants do to the landlord, and only what the landlords do in relation to the tenants. It is a pity that some of our members, particularly the member for Morphett, have not had the opportunity to go around the whole of their districts. The honourable member has many flats in Camden Park and, if he has not had a complaint from a group of ladies there, he will soon receive one, regarding a landlord who harasses them, who calls at the property every day, and who peers through the windows.

Mr. Groom: There is a need for reform.

Mr. BECKER: That is right, but we should look at both sides of the issue. The landlord says that he wants to see that nothing untoward is going on or that no unusual damage is taking place.

Mr. Nankivell: He has the right to protect his property.

Mr. BECKER: He has some rights, but not the rights of a peeping Tom. The member for Morphett referred to the situation in Glenelg. One Saturday evening, the member for Glenelg was out, so people contacted me. That was a classic example of where the property should not have been let, but the law is there to prevent that issue from the start. The local council knew that the property should not have been let, but should have been condemned. Therefore, whilst a council does not take action under the Health Act, we will have landlords letting properties to desperate tenants. The tenants in question were desperate and wanted accommodation they could afford.

Let us look at a situation I had yesterday when I was called to a place at Henley Beach. It was the most attrocious building I have ever seen—a two-storey house divided into four flats, occupied by four deserted wives and five children. Every time they emptied the wash trough or the kitchen sink, the toilets downstairs overflowed. For three months they had tried to get the landlord to do something to the property and to repair the sewerage system. They went into the property in December, paid one week's rent amounting to $25, and complained of the condition of the property in general. I was not game enough to go up the flight of stairs to the first floor, because I did not think that they would carry my weight.

Mr. Venning: Have they paid rent since?

Mr. BECKER: No. They went to the Housing Trust, and the rent was reduced to $16 a week but, as the sewer has blocked up, they have not paid any rent. The landlord is in Sydney. Under the legislation, it could be argued that they would have the right to have the sewer unblocked at the landlord's cost, but bear in mind that he had had only one week's rent since December. There are two sides to the argument. At another flat I visited the lady said, "It's not very clean. As you can see, the toilets overflow downstairs. You can smell it." Although I have a strong stomach, even lighting a cigar did not help. There was no bed on the property, which was a two-bedroomed flat, and there were five mattresses on a floor in one room. There was another mattress in another room. There was not a stick of furniture or a table. The poor girl had to live in such conditions because of the circumstances forced on her.

Mr. Evans: Because the Housing Trust couldn't provide anything?

Mr. BECKER: The trust cannot provide her with any accommodation. No welfare agency in South Australia is able to give her immediate accommodation relief. She had been to the women's shelter, and this was the best it could do. I do not blame the shelter, because the landlady said that she had a property for the shelter. This proves that the shelter needs financial support from the Government to provide accommodation for such people and that the trust is not meeting its welfare housing demand. These four deserted wives and five children were in a desperate situation. The council has placed a health order on the premises, and wants them out by the end of this month. It is a pity that the Minister of Mines and Energy is not in the Chamber, because I should like to take him down there. I know that he would be in the same situation as I am.

Mr. Mathwin: What if they're thrown out?

Mr. BECKER: They won't be thrown out at this stage. We shall try to find alternative accommodation. It is a shocking situation to see the women in the condition that they are in. They are completely demoralised. The landlord has tried to do the right thing, but the tenants will not pay the rent because they have got hold of these tenant handbooks entitled "Know your rights" that have been circulating around the city for the past couple of years.

Mr. Groom: What's wrong with that?

Mr. BECKER: It works both ways. Someone must act as a mediator. Would a tribunal have been able to solve the situation that obtained yesterday afternoon? Of course it would not have been able to do so. Members admit that there will be increased demands on it if this sort of

situation is allowed to continue. There are laws now to control this type of accommodation. I have checked with the council concerned, which said that it had never seen premises like this and was going to take photographs thereof. It is fed up with being criticised continually for evicting people. I must somehow appeal to the Minister of housing to try to obtain immediate accommodation for these four people, but how can he justify these people jumping the queue in front of others who have been waiting for one year and 11 months?

This all links up with landlords and tenants, and this Bill will not solve the problem. If one wants to be a shocking landlord, one will still be able to be one and, if one wants to be a tenant who does not care less about another person's property, one can be that, too. If one studies the New South Wales legislation, one finds that the loopholes that exist there are similar to those in this Bill. If one wants to get away with one's bond money, one can wait until the landlord goes on holidays and say, "I want to leave and I want my bond money back." Under the New South Wales legislation, the tribunal then writes to the landlord and gives him seven days, including Saturdays and Sundays, to reply. However, because the landlord is on holiday he does not get the letter. The tribunal does not, therefore, hear from him, so it repays the bond money and the people concerned skip owing the rent. This is happening in New South Wales all the the time.

Mr. Groom: You can get compensation here.

Mr. BECKER: Yes, and, as the report says, it will be an offence for one to give a false name and address, but how does one prove the name and address of a person who wants to rent a property? The member for Morphett will find out about that in his district, where there are some first-class flats that are holiday flats for a part of the year and are rented on a short-term basis for the rest of the year. He should ask landlords how they can stop girls coming in and starting massage parlours and brothels because they have the right to sublet. The honourable member may not care about this matter, but I assure you that your neighbours will be on your back, lad.

The SPEAKER: Order! The honourable member for Hanson should not refer to the honourable member for Morphett as "lad". The honourable member has been here long enough to know that.

Mr. BECKER: I am sorry, Sir. It does not matter what legislation we introduce: the more complicated the legislation we introduce, the more problems we create, and that is the tragedy of the whole situation. This problem could easily have been solved by making the Public and Consumers Affairs Department responsible for settling disputes between landlords and tenants, without all the nonsense about tribunals and courts. True, the department's staff would have to be increased, but at least people would have the opportunity to obtain immediate assistance. I cannot see under this legislation how we will make a bad tenant a good tenant or a bad landlord a good one. It is just not on!

I am disappointed with and, like the member for Mitcham, worried about this matter. We have been given only a limited opportunity to read and study the Select Committee's report and the innuendoes, references to amendments and various clauses contained therein. How are we to compare amendment with amendment, and legislation with legislation? How are we to compare the situation regarding our constituents, landlords and tenants alike, who have made representations to us? I have helped many tenants get back their bond money, and also to settle many disputes between landlords and tenants. So, both sides must be considered, and the people should be given an opportunity, the same as should members here, further to consider this report. I therefore seek leave to continue my remarks later.

The SPEAKER: That the honourable member have leave?

The Hon. Peter Duncan: No.

The SPEAKER: The honourable member must continue.

Mr. BECKER: I must protest, as have my colleagues, regarding the time that members are being given to study this report, which contains the findings of the Select Committee, the hearings of which were spread over many weeks. That committee had the opportunity to discuss a wealth of information that was submitted to it. I pay a tribute to my colleagues, who have tried to improve a poor piece of legislation. Indeed, they have tried honestly and sincerely to do the best they can for all sections of the community. However, I am still not satisfied that the recommendation contained in the report will give us the type of legislation which we are seeking and which will ensure a fair deal for landlords and tenants in South Australia.

