LEGISLATIVE COUNCIL

Wednesday 5 March 1980

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

QUESTIONS

NORWOOD BY-ELECTION

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the Norwood roll stacking.

Leave granted.

The Hon. C. J. SUMNER: It is now quite clear, in view of the statement that the Attorney-General made to the Council yesterday, that the great Liberal fanfare before the Norwood by-election alleging vote stacking was nothing more than a phoney and unsuccessful attempt by the Government to influence the result of that election. In the week leading up to the election, after this inquiry had been announced in the *Sunday Mail*, the Government, by a carefully orchestrated set of press releases, kept this issue on the boil. The innuendo was that somehow the Labor Party had done something illegal when, in fact, the by-election was partly due to Liberal Party malpractice in the general election.

The Hon. R. C. DeGaris: Come on, you can't say that!

The Hon. C. J. SUMNER: The Liberal Party authorised the advertisement which the judge found to be defamatory to the Labor Party candidate; you cannot deny that. The advertisement was authorised by somebody called Willett, who I understand is the Director of the Liberal Party. I believe that the Premier and the Attorney-General were primarily involved in this and used, quite improperly, their powers of initiating inquiries in a political way during the campaign in the hope that this would reflect adversely on the A.L.P. As I have said, they kept the issue boiling during the whole week and they threw in suggestions of another Court of Disputed Returns, all of which was designed to frighten the voters and cast doubt over the poll.

The Premier continued in this fashion on election night; then he was going to have a Royal Commission. He continued on the next morning in the *Sunday Mail*, when he referred to the anonymous letter that he had received 12 months ago as the evidence upon which these inquiries were being instigated. The sources have never been mentioned, but it would be reasonable to suppose that they were Liberal Party sources, members of the Liberal Party who were trying to concoct something that would reflect adversely on the A.L.P. during the by-election.

Now that we have the so-called results of the inquiry in this Ministerial statement, we can come to no conclusion other than that the reports were phoney, even if the Electoral Commissioner did, in some way or other, carry out an inquiry. The Attorney has refused to give to the Council or anyone else any details of the reports that he received. It is conceivable—and I believe it to be the case —that the reports were probably Liberal Party reports given to the Attorney in the hope that investigations would be carried out, so that an atmosphere would be created before the election that was adverse to the Labor Party, and so that doubt would be created in the minds of electors before election day, in the hope that voters would be influenced in the direction of the Liberal Party. That seems the clear intent of the ordering of the inquiry.

I believe that the Government, and particularly the Attorney-General and the Premier, used their power to initiate this inquiry in an improper manner. If one looks at the Attorney's statement in this Chamber yesterday, one sees 12 typed pages, but on looking closely one sees that only three relate to any kind of complaint. Where is the report? We did not see it. The statement is padded out in such a way as to try to give the impression that there was something serious about the complaints and the investigations. We want to know what the report says, why the Government has not released it, and why it has decided to release its own personal version of the report. My questions are these: first, why is it not possible for the Government to release to the Parliament the actual report of the Electoral Commissioner; secondly, in view of the previous commitment made by the Premier, will the Attorney-General now table the report in this Council?

The Hon. K. T. GRIFFIN: I take exception to the assertion by the Leader that both the Premier and I used our powers improperly to influence the course of an election. That is grossly inaccurate and completely false. The position is—and I indicated this when we returned to these sittings after the by-election—that the reports which were made to me appeared to me to have substance, and it would have been irresponsible of me had I not referred them to the Electoral Commissioner for inquiry and report. I can imagine the sort of criticism that would have come from the Opposition if the claims made to me had not been inquired into. The Leader would have been on my back and on the back of the Government, alleging that we were grossly irresponsible—

Members interjecting:

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: —for not having them properly investigated. I took what I regarded as a proper and reasonable course in the responsible exercise of my duties as Attorney-General to ensure that those reports were properly investigated by the Electoral Commissioner. The Leader has tried to blow this thing up into an issue which he thinks will gain him some mileage.

I made yesterday a full and frank statement which indicated that the Electoral Commissioner, although he had complaints, was not able to find, within the power that he had available to him, or from the evidence before him, that there was any stacking of the rolls. He did not say that there was not any stacking of the rolls: he said he did not have sufficient evidence to enable him to come to the conclusion that the rolls had been stacked.

Members interjecting:

The Hon. K. T. GRIFFIN: If the leader would just listen for a few minutes, he would get some answers. I have constantly maintained since I have been Attorney that reports that are made to me as the Minister responsible for a particular department or office are not to be made public, and I have also indicated that I am not prepared to disclose the names of those persons who make reports to officers of the Government or Ministers of the Crown. To disclose the names of persons who make complaints from time to time would, as I said in this Council just after the by-election, put at risk people who quite honestly have matters of complaint which they look to be resolved by the Government of the day. One can imagine what would happen if the police, for example, were required to divulge the names of all those who brought reports to them, some reports perhaps of no substance but others perhaps of some substance. If the police were to adopt the view that all of those names and sources of information were to be made public, it would put at risk all of the ability of the police to detect offences and properly administer the law.

The Hon. C. J. Sumner: I am not asking that: all I want to know is whether the complaint came from the Liberal Party.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: The same principle applies whether it is the police or any other Government department, and I do not intend to release in this Council the names of any persons in this instance or any other, who have referred any particular complaint or inquiry to me or to any of my officers in any of the departments for which I am responsible. Also, I have indicated that I do not intend to either table or release the report from the Electoral Commissioner. That was a report from a permanent head of a department to the Minister responsible for that department. Again, if a permanent head was under the impression, or lived under the threat, that all or some of his reports which he made to the Minister were to be made public, it would put in jeopardy the relationship between the permanent head and the Minister, and would ensure that the advice that the permanent head gave to a Minister was tailored for public consumption.

I made in the Council a Ministerial statement which fairly and accurately represented the report made to me by the Electoral Commissioner, and I have told members of the media, in particular, who have asked me for its release that they need only contact the Electoral Commissioner by telephone to gain a first-hand assurance that the statement made to the Council was an accurate and fair representation of his report.

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a further question about his Ministerial statement.

Leave granted.

The Hon. C. J. SUMNER: The Attorney seems to have relied upon the fact that the Electoral Commissioner is the permanent head of the department within his responsiblity, and that on that basis he does not feel that the full report of the Electoral Commissioner shoüld be released to Parliament or the public. While one would concede that not every query or minute that goes from the permanent head to a Minister should be released to the public (clearly, some are confidential), what we do know is that this was an inquiry ordered amidst a great fanfare before the Norwood by-election.

The Electoral Commission was asked to carry out this investigation, and the Premier gave a commitment that the full details of the report would be made available to the public and to Parliament. The other simple fact, which the Attorney seems to have overlooked, is that the Electoral Commissioner is not in the same position, *vis-a-vis* his Minister, as an ordinary permanent head of a department. In fact, the Electoral Commissioner is an independent statutory body, and as such he has a responsibility to conduct, fairly and objectively, elections held in this State. His activities should not have be interfered with by any politician or Minister.

If the Attorney-General believes that the Electoral Commissioner is the permanent head in the same way as are heads of other departments, does that mean that he feels he has the right and power to direct the Electoral Commissioner on how he should go about his duties? The Electoral Commissioner is an independent statutory body charged with carrying out the conduct of elections in this State in an independent way—independent of any Minister or politician. The Commissioner has presented this report as an independent statutory body, and as such ought to be allowed to release the report to Parliament and the public. He should not be stopped by a Ministerial direction from releasing that report; such a direction is a quite improper exercise by the Minister of his power over a person who should be an independent statutory body.

The Hon. K. T. GRIFFIN: The Leader's question suggests to me that he has some doubt about the honesty of the Electoral Commissioner. If he is putting that position, he should be seriously reprimanded for adopting that attitude. I am responsible for the Electoral Commissioner, and as Minister I must wear any criticism of the Commissioner or of the conduct of elections. Before the recent by-election, I indicated that I would not seek to put any pressure on the Electoral Commissioner as to the way he conducts his inquiry into the matters that have been the subject of complaints, and I believe that he has properly, fairly and reasonably undertaken his review.

The Leader is attempting to suggest that the various matters I referred to in my Ministerial statement yesterday which were the subject of inquiry were not of any substance. If the Leader only cared to look at my statement and the examples I cited that were the subject of inquiry, he would recognise that they were serious matters of substance that should properly be the subject of an inquiry by the Electoral Commissioner. I have already indicated that I believe the Electoral Commissioner has responsibly attended to his task in presenting to the Government a report on those matters. As the Minister responsible for the Electoral Department, it is my responsibility to put those matters before the Council, and I have done that. If the Leader had checked with the Electoral Commissioner, he would know that my statement was an accurate representation of the Electoral Commissioner's report.

SOUTHERN VALES CO-OPERATIVE

The Hon. B. A. CHATTERTON: I seek leave to make a statement before asking the Attorney-General a question regarding Southern Vales Co-operative.

Leave granted.

The Hon. B. A. CHATTERTON: I ask this question because the Government's actions regarding Southern Vales Co-operative seem to be muddled indeed. Last week, the Minister of Agriculture announced that he was going to direct the State Bank to provide funds to the co-operative. However, he must have realised later that he should not have used the word "direct", and withdrew that, stating that he would only request the bank to make a loan to the co-operative.

When I asked the Attorney-General last week why he thought that the bank would provide a loan to Southern Vales Co-operative after it had already refused it, if all the conditions then pertaining to the co-operative's application still existed, he did not know. Hardly surprisingly, the bank has looked at the application again and refused it, and now the Government says that it will provide funds to the bank, which in turn will provide funds to the co-operative.

Will the Attorney-General, as the Leader of the Government in the Council, say whether the funds that are being supplied to the State Bank are to be provided by the State Treasury or by the South Australian Development Corporation and, if they are being provided by the S.A.D.C., whether the application for a loan will be scrutinised by the relevant Parliamentary committee? If that is not the case and the funds are to be provided by the State Treasury, on what terms and conditions will they so be provided?

The Hon. K. T. GRIFFIN: Yesterday, the Minister of Agriculture outlined in another place the present position regarding negotiations between the Government, the State Bank and the Southern Vales Co-operative. I understand that negotiations are still proceeding between the Government, the bank, the South Australian Development Corporation and Southern Vales Co-

operative with respect to funding to be made available for the purpose of meeting the co-operative's commitments for the current vintage.

Because those matters are still being negotiated between those parties, it would be improper of me to disclose in detail the stage that they have reached. However, I assure the Council that they are being conducted currently, that the Government is sensitive to the present plight particularly of growers in the Southern Vales area, and that it is anxious to ensure that no panic is created by the difficulties that Southern Vales Co-operative is presently experiencing.

The Government recognises that there is a need for it to be involved in this problem, and is taking every available step to ensure that the matter is responsibly and reasonably resolved.

MINISTER OF LOCAL GOVERNMENT

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Minister of Local Government a question regarding Ministerial impropriety.

Leave granted.

The Hon. J. R. CORNWALL: Yesterday it was my sorry duty to have to outline to the Council the story of the Minister's involvement in a devious scheme to circumvent the Planning and Development Act requirements in relation to a proposed retail development at Leabrook. I have previously stated—

The Hon. N. K. Foster: Shut up, Davis. Mr. President, you ought to shut him up.

The PRESIDENT: Order! The Hon. Mr. Foster does not aid the situation one little bit by using unparliamentary terms or conducting himself in that manner. If he remains quiet, I am sure that the Hon. Dr. Cornwall will be given a fair go, without the honourable member's assistance.

