LEGISLATIVE COUNCIL

Tuesday, August 12, 1975

The PRESIDENT (Hon. F. J. Potter) took the chair at 2.15 p.m. and read prayers.

QUESTIONS

ROAD DEATHS

The Hon. R. C. DeGARIS: I seek leave to make a brief explanation prior to directing a question to the Minister of Health.

Leave granted.

The Hon. R. C. DeGARIS: Complaints have been lodged with me that, following motor accidents where death has occurred (and these complaints have come from country areas), the body is taken to Adelaide for an autopsy. Can the Minister say, first, whether this is an administrative decision of the Government; secondly, what reasons has the Government for requiring an autopsy in the case of road deaths (passengers or otherwise); thirdly, are all road accident victims where death occurs subject to post-mortem examination; and finally, at whose cost are post-mortems performed?

The Hon. D. H. L. BANFIELD: I shall seek a report on this matter for the honourable member.

AUSTRAL-ASIA DEVELOPMENT

The Hon. C. M. HILL: On March 18, I asked the Leader of the Government in this Council questions regarding the South Australian Government's commercial involvement in Malaysia, also regarding the formation of certain companies that had been announced to achieve that involvement, and who were the personnel involved in the Government's plans. Although the Minister wrote to me between the Parliaments, will he now give the reply so that it can be incorporated in *Hansard?*

The Hon. D. H. L. BANFIELD: Austral-Asia Developments Proprietary Limited was registered under the Companies Act, 1962-73, on February 27, 1975. This company is a joint venture activity with the following participants: South Australian Government, 40 per cent; Penang Development Corporation (Malaysia), 20 per cent; Pernas, 20 per cent; and Development Property Finance Ltd., 20 per cent. Pernas is a trading organisation financed and controlled by the Malaysian Federal Government.

The authorised and paid-up capital of Austral-Asia Developments Proprietary Limited is $50 000. The directors of the company are: Wan Abdul Hamid, of Kuala Lumpur, Malaysia; Ahmad Khairummuzuammil, of Penang, Malaysia; Robert David Bakewell, of Adelaide; Richard Rawnsley Cavill, of Adelaide; and Max Leon Liberman, of Adelaide. The South Australian Government equity in the above company is held through a nominee entity also incorporated on February 27, 1975, and named South Austral-Asia Proprietary Limited. Three shares each of $1 have been issued, two of which are held by the Treasurer of South Australia and the other by the Minister of Works in their corporate capacities. The directors of this company are Robert David Bakewell, of Adelaide and Richard Rawnsley Cavill, of Adelaide. The company, South Austral-Asia Proprietary Limited, is wholly owned and controlled by the South Australian Government. The principal objects of the company are to sponsor, promote, and assist in the development of industry in South Australia and to subscribe to the capital of any business or company assisting in the development of, or engaged in, or proposing to engage in industry in South Australia.

The company, Austral-Asia Developments Proprietary Limited, has been incorporated to sponsor and promote any person, firm, company or organisation engaged in trade between the State of South Australia and the State of Penang, or between the Commonwealth of Australia and any other country, Territory or State (including the States of the Federation of Malaysia) generally. It is proposed that the company will act as a catalyst and a motivator to develop trade and economic interaction with Malaysia through the State of Penang. The objects of the company are broad and general, and it is proposed that the company's activities will generally conform to the requirements of the Industries Development Act, 1941-1971, with respect to funding. The company will be developed primarily to assist industry within the State of South Australia to trade and develop contact with Malaysia. Many companies in South Australia suffer from the lack of ability to diversify and build economies of scale by obtaining markets overseas. It is proposed that the activities of this inter-governmental corporate activity will assist in extending South Australia's industrial base and provide an outlet for our componentry in a wide range of industrial and domestic products.

A "mirror image" type of entity was incorporated on April 8, 1975, in Malaysia and named Australasia International Developments Sdn. Berhad. This entity has a nominal capital of M$1 000 000 (approximately A$300 000) divided into 1 000 000 ordinary shares of M$1 each. The equity participation in this entity is: Penang Development Corporation, 30 per cent; Pernas, 30 per cent; Development Property Finance Ltd. (nominee), 20 per cent; South Australian Government, 20 per cent. The South Australian Government's equity is held through its nominee corporation, South Austral-Asia Proprietary Limited. Only 500 000 of the 1 000 000 shares have been subscribed and the South Australian Government's contribution was A$32 970.

GAWLER HIGH SCHOOL

The Hon. M. B. DAWKINS: I seek leave to make a brief statement before asking a question of the Minister of Agriculture, representing the Minister of Education.

Leave granted.

The Hon. M. B. DAWKINS: Last Friday, in company with Dr. Eastick, the member for Light in another place, I inspected the facilities at the Gawler High School. It is not very many years since this school was regarded as a new school and, in fact, it was a new school. It was designed to cope with 600 students, but at present the enrolment is in excess of double that number, and I understand that the enrolment has increased by over 50 per cent in the last five years. In other words, five years ago the enrolment was about 800, and it is now over 1 200. The facilities, which were once very good, are now completely inadequate. There is a plan for a new block, which will include a resource centre. At present the school library is totally inadequate, and I understand that the new block will include other necessary classrooms. This project has been considered by the Public Works Committee. Will the Minister ascertain from his colleague the situation with regard to the school, which is in dire need of further facilities? What is the suggested programme for the project?

The Hon. B. A. CHATTERTON: I will refer the honourable member's question to my colleague and bring down a reply as soon as possible.

SOUTH AUSTRALIAN COMPANIES

The Hon. D. H. LAIDLAW: I seek leave to make a brief statement before asking a question of the Minister of Lands, representing the Minister for Planning and Development.

Leave granted.

The Hon. D. H. LAIDLAW: Last Friday Simpson Pope Limited, which has an Australia-wide business in domestic appliances but manufactures its products exclusively in the Adelaide area, announced a loss for the financial year to June 30, 1975, despite an 8 per cent increase in sales. The company omitted any dividend to ordinary shareholders. The directors blamed this poor result on "the impossibility of raising prices to combat rising wages, due to competition from oversea products". This announcement follows a gloomy result from Kelvinator Australia Limited, another large appliance manufacturer based in Adelaide. Its profit fell by 14 per cent despite an increase of more than 20 per cent in sales. Simpson Pope and Kelvinator employ between them about 5 000 men and women in their factories at Beverley, Keswick, Dudley Park and Finsbury. In addition, about 2 500 people are engaged in the Adelaide area making components for supply to Simpson Pope and Kelvinator. A larger work force is engaged in this industry than would ever have been engaged at Redcliff.

I understand that the managements of these companies are at their wits end to find ways to keep their factories in Adelaide utilised at an economical level. I refuse to accept that the best solution is for these companies to run down their activities in Adelaide and redeploy their assets by building factories in South-East Asia or near the large markets in Melbourne and Sydney.

Will the Minister say what initiatives will the Department of Development take in order to enable these two large South Australian based companies to continue to manufacture exclusively in the Adelaide area?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague and bring down a reply.

TROTTING LICENCES

The Hon. R. C. DeGARIS: I seek leave to make a statement before asking the Chief Secretary a question.

Leave granted.

The Hon. R. C. DeGARIS: It has come to my notice that the South Australian Trotting Control Board has adopted a new application form for the renewal of licences in the trotting industry. I was rather perturbed to see that part of that form reads as follows:

I hereby request the Commissioner of Police to make available to the Secretary of the South Australian Trotting Control Board, should the board so desire, full details of any convictions or any other information which the Police Department may have in reference to me.

As trotting is now under his control, will the Chief Secretary say whether he approved of this form for the Trotting Control Board and whether the Government intends extending this sort of inquisition into, shall we say, the area of members of Parliament before they are elected?

The Hon. D. H. L. BANFIELD: The answer to the second part of the honourable member's question is "No"; it has no relevance to the question. Regarding his first question, I did not see the form to which he has referred. Whether this was done by the Trotting Control Board, with the department's consent, I do not know, but I will find out.

The Hon. R. C. DeGaris: Do you think it is an invasion of privacy?

The Hon. D. H. L. BANFIELD: I will make inquiries for the Leader.

The Hon. R. C. DeGARIS: I direct a further question to the Minister. Does he consider that this question on the form to which I have referred is an invasion of individual privacy?

The Hon. D. H. L. BANFIELD: I will supply the answer to that question along with the answer to the Leader's other question.

COUNTRY HOSPITALS

The Hon. R. A. GEDDES: In his reply to a question asked by the Hon. Mr. Blevins last week, the Minister of Health said that two country hospitals (that is, at Keith and Kapunda) do not come under the Medibank scheme. Will the Minister say whether these hospitals, being country subsidised hospitals, will be able to obtain building subsidies from the State Government should they wish to effect any major alterations in future?

The Hon. D. H. L. BANFIELD: I think I told the Hon. Mr. Blevins when he asked this question that in the past the Government had not subsidised private hospitals. If a hospital does not become a recognised hospital under the Medibank scheme, it is deemed a private hospital. The Government has not subsidised private hospitals in the past, and we have not made any policy for doing so in future.

DIRECTOR OF LANDS

The Hon. M. B. DAWKINS: I seek leave to make a statement before asking the Minister of Lands a question.

Leave granted.

The Hon. M. B. DAWKINS: Some two months ago I asked the Minister of Agriculture a question, which he was good enough to answer last week, regarding the appointments of Directors of departments, referring particularly to the Fisheries and Agriculture Departments. In passing, I also mentioned the Lands Department, which for some time has been without a Director, the former Director, Mr. J. R. Dunsford, having retired. I expressed concern that some delay had occurred since Mr. Dunsford's retirement. Can the Minister now say when he may be able to make a permanent appointment of Director of Lands in the previous Director's place?

The Hon. T. M. CASEY: The answer is "No". I cannot give a definite date when the new Director will be appointed. This matter is under discussion by Cabinet, which is now considering the report of the committee of inquiry headed by Professor Corbett. When that report has been considered and the matter resolved by Cabinet an appointment will be made. I point out that the same situation applies in relation to the position of Acting Director of Agriculture.

TRUCK SIGNS

The Hon. A. M. WHYTE: I seek leave to make a short statement prior to asking a question of the Minister representing the Minister of Transport.

Leave granted.

The Hon. A. M. WHYTE: A constituent has asked me to request the Minister to have publicised the necessary requirements applying to signs written on trucks. My constituent contends that he was recently apprehended by Highways Department inspectors, although his name and the tare weight had been clearly and freshly painted on his truck. The lettering, the size of the lettering and the position of his name did not comply with the requirements laid down in the Act. Many people are not familiar with

the exact details contained in the Act and, although they could probably obtain this information from the Registrar of Motor Vehicles, I believe it would be an exercise in co-operation if the Highways Department and its inspectors were to inform as many people as possible that their truck lettering should be altered, rather than apprehending them and threatening prosecution. Will the Minister take up this matter with his colleague and assist with the problem?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague and bring down a reply for him.

FAUNA LICENCES

The Hon. C. M. HILL: I direct my question to the Minister of Lands, representing the Minister for the Environment. I understand that the Minister for the Environment administers the matter to which my question relates but, if the question falls within the ambit of another portfolio, I would like the Minister of Lands to redirect my question to the appropriate Minister. How many licences have been issued under the National Parks and Wildlife Act for private citizens, as distinct from dealers, to keep and sell protected animals, including birds, since July, 1975, and what is the total amount paid in fees by such licensees?

The Hon. T. M. CASEY: I will refer the honourable member's question to the Minister for the Environment and bring down a reply for him.

WEST BEACH RESERVE

The Hon. C. M. HILL: I seek leave to make a short statement prior to directing a question to the Minister of Tourism, Recreation and Sport.

Leave granted.

The Hon. C. M. HILL: I refer to an article in the *Advertiser* of December last year dealing with the West Beach reserve. The article was headed "$1 000 000 plan to boost recreation reserve". It went on to state: "Development of the West Beach recreation reserve into what is claimed will be the biggest and best multi-purpose sports centre in Australia may begin in a few months. Preliminary plans envisage an expenditure of more than $1 000 000 on the 400-acre reserve." Later in the article, it was stated that it was hoped that work would start in 1975-76. What is the present position regarding this scheme or, alternatively, are there any other plans for large-scale development of this 400-acre (161.9 ha) reserve?

The Hon. T. M. CASEY: I will get a report on those questions for the honourable member and bring down a reply as soon as possible.

SUBSTANDARD HOUSE

The Hon. C. M. HILL: Can the Minister of Lands, representing the Minister of Local Government, ascertain for me the reasons why the City of Adelaide has refused consent to South Australian Co-operative Bulk Handling Limited to demolish an old, small, empty, and substandard house at 23 O'Halloran Street, City?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague the Minister of Transport and of Local Government and bring down a reply.

SOUTH-EAST FINANCIAL ASSISTANCE

The Hon. N. K. FOSTER (on notice):

1. What has been the total State Government expenditure, including grants and loans, to the Mount Gambier and Millicent areas since the year 1970 in respect of public works, public buildings (education), primary industry (including bovine tuberculosis and brucellosis), afforestation and associated undertakings, community welfare (health), also all forms of assistance to private and commercial industry, and conservation, wildlife and national parks?

2. Further, will the Minister endeavour to have made available the figure representing Australian Government expenditure on a similar basis?

The Hon. D. H. L. BANFIELD: Following the notice given by the honourable member that he was going to ask this question, the honourable Leader also asked for similar information to be made available in respect of other electoral districts. The two replies are:

1. The information sought covers a wide scope of activities over several years of time. This information is not readily available and its compilation would require a considerable amount of research and clerical effort in a number of departments, which could not be completed in a short time. If the Hon. Mr. Foster would care to indicate more specific items on which information is desired, it could be more readily obtained.

2. The same considerations would apply to Australian Government expenditures.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from August 7. Page 90.)

The Hon. J. C. BURDETT: I support the motion. I should like to congratulate you, Mr. President, with respect to your appointment. I think there is one matter which has not been specifically referred to before, and that is the relationship between your responsibilities and the perhaps unprecedented number of new members. It does mean, Sir, that you have a special responsibility to guide and assist that large number of new members and I would suggest, with respect, that you are eminently suited to this task and I am sure they will get every assistance from you.

I should like to congratulate the new members and am looking forward eagerly to hearing their contributions (I have already heard some of them) over the whole period of this Parliament. Because I did not stand for election at the recent poll, I did not take the oath of allegiance when it was taken by those who were recently elected, but I take this opportunity to reaffirm my allegiance to Her Majesty.

I should like to say something briefly about the retired members. When I came into the Council (and tomorrow will be the second anniversary of my election) I received a great deal of assistance from all those members who have recently retired. I thank them, first, for their efforts in the interests of the State and, secondly, for the way in which they helped me. This applies to honourable members on both sides of the Council who have retired. Government members apparently were not always trying to help me, but even from those interchanges I did learn something. On other occasions Government members went out of their way to give me assistance, and I thank them.

I thank His Excellency for his Speech, which set out the Bills to come before us during this session. As they must be considered by this Council as well as by the other place, it seems that this is an appropriate time to express some thoughts (as the Hon. Mr. Carnie did)

about the role of this Council. It is particularly appropriate because of the new franchise and the radically changed numbers in the Council.

The Hon. Mr. Cornwall referred to the role of this place as that of a House of Review, and I believe that to be one of its main functions, although it is worth noting that, under the Constitution, no legislation passes Parliament unless it receives the approval of both Houses, and that, with some minor exceptions, the powers of the Council are as great as and identical to those of the other place. This Council has consistently taken seriously its role as a House of Review, and during the term of office of the Playford Government, when the Liberal and Country League, as it then was, had a majority in both Houses, the Council still acted as a sort of Opposition, and Government legislation was reviewed as rigorously then as it has been more recently under the Dunstan Government.

The Hon. N. K. Foster: Tell us how much you knocked back.

The Hon. J. C. BURDETT: Perhaps the honourable member would like to look at *Hansard.*

The Hon. N. K. Foster: You are making the speech. Inform everyone. Don't ask me to look for it.

The Hon. M. B. Dawkins: He does not want to find out.

The Hon. N. K. Foster: Inform the Council.

The Hon. J. C. BURDETT: This Council should acknowledge, and I believe consistently has acknowledged, that the Government is entitled to govern and that, except where some important matter of principle is involved, it is entitled to formulate its policies. If the Hon. Mr. Foster would like to know something of the history of this Council, it considered 167 Bills in the final session of the previous Parliament, and six of the 167 were negatived in this Chamber; one of those was not a Government Bill. One function of this Council has been, and I believe ought to be, carefully to examine the Minister's second reading explanation to derive therefrom what the Minister says he is setting out to achieve and to see that the Bill really does that. It is also necessary for the Council to see that the Bill does not go beyond the purpose set out by the Minister in his explanation and that it does not impose unnecessary controls and restrictions on individual liberties. Tn the previous Parliament there were many cases where the provisions of Bills went far beyond the policy enunciated by the Government in the Minister's explanation. In such cases it is entirely proper for this Council to prune the Bill to make it do what the Minister says he wants it to do. The Hon. Anne Levy referred to the necessity to balance the liberty of the individual, on the one hand, against the welfare of the community, on the other. I believe that this Council has a special role to preserve the correct balance, and in particular it has often been necessary to see that Government legislation does not unduly or unnecessarily curtail individual liberty.

The Hon. R. C. DeGaris: I wonder what the Hon. Mr. Foster thinks of the Privacy Bill.

The Hon. N. K. Foster: Speak up; I can't hear you.

The Hon. J. C. BURDETT: Perhaps the Hon. Mr. Foster will tell us that when he makes his speech in this debate. I believe that the need to which I referred will arise in the future and that it may arise with a Government of any colour. It is a natural tendency of Governments, of whatever political persuasion, to over-emphasise control, so that they can govern effectively, and to under-emphasise individual liberties.

The Hon. N. K. Foster: The franchise for about 100 years—

The Hon. J. C. BURDETT: I am not talking about the franchise.

The Hon. N. K. Foster: That was controlled.

The Hon. J. C. BURDETT: I am talking about the tendencies of governments. It is also a function of this Council to correct anomalies and to make legislation suitable to achieve the objects of the Government. It is obvious that this Council ought to consider the question of mandate, the question of any mandate which the Government has, and where the Government has been elected by a majority of the voters (which did not altogether happen at the recent election) it can be said that major and controversial items of its election policy, the things which were the issues during the election campaign, are the things for which the Government has received a mandate and that such mandate should not be defeated by this Council. But even in such cases, I cannot agree that the Government can legitimately claim a mandate for every line in its policy speech. There are often many things which, in all conscience, can hardly be said to have influenced the voters.

In this recent election the Government, in relation to members in the other place, received 46.7 per cent of the first preference votes. I have so far been unable to discover exactly what the preferred vote was, but it seems from inquiries I have made that it was less than 50 per cent. In the Legislative Council the Government received 47 per cent of the first preference votes and, with preferred votes, about 48 per cent. On that vote the Government obtained 54 per cent of the members, namely, six seats out of eleven. I do not know in the circumstances what kind of mandate this Government can claim; it has been elected by less that 50 per cent of the people.

The Hon. D. H. L. Banfield: What did the L.C.L. get as a percentage of the vote?

The Hon. J. C. BURDETT: I am talking about what the Government got.

The Hon. D. H. L. Banfield: And I am asking what the L.C.L. got.

The Hon. J. C. BURDETT: I do not know. Perhaps the Minister could look up the figures. I have made a point of considering the question of the mandate of the Government and the fact that it has seemed to me—

The Hon. D. H. L. Banfield: Do you reckon you got a mandate to knock back the Government's business because you got about 23 per cent of the votes?

The Hon. J. C. BURDETT: The Opposition Parties in total received more than 50 per cent of the vote and therefore, if they combined to knock back Government Bills, they would be quite entitled to do so. Another point on the question of mandate is that—

The Hon. D. H. L. Banfield: With 23 per cent of the vote—

The Hon. J. C. BURDETT: If the Minister cares to listen he will hear what I have to say on the question of mandate.

The Hon. M. B. Dawkins: He is as inaccurate as usual with his figures.

The Hon. D. H. L. Banfield: It was only 19 per cent, was it?

The Hon. J. C. BURDETT: No. Where legislation affects certain areas, certain sectors of the State, certain groups, it should be considered whether there was a

mandate from those groups. The numbers in this Council have changed radically.

The Hon. D. H. L. Banfield: For the better.

The Hon. J. C. BURDETT: Maybe, maybe not; we will find out as time goes by.

The Hon. N. K. Foster: You will be changing that red tie for a blue one.

The Hon. J. C. BURDETT: I am saying something about the numbers in this Council and whether they will be, in the changed situation, for better or worse. Previously the numbers in this Chamber were six Government members, 13 members for this Party, and one member for the Liberal Movement. Now the numbers are 10 for the Government, nine for this Party, and two for the Liberal Movement. In the past, Government members voted almost entirely on Party lines, and this is where an improvement may come. It may be for better or for worse; we will see. It was extremely rare in the past to see any Government members cross the floor. In view of their numbers in the last Parliament, I do not blame those members. Actually, they did very well with the limited numbers that they had. However, now that the Labor Party has greater numbers than has any other one Party, each Labor Party member of this Council will have far more freedom to carry out his duties as a member of a House of Review.

The Hon. D. H. L. Banfield: The people put us here to carry out Labor Party policy.

The Hon. J. C. BURDETT: Each member will be at liberty to express his own views.

The Hon. T. M. Casey: Go on!

The Hon. J. C. BURDETT: He will. The Minister saw the vote in this Council on the last sitting day of the previous Parliament, when we did not all vote in the same way.

The Hon. T. M. Casey: What you have suggested is ludicrous.

The Hon. J. C. BURDETT: The Labor Party will be at liberty to do what we have done in the past and will do in future; I am referring to the opportunity for each member to express his own views and vote accordingly, and not simply be a voting machine, as has applied in the past. I should now refer to the role of the Liberal Movement in this Council. It has been said that the Liberal Movement has the balance of power. Being somewhat cynical, I have wondered who has the balance of power. It could be said that the Liberal Movement has, that the Liberal Party has, or that the Labor Party has. After all, the Labor Party has the biggest balance. Actually, no one Party will be able to pass any legislation, carry any motion, amend any legislation, refer or defeat it without the co-operation of at least one other Party or some members of another Party.

The Hon. M. B. Cameron: Will you be nice to us?

The Hon. J. C. BURDETT: I am trying to be objective: I am not trying to be either nice or nasty, but I will be interested in the speeches made by Liberal Movement members in this situation.

The Hon. M. B. Cameron: For the first time!

The Hon. J. C. BURDETT: I have always been interested, and I will be particularly interested in the voting pattern, because that is where the crunch comes. I will be interested to see whether the voting pattern reflects those liberal principles that Liberal Movement members claim to espouse. So much for the role of this Council as a House of Review. In my opinion, the Legislative Council also has an initiating role, which has been exercised in the past. I believe that this role should be exercised in the future, because it would be inefficient if we did not have Ministers in this Council and if Bills were not introduced here. The present procedure is frustrating enough, when we have practically nothing to do in the early stages of the session. Then, in the later stages of a session, there is a frantic rush, with Bills introduced when we scarcely have time to give them the consideration that they deserve. This Council has had an initiating role in the past, and the situation to which I have referred would be made much worse if this were changed. I believe that more Bills ought to be introduced in this Council, particularly early in the session.