Mr. BLACKER (Flinders): I rise to add my protest regarding the manner in which this Bill is being pushed through the House. I should like to explain the position in which I, a country member, find myself. Although the Bill refers to declared areas, its general provisions cover the whole State. When the Bill was introduced on November 2, I referred it to many land agents and persons whom I knew were landlords and tenants in my district. Having sought their advice on various clauses and aspects of the Bill, I received a long list of queries on matters that they hoped I could raise in Parliament.

The Select Committee was appointed on November 23, the intention being for its report to be tabled on February 21. That was all very nice. However, the report was tabled this afternoon, and we are now expected to participate in a detailed debate thereon. In no way can I take the findings of this Select Committee back to my constituents to whom I have spoken and who gave me a list of queries and suggestions that they would have liked me to raise. However, they are not being given that opportunity.

I am appalled that I am placed in this untenable situation, having promised to give my constituents some representation on the floor of this House, but, at the same time, being denied the opportunity to do so, simply because I cannot take the Select Committee's report back to my constituents.

The Hon. G. R. Broomhill: Why didn't your constituents appear before the Select Committee?

Mr. BLACKER: Most of the information came to the committee not through my channels but through the channels that I suggested. I intend to oppose the motion as a protest about the way in which the Bill is being bulldozed through the House. I also express concern that, in the brief time that I have had to look at the Select Committee's report, I consider that it will increase the problems experienced in relation to tenancy housing in this State.

Housing problems within this State are considerable, and this Bill can do nothing but harm that situation. Some landlords have money to spare that they could invest in rental accommodation, but they will not and many flats and home units will therfore be taken out of the rental accommodation field, which can only be to the detriment of South Australia.

I express this concern basically because I believe there will no longer be an incentive for investors to consider the rental accommodation field as an investment and therefore possibly tenants will suffer the most. I have a list of questions I will raise in Committee, but at this stage I

voice my strong opposition to the manner in which this report has been brought in today without my being given an opportunity to discuss it with people who confided in me and me in them in the full expectation that I would be able to present their views to this House. I oppose the motion.

The House divided on the motion:

While the division was in progress:

The SPEAKER: The question before the Chair is "that the report be noted". The Ayes will pass to the right of the chair, the Noes to the left. I appoint the honourable Attorney-General teller for the Ayes, and the honourable member for Mitcham teller for the Noes.

Mr. BECKER: I rise on a point of order, Mr. Speaker. I called "divide", and did not hear the member for Mitcham call "divide".

The SPEAKER: I listened intently to what happened, and it was the honourable member for Mitcham who was the first caller.

Mr. Becker: I think that that is unfair.

Ayes (36)—Mr. Abbott, Mrs. Adamson, Messrs. Allison, Arnold, Bannon, Broomhill, Dean Brown, and Max Brown, Mrs. Byrne, Messrs. Chapman, Drury, Duncan (teller), Dunstan, Eastick, Evans, Goldsworthy, Groom, Groth, Gunn, Harrison, Hemmings, Hopgood, Hudson, Keneally, Klunder, Olson, Payne, Rodda, Russack, Slater, Venning, Virgo, Wells, Whitten, Wotton, and Wright.

Noes (6)—Messrs. Becker, Blacker, Mathwin, Millhouse (teller), Nankivell, and Wilson.

Majority of 30 for the Ayes.

Motion thus carried.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

Mr. EVANS: I intend to move that progress be reported, if I am allowed some latitude in doing so, Sir. I can understand why people have argued that greater consideration should be given to the information that has been given in the report of the Select Committee. Since 1972, Standing Orders have been different from what they were. I emphasise to the Attorney that there is some concern that if we proceed with the Bill in the Committee stage some aspects of the evidence presented to the Select Committee and some of the amendments need to be considered. At the same time all members, if they have had information given to them, should have had amendments prepared themselves—

The ACTING CHAIRMAN (Mr. Whitten): I ask the honourable member for Fisher to speak to the clause.

Mr. EVANS: I realise that I should be doing so, but I was explaining why I wished to move that progress be reported. I think the reason is obvious. I move—

The ACTING CHAIRMAN: At this stage the honourable member, because he has spoken on the clause, cannot move that progress be reported.

Clause passed.

Clause 3—"Arrangement of Act."

Mr. EVANS moved:

That progress be reported.

The Committee divided on the motion:

Ayes (19)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Dean Brown, Chapman, Eastick, Evans (teller), Goldsworthy, Gunn, Mathwin, Millhouse, Nankivell, Rodda, Russack, Venning, Wilson, and Wotton.

Noes (23)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Byrne, Messrs. Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, Langley, Olson, Payne, Slater, Virgo, Wells, Whitten, and Wright.

Pair—Aye—Mr. Tonkin. No—Mr. McRae.

Majority of 4 for the Noes.

Motion thus negatived.

Clause passed.

Clause 4 passed.

Clause 5—"Interpretation."

Mr. EVANS: I move:

Page 2, lines 16 and 17—Leave out all words in these lines and insert definition as follows:

"landlord" means the grantor of a right of occupancy under a residential tenancy agreement or his legal representative, heir or assign:

Clause 50 refers to the subletting opportunity for the tenant and provides that the landlord will not unreasonably withhold his consent. Evidence was given to the Select Committee that, even though in legal terms "successor" means other than a tenant subletting to another tenant (in other words, the other tenant being the successor), some people believe it could be argued that the successor is the second tenant, if I may use that term, and that, where we may have tribunals that do not have legal practitioners on them, they may interpret it as that, and that would be a way around the Act and would not clearly show that, where a tenant sublets, the tenant automatically becomes the landlord.

Mr. Millhouse: Surely the Supreme Court would have the opportunity to put them right if they made such a mistake as that.

Mr. EVANS: If we make the position clearer, so that people do not have to go to the Supreme Court, I hope we are making it less likely that they would have to go there and pay high fees if the amendment was agreed to.

Amendment carried.

Mr. EVANS moved:

Page 2, lines 35 and 36—Leave out all words in these lines and insert definition as follows:

"tenant" means the grantee of a right of occupancy under a residential tenancy agreement or his legal representative, heir or assign:

Amendment carried; clause as amended passed.

New clause 5a—"Crown bound."

Mr. EVANS: I move:

Page 2, after line 38—Insert clause as follows:

5a. This Act binds the Crown.

There is clear evidence that most people in the residential area of business (and this includes tenant organisations) believe that the Crown, such as the Housing Trust and particularly the Highways Department, should be bound by the Act. The Tenants Association gave evidence that it had had complaints about the Highways Department.

I know the arguments that the member for Morphett has explained but, if we bind the Crown, the Minister or the tribunal still will be able to exclude the Highways Department or the Housing Trust from any provision or from the whole Act. Parliament should accept the principle that the Crown should be bound. A measure dealt with earlier today provided that the Crown would be bound. If the trust handles more accommodation than does the private sector, surely that is a reason why it should be bound. We are not exempting a private landlord who has more accommodation than anyone else.