The Hon. N. K. FOSTER: I rise on a point of order. With due respect to your decision, Sir, there are some members of this place who are so slimy that they would go through the eye of a needle. They make sure that other members cannot be heard.

The PRESIDENT: Order! That is not a point of order.

The Hon. N. K. Foster: I am just telling you.

The PRESIDENT: Order! I do not want the honourable member to tell me anything. This is not one of those days on which I am being tolerant.

The Hon. J. R. CORNWALL: I think I should start again, although I know that it hurts members opposite to hear this being said twice.

Yesterday it was my sorry duty to have to outline to the Council the story of the Minister's involvement in a devious scheme to circumvent the Planning and Development Act requirements in a proposed retail development at Leabrook. I have previously said on several occasions that Mr. Hill is not a fit and proper person to hold the Local Government portfolio. Earlier in this Parliament I asked for his transfer to another portfolio. I made it clear that he could handle any portfolio other than the portfolios of Local Government, Environment or Planning and that I would have no objection. Today, for reasons that I will outline, I have reached the unhappy conclusion that he must be sacked from the Ministry.

The Hon. Frank Blevins: Or do the decent thing and resign.

The Hon. J. R. CORNWALL: Yes, but obviously he will not do that. I do not believe that members opposite will be quite so mirthful in a moment. Yesterday I outlined the reasons why the Minister should resign. Unfortunately, I now have to inform the Council that he has seriously misled Parliament. When replying to my charges that he had seriously interfered with an application for retail planning approval yesterday, he stood smiling in his place and told lie after lie. He said that when a member of the Opposition he had acted within his own code of ethics as a developer and entrepreneur in giving written consent to a developer to use a right of way on his property in order to support an application to the Burnside council. Leaving aside the question of ethics of a front bench Opposition member (as he was then), I point out that what he saw to be his reasonable duties as a business man then have nothing to do with any action subsequent to 15 September when he became a Minister.

The clear implication that he wanted to make yesterday was that the first application for approval with which his consent was associated was refused and consent was then withdrawn. That is untrue, and the Minister knows it to be untrue. I have checked the facts thoroughly with the Planning Officer of the Burnside council. The initial application approval with Mr. Hill's consent was lodged on 10 January 1979. That application was refused by the council on 16 May 1979. However, Mr. Hill's consent for use of right of way was never withdrawn. It was the basis on which two amended applications were lodged by the developer with the council. One of these terms was approved by the council, as it was obliged to do, in November—at least two months after Mr. Hill became a Minister.

It is important to note that if the local residents had not been well organised and had not had access to legal advice, the builders would now be on the site. If an injuction had not be taken out in the Supreme Court, the builders would be proceeding to construct that building as a direct result of Mr. Hill's actions while he was a Minister of the Crown. It should be put on record also that Mr. Hill's consent for use of the right of way is still in the file at the Burnside council offices. He has never given any written notice to withdraw it. Indeed, when he saw Dr. Kaines at the meeting to which he referred yesterday, he refused to give any undertaking to give a written retraction. He must have thought that if it was not in writing it was not permanently on the record. The only indication that the Burnside council has is a letter from the protesting group outlining the verbal undertaking given to them in private by the Minister.

Whatever the propriety or otherwise of his actions may have been prior to 15 September, there is no doubt that the Minister's involvement after that date was reprehensible. He must have known that his written permission or consent to use the right of way on his property was still in the file at the council offices. He must have known; he is a business man of considerable experience, and he was in the real estate business for a very long time. He can hardly say that the matter slipped his mind. To claim that he did not know only worsens the situation. Unfortunately, the Minister has told a series of blatant lies to this Parliament in an attempt to justify his actions over the whole matter. His actions have been scurrilous, and his behaviour has been reprehensible. Does the Minister agree that he should be dismissed from Cabinet immediately?

The Hon. C. M. HILL: The answer to the last part of the question is "No", in case the honourable member is in any doubt. The Hon. Dr. Cornwall has woven a web of falsehoods which show what a specialist he is in gutter politics. If there was an award to be given in this place for the dirtiest member as far as political ethics are concerned, Dr. Cornwall would win hands down. The arrangement or agreement I came to with a neighbour in regard to the exchange of rights of way concerned a plan which was put

in front of me and which looked to be quite reasonable at that time. That was apparently prior to 10 January, according to the Hon. Dr. Cornwall's dates, and that accords with the general period of early last year that I stated yesterday. That arrangement dealt with that plan, and there was no need for me to go to the council and withdraw it at any stage. If the plan was not approved, that arrangement was finished. It is as clear as that.

That arrangement was subject to a plan which I understand was going to be put before the council—not by me; I have not been anywhere near the council, as I am only a neighbour in this matter of a proposed shopping development in this area. There was no need for me to withdraw anything from the council.

The Hon. J. R. Cornwall: The consent still stands and you know it.

The Hon. C. M. HILL: I listened to the honourable member in silence. Will he now shut up?

The Hon. J. R. Cornwall: It's a lie.

The PRESIDENT: Order! The Minister will resume his seat. The accusations that each member is making against the other may seem justified. However, there is no need for the Hon. Dr. Cornwall to continually shout "Liar".

The Hon. J. R. Cornwall: I did not shout "Liar"—I said that they were lies.

The PRESIDENT: I am just warning the honourable member that he should not use that expression. I ask the honourable member to listen and not to continue shouting that the Minister's remarks are lies.

The Hon. C. M. HILL: I have not told any lies in regard to this matter. I have never lied in this Council.

Members interjecting:

The Hon. C. M. HILL: If the Hon. Dr. Cornwall says that I do lie I challenge him to step outside where I can take action against him.

Members interjecting:

The PRESIDENT: Order! I ask the Minister to make his reply to the question and that he be heard.

The Hon. N. K. FOSTER: I rise on a point of order, Mr. President.

The PRESIDENT: Not another one.

The Hon. R. J. Ritson: He hasn't made one yet.

The Hon. N. K. FOSTER: If that interjection was not so amusing I could deal with it. The point of order is that under Standing Orders you, Mr. President, have the duty to keep order in this Council. With all due respect, Sir, I feel that you are not paying attention to what the Hon. Mr. Davis is saying about everybody and everything on this side of the Council, and it is time that you did listen to him.

The PRESIDENT: The honourable Minister.

The Hon. C. M. HILL: I simply repeat that the early arrangement made last year regarding a plan and a proposal brought to me by a neighbour related to a plan which was verbally approved, and for that purpose I agreed an arrangement that some cars would cross—

The Hon. J. R. Cornwall: Verbally?

The Hon. C. M. HILL: I put it in writing. Having agreed to it verbally, I then agreed to it in writing. That applied only to that initial plan, so there was no reason why I had to get in touch with the Burnside council at any stage, either before or after. If (because this has arisen as a result of the explanation given by the honourable member) the Burnside council assumed that the arrangement by me would hold for any other plan, that is a matter for the Burnside council; it is no business of mine to be worrying about it. As far as I was concerned, my arrangement on the subject 12 months ago was finished.

Whilst I am on my feet, and in further answer to the honourable member's comments that the people who came to see me from this group were very upset by my decision and by what I told them—and that was the claim the honourable member made yesterday—

The Hon. J. R. Cornwall: Sorry—could we have that again?

The Hon. C. M. HILL: Since the Hon. Mr. Cornwall claimed yesterday that the protesters against this former scheme for shop development were upset by my decisions and by what I had to say to them when they came to see me—and the honourable member may agree that that is what he said yesterday—

Members interjecting:

The Hon. C. M. HILL: If he does not agree, let me quote from *Hansard* what happened yesterday, as follows:

> Sitting in my lounge, they explained their position and when I made my position clear they were happy and indeed delighted with what I told them.
>
> **The Hon. J. R. Cornwall:** They didn't tell me that.
>
> **The Hon. C. M. HILL:** They told me that they were happy, and I am prepared to chase them up to confirm that.

I have not chased them up. I am not a ferret in these matters, like the Hon. Mr. Cornwall pictures himself. I went to my files and obtained from them a letter which was sent to me by these people, and I should like to read the letter, which states:

> 24 Tusmore Avenue,
> Leabrook, S.A.
> 2 January 1980
>
> Mr. M. Hill,
> 76 Northgate Street,
> Unley Park, S.A.
> Dear Sir,
>
> I am writing to you in consequence of the meeting between yourself, Dr. A. Kaines and myself, held in your home on Monday, 31 December 1979 at 6.10 p.m.

I said yesterday, speaking spontaneously and from memory, that I thought the meeting had occurred about the first week in January, but in fact it was on 31 December 1979. The letter continues:

> As you will recall, the meeting was held in response to a request by Dr. Kaines to discuss a proposed shopping development in Tusmore Avenue at Marryatville.
>
> On behalf of the Steering Committee of the Burnside Ward Progress Association, I would like to thank you for your time and consideration in receiving our representatives to discuss this matter. Also, I would like to take this opportunity to confirm the major points made by yourself at this meeting. These are:
>
> 1. The right-of-way agreement between yourself and the developer was for a previous development scheme that involved retention of houses in Tusmore Avenue and access at the rear from Dudley Road.
>
> 2. This right-of-way agreement did not apply to the proposal shown on a plan presented by myself at the meeting that I claimed to be the most recent scheme.
>
> 3. Your statement that you in no way wished to be involved in the scheme currently under dispute, for the reasons stated above, and would therefore not enter any agreement with the developer involving access to the particular shopping development under dispute.
>
> We respect your wish to remain independent of this dispute and are forwarding a copy of this letter to the Burnside council, so that they can gain appreciation of the full facts pertaining to the dispute prior to deciding their next course of action.
>
> Yours sincerely,
> Colin A. Best.

Surely, that makes the position perfectly clear. I do not want to go over it time and time again. The old arrangement must have been prior to 10 January; if that is

the date when the plan was lodged with the council, as the Hon. Mr. Cornwall said, my arrangement must have been before that. The old arrangement fell through, because the council did not give my neighbour consent to the plan. At that time, I finished with the whole scheme, and I have not had anything to do with it since then, except that these people contacted me and I saw them.

I think I said yesterday that solicitors acting for the developers wrote to me recently, asking me to see them and discuss the matter with them. I did not see them, and I did not discuss the matter. I wrote to them, making it perfectly clear that I was not bound in any way by any previous undertakings.

So, my position is perfectly clear. There has been no dishonesty whatever, and I take umbrage at the falsehoods and the personal attacks that the Hon. Mr. Cornwall has brought against me in this matter. I am somewhat upset that, when matters such as this are reported in the press, the full rebuttal by those who are attacked in such issues is not given sufficient coverage so that the public can see the whole story and know of the falsehoods that are in the accusations.

The Hon. J. R. CORNWALL: I am quite happy to go outside this Council and repeat some of the things I have said this afternoon.

The PRESIDENT: Is the honourable member seeking leave?

The Hon. J. R. CORNWALL: I seek leave to ask a supplementary question.

Leave granted.

The Hon. J. R. CORNWALL: Is the Minister aware that the written consent to the use of the right-of-way which he gave at some time early in January last year is still in the files of the Burnside council, and was used as a basis for three different applications, and is he aware that, as far as the legal position stands, at least prior to the receipt of a letter from some protesters, it has been used as a basis to put in applications for planning approval on three separate occasions? He has never withdrawn it.

