LEGISLATIVE COUNCIL

Wednesday, November 17, 1976

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

QUESTIONS

WATERCOURSES

The Hon. R. C. DeGARIS: Has the Minister of Lands a reply to my recent question on watercourses?

The Hon. T. M. CASEY: The Minister of Works has informed me that the definition of "watercourse" in section 5 of the Water Resources Act, 1976, is wide enough to include a "drain" as defined by the South-Eastern Drainage Act, 1931-1974. Accordingly, the Government has power to declare a "drain" under the latter Act to be a "Proclaimed Watercourse". For the purposes of the Water Resources Act, 1976, it appears to be irrelevant whether or not the watercourse is included in a fee simple title held by a council or private person since a watercourse is defined as including the "bed and banks of any such watercourse". The words "bed" and "banks" are stated to include "the land over which flows the water thereof or which is covered by that water whether permanently or regularly . . .". It is also pointed out that, under section 35 (1) of the Water Resources Act, 1976, there is a wide power to override the provisions of any other Acts where the Governor is satisfied that an actual or expected shortage in the availability of water has occurred or may occur.

AGRICULTURE COURSE

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

Leave granted.

The Hon. M. B. DAWKINS: Recently, in at least one college of further education, there has been established a rural studies course. This course leads to a certificate after 400 hours study, comprising eight subjects with an average of 50 hours each, and there is some choice of subjects involved. The course should not, and I believe that it does not, conflict with courses at secondary level at high schools or courses at tertiary colleges such as Roseworthy Agricultural College, but these courses do provide some further rural study—leading to a certificate—at mature age level. Can the Minister ascertain from his colleague what other further education colleges contemplate establishing such courses for mature-age students and farmers, and if such have not been contemplated, will the Minister examine the possibility of establishing similar courses at other further education colleges?

The Hon. B. A. CHATTERTON: I know that there are several colleges providing such rural courses; if not in total, then providing certain parts of such courses. I will obtain further details for the honourable member from the Minister of Education and bring the information down as soon as possible.

FIRE BANS

The Hon. F. T. BLEVINS: I seek leave to make a brief explanation prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. F. T. BLEVINS: Last year the Minister took extreme but very necessary action to prevent bush fires in the pastoral zone by applying fire bans throughout the area. Already we have had reports of serious fires in the North and I understand that several hundred square kilometres has been burnt out. From my observations and from what I have been told, I consider that the Minister should take similar action this year. I ask the Minister whether fire bans are likely to be imposed throughout the pastoral areas. On the past few occasions that I have been in Leigh Creek, I have found that this matter seems to be an issue of much concern to the people there. Of course, they are included in this zone and it is extremely difficult for them to hold barbecues, and so on, on weekends when there is a blanket provision that they must not light a fire. A similar position applies in Whyalla. Inconvenience is caused on a day of fire bans if people cannot have a barbecue. If fire bans are to be imposed, can the Minister give consideration to the many people living in country towns who cannot light barbecues, even in their own backyards, because of these restrictions?

The Hon. B. A. CHATTERTON: The situation in the Northern pastoral zone is very serious indeed and there is much carry-over of growth from previous years. This serious hazard has resulted in a situation where it has been necessary to declare a fire ban in the pastoral areas. I have had representations from various fire-fighting authorities and other people who are concerned about the matter, and the bans went into operation on Monday of this week. The area includes the North-East and North-West pastoral district and, of course, much of the Flinders Range area that is outside the council boundary. It also includes an area north of the Murray River, which again is outside the council boundaries. I point out to the honourable member that an alteration has been made to the regulations so that gas-fired or wood fired barbecues can be used near dwellinghouses when strict precautions are taken. Therefore, in regard to the particular problem that he has raised about the Leigh Creek area, which problem has been of much concern to residents in that area because they have not been allowed to use barbecues, as a result of this blanket ban over the whole of that pastoral area, those people will now be able to use barbecues as long as they fulfil the conditions laid down. However, to make sure that there is no confusion about the matter, I emphasise that, when there is a complete ban on the lighting of fires in the open, a ban that is announced over the radio, they will not be able to light their barbecues. The ban in the pastoral area to which I have referred will apply until March 31.

COPYING SERVICE

The Hon. J. A. Carnie, for the Hon. M. B. CAMERON (on notice):

1. What is the total cost of providing the Registrar-General's copying service, including costs, for the service to Government departments from December, 1975, to December, 1976?
2. What is the total income from the private users of the copying service from December, 1975, to December, 1976?

3. What is the total loss incurred in providing this service, including service provided to Government departments from December, 1975, to December, 1976?

4. What is the estimated increase in income following the increased charges to the private sector?

5. Was the estimated loss of $10 000 referred to in the question of October 21, 1976, for a 12-month period?

The Hon. T. M. CASEY: The replies are as follows:

1. The estimated total cost, on current costing basis, is $138 000 for the period January 2, 1976, to December 31, 1976, inclusive.

2. The estimated total income from the private users of the copying service from January 2, 1976, to December 31, 1976, inclusive is $152 800 based on anticipated sales during November and December, 1976, at the current charge of $1.

3. The total loss incurred in providing this service, including service provided to Government departments, covering the period from January 2, 1976, to December 31, 1976, inclusive was estimated to have been a minimum of $10 000. In the light of appraisal of more recent sales (to the week ending November 12, 1976) the estimated loss could well have been about $14 000.

4. The increase in income following the increased charges to the private sector is estimated at $28 000 for the period January 2, 1976, to December 31, 1976, inclusive. On the basis of the answer to question 3 above, this represents an expected profit of $14 000 to the end of December, 1976.

5. Yes.

DRUGS

The Hon. R. A. GEDDES: I move:

That a Select Committee of this Council be appointed to inquire into the misuse of narcotic and psychotropic drugs and the resultant social harm accruing therefrom and what steps should be taken to prevent the misuse of such drugs and to minimise such social harm.

As honourable members will realise, when this motion was put on the Notice Paper last week, I intended that a Select Committee of this Council should be set up following the passage of the Narcotic and Psychotropic Drugs Act Amendment Bill, which was responsible for markedly increasing fines and terms of imprisonment, and following concern expressed on both sides of the Council that the imposition of fines on drug pushers might not be the complete answer. I believed that further consideration should be given to the matter.

When the second reading debate on the Bill was concluded and when the Bill passed this Council, the Government did not at any stage indicate concern about the points made during the debate, nor did it indicate that anything would be done about the matter. I therefore thought it wise that some form of inquiry should take place. After considering the evidence given to it, the Select Committee might have been able to suggest ways of solving the vexing problem that is affecting so many people in all walks of life. The effectiveness of the Opposition was shown by the way it pointed out to the Government the need for an inquiry to be set up.

The Hon. F. T. Blevins: You cannot take all the credit for that. Give us a little bit of credit.

The Hon. R. A. GEDDES: I am not trying to take all the credit at all; I am pointing out that the Opposition can take some credit for promoting this idea and for setting in motion the machinery for establishing a Select Committee to consider the problem. It is interesting to note in this morning's press the Premier's reported statement that a Royal Commission will be set up. It is also interesting to note the wording of the Premier's statement. Obviously, he was caught unprepared when he said that the Royal Commissioners had yet to be approached.

The Hon. F. T. Blevins: We know that that is not correct, and so do you.

The Hon. R. A. GEDDES: I am merely quoting from the press statement. The commission's terms of reference will be completed when discussions have been held with the commissioners after their appointment. It is regrettable that we are unable to have a Select Committee to inquire into this matter. The previous record of Legislative Council Select Committees (and I refer particularly to the Select Committees that examined the matters of succession duties and Aboriginal welfare) has been—

The Hon. D. H. L. Banfield: What did the then Attorney-General, Mr. Millhouse, do with the recommendations made by the Select Committee that inquired into the welfare of Aboriginal children? It made one recommendation regarding the place at Blackwood, but the then Attorney-General went in the opposite direction to that of the Select Committee's recommendation.

The Hon. R. A. GEDDES: I am saying that this Council appointed a Select Committee, the report of which was held in high regard by many people in different walks of life.

The Hon. D. H. L. Banfield: And the then Liberal Government didn't adopt it.

The Hon. R. A. GEDDES: Could I obtain from the Chief Secretary a guarantee that every recommendation made by the Royal Commission inquiring into drug use and abuse will be implemented?

The Hon. D. H. L. Banfield: You referred to Legislative Council Select Committees and particularly to the Select Committee appointed to inquire into the welfare of Aboriginal children. I am pointing out what your Government did as a result of recommendations made by that Select Committee. One specific recommendation was made regarding keeping open the home at Blackwood. However, that home was closed within a week. That was your Government's attitude to that recommendation made by the Select Committee.

The Hon. R. C. DeGaris: That has nothing to do with this.

The Hon. D. H. L. Banfield: Yes, it has.

The Hon. R. A. GEDDES: The point is that, if a Select Committee to inquire into drug abuse had been appointed, its report would have been so good that the Government would have accepted it.

The Hon. D. H. L. Banfield: That may be so, but your Government did not accept the Aboriginal one.

The Hon. R. A. GEDDES: Nor did it accept some of the recommendations made by the Select Committee that was appointed to inquire into the matter of succession duties. However, much evidence was given before that committee and the Government is slowly adopting many of its recommendations now.

The Hon. D. H. L. Banfield: I thought that the Council would be interested to know what the former Liberal Government did regarding the recommendations made by a Council Select Committee.

The Hon. R. A. GEDDES: The Chief Secretary is playing politics. The report made by that Select Committee was a good and constructive one. It was not a report that could be taken lightly. That all of its recommendations were not accepted by the Government is, to me, regrettable.

However, that is not the point. What are committees and Governments for? It is the latter's responsibility either to accept or to reject advice according to their knowledge of certain matters. I again ask whether the Government will accept every recommendation that is made by the Royal Commission appointed to inquire into drug use and abuse.

The Hon. D. H. L. Banfield: Not necessarily.

The Hon. R. A. GEDDES: I realise that. There will be a division of thinking on its recommendations. The Premier in his press statement was not specific regarding who the commissioners would be or about the commission's terms of reference. The Royal Commission was appointed as the result of the motion put on notice in this place last week for the appointment of a Select Committee.

The Hon. N. K. Foster: That's not right, and you know it.

The Hon. R. A. GEDDES: Because a Royal Commission will have far greater powers than a Select Committee appointed by this Council, and because the problems of drug abuse are of much concern to us all, I come down on the side of the appointment of a Royal Commission. I therefore seek leave to withdraw my motion.

The Hon. D. H. L. BANFIELD (Minister of Health): I agree that leave should be granted to the honourable member to withdraw the motion which is in his name. I do it for one specific purpose and it is unfortunate the Hon. Mr. Geddes attempted to take the full kudos when in actual fact every member that spoke on both sides of the Chamber expressed concern in relation to the drug position in South Australia. The Hon. Mr. Dunford in his speech indicated that at the past A.L.P. convention it recommended that an inquiry be held into this matter, and he also indicated that he hoped that a Royal Commission would be set up to inquire into the usage of drugs in South Australia.

Do not play politics about the whole thing. This was not something which was pushed on to the Government by this particular motion. This was something which the Government had in its mind. It is true it had not made an announcement and it is true that there are various people who have to be interviewed to see whether they are prepared to be a Commissioner. One cannot arrange these things overnight. However, I express appreciation that the Opposition is as concerned as the Government concerning this matter, but I do object to the implication that this was forced upon it because of this motion which was brought forward.

This was clearly suggested by the Premier long before the Hon. Mr. Geddes moved his motion. To suggest that the Government was not going to do anything is just not correct. It is true to say that the Government was inquiring into the ways and means of appointing people who are prepared to sit on such a Commission and also concerning the terms of reference. These things were being worked on prior to the Hon. Mr. Geddes giving notice of this motion. I hope honourable members will give the Hon. Mr. Geddes leave to withdraw the motion.

Leave granted; motion withdrawn.

SHEARERS ACCOMMODATION REGULATIONS

Order of the Day, Private Business, No. 2: The Hon. R. A. Geddes to move:

That the Shearers Accommodation Regulations, 1976, made under the Shearers Accommodation Act, 1975, on September 16, 1976, and laid on the table of this Council on September 21, 1976, be disallowed.

The Hon. R. A. GEDDES moved:

That this Order of the Day be discharged.

Order of the Day discharged.

THE STATE OPERA OF SOUTH AUSTRALIA BILL

Second reading.

The Hon. T. M. CASEY (Minister of Lands): I move:

That this Bill be now read a second time.

This measure establishes as a body corporate the State Opera of South Australia, and provides for the management of its affairs. Honourable members may be aware that a body formerly known as "New Opera Incorporated" was, some time ago, incorporated under the Associations Incorporation Act and recently this body changed its name to "The State Opera of South Australia Incorporated". It is proposed that the new body to be created by this measure will absorb the present body incorporated under the Associations Incorporation Act.

Clauses 1 to 3 are formal. Clause 4 sets out the definitions necessary for the purposes of the measure. Clause 5 establishes the body corporate under the name "The State Opera of South Australia" and provides for certain basic powers appropriate to a corporation of this nature. Clause 6 provides for the management of the affairs of the opera by a board of management consisting of five members appointed by the Governor and two persons elected by subscribers. Clause 7 is intended to recognise the likelihood that one of the persons appointed by the Governor will represent employees of the State Opera on the board of management. Clauses 8 and 9 provides for removal from office of members of the board and are in the usual form.

Clause 10 is again in the usual form and provides for a quorum of four members to constitute a meeting of the board, and clause 11 provides for the Chairman to preside at a meeting and arms him with a casting vote. Clause 12 provides for fees to be payable to board members. Clause 13 provides a power of delegation for the board. Clause 14 is a formal validating provision. Clause 15 is intended to ensure that members of the board do not, by virtue only of their membership of the board, become officers of the Public Service of the State. Clause 16 is intended to ensure that members of the board will make proper disclosure of their financial interests where these interests may conflict with their responsibilities as members of the board. Clause 17 provides for the absorption by the body, established under this measure, of the body incorporated under the Associations Incorporation Act. Clause 18 sets out objects of the State Opera and is commended to honourable members' particular attention. Clause 19 gives the State Opera a power compulsorily to acquire land for the purposes of the Act. It should be noted that the exercise of this power by the State Opera is subject to the consent of the Minister.

Clause 20 empowers the board with the consent of the appropriate Minister to make use of the services of officers of the Public Service. Clause 21 gives the State Opera the power to employ persons. Clause 22 provides for the appointment of a Secretary to the board. Clause 23 requires the State Opera to keep proper accounts of its financial affairs. Clause 24 gives the State Opera the power to borrow with the consent of the Treasurer and also provides that such borrowings may be secured by way of guarantee from the Treasury. Clause 25 sets out the sources of funds for the State Opera. Clause 26

provides for an appropriate degree of control over the financial operations of the State Opera. Clause 27 gives formal protection against suits and actions against members of the board who act in good faith. Clause 28 provides for an annual report on the activities of the State Opera. Clause 29 provides for certain exemptions from stamp duty, succession duty and gift duty on gifts to the State Opera. Clause 30 is formal. Clause 31 sets out a power to make regulations for the purposes of the measure.

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

FOOD AND DRUGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 16. Page 2128.)

The Hon. C. M. HILL: This Bill contains 19 clauses. All it seems to do is to alter the word "inspector" wherever it appears in the principal Act to the words "health surveyor". I understand that the change has been requested by the Australian Institute of Health Surveyors (South Australian Division) and also that the change to "health surveyor" achieves uniformity between the States. As the people concerned within the Australian Institute of Health Surveyors have sought this change and as it complies with the Australian practice, I am pleased to support the second reading of the Bill.

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

HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 16. Page 2129.)

The Hon. C. M. HILL: The Bill alters the Health Act in four different respects. In future it will be necessary for all hospitals to report cancer cases to local boards of health, whereas previously this information has been required only from major metropolitan hospitals. As a result of this change the Government will have at its disposal necessary statistics to help the Government and the Public Health Department cope with problems caused by this disease. Therefore, the change is commendable.

The second alteration to the parent Act is that the schedule listing infectious and notifiable diseases is revised to conform more closely with the list recommended by the National Health and Medical Research Council. This introduces the principle of uniformity throughout Australia. The third change is in respect to greater power being sought to improve further the clean air provisions of the principal Act and, fourthly, the Bill changes the word "inspector" to "health surveyor", as was the case with the Bill just dealt with concerning food and drugs.

The only change about which I comment relates to the clean air regulations. In a 1963 amendment to the Health Act power was given to regulate and control the burning of rubbish in private, public or municipal incinerators and tips. That provision was contained in section 94c. This Bill widens the power so that regulations can be brought down to prohibit the burning of rubbish in private incinerators as well as in public or municipal incinerators and rubbish tips.

I hope that, when the Government is drawing up these regulations, which can have the effect of prohibiting the burning of refuse in private back yards, the Government will carry out close liaison with local government to ensure that adequate arrangements are made for councils to collect such refuse. It would be foolish to regulate and restrict the private citizen in this respect without at the same time providing him with an alternative, so that rubbish can be collected at the gate by the appropriate council. This change will not be brought into effect simply by the passing of this Bill.

All this Bill is doing is giving the Government the right to make regulations to introduce the change to which I have referred. Because this will be done by regulation, Parliament will have another opportunity to examine the matter before the regulations finally pass through the Parliamentary machinery and there will be time for a further look at the problem and for it to be checked, if necessary. Meanwhile, I suggest to the Government that it undertakes close liaison with local government so that this problem can be satisfactorily resolved. As I have indicated that I support the four changes effected by the Bill, I support the second reading.

Bill read a second time.

In Committee.

The CHAIRMAN: The question is that the Bill stand as printed.

The Hon. R. C. DeGARIS (Leader of the Opposition): What action has been taken to establish a cancer register in South Australia? What records are kept at present? How does the Minister visualise the effect of this Bill on a cancer register?

The Hon. D. H. L. BANFIELD (Minister of Health): As I indicated in the second reading explanation, there is not a complete register kept. The collection of information as to the incidence of cancer has been carried out by the Neoplasm Registry of the Anti-Cancer Foundation of the University of Adelaide and has been limited to those patients diagnosed at major metropolitan hospitals for the purpose of research but, in attempting to get more information, it is considered that the incidence of all cancer being treated should be reported, but currently the information is limited. For this reason we have taken this opportunity to seek more information.

The Hon. R. C. DeGaris: Who will maintain the register?

The Hon. D. H. L. BANFIELD: I do not know.

The Hon. C. M. Hill: The Central Board.

The Hon. D. H. L. BANFIELD: I thank the Hon. Mr. Hill for that information.

The Hon. R. C. DeGARIS: The question has been raised about whether too much information is being sought. I do not accept that argument, as I believe it is important that a cancer register be established and maintained. I suggest the register be maintained by the Public Health Department. In the interests of research it is important that a register be maintained. Probably it should be a departmental matter or a special register should be established for this purpose. I do not see the Central Board of Health being the best organisation to handle the cancer register. What is the Minister's view on this aspect?

The Hon. D. H. L. BANFIELD: I thank the Leader for his suggestion, which has much merit. I can give him the assurance that we will look into the possibility of establishing a special registry. It is a good idea to have it located within the department, and we will have that aspect examined.