The Hon. D. H. L. Banfield: That takes away the role of a House of Review.

The Hon. J. C. BURDETT: It does not necessarily do that. Rather, it makes for legislative efficiency, either House considering legislation that has been initiated in the other House. To be realistic (we have recently heard much about realism in politics), this makes sense, because the Constitution acknowledges this position by providing that not more than eight Ministers shall come from the other place. On the subject of an Upper House being an initiating House, I am indebted to my former colleague, the Hon. Dr. Springett, who seems to get time to read much more than I do. He mentioned to me the following suggestion, which is contained in the book *The Lords,* which is available in the Parliamentary Library. The book, whose author has the unlikely title of the Viscount Massereene and Ferrard, suggests that all legislation should be initated in the Upper House, and then debated, corrected, put in proper form and good order in the Upper House before being sent to the Lower House. At page 264 the author says:

> My third suggestion for reform looks at the problem from an entirely different angle. That is to say, rather than have the House of Lords as the second Chamber revising and vetoing legislation, have the Upper House as the preparatory and first Chamber where all important legislation would be introduced, debated, examined and amended before being submitted to the second Chamber, the House of Commons. The latter House would have the supreme power, as it does today; but if it rejected the expert advice of the first Chamber with ensuing disastrous results, the nation would know where to lay the blame. In examining proposed legislation this reformed House of Lords would be enabled to call before its various committees any person or body whose expert opinion they considered necessary for the legislation under discussion.

Never fear, I do not intend to advocate the policy of introducing all legislation in this Council, but perhaps some of my more radical and progressive colleagues may wish to do so. I support the motion.

The Hon. J. E. DUNFORD: I intended to speak about myself, with your permission, Mr. President. However, I will not do so at this stage. After hearing the Hon. Mr. Burdett and members of another place, I am aware why the Liberal Movement has been formed. These people to whom I refer would not be needed in a political Party. The Hon. Mr. Burdett said nothing about this Council. I was going to talk about Jim Dunford. I hope some honourable members know me. If we are still here in six years time, all honourable members will know me. I did a bit of research. I want the Hon. Mr. DeGaris to hear this, because I will be talking about some of his statements. He is the Leader, and I will direct many of my propositions to the Leader. I am. supported by one of the best Labor Party Leaders possible; he came from the trade union movement and remained in this place until reaching 65 years of age; all honourable members spoke well of him. I am also

supported by some new members, including the Hon. N. K. Foster (a waterside worker), the Hon. F. T. Blevins (a seaman), and the doctor here, the Hon. J. R. Cornwall, who will look after the farmers (I will not). We have a good group of people who represent people, nothing else. I spent last week doing a bit of research on the history of the Legislative Council. There is a volume of material about this Council, and it is all crook. I have picked out four little chapters that really say what we are. I am going to talk about the Legislative Council, not myself. This is what happened when we were first formed:

> The form of government introduced in 1842 was that which was recommended by a Select Committee of the British Parliament, which had inquired into South Australian affairs in 1841. There were to be seven members of the Legislative Council—

Mr. DeGaris would like to be here running the whole show by himself, without the Liberal Movement—

> to aid the Governor. Governor Grey had the power to nominate these seven members—

they certainly would not be Irishmen or Freemasons—

> three of whom were officials in the colony, and the other four being unpaid non-official members—

they would be getting a nice old perk—

> There was as yet no representative elected by the people of the colony, and Grey—

he was our Governor at the time—

> did not seem anxious that there should be. The arrival in January, 1851, of this new Constitution for the colony came at a time when further discussion of the question of State aid to religion was taking place. This was the most important issue in the elections for the enlarged Legislative Council. These elections, the first the colony had ever had, aroused great interest. There were 16 districts, each electing one candidate. Each elector had to own property worth at least £100 or pay £10 a year for rent—

Being a person did not make any difference: one had to own property, and we know how people got property in those days. One had to be much richer than one is today. The quote, referring to an elector's qualification, states that he must pay £10 a year for rent, pastoral licence or lease, and continues:

> For the candidates themselves, the figures were much higher: they had to own freehold property worth £2 000 or pay £100 in annual rental. Only adult men—

it does not refer to women (of course, there were no women in the colonies in those days!)—

> could vote, and of these a great number (about two-thirds) either did not qualify or did not bother to vote. There was no secret ballot—

about which Mr. DeGaris speaks all the time—

> each voter having his vote recorded in a book—

The person concerned had to sign his name. How would one get on in the Australian Workers Union or any other union if one did that? Yet that is what was decided. The quotation continues:

> Many meetings were held in the electorates, and voting began on July 2, 1851. The polling booths were strikingly decorated and often surrounded by supporters, while there was also much activity in the streets. The election was completed in 10 days, and in the following month the Council held its first meeting in the new court house in Victoria Square.

I should like now to refer to some of the notes that I have made about the Legislative Council. This Council was formerly one of the most powerful second Chambers in the world. Its powers were modelled on those of the mid-19th century House of Lords but, unlike that august institution (we are more crook than they are) it had never been subject to a Parliamentary Bill. It can reject any Bill, including money Bills sent up from another place, which is the most important place as far as I am concerned. The Legislative Council can, in effect, amend any Bill, except those appropriating revenue for policies already approved, as the amendments it recommends to another place are backed by the ultimate sanction of rejection. Moreover, the deadlock provisions are complex and time-consuming, and give no guarantee whatever that a Government in conflict with the Council would emerge victorious, even though that Government had secured popular majorities in a series of elections. You cannot win; that is what it means. It is like playing two-up with double-headed pennies. The franchise provisions for the Legislative Council were restrictive. Complex in form, they embodied in practice a "head of household" franchise, modified by a vote for the wife in the case of joint ownership, and by ex-serviceman qualifications. Moreover, both enrolment and voting were voluntary.

In 1965, only 38 per cent of House of Assembly electors were on the Legislative Council roll, and turnout in the contested districts was small. While these franchise provisions handicapped Labor, that Party, of which I am proud to be a member, was further disadvantaged by the boundary arrangements for the Legislative Council. Three of the five four-man districts were non-metropolitan districts, while the division of Adelaide into two Council districts, roughly following the line of the Torrens River, had the effect of confirming the effective Labor vote to a single Council district, Central No. 1. The result was that for nearly a generation representation in the Council had been Liberal and Country League, 16 members (the Liberal Movement was not around in those days), and Labor, four members. I am led to believe that the Labor Party would not have had four representatives in the two seats concerned if the L.C.L. had contested those two seats. However, the Council had to function, so the Liberal and Country League tolerated their presence. I have carried out surveys, and some of the Legislative Council members have now left the Council. Look at what is said about factionalism in the Liberal Party from 1968 to 1970.

I do not want to be rude or offend anyone, but one should have a look at the cave-dweller types of people or troglodytes that they send here. I refer, for instance, to Mr. Dawkins: he is still here, reading the paper. Then there is Mr. Kemp, who is not here now, and Mr. Rowe has gone. But Mr. Whyte is here: he is a cave-dweller type. This is all recorded. These are cave-dwellers or standover types. There are plenty in another place, too; for instance, Ted Chapman. There are the conservative types such as Mr. Allen, who is not a bad type of person; he comes from the country, and I know him personally. There are the former members, Mr. Ferguson and Mr. Giles, and there is Mr. Venning, who is not a bad type. But fancy calling Mr. DeGaris, Sir Arthur Rymill, Mr. Story, and Mr. Potter conservatives! Then there are the moderates: Brookman, Edwards, Evans, Freebairn, Nankivell, Rodda, Teusner, Wardle, and Hill. Mr. Hill is said to be a moderate: he must have sold his business. Let us look at the progressives: Coumbe, Hill, Millhouse, Arnold, McAnaney, Pearson, and Steele: they are not bad types. If you, Mr. President, can tolerate my continuing—

The PRESIDENT: I do not know whether I can tolerate the honourable member's referring to other honourable members in derogatory terms, because that is contrary to Standing Orders. Honourable members may very well object.

The Hon. J. E. DUNFORD: They may. Indeed, I will give them a copy of this; it is a free document. Mr. DeGaris will not be offended because we will have plenty

of fights. He will most probably win one of them: that is, when we abandon the Council! But here is a person who believes, and said in his policy speech, that we are Independents. He said, "We do not belong to a political Party." I come into this Council as a member of the Australian Labor Party, representing the Government and its policies. Mr. DeGaris said we ought to be independent so, when I heard his speech the other day, I thought, "There must be something wrong with him, because no-one is independent in this society." One cannot be independent. In our way of life, and in our democracy, one must take sides. I have taken sides and, I believe, the right side. I should like now to refer to a report in the *Sunday Mail* by Mark Day, who interviewed Mr. DeGaris in the front bar of the Gresham Hotel. This took place when they were having trouble with Steele Hall, before they knocked him off. Although I do not want unduly to take up the time of this Council, and although I am not having a personal shot at Mr. DeGaris, I should like to refer to this press report. I know we must stop by 4.15 p.m., because the Council never works any longer than two hours a day, but I want the Council to know the pertinent facts. Mr. DeGaris is reported as saying:

I do not believe that Party politics should intrude into the Council—

that is, the Legislative Council—

I believe a Councillor should be independent. I don't see the Council as 16 L.C.L. and four A.L.P. I see it as four A.L.P. and 16 Independents—well, perhaps there are one or two there who want to get involved in Party matters—

Does anyone believe that Mr. DeGaris would not get involved in Party matters? It is ludicrous. The report continues:

...perhaps there are one or two there that... liaise with the Assembly but we don't like them.

What happened to Steele Hall? When Mr. DeGaris no longer liked him he sacked him. Mark Day then asked a question as follows:

You mean Martin Cameron?

That is the honourable member opposite, representing the L.M., and Mr. DeGaris replied:

Well, he's one that comes to mind. But, you see, I have learned to be non-partisan.

If one had ever been a trade union official and had approached Mr. DeGaris on union matters one would know how partisan he really is. The quote continues:

When I first entered the Council I went to a Party meeting and said: "Well, how should I vote on this Bill?" and I was kicked from wall to wall. I was told, "You will do your homework and decide for yourself how you will vote. And you will vote for the best interest of the State." I've never involved myself in Party politics and I won't let politics be discussed in the Party room.

What is he here for? The report continues:

We discuss legislation, who will speak when we answer questions for those who want to know about a particular clause...

Mark day then asked the following question:

Was it like this in Sir Lyell McEwin's day?

That is the person we have heard most people eulogise, but I have only met him at Port Pirie, and he never impressed me. Mr. DeGaris answered that question, as follows:

Yes, he taught me.

The next question and answer was as follows:

Isn't this the perpetuation of an ancient regime, rather than changing with the times?...It's not ancient, and it shouldn't be changed. You see, the best Upper Houses in the world are the strong ones, totally independent of Party politics.

One would have to leave Australia and go to another country to hear a statement such as that. Mr. DeGaris went on to make the following statement:

They are the appointed ones—not elected by the people. Six-year terms in South Australia are not long enough. It doesn't give a man the chance to make himself independent of outside pressures such as getting re-elected.

Of course, if one is not popularly elected the time is never long enough, and honourable members in the past could sit on their backsides, be well paid, and everything was sweet. The Leader was then asked:

How can you advocate putting so much power into the hands of people who have no responsibility to the voters? You just can't do that in a democracy!

The reply was as follows:

Democracy! Pah! Look, is what the Assembly does always right? Is their shopping hours legislation what the people want?

Mark Day then asked the following question:

Possibly not, but why should you have the power to toss it out of the window if that's what the elected Government proposes?

Mr. DeGaris then said:

But they have no mandate for this. They are going against a referendum. I think it should be delayed until the issue can be tested at an election. No. The people don't want a weak Upper House.

I agree with him on that point. The report by Mark Day continues:

"Dunstan must be laughing," I said. It was the day the balloon went up on shopping hours, when the Government could have expected headlines saying they had caved in to the unions and would, by imposing overtime payments on the storekeepers, force a rise in prices. On that day the headlines were all on the Liberal and Country League's troubles. Ren—

that is Mr. DeGaris—

said a vote was taken in the House lounge during dinner to decide whether members there wanted to watch the Premier explain shopping hours on channel 9 or Steele Hall explain his decision on channel 2. They watched channel 2, and we laughed that the Premier couldn't even get a hearing in Parliament House.

Mark Day then asked the following question:

Why don't you switch from the Council to the Assembly? You could have the Leadership, especially if you got them to install a caretaker.

Mr. DeGaris replied:

I don't want it. I have said that many times. I am not interested. I couldn't do the work.

Here we have the Leader saying that he cannot work in another place, he cannot work with his Party, he is completely devoid of Party politics, and he is independent, yet he will be, I believe, the main spokesman in this Council for the Liberal Party. Of course, this will make the job much easier for the honourable members on the Government side.

I should now like to refer briefly to a newspaper which I read only because it is the only paper I can buy in the morning but which I do not especially like. An article published in the *Advertiser* on May 11, 1974, said much about the New South Wales Legislative Council, which was instituted long before the South Australian Legislative Council: the New South Wales Legislative Council has existed for 150 years, and the South Australian Legislative Council for 134 years. Many comments were made about how crook the New South Wales Legislative Council was. I have been informed by my Leader that honourable members must make their contributions as brief as possible without boring the Council and members of the public visiting it, although I do not see why this is important, because no-one comes to listen to us—no-one would be

mad enough to waste his time listening to us: we are not important enough. The people who are important are those creating the legislation in another place. Jack Lang is now 96 years of age, and for the comments he made about the New South Wales Legislative Council he received a prize, a journalist prize (and the journalist's employer was certainly not on our side). The *Advertiser* report states:

> But the prize for the pithiest put-down goes to Mr. Jack Lang, former Labor Premier of New South Wales, who once damned it as the "House of Revue". If Lang was right, the Council is the longest-running show in Australian politics. It has a terrible audience rating, a painful script, questionable public benefit and performers of widely varying quality.

That could be said about the last speaker. Fancy his talking about workers; he would not know, but I will deal with him at a later date. If they had not sacked Mr. Burdett and Ted Chapman from the Liberal Movement, the Liberal Movement would have lost another 5 per cent of the votes. Its casting system can only be described as extraordinary, having more in common with the electoral processes of the Holy Roman Empire than with modern democracy.

Mr. President, with your indulgence—and I have changed my approach to the Council today because, after listening to Mr. Burdett, he nearly had me, or whoever is listening, convinced—I was going to tell the Council and the public that I am here for one reason only, to represent the people of South Australia. He is only saying we should be here because we are doing something functional, and that is why we have to knock the Council. I was not going to knock the Council as much as that, but it shows us how crook it is.

I think those members in the Council who do not know me should, and I take this opportunity to tell the Council and the public where I stand. I made a few notes and this is my approach to the Council. It is with pride and appreciation that I stand in this Chamber representing the greatest and most progressive political Party in Australia. I have been an Australian Labor Party member all my working life. I am also proud of my 34 years association with the Australian Workers Union. I gained valuable experience as a member of the Australian Workers Union and was eventually elected by ballot (and a secret ballot, too) to every official position in the South Australian branch, culminating in my election, unopposed, as Secretary in 1971.

The Dunstan Labor Government won a great victory on July 12. It was great, because no-one can deny that the Liberals brought Billy Snedden over here; they also had Fraser, Bjelke-Petersen, and Hamer over here. They had all the big guns, and Dunstan knocked them out—they could not live with him in this State. There is no doubt about Dunstan's popularity in South Australia. Lynch came over here and tried to force him into a bit of a fight about some publicity in Sir Arthur Rymill's press. We know Sir Arthur Rymill: we can read about him in *Who's Who.* Can we imagine Sir Arthur Rymill being an ordinary sort of person, impartial and completely free of politics?

Since the Dunstan Labor Government's great victory on July 12, I have had messages of congratulation from the Broken Hill meeting of members, the Wentworth, New South Wales, meeting of members, the Port Augusta meeting of the Commonwealth Railways section, the General Secretary of the Australian Workers Union, F. V. Mitchell (the National President of the Australian Workers Union). Mr. E. Williams (the State Branch Executive of the Australian Workers Union), and Mr. Jim Shannon (Secretary of the United Trades and Labor Council of South Australia) on behalf of its executive.

The decision was endorsed subsequently by the Trades and Labour Council meeting on the same night, representing over 100 000 South Australian trade unionists. This is the sort of reference that encourages me to continue to support, in the strongest possible terms, the hopes and aspirations of unionists in South Australia. I purposely use the term "unionists", and I point out that too many workers are receiving the benefits of the trade union movement but are not prepared to pay for those benefits. Bob Hawke, a very close comrade and personal friend of mine, was absolutely correct when he described as "bludgers" non-unionists who take union benefits without paying. To add further insult to the trade unionist, some employers give preference of employment to non-unionists even though some awards provide preference to unionists. I will be dealing more precisely with this matter if legislation comes before this Council.

Because of my involvement in the Australian Labor Party as a delegate to policy-making conventions and as a State executive officer of the A.L.P., I am acutely aware of the many social issues facing the under-privileged in our community. I instance in line with that the sick, the poor, the aged, the handicapped, and pensioners. Labor has always been a Parly embracing in its platform Socialist objectives, creating a better society for all to live in and not the privileged few, like us privileged people here.

The employing class, speaking through the Liberal Party and more recently the Liberal Movement, is trying, through and with the assistance of its greatest supporter, the media, to peddle the old and time-worn Liberal philosophy that, if business is in trouble, workers should bear the brunt of solving the problem., with a further lowering of their wage standards or by creating unemployment. I have been a working trade unionist in many occupations. I have worked under appalling conditions dating back to 1936, when I had my first job selling newspapers on the street corners of Melbourne. This was a necessity in the days of the depression, when a family had no breadwinner. My father, who was a shearer and a jockey of some repute, passed away in the early 1930's. He was a staunch supporter of the A.L.P. and a loyal trade unionist. The short schooling I was able to have was with the Good Samaritan nuns, the Christian Brothers, and St. Ignatius, Richmond. Many thanks go to them for their tolerance of such a developing agitator. That is how we developed in those days. People developed into agitators because of economic circumstances: it is not brought about by trade unionists.

I would not be in this Chamber if I had not taken the advice of my dear mother, who was a visitor in this Chamber last week. I can always remember her parting advice when I went to the bush milking cows for a wealthy squatter for 25s. a week and keep seven days a week. She said, "Always do the right thing." I did the right thing. I dried his cows off and left him to milk them himself. This is the sort of thing people had to tolerate. It is not 100 years ago I am talking about: I am talking about when I was a boy.

Worse experiences were to follow. I got a job roustabouting at Golf Hills station. There were 36 000 sheep, and the people who owned the property had. a Hereford stud at Geelong. When I arrived there, I was given two empty chaff bags to fill up. That is what we slept on. They certainly did not want us to learn or read newspapers in those days, because we had a hurricane lamp among six of us: that was all we got. This is not very long ago. The graziers argued in those days, of course, that it was too

big a risk to give a shearer a decent mattress. The pastoral industry was to be my professional occupation in all States for 18 years. I know you are reading the newspaper, Mr. President, and can understand that.

I was not accepted by the shearing contractors or the squatters (they are nice and crook; you know them, Mr. President, and Mr. DeGaris knows them), because of my agitation for improved wages and living conditions. That is all I wanted—a few bob and somewhere decent to sleep and decent food to eat. Some squatters were reasonable, but the big family names were unreasonable. I could name them all here. The big family names that own all the big properties here in South Australia are the most unreasonable of all time. I have worked for soldier settlers and private graziers, very nice people to do business and to work with, but the big names have filthy water for the workers to drink, and even Ted Chapman from Kangaroo Island said this recently. No wonder he wants to go Commonwealth!

I should like to comment on the election of July 12. I think I should, because that is why we are all here. It was forced on the Dunstan Government by this Council, which should not be here at all; honourable members know that we should not be here. The Railways (Transfer Agreement) Bill was introduced on June 10, when the Premier set out clearly the immediate and long-term benefits to the State. I say that quite advisedly. It was to the benefit of every working person and every person living in South Australia. Tn addition, the petrol tax was to have been removed. We all know what an impost that has been on the working class. Perhaps we who are here can afford that, but the workers cannot afford increases in petrol prices. It was to have been a two-way go. There was the Commonwealth Bill, the railway take-over, and a reduction of 6c a gallon in the price of petrol. Don't go away, Martin; I have not finished yet.

I am concerned particularly with working people in the country areas. When I was a union representative and a union secretary, 9 000 of my members lived in country areas, travelling up to 160 kilometres a day to do their work. There is no public transport for them and they must have a motor vehicle, and it is dear enough to buy one in the first place. I conducted meetings with railway workers, because the Australian Workers Union covers the majority of railway workers in South Australia. They all agreed, after hearing the assurances from the Government, that no-one would be disadvantaged by the Railways Bill. At every meeting I attended, from Mile End to Port Augusta and Marree, it was unanimously accepted that the Government's attitude was correct. I believe that the railways legislation (and I am sure the Bill will be carried today) will create fast and efficient transport from one State to another.

Benefits will flow to producers and manufacturers and I am sure the armed services would support the standardisation of the rail system. A national railways system would make it possible for the railways to compete with road transport, with the further benefit of decreasing the existing congestion on our roads, with large trailers and their obvious dangers and pollution effects.

I take the opportunity to say how disunited the Liberal Party is on a national basis. I am not speaking of the State situation; we all know how bad that is, and Ren has gone already. I shall quote a question asked in the Victorian Parliament on March 7, 1972, by Mr. Trezise, the Labor member for Geelong North, who asked Sir Henry Bolte this question:

Does the Premier propose to hand over the Victorian Railways lock, stock, and barrel to any Commonwealth Government which is prepared to accept them and if there is a Commonwealth Government which will accept them, will there be any costs or strings attached to the hand-over?

Sir Henry Bolte replied:

I think the honourable member is being facetious about this. I pointed out to the Prime Minister and the Treasurer—

and they were not a Labor Prime Minister and a Labor Treasurer at that time—

of the day that the Victorian Railways are the greatest chain around the neck of the Victorian Budget. This financial year, after writing off considerable sums, the Victorian Railways will lose approximately $29 000 000. It is not a question of taking over the Victorian Railways: it is a question of taking over the $29 000 000. If any Commonwealth Government, left or right—

that is how Sir Henry Bolte used to speak; he was a farmer. First we had Bolte and now we have Fraser—

is prepared to do that, I am in the market...

That is what Sir Henry said: I am in the market. I should like to place on record the contents of an article appearing in the *Advertiser* as recently as August 11, 1975, which states that the result of a Gallup poll in South Australia showed that 57 per cent of people favoured a Federal take-over of the railways. That was after the recent election, despite Bjelke-Petersen and the ratbag issues brought in. Those people were asked to vote by a Labor Government on this very proposition. Comments by people favouring a Federal take-over were to the effect that the railways were in a financial mess and needed Federal support; that we should have a standard rail service; that there was need for a unified gauge; that we would probably get better service and a lower price; that the States had failed to provide good services; that something had to be done, they were shocking as they were; and that the Liberals would not agree for political reasons.