The Hon. C. M. HILL: If the council did not accept that agreement as part of a plan, and in fact used the agreement for subsequent plans, that is a problem for the council.

The Hon. J. R. Cornwall: No, it is a problem for you.

The Hon. C. M. HILL: It is a problem for the council if that has occurred. Secondly, let me say that, if those involved with the development also used that arrangement regarding plans subsequent to the original one, the people who did that were in error, too.

KANGAROOS

The Hon. C. W. CREEDON: I seek leave to make a brief explanation prior to directing a question to the Minister of Community Welfare, representing the Minister of Environment, regarding kangaroo killing quotas.

Leave granted.

The Hon. C. W. CREEDON: I believe that kangaroo hunters must have a licence, and that the licence permits them to slaughter a specified number of kangaroos. Tags are provided and must be attached to the carcass so that the hunter may sell to a processor. In addition to the right of the hunter to slaughter, there is a the right of the property owner to slaughter when excess numbers of kangaroos invade his property. Although he may destroy thousands of kangaroos, the owner is not permitted to forward his kill to a processor, and because of the restrictions placed on the tags he is unable to work in with a licensed hunter. The carcasses are left to decompose on the property. It is possible that better use could be made of the animals so destroyed.

I believe that people who earn their living in this way would be pleased to work in with property owners. Although I dislike the destruction of our wild life, I realise that it is necessary when wild life grows to plague proportions but, when killed in such large numbers at any one time, better use should be made of the carcasses. What action can the Government devise to allow for the full commercial use of slaughtered animals?

The Hon. J. C. BURDETT: I will refer the honourable member's question to my colleague and bring down a reply.

NORWOOD BY-ELECTION

The Hon. C. J. SUMNER: My questions are directed to the Attorney-General. First, has any direction been given to the Electoral Commissioner that he should not release the report prepared by him on the Norwood by-election? Secondly, would the Attorney-General raise any objection if the Electoral Commissioner, in the exercise of his independent statutory authority, decided to release the report?

The Hon. K. T. GRIFFIN: I am not in the habit of giving directions, particularly where it involves an officer such as the Electoral Commissioner. I have been particularly sensitive to the position of Electoral Commissioner both before the Norwood by-election and after it. In view of that sensitivity I have not given any direction that he should not release his report. I indicated that I would make a Ministerial statement. I have indicated to the Leader that, if he wants to check with the Electoral Commissioner, the veracity and accuracy of the statement that I have made to the Council, he is at liberty to do so.

AGRICULTURAL REGIONS

The Hon. B. A. CHATTERTON: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question about agricultural regions.

Leave granted.

The Hon. B. A. CHATTERTON: Yesterday when I asked the Attorney-General, as Leader of the Government in this Council, a question on the new Alexandra region of the Department of Agriculture, the Attorney-General said that it was the Government's policy to follow generally the recommendations of the CURB Report in drawing up regional boundaries. Can the Minister indicate which boundaries outlined in the CURB Report will be used to establish the new Alexandra region of the Department of Agriculture?

The Hon. J. C. BURDETT: I will refer the honourable member's question to my colleague and bring down a reply.

NORWOOD BY-ELECTION

The Hon. C. J. SUMNER: I seek leave to make a brief statement before asking the Attorney-General a question about the Norwood by-election.

Leave granted.

The Hon. C. J. SUMNER: I have suggested to the Council and the Attorney that during the lead-up to the recent Norwood by-election the Attorney and the Premier

made certain statements related to the electoral roll and the conduct of the election in that week, I believe, to cast a doubt or fear in people's minds about the electoral process and to try to influence the result of the election that was to be conducted on the following Saturday.

I also indicated that there was a series of statements from the Government on this issue and a number of press appearances. One of the matters that the Attorney continued to rely upon in his statement was the fact that there had been apparently a net increase of 900 people on the roll for the by-election as opposed to the number on the roll last year. Much was made of that by Government spokesmen during that week. I believe that at one stage the Minister was asked to speak with Philip Satchell on the ABC and that he gave as one of his reasons for his surprise and for his having ordered the inquiry into the Norwood by-election the fact that Nowood had traditionally been a stable district, and that there had been an increase in the number of names; about 1 800 new people had been added to the roll.

I pointed out that last year, between about April and August, about 2 500 people's names had been removed from the roll, but that did not deter the Government in the week leading up to the by-election from continuing its statements. The Attorney did say in supporting his argument that Norwood had been a very stable district. However, looking at the statement that the Attorney has given to the Chamber on the basis of the Electoral Commissioner's report, he states:

> He indicates that Norwood is an area with a high turnover of population due to the amount of rental accommodation available.

First, does the Minister agree that on the ABC's Philip Satchell programme he said that Norwood had been a very stable electorate? Secondly, does he now concede, in view of the Electoral Commissioner's findings, that the statement he made was clearly incorrect and was yet another Government statement made in connection with the electoral roll in the Norwood by-election designed to cast doubt on the poll?

The Hon. K. T. GRIFFIN: No statement that I made during the course of that campaign was designed to create fear in the minds of the electors or to influence their vote. I have indicated previously to the Leader, and I do not know how many times I have to say it before it sinks in, that it would have been irresponsible of me as Minister in charge of the Electoral Department if I had not referred the matters that had been raised with me and with the Electoral Commissioner directly to him with the request for a report. The Leader is trying to twist and turn and bring in all sorts of red herrings designed to take the pressure off him, because the report that I made yesterday—

The Hon. Frank Blevins: Very good, you should have been on the stage.

The Hon. K. T. GRIFFIN: A former member for Norwood was often on the stage, but the facts are clearly stated in the report and in the statement that I made yesterday as to the movements in the roll for Norwood, and the additions and deletions are indicated in the table that I had inserted yesterday in *Hansard.* Members can see from that table that the total number on the roll was particularly stable compared with other districts, particularly those in the outer suburbs of Adelaide that have expanded rapidly.

The number of electors on the Norwood roll in 1970 was 16 316; in 1973 it was 16 907; it increased markedly for the 1975 election to 18 010; for the general election in 1977 it came back to 17 727; and for the by-election in 1977 it again came back to 16 836. Honourable members will note that there has been a fairly stable enrolment in Norwood. Since the last general election in September 1979 and the closing of the roll in January 1980, there were, as I indicated to the Council yesterday, some quite substantial movements in the electoral roll for Norwood in such a limited period. About 1 800 electors were added to the roll and about 900 were removed, a net increase of about 944.

That is not particularly stable in my view, and it is not consistent with the overall numbers for Norwood in past elections. Therefore, I adhere to the view that I expressed in general terms recently that there were some factors in the movement of enrolments for Norwood that did not show any consistency with past experience of the Norwood roll.

AGRICULTURAL REGIONS

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Agriculture, a question about regional offices in the Department of Agriculture.

Leave granted.

The Hon. M. B. DAWKINS: Yesterday, in answer to a question by the Hon. Mr. Chatterton, the Attorney-General said:

> The Government's policy in respect of regions is that, generally speaking, it will follow the proposals of the CURB report.

The Attorney also went on to qualify that remark and I have no query about that. Can the Minister say whether or not the Department of Agriculture places considerable stress upon the very valuable report of Sir Allan Callaghan, who reported on the restructuring of the Department of Agriculture about five or six years ago? As I understand it, that report is still the basis for the establishment of Department of Agriculture regional centres in country areas. Can the Minister also ascertain whether or not the department is basing its regional establishments to a considerable degree on the valuable report of Sir Allan Callaghan?

The Hon. J. C. BURDETT: I will refer the honourable member's question to my colleague and bring down a reply.

DIRECTOR OF AGRICULTURE AND FISHERIES

The Hon. FRANK BLEVINS: I believe the Minister of Community Welfare has a reply to a question I asked about the Director of Agriculture and Fisheries on 6 November 1979.

The Hon. J. C. BURDETT: That is so, Mr. President.

The Hon. N. K. Foster: That question was asked four months ago.

The Hon. J. C. BURDETT: Yes, it was asked four months ago, but it was some few weeks ago—

The Hon. Frank Blevins: How long ago?

The Hon. J. C. BURDETT: Two weeks ago; the week before last.

The Hon. Frank Blevins: The Minister is not sure. He has gone from some weeks ago to last week.

The Hon. J. C. BURDETT: It was quite some time ago that I indicated to the honourable member that I had received a reply, but it was only recently that he asked me for that reply. It has been sitting on my desk for some time.

The Minister of Agriculture informs me that his reply to the member for Salisbury should have stated:

The proposal to change the title of the Director of Agriculture to Director-General had been in train for some time prior to last year's election. The proposal had been investigated and approved by the Public Service Board, and in fact was in front of the then Minister of Agriculture for submission to Executive Council. It is pointed out that this change did not entail an upgrading of the salary of the Director-General.

COMPANY FILES

The Hon. M. B. CAMERON: I seek leave to make a short statement before asking the Attorney-General a question about company files.

Leave granted.

The Hon. M. B. CAMERON: Yesterday the Hon. Mr. Foster told the Council, in explanation to a question, that a certain file was missing from the Corporate Affairs Commission. Can the Attorney-General indicate why this file should be missing? Is that situation normal in that Commission, and what steps have been taken to ensure that this does not happen in the future?

The Hon. K. T. GRIFFIN: It is not uncommon in a department that has a significant number of files available to the public for some to be mislaid occasionally. The Corporate Affairs Commission has about 30 000 files that are all available for public scrutiny.

The Corporate Affairs Commission, with the approval of the Government, is moving to adopt a micro-film system and hopefully these files will not be so easily misplaced in the future. Yesterday the Hon. Mr. Foster asked a question about a particular file relating to F.S. Evans and Company Proprietary Limited. It appears that earlier this week a solicitor, Mr. Bolkus, went to the counter of the Corporate Affairs Commission and asked for that file, but he was told that it was not available. That procedure is quite common when files cannot be found. Quite often a solicitor or an accountant will ask for a file and find that it is not available because it has not been placed in the correct pigeonhole. He is then told to return and inquire about the file later. I have been informed by the Corporate Affairs Commission that, as a result of a telephone call from Mr. Duncan yesterday afternoon, the staff worked overtime in an endeavour to locate that particular file.

The Hon. N. K. Foster: And they found it, too, because they rang me.

The Hon. K. T. GRIFFIN: I am pleased if I have given the honourable member—

The Hon. N. K. Foster: Your mob instructed that it be taken out, too. The Attorney-General instructed that the file be removed on Evans' behalf.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: I am pleased to see that the Corporate Affairs Commission is providing the honourable member with service in that way. It was discovered that the file, which is numbered 12 649, was actually filed in the pigeonhole for file No. 10 649.

Members interjecting:

The Hon. K. T. GRIFFIN: Honourable members opposite can laugh about it—

The PRESIDENT: Order! I draw the Minister's attention to the time.

The Hon. K. T. GRIFFIN: Yes, Mr. President. As I have said, it is not uncommon for files to be mislaid in the manner I have explained. When the staff at the Corporate Affairs Commission were asked for this file yesterday they received no indication from anyone why the file should be required. Once the staff were told by Mr. Duncan that it was required as a result of inquiries relating to Mr. Evans, the staff searched for the file and discovered it. I am pleased that the Hon. Mr. Foster was told that it had been found.

NATIONAL PARKS AND WILDLIFE ACT AMENDMENT BILL

The Hon. J. R. CORNWALL obtained leave and introduced a Bill for an Act to amend the National Parks and Wildlife Act, 1972-1978. Read a first time.