The Hon. PETER DUNCAN: The Government is not willing to accept this amendment. As the honourable member has pointed out, the arguments have been canvassed to a limited extent this evening and were canvassed more fully before the Select Committee. Basically, the Government's reason for believing that the Crown should not be bound in this matter is that we are talking very largely, when we talk of the Government

housing sector, of the Housing Trust, which is a welfare housing authority. Surely it is completely inconsistent, on the one hand, for us to say that the organisations under the Aged Cottage Homes Act and associated Commonwealth legislation should be exempt from the legislation because they are administered by welfare housing authorities and, on the other hand, to say that the Housing Trust, a welfare housing authority, should be bound. There seems to be a fundamental logical inconsistency in that proposition.

Secondly, the Government instrumentalities that provide housing are basically of two types: those that provide housing for people who are in the welfare housing area, those who are provided with housing which is cheaper than the market rental would be in normal circumstances; and those people who, because of the nature of their employment, are provided with Government housing. The second class is not covered by this legislation in any event, whether private or public housing. In the first instance, the Government is in the situation where the Government housing authority's activities are governed by the fact that any person who feels aggrieved can go to a member of Parliament, and those complaints, to my knowledge, are always dealt with expeditiously by the Housing Trust or by the Highways Department. It would be an unreasonable further burden on Government organisations which are providing housing to require them to be bound by this Act. They are already responsible to the community, because they are Government activities. The Government believes, therefore, that the Crown should not be bound by this legislation.

Mr. EVANS: The Housing Trust does not conform in two areas of the legislation. This evidence was given to the Select Committee by the person from Mount Gambier who acted for some time as an agent for the Housing Trust. The trust takes a hard line in relation to children, asking how many children are in the family, ascertaining the income of the family, and deciding on the type of accommodation according to the number of children.

In another area relating to clause 45 (c) the Housing Trust does not conform to the provisions of the legislation. Each and every member of Parliament is getting complaints at the moment in the metropolitan area; I should be surprised if that is not happening. As shadow Minister, I have been informed of two cases from outside my district in which the Housing Trust is not correcting the problems of troublesome neighbours where both tenants are in Housing Trust accommodation. If that matter is not being looked at under the present legislation, surely the Crown should be bound in those areas. I argue strongly that the Crown should be bound. If the Government seeks to exempt any section of the Crown authorities, it should face up to any argument in this Chamber saying that the authorities are not acting as they should be if they were bound by the legislation. If the private sector should abide by the Bill, so should the trust, for the benefit of its tenants.

Mr. MILLHOUSE: What the Attorney-General has said is nonsense. He has talked of the Housing Trust as a welfare housing authority.

The Hon. Peter Duncan: Of course it is.

Mr. MILLHOUSE: The Attorney may say that, but I should be surprised if Mr. Ramsay, the General Manager of the trust, and the members of the trust regard themselves as a welfare housing authority. That is indeed a small part of the activities of the trust, but the trust is a business undertaking to provide housing in this State. For instance, there is nothing of welfare housing about the flats outside the Hawthorn railway station, as they are extremely high-class accommodation.

What the Act has said is merely an excuse to keep the Housing Trust from having to abide by the same rules and regulations as private owners of accommodation have to abide by. If this is such a damned good Bill as the Attorney says it is, why is it bad for the Housing Trust to have to abide by it? This convicts the Attorney out of his own mouth. If he thinks it is going to be too hard for the Housing Trust—and that is the real reason why he will not allow the Crown to be bound—it is going to be too hard for private landlords.

I understand the Highways Department has acquired an enormous number of properties around Adelaide, originally for freeways and God knows what for now. The houses are rented, as a rule to people in necessitous circumstances, because most of the houses are run down. Even there, it is hard to make out a case against the same controls operating for those properties as will operate for private tenants.

The main thrust of the amendment is to put Government housing, of whatever kind, on the same basis as private housing. It does not matter really too much to the tenants, as far as the standard of accommodation and the conditions are concerned, whether they are in private or Government accommodation. I support the amendment.

Mr. VENNING: I support the amendment. In the 10 years I have been the member for Rocky River, I do not think I have had one complaint from the private enterprise set-up, but I get complaints continually from Housing Trust tenants. The houses were built in war time, and perhaps they are not of good construction, but people are continually coming to my office asking for certain things to be done. Therefore, the Crown should most certainly be tied under the Bill.

The Hon. HUGH HUDSON (Minister of Mines and Energy): As Minister in charge of housing, I point out that it is relevant to consider the practicality of this amendment. First, almost 20 per cent of Housing Trust tenants are now on some kind of rental rebate. There is a basic rent scale that applies to all trust tenants which limits the rent that can be charged as a percentage of the tenants' income.

Mr. Venning: Not necessarily so.

The Hon. HUGH HUDSON: Necessarily so. The honourable member should inform tenants in his area that they may be eligible for a rent reduction. I shall be happy to provide the honourable member with the scale of rents that can be charged. That scale was provided to the Select Committee by Mr. Crichton, I think. At present 19·23 per cent of tenants are getting some kind of rental rebate. So, one of the main features of the Bill with respect to the excessive rent question is that any matter of that nature is unlikely ever to be adjudicated by the tribunal against the trust, and it can be handled administratively. Clearly, when this Bill becomes law, the principles embodied in it will have to be examined by the Government with respect to all forms of public housing, and consideration given to the way in which arrangements for tenancy agreements (for example, in all forms of public housing) will need to be modified. But those things can be done administratively, and it is absolute nonsense for members to seek to bind the Crown and create a further bureaucratic arrangement that has to be followed, thereby cluttering up the tribunal and increasing the costs of running it, simply because for some reason the Opposition fails to see that anything needing to be done in this area can simply be done administratively by the Government.

Mr. Venning: How?

The Hon. HUGH HUDSON: I would not expect the honourable member to appreciate that. When this Bill becomes law, all these matters will be examined with

repsect to public housing.

Mr. Venning: And it won't make a bit of difference.

The Hon. HUGH HUDSON: The Housing Trust's record with respect to the conditions provided for tenants, the rents paid, and the kind of accommodation available, is second to none in Australia. The level of rents is lower, and the conditions that apply are better.

Mr. Venning: Go tell that to the occupants.

The Hon. HUGH HUDSON: I am not responsible for what goes on between the honourable member and some of his constituents. If any of those matters are raised with me, I shall be happy to examine them for the honourable member and I shall be pleased if he would raise them with me.

Mr. Venning: I invite you—

The CHAIRMAN: Order! The honourable member is out of order.

The Hon. HUGH HUDSON: These matters can be and will be dealt with administratively, and it is ridiculous to create bureaucracy unnecessarily. I would have thought that Liberal Party members, who are always yapping about excess Government expenditure when they take the Fraser line, would be aware of the need to avoid unnecessary bureaucracy. In these circumstances there is no need for this amendment.

Mr. GOLDSWORTHY: I support the amendment. It is all very well for the Minister to sound off about bureaucracy. We have one law for the private entrepreneur and another for Government instrumentalities. The complaints I get through my office about repairs and painting not being done all relate to the Housing Trust's operations in the Barossa Valley. In the eight years I have been here no-one has been to my office complaining about private landlords, but I have had plenty of complaints about Government bureaucracy and Government instrumentalities in this field in relation to the Housing Trust's tardiness in doing painting and repairs. If the Government wants to bind the private sector, it ought to take a dose of its own medicine.