Motion carried.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

In Committee.

(Continued from November 16. Page 2149.)

Clauses 2 to 4 passed.

New clause 4a—"Power to take plea without evidence."

The Hon. J. C. BURDETT: I move to insert the following new clause:

4a. (*a*) When a person is charged with sexual intercourse of a person under the age of seventeen years, or with indecent assault, the justice sitting to conduct the preliminary examination of the witnesses may, without taking any evidence, accept a plea of guilty and commit the defendant to gaol, or admit him to bail, to appear for sentence.

(*b*) The justice shall take written notes of any facts stated by the prosecutor as the basis of the charge and of any statement made by the defendant in contradiction or explanation of the facts stated by the prosecutor, and shall forward those notes to the Attorney-General, together with any proofs of witnesses tendered by the prosecutor to the justice.

(*c*) The Attorney-General shall cause the said notes and proofs of witnesses to be delivered to the proper officer of the court at which the defendant is to appear for sentence, before or at the opening of the said court on the first sitting thereof, or at such other time as the judge who is to preside in such court may order.

(*d*) This section shall not restrict or take away any right of the defendant to withdraw a plea of guilty and substitute a plea of not guilty.

Despite the fact that this provision appears on the file as an amendment to clause 4, I thought it better to move to insert the provision as new clause 4a. In my second reading speech, I stated that I would oppose clause 5, and I intend to do that. That clause repeals section 57a of the principal Act, which in all respects except one is identical to my proposed new clause. That section provided a procedure whereby a person accused of carnal knowledge, as it then was and I suppose still is, of a girl under 17 years of age, or accused of indecent assault could plead guilty without proceeding any further at the preliminary stage.

The Mitchell committee recommended that this provision be retained, but the Government thought that the procedure ought to be abolished. Initially, I intended merely to oppose clause 5 but I have realised that, if I did that, I would be making a mess of the new nomenclature in the Bill, because section 57a of the principal Act would remain. That section commences:

When a person is charged with carnal knowledge of a person under 17 years of age . . .

The CHAIRMAN: What is the marginal note to that section?

The Hon. J. C. BURDETT: It is "Power to take plea without evidence."

The CHAIRMAN: I think that that is an appropriate marginal note for this new clause.

The Hon. J. C. BURDETT: Yes. If I had merely opposed clause 5 and if that clause was deleted, we would have been left with the present section 57a and the term "carnal knowledge", whereas this Bill deletes that term and inserts "sexual intercourse". I did not want to interfere with the nomenclature in the Bill. The Mitchell committee, in its special report entitled *Rape and Other Sexual Offences,* recommended that this procedure be retained. Towards the bottom of page 27, the report states:

In our third report we recommended that s. 57a should not be repealed, but that it should continue to be used, where appropriate, to avoid the necessity of obtaining an affidavit from a child or young person. That section avoids the necessity of obtaining any evidence, either oral or by affidavit, from a child where the accused wishes to plead guilty to an offence of carnal knowledge or indecent assault before any evidence is called.

It is relevant to refer now to the committee's third report. On page 69, in paragraph 3.1 dealing with carnal knowledge and indecent assault, the report states:

There is an exception to the requirement that there shall be a preliminary hearing of a charge of an indictable offence. By s. 57a of the Criminal Law Consolidation Act, 1935-1974, a person charged with carnal knowledge of a girl under 17 years of age or with indecent assault may plead guilty to the charge before the justice taking the preliminary examination and before any evidence is taken. If such a plea is made the justice is required to take written notes of any facts stated by the prosecutor as the basis of the charge, and of any statement made by the accused in contradiction or explanation of the facts, and must forward those notes to the Attorney-General together with any proofs of witnesses tendered by the prosecutor. It is not necessary that the proofs of witnesses be verified by affidavit. We have given consideration to a suggestion that s. 57a should be extended to other offences in the criminal calendar. We do not think that this is necessary or desirable. The purpose of this section was to protect young girls and children from the unhappiness, embarrassment and possible distress of giving evidence in cases in which the accused had a firm intention of pleading guilty. Incidentally, it saved time and expenses.

We think that the 1972 amendments to the Justices Act have sufficiently effected a saving of time and expense in the case of people who intend to plead guilty to an offence. In all such cases the fact that the statements tendered are supported by affidavit means that, in the absence of evidence to the contrary, their contents may be acted upon by the trial judge in sentencing, notwithstanding that the accused may not choose to admit all the facts set out in the statements. If he disputes the facts then he must call evidence. We have considered whether s. 57a still serves a useful purpose. We think that it does. Where none of the facts or circumstances are in dispute it may be preferable not to require an affidavit from the child or young person in respect of whom the offence is alleged. In all other cases, including a charge of carnal knowledge of a person over the age of 17 without her consent, that is of rape, the prosecutrix should be required to swear an affidavit verifying her statement.

The reason was that, where a person charged with those offences pleaded guilty, the need for taking a statement was avoided and further trauma was avoided. In his second reading explanation of the Bill, the Minister states:

Clause 5 repeals section 57a of the principal Act. The Mitchell committee recommended the retention of this provision, which enables the justice conducting a preliminary examination in a charge of unlawful sexual intercourse to accept a plea of guilty from the defendant and commit him for sentence without taking any evidence. With due respect to the opinion of the Mitchell committee, the Government believes that this provision is misconceived in principle. A defendant may plead guilty for a number of reasons consistent with innocence.

The Hon. F. T. BLEVINS: I rise on a point of order, Mr. Chairman. Some material is being circulated in the Chamber at present. On whose authority is it being circulated?

The CHAIRMAN: It is being circulated on my authority. As the Bill is now being dealt with by the Committee, I authorised this distribution, rather than have the material put into honourable members' letterboxes.

The Hon. D. H. L. BANFIELD (Minister of Health): It is an undue influence being exercised by you, Mr. Chairman, to allow the distribution of this material, which is addressed to us while the Bill is before us. This is similar to a stranger entering this place and putting his views forward. Strangers have the opportunity to interview every honourable member of this place if they so

wish. This is an invasion of the right of honourable members to consider any matter before them without undue influence. It would be a precedent to allow such material to be distributed among honourable members while the Committee was sitting. You, Mr. Chairman, should re-examine this matter and, on reflection, you would have to agree that in some way it must be taken as pressure coming from the Chair to influence a vote on the Bill we are now discussing. I take strong exception to such action being taken.

The CHAIRMAN: I am fully aware of the implications that may be in honourable members' minds about this matter. I am in something of a dilemma. The material is addressed not only to me: it is addressed to all honourable members. There is nothing to prevent the document being put in honourable members' pigeon holes. However, votes may be taken on this measure before honourable members leave the Chamber and find the material in their pigeon holes, without having it brought to their attention earlier. This matter has been dealt with by the Commonwealth Parliament in this way, and the permission of the Presiding Officer was obtained to circulate material in the Chamber when the relevant matter was currently before the Chamber. If this Bill was not being discussed at present, I would not have allowed the circulation of the material. It seemed to me to be a technicality to say that the material could be put in honourable members' pigeon holes and not directed to honourable members' attention while the matter was being discussed. I indicated at the time that this was an unusual case and was not to be taken as a precedent. If the Minister wants to move a motion that this material be not delivered and be returned, honourable members will be able to pass judgment on the matter.

The Hon. D. H. L. BANFIELD: I feel compelled to take such action. This Bill has been before this place—

The CHAIRMAN: Order! If the Minister wants to move a motion on this matter, I think it should be dealt with by the whole Council.

The Hon. N. K. FOSTER: Some honourable members will be disadvantaged. Honourable members on this side have before them copies of the material, but honourable members opposite do not have the material. This is grossly unfair. At least honourable members opposite should know what we are talking about.

The CHAIRMAN: Honourable members should no more be influenced by this material than by any other material they receive.

The Hon. R. C. DeGARIS (Leader of the Opposition): I ask the Minister of Health to report progress at this stage.

The Hon. D. H. L. BANFIELD: It is my prerogative.

Members interjecting:

The Hon. R. C. DeGARIS: I did not move that progress be reported: I asked that progress be reported.

The Hon. D. H. L. BANFIELD: This is right. I have no intention of reporting progress unless it is to enable me to move a motion concerning the distribution of this material, which I think is a gross intrusion on the Committee. If you, Mr. Chairman, can assure me that I can move the suspension of Standing Orders to enable me to move such a motion, I shall be willing to report progress and seek leave for the Committee to sit again.

The CHAIRMAN: Certainly. That was my suggestion.

Progress reported; Committee to sit again.

The Hon. D. H. L. BANFIELD moved:

That Standing Orders be so far suspended as to enable a motion without notice to be moved forthwith.

Motion carried.

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

That this Council object to the intrusion of private material into the Committee of the Council in relation to a Bill being debated by that Committee and to the distribution inside the Chamber of material during a debate on a Bill.

When the question was first raised I said that this was an intrusion into the rights of Parliament itself. This Bill has received much publicity. It has been before the Council for some days and before another place. If people wanted to interview honourable members, they had the opportunity to do so. It can only be taken that honourable members of this Council are being influenced from the Chair, because you, Mr. President, yourself allowed the distribution inside the Chamber of this material. There is no reason whatsoever why the Australian Conservative Women's Association could not have interviewed each and every honourable member; during such interviews the whole matter could have been fully discussed. By the distribution of this material we have no way in which we can raise points with the people, who are now trying to pressure us through you, Mr. President, to have a question-and-answer session with them. They come through the back door to you. This is unprecedented in this Chamber, and it would be bad for such a practice to continue. It is no use saying that this will be the only time it will happen. What right would you, Mr. President, have to stop other people from issuing similar material, when you had accepted earlier material? What right would you have to discriminate against such people in the future if you allowed the distribution of this material? It is in the best interests of you, Mr. President, and the Council that you reconsider your decision and that the material be picked up. It can still come to honourable members by way of their boxes. To create a precedent is not in the best interests of open discussion and of honourable members' being able to give proper consideration to the Bill before the Council.

The PRESIDENT: Before we have a debate on this matter, I point out that I will welcome the Council's decision.

The Hon. D. H. L. Banfield: As long as it will not involve your casting vote. It then comes back to you in relation to something that you yourself have done.

The Hon. R. C. DeGaris: What if the voting is even? What do you want to happen then?

The Hon. D. H. L. Banfield: There should be a ruling from the Chair that this should not be allowed.

The PRESIDENT: That is what the debate is all about. I would welcome a decision by the Council on this matter, because it is not an easy one for me to decide. Personally, I do not think the distribution of this material to honourable members will have any effect upon them one way or the other. However, that is a matter for the Council to determine. I have made a preliminary decision only, and the Council is perfectly at liberty to indicate that that decision was wrong. I would not take that as a personal criticism of me. This is a matter that needs to be decided, and perhaps then we will have a precedent. This has, I think, been done in other Parliaments without objection.

The Hon. N. K. FOSTER: I ask, Sir, whether or not you were aware of the last paragraph.

The PRESIDENT: I have not read it, except beyond the first few words.

The Hon. N. K. Foster: What you have done is incredible—bloody incredible.

The Hon. R. C. DeGARIS: I am puzzled by the Chief Secretary's attitude.

The Hon. F. T. Blevins: You would be.

The Hon. R. C. DeGARIS: I am. I do not know what the Chief Secretary is trying to get at or what he hopes to achieve. I would object strongly if any material relating to a matter before the Council was not delivered to me in this Chamber. I would be upset that the person or group involved did not have access to me to enable them to put something to me.

The Hon. D. H. L. Banfield: They had access, and you know it.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. M. Casey: He's referring to a personal letter or communication.

The Hon. C. M. Hill: That's right.

The Hon. R. C. DeGARIS: I do not care whether it is a personal letter addressed to me or an open submission addressed to every honourable member. If it was not delivered to me, I would move a motion against you, Sir, for stopping that material from coming to me. That is the point. Quite candidly, I am extremely surprised. I have not seen the material or what is in it, but I would be upset if, in relation to any debate, a person who wanted to make a submission to me or to all members could not do so merely because that matter was before the Council. I would object strongly to that. The Chief Secretary cannot complain about what has happened. What right have you, Sir, or any honourable member to prevent any submission going to an individual member or to all members of Parliament?

The Hon. F. T. BLEVINS: The part that particularly concerns me is that you, Sir, stated clearly that this was not to be taken as a precedent.

The PRESIDENT: That is, the distribution.

The Hon. F. T. BLEVINS: This is incredible. The Hon. Mr. DeGaris said that he would object violently if you, Sir, stopped material being distributed.

The Hon. M. B. Dawkins: You know—

The Hon. F. T. BLEVINS: Let us not start on you today. I am a little testy without your starting. It is really offensive that you will allow this material in. It involves the most crude pack of lies that one could see anywhere.

The PRESIDENT: I was talking not about the document itself but about the distribution procedure.

The Hon. F. T. BLEVINS: And you said that it was not to be regarded as a precedent.

The PRESIDENT: Order! Let me explain myself. I referred to it in the sense that not all material will be distributed in the Chamber at all times. The point which I was faced with is that this matter is currently being discussed and, indeed, it will probably be voted on before members leave the Chamber this afternoon.

The Hon. F. T. BLEVINS: I could not agree more. I agree that this matter is before the Council, but if this did not become a precedent what would happen in future during a debate on, say, a Workmen's Compensation Act Amendment Bill if I wanted to distribute union material in the Chamber? You, Mr. President, could say that, although this garbage was all right, my material from a group of unions was not all right. Surely, you are either creating a precedent, or you are not.

The Hon. Mr. DeGaris would fight to the death and toss out any President who stopped material coming into this Chamber. If this motion is not carried, I should, by right and justice, be able to introduce into this Chamber any material that I want to introduce. I would have that right, and I would use it.

The PRESIDENT: The matter is of sufficient importance to warrant a decision being taken by the Council. I do not see how the Council can take a decision on the matter unless it sees the material involved. We are on the horns of a dilemma.

The Hon. D. H. L. Banfield: We are not.

The Hon. N. K. Foster: You've created the situation.

The PRESIDENT: Order! I am sure that honourable members cannot very well vote on the Minister's motion without seeing the material.

The Hon. N. K. Foster: You had not read it right through?

The PRESIDENT: That is so but, having done so since, I cannot make head or tail out of it.

The Hon. C. J. SUMNER: I am shocked and amazed that you, Sir, should have allowed this shocking, shabby document to come into this Council and be placed before honourable members. This is a most pernicious document, and it is wrong that we should be subjected to these things and to have to read this disgusting material, which could leave us corrupted and which, if left lying around the benches of this Chamber, could be seen by young children who come into this Chamber to learn about the Parliament. It is shocking that you would openly allow such a document to be left around and be picked up by young children. It is like putting poison in the hands of children, enabling material like this to be brought into the Chamber. I am amazed that you should allow such a thing to happen, particularly as the Council is currently debating the matter, and that you have decided that material such as this should be put before honourable members.

The PRESIDENT: Order! Would the honourable member wish me to stop the distribution of the newspaper?

The Hon. N. K. Foster: Yes, it should be stopped. I couldn't agree with you more. It's a rotten capitalist rag.

The Hon. C. J. SUMNER: It is amazing that you, Sir, should think that this material should be put before honourable members during the course of the debate rather than its being left in the letter-boxes, from which honourable members could collect it after the debate. That seems to me to be a gross dereliction of your duty, and I am surprised that you should have allowed that course of action. I am not sure whether you have created a precedent. I suppose that you, Sir, will merely say that, in the normal course of events, material that comes into the Chamber is placed in honourable members' letter-boxes, anyway. But on this occasion you decided that as the matter was being discussed you would allow members to have it as they were all in the Chamber and did not have immediate access to their letter-boxes. I suppose that is what you meant when you said you did not believe it would be a precedent.

Mr. President, it seems to me that we have been given material that is quite shocking in its nature. It would have been really too much to expect us weak and inoffensive members, if we disagreed with it, to rip up the document and place it in the bins under our tables. I believe that you should have shown more respect for our feelings and sentiments in allowing this material to come before us.

The PRESIDENT: Order! The Minister's motion seems to me to be attacking something that has been going on in this Chamber for years. The circulating of private letters and the circulating of newspapers would have to be stopped if there was any possibility of members being influenced.

The Hon. R. A. Geddes: And telegrams.

The PRESIDENT: I do not see how honourable members can debate the matter without seeing the material and I authorise distribution of the material by the messengers to members of the Council who have not received it.

The Hon. M. B. DAWKINS: I want to thank you, Sir, for what you have just done. I have been in this Chamber for many years, and never before have I heard such a debate concerning material, only half of which has been distributed to the Council. I have not received it, I have not seen it and I do not know what is in it. I might well agree with the Minister after it has been distributed, but once the material had been partly distributed the distribution should have been completed before we debated this matter.

The Hon. C. W. CREEDON moved:

That the debate be now adjourned.

Motion negatived.

The Hon. M. B. CAMERON: I almost thought the Government was serious about this matter until I heard the Hon. Mr. Sumner carry on. I have never heard so much rubbish in all my life, saying that distributing this document was putting poison in the hands of children. It might be poison in the childish hands of the Hon. Mr. Sumner, but it is not in mine. I do not see any other way around a situation in which you, Mr. President, find yourself, with a letter addressed to you. Certainly documents of this sort are not going to affect me. As for its being a scurrilous document, every honourable member has scurrilous documents placed in his letter-box and in all sorts of places.

I do not believe that the Minister is serious about this matter. Certainly the Hon. Mr. Sumner was not at all serious about it. I do not see how it can have any effect. The only purpose that will be achieved out of the nonsense that has gone on is the attention that will be drawn to the document, and I would think that that was the last thing anyone here would want. It is the normal type of document which you, Sir, receive as President addressed to members and which in the normal course of events is presented to us at a time you find appropriate. As a debate is taking place within a short time, surely it is proper that the document be distributed. I can assure members of the Government that it will not affect my attitude to the Bill, nor would any document such as this where it is irrelevant.

The PRESIDENT: It is not only irrelevant but it is patently wrong.

The Hon. M. B. CAMERON: Yes. It is likely to have the opposite effect. I tell the Government not to be frightened of it.

The Hon. F. T. Blevins: We're not frightened.

The Hon. M. B. CAMERON: Why carry on about it, then?

The Hon. F. T. Blevins: Would you agree it is a precedent?

The Hon. M. B. CAMERON: No, it is not a precedent. It is a normal distribution.

The Hon. D. H. L. Banfield: The President said it was.

The Hon. M. B. CAMERON: He did not. He said it was the opposite. You were not listening to him. Let us have a vote on this and get it out of the way. It is fairly obvious that it is a load of rubbish. An attempt has been made to embarrass you, Mr. President, and it has failed.

The Hon. N. K. FOSTER: I believe—

The Hon. R. A. Geddes: Has the Hon. Mr. Foster spoken on this already?

The Hon. N. K. FOSTER: I only asked a question when we were in Committee. What concerns me, Mr. President, is the fact that you have permitted a letter to enter this Chamber and be made available to all members when it was not in fact available for the whole of the debate. You, Sir, as custodian of the rules of this Chamber are well aware that the second reading debate on this matter took place (did it not) yesterday.