NATURAL DEATH BILL

The Hon. FRANK BLEVINS obtained leave and introduced a Bill for an Act to enable persons to make declarations of their desire not to be subjected to extraordinary measures designed artificially to prolong life in the event of a terminal illness. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

Honourable members may recall that in July 1978, during the Address in Reply debate (page 39 of *Hansard*), I canvassed the idea of having a Natural Death Act in South Australia. Such an Act would allow a person to sign a declaration giving certain instructions regarding his own medical treatment during a terminal illness. The problem as I outlined it in that speech is as follows.

There being a disturbance in the Chamber:

The PRESIDENT: Order! I ask the Hon. Mr. Blevins to resume his seat. I do not know what the disturbance was or what has taken place, but I can tell the Council that it will not occur again without some reprisal or remonstration on my part. I hope that I do not again see instances of that nature in this Council.

The Hon. FRANK BLEVINS: Thank you, Sir. Adults, with some minor exceptions, have the right to refuse medical treatment, and no doctor is allowed to treat a patient against the patient's known wishes. If the patient is conscious and able to signify his consent or otherwise to treatment, no problem arises. However, Sir, once a patient lapses into unconsciousness and is unable verbally to excercise his right to refuse medical treatment, the treatment that the patient gets is entirely at the discretion of the doctor.

It may be that the treatment that the doctor gives would not be wanted by the patient, but the patient is unable to have any say. This Bill, if passed, would allow any person who so desired to have his wishes respected in the circumstances that I have outlined.

Besides the Act's most important function of seeing that the patient's wishes were respected, it would also have the effect of relieving the doctors and relatives of terminally-ill patients of the responsibility of deciding what treatment should or should not be used. When I put that proposition to the Council in 1978, I asked for comments from members, individuals and organisations. The response was very pleasing to me because it was in the main favourable. Some reservations were expressed, and a number of individuals and organisations wanted more details and, if possible, a draft Bill so that they could study my precise proposals and comment on them. In order to accommodate this wish, I will move tomorrow that, on its being read a second time, this Bill be referred to a Select Committee.

The staggering amount of technology available to doctors today scares some people. Many of those who have contacted me since I first put forward this proposition

obviously have few fears about dying as such, but they have an absolute horror of the artificial life that medical technology could give them during the late stages of terminal illness, and they want the means to ensure that they do not have to have it. This is particularly so in the case of old people, and the letters from old people and the interviews I had with them have been quite touching. This Bill, if passed, will remove this fear from people's minds without in any way altering the *status quo* for those patients who are happy with the present situation. The removal of this fear that lots of people have is the main benefit of the Bill and one that I hope honourable members will agree is worthwhile.

Of what are people frightened? The best example I can give is a letter from a doctor quoted in the *National Times*. The letter, from a Massachusetts doctor, argues as forceful a case for right to death Statutes as any legislators are likely to hear. It is as follows:

> It is true that death is rarely dignified, but it is also undignified to die with a urethral foley catheter connected to a drainage bag, a continuous I.V. running, a colostomy surrounded with dressings, and irrigation tubes stuck in an abscess cavity line, a moisturised oral endotracheal tube attached to a Bennett respirator taped to the face, an oral airway, a feeding naso-gastric tube also taped to the face, and all four extremities restrained.
>
> This is the way a friend and colleague of mine died. When I went to greet him two days before he died, I could hardly get to the bed because of all the machinery around him. . .the friend of course couldn't speak, and, when he lifted his hand, it was checked by a strap. Is it necessary to do this to a human being so his family won't feel guilty about wishing him to have peace at last?

I cannot imagine anyone with a terminal illness wanting to exist in those circumstances. I certainly do not. I also do not want to have to rely on a doctor, my relatives or anyone else to prevent that type of situation occurring. I want the right to make the decision against this type of treatment myself and have the law on my side so that my wishes would have to be carried out. This Bill, if it becomes law, will do that. Mr. President, one of the things that prompted me to try to do something about this was an editorial in the *Australian*, part of which states:

> If the premise can be accepted that it can be right in some circumstances to switch of life-supports—and this has been accepted already by many religious leaders—it is common sense and, indeed, simple charity to allow people to make the decision themselves in advance. People in most countries are already able to will their kidneys, eyes and other organs for transplant donations in the event of an accident. It seems a logical step to go further on life-support systems in case of a similar eventuality.
>
> This would be charity not only to the people concerned who may so ensure themselves from the possibility of a lingering vegetable existence after illness or accident, but also to the medical personnel involved, who can be relieved by the patient himself in advance of what might otherwise be a dread responsibility.

That seems to me to be an admirable statement to sum up the case for this Bill. When I first brought up this subject in Parliament I requested that this proposition not be confused with either mercy killing or euthanasia. I am pleased to say that it has not been; not one person or organisation misrepresented this proposition in that way. Everyone, whether fully in favour or having some reservations, agreed that the question of euthanasia was an entirely different debate. There is just one further point I wish to make. The Hon. Dr. Ritson, in his Address in Reply speech, made some general and specific remarks about over-legislation. I think the Hon. Mr. DeGaris has also said something similar and I do not think there would be one member of Parliament who has not thought the same thing at times.

However, I think that, besides at times legislating enthusiastically with the effect, many would say, of unnecessarily restricting peoples freedom, Parliament also has the right and, indeed, the duty to confer rights upon people that they properly should have. That is, I think, one of the most satisfying things we can do as legislators, and I think this is such an issue. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides the necessary definitions. For the purpose of the Act, a terminal illness is a condition that is such that death would be imminent if extraordinary measures were not taken to prolong life, and from which there is no reasonable prospect of a temporary or permanent recovery. In this context "recovery" includes a remission of the symptoms of the illness not amounting to a cure. "Extraordinary measures" are medical or surgical procedures that are designed to prolong life by maintaining vital bodily processes that are not capable of independent operation. This would include, for instance, the supplementation or supplanting of a bodily function by a machine.

Clause 3 provides for the making of a declaration by a person who wishes that, in the event of his suffering from a terminal illness, his life shall not be prolonged by extraordinary measures, and also provides that the medical practitioner who is treating the declarant shall act in accordance with his expressed wishes, unless there is reason to believe that the patient has revoked, or intended to revoke, the declaration. The provision does not derogate from the duty of a medical practitioner to inform his patient of all treatments that are available in his case.

Clause 4 provides that the Act does not limit the right of a person to refuse medical treatment, nor the legal consequences of taking, or refraining from taking, extraordinary measures in the case of a patient who has not made a declaration under the Act. It is not to be inferred, for instance, that a medical practitioner may not, in the exercise of his judgment, withhold extraordinary measures in the case of a patient who has not signed a declaration. The schedule sets out the form of declaration that is to be used.

The Hon. R. J. RITSON secured the ajournment of the debate.

RETAIL DEVELOPMENT PLANNING

Adjourned debate on motion of Hon. C. J. Sumner.
(Continued from 27 February. Page 1250.)

The Hon. J. C. BURDETT (Minister of Community Welfare): I oppose the motion. I think that it is the first time I have opposed a motion for a Select Committee. Generally speaking, it is true that the public and anyone who has any knowledge of the matter ought to have the opportunity of saying what they wish to say to representatives of Parliament in the form of a Select Committee, and public discussion is good. However, in this case, the opportunity is already there and the setting up of a Select Committee would be duplicating a good move. The previous Government did occasionally make good moves, as it did when it set up the Retail

Consultative Committee. That committee is operating and, in fact, met yesterday. It can deal with representations made by the public and deal with this kind of matter.

Secondly, the setting up of a Select Committee in this case is likely to hold up matters. The Government has introduced a Bill in the other place to deal with the present planning problem, and that is a holding and an interim measure. If a Select Committee is to have any effect, nothing further would be done until the Select Committee had reported. When one looks at the terms of reference, how wide they are and what sorts of matter they cover, one sees that the number of witnesses is likely to be large, and it would therefore be some time before the committee reported. In the meantime, I suggest that there would be chaos. The Opposition is being mischievous and attempting to create confusion over the whole issue of retail planning and the steps the Government is taking to improve and clarify retail planning policies.

The Hon. M. B. Cameron: Steps that should have been taken over the last 10 years.

The Hon. J. C. BURDETT: Indeed. The actual situation is that the Government released in December, within three months of coming into office, a major discussion paper on retail and centres development. That discussion paper was prepared by the Department of Urban and Regional Affairs in conjunction with a consultative committee, including representatives of retailers, the development industry and local government. The Government has provided a three-month period (to the end of March) for public comment on the discussion paper and made officers of DURA available to discuss the issues with councils and interested groups, for example, the Regional Organisation of Councils and the Building Owners and Managers Association.

The Government has taken steps in conjunction with the Royal Australian Planning Institute, the Institute of Urban Studies and the Local Government Association to arrange a number of open seminar discussions on the discussion paper in March.

The Government has also offered assistance to councils to examine the retail and centres policies applying in their areas. The Government has had prepared within DURA a booklet setting out guidelines for the design of shopping and centres development to assist councils and developers to understand the location and design proposed in the discussion paper and generally to promote better design of shops.

The Government introduced a Bill to amend the Planning and Development Act to severely limit retail development outside defined shopping zones while the discussion paper is being considered and acted upon. The Bill that I mentioned has been introduced in another place. The Government's record in this field is particularly good when compared to that of the Opposition while it was in Government. The Labor Government established the Retail Consultative Committee and determined the terms of reference for the DURA study and discussion paper which it now claims to be too narrow and restricted.

The Hon. J. R. Cornwall: You're driving the train now.

The Hon. J. C. BURDETT: Yes, and driving it very well, as I am suggesting. The previous Government introduced an amendment (section 36c) to the Planning and Development Act on shopping development which did not go as far as the Government's current proposal in limiting retail development outside shopping zones.

Under the previous section 36c, 187 applications for retail development outside shopping zones were considered by the Minister of Planning, and of those only 32 were prevented from proceeding, so that the previous measure was not in fact very effective. The previous Government took no action in relation to the terms of retail leases, which it now maintains are grossly unfair.

The Hon. J. E. Dunford: We talked about it for five years.

The Hon. J. C. BURDETT: Yes, and did nothing. Now that it is in Opposition, the Labor Party has suddenly decided to call for a vaguely defined moratorium on all shopping development, and for the establishment of a Select Committee on retail planning. Why did not the Labor Party take these steps before last September? It is unnecessary and inappropriate to establish a Select Committee at this time, before the end of the public consultation period on the DURA discussion paper, and before the Government has had an opportunity to consider responses to the discussion paper.

It is worth briefly restating the main proposals in the discussion paper. It is recommended that major shopping development should be concentrated in zoned centres and better controls applied to the development of individual shops outside the zoned centres. It is recommended that, if there was a need for major retail development in areas where such centres had not been designated, this should be preceded by the rezoning of the land involved. The rezoning process would provide an opportunity for public comment on the impact of the proposed development.

It is further recommended that only small local convenience shops should be allowed to develop in residentially zoned areas. Focussing most retail development on centres in this way will overcome the adverse impact of free-standing retail developments in residential areas. While allowing for competition and the growth of new forms of retailing, it will ensure that established retailers are not unfairly affected by developments which "break the zoning" and ignore the intention of planning policies. It will help insure the development of centres which contain a range of retail and community facilities in areas that can be served by both public and private transport.