The Hon. Hugh Hudson: Bureaucrats—

Mr. GOLDSWORTHY: I am not a bureaucrat. We were not too thrilled about the Bill from the word "go". It is only because we are willing to listen to argument that we are willing to take a punt, but the Government is pushing its luck a bit too far when it wants to have a swipe at the private sector. It is not willing to abide by the guidelines itself.

Mr. ALLISON: I have to support the amendment because I am far from satisfied with the Minister's assurance that these things can and will be dealt with administratively. In Mount Gambier several cases were not brought before the Select Committee by Mr. Fimmell. It is 18 months since I brought to the attention of this place the parlous state of accommodation of railwaymen in Mount Gambier. I received letters of thanks from railway people across the State following my action. That was one case where the Crown was involved. Education Department houses are resplendent in Mount Gambier because of the Teacher Housing Authority. They have concrete paths, lovely fences, clean windows, and nicely painted roofs. They are beautifully maintained. In Pannell Street, Mount Gambier, immediately adjacent to one of these houses is a house taken over by the Housing Trust from the Woods and Forests Department.

I am assured by the Woods and Forests Department's tenants that they were better looked after under the Woods and Forests Department, because they could at least ask for paint from the department and do the job themselves. Mr. Gary Eaton's house has mould adjacent to the bathroom; the roof is badly affected; there are cracks in the exterior walls; rain drips inside the windows; windows have seized, and Mr. Eaton cracked one when he tried to dislodge it. He was told that windows do not count, because the people have to replace their own window panes. The woodwork is split, and several electrical points are useless. This house has been reported to the authorities. I have had correspondence with the Minister. It is one of a number of Woods and Forests Department houses that I have personally inspected over the past 12 months. I could give details of several others. This problem has been going on over the last two or three years. So, the Minister's reassurance that these things will be attended to administratively does not mean very much when his last letter on the subject said that these things would be dealt with over a period. That period is 15 years for painting, for example. The people to whom I have referred are in some peril because of the electrical switching. I did not like to see the children go near the switches because if you put your hand on them there were sparks.

A condition built into this legislation is that any person who tries to get a tenant to sign a clause which absolves the landlord from this legislation makes the landlord subject to a $2 000 fine. That is precisely what the Highways Department did with one of my constituents when it told him he was responsible for any repair and maintenance other than what it considered to be major or essential repairs. There again, the hot water service broke down recently and we had to have correspondence between my office and the department. These are the very points where the Crown has already taken on itself to act in a different manner from that laid down for the landlord in this legislation. Whatever the Minister's assurances are, practice in Mt. Gambier has not been following this legislation.

I am also troubled because there is a possibility that the declared area that this legislation covers may not include Mount Gambier, which may be considered an area where there is not much complaint. There certainly is complaint from me, as far as the Government housing is concerned. Whether there is much complaint about private housing I do not know. This is another way in which the Government may be absolved from responsibility. The Minister is aware of this, as we have entered into correspondence on it. The tenants have been corresponded with and have been given the same assurances as we have had here, but when one inspects the houses one finds they are in a derelict condition.

Mr. Dean Brown: Does the Minister takes three months to answer your correspondence?

Mr. ALLISON: I will give him his due; he answered promptly, but attention to the house is not prompt. Perhaps the Minister is unaware of the tardiness with which these things are attended. The tenants of railway and Woods and Forests Department houses are being treated as substandard people. People who have brought trust homes and brought them up to lovely condition two or three houses away make these other houses stand out like a sore thumb on a boxer's hand. These are glaring examples of why the Government should be bound.

The Hon. Hugh Hudson: What is the level of rent?

Mr. ALLISON: These people are paying $24 a week, the same rent as a Housing Trust tenant pays. A person next door in a magnificent Education Department house is paying only $1 or $2 more. There is no question of the welfare housing concept. These people are substandard tenants who believe they are being treated as welfare cases. Yet they are orderly people working for the Woods and Forests Department who are complaining because they believe that they are a neglected race. I put in a voice

of protest on their behalf.

Mr. EVANS: If the argument that the Minister in charge of housing uses is that the Housing Trust acts perfectly, I accept the argument that has been used by the Attorney-General and his colleagues that any good landlord or good tenant should not be afraid of anything in this legislation. If the Housing Trust is a good landlord (and I believe it is in the main; there will always be some complaints when there are so many properties) and other Government departments are good landlords there is no fear of including them because the Bill will not affect them. There is no fear at all and we should all support binding the Crown.

The House divided on the new clause:

Ayes (18)—Mrs. Adamson, Messrs. Allison, Arnold, Becker, Blacker, Dean Brown, Chapman, Eastick, Evans (teller), Goldsworthy, Gunn, Mathwin, Millhouse, Rodda, Russack, Venning, Wilson, Wotton.

Noes (23)—Messrs. Abbott, Bannon, Broomhill, and Max Brown, Mrs. Bryne, Messrs. Drury, Duncan (teller), Dunstan, Groom, Groth, Harrison, Hemmings, Hopgood, Hudson, Klunder, Langley, Olson, Payne, Slater, Virgo, Wells. Whitten and Wright.

Pair—Aye—Mr. Tonkin. No—Mr. McRae.

Majority of 5 for the noes.

New clause thus negatived.

Clause 6—"Application of Act."

Mr. MILLHOUSE: I move:

Page 3, after line 12—Insert paragraph as follows:

(da) Where the rent payable under the agreement exceed fifty dollars for each week of the tenancy;.

I have had an amendment on file on this clause which is dated November 22, 1977. I think I put it on file before the Select Committee was appointed. I propose to go on with it, even though, so far as I can tell in the short time I have had available, the Select Committee did not even pay me the courtesy of considering the proposal. The effect of this amendment would be to restrict the operation of the Bill to premises where the rent was under $50 a week.

The CHAIRMAN: Order! There is too much audible conversation in the House. The member from Mitcham has the floor and should be heard in silence.

Mr. MILLHOUSE: I have taken that as a reasonable figure. Any rent over $50 a week is for comparatively expensive accommodation. In my view (I am not alone in this, I am confident) anybody who is paying more than $50 a week rent is well able to look after himself. The premises at the same time will be of a quite superior nature and the landlord will be able to cope with the tenant who can pay a rent of that amount. In other words, there is no need where it is a superior (the word used by the land agents) type accommodation to have what the Minister for Planning was pleased to call a few minutes ago bureaucratic control. We do get complaints, and all the examples of complaints given by members in this debate have been about inferior accommodation, where the rent is substantially below this upper level I should like fixed.

It is where the rentals are lower and the accommodation is inferior that we can get abuses; and there may well be for such accommodation a good case for control; but, with more expensive accommodation and tenants who can look after themselves, there is far less chance and, as is borne out by experience, far less likelihood of there being an abuse on either side, and therefore there is no need for control. At one stroke, if we were to insert this provision, many of the objections to the Bill would disappear. I personally would be able to support the principle of the Bill if this amendment was inserted.