Could it be that those people connected with this document who are interested in what must be regarded to some degree as an emotional debate have a point of view different from that of other groups in the community? I think it is fair to say that the distribution of the document at this stage could well disadvantage others in the community. It is indeed a dangerous precedent. I cannot recall where in fact there has been a precedent set in any other Parliament in the Commonwealth.

The PRESIDENT: I know of one.

The Hon. T. M. Casey: Certainly not in this State.

The Hon. N. K. FOSTER: I know of one that came close to it in the Federal House but it was ruled out of order, and there was no debate on the matter, because of the manner in which it occurred. If a letter is addressed to a member it should go into his letter-box. It is significant that in the first instance this letter is addressed to you, Mr. President.

The PRESIDENT: I thought it was addressed to everyone.

The Hon. N. K. FOSTER: It is addressed to you, first, and then to other members of the Chamber secondarily. I am not going to kick up a fuss about this. I would not worry if Joe Blow wanted to come in and address this Chamber, contrary to Standing Orders, from aloft in the gallery, but I am concerned that you, Sir, as custodian of the Standing Orders in this place, have seen fit at a certain stage in this debate to have this document circulated in the Chamber.

The Hon. C. M. HILL: The attitude of honourable members opposite does them no credit. One of the Houses of this Parliament was in the middle of a most serious debate, one of the most serious debates in the history of this Council, when this issue arose. It has been blown up completely out of proportion. If the Chief Secretary's motion is carried, I shall be restricted from being handed material that comes into this Chamber, addressed to me; the same would apply to material addressed to other honourable members of this Council. When it is known that the material concerns a debate being argued in this Chamber at that time, I want that material brought to me. If the motion moved this afternoon is voted on, restricting that kind of communication, honourable members had better be quite certain of the seriousness of the motion on which they will vote, for it is a very serious motion indeed.

From time to time, material comes down to Ministers on the front bench during the afternoon. By this motion, are we to see to it that that material is left outside the Chamber? Shall we put any restriction at all on the

messengers, who are under the instructions and control of the President, in bringing that material into this Chamber? What sort of folly are we leading ourselves into when the Chief Secretary moves a motion of this kind? All that is needed is for some honourable members to object to this practice of handing around material such as this.

The Hon. F. T. Blevins: As long as we can all do it.

The Hon. C. M. HILL: I do not object to the right of any member saying, "I do not think this practice is in the best interests of this Council." If that was all that was said in this Council this afternoon, I would support it, because it is, I think, the first time it has happened since I have been here.

The PRESIDENT: No; telegrams have been circulated to honourable members.

The Hon. D. H. L. Banfield: Not at the direction of the President.

Members interjecting:

The Hon. C. M. HILL: I do not intend arguing with the Chair. You, Sir, acted in absolute good faith, and that alone should temper this motion before the Council.

The Hon. F. T. Blevins: That is not the point.

The Hon. C. M. HILL: We must have faith in the President of this Council; we must not start going off at a tangent bringing criticism on the President. That is quite unbecoming to this Council.

The Hon. J. E. Dunford: He is a member of this Council.

The Hon. C. M. HILL: Yes, but he is also President of the Council.

The Hon. J. E. Dunford: We know that.

The Hon. C. M. HILL: We must follow the Standing Order procedures, which we must all abide by.

The Hon. J. E. Dunford: You offend against Standing Orders.

The Hon. C. M. HILL: If the feeling of this Council is that the handing around of material of that kind is objected to, I will go along with it, but I do not want to see any motion of the magnitude of that moved by the Chief Secretary. That will restrict communications being brought into the Chamber by the messengers.

The Hon. F. T. Blevins: We do not suggest that.

The Hon. C. M. HILL: If we look closely at the wording of the motion, we see it will restrict the material handed around by the messengers, and that is absolutely wrong. So, personally, I should like to see (although I bow to your ruling in the matter, Sir) the motion withdrawn on your giving some undertaking that this kind of material that is not placed in envelopes and is not addressed personally to honourable members will not be allowed, that this practice will not continue. I refer to the style and the preparation of it, linking this with telegrams which I want brought into the Chamber and linking it with newspapers that come into the Chamber.

The Hon. F. T. Blevins: That's ridiculous.

Members interjecting:

The Hon. C. M. HILL: It was all started by the Chief Secretary's motion, which went too far. He, in turn, was pressured by the excitement that welled up on his back benches.

The Hon. D. H. L. Banfield: If you make that sort of allegation against us, I will make the same allegation against you.

The Hon. J. E. Dunford: You must be careful what you say.

The Hon. C. M. HILL: I say that you were spurred on by your back-benchers.

The Hon. D. H. L. Banfield: I definitely refute that. I was on my feet as soon as this hit my desk, and you know it.

The Hon. C. M. HILL: You are well trained.

The Hon. D. H. L. Banfield: I did not wait to be told what was right and what was wrong; I could see for myself what was right.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. M. HILL: I hope a more moderate, sensible, and rapid solution can be found.

The Hon. C. J. SUMNER moved:

That this debate be now adjourned.

The PRESIDENT: Before the motion is dealt with, I say that I have listened to the debate so far. I can see some point in the matters raised by the Minister, although I point out to all honourable members that the circulation of what has been called private material, which includes telegrams and even newspapers, is with the tacit consent of the President. But, having looked at this document, I would be prepared to give the undertaking to the Council that in future I would scrutinise very carefully any document suddenly presented at the last minute when a matter was being discussed. I give the undertaking that in future this kind of letter will not be ordered to be circulated within the Chamber. Perhaps, with that assurance from me, the Minister will be prepared to withdraw his motion.

The Hon. D. H. L. BANFIELD: I am happy to accept the assurance you have given, Sir. That is what I wanted in the first place. There is no way in the world you would stop the distribution of a telegram to an individual member. I thank you for your assurance and seek leave to withdraw my motion.

Leave granted; motion withdrawn.

In Committee.

The Hon. J. C. BURDETT: I am fully in accord with your actions, Mr. Chairman. I have suffered as a result of the distribution of the material as I have been thrown completely out of my stride. I am not saying that anyone did it deliberately, but it did not help me.

The Hon. J. E. Dunford: You support what's in the document?

The Hon. J. C. BURDETT: What is in the document has nothing to do with the matter I am debating. I intended to oppose clause 5, which repeals section 57a of the principal Act. That section provided a means whereby an accused person in regard to a sexual offence could plead guilty at the outset of the preliminary hearing without any statement of the prosecutrix being taken. I have already explained my reasons for moving to have a new clause 4a inserted. I have referred to the reasons of the Mitchell report concerning the retention of section 57a. In his second reading explanation the Minister explained why, despite the report of the Mitchell committee, that section should be repealed. The Minister further stated:

> He (the defendant) may want to protect a friend; he may mistakenly believe that he is guilty; he may simply want the proceedings to be disposed of as expeditiously as possible. The Government believes that, as a preliminary examination, there ought to be a rigorous examination of the charge to ensure that no person is unfairly placed upon trial. This attitude is confirmed by examination of a number of Continental legal systems. In France and Germany, for example, it is well established that the confession of the accused does not obviate rigorous investigation into the substance of a criminal charge. The complainant will be sufficiently protected by the amendments proposed to section 106 of the Justices Act.

First, the Government does not advance its case by referring to continental legal systems, in particular, in France and Germany, because there the inquisitorial system of justice prevails. The court has the obligation of saying what happened; in effect, conducting what we call a Royal Commission. The Government cannot rely on the amendments proposed to section 106 of the Justices Act. These amendments were also recommended by the Mitchell committee. No doubt the reason for the enactment of section 57a initially was that it would reduce the trauma where a defendant pleaded guilty, especially for a child. While I agree that amendments to section 106 of the Justices Act go some distance towards that, they will not be as effective as was section 57a.

This part of the Bill is a retrograde step. One of the Bill's main purposes was to reduce the trauma for victims of sexual offences, yet the Bill seeks to repeal a provision that sought to do just that. The Government seems to have a fear that a person may plead guilty for the wrong motives. I point out that presently an accused person has adequate access to legal advice. I refer to the right to change a plea, which exists independently of the legislation but which was specifically preserved by section 57a. If for any mistaken reason an accused person did plead guilty at the beginning of the preliminary hearing, he could subsequently change his plea. When the charge is dealt with, and it must be dealt with by the Supreme Court or the District Criminal Court, he could change his plea. Much time would have elapsed and he would have had adequate opportunity to reconsider his position and obtain adequate legal advice. The jury would not know; it would not be allowed to know that the accused had previously pleaded guilty and had then changed his plea. So, because I believe that my amendment is in accordance with, and not contrary to, the spirit of the Bill, I have moved my amendment.

The Hon. D. H. L. BANFIELD (Minister of Health): As the honourable member has advanced a good argument and because it has been on file for only a short time, I seek leave to report progress in order to consider the matter more fully.

Progress reported; Committee to sit again.

Later:

The Hon. C. J. SUMNER: I oppose the new clause which, in effect, replaces section 57a of the principal Act, which the original Bill repeals for reasons stated in the Minister's second reading explanation. One of the fundamental principles in the system of criminal law under which we operate is that a person charged is innocent until he is proven guilty. Related to that, there is a proposition that the Crown should make out a *prima facie* case against a person charged before he is required to be put on trial or to plead guilty. It is clear that section 57a was inserted in the Act to lessen the trauma of a young child's having to appear before a court and give evidence in what would undoubtedly be difficult and trying circumstances for her.

No doubt, the decision to insert this section in the Act involved balancing the traditional principles of innocence until proof of guilt, and no committal for trial until a *prima facie* case had been established, with the interests of the complainant's having to give evidence where a defendant might have in mind to plead guilty. That principle, in so far as it relates to a young child, is now being covered by the amendment contained in clause 2 of the Justices Act Amendment Bill, which provides that a complainant in a sexual case need not give evidence in court proceedings unless the magistrate or justices direct that it is necessary to do so.

Given that that clause is being inserted in the legislation, it seems that the need to protect the young child by section 57a is no longer as compelling as it was previously. Although it is true that the Mitchell committee recommended the retention of the clause, I think the basis for that recommendation has, to some extent, been removed by the insertion of clause 2 of the Justices Act Amendment Bill, to which I have already referred.

The Hon. J. C. BURDETT: The matter of onus of proof does not really enter into this matter, because it involves a question of a plea of guilty. Section 57a merely provides that in these categories of sexual offence the accused can plead guilty at the outset of the preliminary hearing. The Mitchell committee was fully aware of the proposed amendment to the Justices Act, to which the Hon. Mr. Sumner has referred and, in fact, recommended it. So, the recommendation made by the Mitchell committee to retain section 57a was made together with, and at the same time as, the recommendation to amend the Justices Act.

I agree with the Hon. Mr. Sumner: because of the amendment contained in clause 2 of the Justices Act Amendment Bill, the reasons for retaining section 57a are not as cogent as they were previously. However, they still exist. The Mitchell committee pointed out in its third report, to which I alluded earlier, that in the event of the accused wishing to plead guilty it would not even be necessary for the prosecutrix to make a sworn statement. The Mitchell committee was perfectly aware of the reduced cogency of the argument to retain section 57a but, nevertheless, it recommended its retention.

I was interested to see that the Hon. Mr. Sumner did not advert to the reasons given by the Government. The Government suggested that a person may plead guilty for the wrong reasons. He may plead guilty not knowing whether he was, in fact guilty, or he may plead guilty to protect someone else, or to get the matter over and done with. It would seem, therefore, that there is no good reason to destroy section 57a. It is in the spirit of the legislation and tends to remove the trauma from the prosecutrix. It has not been seriously suggested that, in this day and age with ready access to legal representation (and when the defendant, having pleaded guilty, can subsequently change his plea without a jury's knowing), this will impose any real hardship on a defendant who voluntarily pleads guilty.

The Hon. C. J. SUMNER: I concede that this is not a matter that raises directly the fundamental principle of innocence until proof of guilt. However, it does raise the corollary to which I have referred and which is acted on in many instances, namely, that no person should be put on trial or be required to plead until a *prima facie* case has been made out. That is, I think, an important principle that can now reassert itself, in view of clause 2 of the Justices Act Amendment Bill.

True, I did not refer to the reasons given by the Government, but there was nothing particularly sinister or significant about that. Those reasons are set out in the Minister's second reading explanation, and there did not seem to be any reason to repeat them. I wish to put my argument on the basis that the reasons for retaining section 57a are less cogent than they were previously, and that it is now appropriate for that other important principle to outweigh the reasons that previously existed for the retention of section 57a.

The Hon. J. C. BURDETT: The Hon. Mr. Sumner referred to the defendant's being called on to plead guilty before the evidence had been given. However, he is not called on to do so at all. A defendant has all the choices; certain options are open to him. A defendant may plead

guilty before the evidence is given, he may wait until the evidence has been given, or he may plead guilty, not guilty or reserve his defence after the evidence has been given.

The Hon. C. J. SUMNER: True, in a technical sense a defendant is not called upon to plead guilty at that stage, but that does not destroy the main thrust of the argument or the basic principle involved. The main thrust of the Government's argument is that no person needs to say anything on the question of guilt or innocence until the Crown has established a case. This is because things can go wrong, as the Minister said in his second reading explanation.

The Hon. D. H. L. BANFIELD: Having considered this matter closely, the Government has decided that section 57a should be repealed. As the Hon. Mr. Sumner has said, this is, in effect, the basic provision. Having listened to the two lawyers across the floor I have been convinced by the Hon. Mr. Sumner's argument.

The Committee divided on the new clause:

While the division bells were ringing:

The Hon. D. H. L. BANFIELD: Mr. Chairman, can we have a discussion about the bells. It is obvious on the other side of Parliament House that the bells could not be heard by members in that particular area. This matter has been raised on several occasions and I know that you have investigated it and I know the concern of the Clerk. While the other vote was not a vital one it is unfortunate that the bells are not satisfactory.

I do not know whether there is some way in which we can overcome it. It is an unsatisfactory set-up and I am sure the member concerned was in a position where normally the bells should be heard. They should be heard anywhere in Parliament House. He was close to the Chamber, yet he did not hear the bells.

The CHAIRMAN: I fully appreciate the problem. I think I can say that certainly by next session this will not occur again. We will have to be particularly careful in the remaining four weeks of the session that honourable members do not stray too far away. I do not think anything can be done about the matter in that period of time. The whole system has to be completely rewired. It will be done by the time the next session starts.

Ayes (10)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, C. M. Hill, D. H. Laidlaw, and A. M. Whyte.

Noes (10)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, and C. J. Sumner.

The CHAIRMAN: There are 10 Ayes and 10 Noes. The subject matter of this new clause has not been considered by the House of Assembly and to enable that to be done I give my vote in favour of the Ayes.

New clause thus inserted.

Clause 5 negatived.

Clauses 6 to 11 passed.

Clause 12—"Offences involving sexual intercourse."

The Hon. J. C. BURDETT: Having arrived at this stage of the night and with considerable debate coming up on the proposed amendment to clause 12, I wonder whether the Minister would report progress at this stage.

The Hon. D. H. L. BANFIELD: Being a good trade unionist and being in a union that does not consider we should be put in a position of working long hours into the night I am prepared to accept the proposition of the Hon. Mr. Burdett and report progress.

Progress reported; Committee to sit again.

ELECTORAL ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from November 16. Page 2154.)

The Hon. A. M. WHYTE: This Bill is substantially the same as the amendment I introduced earlier this year, to which members opposite raised strong objections and made terse remarks about its credibility. Some honourable members went so far as to say that members from this side of the Chamber who supported me were damned hypocrites. Several outbursts are reported in *Hansard* and I am tempted to read the report of the previous debate to honourable members opposite now that their Government has introduced exactly the same measure as I introduced. However, I will not do that. Suffice to say that when things are different they are not the same.

Since the Hon. D. A. Dunstan has now introduced the measure I am sure members opposite will have no objection to it. There is no reason for any delay to the Bill, which provides the opportunity to vote for people who have been previously disfranchised because their mail service was too slow for them to receive a ballot paper and return it in time for their vote to be counted. That is all that the measure that I introduced was intended to achieve and, despite the criticism that was levelled at me, it is now obvious that my intention was worth while. The Government, having robbed me of the kudos associated with introducing the legislation, is pleased to go along with it now.

Clause 5 makes a slight alteration. It provides for a Deputy Electoral Commissioner in addition to the Electoral Commissioner, and such a provision is not in the principal Act at present. The Deputy Electoral Commissioner will be appointed by the Governor, and there is provision for the appointment of a third officer should he be required.

Clause 14 deals with the matter about which I have spoken so often and which I consider so necessary to provide for so as to give people in remote areas the opportunity to vote. I was asked, I think by the Hon. Mr. Foster, whether this Bill was substantially the same as the measure that I had introduced, and I point out that there are few variations between the two measures.

The Hon. N. K. Foster: But there are some, are there? No important ones? The Hon. Mr. Cameron confined his to the Council only.

The Hon. A. M. WHYTE: In terms of my Bill an elector whose place of residence was 50 kilometres or more by the nearest practical route from any polling booth could apply for registration. However, clause 14 of the Bill before us provides that an elector whose place of living as disclosed on the roll is situated within a prescribed area may apply for registration as a general postal voter. The Districts of Eyre and Frome are the districts in which most of the people who would need to register as general postal voters reside. The "prescribed area" is not indicated and I suppose that it can be fixed by regulation at any time, but I consider that the provision in my Bill was better. I see no reason why any person who resides 50 km or more from a polling booth should not have the right to become a general postal voter. I think I described such a person as a "permanent postal voter".

The Hon. C. M. Hill: Your words were "general postal voter".

The Hon. A. M. WHYTE: That was so in the debate, but I think that in the Bill I provided for permanent postal voters. I will try to have the Government's Bill amended to delete reference to a prescribed area and to provide that an elector whose usual place of residence is 50 km or more by the nearest practical route from any polling booth can be registered. The Hon. Mr. Foster, in saying that the Bill is different from the measure that I introduced, is correct in some respects.

The Hon. N. K. Foster: Care, control and custody—you think of those words.

The Hon. A. M. WHYTE: New Part XA provides for electoral visitor voting, and an officer appointed for the purpose will be able to go to hospitals so that people who otherwise cannot avail themselves of normal voting facilities will be able to vote. I have no real grouch about that provision, but I should like the Minister to clarify the method by which electoral visitors will be appointed. In a previous debate, we heard much from people who understand electoral corruption much better than I do about how people can be coerced, twisted, bribed, and so on, to vote in the way that some unscrupulous person wants them to vote.

The Hon. N. K. Foster: Such a person usually belongs to the Liberal Party.

The Hon. A. M. WHYTE: The honourable member seems to know much about the matter. Not many Liberal Party members spoke about it, but the Hon. Mr. Foster was very conversant with the technique. I consider that electoral visitor voting is worth while, but I should like to know how electoral visitors will be appointed. It would be wrong if there was not a permanent way to identify these people. I support the measure and welcome it on behalf of people who for many years have been disfranchised because they live in isolated areas and a long way from a polling booth.

The Hon. C. M. HILL: I, too, support the Bill. It is proper that the Hon. Mr. Whyte should have led the debate for honourable members on this side, because the Government has introduced the very proposal that the honourable member attempted to introduce nine months ago. However, on that occasion the honourable member was attacked with great venom by honourable members opposite. How changeable are the moods of Government members! I realise that the Hon. Mr. Foster will allege that the part of the Bill to which I am referring does not exactly follow the provisions suggested last February by the Hon. Mr. Whyte.