Another recommendation is that all shop developments should require council approval, and clear principles should be established for the design of such developments. It is recommended that the design principles would cover all important aspects of shopping centre design. For example, they would ensure that traffic access was safe and that traffic did not intrude into residential areas; that car parks were adequately designed and landscaped; that new developments were designed to be compatible with existing development and in a way which did not adversely affect adjacent areas; that there is adequate and safe pedestrian access, including access for the disabled; that outdoor advertising is properly designed and not intrusive; and that the design of buildings conserves energy and makes maximum use of natural heating and cooling.

The design principles are illustrated in detail in the guidelines paper which will shortly be released by DURA. They cover all the design issues and many others mentioned in the first point of the Opposition's notice of motion. The DURA discussion paper emphasises that market forces should be allowed to determine the extent of retail development in major centres. This reflects the views of the Retail Consultative Committee.

The Government has clearly stated its view that there should be scope for competition and that it is inappropriate for the Government to become involved in assessing the viability of proposed retail developments. The question of considering viability in planning legislation is very detailed indeed, and it goes outside the planning area. Competition is the only way of ensuring

that the consumer has access to a wide range of goods at the lowest possible prices. Bureaucratic controls cannot achieve this.

Government involvement in assessing the viability of retail developments would, first, introduce further inflexibility, delays, and costs into the development process; next, it would be bureaucratic and require the employment of additional public servants and remove from local government the decision-making responsibility on most major developments. Councils would lack the expertise to assess such issues, and it would be essential to ensure a degree of consistency across all council areas; also, it will require existing and proposed retailers to provide to the Government a great deal of normally confidential financial information.

There is no reason to assume that bureaucratic interference in this field would give better results than would market competition. The onus is on the Labor Party to demonstrate that the benefits of such controls would outweigh their very great disadvantages. To date they have not put forward any detailed or rational arguments.

The Labor Party has the opportunity to make written submissions on the proposals in the DURA discussion paper. If Opposition members are unwilling or unable to do so, they cannot expect the Government to take seriously their vague statements or their current proposal for the establishment of a Select Committee.

For these reasons, I oppose the motion. Normally, I would not oppose a motion for a Select Committee, but this is duplicating the inquiries which are already being undertaken, and it would hold up the processes which the Government intends.

The Hon. J. E. DUNFORD: I support the motion. It was interesting to note the Hon. Mr. Burdett's comment that he would not normally oppose a Select Committee. That is true, because I have not known him to oppose such a committee in the past. I am always suspicious when a person, once in Opposition and now in Government, changes his habits and makes different decisions. The contribution of the Hon. Mr. Burdett was brief, probably so that he would not expose himself too much to the Opposition and the public. I am not trying to be offensive, but I believe that the Hon. Mr. Burdett and the Government are being caught in this matter. The Norwood by-election showed clearly that the retail traders, once their friends, now have different views. The small business people I have encountered, like the farmers, have always voted for the Liberal Party but things are changing.

The Hon. M. B. Cameron: Sensible people!

The Hon. J. E. DUNFORD: I think they are becoming sensible; they are changing. I think this is why the Minister of Planning has brought in an insignificant Bill to deal with shopping development. It seems that the proliferation of shopping centres is not to the benefit of the South Australian public or the South Australian business community.

I have always concerned myself with small business. Some of my friends are small business men who have got to their present position without tax dodges, rorts, or assistance from big business. These are the people who will be affected mainly by the proliferation of large shopping centres. The trade union movement earlier on thought that the opposition by the Labor Party would cost jobs, but the movement is now satisfied and can see the environmental disadvantages of the proliferation of these large shopping centres. It is similar to the situation that existed some years ago with the proliferation of service stations, many of which are now supermarkets or unsightly blocks. The union movement understands that the Labor Party has at heart the interests of the people who work in the retail trading centres, and the small retailers, and they agree that we are on the right track.

I have always believed in Select Committees and have never voted against one. The Hon. Mr. Sumner spelt out the details clearly in the terms of reference, as follows:

> (*a*) the role of factors such as traffic flow problems, energy impact and environmental assessment procedures in planning approval—

these are major problems in South Australia today—

> The problems encountered by small businesses in retail development and the proliferation of retail shopping. . .

My colleague, whom I respect much more than I respect the Hon. Mr. Hill, has told me that at Parabanks many people with a big investment will go to the wall if the $25 000 000 Myer development in that area proceeds.

This situation has involved people who do not normally support the Labor Party coming to the Labor Party and saying, "For goodness sake, stop these crazy Liberals; they must have forgotten that there is an election in three years." If the Government opposes the Leader's motion it does so at its own peril. The motion also provides for the inclusion of assessment techniques for the profitability and viability of proposals, the effects of new developments on the viability of existing small businesses and the nature and fairness of shop leasing agreements in the developments.

The Hon. Mr. Burdett referred to retail leasing and the leasing of various businesses in South Australia. He asked why the Labor Party did nothing about it. I have had no concrete complaints from people but there is a suggestion that some of the leasing propositions in shopping centres are a bit like leases for hotels. As one develops one's business and a personal relationship with customers, increasing one's sales output, there is a built-in penalty imposed on the ability to improve that business, and this goes to the people who lease out the shops or hotels. Certainly, when the lease comes up for renewal there is an automatic penalty for people who are able to conduct their businesses profitably.

The Hon. Mr. Burdett asked why we did not do anything about it, but he had a responsibility as a member of the Opposition. He knew what these things were, as a lawyer, but he would never raise them. I did not bring this matter before the Council because I could not get any concrete proof. Everyone talked about it, and the situation is not unlike the victimisation that can occur in industry in relation to business leases. If people raise such a matter and then seek to have their lease renewed, they will find that it is not renewed. I put the onus back on the Hon. Mr. Burdett. He has a big responsibility; he knew what was going on; he asked why I did not raise it and I said—

The Hon. J. C. Burdett: I said that the former Government knew about it when it was in office.

The Hon. J. E. DUNFORD: The Minister said he knew about it, too. The Minister will change, and there is no doubt that the Government is already on the skids. The Minister seems to think that the moratorium for 12 months is satisfactory. The Leader has sought a moratorium for six months in order to give people an opportunity to give evidence without fear of victimisation from the people I have already previously referred to.

The Hon. J. C. Burdett: They can do that on the consultative committee.

The Hon. J. E. DUNFORD: We suggest that it does not go far enough. The Leader's motion is direct and gives the answers that the Opposition and the Government require. I support the motion.

The Hon. J. A. CARNIE secured the adjournment of the debate.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.
(Continued from 27 February. Page 1250.)

The Hon. J. C. BURDETT (Minister of Community Welfare): I cannot support this Bill. In this Chamber last Wednesday the Hon. Dr. Cornwall introduced this private member's Bill. It was a mischievous move which could only be construed as an attempt to create confusion in the whole issue of retail planning. In another place last night, and it will come up for consideration by this Council today, the Government Bill to amend the Planning and Development Act was passed. When he introduced his Bill (*Hansard*, page 1250), the Hon. Dr. Cornwall stated:

> The Opposition regrets that it has to take the action proposed in the Bill. This is more conventionally and properly an initiative which should be taken by the Government.

He accused the Government of "continuing to abdicate its legitimate responsibility in this area" and of taking "no realistic or responsible action". Well, the Government has acted, and it certainly was not in response to the Hon. Dr. Cornwall's Bill.

Moves have been under way since last year, very early in this Government's term, to review the whole issue of retail planning, yet I note that the Hon. Dr. Cornwall is not withdrawing his own Bill. He does not want responsible action—he only wants to stir, confuse, and attempt to cover up the lack of responsible action on the part of the former Government extending over—

The Hon. M. B. Cameron: The past 10 years.

The Hon. J. C. BURDETT: I was going to say three years. Under the existing section 36c, which both the Government Bill and the Hon. Dr. Cornwall's Bill seek to amend and which was introduced by the Labor Government three years ago, there was a veritable proliferation not only in applications for retail development but in approvals, too.

In 1977-78 there was an increase in the value of approvals of almost 60 per cent over the previous year, and in 1978-79, under Labor, over 300 per cent on the figures of the two previous years. The source of this information is the Australian Bureau of Statistics figures, which take account of an adjusted consumer price index. In money terms, those figures are even more dramatic. The Government has acted responsibly and introduced a Bill, and it introduced a discussion paper on 18 December 1979.

The Hon. J. R. Cornwall: It's too narrow.

The Hon. J. C. BURDETT: It is a discussion paper about which people can raise issues. This paper was prepared over 18 months (the first 15 months within the term of the former Government), and if it is too narrow the Opposition should bear some of the blame. The Government will be publishing within the next two or three weeks a design guide document.

The Hon. Dr. Cornwall's Bill simply goes too far. It calls for a total moratorium for six months, Statewide. It is unrealistic. Indeed, the Retail Consultative Committee considers it is too wide. The Government Bill is much more realistic, limiting development to defined centres within existing zones. It imposes maximum floor areas for new developments. The Hon. Dr. Cornwall makes great play of employment. By completely stifling shop building he would certainly increase under-employment in the building industry.

Not only has he called for this total moratorium he also proposes the establishment of a Select Committee. This could only duplicate the work already carried out in the Department of Urban and Regional Affairs discussion paper on the "Control of retail and centres development" into which there has already been considerable public input and comment. It will cause further needless delay; and it will confuse further the issue under the terms of reference proposed. The Government's proposed amending legislation (and remember it was the Hon. Dr. Cornwall who said it was an initiative that should be taken by the Government), will have several consequences. It would still allow scope for the continued development of small convenience shops in residential and industrial zones with council approval. It would be consistent with the policies intended by the Metropolitan Development Plan and the policies recommended in the department's discussion paper, particularly in concentrating large shopping developments in zone centres and applying tighter controls over new shops outside those zones centres where a special financial advantage is gained by breaking the zoning. It would apply a consistent approach across the metropolitan area, and give greater certainty to councils, prospective developers and existing retailers.

Effectively, it would mean that areas which might be suitable for large-scale shop developments, but are not zoned shopping, would need to be rezoned before development proceeds. That procedure involves councils recommending zoning regulation amendments to the Government through the State Planning Authority. It would bring the South Australian legislation in line with that of the Eastern States, including Victoria, where shops other than small local stores are prohibited outside shopping zones, and where rezoning is necessary. It would not involve any further administrative burden on councils or the department, except to the extent that rezoning is undertaken. I feel able to refer to the Hon. Dr. Cornwall's call for a Select Committee because he specifically referred to it as a "natural corollary to the Bill".

I urge honourable members to defeat the Bill and, in so doing, the public is still protected by the Government Bill. Similarly, in supporting the Government Bill and the other initiatives of the discussion paper, the Retail Consultative Committee review, as well as advice for and consultation with local government, any Select Committee would be unnecessary.

I now turn to some of the points raised by the Opposition. The Government has not dithered in relation to this matter, as was alleged by the Opposition. On the contrary the Government has opted out of involvement in retail planning. The DURA discussion paper is a State Government initiative. The State Government has also taken the initiative to limit retail development outside shopping zones while new policies are considered. The Government recognises the need for a major local government in this area. The Government has also offered to assist councils in examining these issues, and has already assisted many metropolitan councils.

While in Government, the Labor Party determined the membership and terms of reference of the Retail Consultative Committee. The DURA discussion paper does deal with the impact of shopping developments on the local environment. The guidelines that will shortly be released deal with these matters in greater detail. The Government recognises that competition is essential to satisfy consumers' needs and keep prices down. However, the Government has proposed that new retail development should be focussed on defined centres, and the

function of existing centres should be maintained wherever possible.