The Hon. PETER DUNCAN (Attorney-General): I oppose this amendment on behalf of the Government. Of course, the honourable member quite facetiously says he would be able to support the Bill, because this would destroy the Bill entirely. All we would see would be an immediate hike of rentals straight up to the figure of $50 a week, to take the tenancies concerned outside the provisions of the Act. It is one of the most naive pieces of drafting I have ever seen—and that is taking the most charitable view of it. I cannot really believe that the honourable member with his experience intended anything more than to seek to introduce into the Bill a provision that would have taken most of the rental accommodation straight out of the province of this Bill simply by the device of ensuring that landlords would put their rents up to $50. For that reason, and other reasons, the Government has no intention of accepting the amendment.

Mr. EVANS: I oppose the amendment because family accommodation concerns me. Many of the individual free-standing houses are the main ones that families of four or five can move into. In our community, most of them are getting into the $45 to $50 category and more—that is outside the Housing Trust sector. The Attorney is right in what he says, that they could put the rent up to exempt themselves from the provisions of the Act. It would make it more difficult for the family unit. Also, if one wishes to be devious and get around the Act, he can put up three or four flats for tenancy at a time under the one agreement for young people and say, "I will let you have these flats at $60 a week if you sign an agreement." Effectively, the landlord would be avoiding the Act.

Near Flinders University, where there is a shortage of accommodation, a landlord could exploit the situation, get around the Act and create a situation which I do not wish to see created. It is one in, all in; let us be consistent. Let us bind all of the private sector and hope that in the other place the Government will see its way to binding the Crown, so that everybody is covered. The group we are most likely to disadvantage is the larger size family units, if this amendment is inserted. I could not support it, for that reason.

Mr. GOLDSWORTHY: I do not support the amendment, which would make a farce of the legislation. It is either all or nothing. My Government driver, who has departed for Canberra, paid $55 a week to accommodate his family in what was not luxurious accommodation. The fact that rents are relatively low at the moment is because there is an excess of rental accommodation. There is no way in the world that I can see any sense in this amendment: either we are for the Bill or we are against it. If we are against the Bill, this may be one way of throwing a spanner in the works. If we are against the Bill, it would be better to come out at the outset and say so instead of confounding the issue, as this amendment certainly would do.

Mr. MILLHOUSE: I am disappointed with the attitude expressed by members on both sides and am surprised at the expression of point of view on this side of the Chamber. One would have expected the Attorney-General to oppose this amendment, because he wants to be able to control all accommodation, but for him to suggest that every piece of rental accommodation in the State would have its rent put up to $50 a week for the landlord to get out of this provision ignores entirely the laws of supply and demand. The very point that the Deputy Leader of the Opposition made in agreeing with the Attorney-General to oppose this provision underlines that.

He said that at present there is an excess of rental accommodation. How on earth can a landlord, if he has accommodation to let, hike up the rent to escape this

provision? He simply will not let his accommodation. That was the only argument used by the Attorney-General. He said he had plenty of others to use but he did not mention any of them, and I am wondering what they could be. The one he used was utterly absurd. So far as the arguments used against the amendment on this side of the Chamber are concerned, I suspect that if I had inspired one of the Liberal members to move this amendment or, by some fluke, one of the Liberal members had thought of it himself, the opposition on this side would have speedily disappeared.

I cannot accept that people will use the ploy which the member for Fisher invented to get around this provision but, if members on this side of the Chamber feel that $50 a week is too low an upper limit to fix, I invite them to suggest a higher one because, if inflation goes on, $50 a week will become a progressively modest rental. It might be better if there was a provision to alter the upper limit by regulation or in some other way or by indexing it in some way; but that does not go to the principle of the thing. Apart from the childish suggestion by the member for Fisher as a way of getting around the provision, there was no real objection to the principle of it; the objection was simply to the upper limit, which I fixed at $50.

I suspect that, in the wash up when this Bill has been to another place, it will be done over there (and I hope that it will be properly considered in that place, and thus justify its existence) and that something like my amendment will be the final shape of the Bill. It really is the only way to meet valid objections that have been advanced in the community and by the Opposition, with the need for some reform of our landlord and tenant law. I do not accept the opposition on this side of the House as genuine, but I do accept the opposition on the other side as genuine, albeit completely misguided.

Mr. BLACKER: I support the amendment, because I made inquiries with land agents in Port Lincoln, and their general reaction was that the higher the rent the better the tenant. In other words, they had few problems with the high-rent accommodation or with the tenants thereof. Some of the land agents are acting as rent-collecting agents for landlords who are non-resident in Port Lincoln but who live in Adelaide, Sydney or Melbourne. They have indicated to me that in no way will they act as collecting agents under the Bill, because they cannot see the feasible proposition of carrying the responsibility of it to that extent. They will, on the other hand, still accept the high-rental accommodation and responsibility for its management, because they consider it relatively easy to maintain. The point is not the $50, but the upper level of accommodation. It is those in that upper bracket who should be excluded from the provisions of the Bill, because they generally are the affluent part of society and are able to look after themselves.

Mr. EVANS: I point out to the member for Flinders that the Real Estate Institute gave evidence on behalf of its members and said that it thought that there might be more work involved. They even supported the Bill, without most of the amendments the committee has proposed. However, it did not comment on the difficulties involved in managing properties for people. When people say that those who rent properties for $50, $60 or $70 are rich and can care for themselves, I point that that many people in my district live in groups in houses and pay between $60 and $120 a week rent. Perhaps eight or 10 young people live on a property and use social security payments to meet the rent, but they are far from rich. They still need to be protected, whereas under the amendment they would not be protected. We should either support or reject the Bill. I ask the member for Flinders to think about this matter. Parts of the State other than Port Lincoln have holiday shacks.

Mr. Millhouse: He wasn't dealing with that kind of accommodation; that's already out of the Bill.

Mr. EVANS: I know that. If the shack is used for 11 months of the year by permanent residents, and if the owner goes in for a month while the residents go away, it would be covered by the Bill. We should not stipulate a price limit, because many people now living in houses in groups aggregate their income in order to meet the rent.

The Committee divided on the amendment:

Ayes (2) —Messrs. Blacker and Millhouse (teller).

Noes (38)—Mr. Abbott, Mrs. Adamson, Messrs. Allison, Arnold, Bannon, Becker, Broomhill, Dean Brown, and Max Brown, Mrs. Byrne, Messrs. Chapman, Drury, Duncan (teller), Dunstan, Eastick, Evans, Goldsworthy, Groom, Groth, Gunn, Harrison, Hemmings, Hopgood, Hudson, Klunder, Langley, Olson, Payne, Rodda, Russack, Slater, Venning, Virgo, Wells, Whitten, Wilson, Wotton, and Wright.

Majority of 36 for the Noes.

Amendment thus negatived.

The Hon. PETER DUNCAN moved:

Page 3, after line 21, insert paragraph as follows:

(d1) any premises used as a home for aged or disabled persons by an eligible organisation within the meaning of the Aged or Disabled Persons Homes Act, 1954, as amended, of the Commonwealth;.

Amendment carried; clause as amended passed.

New clause 6a—"Modification of application of Act by regulation."

The Hon. PETER DUNCAN moved:

Page 3, after line 22, insert new clause as follows:

6a. The Governor may by regulation provide that a provision of this Act shall not apply to or in relation to any residential tenancy agreement or class of residential tenancy agreements or any premises or class of premises or shall apply in a modified manner.