The Liberals in Canberra have agreed, and the Liberals here have agreed, but the Liberals and the Independents, as they call themselves, do not agree in this Upper House. An article appeared in the *Sunday Mail* on June 22, 1975, making it quite clear that one of the arch enemies of Labor, Sir Robert Askin, wanted the Commonwealth Government to take over the New South Wales Railways. The article states:

Many Australians could be excused if they believed that Mr. Whitlam's railway policy was another example of his centralism gone mad. The beauty of the present situation for him is that this is certainly not so. That great States rights man. Sir Henry Bolte, was the originator of the idea that the Commonwealth should relieve the States of their greatest financial burden, their country and interstate railways. The former New South Wales Premier, Sir Robert Askin, soon followed Sir Henry's suggestion. It is almost three years since Mr. Whitlam, in his 1972 policy speech, said that his Government, if elected, would accept the offers of Sir Henry Bolte and Sir Robert Askin to take over their State railway systems and would accept such an offer from any other State. In New South Wales Sir Robert Askin agreed to officer level discussions on the transfer of railways in March, 1973. It was the new and brash New South Wales Premier, Mr. Lewis—

who comes from somewhere in South Australia, although he certainly was not a shearer—

who broke off discussions on February 11 last despite the fact that talks had almost completely clarified the areas to be considered by the two Governments. However, the publicity given the whole railway question during the week and the prominence it will continue to get in Tasmania this week and South Australia up to July 12, will make it impossible for the issue to be swept under the carpet.

It would be irresponsible of me not to make my position clear on one of the most important issues facing our society, the legalising of marihuana. I have read the

report of the Senate Select Committee (I hope I will get a bit of press out of this) and, without going into detail today, let me say that one could quite honestly assume, like many others who have read the report, that the use of marihuana was harmless. This report was made in 1971. Further investigation is being dealt with by the Senate Legislative and General Purposes Standing Committee on Health and Welfare. My information is that its deliberations will show that the use of marihuana is dangerous. As a responsible parent and a member of the Labor Government, I would strongly oppose at this stage legislation for the sale or use of marihuana in our community.

In the many debates in this Council in which I hope to participate in the future, I want to inform the Opposition (Ren looks sleepy—I wonder whether he is crook or something) that I will be supporting all of the Labor Party's election promises with vigour and honesty. When given the opportunity and when promoting legislation, I will not in any circumstances while debating legislation attack private citizens by calling them animals, nor will I suggest to the Parliament that shearers ought to be flogged with the cat-o-nine-tails for damaging accommodation. Further, I will not make such statements as this: "If employees are not effective, stand them down and let them go hungry." Another such statement is as follows: "We hear about wage fixing, but as far as I am concerned (I am not quoting myself) wage reduction is the answer." Ted Chapman from Kangaroo Island is reported in *Hansard* as being guilty of these disgraceful attacks in the House of Assembly. In conclusion, I would like to place on record that, in the event of the Legislative Council's not supporting the Railways (Transfer Agreement) Bill, I would support a referendum of the people of South Australia to abolish this Council.

The Hon. F. T. BLEVINS secured the adjournment of the debate.

RAILWAYS (TRANSFER AGREEMENT) BILL

Adjourned debate on second reading.

(Continued from August 7. Page 88.)

The Hon. D. H. L. BANFIELD (Minister of Health) moved:

That Standing Orders be so far suspended as to enable the Bill to pass through its remaining stages without delay.

Motion carried.

The Hon. R. C. DeGARIS (Leader of the Opposition): First, I want to say how pleased I was to hear the maiden speech of the Hon. Jim Dunford and how pleased I was that he had done so much homework! There is no question that the Opposition will have a lot to fear if he does more such homework! Before dealing with the Bill in detail, I should first like to make a few general comments. It is obvious that, irrespective of the outcome of the Bill when it was previously before the Council, there would have been an election in South Australia. The statement that this Council was responsible for the election is not sustainable. The Government would have called an election irrespective of what happened to the Bill in the previous Parliament.

In view of the Chief Secretary's statement that, if this Council dared refer the Bill to a Select Committee, it would be regarded as a defeat of the Bill, it is obvious that there would have been an election, irrespective of what the Council had done. It was a piece of legislative stand-over tactics to which I hope the Government will not resort in the future. The Bill was forced to a decision in one day. When he replied to the second reading debate, the Minister in charge of the Bill in this Council did not provide one satisfactory answer to any of the important questions raised by speaker after speaker. When the motion for reference to a Select Committee was on the Notice Paper, the Chief Secretary clearly said that, irrespective of what happened, if we referred the Bill to a Select Committee, there would be an election.

There appears to be one thing lacking in our State Constitution—a requirement that, before any State undertaking or State power is transferred to Canberra's control, such a transfer should be approved by the people of South Australia at a referendum. I do not think any honourable member could object to that, because, after all, it is the people of South Australia who have the right to make the decision. And they have not had that right in connection with this Bill. The Government may claim that an election has been held on this issue and, therefore, the people have approved such a transfer. Once again, such a claim cannot be sustained, because in the areas most affected by this Bill, the non-metropolitan areas, the swing against the Government was dramatic. Here we are transferring the railway services in one section of the State to Canberra's control, yet in that section of the State the swing against the Government was dramatic. The vote in favour of the Government throughout the State was about 47 per cent; as the Hon. Mr. Burdett said, on a preferred basis it was less than 50 per cent.

In any case, irrespective of the outcome of the election, if the proposed transfer had been put to a referendum, there is no doubt that the transfer would not have been approved by a majority of voters, irrespective of the results of a Gallup poll recently published in the press. I believe that, if the full facts of this rail transfer were understood by the people of South Australia, they, exercising their right at a referendum, would reject the transfer to the Canberra bureaucracy. The Bill fits very well into the proclaimed philosophy of the Australian Labor Party and the proclaimed philosophy of the Premier and the Prime Minister; that is, the achievement finally of total control by the Canberra bureaucracy. This Bill is only one step on that course, but it is a more important step than Medibank, the Australian legal office, or the proposed Australian Government insurance office. It is the most important step that those who believe in a centralist philosophy could achieve. The control given to Canberra in this Bill will lead inevitably to the domination of all transport policies in this State from Canberra. One has only to study the statements made by the Prime Minister during the Bass by-election campaign to see this and to come to a clear understanding of where the Commonwealth Government intends to go or, if one studies the 1957 Chifley memorial lecture delivered by the present Prime Minister, to be further reinforced in the opinion that the ultimate goal is total centralised control of transport in Australia. There may well be a case for the re-examination of rail transportation in Australia. That I do not deny. However, the forced sale to the Commonwealth of our non-metropolitan rail services, the division in our own rail services, is not the way to go about tackling this problem. As I said previously, the correct method would be to refer the question to a special subcommittee of the established Constitution Convention for re-examination and report.

The reason for this recommendation is, of course, clear. Let me give two examples. First, there should be an overall examination of total rail operations throughout Australia. That cannot be done with six or seven separate

agreements being made with the Commonwealth Government. Secondly, there should be a close examination of the constitutional problems inherent in this rail transfer.

I turn now to the Bill and the schedule, the latter being the legislation that has already been passed by the Commonwealth Parliament. The passage of the Bill through the Commonwealth Parliament, before an opportunity was given to this State to debate the issue, is quite unjustified and serves to illustrate the contempt that the Commonwealth Government holds for the viewpoint of any State Parliament. The correct procedure would have been for this State to debate the issue, determine what the agreement was to have been, and what would be submitted to Canberra for ratification, and not the reverse.

The first point that arises regarding this agreement is its legal enforceability. It was a point which was raised in the previous Parliament but on which, once again, the Chief Secretary made no reply. This applies to so many other questions that were raised. Following on this, I should like to examine the arbitration clause in the agreement. It must be stressed and restressed that this State has not got a legally enforceable agreement, either now or in the future, and the Commonwealth Government cannot be compelled to carry out any of its promises in the agreement.

The authority for this proposition is the rail standardisation case which turned, among other things, on the 1907 agreement that South Australia made with the Commonwealth Government to hand over the Northern Territory, and on a specific agreement that included the building of the Adelaide to Darwin railway line from the termini at Oodnadatta and Pine Creek. When Sir Thomas Playford sought to compel the Commonwealth Government to honour its agreement, he was met by the Commonwealth with two defences. The first was that it was only an agreement to make an agreement and, secondly, that the High Court had no jurisdiction, as it was a non-justiciable matter. Some of the justices decided for the Commonwealth on one ground and some decided for it on another. However, neither group disagreed with the other's reasoning, because the end result was the same in either case: a victory for the Commonwealth. So, the decision is usually treated in textbooks as an authority for both propositions.

The first argument depends on the wellknown fact that any agreement such as this has to be implemented over a period of years, so that the Government, when spending public money, must go to the Parliament each time. Looking at that question, in relation to the non-justiciability of the matter, where does the matter of arbitration stand in this Bill? The second argument depends on the point that agreements between the Commonwealth and State Governments are like treaties between foreign countries. It has long been acknowledged that such treaties do not contain matter that is justiciable in the courts.

The Government may argue that the arbitration clause in this agreement saves it, but in my opinion it does not, because the Commonwealth Government cannot be compelled to go to arbitration or abide by any award. It may not agree to the appointment of an arbitrator (under the Bill the Commonwealth cannot be compelled to do so); it may take the non-justiciability point before an arbitrator; or, after that, it may not appropriate the money if it loses the arbitration. Whichever way one looks at it, I am extremely doubtful about the arbitration clause in relation to the High Court's ability to deal with the matter. The Government claims that that clause will get it off the hook but, in my opinion, it does not, because exactly the same point could be taken by the Commonwealth Government.

The last point is that, if the Commonwealth Government loses the arbitration, there is no way in which anyone can compel it to appropriate money. I think it shows clearly that there is no legal enforceability in relation to the agreement. Secondly, there are grave doubts on the validity of the arbitration clause. I am not a lawyer, and I know that the Hon. Mr. Banfield is not, either. However, the Government now has a qualified lawyer in the Council, and I hope that he will examine this question, speak to the point and give us the benefit of his legal knowledge. I believe that not only the agreement but also the arbitration clauses are unenforceable, if the Commonwealth Government wants to have an escape clause.

In any event, the legal and constitutional questions are of such magnitude that I believe Parliament should subject the Bill to the closest scrutiny, calling expert evidence on the points previously raised. That cannot be done unless the Bill goes to a Select Committee. When the Bill previously came before the Council we had only one day to debate it. How can any honourable member understand the complexities of these constitutional questions unless one does call before a Select Committee people who can give expert advice to it.

There are other important questions to which I should like to refer. During negotiations between the Prime Minister and the Premier a letter was sent from the Prime Minister to the Premier dealing with this matter and the financial aspects, as follows:

I enclose the agreement for the transfer of the South Australian Railways to the Australian Government for your signature. The agreement which I have signed on behalf of the Australian Government is based on "Principles to Govern the Transfer of the Non-Metropolitan South Australian Railway System to the Australian Government" which you approved in your letter of April 4, 1975. The form of the agreement was finalised between our officers earlier this week. I would be grateful if you could execute the agreement as soon as possible so that legislation approving and implementing it can be finalised and introduced into the present sittings of the Australian Parliament. I assume similar arrangements are being made for the necessary legislation to be introduced into the South Australian Parliament. With the passing of this legislation it will be possible for us to issue the certificate referred to in clause 2 (1) of the agreement before July 1, 1975.

Clause 17 of the agreement provides for the payment of $10 000 000 to South Australia in 1974-75. We have taken the view that it would be neither necessary nor appropriate for the other details of the financial adjustments to be included in the agreement. I confirm, however, that the Australian Government undertakes to honour clauses 12, 13 and 14 of the "Principles" as part of the financial basis for the transfer and will submit to Parliament, at an appropriate time, the further legislation necessary to put them into effect. As you will be aware, total grants of $26 400 000 payable to your State in 1974-75 in connection with these arrangements have been provided for in Appropriation Act (No. 6) 1974-75, which has recently been passed by Parliament. The "Principles" document to which I have referred provides (clause 14) for adjustments to the 1974-75 financial assistance grants base for your State which take into account, *inter alia,* "an amount of $32 000 000 being the estimate of the non-metropolitan railways deficit". I am informed that, since the document was finalised, our officers have examined the situation in more detail and it has been agreed that the figure of $32 000 000 should be subject to certain refinements. The Australian Government undertakes, therefore, to adjust the figure of $32 000 000, on a basis to be agreed between the Australian and State Treasurers, on account of complications associated with pay-roll tax, debt charges and depreciation contributions and any other factors which it may be agreed are relevant.

There is one other aspect of the financial arrangements which I should mention. Because of technicalities associated

with the revised financial agreement which will set out, *inter alia,* new arrangements for sinking fund payments, it will not be practicable to relieve the State of sinking fund payments in 1975-76 on the debt to be transferred on July 1, 1975; it will, however, be relieved of interest payments in 1975-76 and subsequent years and of sinking fund payments beginning in 1976-77. The Australian Government undertakes, as part of the financial arrangements during the interim period, to reimburse the State for the relevant sinking fund charges in 1975-76. I understand that the Australian Treasury has been in contact with your Treasury on the details of this matter.

Now we come to the last part of the letter, which is as follows:

I believe that you have some concern that during the interim period the State may, if clause 6 of the agreement should be held to be invalid, incur damages, costs or expenses arising out of the administering, maintaining and operating of the non-metropolitan railways, and which may not be recoverable from Australia under the agreement. You have my assurance that, in these circumstances, my Government will recommend to the Australian Parliament that any such damages, costs or expenses shall be reimbursed to your Government. I have also taken the view that it would be neither necessary nor appropriate for the matters set out in the following paragraphs that were included in the principles to be included in the agreement. I assure you that, subject to an evaluation by the Bureau of Transport Economics showing them to be economically desirable, the Australian Government will agree to the construction and operation of a rail connection to the container terminal at Outer Harbor, and will improve and where necessary replace the main line to Murray Bridge to ensure a high standard service to the growth centre at Monarto.

The Australian Government agrees with the South Australian Government that a separate rapid transit system in South Australia is a desirable long-term objective and studies will be initiated to establish the technical and economic feasibility of a complete or partial separation between the systems. I reaffirm that the terms and conditions of employment of persons transferring to the Australian Government service will be no less favourable to them than those presently applied. The Australian Government will again consider transferring the headquarters of Commonwealth Railways to South Australia. The completion of this agreement together with a similar agreement with Tasmania will be highly significant events in the history of railways in Australia, representing major progress towards our objective of a truly national railway system.

Yours sincerely,
(signed) E. G. WHITLAM

Although I agree that even if the matters in the letter were included in the agreement, there would be no way the State could enforce that implementation. Nevertheless, the fact that the Prime Minister refused to include those points in the agreement fascinates me. Why should the Prime Minister refuse to include those points in the agreement, even though they are not enforceable? Perhaps the Chief Secretary will be gracious enough to elaborate a little on this point and the reasons for the Prime Minister's attitude on these matters.

The last comment I make concerns the Tasmanian Railways. To talk about a truly national railway and to refer to the Tasmanian system in the same context is somewhat of a joke. As the Bill and the schedule currently stand, the open-road policy that this State Government temporarily embraces, as a political expediency, will be under direct threat. In my opinion, any protection for an open-road policy will not be binding upon the Commonwealth Government if it is included in the Bill or the schedule. Nevertheless, every effort should be made to at least express the viewpoint of the State Parliament and, if possible, include that viewpoint in the agreement. The same position applies to the future of silos, wharves and other installations on Railway property.

Still we have had no answer from the Government in relation to the meaning of "wharves" in the agreement. Does the agreement definition include all wharves in South Australia, does it mean wharves over water, does it mean land-filled wharves, does it mean wharves with railway lines? How much and how many of the wharves are to be transferred? Moreover, if wharves are to be transferred to the Commonwealth Government as well, how much of the debt on those wharves is also being taken over by the Commonwealth? No answer has been given to these questions.

For this reason I again emphasise that this Bill should be referred to a Select Committee so that these questions can be fully investigated. Evidence should be called from the people of South Australia; and I again return to the point that expert constitutional evidence should be called in relation to this Bill. The Bill would have been referred to a Select Committee on a previous occasion but for the statement by the Chief Secretary which then ruled out that course of action. If the Bill had been referred by this Council to a Select Committee the purpose of the inquiry would have been achieved, but the Government was obviously hell-bent to go to the polls. At this stage, if this Council insists, the Bill will be so referred.

If the Government does not wish the points raised, and as yet unanswered, to be thoroughly investigated by a Select Committee, it can still, if it desires, constitutionally adopt a big-stick approach. There are many other matters in this railways Bill to which I could refer. There are many other matters that can be argued, but other honourable members in the Chamber have looked at this Bill closely and have specific areas of concern they would like to put to the Council. I will leave those areas for them to determine.

I should like to conclude on one other matter, not directly related to this Bill but nevertheless related to it in a rather odd sort of way. I have asked myself the question of late, having worked for two years on the Constitution Convention: why is it that A.L.P. members—mainly at the Commonwealth level, not so much at the State level, particularly when they come from Western Australia or Tasmania at the moment—are so hell bent on achieving total centralisation of authority? Why is there so much urgency in what they are attempting to do? We know that an A.L.P. objective is the total centralisation of all power in Canberra, I do not think they deny it.

The Hon. N. K. Foster: That is a load of rubbish, as will be pointed out to you later.

The Hon. R. C. DeGARIS: I do not think the Labor members can deny that.

The Hon. N. K. Foster: You should look at some of McLeay's speeches back in 1936 if you want to see it properly. You can do some homework now.

The Hon. R. C. DeGARIS: You mean 1975.

The Hon. N. K. Foster: I mean 1936, when McLeay was Postmaster-General.

The Hon. R. C. DeGARIS: You are behind the times.

The Hon. N. K. Foster: No, I am not; you want to get with it, mate.

The PRESIDENT: Order! The Hon. Mr. DeGaris.

The Hon. R. C. DeGARIS: Returning to the point I was making, I asked myself the question: why are certain A.L.P. members at the Commonwealth level and certain A.L.P. members at State level (though not so much at the State level) hell bent on the total centralisation of power in Canberra? What are the reasons? I believe I may have come up with an answer.

The Hon. N. K. Foster: If you are so totally bent on that, you should be able to tell us the reason.

The Hon. R. C. DeGARIS: I am coming to that; if the Hon. Mr. Foster will contain himself for a moment, he will get an answer. I remember reading some time ago some matter on the future of the Loan Council, some matter on the future of the Financial Agreement, which was entered into, as most honourable members know, in 1927 between the State and the Commonwealth. I have identified the source of the comment on page 54 of the book *Cases on the Constitution of the Commonwealth of Australia,* by Geoffrey Sawer.

Having identified the course, I then set out briefly to examine the view put forward by Sawer, and that view is that the Loan Council powers cease in the 1980's. The Financial Agreement existing between the Commonwealth and the States is affected by time, and I suspect it is in the early 1980's. If that view is correct, it has a tremendous impact upon the existing concepts of Federation. The Loan Council's powers extend into all areas of monetary and, fiscal policies of both the Commonwealth and the States. If the Loan Council is to lose all its powers, then the balance of power in the Federation will be seriously affected.

The Financial Agreement of 1927 has the power of constitutional law, because section 105A of the Constitution makes such an agreement binding upon both the Commonwealth and the States. It seems clear to me that some time in the 1980's there will be a Loan Council with one of the three following sets of power: (1) a Loan Council with its present powers; (2) a Loan Council with power over costs but not of amounts of Government borrowing for temporary purposes; and (3) a Loan Council with no powers at all. Part III of the Financial Agreement is referred to in six places with the words "while Part III of this agreement is in force". Part III deals with the taking over of the State debts by the Commonwealth and provides for grants to the States in paying interest on their debts.

Some commitments in Part III come to an end in the 1980's, and it can be argued that not all of Part III will then be in force. If this view of Professor Sawer is held to be valid, the powers of the Loan Council that depend upon Part III being in force could also be said to be no longer in force. That is the view of Professor Sawer.

The first commitment under the agreement that ceases to be operable in the 1980's is clause 11 (2), under which the Commonwealth is required to pay to the six States each year, during a period of 58 years commencing on July 1, 1927, a sum totalling $15 169 824. This obligation ceases in June, 1985. The second is clause 12 (11) C, under which from July 1, 1944, for a period of 39 years the Commonwealth and States contribute to a sinking fund to amortise $86 036 000 of special loans incurred during depression years. These payments cease in June, 1983. The third is clause 12 (6), under which the Commonwealth and States contribute, over 53 years beginning July 1, 1927, to a sinking fund contribution. This ends on June 30, 1980.

The question is, at which date—1980, 1983, or 1985—will the Loan Council be put to the test, relative to its powers? The qualification of the powers of the Loan Council by the words "while Part III of this agreement is in force" applies to all the Loan Council's powers over economic policy, with one possible exception, clause 4. Clause 4 (4) provides that moneys shall not be borrowed by the Commonwealth or States otherwise than in accordance with the agreement (note those words "otherwise than in accordance with the agreement") while Part III of the agreement is in force. This alone puts within the influence and effect of the qualification all those areas of general economic policy that come within the Loan Council's decision-making powers—for example, balance of payments policy, financial and Budget policies of the States, and interest rates. The one possible exception (if the phrase "while Part III of this agreement is in force" is significant) is subclauses 6 (7) and 5 (9), which do not include the reference to Part III. These refer to borrowing for temporary purposes, but such loans are subject to the Loan Council relating to interest and charges, but not amounts.

Therefore, it is true to say that some time in the 1980's the Loan Council will have one of three sets of powers: first, its current powers, because the qualifying reference to Part III is not significant; secondly, a Loan Council with power over costs but not over amounts; and, thirdly, a Loan Council with no powers at all. The whole question appears to revolve around the point whether the whole of Part III is in force when certain commitments validly lapse. It also seems certain that the High Court will be called upon to decide within, say, four or five years the interpretation of the words "while Part III of this agreement is in force". If the qualifying phrase is held to be significant, what would remain of the Financial Agreement?

If one looks at this question and sees that the Financial Agreement may well be changed, that the Loan Council may well lose its powers in the 1980's, or even in 1980, it places the States in a remarkably strong position *vis-a-vis* the Commonwealth. I believe that the States, if this is valid, could borrow their own money. The States could finance themselves for a 12-month borrowing and then return to income taxing. I believe that is possible. Suddenly, the States are finding themselves in a position where it is possible that, in 1980, their power within the Constitution is going to be a power that the Commonwealth may well fear. Is this the reason why the present urgency seems to be directed to transferring as much power as possible to the Commonwealth before the possibility of a renegotiation of financial matters under the Financial Agreement? Is that part of the reason why the urgency is there to transfer our transport policy to Canberra?