However, as far as I can see, the only difference between the two proposals is that, under the honourable member's proposal, electors outside a 50-kilometre radius from a polling booth were entitled to become general postal voters, whereas the Government has said that it will bring down regulations stating the areas in which voters must live to be on the roll as general postal voters. With that minimal difference, the Government's proposal is the same as the Hon. Mr. Whyte's proposal, yet Government speaker after Government speaker last February attacked the Hon. Mr. Whyte for his proposal. The basis of the problem is the system under which the Labor Party operates.

The Hon. N. K. FOSTER: Will the honourable gentleman give way?

The Hon. C. M. HILL: I will give way after I have made this point. Honourable members opposite are in a bind because they operate under a system whereby they come to decisions behind closed doors, and they then come out as representatives of the people. They are bound to the secret decision made in Caucus, under the threat of expulsion from their Party. These are the great democrats! They are bound by the pledge that they must sign.

Last February, they made their decision behind closed doors, and they came down here and vented their spleen on the Hon. Mr. Whyte. Now, only nine months later, they have had another secret meeting and have now done a political somersault; they have decided that the Hon. Mr. Whyte is now a grand old fellow, and his proposal will greatly benefit the people. If they had had the initiative initially to work things out for themselves, the delay would not have occurred in implementing this matter. The Hon. Mr. Whyte deserves our applause, because this Bill justifies his earlier stand. Honourable members opposite were mistaken last February.

The Hon. J. E. Dunford: No.

The Hon. C. M. HILL: They must admit their error.

The Hon. C. J. Sumner: We said we would have a look at it.

The Hon. C. M. HILL: The honourable member should examine *Hansard*. Honourable members opposite abused not only the Hon. Mr. Whyte but also the far-flung constituents of this State. No honourable member opposite had any regard for citizens in isolated areas.

The Hon. J. E. DUNFORD: Will the honourable member give way?

The Hon. C. M. HILL: No. It did not matter to honourable members opposite that citizens on the Strzelecki track wanted to vote. I commend the Hon. Mr. Whyte for raising this matter, and I commend the Government for seeing the error of its ways.

The Hon. N. K. FOSTER: Will the honourable member now give way?

The Hon. C. M. HILL: Yes.

The Hon. N. K. FOSTER: Nowhere was the Hon. Mr. Whyte attacked last February: the attacks related to the system of voting and the unscrupulous methods used by some people in the Commonwealth electoral district of Sturt. Nowhere was the Hon. Mr. Whyte personally attacked. I challenge the Hon. Mr. Hill to show in the Bible of this Council, *Hansard*, where any scurrilous attack was made on the Hon. Mr. Whyte.

The Hon. C. M. HILL: In principle, this Bill covers three aspects, the first being the appointment of a Deputy Electoral Commissioner. The second aspect is the establishment of a system of general postal voters. This system will considerably benefit people who live in far-flung parts of the State and who have in the past experienced difficulty in casting their votes. The third aspect is the new approach to voting by inmates of institutions who cannot get to polling booths to cast their votes. The Government proposes to appoint electoral visitors, who will have the sole right to contact people in institutions and supervise their voting.

The Hon. C. J. Sumner: That will stop you Liberals from getting up to your tricks.

The Hon. C. M. HILL: That is a ridiculous accusation. What honourable members opposite are jealous about is that we have a great army of volunteers who have been willing to give proper service to inmates of these institutions.

The Hon. J. R. Cornwall: How many paid organisers have you got?

The Hon. C. M. HILL: I do not know.

The Hon. J. R. Cornwall: Approximately how many?

The Hon. C. M. HILL: I think it would be about the same number that the honourable member's Party has got.

The Hon. J. R. Cornwall: We have got one.

The Hon. C. M. HILL: Have you? I do not have to apologise that the Party to which I belong has officers known as organisers.

The Hon. J. R. Cornwall: How many have you got?

The Hon. C. M. HILL: I should think that we would have about half a dozen travelling throughout and covering the whole State.

The Hon. T. M. Casey: They are paid organisers?

The Hon. C. M. HILL: Yes.

The Hon. T. M. Casey: Do you know what their salary is?

The Hon. C. M. HILL: It is very low; I know that.

The Hon. T. M. Casey: Do they get a car provided for them?

The Hon. C. M. HILL: They are paid a car allowance. Some of them may have a car provided, but I am not sure.

The Hon. T. M. Casey: Would you find out?

The Hon. C. M. HILL: If the Minister wants to learn more about my Party, I should be pleased to ascertain that information for him. Perhaps I could take the Minister to my Party's headquarters. The first thing that the General Secretary would say would be, "Welcome back. The old warrior has returned." I ask the Minister, when he replies to the debate, to say who will be appointed to the positions of electoral visitor. There must be some criteria in this respect.

Perhaps, after the Act is proclaimed, many of these officers will have to be appointed. I imagine that it may involve people who provide their services as poll clerks or returning officers on election days. Some of these men are public servants, and others are retired people of the highest calibre. These people offer their time and are properly remunerated for it. It may be that their services will be obtained for a few weeks before an election to do this work. I think Parliament should have some idea of who these appointees will be.

As I read the Bill (and honourable members should discuss this matter further in Committee), these people will have the absolute and sole right to discuss a forthcoming election with the inmates of institutions. Clause 23 inserts new section 87a in the Act. As I read that provision, not even a husband or wife of an inmate of an institution will be able to give counsel in relation to voting at a forthcoming election. As I read the new section, if a husband or wife of an inmate said, "I saw the two candidates on television last night and I must admit that I was impressed by candidate 'A' ", he or she would be committing an offence under the Act and be liable to a penalty of up to $200.

I do not know whether that is the Government's intention. However, this Council should be cautious that this proposed change does not go too far. I support the general principle that the Government has introduced. Over the years (and I know that the Hon. Mr. Foster is concerned about this aspect), accusations have been made by all political Parties that their opponents have obtained votes from inmates of institutions by undue or unreasonable means.

The Hon. N. K. Foster: "Vote early and often": that's the old Liberal philosophy.

The Hon. C. M. HILL: The honourable member can think that if he so desires. However, I have heard many people on my side of politics say that certain organisers for another political Party have used some sort of undue influence to obtain those first votes. That is a grossly unfair practice. It is, I suppose, only natural for people to make accusations of this kind, which may well have been made by people on both sides of politics. It is a good thing, therefore, that a change of this type—

Members interjecting:

The ACTING PRESIDENT (Hon. R. A. Geddes): Order! There is too much audible conversation.

The Hon. N. K. Foster: I agree. I can't even hear the debate.

The ACTING PRESIDENT: I am also having difficulty hearing it. I therefore ask all honourable members to keep quiet.

The Hon. C. M. HILL: Thank you, Mr. Acting President. It will be a change for the good if we can fashion an amendment to the Electoral Act that removes this possibility of challenge and of a charge being made along the lines to which I have referred. I have no quibble with the principle of the change but, in introducing that principle, we have a duty to ensure that the machinery being introduced does not go too far.

The Hon. J. E. Dunford: Keep it conservative!

The Hon. C. M. HILL: I do not want to keep it conservative. I merely want to ensure that it is fair to all concerned. Particularly, I wish to protect the position of husbands and wives of inmates in the circumstances to which I have referred. I support the second reading, although I believe that further debate should occur in Committee. The Bill can be further improved if certain amendments are carried after full discussion in Committee.

The Hon. F. T. BLEVINS: I wish to speak on this Bill for no more than two minutes. Certainly, I will not speak for as long as did the Hon. Mr. Hill, the earlier part of whose speech was absolutely appalling. He went on and on with a great tirade against Government members, referring to the terrible things that they had allegedly said about the Hon. Mr. Whyte when the previous amending Bill was debated. The Hon. Mr. Hill obviously has not read *Hansard*, because no-one personally abused the Hon. Mr. Whyte. Not only was the Hon. Mr. Hill under a misapprehension today but also the Hon. Mr. Whyte was under a similar misapprehension yesterday, when he said that someone had abused him when the previous amending Bill was before the Council. In fact, he was more specific, and said that I abused him. The following exchange was reported in yesterday's *Hansard*:

The Hon. F. T. Blevins: There is no great objection to it.

The Hon. A. M. WHYTE: Then, why did the honourable member suggest that what I was doing was corrupt?

The Hon. F. T. Blevins: Did I say that?

The Hon. A. M. WHYTE: I think the honourable member probably did.

The Hon. F. T. Blevins: If I didn't, I shall ask for your apology tomorrow.

Last evening, I researched *Hansard* at length. There was nothing whatsoever in *Hansard*. I told the Hon. Mr. Whyte that I did not say he was corrupt, and, just in case anyone read *Hansard*, I would not like it to appear that I said that.

I am still not entirely convinced of the wisdom of having a permanent voters' roll. I have grave doubts about it, because I think it could be open to all kinds of abuse; I hope it will not be. I think that after it has been in operation after a number of elections it will be worth having another look at it and, if we come back next time and say the thing has developed into a bit of a farce and the people on the roll are constantly pestered by political Parties, it would certainly have to be examined again. I still have reservations about the provisions, but I will be supporting it.

The Hon. C. M. Hill: Which part?

The Hon. F. T. BLEVINS: The general voters roll part. I support very strongly new Part XA, which relates to the electoral visitor voting. I think it is an enormous advance on the situation that prevails at the moment. I personally have had little to do with this type of voting. I do not think I would have assisted more than a dozen people in the past 10 years to fill in an absentee ballot-paper.

The Hon. R. C. DeGaris: You cannot help anyone fill in a ballot-paper.

The Hon. F. T. BLEVINS: You can help them apply for a postal vote, which I have done about a dozen times in the past 10 years. However, I believe from what people have told me that there is a serious problem, and I am delighted that the Government has seen fit to do something about it. Concerning the question of the general voters' roll, again I have some doubts, and I am not convinced that it is the wonderful thing that the Hon. Mr. Whyte imagines it will be, but time will tell. I support the second reading.

The Hon. N. K. FOSTER: I was provoked into this debate by what was said by previous speakers concerning the matter before this Council last February. Let me make clear that I do not worry about the petty accusations that may be made about the change in the Government's attitude on the matter. The Government is not scurrilous in its attitude because eight months after it bitterly opposed this measure it is now proposing it. However, I take exception to the remarks of members opposite who have said that we bitterly attacked the Hon. Mr. Whyte.

That is not true and I am sure that the Hon. Mr. Whyte knows that to be the cast. There were not many speakers on the amending Bill last February. On looking at *Hansard* I could find no attack on the honourable gentleman who introduced the amendment but let me point out to the Hon. Mr. Whyte that the Hon. Mr. Cameron then moved:

That it be an instruction to the Committee of the Whole that it have power to consider new clauses relating to the scrutiny and counting of votes at Legislative Council elections.

The Hon. Mr. Whyte had moved:

That it be an instruction to the Committee of the Whole that it have power to consider new clauses relating to the mode of voting for the Legislative Council and postal voting.

No-one wants to deny that or to take away from the Hon. Mr. Whyte the fact that he initiated the move in this regard. However, although the Hon. Mr. DeGaris may disagree, the fact remains that no great drive for electoral reform in this State emanated from the Liberal Party during the period of more than 120 years in this place when its numbers stood at something like 16 members to only four in the Labor Party. That position did not alter until full adult franchise was provided. The last time this matter was before the Council, the Minister of Health said that the Hon. Mr. Cameron had accused the Labor Party of wanting to tear up the entire system of postal voting. It was put to the honourable member that he said this, and I want to draw his attention to it.

The Hon. C. M. HILL: Are you going to quote some of the abuse you directed at the Hon. Mr. Whyte? Will the honourable member give way?

The Hon. N. K. FOSTER: Yes.

The Hon. C. M. HILL: The debate to which we are referring is on page 2074 of *Hansard* (February 4, 1976), where the Hon. Mr. Whyte was speaking and the Hon. Mr. Foster interjected as follows:

You voted for that when you lacked intestinal fortitude.

The Hon. N. K. FOSTER: That is right. That is not abuse.

The Hon. C. M. HILL: Is that not abuse of the Hon. Mr. Whyte?

The Hon. N. K. FOSTER: I am glad the honourable member drew my attention to that. I had it scribbled down here somewhere. I was saying that you all lacked intestinal fortitude concerning electoral reform. The Hon. Mr. Cameron did in fact say that the Labor Party wanted to tear up the system of postal voting, and I quote:

Government members do not like postal votes, because they do not get a good percentage of them. They would therefore like to wipe them out, if that was possible.

That is true, for obvious reasons. We do not get a great percentage of them. "They would like to wipe them out, if that was possible," is what the honourable gentleman said.

The Hon. M. B. Cameron: "Would like it."

The Hon. N. K. FOSTER: The Hon. Mr. Sumner then interjected and said:

That's a disgraceful statement.

The Hon. Mr. Cameron continued:

It is not. That is the reason for their lack of support for this amendment. I urge the Government to reconsider this matter and to take a statesmanlike approach to it.

He then resumed his seat. When he was later taken to task on this matter, he said he had not made this statement, and he challenged the Minister to find it in *Hansard*. He must stand condemned this afternoon because he made the statement in question.

The Hon. M. B. CAMERON: Will the honourable member give way?

The Hon. N. K. FOSTER: No. You never give way. You are going the wrong way.

The Hon. M. B. Cameron: You don't want to listen.

The Hon. N. K. FOSTER: The fact is—

The Hon. M. B. Cameron: You're talking rubbish.

The Hon. N. K. FOSTER: —that I made a very telling point during the last debate—

The Hon. M. B. Cameron: When you said the Hon. Mr. Whyte lacked intestinal fortitude!

The Hon. N. K. FOSTER: He did indeed, because he did not go far enough, in my opinion. I did not disagree with the provision at the time, provided it was under the control and scrutiny of the returning officer. That is the way I see it. I made a great deal of condemnation of the Liberal Party regarding its persistent attitude to those unfortunate people in hospitals and institutions. In the eastern suburbs there is a considerable number of nursing homes. We have found that the blue-rinse ladies in that area who belong to sub-branches of the Liberal Party have consistently over the years had a monopoly over the way in which the people concerned will cast their votes. I have personally witnessed the ballot-papers and have seen the claims made by the Liberal Party workers. It involves Labor Party workers, too; I will not be dishonest there, but I will say that these supporters at least gave the people the right to make their own mark on the ballot-paper. However, I have seen 70 people representing 70 votes and not one individual being given a ballot-paper or, if they have received them, not one ballot-paper being picked up by Liberal Party organisers. It is that to which I object and it is that to which I continue to object. It should be under the care and control of the returning and electoral officers. That was the difference between what the Hon. Mr. Whyte provided and what is contained in this measure. The Bill provides:

For an alternative system of voting for certain categories of elector at present entitled to cast postal votes. Under this system, an elector who is an inmate of an

institution, such as a hospital or nursing home, and for any reason is unable to attend at a polling booth to vote may cast his vote at the institution in the presence of—

and this is the big difference—

an electoral officer and hand the ballot-paper personally to the electoral officer—

not to a canvasser for the Liberal Party—

The Hon. C. M. Hill: Or the Labor Party.

The Hon. N. K. FOSTER: —or the Labor Party or the National Country Party. The Country Party people are past masters at it. What have they done with the Aboriginal vote over the years? Don't come in here and stand on your moral horse, Mr. Hill, about what your Party has done in the past; don't point the finger of accusation against members on this side of the Council, saying that we are part and parcel of a Caucus and therefore have to do what we are told to do.

The Hon. C. M. Hill: Don't you believe in that?

The Hon. N. K. FOSTER: Yes, but honourable members opposite are voted here on a Party ticket, and so am I. Their chance of getting back here is not determined by outside support: it is determined by the position they get on their Party ticket, which is no different a system from ours.

The Hon. C. M. Hill: Get back to the Caucus system.

The Hon. N. K. FOSTER: If you are going to make accusations here about what Caucus or the Party machine does, let me say this to you, without interjection: Malcolm Fraser, who is a false Prime Minister of this country, is on record in the press as saying that preselection will be denied to any Minister or any back-bencher who has stepped outside the Party machine.

The Hon. C. M. Hill: Who said that?

The Hon. N. K. FOSTER: Fraser, last year.

The Hon. C. M. Hill: When and where?

The Hon. N. K. FOSTER: He threatened that.

The PRESIDENT: Order! We are getting a long way away from the subject matter.

The Hon. N. K. FOSTER: I agree with you that we are getting off the mark, by these Liberal Party distractions. They are supposed to be puritans of postal ballot-papers, but they are not really puritans at all. The set-up in New South Wales concerning parties of all political persuasions as regards Federal elections is disgraceful—vote early and vote often. There is no question that dead people vote in New South Wales and that dead people elect candidates in close seats in that State. It is to the credit of this Government that it has a measure in this Council to not only remove from petty Party politics the right of people to apply for a postal vote but also to ensure that that postal vote has some right of secrecy and a right to be counted and not tampered with, because it is removed from the hands of unscrupulous Party machine people of both political persuasions. I applaud the Government for that reason, if for no other. My opposition to the present system is also based on the fact that the last election was a rather unusual one, brought on by the stupidity of the then Opposition Liberal Party in this State.

The Hon. C. J. Sumner: It is still in Opposition.

The Hon. N. K. FOSTER: I know. The fact is that then the time available was the minimum. In this morning's paper it is announced by the Tasmanian State Premier that there will be an election there in the middle of next month, but there was not as much time at our last election as there could have been. The time factor became important for the people about whom the Hon. Mr. Whyte was concerned—people in the remote areas of the State who had communication difficulties in regard to the receipt of postal voting forms, which had to be considered, filled in and then posted, all of which took some time. So the time factor has some relevance. I will not refer to the position at the other end of the scale, where the Liberal Party supporters start opening ballot-papers. It is also on record that at Parramatta, in 1972, the allegation was made by the then sitting member that ballot-papers were being opened before they should have been. Once a ballot-paper has been filled in and despatched, it should not be opened until it comes under the care, control and scrutiny of someone from the Electoral Department.

I commend the Bill to the Council. It is no skin off my nose (and in this I am sure I speak for my colleagues) if some honourable members opposite want to accept some of the credit for it, and particularly the Hon. Mr. Whyte, who at least introduced a similar measure last February. However, we believe that any amending of electoral legislation should be done firmly, and that half measures are not good enough.

The Hon. M. B. CAMERON: The Hon. Mr. Foster in his summing up said he did not mind giving some credit to the Hon. Mr. Whyte. I say that the Hon. Mr. Whyte deserves all the credit for that part of the Bill; he is the person who introduced the provision originally and was refused permission by the Government to continue with it.

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

The Hon. M. B. CAMERON: The Hon. Mr. Foster has quoted from *Hansard*, as he often does, but he failed to say that I said, "I bet the Labor Party would like to wipe out postal voting." The Chief Secretary stated that I had said, "They would", and there is quite a difference between the two statements. That was why I challenged the Chief Secretary, who did not accept my challenge, and the matter was laid to rest with the Chief Secretary admitting by his failure to proceed further, that I was right. Postal voting has been a bone of contention for a long time. One difficulty is that in many cases postal votes have been filled out, not only in nursing homes but also in other places, by people who have not fully understood the implication of what they were doing.