New retail development will have to satisfy environmental criteria. New shopping centres will require rezoning, and the current upturn in retail development began in 1977-78, which is before the Labor Party lost office. At page 1250 of *Hansard*, in his second reading explanation on this Bill, the Hon. Dr. Cornwall said:

> This is more conventionally and properly an initiative which should be taken by the Government. However, repeated calls by the Opposition, the Mixed Business Association, the Local Government Association, large numbers of local retailers groups, and thousands of residents through residents action groups, have produced no realistic or responsible action.

The Hon. Dr. Cornwall is suggesting that repeated calls to the Government have been made by local government and other bodies to do something other than what it is proposing to do. To get at the truth of the matter, I propose to read a letter dated 5 March 1980 from Mr. J. M. Hullick, Secretary-General of the Local Government Association. This letter was written to the Hon. D. C. Wotton, Minister of Planning, and reads as follows:

> For the first time since my return to Adelaide I have viewed the Bill for an Act to amend the Planning and Development Act 1966-1978, which you presented to Parliament. The briefing I have received on the debate which has taken place and consultation with the Local Government Association Executive since 28 February 1980 lead me to the belief that local government would support the interim measures to control retail development which you have introduced.
>
> The advice which this association has given to your Government through the Retail Consultative Committee has been based on the belief that individual councils would not be in a position to make judgments about the economic viability of competing retail development interests.
>
> The use of regulation 36c as proposed would give councils an opportunity to refine their planning measures in line with the proposals in the Retail Centres Discussion Paper which you have released. I would also hope that further work could be done to develop positive means by which councils, in partnership with the State Government, could promote sound retail developments and the rehabilitation of existing community centres based on retail trading areas.

That letter shows that the Hon. Dr. Cornwall's suggestion that the Government's move is opposed by local government is just as unfounded as the attacks that he has made on the Hon. Mr. Hill. I oppose the second reading of this Bill.

The Hon. J. A. CARNIE secured the adjournment of the debate.

PITJANTJATJARA LAND RIGHTS BILL

Adjourned debate on second reading.
(Continued from 26 February. Page 1188.)

The PRESIDENT: I have to report to the Council that since the introduction of this Bill by the Hon. C. J. Sumner I have carefully examined its contents, and I now rule that, as this is a Bill dealing with the public estate, seeking to alienate Crown land, it is contrary to the practice of this Parliament. Such a Bill should not be introduced by a private member but must be a Government measure. Failing that, it must be laid aside. I rule accordingly.

The Hon. C. J. SUMNER (Leader of the Opposition): Pursuant to Standing Order 205, I hereby take objection to your ruling, Mr. President. If you will permit me a few moments I will commit my objections to writing and then move that your ruling be disagreed to.

Sir, I have objected formally in writing to your ruling, in accordance with Standing Order 205, and I now move:

> That the President's ruling be disagreed to.

The PRESIDENT: Is the motion seconded?

The Hon. J. R. CORNWALL: Yes, Sir.

The Hon. C. J. SUMNER: In accordance with Standing Order 205, the matter should automatically stand adjourned until the next day of sitting, when it will be the first Order of the Day.

The PRESIDENT: Unless the Council decides that the matter requires immediate determination, and that is so resolved, the debate on the motion for disagreement to the President's ruling must be adjourned and be made the first Order of the Day for the next day of sitting.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Bill recommitted.

Clause 3—"Delegation of certain powers by the Attorney-General"—reconsidered.

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

> Page 1, after line 23—Insert subsection as follows:
>
> (4) Any document for the institution of proceedings that the Attorney-General is empowered to take under this Part—
>
> (*a*) purporting to be signed by the Solicitor-General, the Crown-Solicitor or the Crown Prosecutor; and
>
> (*b*) alleging a delegation by the Attorney-General under this section,
>
> shall, in the absence of proof to the contrary, be deemed to be proof of that delegation.

It has been put to me that, on questions of appeal where the Attorney-General's delegation is implied, it is likely that in some cases the formal tendering of the instrument of delegation, which is allowed under proposed new subsection (3), might inadvertently be overlooked, and that would be fatal to the appeal or to the reference to the Full Court on the matter of law.

So, to minimise the possibility that this will occur, I am seeking to provide that, if the appeal document or the document seeking reference on a matter of law to the Full Court is signed by the Solicitor-General, Crown Solicitor or Crown Prosecutor and alleges a delegation by the Attorney-General, in the absence of proof to the contrary it is deemed to be proof of the delegation, and the formal instrument of delegation will not need to be tendered to the court.

The three officers referred to in proposed new subsection (4) are all persons who would be expected to sign documents of appeal or reference on a matter of law to the Full Court. It is likely that, if they should allege that there has been a delegation by the Attorney-General, that delegation would have occurred.

As there is the possibility of an oversight on an appeal that the delegation will not be produced to the court, I seek to have this new subsection added. In the area of an information, when the Attorney-General does frequently delegate his authority, it is unlikely to be inadvertently overlooked that the instrument of delegation is tendered to the court. It is more likely, on the matter of an appeal where there are likely to be fewer matters referred to the Full Court on a matter of law or on an appeal against sentences, that the practice of producing delegations which has been current in relation to informations will not

be common. I submit to the Council that this addition to the clause is a reasonable one and overcomes one of the possible difficulties which have been drawn to my attention by one of the judges of the Supreme Court.

The Hon. C. J. SUMNER: I do not have any objection to this addition although it does make the delegation procedure under the Criminal Law Consolidation Act, for the purposes of appeals against sentences by the Crown and the reference of questions of law by the Attorney - General to the Full Court, somewhat more complicated than the procedures for delegation existing under the Supreme Court Act in section 118a, where the Attorney-General may appoint a Crown Prosecutor to represent him at criminal sittings and to present any information which the Attorney-General himself might have prepared. I wonder why the simpler formulation in section 118a of the Supreme Court Act is not used. Is it not used because the Attorney-General believes that there may be some problem with that power of delegation? Does he believe that that section also needs looking at?

The Hon. K. T. GRIFFIN: I draw the distinction between section 118a and section 348a in that section 118a deals with informations and with the authority of the Attorney-General to delegate the right to lay informations and for Crown Prosecutors to appear for the Attorney-General at criminal sittings. To that extent the practice has been long established. It is recognised, and there is no problem with it at all because the instrument of delegation, as I understand it, is tendered at the commencement of each criminal sitting and provides blanket approval for the appropriate Crown Prosecutor or Assistant Crown Prosecutor on those occasions. The procedure we are now seeking to enact gives the Crown the right of appeal against sentence on indictment and gives the Crown the opportunity to refer questions of law to the Full Court where a defendant is acquitted. It is a unique procedure and is unlikely to be so frequently used and so commonplace a procedure as that with the laying of informations. The point has been made that in those new circumstances it is more likely that the formal tendering of an instrument of delegation will apply only to a particular matter and is more likely to be overlooked than on the laying of informations in criminal sessions. To avoid the possibility that there may be some formal defect in the appeal against sentence or the reference to the Full Court on matters of law, this is a back-up procedure which will ensure that the matters of substance before the court are given proper attention and that the appeal or the reference to the Full Court on a matter of law is not void *ab initio*.

The Hon. C. J. SUMNER: I thank the Attorney-General for his information. I must confess that I am not convinced that all this is necessary. However, if the Attorney-General says so, his advisers say so, and the judges of the Supreme Court say so, who am I to argue?

Amendment carried; clause as amended passed.

Bill read a third time and passed.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

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

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That this Bill be now read a second time.

It is designed to contain development of shops outside zoned shopping centres. It is an interim measure, intended to preserve the *status quo* while detailed policies governing retail development in metropolitan Adelaide are formulated and brought into effect.

The legislation will operate by withdrawing from councils and the State Planning Authority power to consent to the establishment, in non-shopping zones, of shopping complexes with a floor area exceeding 450 square metres. Thus, the unfair advantage that some developers have sought to gain by breaking into residential and industrial zones will be curtailed. The new controls will not affect the development of shops within designated shopping zones where legitimate competition to provide goods and services to the public should be encouraged. The Bill also allows scope for the development of small convenience shops in residential areas.

The Bill will give greater certainty to councils, prospective developers, and the public generally. It will mean that where there are to be large scale shopping developments they will have to be properly planned and located, with the land rezoned for shopping before development proceeds. This will place the matter on a more satisfactory basis and will allow a fuller opportunity for consideration of proposals of this kind and their complex effects upon the surrounding community.

Clause 1 is formal. Clause 2 provides that the Bill is to operate retrospectively from 15 February 1980. This is the day on which notice of the proposed legislation was given publicly. Clause 3 is the major operative provision of the Bill. New subsection (1) contains definitions required for the purposes of the Bill. New subsection (2) prevents the making of applications for consent to the carrying out of major shopping development projects in non-shopping zones. New subsection (3) renders void any purported consent given upon such an application. New subsection (4) provides for the expiry of the new provisions on 31 December 1980.

The Hon. B. A. CHATTERTON secured the adjournment of the debate.

ENVIRONMENTAL PROTECTION COUNCIL ACT AMENDMENT BILL

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

SOUTH AUSTRALIAN MUSEUM ACT AMENDMENT BILL

The Hon. C. M. HILL (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the South Australian Museum Act, 1976-1978. Read a first time.

CONSUMER TRANSACTIONS ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Consumer Transactions Act, 1972-1979. Read a first time.

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

That this Bill be now read a second time.

Under section 48 of the Consumer Transactions Act, a provision of a consumer contract, consumer credit contract, or consumer mortgage that does not comply with the requirements of the regulations relating to print size is not enforceable against the consumer. Thus the civil

consequences of failure to observe these requirements can be extremely serious to a credit provider or a supplier of goods or services. Because these provisions can sometimes result in civil penalties out of proportion to the seriousness of the offence, the present Bill introduces into the principal Act a provision under which a person may obtain relief from the civil consequences of non-observance of the Act. The new provision corresponds to an identical amendment proposed to the Consumer Credit Act.

Clause 1 is formal. Clause 2 enacts new section 48a of the principal Act. This is the major amendment proposed by the Bill. The new section provides that a person may seek from the tribunal an order for relief against the consequences of contravention of, or non-compliance with, the Act. A single application can, if necessary, be made in relation to a series of acts or omissions of a similar character. New subsection (3) provides that, where the tribunal is satisfied that the contravention does not warrant the consequences prescribed by the Act, it may make an order for relief against those consequences. New subsection (4) sets out criteria to which the tribunal should have regard in determining an application. New subsection (5) provides that relief may be granted upon such conditions as the tribunal considers just. New subsection (6) confers rights of appearance in the proceedings upon the Commissioner and other persons who may be affected by an order. New subsection (7) provides that relief may be granted in respect of events that occurred before the commencement of the amending Act. New subsection (8) provides that an order will operate to the exclusion of any contrary provision of the Act. New subsection (9) provides that relief may not be granted against any criminal liability or penalty.

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

CONSUMER CREDIT ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Consumer Credit Act, 1972-1973. Read a first time.

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

That this Bill be now read a second time.