This deals with much more than the question of the transfer of the railway system. Is that the reason? I think there may be some validity in what I have put before this Council; if it is not in relation to this Bill, then it may well serve as a warning on future transfers of powers and responsibilities to Canberra, which most people in this State do not wish to see. Most people in South Australia believe in federation and I think that, if they come to understand the full facts not only in relation to this Bill but also in connection with the transfer of other powers and other responsibilities to Canberra, they may well understand that probably in the 1980's there may be a position where the States' ability to renegotiate is on a much stronger basis than it is at present.

I will call against the Bill, because I think it is not in the best interests of South Australia. I believe it should go to the Constitution Convention, where all the States and the Commonwealth can discuss on a rational basis the constitutional issues and any recommendations that may be made for the future operation of railways in Australia. I do not believe the way in which this agreement has been entered into is in the best interests of people in South Australia, and therefore I will call against the Bill at the second reading, although I will not call for a division.

Then I will seek a reference of the Bill to a Select Committee to examine some of the more important questions constitutionally that arise from the passage of the Bill.

The Hon. C. M. HILL: I believe this measure culminates five years of mismanagement of railway administration in this State. At various times I have referred to different facets of that mismanagement but now (at the end of the road, so to speak) it seems that the State is trying to shove the problem off and over to the Commonwealth, not with any hope at all of seeing the deficit reduced, and not therefore in any way decreasing the liability of the people to find such money as has to be found to meet that deficit, but simply to get the problem out of sight and out of mind.

I do not believe that responsible Governments should approach matters of this kind in such a way. The history of the mismanagement to which I have referred goes back to early in 1970 when the Australian Labor Party Government came to office. At that stage the Government was within an inch, one might say, of completing agreement with the Commonwealth Government to proceed with the standardisation of the railway line between Adelaide and Crystal Brook, a project that was and is one of great importance to this State. All that was required at that stage was agreement on the one remaining facet, the question of a spur line proposed to the industrial complex at Elizabeth. On that one issue the arrangements foundered and the Labor Government announced publicly that it would never agree to the proposal as laid out by the previous Government, that it wanted to see, for example, spur lines to Tonsley Park and elsewhere, and that it was not going to be rushed into any kind of agreement in which the previous Liberal Government had taken any part.

The Hon. M. B. Dawkins: They have got nowhere as a result.

The Hon. C. M. HILL: In the end the Labor Government had to go on and agree not to construct a spur line to Tonsley Park and ultimately, after many years of negotiation, agreement was reached. To my knowledge, not one kilometre of that new line has as yet been built in that period of five years. I refer also to what I believe to be the extremely poor service the Government has administered in the metropolitan area for rail passengers. To my knowledge, only one line is enjoying some updating; I refer to the proposed Christies Beach line. Whenever that matter is raised today, one reads of the electrification being deferred and deferred yet again.

The Government ran into serious trouble in its dealings with the senior railways officer in this State, the Railways Commissioner. As a result, the Commissioner resigned; in my view he was forced to resign. Overshadowing this whole gloomy picture is the question of the ever-increasing deficits suffered by the Railways Department. We can gain some impression of those deficits by taking the figures from the Auditor-General's Report. The deficit of the South Australian Railways in 1970, the year Labor came to Government, was $12 773 959. In 1971 the deficit was $16 124 101, and in 1972 it was $19 477 475. In 1973, after three years of Labor Government, the deficit rose to $25 883 986. In effect, and this was pointed out in the Auditor-General's Report issued after June, 1973, the total deficit of $25 884 000 represented more than twice the deficit of three years previously.

It has soared upwards since then. The 1974 figure was $29 985 887 and, while we do not know what the 1975 figure was, we know that the estimated deficit on the non-metropolitan railways alone was $32 000 000, because that figure was put forward by the Government in relation to this whole matter. When I raised matters of this kind in the previous debate I was assailed by a spokesman for the Government, and the whole burden of his song centred around the fact that when I held the portfolio and when my Party was in Government we closed some railway lines.

In fact, the Government of which I was a member closed some railway lines, but it faced up to the responsibility of having to do that and also reduced the deficit. Our first year of office saw the deficit actually reduced, not increased by more than 100 per cent in three years. The deficit for the 1968 year was $12 734 294 and one year later, in 1969, it was $12 316 733. In the following year, the second year of that Government, it went up fractionally to $12 773 959. It went up by .3 per cent. I want to refer to some of the comments made from time to time about the closure of railway lines. The picture was painted in a previous debate that a Labor Government would never dream of taking such measures. When the measures were adopted by a previous Government, they were adopted on the basis that there were to be no retrenchments in the railways, and there were no retrenchments. It was simply an application of a business approach to the whole problem, and it seemed to me that a much more businesslike attitude was adopted by many people in the railways. The impression was given then, and it is still given, that such an action would never be dreamed of by a Labor Government. On February 16, 1968, the Premier made the following statement about the railways at a meeting of 200 people in the Whyalla Town Hall:

> The Government had firmly declared that it would make the railway system efficient. It would not hesitate to undertake necessary economies where the need for those was clear and urgent.

The Hon. N. K. Foster: Where was that statement made?

The Hon. C. M. HILL: At Whyalla.

The Hon. N. K. Foster: Whyalla does not have a town hall.

The Hon. C. M. HILL: The newspaper report referred to the Whyalla Town Hall. If the honourable member is not happy with that, perhaps he will agree with the next newspaper report I will quote. In the *News* of May 8 there was a report that the Deputy Premier made the following statement:

> It is rather ridiculous to run uneconomic passenger services when people are just not using them.

Year after year the Auditor-General gives warnings in his report that something has to be done regarding those uneconomic lines. Earlier this year I was accused of taking the terrible action referred to by an honourable member opposite. The hard fact of life is that in January of this year the Labor Government agreed to close some lines. An article in the *Advertiser* of January 4, 1975, headed "Closures only a proposal, Virgo", states:

> Union pressure short-circuited a Government move yesterday designed to cut multi-million-dollar losses on State transport. In a written press statement at 11 a.m. the Minister of Transport (Mr. Virgo) announced:
>
> Metropolitan rail fares would increase by 13 per cent.
>
> Metropolitan Tramways Trust fares would rise by 5c for eight or more sections and for transfer tickets.
>
> Railway services from Mount Barker to Victor Harbor, Kingston to Naracoorte and Glanville to Semaphore and the passenger service from Adelaide to Tailem Bend would be discontinued.
>
> An hour later, after a meeting with about 16 union leaders at the Trades Hall, he said the move to close the lines was only a proposal by the Cabinet and would have to be reconsidered by Ministers next week...In his original statement Mr. Virgo said the Government had decided to close the Victor Harbor line because a lot of money would be needed to keep it in safe working order.

The Minister then referred to other lines. The article concludes by referring the reader to page 4, with the statement "Virgo slated". Later, on January 24, there was a short report stating that the Minister of Transport had announced that in that month services would be cut out as part of the South Australian Railways cost-saving programme; however, the Government had reconsidered the move following pressure from railway unions. I think it is quite proper that the Government should consult with interested parties. Nevertheless, in this case undoubtedly the Government made the same sort of decision (to close lines) as the Government had earlier thrown at Opposition members when it accused them of taking terrible actions, as were allegedly taken in 1968 and 1969.

So, it is little wonder to me that this Council must look with great caution at this Bill; in view of the Government's record in railway administration, the Council simply has no alternative. This indicates that it is not a question of what is in the best interests of the people of this State: it is the one and only means available to the Government to solve this problem. By this Bill, the Government is transferring the responsibility and the challenge that the Government itself ought to face to improve the deficit position and to reduce the losses so that the accounts of this State can be improved. The matter almost reaches the level of hypocrisy when one understands that, under the present system, the Minister of the day must face up to the responsibility of closing lines, but that Minister, who (I take it) has played a leading part in formulating the agreement that this Bill ratifies, is side-stepping that responsibility.

The Hon. N. K. Foster: How do you justify that statement?

The Hon. C. M. HILL: Paragraph 9 of the agreement provides that, in the case of disputes with the Commonwealth, the matter goes to arbitration. If the arbitrator comes down on the side that the line should close and if the State Minister believes that it should not close, what is the result? He will go to his unionists and the people of South Australia and say, "I would never have done this, but I cannot help it now. Under the agreement, that is what the arbitrator agreed to."

The Hon. N. K. Foster: A typical Liberal approach.

The Hon. C. M. HILL: Under this arrangement the Minister can dodge the responsibility. If it is a Liberal approach that Ministers should face up to such a responsibility, I would rather stand on the side of that approach.

The Hon. R. A. Geddes: What do you mean when you say that the Minister can dodge his responsibility?

The Hon. C. M. HILL: The matter must go to an arbitrator. If there is disagreement between the Commonwealth Government and the State Government relating to the closure of a line, if the arbitrator comes down on the side that the line should be closed, and if the State Minister does not agree with that decision, he has no further alternative: he can say, "It is not my responsibility, and I cannot do anything about it."

The Hon. N. K. Foster: How would you do it?

The Hon. C. M. HILL: I would do it as I did it: I would face up to the responsibility. When I was the Minister I received reports from the Railways Department. I then had a close look at the matter, discussed it with the Australian Railways Union and the Australian Federated Union of Locomotive Enginemen, and made a recommendation to Cabinet to close the line.

The Hon. N. K. Foster: You suggested that a Labor Minister would do something different.

The Hon. C. M. HILL: The two separate approaches are there. It is a question of whether the Minister faces up to his responsibilities.

The Hon. N. K. Foster: Your previous Leader said that the Ministers of the Labor Government were all good Ministers.

The Hon. C. M. HILL: If the honourable member has placed the Minister in that category, I am sure that he has not closely investigated the history of railway administration over the last five years.

The Hon. N. K. Foster: The present Minister got a vote of confidence in another place.

The Hon. C. M. HILL: I am sure he would have won a vote of confidence previously because he had the numbers there but, whether he will win a vote of confidence now, I do not know. I oppose the Bill in its present form. I have had ample time to consider the four main headings in the debate. However, I do not want to dwell on them in detail, as other speakers will refer to them and I do not want to involve myself in too much repetition.

On the basis of the centralist argument, financial grounds, what I believe will be the inevitable freight rate increases that the people of South Australia will have to pay, and because this Bill provides the opportunity for road transport to be taken over by the State (and by that I mean the Commonwealth Government or the National Railways Commission), I oppose the Bill.

I have fully considered the question of mandate as it applies to this measure, and I am sure that as this debate proceeds we will hear more about that matter. The Government highlighted the issue during the election campaign; that cannot be denied. However, in that campaign the Government lost three seats in another place, each of which was in an area affected by this issue, whereas the Opposition Parties in another place did not lose any seats at all. In fact, they gained two. The A.L.P. lost its majority in the House of Assembly.

The Hon. D. H. L. Banfield: But we got a few up here, didn't we!

The Hon. C. M. HILL: I am referring to the Government in another place.

The Hon. D. H. L. Banfield: Are you going to refer to this place?

The Hon. C. M. HILL: I will refer to it in my speech in the Address in Reply debate, and I hope that I can satisfy the Chief Secretary then, difficult though it is at times to satisfy him completely. The Government, with numbers equal to those of the combined Opposition Parties in another place, holds office only with the blessing of an Independent member. In those circumstances, what sort of mandate can the Government really claim?

I was involved for some periods in the elections in the Millicent and Mount Gambier Districts, and I know that this Bill and the fears it raised were active issues in those districts during the election campaign. In both those districts, the Government lost.

Another matter that one is obliged to consider is the question of the Gallup poll which was held recently and published in the press. I have serious doubts that the people who supported that Gallup poll understood fully the question of protection or the situation that obtains in relation to the terms and conditions that are part and parcel of the transfer. It is easy simply to put to the man

in the street the question, "Are you in favour of the Commonwealth taking over State Government railways?" and to receive an answer "Yes" or "No". However, we have a responsibility to look at the matter much more deeply than that. The points which have been raised by the Hon. Mr. DeGaris and which will be raised by other honourable members introduced matters that must put serious doubt in anyone's mind if anyone is interested in the future welfare and best interests of the State.

I will now touch briefly on the headings to which I have referred. The question of centralism is one which, in principle, I oppose. Regarding the financial situation, only $10 000 000 of new money is actually coming into this State with any certainty as a result of this Bill. We have not been able to ascertain from the Government the value of the assets, although I have heard that there are valuations from $150 000 000 to $200 000 000.

The Hon. N. K. Foster: You ought to know something about valuations; you were tied up in them at one time.

The Hon. C. M. HILL: That is so. When one reads about the freehold properties which are involved in the schedule and which are being transferred lock, stock and barrel to the Commonwealth Government, when one remembers that most of the values in the railways books are historic and not current market values based on reassessments, and when one has some knowledge (I do not have anywhere near the knowledge that Government members possess) of the Islington complex and other yards that are being handed over—

The Hon. R. C. DeGaris: It's being closed, isn't it?

The Hon. C. M. HILL: It might be. I heard that the Commonwealth Government intends to make it the headquarters for Australia, but that has gone rather quiet in recent months. It may be that the Commonwealth Government will transfer the railway interests altogether from Islington and South Australia before it is through. It is a pity that we have not more certain committments in relation to matters of this kind.

However, I should like to return to the financial matters. I referred to the $10 000 000 which we have in hand and which, I repeat, is the only new money coming into this State for this project. The $26 400 000 that has already arrived includes $16 400 000 to which this State was entitled under Grants Commission arrangements, and that is the money which this State would ultimately have received, irrespective of whether this agreement was entered into. We have been told of the $25 000 000 grant that has been added to this State's base financial grants. This is simply based on assurances that have been received from. Canberra. I read with interest the third paragraph of a letter dated May 21, 1975, that the Prime Minister sent to the Premier, as follows:

> Clause 17 of the agreement provides for the payment of $10 000 000 to South Australia in 1974-75. We have taken the view that it would be neither necessary nor appropriate for the other details of the financial adjustments to be included in the agreement.

So, those arrangements are not included in any agreement: they are simply assurances between Governments. But, even if they had been included in the agreement, with what certainty could the Government say that that agreement, or even those assurances, would be honoured? We have no certainty whatever. If the Commonwealth Government finds itself in grievous financial difficulties it will not honour these arrangements. It might make an adjustment. The Hon. M. B. Dawkins raised the point, which was also referred to in the Governor's Speech the other day, that the sum of $6 000 000 was promised by the Commonwealth Government to South Australia early in the 1974-75 financial year. That was looked on as a certain receipt by the Premier, because he included that sum in his Budget papers, which he brought to Parliament for approval. A few months later he had to come back to Parliament and say that the Commonwealth Government had let him down, that the money had not arrived, and that other adjustments had to be made accordingly. These are the hard facts of life in financial dealings between Governments.

If Government members in this Council in reply to this matter can put forward any other assurances or express their own certainties in this matter, I will be only too pleased to hear from them. Not only is there the possibility of the base financial grant being readjusted in the future, but if the deficit on this system now to be transferred to the Commonwealth Government grows and grows, is it unrealistic to expect that the Commonwealth Government will make certain adjustments to this State in special grants altogether apart from the more formal base agreements which apply between the two Governments? When this Government goes, for special reasons, to Canberra for special funds, is it unreasonable to expect, in the future, that if this deficit grows as a nasty liability and becomes an exceptionally worrying item to the Commonwealth Government that South Australia might be told, "We are very sorry, but we cannot give you what you seek, which you would normally be given. We have to make some adjustments because of that increased deficit." These are not dreams like pie in the sky: these are hard bargaining points that arise in the matters between the Commonwealth Government and the State Government.

I have already referred to the example that occurred in the 1974-75 financial year. People in South Australia still recall the situation concerning the Northern Territory Surrender Act, which was passed by this Parliament in 1907 and which included in clauses of the schedule of the Bill that a railway would be constructed from Pine Creek down to the South Australian border, and then later in the same schedule there was another clause to the effect that a railway would be constructed to the north from Port Augusta to join up with the southern-bound line. In other words, we were given a promise in 1907, in an agreement contained in an Act dealing with the same subject (the railways) which Parliament accepted in good faith as the Minister is now expecting us to accept this Bill in good faith, but the original railway referred to in the 1907 Act has still not yet been built.

We know also the story of how the State Government took the Commonwealth Government to court in an effort to make the Commonwealth Government honour that agreement. The court held that the South Australian Government could not do that. Therefore, if and when the Commonwealth Government lets South Australia down in the future regarding this Bill, about which so much propaganda ushered forth during the election campaign (at one stage the figures referred to rose to $600 000 000 and $800 000 000 based on an inflation rate of about 20 per cent), and when all this money that the Premier believes will be forthcoming does not come forth, he will not be able to take the Commonwealth Government to court. The State Government cannot do that, because the Government will not be able to sustain its case, in exactly the same way as the Hon. Sir Thomas Playford could not sustain his case on a similar matter. Therefore, surely the financial aspects of this Bill must give rise to serious doubts.

There is the matter of rural freight rates that country people in South Australia enjoy. The South Australian

Government wrote into this agreement, which it is now asking us to ratify, that those privileges shall remain. What assurances have we of that? How can that part of the agreement be sustained? If the Commonwealth Government went back on that section of the agreement and increased rales and equalised rural freight rates (and possibly other rates, too), preferential rates would no longer apply. All freight travelling over the non-metropolitan network could be affected. If the Commonwealth Government went back on that agreement, what options would be open to the State Government? None at all.

I now refer to the Interstate Commission, and this point has already been argued in this Council. If the Interstate Commission is set up, there is absolutely no doubt at all, because the commission is bound under the Australian Constitution to see that freight rates are equalised throughout Australian and within each of the respective States. True, I do not know whether the commission will be established or not, but honourable members opposite know that the Commonwealth Government through its Bill in the Australian Parliament is currently trying to set it up, yet the State Government is trying to tell Parliament that South Australia has nothing to worry about concerning freight rates, because we have a clause in the Bill giving everyone protection. This argument does not hold water.

There is also the question (and in many respects this is the most important aspect of the whole measure) of the clauses in the agreement dealing with road freights. These are clause 13 (2) and 13 (5). Subclause (2) provides:

> Nothing in this clause shall operate to restrict the introduction of new freight or passenger road services or the extension of those freight or passenger road services which exist on the commencement date by Australia, the Commission, the State or the State Authorities.

Subclause (5) provides:

> Australia or the Commission shall not be liable to pay any fees, taxes or other charges in respect of the application or approval referred to in subclause (4) or in connection with the operation of the road services referred to in this clause.

It is apparent from these subclauses in the schedule to the agreement that we are today being asked to ratify that the new national railway will be given the right to establish its own road-freight services. It is apparent that it will be given the right not only to do that but also to set up those road services free from the imposition of taxes, including the tonne-mile tax, the petrol tax and other similar taxes and charges. Therefore, it is apparent that, even with the threat of that action being taken, private road hauliers in South Australia will have but one alternative—

The Hon. N. K. Foster: What is that?

The Hon. C. M. HILL: To go to the Government and ask either for a subsidy or for some other help. What will the Government say?

The Hon. N. K. Foster: What percentage of interstate haulage is carried on interstate railways today? The State bears the debt and the hauliers make the profit. Work that out and give us your reply tomorrow.

The Hon. C. M. HILL: The Hon. Mr. Foster is talking about road hauliers using railway services to transfer their goods. What is wrong with that?

The Hon. N. K. Foster: Nothing. They make a profit from it.

The Hon. C. M. HILL: I am in favour of long-haul freight. Indeed, in 1968 and 1970 I dreamed of the day when there would be hardly any road transports operating between Melbourne and Adelaide. I dreamed of container arrangements, in some cases involving the leasing of whole trains and carrying cargo at reduced costs from Adelaide to Melbourne through their night services, as is being done in an ever-expanding way.

The Hon. N. K. Foster: It is all right for them to make a profit and the States to bear the losses; it is a burden on the States' taxpayers.

The Hon. C. M. HILL: I do not want the States to make a loss on their railways. That is the point I have been trying to make for the past half hour. I am talking about the individual taxpayer. I thought the Hon. Mr. Foster was getting on to the point that the South Australian Railways Commissioner has some powers.

The Hon. N. K. Foster: I never made any remarks about the Railways Commissioner.

The Hon. C. M. HILL: He has not got it with the same advantages of being free of taxes, as I read here in subclause 13 (5). His powers in regard to road freight are included in section 101 of the South Australian Railways Commissioner's Act of 1936; but this is a different proposition altogether from that and I am getting back to the point of what will happen when the threat is made that the national railways intend to enter this field; the same sequence of events will occur as happened here in South Australia only a few years ago when the bus proprietors could not continue and sought Government subsidies for their public passenger transport services. What did the Government say? It said, as the Commonwealth authority will say on this occasion, "We will not give you any subsidy; we will take you over."

The Hon. N. K. Foster: That is not quite like it was.

The Hon. C. M. HILL: In this State it is; it is near enough to it because the State has got them now.

The Hon. N. K. Foster: You gave the Adelaide Steamship Company plenty on the *Troubridge* for years.

The Hon. C. M. HILL: We did that because we had people who needed a public transport service.

The Hon. N. K. Foster: You had better check on how much they use it.

The Hon. C. M. HILL: We had people to serve on Kangaroo Island. That is why we gave them a subsidy; at least, we gave them a subsidy. It was you who took over the *Troubridge,* not my Government.

The Hon. T. M. Casey: They would have sold the *Troubridge,* anyway.

The Hon. N. K. Foster: You can get back to the *Minnipa,* if you like.

The Hon. C. M. HILL: I am getting back to the point that the outcome of the problem confronting us in this Bill is that road transport will be nationalised, will be socialised (call it what you like). Road transport has at long last woken up to the fact, and that is why we saw an article in this morning's paper; that is why people in all parts of the State are getting in touch with honourable members in this Council; they are thinking of the future.

I ask the Government, what is the need for these clauses being in the Bill? What is the real need if the Government is simply intent on its stated purpose of transferring the country railways to the Commonwealth, if it hopes ultimately the country railways throughout Australia will become part of the national railways? Based on certain terms and conditions which the States approve, I have no serious argument with that concept. I certainly

have argument with it subject to the terms and conditions that are being forced on us in this measure, but why has the Government agreed to add these clauses to the Bill?

I notice with interest that one honourable member has circulated amendments which, as I read them quickly, seem to overcome this problem to which I am now referring. Therefore, as I said earlier, I oppose the Bill in its present form. If it is possible for the Government to agree to certain amendments after they have been fully debated here, so that some of the fears which I have expressed, and I know other honourable members hold, could be overcome, then I would support the Bill . I think the best possible amendments would flow from a Select Committee in this matter.

I would support a change of that kind in an endeavour to fashion the whole Bill into a form which, I believe, although I am opposed to the whole principle concerned, I could support, if it was changed so that some of these fears that have been mentioned can be overcome. I would like the Minister in his reply to this debate to give a detailed statement of this Government's views on the matters that have been raised. I would like him to say whether his Government has changed its thinking at all in regard to the concept of a Select Committee. If we hear the Government's view through him at the conclusion of the debate, we shall be a little clearer in the voting in the procedures that follow.