I can recall being drastically affected by people not filling out the outside (not the vote itself) of the voting form in the proper manner by, say, leaving the date off. A simple mistake like that denied a person his vote. Therefore, if there were any way of having experts available to help people fill out postal votes, so much the better. In the Millicent election in which I was involved, about 60 postal votes were not counted, for various reasons.

Two or three were not counted because of genuine and obvious mistakes. Nevertheless, these mistakes denied the voter the right to have his vote counted. To some extent that problem may be cured in nursing homes and other places by the provision of electoral visitors, who will not allow that sort of problem to arise. True, electoral visitors must not take part in the vote itself, but the fact that the filling-out procedure will be done properly will be an advantage.

A problem I foresee concerns the right of people in remote areas to be able to register as permanent voters. This involves shearers and others who spend much of their time (up to nine months a year) in remote areas. They will not have the same facility available to them under the Bill because, unless they are in a proclaimed area semi-permanently, they will not be able to register. Has the Government considered the problem of people engaged in activities similar to those of permanent residents of remote areas? Has the Government considered a permanent roll for people with no fixed residence, involved in activities

taking them in the normal course of their work outside townships to the more remote areas, as indicated by the Hon. Mr. Whyte when he originally introduced his Bill?

I do not want to be involved in the general hurly-burly that took place earlier, but I am pleased to see that the Government has allowed honourable members opposite to change their mind. I trust we will see this same attitude prevail in respect of the many other matters in which the Government is wrong. I support the second reading.

The Hon. J. E. DUNFORD: I wish to speak briefly in the debate. First, I am sorry that the Hon. Mr. Whyte is not in the Chamber, because last night he said he would read out to members of this side how they attacked him on his earlier Bill.

The Hon. M. B. Cameron: You have heard the—

The Hon. J. E. DUNFORD: I am not speaking to you. I am speaking to the whole Chamber. I will get to the honourable member in a moment. However, the Hon. Mr. Whyte must have read *Hansard* and found that members on this side were sympathetic to his amendments. At page 2070 of *Hansard* (February 4, 1976) I stated:

I have to agree that there is some merit in parts of the amendment, and I am very surprised that it comes from the Hon. Mr. Whyte. I have no objection to the parts of the amendment that seek to maximise the vote. I know the back country, because I was born in a farming community. The vote will be maximised by the permanent voting roll, and it will be further maximised by the people who are inmates of declared institutions. It was refreshing to hear the Hon. Mr. Burdett take a more humane attitude towards people in institutions. He told us they were in institutions for punishment, deterrence and rehabilitation. We all know that, but I do not believe that is the reason why the Government has taken voting rights to inmates of declared institutions or prisons.

The Government is sympathetic towards and consious that most prisoners will one day be released and become, we hope, responsible citizens. Even whilst they are in these institutions, they have wives and adult children of voting age. Changes in society affect them (everyday legislation is dealt with affecting them in some way), and they have access to radio and newspapers. The provision of the vote is merely another step in the right direction. It is another credit on the side of the Government.

The Hon. Mr. Cameron referred to shearers. If shearers wanted to extend their voting rights they certatinly would not go to the Hon. Mr. Cameron. Shearers have always managed to vote and they are conscious of their obligations. They do not vote for candidates like the Hon. Mr. Cameron, because they know he will not stay in one political Party during the term of his career—he is too untrustworthy. Shearers have told me this, although I do not like to mention it. The honourable member was elected to this Council probably by non-union shearers last year, and he has already deserted them.

I refer to rich pastoralists in grazing areas. I believe they have a responsibility to take Aboriginal station hands, white station hands and pastoral hands to the nearest settlement with a polling booth, where people can gather on polling day to determine for which Party they will vote. However, rich pastoralists in grazing areas have never been that kind. Like most shearers, when I was a pastoral worker I went into town under my own steam to vote. It was always felt in the pastoral industry that there was some obligation for those with responsibility to encourage their workers to vote, provided they voted the right way. In speaking to the Hon. Mr. Whyte's Bill earlier this year I concluded by saying:

If an Aboriginal employee is taken to a polling booth, he may wish to see the leader of his tribe; or the station hand may wish to see a union representative or a political representative to discuss the election. I therefore see dangers in paragraph (*a*) of the relevant new clause. A grazier cannot be forced to take mail. What is done with mail after it is given to someone is his affair. People should be able to vote in privacy, but there is no private voting under the system outlined by the Hon. Mr. Whyte. I have no objection to some other parts of the amendment.

I see that the Hon. Mr. Whyte has just returned to the Chamber, and I commend to him page 2070 of *Hansard* on February 4, 1976. There is no doubt that employers are interested in how their employees vote. Indeed, if they believe they vote for Labor, employers try to switch their employees from Labor, not by political persuasion but by saying that the Liberal Party or the L.M. will get the workers a better way of life. However, the Liberal Party has never kept this promise. I have challenged honourable members opposite to show me any legislation they have introduced, when in Government or when they were in Opposition, that benefited the workers of this State. The Hon. Mr. Whyte has gone half way, but he has allowed graziers to abrogate the responsibility that they have to give employees a day off on polling day and to drive them to the polling booth so that they may converse with fellow workers about how to vote. At present there is intimidation of workers. The Government ought to be congratulated. Since February, 1976, it has considered what the Hon. Mr. Whyte provided in his Bill and it has gone a long way towards meeting his wishes and assisting people who until now have not been able to vote for the Party or candidate of their choice.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 16. Page 2155.)

The Hon. M. B. DAWKINS: I rise to speak briefly to the Bill, which amends the Constitution Act to enable people in prison to vote. At the outset, I indicate that I am inclined to oppose the Bill. I ask the Council whether people who are in prison for having offended against society should have the right to vote. My answer is that it should not be possible. It is easy for honourable members to say that the few votes that come from a prison may not affect the result of an election, but I remind them of several cases involving members of this Parliament over the past few years where people have been elected by a small number of votes.

One case that comes to mind readily is that of the Hon. Mr. Cameron, who was defeated by only one vote for the Assembly seat of Millicent. Earlier this afternoon, that honourable member told the Council that 60 votes were not admissible because they had faults which, although unintentional, did not allow them to be admitted. Further, I think the Hon. G. A. Bywaters was elected for the District of Murray by a few votes, and my friend opposite, the Hon. Mr. Casey, would remember his election for the District of Frome. Another personal friend of mine, even though he was a political opponent, was a former member for Chaffey, who also came into this category. I refer here to Mr. Reg Curren. There are other cases of honourable members being elected by a few votes, but I will not canvass them all now.

The Hon. C. M. Hill: The Hon. Mr. Casey got in by 11 votes.

The Hon. M. B. DAWKINS: I understand that it was something like that. I do not believe that a person who has become, for the time being, an irresponsible citizen and a person that a jury has felt bound to imprison should be able to influence such a decision. I do not suggest that prisoners should be denied a vote permanently, but I do not believe that they should have a vote while they are inmates of a State penitentiary. It has been suggested that the Bill may apply to service personnel, but I consider that it does not apply to such a situation.

Yesterday I was interested to hear my friend the Hon. Mr. Hill support this Bill, in one of the shortest speeches that I have heard him make. I am not saying whether it was one of his best speeches, but it could have been. He always has prided himself on being "with it", and I do not know whether he considered that he was a little trendy, but he supported the Bill.

Regarding the Hon. Mr. Burdett's speech, I was reminded of a prominent citizen whom I would describe as a hide-bound conservative, and I hasten to say that I use the word "conservative" in its best and truest sense. That man spent much of his life persuading himself that he was a little trendy, and I wonder whether yesterday the Hon. Mr. Burdett may have got into that groove. I do not believe that people who have earned the displeasure of the community should have a vote, and I oppose the legislation as it stands.

The Hon. F. T. BLEVINS: That was one of the most incredible speeches that I have heard in this Council. The honourable member who has just sat down is named Maynard Boyd Dawkins, a truly Dickensian name for a truly Dickensian character. The man is living in another age.

The Hon. T. M. Casey: He said the Hon. Mr. Hill was trendy.

The Hon. C. M. Hill: He must be living in another age!

The Hon. F. T. BLEVINS: I must say, in defence of the Hon. Mr. Dawkins, that he is not only offensive to members on this side and partial in his attitude, but he also appears to me to be offensive to members on his side. It is hard to believe that such people are putting themselves up as being qualified to run the State. It is an indication of the state of society today that a Bill such as this should create any fuss at all. We have no right to deny people a vote and the right of prisoners to vote should be provided for.

The Hon. Mr. Dawkins, who doubtless considers himself to be a Christian, should get a little Christian charity into his heart and attitude. The Hon. Mr. Burdett concluded his speech by saying that there was some bad in the best of us and some good in the worst of us and that we were in no position to judge who should and should not vote. I consider that the Hon. Mr. Burdett said all that need be said, and I support the Bill.

The Hon. J. R. CORNWALL: I support the Bill, and I could not let the occasion go without commenting on the remarks made by the Hon. Mr. Dawkins. The emphasis in our penal system today is on rehabilitation, and it is only fair and reasonable that, in a democratic society, those who are temporarily confined for rehabilitation or punishment should be given a vote.

From time to time honourable members opposite have been referred to as troglodytes, who are cave dwellers. However, I do not believe that that description fits the Hon. Mr. Dawkins, because he belongs to an era before that: he is straight out of the ice age. The honourable member said that occasionally elections had been won by a small number of votes, and he used that as some sort of argument against giving prisoners the right to vote. I point out that some people are in our penal institutions because they have practised capitalism in its ultimate form. So, it might be to the Hon. Mr. Dawkins' advantage to have them voting. I support the Bill.

The Hon. R. C. DeGARIS (Leader of the Opposition): I did not intend to speak on this Bill, but what has just been said about the Hon. Mr. Dawkins' contribution to the debate is untrue. The Hon. Mr. Cornwall's final statement cannot be substantiated in any way. All that the Hon. Mr. Dawkins has said is that, as far as punishment is concerned, there should not be an incontrovertible right of any person always to vote. The allegation made against the honourable member is ridiculous. He expressed an opinion which has some justification: if we have laws to which punishment is attached, there is nothing wrong with the removal of the right to vote, as part of the punishment.

The Hon. J. R. Cornwall: Are you supporting the Bill?

The Hon. R. C. DeGARIS: The honourable member will find out in due course.

The Hon. J. E. DUNFORD: I rise on a point of order, Mr. President. Is the Leader making a personal explanation on behalf of the Hon. Mr. Dawkins? That is the impression I get from what he has said.

The PRESIDENT: The Hon. Mr. DeGaris is doing what many other honourable members do: trying to explain remarks made by other honourable members. Whether or not that is strictly relevant to the debate, I do not know. It is part of the whole debate, and it has been customary. No-one necessarily has to declare himself before a vote is taken.

The Hon. R. C. DeGARIS: The Hon. Mr. Cornwall's contribution to the debate was not justified by what the Hon. Mr. Dawkins said.

The Hon. N. K. FOSTER: I support the Bill. I understand that the Hon. Mr. Dawkins has opposed the Bill, and that is his right. I do not know whether the honourable member has ever been in prison; often, innocent people can be imprisoned. A person may have to pay tax while he is in prison, but up to the present he has been denied the right to vote. Further, a person could be denied the right to vote because he is in prison following his being found to be in contempt of court, a contemptible charge. A person could be innocent of any charge he needs to face but, because judges today regard the court as their domain and regard themselves as having absolute power, a person could be held to be in contempt of court, and he could then be denied the right to vote.

The Hon. R. C. DeGaris: It is a bit like the Labor Party Executive.

The Hon. N. K. FOSTER: The Hon. Mr. DeGaris was a member of the Labor Party at one stage—a branch Secretary, if not a branch President. He went into the Labor Party purely on the basis that he would destroy it from within. He did that to himself when he joined the Liberal Party. He is a failure as a business man, as a farmer, as a property owner, as a legislator, as Leader of a previous Government in this Council, and as Leader of the Opposition in this Council. He did not have to stand at

the general election last year, and he has failed his colleagues in his leadership in this place since he was elected as Leader in July, 1975. He mustered six supporters and retained his position, only because his colleagues did not want the Party to lose face.

The PRESIDENT: Order!

The Hon. N. K. FOSTER: Thank you, Mr. President, for your indulgence. You know what I have just said to be true; that is why you let me go on and say it. I support the Bill. This nation was founded by people who were imprisoned and transported to Australia. Some honourable members opposite say that a prisoner should not have the right to elect members of Parliament, but such honourable members should change their minds and support the Bill.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

The Hon. T. M. CASEY (Minister of Lands) moved:
That this Bill be now read a third time.

The Hon. R. C. DeGARIS (Leader of the Opposition): Some rather interesting matters arose in Committee. Will the Minister say what will happen if a prisoner does not vote? Will he be fined?

The Hon. T. M. CASEY: I should say that, if this Bill becomes law, and a person is enrolled to vote for the House of Assembly, he will be treated like any other elector whose name is on the roll.

Bill read a third time and passed.

LICENSING ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from November 16. Page 2150.)

The Hon. M. B. CAMERON: It seems rather odd, after hearing the Government's attitude to the recent shopping hours legislation, for it to introduce this Bill. The Government then had almost convinced me that it was impossible to work out a method of extending shopping hours for one night a week for four weeks before Christmas so that people could enjoy late-night shopping. Now, however, we find that in an industry which already has 10 p.m. closing, it is no problem to extend trading hours until midnight. I will watch with great interest to see what Government members do when an amendment providing for Sunday trading is moved. When the shopping hours legislation was being debated, the Government's hands were completely tied. It had to do what it was told.

The Hon. F. T. Blevins: That is not true.

The Hon. M. B. CAMERON: It is true, because the Labor Party's rules say so. The magnanimous approach regarding licensing hours is that it involves a free vote or a conscience vote.

The Hon. C. M. Hill: Rape in marriage was not a conscience vote, but licensing is.

The Hon. M. B. CAMERON: That is so. I suppose the sale of alcohol is a more important issue to the Government than that of the community's ordinary shopping needs. It seems to be more important that people should be able to buy alcohol than that they should be able to purchase their ordinary shopping requirements. The Government expects honourable members to treat it seriously when it introduces legislation of this kind, although it has denied the people the right to have extended shopping hours for one month before Christmas. This is the most inconsistent Government that South Australia has ever seen.

The Hon. N. K. Foster: That's rubbish.

The Hon. M. B. CAMERON: It is not rubbish. The Government is totally inconsistent in introducing this kind of Bill, after denying the people the right, only about a week ago, to extended shopping hours. How can the Government expect anyone to take it seriously when it introduces this type of legislation? I shall be interested to see how Government members vote when they have their free vote on Sunday trading. In this respect, the Secretary of the Liquor and Allied Trades Union Mr. Dillon, said that two votes taken earlier this year had opposed Sunday trading, and that his union's policy had not changed. He continued:

> It would only be optional trading for the hotels, not for our members, who would be asked or compelled to work on Sundays. It was the only day barmen could have with their families.

The report continued:

> Mr. Dillon said his members would probably call for a special meeting if optional trading were introduced. But they might just stay with the present motion. "We opposed 10 o'clock closing when it came in, but it still came and it is operating all right," he said.

That is indeed a significant statement by Mr. Dillon. Although he said that his union's members opposed 10 p.m. closing, legislation providing therefor was introduced by the Labor Government. However, Friday night shopping was *not* introduced because the union involved was opposed to it. That is the sort of double attitude taken by the Government.

The Hon. N. K. Foster: It was also opposed by the traders.

The Hon. M. B. CAMERON: Good heavens! If that is the case, I wonder who controls the Government. Is the honourable member saying that it is controlled by the traders?

The Hon. N. K. Foster: No.

The Hon. M. B. CAMERON: I am surprised, as I should have thought that one ruler was enough for the Government. I should be interested to know what public demand there has been for this change. When the shopping legislation was being debated, the Chief Secretary challenged the Hon. Mr. Carnie to say whence the public demand for that change had come. I now challenge the Government and the Chief Secretary to tell me whence the public demand for this change in licensing hours has come. Has it arisen because the public is using hotels between 10 p.m. and midnight on certain nights and, if it has, is it because the public has had an opportunity or has expressed a desire to do so? Have the unions been demanding that hotels should remain open until midnight? I challenge the Chief Secretary to say by whom this change is being requested. I do not believe that there is any such demand. This action is being taken solely because it involves liquor. However, when something involves the ordinary needs of the community, it is no good.

The Government is totally inconsistent. It expects honourable members to support this Bill, although it was not willing to give the rest of the community, some of whom may not consume alcohol, the right to purchase their ordinary shopping requirements. I ask the Government to say why it is so inconsistent. Why the change in attitude from one or two weeks ago from one industry to the next? I would say to the Government that one of the faults that it must correct is that fault of inconsistency. I will support the second reading of this Bill. I am surprised that this Bill has been introduced. I would have thought the Government, through sheer embarrassment, would have held the Bill back until the

effects of the former legislation, of the denial, had passed over. But I do say to the Government that the next time that particular Bill is introduced let us see the same attitude to that as it is showing towards the liquor industry.

The Hon. M. B. DAWKINS: I rise to discuss the Bill and I will let honourable members know during the course of my remarks whether I will be supporting it or not. I agree with the Hon. Mr. Cameron and I find that I am agreeing with him more now than I used to. He has talked about the inconsistency of Government members when they were so frightened to allow a very temporary extension of the shopping hours because the unions opposed it, and yet they go along with Sunday trading even though the unions oppose it and they are going along with an extension of hours from 10 o'clock in the evening.

The Hon. N. K. Foster: Your sheep are sheared three times a year.

The Hon. M. B. DAWKINS: The Hon. Mr. Foster is, as usual, talking about something which has nothing to do with the Bill and about which he knows nothing. I am concerned about the intention of this Bill to extend trading hours from 10 o'clock until midnight. We have heard much about rape-in-marriage and men going home and ill-treating their wives and, if they go home at 10 o'clock and ill-treat them now, they will go home at midnight and ill-treat them even more. The extension of hours from 10 o'clock until midnight in my opinion will not be a good thing for the community.

I believe that the community should have the right to use the licensing facilities which are provided now as they wish to use them. That is fair, reasonable and democratic but I do not believe that we should necessarily increase the facilities to the stage where they can be detrimental to the community. I believe that the extension of trading hours from 10 o'clock until midnight could be detrimental to the community and for that reason I am concerned about it.

I want to say one or two things about Sunday trading. I understand that the unions are opposed to Sunday trading and I do not blame them for that. I think that they should have Sunday as a free day and should not be expected to work on Sundays. I understand also that the wineries are generally opposed to Sunday trading. As much as it might surprise some of the honourable members opposite, I have some very good friends amongst the winery fraternity and have had them for many years, and I know these people very well. I am not at all surprised that the wineries are generally opposed to the suggestions concerning Sunday trading which are contained in this legislation.