Mr. EVANS: This Bill has caused some concern and, although the Committee dealt with the last amendment without the Attorney's explaining it, I think he should give reasons for moving amendments. Although those reasons are referred to in the Select Committee's report, unless the Attorney now explains them those reading *Hansard* will not understand what we are trying to do. If the Attorney does not explain the amendments, it may result in people taking wrong action and having to apologise for something in future.

New clause inserted.

Clauses 7 and 8 passed.

Clause 9—"Powers and functions of Commissioner under this Act."

The Hon. PETER DUNCAN moved:

Page 4, line 12, after "tenant" insert "landlord".

Amendment carried.

The Hon. PETER DUNCAN moved:

Page 6, line 11, after "prospective tenant" insert "or former tenant".

Mr. EVANS: Under the clause as it stands at present, the Commissioner does not have power to act for a former tenant; he can act only for a prospective tenant or a tenant. The amendment, which has been recommended by the Select Committee, should be supported.

Amendment carried.

Mr. EVANS: I move:

Page 6, after line 11, insert subclause as follows:

(12) Notwithstanding the provisions of this section, the Commissioner may not exercise any power conferred upon him under this section in relation to a residential tenancy

agreement upon the complaint of a former tenant under that agreement unless the complaint is made within a period of six months after termination of the residential tenancy agreement.

Some period should be set in which a former tenant has the opportunity to lodge a complaint. As six months seems to be a reasonable time, I ask the Committee to accept the amendment.

Amendment carried; clause as amended passed.

Clauses 10 to 19 passed.

Clause 20—"Powers of tribunal."

The Hon. PETER DUNCAN: I move:

Page 8, after line 34, insert paragraph as follows:

(a1) order the payment of any amount payable under the agreement;.

The Select Committee has recommended that this provision be included to ensure that this power is available to the tribunal.

Amendment carried.

The Hon. PETER DUNCAN: I move:

Lines 45 to 47, leave out all words in these lines and insert subclause as follows:

(2) The tribunal may make an order under paragraph *(a)* of subsection (1) of this section notwithstanding that it provides a remedy in the nature of an injunction or order for specific performance in circumstances in which such remedy would not otherwise be available.

It is intended to ensure that where, for example, a tenant leaves personal goods and effects on a property, the tribunal has power to order that they be stored. This involves matters ancilliary to the settlement of a tenancy dispute that may not otherwise be within the normal powers of a court or tribunal of this nature.

Mr. EVANS: I support the amendment. Some people were frightened about how far the original provision could go. Although a lawyer may disagree with me, I prefer the new clause, because I think it confines the matter a little more.

Amendment carried.

The Hon. PETER DUNCAN: I move:

Page 9, line 9, after "agreement" insert "or nearest to the place where that firstmentioned person resides".

The amendment is intended to ensure that, where amounts are to be paid, the tribunal's certificate is to be registered at the local court either nearest to the premises the subject of the tenancy agreement or nearest the place where the first-mentioned person resides.

Amendment carried; clause as amended passed.

Clause 21 passed.

Clause 22—"Proceedings of Tribunal."

Mr. EVANS: I am concerned about subclause (3). Although I realise the intent, it worries me that we are not directing the tribunal not to disclose this information or to make it available to any other authority or person. If the landlord or tenant says to the tribunal, "I will give you this information but, because it could incriminate me in certain circumstances, I want it kept confidential. It should not be released to anyone else", that should happen. I want an understanding from the Attorney whether or not he will support that principle and, if he will, I will ask a member in another place who perhaps has a similar belief to mine to move the amendment. Will the Attorney accept that principle?

The Hon. PETER DUNCAN: I am willing to consider the problem to see whether there is a solution to meet the point without upsetting the general intention of the clause.

Clause passed.

Clause 23—"Presentation of cases before Tribunal."

The Hon. PETER DUNCAN moved:

Page 11, line 12—Leave out all words in this line.

Amendment carried.

The Hon. PETER DUNCAN moved:

Page 11, lines 38 to 42—Leave out all words in these lines and insert the following subclause:

(5) A person shall not demand or receive any fee or reward for representing or assisting a party to proceedings before the tribunal unless—

(a) he is a legal practitioner;

(b) where the party is a body corporate, he is an officer or employee of the body corporate representing it under subsection (4) of this section;

or

(c) where the party is a landlord, he is the agent of the landlord appointed to manage the premises the subject of the proceedings on behalf of the landlord.

Penalty: Five hundred dollars.

Mr. EVANS: Although the amendment does not go as far as I would like to see it go, I support it. To take the matter further is not a simple process. I believe that we will still exclude the opportunity for those landlords who may have a friend with some expertise and who may feel inclined to use this friend or associate to represent him before the tribunal, and that that friend or associate should be paid a fee for appearing. Under this provision the landlord would not be allowed to do so and he would have to ask the friend or associate to appear for nothing or find another way to compensate him that no-one could ascertain. I am not totally happy that the amendment goes far enough, but it was what was recommended by the Select Committee. It covers most of the complaints raised in the Select Committee.

Amendment carried; clause as amended passed.

Clauses 24 to 26 passed.

Clause 27—"Order of Tribunal final."

The CHAIRMAN: I should point out to the Committee that the honourable member for Fisher wishes to oppose this clause and insert a new clause. The question before the Chair will be "That clause 27 stand as printed". If the question is agreed to, the member for Fisher will not be in order moving the new clause. Therefore, I will allow the honourable member to canvass his proposed amendment now.

Mr. EVANS: Thank you, Mr. Chairman. I oppose clause 27 because it provides categorically that an order of the tribunal shall be binding on all parties to the proceedings in which the order is made and no appeal shall lie in respect of such an order. I would seek to amend this clause so that if a landlord or tenant thought that he had not received just treatment, he could appeal to a local court of full jurisdiction.

It is important to remember that the tribunal will be able to solve most problems rapidly without any reason for either party to appeal. If the tribunal takes a particular bent towards one party, the party that believes that it has been treated unjustly should have a right of appeal. That procedure should not tie up the proceedings or cost much money.

At times there will be appeals, but they will occur only when people believe they have been treated unjustly. We must allow that appeal to a court. We are putting much power into the hands of the tribunal, and that person will vary from area to area throughout the State in the declared areas. I ask the Committee to reject clause 27 so that I can move my amendment to give people the opportunity to appeal to a local court of full jurisdiction.

The Hon. PETER DUNCAN: The Government supports the clause and opposes the proposed amendment. We are

providing in this clause a method by which a simple, cheap, just, quick, efficient remedy can be provided. In other words, unlike the present situation, and unlike any situation of which I know in the law, it will be possible under this new procedure to issue the proceedings and to have the matter dealt with and disposed of within 14 days. If appeal provisions are provided, this remedy will be destroyed.

Whether or not one likes it, it is always possible to use appeal provisions to delay any action. I do not say this about the member for Fisher, but some members opposite may believe that this clause will act against landlords. I ask them to reflect for a moment on the fact that, inevitably where delay is the matter at issue in any dispute between a landlord and tenant, it is generally the landlord who suffers. If the tenant is not paying rent, the landlord is trying to get him out, and the tenant decides to appeal to the Supreme Court or a higher court, it is the landlord who suffers. We believe that, to ensure that the remedy is final and fast, there should not be an appeal, apart from the normal prerogative writs, which it is proposed will run.