The Consumer Credit Act contains a number of provisions under which civil consequences are attached to contravention of or failure to comply with a provision of the Act. For example, section 28(3) provides that a credit provider who carries on business without a licence in contravention of the provisions of the Act is not entitled to recover credit charges under credit contracts entered into while unlicensed. Sections 40 and 41 provide that credit charges are not recoverable under credit contracts that do not comply with the requirements of those sections. These civil penalties are often out of proportion to the gravity of the offence, and the principal purpose of the present Bill is to provide a simple means by which a person who has offended against a provision of the Act may obtain relief against the civil consequences of the illegality. I should emphasise that the various criminal penalties that may result from non-observance of the Act will remain unaffected.

The Bill also makes some significant administrative changes to the principal Act. The office of Registrar is abolished and a new office of Commercial Registrar is established. The Registrar presently exercises an amalgam of judicial and administrative duties. Under the new arrangements those functions will be separated: the judicial functions will be exercised by a special magistrate and the administrative functions by the occupant of the new office of Commercial Registrar to be established by the Bill.

The opportunity is also taken to make a few other minor amendments to overcome problems that have arisen in the course of its administration. I should point out that this Bill and the corresponding amendments to the Consumer Transactions Act are interim measures only. A comprehensive revision of these important Acts is presently under consideration, and it is hoped that Bills for this purpose can be introduced later in the year. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends the definitions of "revolving charge account" and "sale by instalment". The Credit Tribunal has recently decided that the effect of the present definition is to prevent the maintenance of a single account to which heterogeneous charges, some arising under consumer contracts and others not related to consumer transactions, can be debited. This result is very inconvenient and was certainly not intended. The amendment therefore removes from the definition the reference to "consumer" contracts. A corresponding amendment is made to the definition of "sale by instalment". The definition of "the Registrar" is replaced by a definition of "Commercial Registrar".

Clause 3 amends section 18 of the principal Act. The present provisions under which certain jurisdictions may be delegated by the Chairman to the Registrar is replaced with new provisions under which those jurisdictions may be delegated to a special magistrate. Clause 4 makes a consequential amendment. Clause 5 establishes the office of Commercial Registrar in lieu of the previous office of Registrar. Under the new provisions powers and functions of an administrative nature may be assigned or delegated to the Commercial Registrar.

Clause 6 amends section 28 of the principal Act. This section presently prevents the recovery of credit charges where the credit provider was unlawfully carrying on business without a licence at the time the contract was entered into. Credit providers can of course carry on business without a licence where they do not charge more than a prescribed rate of interest upon outstanding debts. It is felt that, where the credit provider does not fall into this exempt category, he should not be deprived of credit charges in respect of those contracts that do not impose credit charges exceeding the prescribed rates of interest.

Clause 7 confers upon a consumer an explicit right to recover back credit charges that have been illegally exacted. The proposed new subsection (6a) corresponds to section 40(9) of the principal Act.

Clause 8 enacts section 60a of the principal Act. This is the major amendment proposed by the Bill. The new section provides that a person may seek from the tribunal an order for relief against the consequences of contravention of, or non-compliance with, the Act. A single application can, if necessary, be made in relation to a series of acts or omissions of a similar character. New subsection (3) provides that, where the tribunal is satisfied that the contravention does not warrant the consequences prescribed by the Act, it may make an order for relief against those consequences. New subsection (4) sets out criteria to which the tribunal should have regard in determining an application. New subsection (5) provides that relief may be granted upon such conditions as the

tribunal considers just. New subsection (6) confers rights of appearance in the proceedings upon the commissioner and other persons who may be affected by an order. New subsection (7) provides that relief may be granted in respect of events that occurred before the commencement of the amending Act. New subsection (8) provides that an order will operate to the exclusion of any contrary provision of the Act. New subsection (9) provides that relief may not be granted against any criminal liability or penalty.

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

CRIMES (OFFENCES AT SEA) BILL

Third reading.

The Hon. K. T. GRIFFIN (Attorney-General): I move: *That this Bill be now read a third time.*

The Hon. R. C. DeGARIS: I am speaking on the third reading because of the many questions that were directed to the Attorney during the second reading debate and in Committee. I should like to explain to the Council the situation as I see it. This Bill, when it is passed and assented to, will apply the law of South Australia to certain parts of the territorial sea. Regarding the boundary between Victoria and South Australia, the elongation of the boundary southwards, as far as the law of South Australia is concerned, will be the boundary that will be used.

Regarding petroleum and mineral research (I am not entirely sure about the latter), the boundary is then the boundary agreed between South Australia and Victoria some years ago. In effect, we will have two boundaries between Victoria and South Australia; that is, one boundary in relation to the petroleum and submerged lands legislation, and one boundary in relation to this legislation.

Much concern was expressed, particularly, in the South-East, about the petroleum and submerged lands boundary negotiated by the former Government. It was believed that the area south of the South-East really belonged to South Australia. For that reason, I ask the Attorney-General to take all steps to investigate this matter and see what complications there are in having the two boundaries that exist between South Australia and Victoria in relation to the various matters and, in investigating that matter, to see what steps can be taken to return the position to what we believe in this State is the correct boundary; that is, the extension of the Victorian and South Australian boundary due south as far as all matters are concerned.

I am a little uncertain about fisheries and whether the boundary in relation to fishing laws is the one described in the petroleum and submerged lands legislation, or the elongation south of the present boundary between Victoria and South Australia. In supporting the third reading I ask the Attorney to have these matters thoroughly investigated to see whether the present boundary in the petroleum and submerged lands legislation can be corrected to what we believe is the correct boundary running due south.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate what the Hon. Ren DeGaris has contributed throughout the various stages of the debate on this Bill. He has demonstrated not just the capacity of a bush lawyer but the capacity approaching that of a real lawyer in his approach to this very technical question.

The PRESIDENT: That is a technical question in itself.

The Hon. K. T. GRIFFIN: Some honourable members may take that as an accolade, and others may regard it as inappropriate. What I intended to convey was an accolade for the work that the Hon. Ren DeGaris has undertaken on the Bill and the sorts of question that he has raised. Both for him and all of us the issues raised in this and other Bills, which are a package resulting from the Seas and Submerged Lands Case, are complex questions, and it takes more than just a passing acquaintance with the law to really comprehend or approach a comprehension of the issues and the answers to those issues.

With respect to the border between South Australia and Victoria, I will certainly undertake a detailed study of the position and endeavour to reach some conclusions on the complications that may arise in view of the fact that the prolongation southwards of the border between Victoria and South Australia is for most purposes the appropriate boundary extending into the territorial sea, yet for purposes of petroleum search it is something less than that, to South Australia's disadvantage.

For the purposes of this Bill the prolongation south of the boundary between Victoria and South Australia is, as I understand it, the boundary to which the criminal law of South Australia extends. The Hon. Ren DeGaris asked whether for the purposes of mineral exploration and development the boundary which was drawn in 1967 is also appropriate. It is my view that it was only for the purposes of the Petroleum and Submerged Lands Act in 1967 that the boundary was irregular and that it does not extend to the purposes of mineral exploration.

Again, because it is a complex question, I will have that checked. With respect to fisheries, I will also undertake the appropriate research and provide answers to the questions that have been raised. Regarding the border between Victoria and South Australia, circumstances have changed dramatically since the 1960's, and I would like to see it clarified from a legal point of view as well as from the point of view of access by South Australia to the waters which may be the subject of some dispute. It is in our interests as much as being in the interests of anyone else that this question be resolved.

Bill read a third time and passed.

OFF-SHORE WATERS (APPLICATION OF LAWS) ACT AMENDMENT BILL

Read a third time and passed.

WHEAT MARKETING BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 1357.)

The Hon. M. B. DAWKINS: This legislation is complementary to the Commonwealth legislation and legislation in the other States. I support this Bill, which replaces the previous five-year wheat marketing arrangement which expired last year. The Bill also replaces the interim measure that we passed late last year to enable wheatgrowers to be partly paid for their recent harvest. Although I support this Bill, during the course of my speech I have three questions that I hope the Minister will be able to answer as soon as possible.

This Bill provides that the Australian Wheat Board, which has done a very good job over many years, will continue to control the sale, export and domestic marketing of wheat in Australia. In my view, that is as it

should be. Some portions of the new scheme are already in operation as a result of the interim measure to which I have just referred. That temporary legislation had to have wide regulatory powers, and I believe that that was accepted by both sides of the Council. That measure will cease to operate as soon as this Bill is proclaimed.

Clause 14 of the Bill provides for some relaxation of the grower-to-buyer transactions. There is also a similar relaxation in regard to farm to farm movement, as proposed in clause 15. In his second reading explanation the Minister said:

> Clause 14 is a new provision in the legislative scheme. Growers will be able to engage in grower-to-buyer transactions provided they pay a share of the cost of handling facilities by South Australian Co-operative Bulk Handling Limited. That cost will be determined by the board after consultation with the industry. Also the growers will pay other relevant charges such as the research levy and the grower fund deductions.

I do not entirely agree with clause 14, in that I believe that seed wheat should not fall within this category. Therefore, I ask the Minister for a further explanation of that clause.

The Minister has said that clause 15 will prohibit the selling of wheat without the written consent of the board. The old provision also prohibited the movement of wheat from farm to farm. The new clause will allow the movement of wheat between farms owned by the same person through a permit system. However, it is rather ridiculous that a farmer should have to obtain a permit to shift wheat from one of his farms to another farm he may own.

The very great improvement in this legislation provides for the new guaranteed minimum delivery price which replaces the old first advance. One of the criticisms of the board in the past was the very long time that it took for payments to be finalised following the first advance. If my memory serves me correctly, I believe that in some instances it took up to five years before final payment was made. In the meantime farmers had to pay interest on the money they had borrowed before receiving their payments. The new scheme, which provides for a minimum delivery—and I emphasise the word "delivery"—price of 95 per cent of the average of pool returns for three years (the past year, the present year and the following year), will be a very great improvement for wheatgrowers, as has already been shown by current payments. I pay tribute to the architects of this scheme.

I am very glad that the Opposition also supports this Bill, which has become evident through speeches in another place and the speech by the Hon. Mr. Chatterton yesterday. However, I will comment on that later.

The new scheme will undoubtedly provide a greater stabilization of income for wheatgrowers, although that stabilization is affected by seasons as well as by prices, as all primary producers know only too well. In paying tribute to the authors of this scheme, the consequent legislation by the Federal Government, and the complementary legislation by State Governments, such as we are now considering, I also pay tribute to South Australian Co-operative Bulk Handling, its excellent bulk handling system and the very fine provision of adequate storage which it now has. The present situation contrasts greatly with the position in 1968-69 when many growers had to hold grain on their properties for long periods, following that bumper season.

The fact that two bumper harvests in many areas of this State were handled so expeditiously and efficiently by C.B.H., and also handled very ecomonically compared to some other States (which in some cases have had bulk handling for far longer than we have), speaks volumes for the splendid system which C.B.H. has created, and this has been financed by the farmers themselves (through a toll system) and not by State general revenue. The toll in the first instance was 6d. a bushel in those days, and it was lent to the co-operative for 12 years interest free, after which period the farmers began to get their money repaid. The consequent conversion to decimal currency occurred in due course.

The very large silo space that we now possess in South Australia is a tribute to C.B.H. and to the members and management who enabled it to be built. That silo space is completely adequate for present day requirements.

I now turn to clause 26 of the Bill, which provides:

> A person having wheat the property of the Board in his possession or under his care shall exercise proper care and take all proper and reasonable precautions and do all things necessary to preserve and safeguard that wheat and to keep it free from damage or deterioration.