It is a reasonable attitude on the part of the wineries, just as it is a reasonable attitude on the part of the unions when it comes to hotel trading on Sundays. I understand, and I must disagree with my colleague on this, that here is an amendment foreshadowed to allow bar trading on Sundays. I do not agree with it. I know the reasons for it are that in 1967—

The Hon. N. K. FOSTER: Would the member give way?

The Hon. M. B. DAWKINS: No, I will not give way and I will tell you why. I do not believe in the give-way rule and I believe that it is a rule that is a transgression of Standing Orders. What it really does is to allow a person to make more than one speech at the second reading stage. Had I been here last year—

The Hon. F. T. BLEVINS: On a point of order, Mr. Acting President, the Hon. Mr. Dawkins is saying that to ask an honourable member to give way is a breach of Standing Orders. If that is the case it surely reflects on you, Sir, because if it was a breach of Standing Orders you would be down on him like a ton of bricks. I hope that you will inform the Hon. Mr. Dawkins that some time last year we changed the Standing Orders.

The Hon. N. K. Foster: He was in India.

The Hon. F. T. BLEVINS: It is not against Standing Orders and you should bring him to order.

The ACTING PRESIDENT (Hon. R. A. Geddes): The Hon. Mr. Dawkins is aware of the give-way rule.

The Hon. N. K. FOSTER: Will the honourable member give way?

The Hon. M. B. DAWKINS: No. I will explain why. I do not believe in that particular situation. I am also aware, Mr. Acting President, that we did not change the Standing Orders but that there is an optional rule which is used by agreement, if you like, between the members of this Chamber. No change, as I understand it, has been made to the Standing Orders. I am sorry that I had to correct the Hon. Mr. Blevins on that matter. That happens to be the situation. Even though I was away—

The Hon. N. K. FOSTER: On a point of order, Mr. Acting President, I voted against the proposal for any change. My point of order is that the honourable member is suggesting that any one who asks a member to give way is transgressing Standing Orders if he does not obey and give way. My understanding is that the Joint Committee considered this particular matter and I bitterly opposed it, as you well know, Mr. Acting President. Is it correct in this Chamber that anyone who rises and asks another honourable member to give way, and it was on the basis that he could refuse, I ask your ruling as to whether it can be regarded as *ultra vires* the Standing Orders.

The ACTING PRESIDENT: The honourable member is well aware of the give-way rule.

The Hon. N. K. Foster: Tell him what it is.

The ACTING PRESIDENT: The Hon. Mr. Foster stood on a point of order and asked the Chair to give an opinion. Is that right?

The Hon. N. K. FOSTER: That is right.

The ACTING PRESIDENT: I will tell the Chamber, including the Hon. Mr. Foster and the Hon. Mr. Dawkins, that there is a give-way rule which is designed to prevent interjections. That was the whole idea of it. It was optional whether the honourable member gave way at the time. It was stated at that time that the honourable member on his feet could finish the development on his argument before he gave way.

The Hon. N. K. Foster: He hasn't got an argument.

The ACTING PRESIDENT: The Hon. Mr. Dawkins has indicated that he does not wish to give way. He has also made other remarks that may or may not be relevant to his interpretation of Standing Orders. The question that the Hon. Mr. Foster posed is that the Hon. Mr. Dawkins has not given way to the question that he wanted to ask him. That is his private privilege and we all know it.

The Hon. M. B. DAWKINS: I thank you for that ruling, Mr. Acting President. As I understand it there is a rule which has not been, as far as I am aware, incorporated in the printed Standing Orders. I am aware of the rule. I agree with the Hon. Mr. Foster when he disagreed with it last year. If I had been here I would have been on the same side as he was on that matter. In refusing to give way I am not reflecting on the Hon. Mr. Foster in his asking me to give way. I am not reflecting on him at all. I am

stating that I do not think it is a good rule and I do not propose to use it. I have the right to give way or not. I do not intend to give way and it is not a reflection on the person who asked me to give way. I say I am concerned about the extension of trading hours indicated in this Bill and about the suggestion (and this is where I was interrupted by my honourable friend) of my good friend the Hon. Mr. DeGaris that we have Sunday trading, because I do not believe that Sunday trading for hotel bars would be a good thing. I agreed with the Leader when he indicated that in 1967 we opened the door, so to speak, to clubs, and the situation as regard clubs has got still worse on Sundays; it has got right out of hand. It is a serious situation; but I do not believe that ordinary trading hours on Sunday from hotel bars will help the situation. It is a case of the old story of two wrongs not making a right. The present situation as regards clubs is completely out of hand.

The Hon. C. J. Sumner: In what way?

The Hon. M. B. DAWKINS: The Hon. Mr. Foster asked whether I would support the second reading and I said I would indicate that to him before I sat down, which I am about to do. I shall support the second reading because some amendments should be considered in Committee, and some amendments may considerably improve the Bill. There may be one or two amendments that should be rejected, but I support the second reading to enable the Bill to be considered in Committee. I reserve the right to oppose the third reading if I believe that is necessary.

The Hon. J. C. BURDETT: I support the second reading. The Bill has been comprehensively dealt with by the Hon. Mr. DeGaris and other speakers, and I propose to refer only to a few aspects of it. It is essentially a Committee Bill. There is no single principle running through it except a general principle to bring the licensing law up to date. In saying that, I do not mean to criticise the Bill or the Government; I merely indicate that there are a number of separate portions of the Bill that have little to do with each other.

I support the simplification of the court procedure. Most applications will now be able to be dealt with by a single judicial member. Certain routine matters will be dealt with by the Registrar. I accept the explanation given as to why the previous heavy-handed procedure of most original applications being dealt with by the Full Bench was necessary. The reason given was that the Full Bench should consider original applications while the system under the 1967 Licensing Act was being set up and organised. I have, however, for some time felt that it was unnecessary to have all original applications dealt with by the Full Bench. It seemed to be unduly heavy-handed in the general context of the courts. I doubt whether it produced any better results than would have been achieved by a single judicial officer.

Another portion of the Bill, that relating to corporate licensees, seeks to ensure that the court has jurisdiction over the persons who are in real control of the licensed premises. The Hon. Mr. DeGaris has pointed out that the present position is too wide, applying as it does to all licensees, including brewers, vignerons, and so on, where the evils that can occur in the hotel trade are unlikely to occur. The provisions should be restricted, broadly speaking, to the classes of licensee which provide retail outlets. Other portions of the Bill extend licensing hours so that the trading hours will be Monday to Thursday until midnight in addition to Friday and Saturday, as at present.

I do not agree with this. I find myself on this rather in agreement with the Hon. Mr. Dawkins; it is quite unnecessary to extend the trading hours in this way. I realise that these provisions will be optional but in many areas it will become compulsory, from the point of view of competition. In some areas, if one hotel opens after 10 p.m. on Monday night, its competitor will have to do so, too.

The Hon. T. M. Casey: Not necessarily.

The Hon. J. C. BURDETT: Anyone who wants a drink after 10 p.m. during the week can, with a little forethought, ensure that he gets one. It does not seem to me to be necessary to keep the bars open. If a person is drinking with a meal, little opposition to that is likely to occur. This is not a matter of great importance, but I think that the late closing of bars is likely to increase noise and damage in some areas, and also the road toll. It is not necessary to provide bar facilities late at night. I intend to oppose the amendment foreshadowed by the Hon. Mr. DeGaris in regard to Sunday trading. His argument is that it is unfair to hotels that clubs should be open on Sundays while hotels cannot be. It seems strange logic to suggest that, because clubs have been allowed to go too far, hotels, too, should be allowed to go too far. That is quite unnecessary.

In the last issue of the *Sunday Mail*, there was painted an idyllic picture of a man and his wife taking their family out for a drink on Sunday– what a pleasant family outing that would be! Of course, that can be done now. There are very wide hours during which liquor can be consumed on Sundays with a meal, and I do not think it is necessary to extend bar trading on Sundays.

The Hon. N. K. Foster: How many clubs do you belong to?

The Hon. J. C. BURDETT: I do not think that is relevant.

The Hon. N. K. Foster: I just wondered, looking at the badge on your lapel.

The Hon. J. C. BURDETT: I happen to belong to two.

The Hon. N. K. Foster: The Adelaide Club, and what is the other one?

The Hon. J. C. BURDETT: I do not belong to the Adelaide Club; I belong to a Mannum club and a Murray Bridge club.

The Hon. N. K. Foster: The Lions Club?

The Hon. J. C. BURDETT: No; I think that has gone far enough. I am among those who enjoy a friendly drink in a hotel front bar on, say, a Friday night or a Saturday afternoon; that is a very pleasant and wholesome thing. It is quite adequate if people can have access to that kind of entertainment six days a week; it is not necessary on Sundays. It was also reported in the *Sunday Mail* that the Attorney-General said that he had previously indicated that he was considering introducing Sunday hotel trading. That he did announce earlier this year at the Australian Hotels Association dinner, and it was reported in the *Sunday Mail* that he had said that, having regard to approaches made to him since from the Australian Hotels Association, from the trade unions, from churches, and from temperance organisations, he had decided not to proceed with this at this time.

It seems to me that the Attorney-General struck a fair balance in coming to that conclusion. He listened to the various organisations and decided it was not wise in the general interests of the community to proceed with this provision now. I support the judgment of the Attorney-General on this occasion. Honourable members may find it strange that I do so, but I think he was correct and struck the correct balance at this time. I shall oppose the Sunday trading provisions but I support the second reading.

[*Sitting suspended from 5.45 to 7.45 p.m.*]

The Hon. D. H. LAIDLAW: I am concerned about several aspects of this Bill. The first arises from the increasing noise occcrring late at night in or near some large hotels, mainly in the northern suburbs. Drunkenness, especially amongst the young, has become worse since trading hours have been extended to midnight on Fridays and Saturdays. Owners of houses adjacent to these hotels are disturbed continuously; many women are afraid to walk in the nearby streets at night; cars parked on roadways have panels and windows kicked in, radio aerials and rear-vision mirrors stolen, and tyres slashed.

The value of many houses and units near to hotels has not been maintained at a level comparable with houses elsewhere. Many house and unit owners have felt compelled to sell their properties and move to houses more remote from licensed premises. These facts are wellknown to all honourable members.

The Hon. R. C. DeGaris: The situation could become worse if further outlets are established in residential areas.

The Hon. D. H. LAIDLAW: True, the position could become worse. I recognise that most licensed premises cause little or no annoyance to nearby residents and, in Committee, I shall seek to have new clause 17a, which will amend section 48 of the principal Act, incorporated in the Bill so that the granting or renewal of specific licences, except packet licences or vigneron's licences, shall be subject to objection, the first objection being on the basis of the quietness of the locality being disturbed and the second on the basis that owners and occupiers of premises in the locality may be unreasonably affected.

The same wording as is contained in this amendment exists already in section 48 (2) (*b*) of the Act, but applies only to applications for a new licence, and I wish to see this provision apply in respect of applications for the renewal of existing licences as well as for the granting of a new licence.

The second matter to which I refer concerns clause 9 (*a*), which amends section 19 of the Act. It enables the holder of a full publican's licence to sell liquor between 5 a.m. and midnight on every day except Sunday, Christmas Day, and Good Friday.

At present, as honourable members know, the holder of such a licence can sell liquor from 5 a.m. until 10 p.m., Monday to Thursday inclusive, and from 5 a.m. until midnight on Fridays and Saturdays. It seems illogical that, when in another Bill the Government is imposing extreme penalties for drunken driving, we are considering this proposal to extend the hours of night-time drinking in licensed premises. I believe that the worst drunkenness occurs in our community late on Friday and Saturday nights, and this should be discouraged. Therefore, I will oppose clause 9 (*a*).

The third matter to which I refer concerns amendments to clause 9 to be moved by the Hon. Mr. DeGaris, to enable holders of full publican's licences to sell liquor on Sundays between noon and 7 p.m. I do not object so much to the day-time opening of hotels as I do to the further extension of trading hours at night. At present there is much drinking in clubs on Sundays, generally by all-male groups, and the opening of hotels on Sunday afternoon may keep family groups together in convivial surroundings and help reduce the profusion of club drinking amongst males. I will support the Hon. Mr. DeGaris's amendments.

Fourthly, I refer to clause 13, which amends section 26 of the Act. It authorises the holder of a vigneron's licence to sell bottles of wine or brandy for 24 hours a day, seven days a week, except on Good Friday, and Christmas Day. I see little harm in selling bottles of brandy or wine at all hours, but the habit of wine tasting could well be abused if the holders of vignerons' licences keep their premises open all around the clock. I do not feel very strongly on this matter, but some control should be exercised over the extensive practice of wine tasting, often by groups of young people moving from winery to winery without intending to buy a bottle of anything.

Finally, I refer to clause 25, which amends section 153 of the Act and which would prevent any youth under the age of 18 years from entering any bar-room or prescribed premises or from obtaining or consuming liquor on licensed premises. Hotels differ markedly in their size, depending on their location. Some hotels have only one bar and an adjacent room that has not been used for years. It seems that if, for example, public bars are prescribed, youths could not enter any public room of a small hotel, but could enter some public rooms in larger licensed premises. Therefore, I foreshadow an amendment to change the prohibition to any prescribed bar-room of any prescribed licensed premises.

In this way the Licensing Court could use its discretion and examine different hotels individually to ascertain which bar-room should be prescribed, depending on the size of the hotel and its locality. Subject to the amendments I have foreshadowed, and my objection to the extension of drinking hours from 10 p.m. until midnight between Mondays and Thursdays, I support the Bill.

The Hon. J. A. CARNIE: I support this Bill, which has two main aspects. The first refers to various administrative changes. Other speakers who have referred to this aspect are far better qualified to speak on it than am I. I accept the arguments and explanations given, and I do not intend to comment on that aspect. Indeed, I do not intend to comment much on any aspect of the Bill at this stage, because it is a Committee Bill. It covers many aspects and, as the Hon. Mr. Laidlaw has just said, many amendments are on file. I expect a long debate in Committee.

I speak in this debate because this is a social question on which all honourable members should stand up and be counted. A free vote on both sides of this Council is given on this question. As honourable members know, I believe in free trading hours. I recently introduced a Bill to abolish any restriction on shopping hours, not in the belief that all shops would open 24 hours a day seven days a week but with the aim that they would be free to open when the demand was there and a profit could be made. This principle should apply to all free enterprise.

Of course, I accept that licensed premises are different from shops, but I do not believe that it is Parliament's function to dictate on drinking behaviour to any member of the community. Parliament has an important role when the drinking behaviour of people affects others. As a result, we must have licensing laws and some form of control. Although the Government opposed extending shopping hours, at about the same time it introduced this Bill extending trading hours of licensed premises; this seems to be illogical. I cannot understand why the Government opposed extending shopping hours, but I hope that its introduction of this Bill indicates that it will reconsider its attitude to extending shopping hours.

The Hon. R. C. DeGaris: Just as it reconsidered the Hon. Mr. Whyte's suggestion on voting for people in isolated areas.

The Hon. J. A. CARNIE: Yes. There have been many instances of this kind.

The Hon. J. E. Dunford: If the Hon. Mr. Carnie is consistent, he will support opening hotels for 24 hours a day.

The Hon. J. A. CARNIE: The honourable member did not listen to what I said. While the drinking habits of people affect others, the shopping habits of people do not affect others. Clearly, there must be some sort of control over licensed premises. The main purpose of the Bill is to extend trading hours if the hotel proprietor so wishes; this is not compulsory, any more than the Bill I introduced on shopping hours provided for compulsion. The Bill reduces the number of hours for which a hotel is obliged to open. At present hotels must remain open between 11 a.m. and 10 p.m., but this Bill reduces the obligatory hours to between 11 a.m. and 8 p.m., and this is a good aspect of the Bill. It has always seemed ridiculous that a small family hotel in a small country town should have to remain open until 10 p.m. even in the depths of winter, when there is no business. Whilst there must be a minimum number of hours for which a hotel is obliged to remain open, from the viewpoint of the buying public, I do not think that easing the number of compulsory hours will inconvenience the public in any way, because, if there is a demand, the hotel will open. The Bill provides for flexibility in trading hours. In this connection the Australian Hotels Association states:

The hotel industry is looking for a degree of flexibility in week-day trading hours. Hotels may sell liquor now as early as 5 a.m. in the morning. Some take advantage of this early opening facility by catering for shift workers, early morning market people, and so on. On Friday and Saturday nights hotels may be open until 12 midnight. Some take advantage of this. Others do not. We claim that flexibility of hours means than a hotelkeeper can meet a public demand if and when it arises or exists—according to location (city, country, beach, tourist area), time of year (winter/summer), and occasion (local events, festivals, etc.).

The Hon. F. T. Blevins: Would the association concede the same for the clubs?

The Hon. J. A. CARNIE: I do not know whether it would. I would.

The Hon. F. T. Blevins: The association opposes it all the time.

The Hon. J. A. CARNIE: I will not argue on that matter but, because of the many clubs in South Australia, the Australian Hotels Association has not been very successful. The Bill provides that there will be no restriction on trading hours of restaurants and hotel dining-rooms. This solves the problem of restaurants applying for licences at different hours, because restaurants have demands at different hours. Some restaurants specialise in functions, some in luncheons, some in pre-theatre dinners, some in extended dinners with or without dancing and entertainment, and some specialise in late-night, after-theatre or early-morning functions. Under this Bill restaurants will be able to open when the demand is there and when a profit can be made. Clause 13, dealing with vignerons' licences, opens the situation. There is no restriction on when wineries can open to sell liquor: in effect, wineries can open on Sundays if they so wish. Up to the present, they have been able to open six days a week. I strongly support the new provision.

Sales of wine are important to the economy of South Australia, a major wine-producing State. Further, a major tourist industry has been built up in the Barrossa Valley, the Southern Vale region, and the Riverland. Some honourable members have expressed concern that wineries not only sell wine but also freely provide wine tasting. So, it is argued that the opening of wineries on Sundays will lead to increased consumption of wine. I cannot accept this reasoning, nor can I accept that orderly and controlled wine tasting, which has been carried on for many years for six days a week in these districts, will suddenly become a great menace if extended to seven days a week.

Wine lovers are important to small wineries. Much of the charm of wine for many people is seeking out the more unusual and scarce wines, and the best way of doing this is to go to a small winery. I can see that the Minister of Agriculture is listening carefully to this point, because he has an interest in this matter. Many small wineries are family wineries which depend largely, if not entirely, on cellar-door sales. Wine tasting, about which some people are concerned, is well controlled. Often, during weekends I visit wineries south of Adelaide and in the Barossa Valley. Certainly, I have never seen many of the groups which have been referred to and which go to wineries solely for the purpose of drinking. However, I will not deny that this happens. I suppose it is up to the winery concerned to deal with the matter.

I refer briefly to clause 25, which relates to any person under the age of 18 years entering a bar-room of a prescribed class. The problem of under-age drinkers concerns us all, and this clause goes some way (although not a long way) towards giving the police power to control under-age drinking. As the law stands at present (I have seen examples of this), a 16-year-old person can go into a bar with a group of friends and drink with them. If a policeman appears, that person can take one step away from his drink, so that there is no way in which the policeman can prove that he is drinking in the bar. Certainly, the hotel and barman involved are guilty of an offence in this respect, and we all know that this happens. However, it is difficult to stop this behaviour altogether, although clause 25 will go some way towards doing this.