The Hon. M. B. CAMERON: Having listened to the contributions of the first two speakers, I am starting to wonder whether we have had an election, because it seems to me that we rejected the Bill throughout; then the Government had no choice but to go to the people on it. It was returned to the Treasury benches, and this fact has been completely ignored. We cannot deny this fact: there has been an election. I was amazed to hear the first speaker say we should have a referendum. That is what we have had. Perhaps it was not based on a percentage of the vote; nevertheless, that is what has occurred: there has been an election, a referendum, (call it what you will); that is what has happened.

We are now talking about a Select Committee. We had the opportunity in this Council. I do not care what the Minister said at that stage: we had the numbers on this side of the Council to set up a Select Committee and, if the Government did not want to participate, that was its business. If the Government had called an election merely to refer the Bill to a Select Committee, it would have been in a difficult position trying to justify to the public that it should not have further information on this matter.

Of course, that option is now closed off. Shortly after the election was announced, there was a statement in the *Advertiser,* which I shall read, which came from the two leaders of the Liberal Party. Dr. Eastick said:

> If Labor did win—and it won't—clearly it would be a major issue which had been taken to the people. If the Bill is returned in precisely the same form, we would highlight the deficiencies we see in the legislation. But I would accept that, after the matter had been discussed before the public, it needed to pass.

The Leader in this Council, the Hon. Mr. DeGaris, said:

> If Labor won and the Bill came back to the Council there would be no objection. I do not believe we would have the right to object to the Bill any longer if it came back after a Labor victory.

However, already there have been intimations that there is opposition to this Bill. Does this mean in a future election we cannot take the word of the Leaders of Parties? We then go to the people, because that is the situation that will exist if this Bill is not passed. What happened to this Bill in the past? I guess it has to be said again because it has gone through the Lower House once, this Council once, and it has been through the Commonwealth Parliament without objection. I will read a few of the things that were said in the Commonwealth Parliament. One person, a Mr. Nixon, Country Party, made this statement:

> It is a pity that the Minister cannot really have a win on one of these programmes. This is the first Bill—I compliment the Minister—in which the first single initiative of a Labor Government in the transport field is seen that is sensible and that was not proposed and prepared to be implemented by the previous Government.

Heavens above—there is an Opposition member in the Commonwealth Parliament saying just exactly that! It goes on, and a fellow named Mr. Kelly from South Australia also talked on the fact that this Bill provided too much power to the State Minister, that the State Minister can frustrate the closure of lines. I can read the whole thing out; I do not see the point, but that was the context. Perhaps I should read a little of it.

> Clause 9 specifically requires a State Minister's agreement to any such closure. Imagine the political situation that will occur in South Australia when the Federal Minister of Transport tries to close down a line or a railway station that has not been used much. Of course his colleague in South Australia will refuse to agree to such closure and the Minister will be left with a lot of egg on his face. It seems to me that all the advantages in this respect lie with the State Minister.

It seems to me that a Liberal Party member from this State was saying that we were gaining ail the advantages in the closure of lines. Further on in his speech Mr. Kelly stated:

> I think that if a line is a bad one it ought to be closed down. I was a bit surprised to see the qualification down. It is one of the great handicaps of a railway system that it must carry the uneconomic lines which in many cases are kept open mainly because of local pressures, including local union pressure. I do not shelter from the fact that if a line is a bad economic project it ought to be closed down. I was a bit suprised to see the qualification that has been put into the agreement which states that it can be done only if the State agrees.

Again, this is a Liberal member from South Australia who is speaking.

The Hon. N. K. Foster: A farmer.

The Hon. M. B. CAMERON: Correct. The previous Bill came to this Parliament and went through the Lower House. A challenge was issued on two occasions by the Leader of the Opposition in another place for the Government to have an election on the issue. This was not a measure taken lightly by the Opposition, and so a challenge was issued. It was finally taken up by the Liberal members in this place—not all of them, but some members took what I regarded as the sensible course. However, the Bill was rejected and did not get to the Select Committee stage. I do not care what the arguments are. We could have done that, and there was nothing to prevent us. I do not agree with what the Minister said at that time; we could have taken that action.

The Bill was preceded by a measure that gave the Government the money for the appropriation for this year in South Australia. That Bill was passed on the previous day, and it contained specific reference to the railways agreement and the fact that we would be getting money from it. Every honourable member in this Chamber knew that the amount appropriated was very largely based on what would come from the railways agreement, and yet the Council passed the appropriations. Surely, if we were not going to pass the railways legislation we should have

thrown out the Appropriation Bill and had an election on that basis rather than waiting and putting out what was really a machinery Bill for a money Bill, because that is what it finally amounted to when it came to us.

In the Upper House a notice of motion for referral to a Select Committee was given by the Hon. Mr. Story, who is no longer with us. However, such a course of action was not available to him because the Bill did not reach that stage. Now, at this stage, honourable members seem to have the impression that that option is open to the Council, but that is just not on. We cannot go through all these procedures. It would be politically unprincipled, totally unprincipled, for this Council at this stage to go to that length, having previously rejected the Bill altogether.

The Hon. R. C. DeGaris: Why?

The Hon. M. B. CAMERON: Because this Council has taken an action that has led to an election, the result of which is well known. Some people say that voters in certain areas of the State did not vote for the Government. If a Government calls an election on a specific issue, and if the people do not have the real facts of the matter, that is the fault of the Opposition for not putting the facts to them. That is our fault.

The Hon. D. H. L. Banfield: What was the percentage vote for the Government?

The Hon. M. B. CAMERON: Two Ministers in this House who have just spoken were members of the same sort of Government, and I would bet that they would claim a mandate. I thought they had a mandate, and I was a member of the Party at that time.

The Hon. D. H. L. Banfield: They had about 42 per cent when they claimed the mandate.

The Hon. M. B. CAMERON: I am not going into percentages; this is getting embarrassing now. I think I have made my position fairly clear. I hope that in future the Legislative Council will take a much more politically mature attitude to Bills that come to this Chamber. I hope, too, that in future we will not be intimidated by statements by Ministers who say that, if a Bill is put to a Select Committee, it will be considered a failure to pass the measure. If we are to be intimidated in that way, we might as well pack up and go home. It would mean that referral to Select Committees in such places as the Senate could be considered a failure to pass legislation. That is absolute nonsense. If this Council does not take such action with Bills thrown upon it, it has a limited future. We must make certain that we do take such action when we feel that the Government does not have a mandate.

We have heard reference to a referendum. One could take a Gallup poll for what it is worth. In this instance a Gallup poll shows quite clearly the situation in the various States in relation to the issue of railways. If the people who were questioned, as the Hon. Mr. Hill said, did not understand the issue after the election on it, that is our fault. We should have made the position clear to them, and the Hon. Mr. Hill must take the blame along with me and everyone else.

Although it pains me a little to bring it up, I must say something about one further matter because it has received some publicity. That publicity, however, did not emanate from me. A person rang this morning indicating that the Hon. Mr. Carnie and I would not be present when this Bill was read a second time. A message was received by us and also telephoned to the *News,* to 5AD, and to the *Advertiser* correspondent in Naracoorte (Mr. Ken DeGaris) indicating that the Hon. Mr. Carnie and I would be absent tonight. The message we received was as follows:

Having listened to a speech at Bordertown last night by two members of the Liberal Movement, M. Cameron and J. A. Carnie, we, the members of the Rural Action Group, give the first warning. The members must change their attitudes regarding the present railways Bill now before the Upper House or be prepared to be the two missing from the House for the second reading.

The Hon. D. H. L. Banfield: Stand-over tactics.

The Hon. M. B. CAMERON: It sounds like it. We will be here tonight. I do not care what groups in the community think we should not be here. It is sad that we have reached a situation in which people ring up with such messages. However, if we are not here I should like to indicate, on my own behalf and I am sure on behalf of the Hon. Mr. Carnie, that we would like a pair. We will be voting in favour of the Bill. If we are absent, however, honourable members should take it that we are not absent voluntarily but compulsorily because of some group, the Rural Action Group. I support the Bill.

The Hon. A. M. WHYTE: I have listened with interest and some concern to the previous speakers and the three speeches made by the Hon. Mr. Foster by way of interjection. I want to reiterate my attitude to the Bill when it was first introduced. I have no objection whatever to the transfer of the non-metropolitan railways system to the Commonwealth. I believe that the State Railways Department has done a remarkable job, and I do not believe that the Commonwealth Government will run it more efficiently or more economically. However, I do not want to argue the case for or against who is to run the railways. The only request I have made is that the legislation should contain adequate safeguards. Since this is new legislation it should not be passed on assurances from Ministers, quotations from Commonwealth *Hansard,* or any such trivia. We should see written into the legislation exactly what it means and what protection the various groups will have. The Hon. Mr. Virgo is the only Minister of Transport we have, whether we like him or not. Everything he has done has not been bad, and I do not believe that he is any better or any worse, perhaps, than any other Minister of Transport we have had or are likely to get.

It seems wrong that all the authority which at present belongs to him should be transferred to the Commonwealth because, while it still remains the prerogative of our own Minister, we can at least lobby and, every three years at least, talk turkey to the local Minister. However, the transfer of the power to the Commonwealth authority would be an absolute handover of all power to the Commonwealth Minister. Having listened to the Prime Minister at Tarcoola, I know just how clever the Hon. Charlie Jones is. As a matter of fact, I cannot understand how a man of such brilliance is mixed up in politics. The Prime Minister assured us about the brilliance of the Hon. Mr. Jones. And let us remember that the Hon. Mr. Jones brought forward a Bill providing for the takeover of assets worth $200 000 000 in return for $10 000 000 in a deal with our Premier. And our Premier is no fool; he can juggle figures as well as anyone I know to make them look good. So, the Commonwealth Minister must be about as smart as the Prime Minister claimed he was. If he had negotiated with Mr. Khemlani he would have had that gentleman paying the interest, too.

Under this Bill, road hauliers will be at a great disadvantage, because the Bill provides that the commission can institute its own ancillary transport and it need not pay any taxes. Of course, in those circumstances it could

quickly eliminate the present haulier system. Further, it could eliminate the passenger bus services and the road haulage system that are so essential to many parts of the State. There is no doubt that this power should remain with our own Minister of Transport; it would not affect the efficiency of the railways at all. The present State legislation is very little different from that proposed by the Commonwealth Government. So, there is no reason why road control could not be retained by the State.

The other area needing correcting is the question of safeguards for South Australian Co-operative Bulk Handling Limited, which has $50 000 000 worth of assets on railway land. Although the co-operative has leases for another 20 years, I do not expect that many of us will be taking an active interest in politics when the leases expire. It is therefore this Council's responsibility to write necessary safeguards into this Bill on behalf of the State. It can be done simply: an amendment could provide that the land could be exempted from the present agreement and held under the jurisdiction of the State. That is what the amendment that I have drafted would do. It does not interfere with the functioning of the railway system, and it would safeguard those people who are concerned. We have handed over many other powers to the Commonwealth Government, and not all of them have been well accepted. For example, the Aborigines were never asked whether they would like to be administered from Canberra. As a matter of fact, 80 per cent of them do not like it.

The Hon. N. K. Foster: There was a referendum about it.

The Hon. A. M. WHYTE: The State Government did not have any option: the Commonwealth Government said, "Do this or you will have no money." The Hon. Mr. Cameron made great play of his stand on the Bill, but he knows very well that what he has said is not what the people he represents want. However, it is a good stage play. I was sorry that the matter of this Bill went to an election. I thought that the appointment of a Select Committee was a good procedure, and I voted accordingly.

The Hon. D. H. L. Banfield: You did not, because the question did not arise. Your Party threw out the Bill at the second reading stage.

The Hon. A. M. WHYTE: I was the instigator of the motion for a Select Committee.

The Hon. D. H. L. Banfield: But you did not vote for it.

The Hon. A. M. WHYTE: I am sorry that the Minister wants to disagree. I was very keen for the Bill to be referred to a Select Committee, and I voted in that way. Indeed, I still believe that the appointment of a Select Committee is the proper procedure. However, in view of the fact that the Hon. Mr. Cameron has the balance of power, it appears that a Select Committee cannot be arranged. I am sorry that there are people who wish to write such things as the Hon. Mr. Cameron read out. I abhor that type of tactic, and it is no credit to whoever attempted it. I do not believe that the Hon. Mr. Cameron or the Hon. Mr. Carnie will be intimidated by such tactics. My stand on intimidation in this Bill is the same; the fact that we have had an election and that the people have returned the Government does not alter my attitude. I want to see safeguards written into the Bill, and there is no reason why it cannot be done. I do not want to delay the Bill. All I ask for is the support of this Council to correct what I believe are injustices to some people. Those injustices could be simply overcome. I am willing to have any honourable member assist me if he likes with my amendment or to move a further amendment. I stand firm on my attitude to the Bill—that it should be referred to a Select Committee. If not and my amendments are not passed, I will vote against the Bill, but I repeat that I have no real objection to the transfer of the railways to the Commonwealth Government.

The Hon. C. J. SUMNER: The urgent introduction of this Bill has pre-empted my maiden speech. I trust that tomorrow I will get the opportunity to deliver what I would call my maiden speech, part 2, in the resumed debate on the Address in Reply. We now have a clear obligation to pass this Bill without delay or deferment. The Opposition Parties chanced their arm in an election, and they lost. However, they do not seem to be able to grasp that fact. The Government has been returned in an election called specifically on this issue. I do not believe I can put it any better than the Hon. Mr. Cameron did when he said that we now have an obligation, following the election, to pass the Bill quickly.

The first point I wish to make concerns the clear desirability of having a national railway network. During the election campaign, the charges and counter-charges relating to financial benefits, the Opposition's attempt to brand the transfer as nationalisation, the attempts to scare people by misrepresenting the ideal of socialism, all helped to obscure the basic issue. The fundamental and idealistic issue is whether there ought to be a national railway system. This was quite rightly envisaged by Australians before Federation, because it has its basis in logic and common sense. Whether honourable members opposite like it or not, we live in a nation, and that nation is Australia, not New South Wales or Queensland.

Every comparable western country has a national railway system. One can hardly imagine the British people consenting to a system where the changing of locomotives occurring at our border occurs every time the London to Edinburgh train crosses into Scotland. I venture to suggest that there is more co-operation between the nations of Europe in the trans-European railways than exists between the States of our country. I hope that this Bill will mark the beginning of the development of a truly national system.

The second main point I wish to make is that some criticism has been raised that the Bill refers to the transfer of non-metropolitan railways only. It is said that there is no basis for this distinction, that is, that if the country rail services go so also should the metropolitan ones. This seems to me to be completely erroneous. I suggest that the transport problems of the citizens of Stawell, in Victoria, for instance, are more akin to those of the citizens of Bordertown than are the problems of the citizens of Melbourne to those of the citizens of Adelaide. There is a greater community of interest for country people as a whole, whether they be from Victoria or South Australia, than exists between the commuters of the capital cities.

The urban transport problems are peculiar to the cities concerned and ought rightly to be considered on an individual city basis, the Australian Government's involvement being, in the case of the cities, the provision of finance and co-ordination of discussion on common problems. The transport authority in a capital city ought to be in a position to co-ordinate all the resources at its disposal (that is, trains, buses and private road transport) to provide a transport system reflecting the needs of that community. I do not

believe that it would be wise to transfer control over urban transport to the Commonwealth Government. Of course, the Bill does not do this, despite the suggestions from some members opposite that it would be more logical if the whole lot, rather than just the non-metropolitan service, was transferred. It is logical, I submit, for there to be a national network that links up with the urban authority, but for that urban authority to have control over all aspects of transport within the metropolitan area. This is the situation overseas, as honourable members well know. The British Rail system runs to certain points within the metropolitan area, and from there London Transport takes over. Although we should not always rely on oversea examples, this is an example, and it seems to me, for the reasons I have put, to be the most logical approach.

Finally, I have a strong suspicion that the Opposition has adopted its obstructive posture regarding this Bill because it thought it would be a useful stick with which to beat the Commonwealth Government at this time, and that a consideration of the national interest took a back seat to what the Opposition saw as a short-term political advantage. Clearly, members of the Liberal Party in other States have considered it desirable for the State railways to be transferred to the Commonwealth. Sir Henry Bolte instituted this suggestion as long ago as 1971. In his 1972 policy speech, Mr. Whitlam accepted the tentative offer that had been made by Sir Henry Bolte and Sir Robert Askin. Indeed, in March, 1973, discussions commenced on the transfer to the Commonwealth of the New South Wales Railways. However, early this year those negotiations were broken off. Why were they broken off? I suggest that it was politically expedient at that time for Liberal Party members to use the issue to try to embarrass the Commonwealth Government.

A couple of points have been made during the debate and, of course, during the election campaign on which I should like to comment. It has been stated that it is the mismanagement of the State's railways that has led the State Government to want to transfer them to the Australian Government. That is an accusation made against this State Labor Government, yet in 1972 Sir Henry Bolte was complaining of the $29 000 000 loss sustained by the Victorian Railways. It seems that the accusation of mismanagement is a complete red herring. The railways run at a loss because they provide a public service. The other criticism that has been made of the Bill revolves around the safeguards and financial benefits that are included in it. It seems that Opposition members do not agree with their counterparts in New South Wales. I remember during the election campaign the New South Wales Premier coming here and publicly stating that the State Government had got the best deal that was possible for the transfer of our railways to the Commonwealth. It is a pity that this commendable idea of a national rail system has been temporarily thwarted by the political opportunism of the Opposition Parties. I believe this Council should do its part to contribute to the early realisation of this ideal.

The Hon. JESSIE COOPER: First, I should like to compliment the honourable member who has just resumed his seat. He may have been pre-empted into giving his speech on this Bill but what a good Bill it was on which to make a maiden speech! It was indeed a good contribution. I do not think he can expect to have the same privilege of silence for his maiden speech part two, but perhaps he can give an example to other new honourable members tomorrow and make a non-provocative maiden speech.

There is one point which I should like to make and on which the honourable member who has just resumed his seat is not accurate: the Government, not the Opposition, chose the election. A Labor supporter who saw me the morning after the announcement that the election was to be held said, "Well, the Premier has caught you napping." That sort of remark was made to me dozens of times during the campaign, sometimes in not quite such polite language. There is no question: the Government chose the election.

I view this Bill as a disaster for South Australia. At a time when the State Treasury was run down, this quick, cheap and shoddy trade was devised. It was devised so hurriedly and so obviously as a quick cash catch that we are being asked to write back to May 21 the date of operation of the agreement. Why? So that certain moneys coming from this deal could be written into the State's income for the last financial year to prevent our mismanaged finances from appearing in that year to be as completely run down as the State has truly become during the current regime.

One wonders what will happen at the end of this financial year to bolster the Treasury. Will we sell our ports, and our harbor and marine installations to the Commonwealth for another miserable $10 000 000? One wonders what will be left to be sold in three years time: perhaps the abattoirs, the Murray River irrigation works, or the water supply system for the metropolitan area. It hardly seems worth while for the people of South Australia to continue struggling to make this State a prosperous and happy one.

Our railway system was built by our forefathers and us by hard work and a steady contribution to give us one of the most efficient rail systems in Australia. Every modern rail system needs some subsidising and the taxpayer will still do this irrespective of whether our railways are run by the South Australian Government or the Commonwealth Government. However, someone has to make the proverbial "quick buck", and posterity can worry about that, I presume.

On the day that was destined to become the last day of last session, when speaking on the previous Bill, the Hon. Sir Arthur Rymill said that it was designed to hand over the State's country railways to the Commonwealth Government for a mess of pottage, and that is exactly what this Bill shows. Later in that same speech the Hon. Sir Arthur Rymill stated:

> Our State Government gives lip-service to State rights and does a great deal of shadow sparring with its fellow Labor men in Canberra, and then it produces a deal like this, designed as a major step towards centralisation and Socialism, and towards the destruction of South Australia as an entity.

In referring to specific details, I see that we are to lose the Islington workshops as part of the provisions of the agreement. If the Commonwealth Government decides to do all of its maintenance work and construction work in its Port Pirie workshops, what is to happen to the railway workmen stationed in Adelaide and its surrounds? Moreover, where is this work in relation to the metropolitan system to be undertaken? I pose that question to the Minister. I can only wonder with much suspicion whether it is the Government's intention, now that the glorious device of the railway under King William Street seems to have passed into oblivion, to close down the metropolitan railway passenger system. Is that the Government's intention? Going a little further from the centre of the city, I see that the metropolitan services in the south-eastern area are to end at Belair. Can we assume

that the Commonwealth Railways will be willing to run special services for the Mount Lofty, Aldgate and Bridgewater line? Will the Minister answer that question? Finally, horror of horrors, what has happened to that magnificent concept of a fast service to Monarto, that new Jerusalem to the south? Is that Monarto vision already evaporating into the mists of yesteryear? I spare the Minister that question. I oppose the Bill.

[Sitting suspended from 5.44 to 8 p.m.]

The Hon. D. H. LAIDLAW: I speak in this debate as a newcomer to the Council. Much has already been said about the transfer of non-metropolitan sections of the South Australian Railways and, judging from the trend of this debate, the result, unfortunately, may already be a foregone conclusion. I read with interest the explanation of the Premier and the Chief Secretary in introducing the Bill. Their command of the intricacies of finance astonishes me, and I can only suggest that they have missed their true vocation and should be in business as partners—Dunstan and Banfield, cost accountants and tax consultants.

I shall confine myself briefly to issuing two warnings and one hope for the future. First, many business people believe that it is logical, since the Australian Railways already straddle a wide area of South Australia extending to the Western Australian and Northern Territory borders, that the railways should be united in order to reduce overheads and to join them with the non-metropolitan section of the South Australian railway system. I hope, however, that if this merger eventuates it will not be taken as a precedent to hand to over to Canberra other public services, such as those providing electricity, gas and water, whenever the State makes a thumping loss, as it did in 1974-75. Once we get into the habit of selling off our assets to make up for a cash deficit, there is only one final answer, and that is bankruptcy. The solution, of course, is to sit down, reorganise and make our losing operations more efficient. In this case, however, it seems to be too late.

My second warning relates to preferential rail freights as referred to in clause 8 (1) of the agreement, as follows:

> ...where, in general, fares, freight rates and other charges at the commencement date have established a relative advantage to the users, that advantage shall not be diminished.

When this Bill was debated in another place, the Premier claimed that under the agreement South Australia would be better able to maintain—

The PRESIDENT: Order! The honourable member is not permitted to quote from *Hansard* of the present session.

The Hon. D. H. LAIDLAW: I am sorry, Mr. President. I was only going to pay the Premier a compliment and say he had made a point. However, as I cannot do that I will not say it. I accept the Premier's assurance that the safeguards in clause 8 (1) are adequate in general terms but in practice they must be policed and I hope that South Australia will have a sufficient influence over the Traffic Manager of the South Australian section of the Australian Railways to ensure this.

In certain basic product industries in South Australia the maintenance of preferential freight rates is essential if we are to maintain the current level of employment in these industries. I mention basic products because they generally are sold at a low cost to the tonne weight; hence, the cost of freight is usually a material factor in the price charged to the end user.