Mr. EVANS: I do not accept the Attorney's argument. I do not believe that people will exploit the situation as they have done in the past. The tribunal has the power to solve most problems with the support of the Commissioner for Consumer Affairs that may arise between landlord and tenant. The tenant will be able through the tribunal to claim on his bond money when there is just cause to do so if an argument arises between him and the landlord. The landlord will be able to claim against the bond money if damage has been done to his property, and he will be able to obtain compensation if the tenant disappears overnight. This provision would be used only when the tribunal goes awry. Prerogative writs might come into it, but I should like to ensure that the alternative is included. The alternative is contained in my amendment, which is as follows:

27.(1) A right of appeal shall lie to a Local Court of full jurisdiction within the meaning of the Local and District Criminal Courts Act, 1926-1976, against any order or decision of the Tribunal made in the exercise or purported exercise of its powers under this Act.

(2) The appeal must be instituted within one month of the making of the decision or order appealed against.

(3) The Local Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case—

(a) affirm, vary or quash the decision or order appealed against, or substitute, or make in addition, any decision or order that should have been made in the first instance;

(b) remit the subject matter of the appeal to the Tribunal for further hearing or consideration or for rehearing;

(c) make any further or other order as to costs or any other matter that the case requires.

(4) The Tribunal shall, if so required by any person affected by a decision or order made by it, state in writing the reasons for its decision or order.

(5) If the reasons of the Tribunal are not given in writing at the time of making a decision or order and the appellant then requested the Tribunal to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

(6) Where an order has been made by the Tribunal and the Tribunal or Local Court is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order until the determination of the appeal.

(7) Where the Tribunal has suspended the operation of an order under subsection (6) of this section, the Tribunal may terminate the suspension, and where the Local Court has done so, the Local Court may terminate the suspension.

(8) The powers conferred by section 28 of the Local and District Criminal Courts Act, 1926-1976, include power to make rules regulating the practice and procedure in respect of appeals made under this section and imposing court fees with respect thereto.

I believe that that is the alternative to what the Attorney is offering with no appeal, and that it should be fought for by Parliament. There is no point in debating the matter this evening. The Government has said "No", but I do not believe that its argument stands up to the test. I ask the Attorney to think about the matter again for a future time.

Clause passed.

Mr. EVANS: I apologise, but I do not know where I stand. I did not listen to your words properly when you put the question. I do not support the clause. I wish to oppose it and I wish to divide the Committee on it. Is that within my power now?

The CHAIRMAN: No, I am sorry. The question was put clearly and it was pointed out to the honourable member when I ruled that he would be able to canvass his amendment in discussing clause 27 but that I would put the question: that the clause stand as printed.

Clause 28—"Limitation of supervision by courts."

The Hon. PETER DUNCAN moved:

That this clause be deleted.

Clause deleted.

Clause 29—"Consideration for tenancy agreement to be rent and security bond only."

The Hon. PETER DUNCAN moved:

Page 13, line 8—Leave out "other" and insert "collateral".

Amendment carried; clause as amended passed.

Clause 30 passed.

Clause 31—"Security bond."

The Hon. PETER DUNCAN moved:

Page 13, lines 16 to 18—Leave out all words in these lines.

Amendment carried; clause as amended passed.

Clause 32 passed.

Clause 33—"Variation of rent."

The Hon. PETER DUNCAN moved:

Page 14, lines 29 to 31—Leave out all words in these lines and insert subclause as follows:

(3) A notice of increase of rent that has been given in accordance with this section and that has not been withdrawn by the landlord varies the residential tenancy agreement to the effect that the increased rent specified in the notice is payable under the agreement as from the day specified in the notice.

Amendment carried; clause as amended passed.

New clause 33a—"Increase in security bond."

The Hon. PETER DUNCAN: I move:

Page 14, after line 31—Insert new clause as follows:

33a. (1) Where the amount of the rent payable under a residential tenancy agreement has been increased pursuant to section 33 of this Act, the amount of the security bond payable under the agreement may be increased by the landlord by notice in writing to the tenant specifying the amount of the increase and the day on which it is payable, being a day:

(a) not less than 60 days after the day on which the notice is given;

and

(b) not less than 24 months after the day on which the tenancy commenced, or, if the amount of

the security bond has been increased under this section, the day on which it was last so increased,

but otherwise the amount of the security bond shall not increase or be increased.

(2) The amount of a security bond may not be increased under this section to an amount that would exceed three weeks' rent under the residential tenancy agreement at the time at which the amount of the increase would be payable.

(3) A notice of increase of the amount of a security bond that has been given in accordance with this section and that has not been withdrawn by the landlord varies the residential tenancy agreement to the effect that the amount of the increase specified in the notice is payable under the agreement on the day specified in the notice.

(4) The provisions of subsection (2) of section 31 of this Act apply to an amount paid pursuant to this section.

It is intended to ensure that, where a residential tenancy agreement goes on for a reasonably long period, the landlord has the right to increase the tenancy bond from time to time.

New clause inserted.

Clause 34—"Excessive rent."

The Hon. PETER DUNCAN moved:

Page 14, after line 38—Insert paragraph as follows:

(*a*1) the estimated capital value of the premises at the date of the application.

Mr. EVANS: I support the amendment, but I have argued that we should have included the other factor that was left out of the transfer of the Excessive Rents Act provisions to this Bill, and that was the Commonwealth Bank overdraft interest rate prevailing at any particular time. I think subclause (2) *(f)*, which refers to any other relevant matter, would give the landlord the opportunity to argue that the prevailing interest rate on the capital involved in owning or maintaining the property should be included.

Amendment carried; clause as amended passed.

Clause 35—"Duty to give receipt for rent."

The Hon. PETER DUNCAN moved:

Page 35—

Line 23—After "receiving the rent," insert "prepare and".

Line 31—After "1973-1975," insert "is required to prepare but".

Mr. EVANS: The tenant organisations have made this representation, and the Opposition supports it. We believe that the land agents who act for landlords should be at least requested to fill out receipts which are available to the tenant on the tenant's application. The rent book is a suitable receipt, and that will have to be used. At least, business agents or land agents will have to do the same as landlords operating on their own behalf.

Mr. BLACKER: Several times the question has been raised about whether, when the Savings Bank has been accepting rent from a tenant, it would have to fulfil the same requirements. It would apply to other banks as well, but I do not believe that the Savings Bank would come under the term "being a licensed land agent."

The Hon. PETER DUNCAN: It does not have to, because anyone paying money into a savings account receives a receipt from the bank which would be a satisfactory receipt for the payment of the money is such cases.

Amendments carried; clause as amended passed.

Clauses 36 to 43 passed.

Clause 44—"Landlord's responsibility for cleanliness and repairs."

The Hon. PETER DUNCAN moved:

Page 17, lines 5 and 6—Leave out all words in these lines and insert "or undue inconvenience to the tenant and the tenant has made a reasonable attempt to give the landlord notice of the state of disrepair".