The Hon. M. B. Cameron: How will it stop them from doing this?

The Hon. J. A. CARNIE: I know what the honourable member is getting at. Those involved can still go into a saloon bar or another bar to drink. However, leaving the Act as it stands will not help the situation.

The Hon. R. C. DeGaris: Do you think they were more progressive in the 1800's when the age was 15 years?

The Hon. J. A. CARNIE: At one stage, there was no minimum drinking age. It was lowered from 21 years to 18 years, and I supported that move. The point is that there is a lower limit. Although the Hon. Mr. DeGaris can ask whether it was any better when the minimum drinking age was 15 years, the point is that at one stage it was legal for people of 14 years of age to drink.

This Bill is a further step towards bringing some sort of sanity into our licensing laws. I hope that we will see a trend towards the smaller local hotels rather than the large, entertainment-type hotels, which are proliferating around Adelaide at present and about which the Hon. Mr. Laidlaw expressed concern.

The Hon. N. K. Foster: Beer barns!

The Hon. J. A. CARNIE: That is a good description of them. It would be good if we could return to the local pub concept.

The Hon. C. J. Sumner: Have you ideas how to do it?

The Hon. J. A. CARNIE: No, I have not. In the two years that I spent in London I became impressed with the small neighbourhood pubs. The English habit of a couple's going to the local pub for the evening meal and to have a couple of pints and a game of darts or pool has much to commend it. I am unfortunate in that in

the area in which I live there are two of the large entertainment-type hotels to which the Hon. Mr. Laidlaw referred. Certainly, one cannot go to them to have a quiet drink.

The Hon. J. E. Dunford: Why do you go there then?

The Hon. J. A. CARNIE: I do not go there: I stay home because I cannot get a quiet drink at my local hotel. I hope that the Licensing Court will consider this aspect when granting new licences. Many amendments have been foreshadowed. I support some of them; others I cannot support. However, I support the Bill, which, I believe, will lead to a saner approach to this State's drinking laws.

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

COTTAGE FLATS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 16. Page 2155.)

The Hon. M. B. DAWKINS: I support the Bill. The principal Act provided funds for the South Australian Housing Trust for the purposes "of building cottage flats which shall be let by the trust to persons in necessitous circumstances". That was a laudable object. The Minister said in his second reading explanation that the source of these payments, specified in the principal Act, was the Homes Purchase Guarantee Fund, which was established about 30 years ago and which has now become exhausted.

I agree with the Minister's statement that both the Government and the trust firmly believe that subventions to the trust of the order provided for should be continued, especially since the trust has, from its own resources, provided matching grants. I am willing to support the Minister's suggestion that a suitable future source of funds would be the Housing Loans Redemption Fund, which was established under the Housing Loans Redemption Act of 1962. That fund was established in my early days in this place and, if I remember correctly, the Bill was introduced by Sir Thomas Playford.

I am sure honourable members would realise that it was a far-reaching and valuable measure, which has since enabled many people to obtain houses. The suggestion that the Housing Loans Redemption Fund should be used means that some examination should be made to ensure that the fund is able to carry the burden that it is now suggested it should carry. The Auditor-General's Report indicates that there is every reason to believe that the fund will be able to meet the obligations enumerated in the Bill. I therefore see no reason why the money required for cottage flat building should not come from this fund, as suggested.

The operation of this Bill relies on the co-operation of the Housing Trust. I understand that the trust is willing to continue the arrangement that has obtained in the past, but with the variation suggested in the Bill. As the Minister said, the Bill contains only one operative clause, clause 2, which provides for the arrangements to which I have referred. Subclause (2) is intended to ensure that payment of the grants will in no way prejudice the prime object of the fund. Having satisfied myself that that is the case, I commend the Government and the Minister for introducing the Bill, which I have pleasure in supporting.

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

EVIDENCE ACT AMENDMENT BILL

(Second reading debate adjourned on November 16. Page 2152.)

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Evidence given by accused persons."

The Hon. J. C. BURDETT: I oppose this clause for the reasons which I gave in my second reading speech in some detail and also for the reasons put forward by the Hon. Mr. DeGaris. At present an accused person cannot have his character brought into issue unless he places it in issue. He places his character in issue if he impugns the character of any of the prosecution witnesses. He can do this by the conduct of his defence or by the evidence that he gives.

The examples I gave were, first, if he accuses the police of brutality or, secondly, in a sexual case if he should swear that an innocent girl is a prostitiute. Of course, it is not a question of the veracity of what he said. He may swear that a girl is a prostitute and she may in fact be one or he may swear as to police brutality and that may in fact have happened. It has always been maintained by British courts that, where a defendant impugns a prosecution witness, the jury is entitled to know what sort of man is making the accusation. If he does not make the accusation he does not have his character brought into issue.

It does not follow that, where he does put his character in issue in the conduct of his defence and where he has got a record, a jury will turn against him. That may have been the position years ago but it is not so now. It has been the experience of many people who have been long associated with the criminal courts that to make such a suggestion is a gross injustice to modern juries and to their education, intelligence, and sense of justice. It does not follow that, because a jury knows that an accused has a record, they will find him guilty or turn against him.

If I am successful in opposing this clause, the position will be as it is now, namely, that evidence will not be able to be adduced about the character of the accused unless he does put his character in issue by giving evidence of his good character or by impunging a prosecution witness. It is only in those circumstances that his character will be in issue. My suggestion is that it is proper that, if someone attacks someone else's character, the court should know what sort of character he has himself. I oppose the clause.

The Hon. B. A. CHATTERTON (Minister of Agriculture): As I should like to consider this clause further, I seek leave to report progress.

Progress reported; Committee to sit again.

DEFECTIVE PREMISES BILL

(Second reading debate adjourned on November 10. Page 2041.)

Bill read a second time.

In Committee.

Clause 1—"Short title".

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

Clause 1, page 1, line 3, leave out "premises" and insert "houses".

The purpose of this amendment is to change the short title to Defective Houses Act. The term used throughout the Bill is "houses", and I do not think "premises" is used anywhere. Certainly the Bill is about houses, and the

consumer is not likely to be concerned about something called "premises". In the same way, the builder who is building houses is more likely to know what it means and be able to find out about it if it is called by the right name. The whole Bill is about houses.

The Hon. D. H. L. BANFIELD (Minister of Health): I accept the amendment.

Amendment carried; clause as amended passed.

Clause 2—"Commencement."

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

Page 1—

Line 4—Leave out "This" and insert "Subject to subsection (2) of this section, this"

After line 4—Insert subclause as follows:

(2) This Act shall not come into operation before the expiration of twelve months from the day on which it is assented to.

As the Bill now stands, the Act is to come into operation on a day to be fixed by proclamation. I am not very firm about the period, but I have put "12 months" in the amendment. I could be persuaded about the period, but there is a good reason for it, which is that in many cases builders have already engaged various kinds of experts. The best example, perhaps, is the soil tester, but there may also be architects and engineers. The builder has often entered into a contract with them, where they have contracted out of liability for the building, and they have done so in the technical, legal sense. As a rule, not many contracts are signed, sealed and delivered until some sort of specification has been given by the soil tester and there is a certificate at the bottom to the effect that he opts out of all liability and accepts no liability for the advice he has given.

The problem is that in many cases that advice has already been given, and the soil tester or other expert has already opted out. There has been a contract by which he has contracted out of his liability to the builder of the houses to be built. In some cases, the contract has already been signed with the owner; in other cases, it is still to be signed. I am told that the average time for building a house in the metropolitan area is between six months and 12 months from the signing of the contract between the builder and the owner, the reason being largely the delay in obtaining State Bank loans. (That is no reflection on the State Bank, which gives good service to home owners.)

If the Act is proclaimed before the houses are built where expert advice has already been taken and they are already in the pipeline, when they come out of the pipeline the builder will be in an impossible position. I do not desire to delay the benefits that this Bill will bring to the home owner, but it will be an impossible position where the builder has accepted expert advice (say, of a soil tester) and the expert has contracted out legally and properly. The builder will be caught if the Act comes into operation earlier; he will be liable to the owner if there is any default on the part of the soil tester or other expert; yet the builder will not be able to pursue his remedy against the expert. That, I suggest, would put him in an impossible position. The person with whom he has contracted (often the contract has been carried out and the work has been done by the soil tester) is not liable to the builder; he has contracted out and the builder enters into a contract with the owner, and it has been found that there is something wrong, which is the fault not of the builder but of the soil tester; and, unless there is some delay in the proclamation of the Act, the builder will be caught; he will be liable to the owner and will not be able to pursue his remedy against the person really at fault—the soil tester.

In this State, it will not be sufficient simply to accept an undertaking from the Minister that the Act will not be proclaimed, because there is another amendment which I foreshadow at the moment, which must be taken in conjunction with this one—that is, clause 4 (7), which provides:

The provisions of this Act shall have effect notwithstanding any agreement or waiver to the contrary.

It will be necessary to amend that subclause. It will be necessary, in the first place, to postpone the proclamation of the Act and, in the second place, to provide this amendment so that we achieve the purpose, which is that no longer will it be possible for the soil tester to contract out, and the builder will not be caught until a contract at present in the pipeline has been completed or there is a reasonable chance of completion.

The Hon. D. H. L. BANFIELD: I cannot agree with the honourable member that the contractor will miss out; I draw his attention to clause 4 (8), which provides:

This Act does not apply in respect of a contract made before the commencement of this Act.

The builder has not signed any contract.

The Hon. J. C. Burdett: That is the point.

The Hon. D. H. L. BANFIELD: No contractor could have gone ahead.

The Hon. J. C. Burdett: He already would have contracted.

The Hon. D. H. L. BANFIELD: If he had, clause 4 (8) provides that the legislation would not apply. It would not apply to a contract made before the commencement of the Act.

The Hon. J. C. Burdett: There is a waiver provision, clause 4 (7).

The Hon. D. H. L. BANFIELD: We are talking about a contract that had been let.

The CHAIRMAN: I think the honourable member is really talking about two contracts, a primary contract and a secondary contract, a primary contract that might be covered by this Bill and a secondary contract that might not be.

The Hon. D. H. L. BANFIELD: If they are contracts, they are covered by clause 4 (8). If he has entered into a contract for a particular project, it is clear to me that the Act does not apply to him. For those reasons, we oppose the amendment.

The Hon. J. C. BURDETT: A contract means only an arrangement to carry out something legally binding, for consideration. It does not have to be signed, sealed and delivered. I have been told that frequently in the building trade operations are carried out by consultants, such as soil consultants, architects, and engineers, some time before the contract between the builder and the owner is signed or let. Regarding contracts that are going to be entered into between builders and owners, the various consultants have signed their contracts or performed them and have contracted out of liability. The builder cannot proceed against the consultant if the consultant was negligent, because that was a term of the contract. When they enter into a contract with the owner after the Act is proclaimed, they will be bound by the contract and, if there is something wrong, the builder will be liable.

The Hon. D. H. L. BANFIELD: We cannot accept a delay of up to 12 months. The legislation should be capable of being complied with immediately by builders. The Hon. Mr. Burdett is giving the builder an opportunity

to evade his obligations for up to 12 months. Why should the purchaser carry the baby when a house has been jerry-built?

The Hon. J. C. BURDETT: There is no suggestion that the builder has acted improperly but it would be unrealistic (and this Government has often been unrealistic with its consumer protection legislation) to ignore the existing practice whereby consultants contract out of their liability to the builder. There is already a common law liability, and the main thing that this Bill does is prevent the builder in future from contracting out of his common law liability, but the builder must be allowed some protection so that he will not be carrying the baby and so that the consultant will not be able to contract out of liability to the builder.

The Hon. C. M. HILL: Perhaps if I give an example the picture may be clearer to the Minister. A young couple wishing to build a house may have their plans and specifications prepared and submit them to a builder, who prepares a quote for the price of building the house. The builder may refer the specifications for the foundations to a consultant to find out whether the plans and specifications are reasonable for the site. The foundation consultant then provides a plan and specifications of foundations necessary at that stage, and these may vary from the proposals in the overall plans and specifications that the owners have given the builder.

As the Hon. Mr. Burdett has said, the builder then contracts with the consultant who, protecting himself, as they all do, contracts out of further liability other than that which he specifies. The builder then submits his quotation to the young couple, saying that the price includes an extra amount for foundations because he has taken advice from a foundation expert, and certain expense is involved with the foundation. At that time, with the young couple considering the quotation, if this Bill becomes law, and if the contract is signed and further if after completion of the house there is a challenge against the builder, the owners have a claim against the builder only.

In the situation that I have referred to and in the situation explained by the Hon. Mr. Burdett, the consultant cannot be joined as a defendant. He is free and clear. This situation can apply only in the initial period after proclamation of the Act. It is a transitionary situation that can be fairly and properly covered only by an amendment of this kind which delays the legislation for a period. There is no other way that we can be fair to all the parties.

The Hon. R. C. DeGaris: It treats everyone equally.

The Hon. C. M. HILL: True, and there comes a period where everyone knows where he stands and becomes involved in the net. Unless there is such a period, say, for the initial 12 months, it is not fair to the builder. The builders who brought this matter to the attention of the Hon. Mr. Burdett are being fair and reasonable about the problem they confront if the Bill is passed without this amendment. This is the only way to overcome the problem, and that is why I support the Hon. Mr. Burdett's amendment.

The Hon. C. J. SUMNER: Can the Hon. Mr. Burdett say whether the relationship of the builder to the consultant is not a contractual one it would would still present a problem?

The Hon. J. C. BURDETT: No, but surely the relationship between the builder and the consultant is always a contractual one.

The CHAIRMAN: It seems that the problem arose from contracting out. The only other way this matter could be resolved, and it would be somewhat unorthodox, would be for any contracting out to be aggregated for a retrospective period.

The Hon. J. C. BURDETT: That occurred to me, but I hesitated to introduce retrospective legislation from this side of the Chamber.

The Hon. D. H. L. BANFIELD: It is in the purchaser's interests that the purchaser be protected as soon as possible.

The Hon. R. C. DeGaris: The purchaser is protected now.

The Hon. D. H. L. BANFIELD: I understand he is not protected at all. The Leader is seeking to protect someone along the line who may have made a mistake.

The Hon. C. M. Hill: It is the consultant who has made the mistake, but he gets out of it.

The Hon. D. H. L. BANFIELD: Surely the contractor, in the interests of the purchaser, would ensure that the one who has done the testing and the like has not made an error. Why should it be a cost to the purchaser? The purchaser must pay for a house for the rest of his life. He should be protected. For many couples it is the biggest purchase of their life. They should not have a house that will fall down around their necks.

The Hon. J. C. BURDETT: If a mistake is made, the consultant in many cases has already made it: there is no way the builder can stop the consultant from doing it. It must be got out of the pipeline. A reasonable period must be allowed so that, where the consultant has already done his job, time is allowed for houses to be built so that everyone can be caught at the same time. I agree that for many people a house is their biggest investment, but we must be just and not merely catch a builder for a liability which is not his fault and which he cannot pass on because he has complied with what has been standing practice for some time.

The Hon. D. H. L. Banfield: It's not fair to the purchaser, who cannot pass it on.

The Hon. J. C. BURDETT: He can pass it on in most cases.

The Hon. R. C. DeGARIS: What the Minister has said is not the position, either. This Bill does not suddenly introduce protection for the purchaser of a house. Concerning the warranties existing now at common law, this Bill tends to take up most of the existing position in common law and adds a bit to it. This Bill is to prevent contractors, whether consultants or otherwise, from contracting out of their common law warranty. Where there has been a contracting out before a contract is signed for the building of a house, the Bill catches only the builder and not the consultant, who is supposed to be brought into the net. The Bill mainly prevents contracting out and, in the case cited, it does not do that. The Bill merely places the warranties at common law in the Statute Books, but it does not prevent contracting out before the contract has been signed.

The Hon. J. C. BURDETT: This part of the Bill is about contracting out. It is there to stop the builder contracting out, and it is not fair unless he is able to stop the consultant contracting out, too.

The Hon. D. H. L. BANFIELD: The builder protects himself from whoa to go by including a clause in the contract that he will not be responsible for something he should have ensured was right. If he has such an

exclusion the builder cannot be held responsible for something that is done by a consultant. Therefore, he takes every precaution to look after himself, but we want to ensure that the purchaser is looked after as soon as possible. The builder worries only about himself, or otherwise that exclusion would not be in the contract. The only person not excluded is the builder in the case where something might have happened down the line involving someone whom he had to consult before the contract was signed.

The Hon. J. C. BURDETT: The builder does not get out of liability for something he should have done. It was for something on which he was entitled to rely upon the consultant.

The Hon. D. H. L. Banfield: In cases where that is not satisfactory, he makes sure he excludes himself.

The Hon. J. C. BURDETT: In some cases that is the position and in other cases it is not. The consultant has excluded himself from liability, and the builder has no right to proceed against him. It is not right that the builder should be caught: he has not acted wrongly or negligently. The Government has to see the matter in the right light. The Bill is all about contracting out.

The CHAIRMAN: I suggest that, as this clause deals with the actual operation of the Bill, its consideration be postponed until after the last clause is dealt with.

Consideration of clause 2 deferred.

Clause 3—"Interpretation."

The Hon. D. H. L. BANFIELD moved:

That consideration of this clause be postponed until after consideration of clause 4.

Motion carried.

Clause 4—"Implied warranties."

The CHAIRMAN: Perhaps the Hon. Mr. Burdett can speak generally on this clause. It may then be necessary for progress to be reported.

The Hon. J. C. BURDETT: The amendment that I intend to move to subclause (1) is really a drafting amendment to make it more convenient to use the term "a prospective occupier of the house" throughout. The amendment I intend to move to subclause (2) is also a drafting amendment. The amendment I intend to move to subclause (3) makes the provision tighter, because these are statutory warranties. The term "statutory warranties" is therefore more appropriate.

I turn now to the reason for my intention to move that "proves" be struck out and "alleges" be inserted in the second line of subclause (4). It would be unsatisfactory if the points made in paragraphs (*a*), (*b*) and (*c*) had to be proved before the person by whom the advice was tendered could be joined as a party to the proceedings. What is necessary is that the defendant alleges the three points; the person by whom the advice was tendered can then be joined as a party to the proceedings and the court can decide whether or not it is proved. The whole purpose would be defeated if the defendant first had to prove the three points. Subclause (4) raises two problems: first, that on the wording of the clause an allegation has to be proved before the builder can join an expert as a defendant. This is against all rules of procedure, as it would mean that an expert could not be joined until a late stage of the trial. It should be possible for a builder to join an expert as a co-defendant upon alleging the various matters set out in the provision.

The second matter is that paragraph (*c*) provides that it is sufficient to make the expert liable if the deficiencies result from the fact that reliance was placed on that advice. It is submitted that it should be necessary for the owner and builder to prove that the expert was negligent in giving his advice before the expert becomes liable to the home owner. So, it should be necessary, first, only to allege the points in paragraphs (*a*), (*b*) and (*c*), and later it has to be proved. Regarding new subclause (4a), which I intend to move to insert, I point out that subclause (1) sets out three warranties. It was claimed that all of these were common law warranties, but they are not. Subclause (1) (*a*) is an implied common law warranty.