To take just one example, I refer to the South Australian fertiliser industry, which is already depressed due to the astronomical rise in the cost of imported sulphur and phosphate rock. This, together with the abolition of the superphosphate bounty, has caused an increase in the price of superphosphate from $16 to over $50 a tonne in just over 12 months. Farmers, especially in grazing areas, cannot or will not buy superphosphate at these prices.

The Hon. J. E. Dunford: What about Brighton Cement and I.C.I.? They're crook, and you're a director of both.

The Hon. D. H. LAIDLAW: I am not. If I happen to quote from an industry I know something about, it is better than quoting from something I know nothing about. If I may, I will continue to give examples.

The Hon. J. E. Dunford: You are a director of Wallaroo fertilisers.

The Hon. D. H. LAIDLAW: I am trying to give this example, if the honourable member will just listen for a moment.

The Hon. J. E. Dunford: You rob the farmers, because you are a director of Wallaroo fertilisers.

The PRESIDENT: Order! Repeated interjections are out of order.

The Hon. D. H. LAIDLAW: Farmers, especially in grazing areas, cannot, or will not, buy superphosphate at these prices, and the South Australian fertiliser industry has already been forced to retrench over 200 men. That is the point I was trying to get over that Mr. Dunford could be interested in. This industry depends on preferential rail freights for the movement of surplus sulphuric acid from the smelters at Port Pirie to Adelaide and for the shipment of superphosphate to the South-East of this State so that the South Australian industry can match its Victorian competitor.

The Hon. J. E. Dunford: When you sacked them you gave them no money at all. You gave them a week's notice. Wallaroo fertilisers gave a week's notice.

The Hon. D. H. LAIDLAW: I do not know the details.

The Hon. J. E. Dunford: You know the details; you're a director.

The Hon. D. H. LAIDLAW: If these concessions are not maintained adequately the South Australian industry will almost certainly have to forgo about 20 per cent of its total present sales to interstate suppliers. The effect will be to add overhead costs to superphosphate supplied to farmers in the remainder of South Australia and this will undoubtedly cause a further price rise, reduce sales and force further retrenchments.

I give this as one example, and I could give several more examples, but I will not bore honourable members. It is an example of how terribly important it is to maintain the preferential freight rates, and I can think of at least six industries in South Australia which are also involved.

The Hon. J. E. Dunford: Of which you're a director.

The Hon. D. H. LAIDLAW: I happen to be a director of some, and I am pleased to quote the examples.

The Hon. J. E. Dunford: And you're crook.

The Hon. D. H. LAIDLAW: I can think of at least six industries which depend very much on the maintenance of the preferential freight rates, and this is the warning I give. My third point is to express a hope for the future, and it is that when the Bill passes the South Australian Government will then be able to promote more effectively the need to establish an international container terminal at Outer Harbor. By selling Adelaide as the container centre of Australia with rail links operated by the Australian Railways extending into the hinterland, we could hopefully

give a much needed boost to the commercial and industrial activities of Adelaide. Somehow or other we must retain a substantial manufacturing activity in the western suburbs of Adelaide, and so at least stabilise the present level of employment. Under the Bill, the Australian National Railways Commission will get access to the Dry Creek and Islington storage yards, but I notice that, under the second schedule referred to in clause 11, there is provision for the Commissioner to use the wharf facilities of LeFevre Peninsula.

I am told, too, that the Bureau of Transport Economics in Canberra has recommended that Commonwealth finance should be provided for a heavy duty freight line to Outer Harbor, perhaps over a new bridge via Torrens Island. It is surprising, perhaps, that that is not referred to in the terms of the agreement. If the international container terminal was created at Outer Harbor it would be one good thing, albeit in the long term, to result from the transfer of the South Australian railways to Commonwealth control. I hope that the Development Department will actively pursue this goal. Those are the three points I wish to raise in referring to the Bill.

The Hon. M. B. DAWKINS: At the outset I wish to compliment my colleague the Hon. Mr. Laidlaw on the speech he has just made, and also on the valuable suggestion which he has put forward and which I would suggest the Government should study in due course. I intend to support the Bill at the second reading stage, but only in order that it may have an opportunity to be dealt with by a Select Committee or improved by amendment in Committee. I thought it quite incomprehensible, short of complete political opportunism, that one group which supported such a course, which was the referral to a Select Committee in another place, intends apparently to take an opposite course here. That is quite an inexplicable course of action, in my opinion. I want to examine the so-called mandate of the Government to reintroduce this Bill, and I note that in his Speech on opening Parliament His Excellency the Governor made the following comment:

> In my Government's view the electorate has now endorsed the proposed transfer to the Australian Government—

the Commonwealth Government, it should be—

> of responsibility for the operation of the non-metropolitan railways of this State. Accordingly, there is now a pressing need for Parliament to reconsider the Bill that failed to pass in the previous session.

Of course, although those words were enunciated by His Excellency the Governor they were, as he said, the view of the Government. First, I want to say in rebuttal of that argument that I do not believe the Government has a mandate for this Bill. I was one of those who said that, if the Government won the election, the Bill (with some improvements, I hoped) would have to pass. The Governor said that "in my Government's view" it had been endorsed. I do not believe that that is so. I do not believe that it is remotely correct to bring forward that view, because the Government did not win the election.

Far from winning the election, with a minority vote of the people and a minority in both Houses of the Parliament the Government clings to office with the support of an Independent Speaker. If that is a mandate for the reintroduction of the Bill, I have never seen a mandate in my life. The action taken by Sir Thomas Playford many years ago was roundly condemned by the present Premier and all his henchmen as being wrong, but now it has happened in their case; when things are different they are not the same. It was quite wicked for Sir Thomas Playford to do it, but it is quite all right for the Labor Party and for Don Dunstan to cling to office in a minority situation on all counts. That is the situation the Government is talking about; it is a minority situation on all counts, yet the Government says it has a mandate to reintroduce this Bill. It is complete poppycock. It has the nerve to come back and say it has a mandate for this legislation. What did the people most affected by this Bill say about that mandate? I refer to the country people of South Australia whose railways are to be transferred. What did they say? In the other place they said 17 seats to two seats against the Government.

The Hon. Mr. Cornwall could not take it. He complained in his maiden speech that there was no-one in the Lower House to represent the Government south and south-east of Adelaide. Taking it further, there is no-one at all in the truly rural seats in the whole of South Australia who has been elected to support this Government in its giving away control of railway policy, giving away the rights of road transport and private enterprise. That is what it amounts to, giving away the independence of South Australia. The country people know that they are being sold down the drain, and the Premier, of course, intends to sell them further down the drain in due course. I do not know whether it is a case of pique, of annoyance, or of revenge on country people, but he intends to sell them further down the drain in complete repudiation of what he said in Parliament some years ago. However, I shall deal with that matter at the appropriate time tomorrow, because it will come up in the Address in Reply debate.

This Bill, if it passes, will contribute to the centralisation policy of the Australian Labor Party and it could contribute substantially towards nationalisation of the road transport industry in South Australia at a time when the A.L.P. is tottering federally and clinging to office here. The second schedule of the Bill provides for the city areas to be transferred, including the Mile End freight terminal, the Islington workshops (which we have frequently heard may be closed), the Islington goods yard, the Dry Creek marshalling yard, the Port Adelaide sidings, the Gillman marshalling yard, the Port Adelaide goods yards and the sidings at the Finsbury industrial complex. I know—

The Hon. J. E. Dunford: Are they all in the union?

The Hon. M. B. DAWKINS: I shall be interested when the Hon. Mr. Dunford makes an intelligent interjection. I know that many city people did not appreciate all the aspects of this Bill. They certainly did not realise that all these assets were to be transferred. Many country people did not fully understand the implications and the threat to freight rates and to road transport. Had they done so, the swing against the Government in the country would have been even more marked. I turn now to clause 13 (2) and clause 13 (5) of the schedule, and I shall quote from a letter written to me by the Executive Director of the South Australian Road Transport Association Incorporated, which states:

> In particular, I would refer to clause 13 (2) of the agreement which provides for the introduction of new road freight services and extension of existing road freight services, and clause 13 (5) which grants exemption from fees, taxes and other charges in connection with those services.

He goes on to say:

> We believe that these two points, when used in conjunction with each other, are a direct contravention of an open road policy and would also seriously affect the viability of the road transport industry.

I believe that that is so. I believe it is a step towards socialisation. I believe this Government has no real mandate to reintroduce the Bill. I am aware that the Road Transport Association seeks to amend a schedule which has already been agreed to by the Commonwealth Government, and I am aware of the difficulties of amending the schedule, but that is all the more reason why the Bill should be referred to a Select Committee. I hope the Government will see the wisdom of such a course.

I ask the Chief Secretary, when he replies, to indicate his attitude on this and all other matters and to reply to questions asked by members both during the debate two months ago and at present but which were not, with due respect, answered. I want to say one more thing—but I will not dwell on it because the Hon. Mr. DeGaris has mentioned it: I believe the Bill is not enforceable.

It is an agreement to make an agreement. I am persuaded by the knowledge and experience of highly competent legal opinion that this Bill is, in effect, a non-enforceable agreement. It is only an agreement to make an agreement and therefore cannot be enforced. In my opinion, as I think the Hon. Mr. DeGaris said, it is comparable to the agreement for the North-South railway, which the Hon. Sir Thomas Playford found was unenforceable, and the Chowilla agreement, which the Hon. Don Dunstan, with his tongue in his cheek, said he would carry out if returned to office in 1970.

He knew he could not get Chowilla built. How far did he get? We have secured neither Chowilla nor Dartmouth at this point in time. This agreement, like those agreements, is unenforceable; but it is not comparable in one important respect. Whereas these other measures I have cited were for the undoubted benefit of South Australia, this one, in many respects, for some short-term benefit sells the interests of the State and of many South Australians down the drain.

For this reason, I am opposed to the concept of this Bill. I am not opposed to some rearrangement of the railways and railway management throughout Australia, but I am opposed to the piecemeal effects of this Bill. However, I will support the second reading as I believe the Bill can be improved in Committee or, more importantly, by the careful recommendations of a Select Committee.

The Hon. J. C. BURDETT: I rise to speak to the second reading of this Bill. I am somewhat surprised that the Council is still sitting at this time of night because this afternoon the Hon. Mr. Dunford said we would rise at 4.15 p.m. He had the courage of his convictions, because he remained out of the Chamber for most of the afternoon. As has been said, this Bill contains what purport to be some protections for some of the citizens of South Australia; but I suggest these protections, to steal an original phrase from the Hon. Mr. Dunford, are "crook".

The Hon. J. E. Dunford: I object to that.

The Hon. J. C. BURDETT: In my opinion, these portions at least of the agreement are unenforceable. The Hon. Mr. DeGaris referred to the case of the *State of South Australia and Another* v. *The Commonwealth of Australia,* commonly referred to as the Northern Territory railways case. It is reported in Commonwealth Law Reports, volume 108, 1962-63, at page 130.

The Hon. J. E. Dunford: I bet the Chamber of Manufactures gave you that.

The Hon. J. C. BURDETT: It did not; I looked it up myself.

The Hon. J. E. Dunford: No, you did not. That is their book that you have.

The Hon. J. C. BURDETT: In this case, the action brought by the State of South Australia to seek to enforce the agreement made in 1907 failed. The action was brought in the High Court before seven judges, who were unanimous in their conclusion that the action failed. There were various grounds and reasons, but five of the judges came to that conclusion, in effect, because they found that the agreement gave rise to political obligations only and not to legal obligations enforceable by the court. Let me refer to the judgment of the then Chief Justice (Sir Owen Dixon) who said, at page 140:

All this was plainly seen by the late Sir Harrison Moore whose two papers, one posthumously published, on the questions involved will be found under various titles.

And he sets them out. He then quotes from the article:

"The High Court of Australia has more than once affirmed the rights and obligations subsisting between individuals as the guide to the ascertainment of the legal rights of which the court has cognizance. That principle includes agreement as a category of right, but it would exclude agreements of which the subject of the mutual undertakings is the exercise of political power: the agreements are not such as are capable of existing between individuals, their subject-matter is the peculiar and exclusive characteristic of governments. Even an agreement of the Crown with an individual respecting the future exercise of discretionary powers—that they will or will not be exercised in a certain way—probably cannot be a valid contract." The learned author then gives examples of subjects inappropriate for agreements that could be judicially enforced and proceeds: "The task of distinguishing the classes of agreement may not in all cases be easy, particularly in 'mixed' agreements some of whose terms present one feature and some another. It is even possible that it may extend to exclude agreements in which every item could be conceived of as an agreement between individuals, but which were so comprehensive and far-reaching that on the whole they must be treated as removed from the category of individual or corporate agreements." In the present case we are concerned with an agreement which on both sides has the sanction of statute. Behind it there is a history of government agreements and attempted agreements affecting the same general subject with which this one deals. Some have been fulfilled. The agreement now in question certainly contains provisions which no court could undertake specifically to enforce, that is by detailed specific relief, yet in general terms what each government undertakes to do is defined or described with sufficient clearness, and, in the case of some provisions, on fulfilment of the work undertaken on one side there can be little doubt that the financial responsibilities on the other side would be considered legal obligations capable of enforcement by any judicial remedy available in the case of a government liability. Enough has been said to show that in the first place, to generalise about the operation of the agreement in question must be unsafe and misleading and that in the second place, it could only be in respect of some definite obligation the breach of which is unmistakably identified that a court can pronounce a judicial decree in a case such as this. It is only in this way that the necessary distinction can be maintained between, on the one hand, the exercise of the jurisdiction reposed in the Court and, on the other hand, an extension of the Court's true function into a domain that does not belong to it, namely, the consideration of undertakings and obligations depending entirely on political sanctions.

Those comments apply exactly to this agreement, particularly those portions of it that purport to give protection to the State of South Australia and some of its citizens. I am thinking in particular of the protections in relation to the closing of lines and concessional freight rates. Whatever the rest of the agreement may be, it seems to be quite clear that those portions which claim to give us some protection and which have been relied on by the Government are of no use to the citizens of this State or to the State itself, and cannot be enforced. In his reply, I ask the Chief Secretary whether he will distinguish

between the principles laid down in the case I have just cited and from which I have quoted, and the principles of this agreement. If he can tell me why that agreement was not enforceable and why this one would be enforceable, I should be interested to hear those reasons and have an answer to that question.

The Hon. Mr. DeGaris referred to arbitration. I believe he is correct in saying that those portions of the agreement that rest on arbitration are not of much use to South Australia. It would have been far better if a comprehensive scheme of arbitration had been provided, such as exists in the South Australian Arbitration Act; but the very short clause in relation to arbitration simply states that these matters are to be submitted to an arbitrator acceptable to both parties. This may be naive and simple, but it seems to me that the Commonwealth Government could avoid its obligations in this regard simply by not accepting the appointment of an arbitrator. A much more comprehensive scheme for arbitration, such as that set out in our Act, could and should have been provided.

We have difficulties in seeking to amend this Bill, because we are presented with a short Bill that seeks simply to ratify an agreement that is a *fait accompli:* it is in existence and has already been signed and dated. Of course, we can hardly directly amend that. We would have to seek amendment in a form such as that which has been placed on file by the Hon. Mr. Whyte, to provide for a supplementary agreement or something of that kind. I suggest that this should not have been done in this way. If we are to pass such an agreement, the unsigned agreement should have been presented to the Parliament so that it could decide what the agreement should contain. Parliament should have had the right, as happened in Tasmania, directly to amend the agreement, to determine what the agreement should have contained before it was executed.

The Hon. R. C. DeGaris: The Government might have been in considerable difficulty if the Land and Business

The Hon. J. C. BURDETT: That is so. Where, for instance, is the cooling off period? Another matter that concerns me is the position of the silos that belong to South Australian Co-operative Bulk Handling Limited because, while I accept the suggestion that what passes to the Commonwealth is the Railways Commissioner's interest, namely, the reversion, all that really passes to the Commonwealth is the land this is subject to existing leases. However, they have a relatively short term to run. I believe the Hon. Mr. Whyte was correct when he said that these silos should be excluded.

I also agree with what has been said concerning road transport. The ability that this agreement gives to the Commonwealth to run certain road transport services, both passenger and trade, contradicts the open-road policy that we in this State have accepted for some time. In my opinion, it amounts in the long term to the thin end of the wedge towards nationalisation of the whole of surface transport in South Australia and control thereof from Canberra. I also agree that, from many points of view, this Bill should be referred to a Select Committee. It is ridiculous to suggest that matters which could be canvassed before a Select Committee have been adequately canvassed in the election campaign. The purpose of the latter is to influence people to vote for a certain candidate, generally on Party lines. An election campaign is no sort of vehicle for gathering and evaluating information. There are all sorts of matters that have been raised in the Council today that need further investigation. I suggest that we came very close indeed with this Bill to having a compulsory Select Committee. In this respect, I refer to Standing Order 268, which deals with Bills of a hybrid nature. It provides:

Bills of a hybrid nature introduced to the Council by the Government, which—

(a) . . .

(b) authorise the granting of Crown or waste lands to an individual person, a company, a corporation, or local body:

shall be proceeded with as public Bills, but shall each be referred to a Select Committee after the second reading.

The Hon. D. H. L. Banfield: What makes you think you come close under that definition?

The Hon. J. C. BURDETT: If the Minister listens, he will find out: because the Commonwealth commission, which is set up under the agreement, is a corporation. The land to be transferred is not quite, technically and formally, Crown land.

The Hon. D. H. L. Banfield: So it doesn't come within the definition.

The Hon. J. C BURDETT: I said that it did not come within the definition but that it came close to it. If the Minister would listen for a moment, I could proceed. The land that is to be transferred is vested in the Railways Commissioner, who is, at least in some sense, a Crown or Government instrumentality, and this land is therefore indeed close to being Crown land. Our Standing Orders, and indeed those in another place, recognise that, when it comes to vesting Crown land by Statute in a corporation and certain other bodies, the matter must be referred to a Select Committee. Here, I acknowledge (as I did at the outset) that, formally, this is not Crown land.

The Hon. D. H. L. Banfield: Then why throw it in?

The Hon. J. C. BURDETT: However, this land is vested in the Railways Commissioner, who is responsible to the Crown, and is therefore close to being Crown land. Because it is so close to being Crown land, surely the Government has a moral obligation to concur in referring the Bill to a Select Committee.

The Hon. T. M. Casey: Rot!

The Hon. J. C. BURDETT: Some other rot has been referred to by Government members about relieving the State from the financial burden of the railways. If that was the object of this Bill, and what the Commonwealth and State Governments wanted to do, it could have been done easily without all this and the disabilities that have been referred to. The Commonwealth Government could easily have made grants to the States to enable the railways to carry on. Therefore, it is a lot of nonsense to say that it was necessary to introduce this Bill to relieve this State of the financial burden of its railways.

Finally, the Hon. Mr. Sumner raised what he said was the basic question of whether there ought to be a national railways system. I am not necessarily opposed to the concept of a national railway as long as it is really a national railway. However, simply to hand over the South Australian and Tasmanian railways does not make a national railway system. I believe the right way to go about having a national railway system would have been by conference between all the States and the Commonwealth Government; in the Constitution Convention there are adequate means, and machinery already in existence, of doing this. I do not intend to oppose the second reading, although I shall support the referral of the Bill to a Select Committee.

The Hon. J. A. CARNIE: I shall be fairly brief because I think that all that can be said on this Bill has already been said. All honourable members on this side

of the Chamber except me had the opportunity in June to debate this Bill and put their views regarding it.

The Hon. J. C. Burdett: What about the Hon. Mr. Laidlaw?

The Hon. J. A. CARNIE: I am sorry, there are two exceptions: the Hon. Mr. Laidlaw and me. I am disappointed that, of the six new members on the Government benches in the Council, only one has seen fit to speak on the Bill. I would have been interested to hear the opinions of some of the other five honourable members. I have listened to speakers tonight with some amazement. True, I was not a member of this Council when this Bill was first debated, but I did follow its progress from outside Parliament with an objective view, because it was obvious that the rejection of the Bill would cause an election in South Australia, and I was interested to see when an election would be held.

It was equally obvious to people watching the situation from outside Parliament that the Opposition could not win the election, yet despite this the Leader of the Opposition in another place challenged the Government to hold an election. Although I do not intend to make long quotations in this speech, I point out that the Leader of the Opposition in another place in June made the following statement:

In opposing this Bill we throw down the gauntlet to the Government and ask it to pick it up if it dares.

The following day the Leader of the Opposition in another place stated:

I again extend to the Premier the opportunity given to him last night. Let him test this with the people of South Australia and he will find very clearly that they will not accept it, either.

The Premier did test the people of South Australia, and the people gave their answer: the Labor Government still occupies the Treasury benches. Earlier today the Hon. Mr. DeGaris said that the Government wanted the election. However, I believe that the Opposition wanted the election and forced the election. The Opposition in South Australia did what the Opposition in Canberra did in May, 1974: it forced an ill-timed election that gave the A.L.P. (both Commonwealth and State), a further term of office.

The Hon. R. C. DeGaris: That is absolute rubbish. To start with, the Bill is not a money Bill.

The Hon. J. A. CARNIE: The Hon. Mr. DeGaris exclaims that the Opposition did not force an election. However, anyone can read *Hansard* to see that the Opposition did force an election. Moreover, there was no question about what was the main issue. The election was called and challenged on the Railways (Transfer Agreement) Bill, and both Leaders of the Opposition, one in the Council and one in another place, referred to this during the election campaign or soon after the election was called. My colleague the Hon. Mr. Cameron referred to what the Leader of the Opposition in another place said, as follows:

If Labor did win—and it won't—clearly it would be a major issue which had been taken to the people.

In the same report in the *Advertiser* of June 20 the Leader of the Opposition in the Legislative Council is reported to have made the following statement:

...said last night that if Labor won and the Bill came back to the Council there would be no objection. "I do not believe we would have the right to object to the Bill any longer if it came back after a Labor victory."

These are clear-cut statements. There were no "ifs" or "buts" made by either gentlemen. I presume that the Leader of the Opposition in both Houses spoke for their Party, yet today we have heard speaker after speaker oppose the principle of this Bill. I agree with both of the statements that were made. We are faced here with a matter of simple democracy: this Bill was the issue in the election; the transfer of the railways was the election issue. In fact, as I have already stated, the failure of the Bill's passage precipitated the election, which no-one can deny. Once again a Labor Government is in office. It won that election, and no talk of whether there was less than 50 per cent of the vote or more than 50 per cent of the vote will alter the fact that the Labor Government occupies the Treasury benches. Any talk about which section of the people gave the answer makes no difference.

Furthermore, in any election issue one section of the people will give one answer and another section will give another answer, but the majority rules in any real democracy, and this principle always applies. We heard the Hon. R. C. DeGaris say this afternoon that, if there were a referendum in South Australia, the Bill would be rejected by the people. I should like to know on what basis that statement is made. Is it from the Leader's talking to a few people? He seems to have disregarded the Gallup poll that was published in the press either yesterday or the day before. No honourable member can deny the high record of accuracy of the Gallup poll in Australia, yet apparently the Leader considers they are unnecessary. This point has been mentioned several times today, but one point has not been stated: that the results of the poll were divided up nationally and then into individual State results. In South Australia 57 per cent of the people were in favour of the Bill's passage, 34 per cent were opposed to it and 9 per cent did not know. In the comments supporting the poll it was stated that country people generally were in agreement with people in the capital cities. The poll has not given the percentage, but this comment was made.