Mr. EVANS: I support the amendment. Previously, the tenant could have had repairs carried out, if he believed there was an emergency situation, without reference to the owner, and then he could send an account to the owner. The amendment provides that the tenant must make a reasonable attempt to give the landlord notice of the state of disrepair. That is only reasonable.

Amendment carried; clause as amended passed.

Clauses 45 to 49 passed.

Clause 50—"Right of tenant to assign or sublet."

The Hon. PETER DUNCAN: I move:

Page 19—

Lines 10 and 11—Leave out all words in these lines.

Lines 12 and 13—Leave out "to assign or sub-let" and insert "of a tenant to assign his interest under the agreement or sub-let the premises".

After line 22—Insert subclause as follows:

(4) Any term of a residential tenancy agreement that removes or otherwise than in the manner referred to in this section limits the right of a tenant to assign or sub-let is void and of no effect.

This clause caused a great deal of anxiety amongst landlords generally, mainly because they misunderstood the existing position of the law, which is that, apart from any situation where there is an actual agreement, at common law the tenant has the right to assign or sublet. To ensure that it is made crystal clear that the landlord still will have the right to oppose any subletting, it is intended to include these amendments.

Mr. EVANS: I support the amendments. The principal landlords should be assured that, if a tenant sublets, then the subletting tenant carries all the obligations of a landlord. It was difficult to write that into the clause in simple terms. I wish to make it clear so that people who may read the debate know that, if a tenant sublets, he then becomes the landlord with all the responsibilities of a landlord.

Amendments carried; clause as amended passed.

Clause 51 passed.

Clause 52—"Tenant to be notified of landlord's name and address."

The Hon. PETER DUNCAN moved:

Page 19, after line 43—Insert subclause as follows:

(3) Where any name or address of which the landlord is required to notify the tenant under this section is changed, the landlord shall within fourteen days notify the tenant, or cause the tenant to be notified, in writing of the changed name or address.

Penalty: Fifty dollars.

Amendment carried; clause as amended passed.

New clause 52a—"Tenant not to give landlord false name or occupation."

The Hon. PETER DUNCAN moved:

Page 19, after line 43—Insert new clause as follows:

52a. A tenant under a residential tenancy agreement shall not falsely state to his landlord his name or occupation.

Penalty: Fifty dollars.

Mr. EVANS: I support the amendment. If the landlord is obliged to give his correct name and address, tenants should give their correct names and place of occupation. Some tenants have given false names or occupations and have been able to obtain accommodation for some time without paying rent, causing chaos to the landlord. This amendment improves the Bill considerably.

New clause inserted.

Clauses 53 and 54 passed.

Clause 55—"Discrimination against tenants with children."

The Hon. PETER DUNCAN moved:

Page 20—

Line 43—After "apply" insert "where the premises the subject of the tenancy are the principal place of residence of the landlord or".

Mr. EVANS: I support the amendment. Many people were concerned that, if they were transferred in their employment or were away on leave, they would be obliged to accept children if prospective tenants were families with children. The properties in many cases would be the principal home of the landlord, expensively furnished, and so on. By bringing forward this amendment, the Attorney has allowed those properties to be exempt from the previous provisions of clause 55. The case was argued strongly and I support the amendment.

Amendment carried; clause as amended passed.

Clauses 56 and 57 passed.

Clause 58—"Termination of residential tenancy agreements."

The Hon. PETER DUNCAN moved:

Page 21, line 33—Leave out all words in this line and insert paragraph as follows:

(e) where the tenant delivers up vacant possession of the premises with the consent of the landlord which once given is irrevocable;

Lines 37 to 41—

Leave out all words in these lines

Amendments carried; clause as amended passed.

Clause 59 passed.

Clause 60—"Notice of termination by landlord upon ground of breach of term of agreement."

The Hon. PETER DUNCAN: I move:

Page 22, after line 36—Insert subclause as follows:

(4a) Failure by a tenant under a residential tenancy agreement that creates a tenancy for a fixed term to deliver up vacant possession of the premises at the expiration of the term does not constitute a breach of the agreement.

This is a simple matter, which is clear from the amendment.

Amendment carried; clause as amended passed.

Clause 61—"Notice of termination by landlord upon ground that possession required for certain purposes."

The Hon. PETER DUNCAN: I move:

Page 22, lines 39 and 40—Leave out all words in these lines and insert paragraphs as follows:

(a) that he requires possession of the premises for their demolition;

(b) that he requires possession of the premises for the purpose of carrying out repairs or renovations that cannot be carried out with reasonable convenience while the tenant remains in possession of the premises;

This clarifies the position as to landlords obtaining possession.

Amendment carried; clause as amended passed.

Clauses 62 to 69 passed.

[Midnight]

Clause 70—"Application to Tribunal by landlord for termination and order for possession."

The Hon. PETER DUNCAN moved:

Page 25, line 39—Leave out "in the prescribed circumstances" and insert "where the premises the subject of the agreement are the principal place of residence of the landlord".

Amendment carried; clause as amended passed.

Clauses 71 to 82 passed.

Clause 83—"Application of income derived from investment of Fund."

Mr. EVANS: I move:

Page 29,—After line 13—Insert paragraph as follows:

(aa) in prescribed circumstances and subject to such conditions as may be prescribed, towards compensating landlords under residential tenancy agreements in respect of damage caused to premises by children whom the landlords were required by this Act to permit to live on the premises;

Line 17—After "persons" insert (including children).

The purpose of this provision is to make clear that, where a property owner has not chosen to have his property excluded from the provisions of clause 55 or could not have his property so excluded, when it comes to compensation one of the prescribed circumstances will be that he be considered for compensation for damages that may exceed the bond money being held on his behalf in relation to that property. This has two effects: first, it may deter some landlords from trying to avoid having children on their premises, because they would know that they would be more adequately covered for compensation. As a result, we may obtain a bigger supply of housing for families. Secondly, it gives the landlord compensation if he has had on his premises a family with children who ran wild in the property. If we expect landlords to accept a welfare responsibility, we should provide an opportunity for them to receive compensation for extra wear and tear in their premises.

Amendments carried.

The Hon. PETER DUNCAN moved:

Page 29, line 20—Before "in such other manner" insert "for the benefit of landlord or tenants".

Mr. EVANS: I support the amendment, which limits the Minister's power in the future in connection with expending money that accrues in the fund. It means that he can expend money only for the benefit of landlords or tenants whereas, under the provision at present in the Bill, he can expend money in such other manner as he may approve; that is too wide a power, and we are pleased that the area is to be restricted. The Minister may say later that he wishes to provide welfare housing. That opportunity would still be there.

Amendment carried; clause as amended passed.

Remaining clauses (84 to 92) and title passed.

Bill read a third time and passed.

LANDLORD AND TENANT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 2. Page 632.)

Mr. GOLDSWORTHY (Kavel): I support this Bill, which is consequential on the Residential Tenancies Bill.

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

HOUSING IMPROVEMENT ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from November 2. Page 632.)

Mr. EVANS (Fisher): I support the Bill.

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

ADJOURNMENT

At 12.11 a.m. the House adjourned until Wednesday, February 22, at 2 p.m.