I turn now to subclause (1) (*b*). That is a common law warranty. I have recently placed on file further amendments to that to make it "good and proper". The word "proper" has been held not to apply to quality, so "good and proper" will take care of that. The other amendment is after "purchases" to insert "or otherwise acquires". I will return to that amendment later.

Honourable members may recall that I quoted from *Hudson on Building Contracts* and pointed out that warranty of fitness is not always implied by common law. The amendments mention two warranties which are implied by common law. It is a matter of what arrangement was made between the builder and the owner regarding fitness. I explained this by giving various examples. One was that the builder, on advice that he should proceed in a case where the footings of a house were likely to be inundated with water, recommended that there be 4ft. of concrete around the house. The owner might say, "I accept that that is necessary, but I would sooner do it myself because that would be cheaper."

Another example was that in which a builder, on advice from his consultant, recommended that retaining walls be built to prevent water from flowing into the foundations. In such a case, the owner might accept that such action was necessary but would prefer to carry it out while he was landscaping the garden, which would be a cheaper way of doing it. I also referred to the case involving a prefabricated house. Often such houses are delivered but are not habitable because no drainage, and so on, is attached thereto. It may be cheaper and more convenient for the owner to have the plumbing work done himself by local contractors.

The purpose of this amendment is to enable the builder not to contract out in relation to workmanship or quality of materials, but to be able to limit the amount of work that he is going to do so that, by notice in writing, he may recommend certain things to the owner. If, after the builder has made a recommendation, the owner does not say, "Carry out that recommendation", and the builder does not do the work, he shall not be liable for not having done it. However, he would still be liable for faulty workmanship and material. If the builder recommends to the owner that a 4ft. surround is necessary, and the owner does not say, "Go ahead and do it", the builder shall not be liable.

The only other amendment is that on page 2, line 13, after "purchases" to insert "or otherwise acquires". I will now read the submission made to me on this point, as follows:

The Bill provides that any person who purchases—

the amendment that I have suggested about "good and proper" is for the protection of the owner, and not for the protection of the builder, so no-one can say that I have not been concerned about the consumer—

a house shall be subrogated to the rights of the original occupier. This means that if any person acquires an interest in the property by gift or from the estate of a deceased registered proprietor, then he is not subrogated to the rights of the original occupier.

In other words, he has no rights under the Bill. The submission continues:

It would appear that the rights of a subsequent registered proprietor to commence an action should not depend on the manner in which he acquires the property and that the wording of the clause should be altered by adding the words "or otherwise acquires" after the word "purchases" in the first line.

Those are the amendments that I intend to move.

The Hon. D. H. LAIDLAW: I wish to move the following amendments:

Page 2—Line 13—Leave out "five" and insert "two".
Line 18—After "(*a*)" insert "not more than two years".

I am concerned that the five-year period is too long. Honourable members must realise that if a right of action occurs at the end of the five years, thereafter under the Limitation of Actions Act there is another six-year period within which a plaintiff can bring an action. Having had considerable experience in the mechanical engineering industry, I know that 11 years is a long period for a manufacturer to have a threat of action hanging over his head.

This is a good Bill. There is a need to protect purchasers, especially purchasers of home units. There is merit in being able in court proceedings to bring the developer, the builder and, by virtue of this legislation, the consulting engineer into the one action.

However, I am concerned about the five-year period. I believe that this will definitely increase the cost of building cottages and home units. It was alleged that the cost would increase by $1 000 a home. However, I cannot verify that. I have no doubt, however, that, if there is a threat of action for a period of up to 11 years, costs will increase.

In my experience most defects, and I am talking of machinery, not buildings, occur in the first months of delivery, and I think that with buildings more than 90 per cent of the defects that occur would be covered by the two year period, which I advocate, rather than the five years. The other amendment which I wish to move concerns subclause (4). The existing provision states:

In any proceedings for breach of a statutory warranty, if the defendant proves that—

(*a*) before construction of the house was commenced or during the course of its construction, advice in relation to the design or construction of the house (not being gratuitous advice) was obtained from a person holding himself out as being qualified or competent to give that advice;

This covers the soil consultant or the architect. The soil consultant or the architect can be liable or be joined as a party and be held liable. I think it is unfair to have a situation where his advice might have been given many years before the building proceeded.

In my amendment I wish to insert in paragraph 1 (*a*) the words "not more than two years" before the words "before construction of the house was commenced" so that if a builder has paid for advice from a soil consultant it is incumbent upon him that that advice is updated. When I say updated I mean that it has been given within two years.

Soil conditions change and techniques change. To be able to buy advice four or five years ago and not use it and then build and, when something goes wrong, as this Bill is drawn the consultant can be joined without him having been responsible because of the time concerned. I think that is blatantly unfair. That is the purpose of my second amendment.

The Hon. C. M. HILL: The subclause which I am trying to change is the one dealing with a situation where a person has decided to take action against his builder. The existing subclause (5) states:

A person shall not commence proceedings for breach of a statutory warranty unless he has, by notice in writing served upon the person against whom the proceedings are to be brought—

(*a*) informed him of the grounds upon which he proposes to bring the proceedings;

and

(*b*) offered him a reasonable opportunity to inspect the premises to which the proceedings are to relate.

That sounds very fair and reasonable as far as it goes. I believe that he also ought to give the builder an opportunity to make good any damage which the builder inspects and which the builder believes has been occasioned by the builder's own fault. That would overcome the need for court action and overcome the need for expense by all parties through court procedure. I am suggesting in my amendment that the present paragraph (*b*) be omitted and in lieu thereof a new paragraph inserted as follows:

(*b*) offered him a reasonable opportunity—

(i) to inspect the premises to which the proceedings are to relate;

and

(ii) to make good any deficiencies in those premises.

It is to give the builder an opportunity not only to inspect but to make good any damage that he sees and which he believes should be corrected. It also places an obligation on the owner, who is proposing to take action, to allow the builder to carry out this work before any court action. There are many reputable builders who when they have faults pointed out to them that have occurred in construction willingly set about making good the damage. They are happy to do it. They do not know that it has occurred unless it is pointed out to them. As the Bill reads, the owner must only allow the builder to inspect the damage. The owners should be required to allow the builder not only to inspect the damage but to make good the damage and thereby overcome a need for court action.

I am sure that the Minister will agree that that issue is a relatively simple one and it is an entirely fair and reasonable approach to it, and it has as its objective settling the dispute before it ever gets to court and settling it in such a way that the damage is made good. It achieves what the Bill is setting out to do, to protect the home owner, and to allow that simple protection before the court action and before that expense is incurred. I just cannot see how the Minister could possibly rebut the proposal. I think I heard someone opposite whispering a while ago: "It sounds reasonable to me."

The Hon. C. J. Sumner: You certainly didn't.

The Hon. N. K. Foster: It assumes the builder is anxious to rectify his mistakes, and that is not always the way it goes.

The Hon. C. M. HILL: He is not anxious until he has had it pointed out to him.

The Hon. N. K. Foster: You have to hit him over the head with it as a rule.

The Hon. C. M. HILL: The procedure is that you take the action through the builder or through your solicitors and tell the builder the grounds you are going to take action on and you have to offer him a reasonable opportunity to inspect. Can the Hon. Mr. Foster say that a builder would prefer to say, "I am not interested in looking at the house. I am not interested in receiving advice from my former client. I am only interested in going to court to fight it." How many people would take that attitude? None.

The Hon. N. K. Foster: A number in your profession.

The Hon. C. M. HILL: No. What people do in business is to try and resolve their difficulties in the first

instance to the satisfaction of everyone. That is the ultimate aim. I hope the Minister receives this proposal with a sympathetic ear.

The Hon. D. H. L. BANFIELD: I thank honourable members for explaining these amendments so clearly. On looking around, Sir, I think we are the only two members that have understood what was said. The Hon. Mr. Hill has weakened my resistance which makes me want to look at this more closely; he almost convinced me. Because I want to have an opportunity to see where I went wrong I want further clarification from another lawyer from this side of the Chamber to confuse the matter further for me!

The Hon. C. J. SUMNER: I wish to establish to the satisfaction of the Commitee that it was not just the Minister who was able to understand the explanations made by the honourable members opposite. I direct a question to the Hon. Mr. Burdett in relation to the proposed new subclause (4b), which provides that the builder may have a defence if he gives notice in writing to the prospective occupier suggesting that certain additional work be carried out. On the face of it, that seems to be far too wide. It could well be that a builder could stipulate that all sorts of extraneous work was necessary, and thereby avoid the obligations under the Act. I am not prejudging my attitude to this amendment; I should like to consider in some detail all the amendments, but that is one matter that has occurred to me, that it was, even within the terms of the intention of the Hon. Mr. Burdett by his amendment, to be couched in terms that were far too wide.

The Hon. J. C. BURDETT: If the honourable member looks at the amendment, he will find that all these things have to be established, and the next one after the paragraph referred to by the honourable member is:

(c) that if the recommendation of the builder had been carried into effect the deficiencies of which the plaintiff complains would not have existed.

This is a defence that the builder must prove; he must establish all the evidence of it, on the balance of probabilities. He has to prove that he made the recommendation in writing, and he must go further than that. This, I think, answers the objections raised by the Hon. Mr. Sumner: it is not sufficient for the builder to prove that he made the recommendation; he has to go on, in defence of the action brought by the owner, to establish that, if his recommendation had been carried into effect, the deficiencies alleged by the plaintiff would not have occurred.

The CHAIRMAN: The Minister was about to report progress, and between now and when the Committee sits again I think the mover of the amendment will get some professional legal counsel. I hope we may come back to some hard core of agreement.

Progress reported; Committee to sit again.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL

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

SOUTH AUSTRALIAN HEALTH COMMISSION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1, 5 and 8 and had disagreed to amendments Nos. 2, 3, 4, 6, 7 and 9.

Schedule of the Legislative Council's amendments to which the House of Assembly had disagreed:

No. 2. Page 2, line 15 (clause 4)—After "DIVISION III—" insert "HEALTH ADVISORY COUNCIL AND".

No. 3. Page 2, line 25 (clause 4)—Leave out all words in this line.

No. 4. Page 4 (clause 8)—After line 24 insert new subclause (1a) as follows:

(1a) The Members of the Commission shall be chosen in such a manner as to ensure that, as far as practicable, its members are persons with expertise in the following fields of health care:

(a) the practice of medicine;
(b) nursing;
(c) the provision of paramedical services;
(d) administration and finance;
(e) education and training of those who are to work in the field of health care;
(f) ascertainment of the needs of the community for health services and the planning of new health services;
(g) the provision of health services by voluntray or community organisations.

No. 6. Page 7, line 42 (clause 18)—After "DIVISION III—" insert "HEALTH ADVISORY COUNCIL AND".

No. 7. Page 7, lines 43 to 46 and Page 8, lines 1 to 16 (clause 18)—Leave out the clause and insert new clause 18 as follows:

18. (1) The Minister shall appoint a council entitled the "Health Advisory Council".

(2) The Health Advisory Council shall consist of the following members:

(a) two nominees of the Local Government Association of South Australia;
(b) one nominee of the South Australian Hospitals Association;
(c) one nominee of the Australian Medical Association (South Australian Branch);
(d) one nominee of the Australian Dental Association (South Australian Branch);
(e) one nominee of the Royal Australian Nursing Federation (South Australian Branch);
(f) one nominee of the South Australian Council of Social Service;
(g) one nominee of the St. John Council for South Australia;
and
(h) four nominees of the Minister (all of whom must have had experience in the provision of health services and at least one of whom must have had experience in the education and training of those who propose to work in the field of health care).

(3) The members of the Health Advisory Council shall hold office for such term, and upon such conditions as may be prescribed.

(4) The members of the Health Advisory Council may from amongst their own number elect a member to be Chairman of the Council.

(5) The functions of the Health Advisory Council are to advise the Commission in relation to the following matters:

(a) voluntary participation by members of the community in the provision of health care;
(b) the provision of education and training by universities and colleges of advanced education and by the Commission and other bodies in matters relating to health care;
(c) research into the adequacy of existing health services and the planning of new health services;
(d) any other matter referred to the Health Advisory Council for advice by the Commisison.

(6) The Health Advisory Council may, with the consent of the Minister, establish such subcommittees (which may consist of, or include persons who are not members of the Council) as it thinks necessary to assist it in performing its functions under this Act.

(7) The Minister may appoint such other committees as he thinks necessary to investigate, and advise the Commission upon, any matter relating to health care.

No. 9. Page 16, lines 28 to 47 and page 17, lines 1 to 21 (clauses 39, 40, 41, 42)—Leave out clauses 39, 40, 41, and 42.

Consideration in Committee.

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

That the Council do not insist on its amendments Nos. 2, 3, 4, 6, 7, and 9.

These amendments were previously discussed fully in this Chamber, one of the main ones being to thrust upon the Government the possibility of an advisory council. This was canvassed when the Bill was before the Council: the way in which the advisory council would form itself into a small commission. The amendment provides that it can appoint its own subcommittees which can go outside of the council itself. Any subcommittee appointed would have no contact with the commission or with the Minister; it would have to go back through the advisory council. That proposal is not satisfactory to the Government. There were other things about which I was not happy. Already, some representations have been made to me by correspondence and by deputation, saying that some people do not agree with the proposed advisory council, Therefore, I ask the Committee not to insist on that amendment.

The other important matter is the 3 per cent council levy for hospitals, which has been in operation for about 40 years. It had no upper limit previously. The Bill suggests an upper limit on councils of 3 per cent. If this Bill is defeated because we do not accept the amendment about the council levy, there will be no upper limit for the levy. Think of the position the hospitals will soon be in because, from now on, apart from some voluntary work, hospitals will have no money to call their own to do any capital expansion they may wish to. So they will go broke and, if that happens, how tempting it will be for a Government, if there is no upper limit on the rating, to increase that rating to assist a hospital in a certain district!

The Hon. C. M. Hill: That is a threat.

The Hon. D. H. L. BANFIELD: It is not. How tempting it will be, when the townspeople come along and want an extension to their hospital, for the Government to raise the rate! It does not have to be a flat 10 per cent: there can be different council ratings for different areas. The temptation would be there for people in a township to request funds from that source. The Bill in its original form set an upper limit of 3 per cent. If the motion is not carried, it is in my hot little hands to decide what percentage is levied on a council—

The Hon. C. M. Hill: That's a threat.

The Hon. D. H. L. BANFIELD: —yet under the Bill initially there was a 3 per cent limit. Only two or three years ago the percentage could have ranged between 1 per cent and 11 per cent. It could have been any figure and not necessarily 3 per cent. I could be left with the temptation to impose any levy and, therefore, I ask the Committee not to insist on the substantive amendment. The other amendments are mainly consequential.

The Hon. R. C. DeGARIS (Leader of the Opposition): I cannot agree with the Minister's view. The only way in which this problem can be resolved is by a conference between the two Houses. I am certain that our approach incorporating these amendments is a far sounder approach based on the position in both Victoria and New South Wales. It is based on the position that New South Wales will take in the near future through amendments to its legislation. New South Wales has had three years experience.

The Hon. D. H. L. Banfield: That's why we are not moving in that direction.

The Hon. R. C. DeGARIS: New South Wales admits its mistakes and is changing to a position similar to that contained in this legislation.

The Hon. D. H. L. Banfield: Are you suggesting that New South Wales will not make a mistake the second time?

The Hon. R. C. DeGARIS: I have taken advice from New South Wales. This Bill, together with the amendments, is similar to the direction New South Wales will take. There is no reason why we should make the same mistakes that New South Wales has made. The Minister referred to the threat—

The Hon. D. H. L. Banfield: It was not a threat.

The Hon. R. C. DeGARIS: There was a threat that if the Bill does not go through the Government will be in a position, not of its own motion, to impose any limit it likes in respect of rate revenue paid to the South Australian Health Commission. That is true. I refer to the history of local governmet rating for hospital purposes. In 1969 as the then Minister of Health I got the then Government to adopt a policy that the upper limit levied on councils should be 3 per cent (it then ranged between 1 per cent and 6 per cent). That decision has been followed by this Government, and I give the undertaking that in future no Liberal Government, if this Bill does not go through, will lift the percentage above 3 per cent.

The Hon. N. K. Foster: How can you say that when they will not even allow you to be a shadow Minister? You cannot give such an undertaking. They will not trust you with a shadow portfolio.

The Hon. R. C. DeGARIS: One of the main things the Hon. Mr. Foster does is yap in his seat when members are making a speech, but all his comments are of a personal nature. The honourable member makes few real contributions to debate in this Chamber. The only real fear, therefore, is from a Labor Government.

The Hon. D. H. L. Banfield: You have constantly said that you cannot commit any future Government. How can you commit a future Government when in Opposition?

The Hon. R. C. DeGARIS: I am saying that the only way the levy would be increased is as the Minister has said—by a Labor Government.

The Hon. D. H. L. Banfield: That's not right. You cannot commit a future Government, and you know it. I said you had left the matter in my hot little hand to do just that. I did not say I would do it. I said you had given any Government the right to do just that.

The Hon. R. C. DeGARIS: The Hon. Mr. Hill is right in saying that that is almost a threat. In 1969 the Liberal Government reduced the hospital contribution.

The Hon. D. H. L. Banfield: You increased it in some areas.

The Hon. R. C. DeGARIS: It reduced the contribution to a maximum of 3 per cent.

The Hon. D. H. L. Banfield: You increased the minimum rate.

The Hon. R. C. DeGARIS: There were varying contributions from local government from 1 per cent to 6 per cent. We tried to equalise the contributions over all South Australian ratepayers. Surely the Minister

has agreed with that policy, as he has followed it. If there is a threat that unless the Committee passes the Bill there is a risk of increasing the 3 per cent maximum, then I say it can happen only under a Labor Government.

The Hon. D. H. L. Banfield: Why could it not happen under a future Liberal Government?

The Hon. R. C. DeGARIS: The case for the local government levy in relation to hospitals under the new arrangements is no longer valid. The contribution should be phased out. That is Liberal Party policy. I suggest the honourable members should stand by the amendments, with the idea later of attempting to find a rational compromise between the views of the two Houses. I oppose the motion.

The Hon. J. R. CORNWALL: This is a classic case of an attempt by the Opposition to maul, mangle, macerate and emasculate a Bill introduced by the Government following lengthy consideration of the Bright report, which dealt with all aspects of health care. The New South Wales Health Commission has experienced many problems, but it in no way resembles the health commission proposed under this Bill. The recommendations of the report dealing with the Victorian set-up were almost identical with those in the Bright report. The local government contribution seems to be entirely reasonable and consistent with Liberal Party philosophy. Liberal members say that the three tiers of government should participate but, when a matter like this comes up, for cheap political purposes they oppose it. I believe that the performance of Liberal Party members has been very poor indeed.

The Committee divided on the motion:

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

Noes (10)—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, D. H. Laidlaw, and A. M. Whyte.

Majority of 1 for the Noes.

Motion thus negatived.

LONG SERVICE LEAVE ACT AMENDMENT BILL

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

LONG SERVICE LEAVE (BUILDING INDUSTRY) ACT AMENDMENT BILL

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

ADJOURNMENT

At 10.12 p.m. the Council adjourned until Thursday, November 18, at 2.15 p.m.