Much reference has been made today that the Bill should be referred to a Select Committee. It has been stated that people should have the right to make the decision, but I believe that the people have made their decision on this Bill. The reason for not referring the Bill to a Select Committee in June was that the Government threatened that such action would result in an election, that referral of the Bill to a Select Committee would constitute a rejection of the Bill. On June 18, 1975, in the debate on this Bill the Hon. D. H. L. Banfield stated:

I am not opposing a Select Committee. I am saying that it would be impossible to have the Select Committee's report in time for the agreement to be in operation by July 1. I do not oppose the Bill's going to a Select Committee, but I inform honourable members opposite that, if the Bill goes to a Select Committee, there is no way whereby the report could be made in time for the agreement to come into operation on July 1.

That proved not to be true. The Bill was rejected and it did not come into operation before July 1, 1975, but this did not matter.

Members interjecting:

The Hon. J. A. CARNIE: The point I am making is that the Bill could have been referred to a Select Committee then and the same provision could have been applied then as is being applied now: that is, the inclusion of a clause providing retrospectivity for the provisions in the Bill. This is now being done.

The Hon. M. B. Dawkins: You have only quoted that part of the Hon. Mr. Banfield's speech that you wanted to: you have not referred to that part stating that referral of the Bill to a Select Committee would be tantamount to throwing the Bill out.

The Hon. J. A. CARNIE: The Labor Party would not have dared to call an election on that basis. If the

Opposition had referred the Bill to a Select Committee, can honourable members imagine the Government saying that the Opposition wants a further look at the Bill, but that the Government does not want that, and wants to hold an election on the matter? That was a complete bluff. There has been much emotionalism about this Bill, especially from certain country areas. I stress the word "certain" country areas, because the Hon. M. B. Cameron and I have both had many approaches made to us over the last week or so about this Bill and, with only one or two exceptions, all these have come from one country area. In all cases we have been told that the transfer would disadvantage country people.

Most of the approaches made to us have been either by letter or telegram and we have not been able to ask the people concerned but, in any case where people have either rung or spoken to me directly, I have asked them how the passage of the Bill will disadvantage country people. They have not been able to answer my question, and I have not been told how this will happen. This afternoon the Hon. M. B. Cameron referred to Commonwealth *Hansard,* and he was later told that that reference was not relevant. However, I believe that reference to have been most relevant. Mr. Peter Nixon, a Country Party member in the Commonwealth Parliament (and I will repeat this quote that has already been made once today), made the statement, as follows:

> This is the first Bill in which the first single initiative of a Labour Government in the transport field is seen that is sensible and that was not proposed and prepared to be implemented by the previous Government.

He also stated that the Bill gave too much power to State Ministers. Where was the feeling in relation to this Bill in June? I ask this question of honourable members on both sides of this Council. Were members pressured to refer the Bill to a Select Committee? Did they receive telegrams, telephone calls, letters, and threats to refer the Bill to a Select Committee? If honourable members did receive such pressure, it was completely ignored, because only two honourable members, the Hon. Mr. Story (who is no longer here) and the Hon. Mr. Whyte suggested that the Bill be referred to a Select Committee. All other honourable members rejected the Bill outright. It did not even pass the second reading to allow debate on whether or not it should go to a Select Committee. Of course, the Bill should have been referred to a Select Committee. People should have been given the opportunity to discuss it before a Select Committee. But it was not allowed by this Council; it was rejected at the second reading.

The Hon. J. C. Burdett: Because of what the Government said.

The Hon. J. A. CARNIE: But the people have been given an opportunity to discuss this and to make a decision on it in another way, albeit in a way that I say is much more disastrous to South Australia because, as a result of that, the Labor Government has been returned in South Australia. As the people were given their opportunity through the ballot box, I will not support referral now to a Select Committee. It should and could have been done in June. If we do pass this measure we will continue to saddle the people of South Australia with crippling debts. I believe that the Premier's arithmetic is somewhat elastic in this regard, but nevertheless over the period that he has mentioned (I believe 10 years) with inflation there is a huge amount of money involved, made up of losses which we have learned to our sorrow are growing faster than inflation, plus the repayment of debts, including both interest and capital repayments. This must be made up.

Unfortunately, a State cannot print money, which has become the habit, apparently, in Canberra. There is only one way to make this up, and that is by State taxation, and the only means of taxation the States have is capital taxation, which again we all know is paid by a few of the people.

The Hon. R. C. DeGaris: What about pay-roll tax?

The Hon. J. A. CARNIE: I am not naive enough to believe that immediately the Commonwealth Government takes over control of the railways they will immediately start making a profit. I do not think anybody expects a profit, but the loss will not be cut or even minimised very much. But the load then will be spread over all sections of the community and not just a few. I have had many queries—as I am sure all members have—directed to me, and I have had most of them answered to my satisfaction. One of the main queries I have received from country areas has been: what will be the position of the co-operative bulk handling company with silos on railway land? There is a fear that the capital structures could pass to the Commonwealth.

I believe this is answered by clause 5 (1) (*a*) (i) of the agreement, which refers to "all land used exclusively for the purposes of the non-metropolitan railways and services", and I believe that the word "exclusively" covers this query. Another query which has been raised and which was mentioned earlier today by the Hon. Mr. Whyte relates to road transport. Clause 13 (3) of the agreement provides:

> Nothing in this clause shall operate to restrict the introduction of new freight or passenger road services or the extension of those freight or passenger road services which exist on the commencement date. . .

To me, two things are involved here. First of all, South Australian Railways already have this right. It is not possible to say, if we are going to hand the railways over to the Commonwealth, that they are not allowed to have things we already have. This provision is already in existence, and nothing has ever been done about it. But the claim has been continually made that if the Commonwealth Government becomes involved in road transport it will have an advantage over private road transport.

The Hon. J. E. Dunford: About time.

The Hon. J. A. CARNIE: I will not agree with that at all. The suggestion has been made to me that the Commonwealth Government should pay road tax to bring it into Line with private operators. I think I have heard all members on this side say that road tax should be abolished altogether, yet we are being asked to write it into an agreement. I will not agree to that. Many other points relating to this Bill will doubtless come up in Committee, and apparently this time the Bill is being allowed to reach the Committee stage, so we will be able to discuss these matters and ask questions of the Minister.

I should like to finish on a point which I made before but which I consider is worth repeating. We have had an election, and the Labor Government is still in office; therefore, it would be totally unprincipled and, less importantly, politically dangerous to take any action designed to block, delay, or in any way frustrate the passage of this Bill. I support the second reading.

The Hon. R. A. GEDDES: I rise briefly to discuss the problems involved in this Bill. First, I speak as one who is frightened of centralised control from Canberra and of the possibility of this State's involvement in various undertakings being whittled away until the central Government in Canberra will have total control. The Hon. Jessie Cooper referred to this matter this afternoon when she asked, "What next will go?" The Leader, in his predictions

about the Loan Council in 1980, referred to a similar problem that could well occur by then. What will we have in this State then? The railways are going; the hospitals are going, and medicine is going.

Local government is becoming more and more dependent on the Commonwealth Government for finance, as is also the Highways Department. The whole education system is becoming more and more dependent on the Commonwealth for finance. Our social services, which this State in the past has struggled to achieve and maintain, have been handed over to the Commonwealth.

So, by 1980, the year instanced by the Leader, this State and this Parliament will be but an empty shell, and it will have little to administer and little to do, because this giving away to central control in the Australian Capital Territory will possibly, by that time, have been achieved, especially in view of the way we see the numbers in relation to this Bill.

The Hon. Mr. Cameron this afternoon criticised the Opposition and said he hoped the Opposition would be politically mature in future as regards Select Committees, referendums, or other methods by which the public has a chance to express an opinion. I point out to the Hon. Mr. Cameron that surely it is the right and the role of the Opposition to argue, to debate, and to put forward alternative suggestions to the Government and to the Parliament. If the Opposition fails to have an amendment carried, or if it fails to have a Select Committee appointed, surely to have arrows to fire from the bow is better than saying, "We lost the election, the Government has the Treasury benches, and it is just too bad", meekly letting the Bill go through.

Government speakers made great play at the election and in today's debate that one of the major things that will come out of this Bill is the additional finance for the Treasury of this State, without very much reference to the way in which the railways themselves will be run. Let me remind the Government that, despite Gallup polls and press statements that tell us that we have the most popular Premier in Australia, the Hon. Don Dunstan has great difficulty in getting money from Canberra.

The Hon. M. B. Cameron: There is nothing new in that.

The Hon. R. A. GEDDES: Nothing new at all. The Prime Minister has denied funds and in fact broken promises made to the Premier. If the most popular Premier (and the only other Labor Premier) in Australia has difficulty getting finance from the Commonwealth, what of the future? Let me remind the Council of the Bass by-election in June of this year, when the Commonwealth Government, through the mouth of the Prime Minister, said there would be a reduction in or a holding of the freight rates to Tasmania. But what happened? A few weeks later, in July, the Commonwealth saw fit to raise freight rates to Tasmania by 40 per cent. Those are the sorts of promise that are forgotten. They are made at one time and they are being made now to South Australia. "Sell us the railways for a song and we will pay you in retrospect and" (as the Premier has been quoted) "in perpetuity." But do not forget the promises made in the Bass by-election and what happened subsequently.

This afternoon we heard honourable members speak of the Islington workshops, those workshops built up by the State Government and by Railways Commissioners over many years and by the work force of the State. The workshops were acclaimed during the war as being one of the finest areas available in Australia for the building of munitions and technical parts. Parts for the Beaufort bomber were made here that could not be made elsewhere in Australia, so Islington and its workshops have been able to achieve a degree of mechanical excellence over many years. What guarantee have we and what guarantee has the work force of Islington, together with the people of South Australia or the metropolitan area of Adelaide, that Islington will stay or that it will go? Will Port Pirie get the major workshops? The press has been quoting in a glib way the hopes of the Speaker in another place that the railway workshops will be at Port Pirie. Will they be at Port Augusta? A union meeting held at Port Augusta quite recently said, in a motion before the chair, that it wanted the workshops moved to Port Augusta.

What guarantee have we that the work force in the metropolitan area will be maintained here? Some excellent speeches have been made today on this Bill. However, as I said in my preliminary remarks, I am opposed to centralism and to central control from Canberra. By the end of the term of office of this Government, if it is able to survive three years and if it continues to give away, there will be nothing but a shell, a husk, to govern or to control. I am opposed to the Bill.

The Hon. D. H. L. BANFIELD (Minister of Health): I thank honourable members for the attention they have given the Bill and the points of view put forward. It is true that, although there were different speakers, not many different points of view were raised. They all raised similar points. The first was this: has the Government a mandate to pass this Bill? Members opposite seemed to claim that, as the L.C.L. lost 18 per cent of its vote, it had a mandate to refuse the Bill. We claim that, as we are on the Treasury benches, we have a mandate to pass it. True, this Bill was the cause of the recent election because of the action of certain members in this Chamber, but that was their right. They acted knowing the consequences. They knew very well that the Leader in another place challenged the Government to hold an election on the Bill. They invited the Government to go to the people, and when it accepted the challenge they did not want any part of it. Members opposite are saying now that the Government chose to go to the people on this Bill, but the Government was challenged and accepted the challenge. We do not regret having accepted it. We came back with a mandate to pass the Bill.

People have said that the Government is clinging to office with an Independent Speaker. I think the Hon. Mr. Dawkins raised this matter. While it is true that we have an Independent Speaker in another place, that is nothing new. Playford not only ran his Government with an Independent Speaker on more than one occasion but on numerous occasions he ran his Government with less than 40 per cent of the popular vote, yet he always claimed that he had a mandate for the Bills he was putting through. If he had a mandate on those occasions, surely we have one on this occasion. It is nothing new to have an Independent Speaker, and in fact it is not a bad idea from time to time. In that way, the Speaker or the President can claim that he is not biased, because he is an Independent. Perhaps the idea has some merit.

We claim to have a mandate for this Bill. Not only are we saying that: it was said on two occasions this afternoon and it warrants repeating. I repeat what members of the Party opposite said during the course of the election campaign. What Dr. Eastick said is already in *Hansard,* but I must emphasise it for the benefit of members opposite so that they will realise that Government members are not just saying it. Dr. Eastick, who was then Leader of the Opposition, said:

If Labor did win—and it won't—clearly it would be a major issue which had been taken to the people.

If the Bill is returned in precisely the same form, we would highlight the deficiencies we see in the legislation.

But I would accept that, after the matter had been discussed before the public, it needed to pass.

Is that why they got rid of the Leader of the Opposition, because that is what he said? Is that why he is not Leader today, because he said this Bill would have to pass? Obviously it must be one of the reasons why Dr. Eastick was thrown out of office by members of the Liberal Party. What did the Hon. Mr. DeGaris say? In the *Advertiser* on June 20, 1975, the following comment appeared:

The Leader of the Opposition in the Legislative Council, Mr. DeGaris, said last night that if Labor won and the Bill came back to the Council there would be no objection. "I do not believe we would have the right to object to the Bill any longer if it came back after a Labor victory," he said.

Those were the words of the honourable member opposite on June 20. Is he now backing down on what he said or was he trying to hoodwink the public outside? Where is the credibility of the Opposition when its members go out on the hustings and give an assurance that if Labor gets back the Bill will pass? That is what they said in the election campaign, but tonight they are adopting a different role. Dr. Eastick has paid the penalty for having said what I have quoted, and I venture to say that the Hon. Mr. DeGaris has also paid the penalty, because he offered himself for a position in the shadow Ministry of the Opposition and did not get a place. Those people have been sacrificed because they believed that, if the Government was returned, it would have a mandate for the Bill. Today they are suffering the consequences.

The Hon. A. M. Whyte: I didn't get a job either.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Whyte did not offer himself; he knows his capabilities. The Hon. Mr. DeGaris asked whether the Government won the election, but let us see what the Opposition lost as a result of the election. It lost a Leader, a Deputy Leader, and two good members from this Council. The Opposition cannot claim in any way to have a mandate to reject this Bill when members opposite said that if a Labor Government was returned to power there would be no objection to the Bill. Is it any wonder that people cannot trust the Liberal Party and its statements if this is the sort of performance it puts up?

The Hon. R. C. DeGaris: What about answering some of the questions we asked?

The Hon. M. B. Dawkins: He can't.

The Hon. D. H. L. BANFIELD: You are lucky to be here to hear them and to be able to participate in this debate. That is how close you went at the election at counting time. Two honourable members of this Council were sacrificed for the Hon. Mr. Dawkins.

The Hon. M. B. Dawkins: But you got in only because of a few hundred votes in Gilles.

The Hon. D. H. L. BANFIELD: But we got the few hundred votes and honourable members opposite dropped 18 per cent. We have the votes that they do not have. The Hon. Mr. DeGaris and the Hon. Mr. Burdett referred to the legality of this Bill. The State Government and the Australian Government are acting on the best legal advice available to them, including advice from Parliamentary counsel, but it is true that there is only one final way of testing the legality, and that is by taking the matter to court, if someone wants to do that.

The Hon. R. C. DeGaris: But we cannot take it to court.

The Hon. D. H. L. BANFIELD: Why not?

The Hon. R. C. DeGaris: That is what the argument is all about.

The Hon. D. H. L. BANFIELD: So we have to rely on the judgment of honourable members opposite that this is not legal compared to the opinion of the best legal brains, excluding that of the Hon. Mr. Burdett. We have accepted the best legal advice available, which is that this agreement is legal.

The Hon. R. C. DeGaris: And enforceable in court?

The Hon. D. H. L. BANFIELD: I would back the judgment of our legal advisers against that of the Hon. Mr. DeGaris, the Hon. Mr. Burdett and the Hon. Mr. Dawkins.

The Hon. J. C. Burdett: Did they say it was enforceable in the courts?

The Hon. D. H. L. BANFIELD: If we do not have to go to the courts and we cannot get there, we do not have to pursue the question. Honourable members opposite cannot have it both ways. There's a lawyer's attitude for you! We have the best advice available, and another lawyer is disputing it, but that is a lawyer's right; that is what they are paid for.

The Hon. J. C. Burdett: Was the advice that it would be enforceable in the courts?

The Hon. D. H. L. BANF1ELD: The Government's job is to get the Statute on the book. That is all we have to do. It is someone else's job to test it in court if he so desires. We do not have to go that far, as the honourable member knows.

The Hon. M. B. Dawkins: The Minister obviously does not know.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Dawkins apparently does, but no-one took any notice of him, and two members of his Party were dropped. In addition, the Leader and the Deputy Leader of his Party in another place were dropped. The Hon. Mr. Burdett and, I believe, also the Hon. Mr. DeGaris asked me about the South Australian and Northern Territory agreement, which has been referred to, and about the High Court decision in relation to it. The answer is that the litigation on the Northern Territory transfer turned on the argument that the agreement did not specify any time for performance; it was merely an agreement to agree. That is the difference between that agreement and this one.

The Hon. J. C. Burdett: But that was not the only ground.

The Hon. D. H. L. BANFIELD: The Bill before the Council is specific as to time—July 1, 1975, and the time fixed by a joint certificate of Ministers referred to in clause 2 (2) (*a*) (iii) of the schedule.

The Hon. J. C. Burdett: But what about the ground that it was simply politically enforceable? That was another ground. The High Court said it was not just on the ground that it was an agreement to make an agreement or that the times were not specific.

The Hon. D. H. L. BANFIELD: I have just referred to a better legal argument than the one you have put up.

The Hon. J. C. Burdett: You have not answered the question.

The Hon. D. H. L. BANFIELD: I have. I have said we are prepared to accept the legal advice we have received, and the Australian Government was prepared to accept the legal advice it received. There was no dispute in the Australian Parliament during the debate on the possibility

of the non-legality of this agreement. Some members of the Party opposite took part in that debate and voted for the Bill. So they, too, were satisfied.

The Hon. T. M. Casey: Their country member, Mr. Kelly, supported it.

The Hon. D. H. L. BANFIELD: So there is no need to worry about the legality of the Bill. The Hon. Mr. DeGaris and other honourable members referred to the position of wharves and silos. A definition of land transferred to the railways is contained in clause 5 (1) (*a*) (i) of the schedule; that is land used exclusively for the purposes of the non-metropolitan railways. There are no wharves used exclusively for non-metropolitan railways, and the same may be said of land used for co-operative bulk handling silos.

In answer to the Hon. Mr. Whyte, even if silos were exclusively used for railway purposes (and they are not), the most effect that the transfer can have on C.B.H. assets would be a mere change of landlord. The Hon. Mr. Cameron and the Hon. Mr. Carnie also asked several questions, one of which was: is land leased by farmers from the railways, such as the old Beachport line, which is closed, included in the take-over? The answer is "No", as it is not land used exclusively for the purposes of the non-metropolitan railways. Another question was: what obligation is there for the Commonwealth to honour the agreement? The answer is that it is an agreement entered into in good faith between the Commonwealth and the State and contains obligations, legal, political and moral. If the Commonwealth attempted to operate beyond the powers referred to it, such an attempted exercise of power would be justiciable in the courts.

Will council rates be paid on Commonwealth land after the transfer? The answer is that the State Government presently pays council rates for any properties which it owns and which are available for rental, irrespective of whether the property is tenanted at the time of the declaration of the rate or not. The Commonwealth Railways have, as a matter of policy, paid council rates in one of two ways: they have either paid the normal council rates, or in locations, particularly in Port Augusta, where a street entirely consists of Commonwealth Railway houses, they pay only 60 per cent of the council rates that normally would be payable; but in addition the Commonwealth Railways build and maintain the road, kerbing, water tabling, and footpaths at their own expense. The Australian Minister has assured me the existing Commonwealth Railways policy payment of council rates will continue for those properties that will be transferred to Australian National Railways as a result of the agreement. I think that answers the questions asked, except for the matter of the Select Committee. True, notice of motion was given that, if the Bill passed the second reading stage the last time it was in this Council, it would be referred to a Select Committee. Honourable members opposite made sure that that Bill would not go before a Select Committee. They did that on that side of the Chamber; they made sure of that.

The Hon. R. C. DeGaris: That is quite wrong, and you know it.

The Hon. D. H. L. BANFIELD: We had only to count the number of Ayes and the number of Noes to find that, when honourable members from the opposite side of the Council voted, the Noes had it and the Bill was lost. There was no opportunity for honourable members to get that Bill before a Select Committee once they had thrown it out on the second reading.

The Hon. J. C. Burdett: Didn't you say that a reference to a Select Committee would be treated as a rejection of the Bill?

The Hon. D. H. L. BANFIELD: I told honourable members that. However, the fact remains that honourable members opposite were the ones who did not even let the Bill pass its second reading. The Government voted for the second reading to give those honourable members an opportunity to refer the Bill to a Select Committee if they wanted to do so. However, they saw fit not to take that opportunity. Honourable members know very well that that is exactly the position, and they can read *Hansard* and see who voted for and against the Bill. They will see that not one Government member voted against the Bill. So, Opposition members did not even give it a chance to go to a Select Committee. There was, therefore, no alternative but for the Government to go to the people.

In its policy speech, the Government made sure that the people knew why it was going to them: because the Upper House had refused to pass this Bill. It asked for a mandate to pass the Bill in its present form, and it received that mandate. This agreement was canvassed right around South Australia, and the people came back with the answer, "We want that railway transfer Bill to pass. We will put the Labor Government in and see that we get it."

The Hon. M. B. Dawkins: You didn't come back with a majority.

The Hon. D. H. L. BANFIELD: I like this "minority" and "majority" business. Honourable members should look at the Government benches, where there are five new faces. However, two Liberal Party members are now out on their neck. Who lost the election?

The Hon. M. B. Dawkins: You lost three and we lost two. Work that out.

The Hon. D. H. L. BANFIELD: The Liberal Party lost not only two members but also its Leader and Deputy Leader, and another member lost his chance to have a place in the shadow Ministry. That is what members opposite lost as a result of not referring this Bill to a Select Committee. The other question that was raised related to road transport. This is the sort of red herring that members opposite draw across the trail; this Bill has nothing whatsoever to do with road transport. That would come under the Interstate Commission, a Bill to establish which is currently before the Senate. Whether it ever becomes an Act of Parliament remains to be seen: that is up to the Senate, just as it had the right to accept this agreement, which it did accept.

If the Senate does pass the Bill relating to the Interstate Commission, that commission will have certain powers that it may exercise over transport anywhere in Australia and irrespective of the owner. In other words, the commission's powers will embrace transport owned by the Australian National Railways, by State Governments and by private companies, without discrimination. The inclusion of arguments based an the Interstate Commission has no relevance at all to the current issue of the transfer of the non-metropolitan railway system to the Australian National Railways, and honourable members opposite know it; yet they try to draw a red herring across the trail.

Again, we say that the facts of this Bill, having been discussed not lightly but right throughout the election campaign, have been put to the people. They all know about it. The only people who do not know what it is

all about are honourable members opposite, because they have not taken an interest in it. They have tried to frighten the people in regard to road transport. They reap what they sow. They went out saying all sorts of things, and now they are going completely back on what they said previously. The people have accepted what the A.L.P. said during the election campaign. Indeed, they have returned us to Government, and I ask honourable members unanimously to pass the Bill.

Bill read a second time.

The PRESIDENT: I draw the attention of the Council to the provision of Joint Standing Order 2, dealing with the matter of hybrid Bills. It provides:

The following shall not be private Bills, but every such Bill shall be referred, after the second reading, to a Select Committee of the House in which it originates:

A. . . .

B. Bills introduced by the Government authorising the granting of Crown or waste lands to an individual person, a company, a corporation, or a local body.

As it was apparent from the non-compliance with the procedure set out in Joint Standing Order 142 that the House of Assembly did not treat this measure as a hybrid Bill, the question arises whether I am required to rule that it was such a Bill within the meaning of Joint Standing Order 2, to which I have referred. The question first requires me to be satisfied that it is a measure that grants Crown lands to a corporation, and the essential matter, of course, is that of the definition of "Crown lands". Accordingly, I invited an opinion from the Parliamentary Counsel, which is as follows:

The Honourable President:

RAILWAYS (TRANSFER AGREEMENT) BILL

You have asked for my opinion on whether the above-mentioned measure is a hybrid Bill within the meaning of the Joint Standing Orders of the Houses of Parliament relating to private Bills. For present purposes, a Bill may be considered to fall within the class of a hybrid Bill if it falls within the terms of general rule 2B;

2B. Bills introduced by the Government authorising the granting of Crown or waste lands to an individual person, a company, a corporation, or a local body.

It is, I suggest, abundantly clear that general rule 2A could have no application to the instant case. At clause 6 of the Bill, certain lands (as defined) are vested in the Australian National Railways Commission, a body corporate established by the Australian Railways Act. These "lands" are more specifically defined as "the right, title and interest of the State authorities and the Crown in right of the State in—

(i) all land used exclusively for the purposes of the non-metropolitan railways and services;"

In my opinion, the matter turns entirely on whether the lands proposed to be vested in the Australian National Railways Commission are Crown lands within the meaning of general rule 2B. At common law. Crown lands are the demesne lands of the Crown, that is, those lands that the Crown has not granted out in tenancy. This common law principle is given effect to in the definition of "Crown lands" at section 4 of the Crown Lands Act, 1929 (which is a re-enactment of a substantially similar provision in the Crown Lands Act, 1915, which was of itself a re-enactment of a substantially similar provision in the Crown Lands Act, 1903). I set out the relevant portion of this deflation:

"Crown lands" means all lands in the State except—

(*a*) . . .

(*b*) Lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown;

Section 81 of the South Australian Railways Commissioner's Act, 1936, as amended, in effect vests in the Commissioner for an estate in fee simple land described in that section which, for practical purposes, is all land used for railway purposes. It follows, therefore, that in so far as any right, title or interest of the South Australian Railways Commissioner is concerned the land in question is not Crown land.

I am instructed that no land is at present vested in the State Transport Authority, this being the other State authority within the meaning of the definition of "State authority" in the agreement. There remains, then, the question of the right, title and interest of the Crown in right of the State to land used "exclusively for the purposes of the non-metropolitan railways". In my opinion, no such lands can exist having regard to section 8I of the South Australian Railways Commissioner's Act.

(Signed) R. J. Daugherty,
Parliamentary Counsel

I am not obliged to follow that opinion, but it is extremely persuasive and, accordingly, I do not propose to rule that this is a hybrid Bill. The Hon. Mr. DeGaris.

The Hon. R. C. DeGARIS (Leader of the Opposition) moved:

That Standing Orders be so far suspended as to enable him to move a contingent notice of motion of which he had given notice earlier this day.

The PRESIDENT: I have counted the Chamber and there being present an absolute majority of the whole numbers of the Council I put the motion. Those in favour say "Aye" and those against say "No". There being a dissentient voice there must be a division. Ring the bells.

The Council divided on the motion:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris (teller), R. A. Geddes, C. M. Hill, and A. M. Whyte.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. D. H. Laidlaw. No—The Hon. B. A. Chatteron.

The PRESIDENT: As there is not an absolute majority of the whole number of the members of the Council the question passes in the negative.

In Committee.

Clause 1—"Short title."

The Hon. R. C. DeGARIS (Leader of the Opposition): I hope that the Chief Secretary can answer my question, which deals with the fact that the Act may be cited as the "Railways (Transfer Agreement) Act". Much debate has been undertaken concerning the enforcability of the agreement. Has the Chief Secretary taken advice from his legal advisers about whether the agreement is enforceable in law. Is the case quoted by the Hon. J. C. Burdett and me that the agreement is not enforceable by law a valid argument?

The Hon. D. H. L. BANFIELD (Minister of Health): I felt that I did answer that question before. I point out that the South Australian/Northern Territory Agreement referred to and the High Court decision in relation to it are distinguishable from the current transfer. The litigation on the Northern Territory transfer turned on the argument that that agreement did not specify any rime for performance and was merely an agreement to agree. The Bill before the House is specific as to times, first, July 1, 1975; and secondly, the time fixed by a joint certificate of Ministers referred to in clause 2 (2) *(a)* (iii) of the schedule. Yes, we have taken legal advice. We believe that this agreement is legal. We also believe that it is enforceable. Because of the advice given to us we stand by this view.

The Hon. R. C. DeGARIS: Has the Minister's legal advisers told him that the agreement is enforceable at law?

The Hon. D. H. L. BANFIELD: The position is that the agreement is entered into in good faith between the Commonwealth and the State and contains obligations, both legal, political and moral and, if the Commonwealth attempted to operate beyond the powers referred to it, such an attempted exercise of power would be justiciable in the courts.

Clause passed.

Clause 2—"Commencement."

The Hon. A. M. WHYTE: I move:

To strike out "this Act" and insert "subject to subsection (3) of this section, this Act"; and after subclause (2) insert new subclause, as follows:

(3) The Governor shall not make a proclamation referred to in subsection (1) of this section until he is satisfied that an amending agreement has been entered between the State and the Commonwealth and that that amending agreement has been approved of by the Parliament of the State and the Parliament of the Commonwealth and that that amending agreement amends the agreement set out in the schedule to this Act in the following particulars—

(a) by inserting in the definition of "land" in subclause (1) of clause 1 of that agreement after the passage "interest in land" the passage "but does not include any land the subject of a lease between the South Australian Railways Commissioner and the South Australian Co-operative Bulk Handling Limited";

and

(*b*) by striking out from paragraph (*j*) of subclause (2) of clause 2 of that agreement the passage "and of any services principally or mainly incidental or supplementary to, or principally or mainly associated with, those last mentioned railways".

It has been suggested that the only way to give the protection that I have sought for the Co-operative Bulk Handling installations is by excluding that land on which they are built from the present agreement. Members opposite have spoken and I am sure there has been accord reached between the Minister, the Premier and everyone else, and it is not intended that the C.B.H. installations shall be interfered with in any way. They have a lease which runs in most instances for 30 years at least, during which time there can be no interference with the present lease.

Since this is new legislation that we are writing there seems no reason that there should not be some protection given, or some statement in the Statute so that when the lease does expire, the State Government itself will then negotiate a fresh lease with the co-operative, if we have such a thing in 30 years time. I am appealing to this Chamber for some form of security on two counts.

First, for the C.B.H., I am appealing to this Chamber to say, "Yes, let us leave those installations so that when their lease expires they will negotiate once again with the State Government." There is not a lot of land concerned. It would not make any difference to the Commonwealth Railways one little bit, because the amounts of land taken for these projects is minimal. They quite truly have no intentions, I believe, of interfering with the installations themselves and I am merely asking that this amount of land be kept within the jurisdiction of the State Government instead of transferring it to the Commonwealth.

We would also need supplementary legislation to the present agreement. In both cases, it does not impede the progress of this legislation; it is not necessary to have the present agreement altered. I am proposing merely an addendum to the present agreement and I believe it is fair; I appeal to honourable members in this Chamber to accept the amendment.

There has been a great deal of play, sentiment, whatever it might be, about there being a double dissolution if this Bill is not accepted in its entirety. I want to make it quite clear that a double dissolution has nothing to do with me. I cannot force one; I cannot reject one. If we have one I accept that because that is what the Government will want. However, I will not be blackmailed, bludgeoned, whatever it might be, out of my contention on this Bill. I have stuck to the same story the whole way through. I think it would be very simple to provide the safeguards. We have all the assurances. We have assurance of the Transport Minister. We have the assurance of the Prime Minister, and the Premier. I understand that they exchanged correspondence which gives consent to this kind of safeguard, but I do not want to deal with people's assurances because surely people cannot go on for ever—and I know a very healthy man who the other day dropped dead teeing up on the eighth hole of a golf course—he was fit enough to carry the Premier around the block.

The Hon. T. M. Casey: Who gave him the assurance that he would not die?

The Hon. J. E. Dunford: You don't miss Liberals.

The Hon. A. M. WHYTE: We do not want to base this legislation on assurances when it would be so simple to write it into the Act and into the agreement. It would not impede the progress of this legislation one little bit. I appeal to honourable members and I appeal to you, Sir. I am not sure whether I should go on and explain—

The Hon. J. E. Dunford: You haven't done a very good job so far.

The Hon. A. M. WHYTE: —paragraph (*b*), which is consequential on the amendment to clause 10.

The CHAIRMAN: I propose to treat them all as one amendment if the Committee does not object.

The Hon. A. M. WHYTE: Thank you, Mr. Chairman. Paragraph *(b)* says:

(b) by striking out from paragraph (*j*) of subclause (2) of clause 2 of that Agreement the passage "and of any services principally or mainly incidental or supplementary to, or principally or mainly associated with, those last-mentioned railways.

The intent of that amendment is that despite the arguments we have heard with regard to transport and road policy, there is nothing in the agreement which would in any way stop the Commonwealth, if it so desired, from running road transport in competition with the present open-road policy that has served us so well. Whether that is the intention—and we have been assured this is not the intention—there is no reason why it should not be written into this legislation. All I am asking is that this jurisdiction remain with the State, because there is no way that individuals could appeal to the Commonwealth Railways whereas we have the right under the present legislation to appeal to our Minister.

Now everyone is in accord. I am sure they have all said so, that there is no real reason why the Commonwealth should enter into this field of competition on an unfair basis, and yet under this Bill that is exactly what it could do. Much of this State is served by road transport and will be for many years. It is the only answer to the transport problem, because the railway will never be extended to some of the areas that must be serviced by road transport. It is necessary to keep a strong and viable fleet of hauliers operative in this State. It would not be fair for the Commonwealth Railways to enter this field of transport on a temporary basis, as is possible under the legislation, without paying the competitive taxes paid

by hauliers. I doubt very much whether the present Railways Commissioner would want to do that, but we may have other commissioners. It is an opportunity to say that it cannot be done because the administration of the legislation belongs rightfully in the hands of our own Minister of Transport.

Many people have spoken and we have heard assurances of Ministers, Prime Ministers, Premiers and everyone else. We are told it is exactly what they want, so what is wrong with having it written into the legislation? If the Committee supports my amendment, it will then go to the popular House. If the Government considers my amendments are not necessary and are impeding the progress of the Bill, I assure the Government I will not do that. If the amendment is refused and the Bill is returned to this Chamber I will not ask that the Committee further support it. I merely appeal to the Government. Here is an opportunity to write into the legislation what its members are talking about.

The Hon. D. H. L. BANFIELD: I can understand the frustrations of the Hon. Mr. Whyte. He agrees that it is not necessary to have this written into the legislation because everyone wants it, but he does not trust anyone. That is because he has had so many knock-backs within his own Party.

The Hon. R. C. DeGaris: Come on, get off the ground level.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Whyte has just said that everyone has agreed, but he is saying he does not trust them. We oppose the amendment. If it is agreed to, the object of the Bill will be frustrated.

The Hon. R. C. DeGaris: Why?

The Hon. D. H. L. BANFIELD: The object of the Bill is to approve the agreement set out in the schedule to the Bill. The effect of the amendment is not to approve of that agreement, but merely to indicate that if the agreement is amended in the manner indicated it will be approved. Accordingly, the Government opposes the amendment.

The Hon. R. C. DeGARIS: I understand the Hon. Arthur Whyte's frustration, especially following the Minister's reply. The Hon. Mr. Whyte dealt with a matter that I believe he justifiably raised in this place. In reply, he was treated with scant regard and in a manner which is not the Minister's usual practice. I remind the Chief Secretary of that because I do not think his reply did justice to the sincerity with which the Hon. Mr. Whyte put forward his amendment. If one follows the Chief Secretary's argument that no-one trusts anyone, why have a Parliament and why have legislation? If it is not written into the agreement it is not binding. The agreement itself I believe is not enforceable in law. I think that, if this went in, it would make no difference at all, but the Chief Secretary made the point that there were moral obligations—

The Hon. D. H. L. Banfield: And legal.

The Hon. R. C. DeGARIS: This is not a legal obligation because it is legally not enforceable, but it is a moral obligation. The Government does not want it put into the agreement or to approach its Commonwealth colleagues to agree to a change in the Commonwealth legislation to accommodate this request. I am extremely disappointed in the attitude of the Minister and I remind him that his attitude on this matter does him very little justice.

The Hon. D. H. L. BANFIELD: Of course, the Hon. Mr. DeGaris says it does not do me justice, because I do not agree with what he is saying. I think the Hon. Mr. Whyte has received an assurance from the management of South Australian Co-operative Bulk Handling Limited indicating that they were happy about the conditions provided in the amendment. They are the people for whom the Hon. Mr. Whyte is attempting to add extra provisions in this clause. I do not know what he has to worry about. We believe that the effect of the amendment is not to approve of the agreement but merely to indicate, if the agreement is amended in the manner indicated, that it will be approved. We oppose the amendment.

The Hon. A. M. WHYTE: I am quite pleased that the Minister has raised the issue of a communication from the Manager of the co-operative, part of which states:

> Suggest two avenues. See shadow Minister of Agriculture, Graham Gunn, to move amendment or you in Legislative Council to move amendment, put to Government that all existing rights of bulk handling regarding storage and silos are preserved.

Towards the end of his reply the Minister got the Bill away from the bilge water that has been poured all day in this Chamber. I am not concerned about the arguments that have gone back and forth across the Chamber today. I make an honest appeal, and the Minister knows that the amendment would in no way impede the legislation. There is a good deal more I could read out to him.

The Committee divided on the amendment:

Ayes (7)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, and A. M. Whyte (teller).

Noes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. D. H. Laidlaw. No—The Hon. B. A. Chatterton.

Majority of 4 for the Noes.

Amendment thus negatived; clause passed.

Clauses 3 to 9 passed.

Clause 10—"Reference of matter to the Parliament of the Commonwealth."

The Hon. A. M. WHYTE: I move:

> In paragraph (*b*), to strike out "and of any services principally or mainly incidental or supplementary to or associated with the railways referred to in this paragraph."

I am ready to fight to the bitter end. It may be an exercise in futility but I am at least alerting honourable members to the fact that here is their opportunity to do something effective. Paragraph (*b*) would read, if my amendment was accepted:

> the administration, maintenance and operation in the State of any railways constructed or extended by the Commonwealth or the Commission with the consent of the State.

The Commonwealth Railways may operate any of the services they are at present operating but, if they want to extend those services and compete with road transport (whether a bus service or a haulier service anywhere in the State) they must approach the State Government. The Commonwealth would not have control of both systems, and the jurisdiction for any application as regards transport would be vested in our own Minister of Transport. The amendment means nothing more that that. The Commonwealth Railways Commissioner would in no way inhibit the State services by the take-over of the non-metropolitan railways. There is no suggestion of any impeding of the Commonwealth's activities but, if it wished to expand further than at present, my amendment would restrict it from doing so; and that is fair enough.

The Hon. M. B. CAMERON: I do not support the amendment, because I believe the time for alteration in this matter was before the election.

The Hon. J. C. BURDETT: Honourable members opposite have said several times that they do not wish to see the Commonwealth Government able to operate road transport in this State.

The Hon. N. K. Foster: We did not say that.

The Hon. J. C. BURDETT: I think you did. All that this amendment does is to make sure that that is not possible. Therefore, I look forward to honourable members opposite voting for the amendment, to ensure that the Bill is confined to its purpose of operating existing railway services.

The Hon. D. H. L. BANFIELD: The Government cannot accept the honourable member's amendment.

The Hon. A. M. Whyte: Why do you say it cannot? It could.

The Hon. D. H. L. BANFIELD: If this amendment was agreed to, the form and substance of the reference of power contained in clause 10 would not accord with the form and substance of the reference agreed to be made in clause 2 (2) (*j*) of the agreement. For that reason, the Government opposes the amendment. The Hon. Mr. Burdett is keen on red herrings, and again he introduces the matter of road transport. I ask him to read in *Hansard* what I said about the Interstate Commission.

The Committee divided on the amendment:

Ayes (7)—The Hons. J. C. Burdett, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, and A. M. Whyte (teller).

Noes (11)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, M. B. Cameron, J. A. Carnie, T. M. Casey, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. D. H. Laidlaw. No—The Hon. B. A. Chatterton.

Majority of 4 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (11 to 16) passed.

Schedule.

The Hon. J. C. BURDETT: My question relates to the enforceability of the agreement that comprises the schedule. The legal opinion that the Minister has so far read to honourable members has been carefully worded so as to avoid the main point. The Minister said that he has had advice that, if the Commonwealth acted beyond its powers, this would be justiciable in the courts. Has the Government had advice on whether, if the Commonwealth did not act beyond its powers but simply broke the agreement in relation to the protection given therein, the agreement would be enforceable in the courts?

The Hon. D. H. L. BANFIELD: I have already canvassed the legality of this agreement, and I stand by what I have said.

The Hon. R. C. DeGaris: You haven't answered the question.

The Hon. D. H. L. BANFIELD: I have.

The Hon. R. C. DeGARIS: I am not satisfied with the Chief Secretary's answer. He has not answered the question, which has been the core of the argument right through. The Government refuses to give any answer to this question. I take it a step further and point out that in the schedule (clause 8 and other clauses) there is provision for arbitration. In relation to the 1907 rail agreement for the Northern Territory, the High Court decided on several grounds (with only one of which the Chief Secretary has dealt) that the matter was not justiciable in the High Court. In other words, no determination could be made in the High Court in the case of a breach of any agreement, in any action outside the scope of an agreement, or if the terms of an agreement were not fulfilled.

When one comes to the question of arbitration, the Commonwealth Government could take exactly the same stand before an arbitrator. First, it could submit that the matter should not go before an arbitrator. Secondly, it might not agree to the appointment of an arbitrator, and it would not have to abide by the award of an arbitrator. Thirdly, if a judgment was made by an arbitrator, how would the money be appropriated from the Commonwealth Treasury to fulfil that obligation? So, the point is crucial not only regarding the legal enforceability of the agreement but also regarding the question of arbitration, because the Government has said clearly that the arbitration clause gets it off the hook. But it does not. If the point that has been made is valid, the arbitration clause is of no value whatsoever. Therefore, the point that the Chief Secretary refuses to answer is vital and crucial to the agreement, and I think he should answer it.

The Hon. D. H. L. BANFIELD: The Leader says that he is not satisfied with the answer that I have given, but he is not satisfied with the Bill. Indeed, he has been saying it all day. So, how can I satisfy the Leader, when I have told him repeatedly what the position is?

The Hon. J. C. Burdett: Answer the question!

The Hon. D. H. L. BANFIELD: The position is that the Bill provides for any dispute to go to arbitration.

The Hon. R. C. DeGARIS: I can put the question even more bluntly. Has the Commonwealth Government the right, under this agreement, not to accept an arbitrator if the State requires arbitration? Will he answer that question for me?

The Hon. D. H. L. BANFIELD: The Leader has been a member of a Government for some time and knows that this clause is in all agreements between the Commonwealth and State Governments. It is no different from an arbitration clause that is contained in any other agreement.

The Hon. R. C. DeGaris: Yes, it is.

The Hon. D. H. L. BANFIELD: It seems impossible for honourable members to realise that the Government's advice is that this is quite a legal document and that it will stand up.

The Hon. R. C. DeGARIS: Has the Chief Secretary received advice from his legal advisers that it is possible to force the Commonwealth Government to go to arbitration if there is any disagreement in relation to the schedule?

The Hon. D. H. L. BANFIELD: We have received advice that this is a legal document and that it will stand up. I cannot keep repeating that. The Leader can ask the question a thousand times if he wants to, but the answer is exactly what I gave the Leader this afternoon in the reply to the second reading.

The Hon. R. C. DeGARIS: It is useless to pursue this line, because the Minister refuses to answer the question correctly. There is no way that South Australia can get a matter to an arbitrator if the Commonwealth will not accept an arbitrator and, if a matter goes before an arbitrator and he makes a judgment, there is no way that the

State can force the Commonwealth to abide by that arbitration. The Chief Secretary has refused to answer the question. I know what his legal advisers say because his legal advice is exactly the same as the advice I have given to the Council.

The Hon. N. K. Foster: Where did you get it?

The Hon. R. C. DeGARIS: The 1961 rail standardisation case, to be found in the *Chamber of Manufactures Journal.* In the schedule the definition of "railways" includes all land, railway lines and bridges. What is the position in regard to wharves? Does the definition include all wharves in South Australia or only wharves on which railway lines exist, and what debt structure, if any, is the Commonwealth Government taking over in relation to wharves?

The Hon. D. H. L. BANFIELD: My advice is that the transfer in clause 5 does not provide for the transfer of wharves, and they are not being taken over by the Commonwealth Government.

The Hon. R. C. DeGARIS: How does the Chief Secretary explain the following definition:

"railways" includes all land, railway lines, bridges, culverts, wharves, buildings, structures, roads, depot and barrack facilities for employees, facilities for storage, servicing and maintenance of rolling stock, signalling, road protection and communication facilities, cranes, weighbridges, locomotives, wagons, carriages, and other rolling stock and vehicles, including road and shunting vehicles, machinery, plant, equipment, tools, and other works, matters and things used, associated, or connected with or appurtenant to the railway system vested in the S.A.R. Commissioner;

It is clear that the railways include wharves, but the Chief Secretary says that the Commonwealth is not taking over wharves. Obviously that is incorrect. I want to know what "wharves" means. Will the Commonwealth Government take over wharves at Port Adelaide on which railway lines run? The agreement clearly states that it will. The answer the Chief Secretary has given is unsatisfactory, and I believe it is misleading to the Council.

The Hon. D. H. L. BANFIELD: I am certain that if we go any further the Leader will get on to the same old hurdy-gurdy. I have already answered this question.

The Hon. R. C. DeGARIS: The question should be answered: are the Port Adelaide wharves included or not?

The Hon. D. H. L. BANFIELD: The answer is the same as that which I gave before: the words of transfer do not provide for the transfer of wharves to the Commonwealth.

Schedule passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 10.25 p.m. the Council adjourned until Wednesday, August 13, at 2.15 p.m.