Can the Minister say who will pay for any costs that may occur as a result of that requirement? When wheat is sorted for any length of time extra costs can arise because the wheat must be sprayed to control weavils, and so on.

I said earlier that I was glad that the Opposition supported the Bill, and I hope that members opposite will learn from the initiative of South Australian Co-operative Bulk Handling Limited and the farmers and management who made it so successful. The Hon. Mr. Chatterton, in his speech yesterday, made some very pertinent comments about the legislation and the build-up to the situation which made this possible. However, interspersed amongst the good things which he said, he could not resist the temptation to play politics and make snide comments about the Prime Minister, the Federal Government, and the Australian Wheat Board. It is most regrettable that he spoilt what otherwise could have been quite a good speech by qualifying his praise of it with such uncomplimentary and derogatory remarks about the people and organizations which I have mentioned.

His tendency to give praise on the one hand and to denigrate people and organisations on the other hand is to be deplored. Perhaps the honourable member will learn some day that, when praise is due (as it is in this case), he should give it wholeheartedly as befits the occasion and not be small-minded about it. I support the Bill.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank honourable members for their contributions to this debate. I am not able at this time to answer all the questions that have been raised. However, I undertake to answer them, as requested by the Hon. Mr. Dawkins, within a day or two. Indeed, I hope that it will be sooner than that. I suggest that the Bill proceed through the second reading and perhaps in Committee progress could be reported. I hope that answers to all questions can be provided by tomorrow.

Bill read a second time.

In Committee.

Clause 1—"Short title."

The Hon. J. C. BURDETT: To enable the questions that were raised during the second reading debate to be replied to, I ask that progress be reported.

Progress reported; Committee to sit again.

BARLEY MARKETING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 1358.)

The Hon. M. B. DAWKINS: I have pleasure in supporting this Bill. This amendment to the Act refers not

to barley but to oats. The amendments to the Barley Marketing Act that enabled the Australian Barley Board to handle oats as well as barley were a much more satisfactory solution to the problem than the setting-up of an Oats Marketing Board, legislation regarding which was previously passed by this Parliament. However, it was never proclaimed but was finally repealed because it was realised that an independent oats marketing authority in this State was unlikely to be viable, despite the fact that it was intended to use the expertise of Sir Allan Callaghan, a former Principal of Roseworthy Agricultural College, a former Director of Agriculture and, more recently, a former Chairman of the Wheat Board, to lead the organisation. I think all honourable members would agree that even that gentleman's expertise would not make an oats board a viable proposition in this State.

The present amendment is intended to clarify the section of the Act permitting direct sales from grower to purchaser. Section 14aa(2)*(f)* permits such sales where the oats are not resold at present, but it does not indicate sufficiently clearly that oats can be sold to a processor who wishes to resell in the processed form.

Although the board has given a fairly wide interpretation of section 14aa(2)*(f)*, there have been some doubts regarding its validity, and, as the Minister stated, the purpose of this Bill is to put the matter beyond doubt so that it is clear that the grower can sell directly to a purchaser where the latter buys the grain for his own use and not for resale, and can also sell to a processor who processes the grain for resale. This is now made abundantly clear, and I am pleased that the Opposition also supports this measure. I support the Bill.

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

ALSATIAN DOGS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 February. Page 1254.)

The Hon. J. R. CORNWALL: The Opposition supports this Bill. In practice, it simply gives the Government power to make legal what has been occurring in the opal fields in South Australia for many years. I should like briefly to make two points on this subject while the legislation is open.

First, I am a little disappointed that the Government has not taken the opportunity to rename this Bill the German Shepherd Dogs Act. This legislation has been around since 1934, and has been opened only on rare occasions. Indeed, there have been few amendments to it since 1934.

Most people would be well aware that the term "Alsatian" came into general use, like so many other things, because of the great patriotism abroad during the First World War, and anything that resembled a German name, including this breed of dog, had to be changed at all costs. That war has been over for well over 50 years, and perhaps at some future time, if the Minister has occasion to open the Act, he might give some attention to renaming it, more appropriately, the "German Shepherd Dog Act". I am sure that many breeders of German Shepherds in South Australia would appreciate that gesture.

The second thing to which I refer briefly is the myth that persists in pastoral areas that, if the German Shepherd was to roam at large and start crossbreeding with dingoes, some sort of super-breed sheepkiller would arise from the cross. However, there is absolutely no scientific evidence to support that.

The dingo is a noted sheep killer, and I do not want anyone to get the impression that I am going to bat for the dingo. When crossbreeding occurs between the dingo and the German Shepherd or any other large breed of dog, one gets a substantial amount of hybrid vigour. However, it is no more true of the German Shepherd than it is of any other large breed of dog.

It is a pity that this amendment will give *carte blanche* to the keeping of dogs generally in pastoral areas inside the dog fence. That is the problem as I see it rather than the keeping of German Shepherds specifically. At the same time, the Government may have to consider introducing some fairly stringent controls for keeping dogs under control in the opal fields area.

Having said that, I have no objection to the Bill. The Opposition has no objection, and I am happy to support it.

The Hon. C. M. HILL (Minister of Local Government): In reply, I might say that one thing that the Hon. Dr. Cornwall and I have in common is an inherent love of dogs. Whilst I agree that the name of the Bill should be changed to German Shepherd Dogs Act, perhaps another suggestion might be that the whole Bill might be repealed at some stage in the not too distant future. However, I thank honourable members opposite for their support and repeat that the object of the Bill is to put right the position which exists at the moment concerning Coober Pedy. It is an unsatisfactory position at present, and I hope that, after regulations flow as a result of the Bill, it will be quite lawful for people to maintain these animals within the township boundaries in such places as Coober Pedy and that none of the forebodings that have been prophesied will come true in regard to the danger of keeping dogs in the pastoral areas.

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

CANNED FRUITS MARKETING BILL

Adjourned debate on second reading.
(Continued from 4 March. Page 1356.)

The Hon. B. A. CHATTERTON: I support this Bill, which seeks to establish a more orderly system of marketing canned fruit in Australia. The canned fruit industry has been in trouble for some considerable time. A major factor has been the decision taken by the British Government to join the European Economic Community. This has lead to a substantial decline in the quantities of canned fruit exported. Equally catastrophic has been the decline in returns for the fruit that has been exported to the E.E.C. Part of this can be attributed to the agricultural policies of the E.E.C. and also to changing patterns of production in countries nearer to the E.E.C. with lower costs of production. The result has been that, on many occasions, the returns from exports have barely covered the cost of processing, let alone providing an adequate return to the fruitgrowers.

The wine industry (in spite of its current problems) and the citrus industry were able to resolve the problems of declining exports by considerable expansion of the domestic market. With canned fruits, the consumption per capita in Australia is already high by world standards, so I doubt that the domestic market has much capacity to expand through promotion. In fact there are greater dangers that it could decline through competition from other products. In these circumstances, the unpalatable solution is that the industry has to adjust itself to a smaller size unless it is able to find alternative profitable export markets.

While there have been some encouraging sales to Japan, we must remember that it is one of the most competitive markets in the world with ample supplies of low-cost Chinese and South-East Asian fruit available. Adjustment in the canning fruit industry has been very difficult because of the "chunky" units of adjustment. When the egg industry was faced with a similar problem of unprofitable exports, it was comparatively easy to apply hen quotas to reduce production to that required for the profitable domestic market. This solution cannot be applied to the canning fruit industry. If each grower were limited by quota to the profitable markets, then all canneries would be working below capacity, overhead costs would rise to an alarming level, and grower returns would decline or high prices would reduce domestic demand. In these cirumstances, it was obvious that reduced production by growers alone was not going to solve the problems of the industry. There would have to be a rationalisation of canneries as well. This is certainly far from easy, as the closure of a cannery or two—while making sound economic sense for the industry as a whole—would leave large groups of growers with no outlet for their fruit, and inevitably some would be forced to leave the industry altogether. Thus the industry was faced with a choice of two conflicting directions to follow.

In one direction the situation required that, for the sake of grower equity, all growers should be asked to adjust their production equally, but in the opposite direction the situation required that, for the sake of processing efficiency, one or more canneries should close altogether. This would leave some growers completely out in the cold. Neither direction provided a very palatable solution. In August 1976 I raised the matter of a rationalisation plan at the Agricultural Council meeting at Bundaberg, and, while I continued to raise it at subsequent meetings and to obtain strong support from the Victorian and New South Wales Governments, I was unable to get any response from the Commonwealth. I was hoping that legislation similar to that which we are now considering could have been agreed on. The Commonwealth was, however, adamant that the canneries must be allowed to sort out their own problems (one cannery was about to go broke) and that any move towards a Canning Fruit Corporation would prevent this survival of the fittest in the market place. I believe this to be a heartless attitude to take because, as I explained earlier, a large number of growers would get badly hurt if the industry was just allowed to fall apart. But the Commonwealth was determined not to become involved.

In South Australia we realised that we would have to go it alone in trying to sort out the industry. The moves that were taken by the South Australian Labor Government through the S.A.D.C. have already been described by Mr. Slater in the debate on this Bill in the House of Assembly. I would like to congratulate the S.A.D.C. for the reorganisation of the industry in South Australia. The amalgamation of Riverland with Jon's, the new marketing arrangements, the diversification into other products, and the improvement in overall efficiency are all moves which have already put the industry in South Australia on a much sounder basis. Now, four years after my first attempts at Agricultural Council and a decade after the industry started to get into serious trouble, we have some legislation.

This legislation has originated with the canners, not the Commonwealth, which, in spite of passing the legislation, has shown very little interest in the problems of the industry. I think we should all keep the origins of the Bill in mind when considering the legislation. I would have liked to see a greater involvement of the growers in the drafting of the legislation, but I accept that the processing sector of the industry must be viable for the growers to survive. Theoretically, there should be no conflict of interest, as all the canneries are grower-controlled co-operatives but, unfortunately in some, it has not always worked out this way and cannery boards have not always acted in the best interests of their grower members. The major task of the new corporation to be established by this Bill is to control the domestic market, prevent excessive discounting and maintain its profitability.

I have already explained how important the domestic market is to the industry but, with give-away prices ruling overseas, there has been a great temptation for canneries to increase their share of the domestic market by under-cutting. Naturally, the others retaliate by further undercutting. We have seen a few rounds of this discounting, which has nearly brought the industry to its knees. In addition to controlling the domestic market, the corporation will try to organise the overseas markets —particularly those where the returns are reasonable—so that the best price for Australia as a whole is obtained and canneries do not under-cut each other to dispose of otherwise unsaleable surpluses.

The first point I would like to make concerning the working of the legislation is that I would like to have seen it with more teeth. I am concerned that a canner who does not want to comply can discount, pay the penalties, and still come out in front. I would like to have seen a licensing provision in the Bill. The suspension or cancellation of a licence to produce would be a severe penalty to an erring canner.

I will not, however, be moving any amendment on this matter, as obviously it would be pointless to have penalties for our South Australian Riverland cannery that did not apply elsewhere. It is something that must be uniform, and I hope that the Minister of Agriculture, at Agricultural Council, will seek the co-operation of the Commonwealth and other States on this matter.

A major problem that faces the corporation is the control of quality. By removing most of the competition from the domestic market, and giving canneries quotas for the home market, the corporation faces the problem that the quality of the product may decline. Unlike wheat or barley, there is a great deal more quality differential in canned fruits, and it is easy for a canner who is now virtually assured of a certain level of sales to become careless in the preparation and presentation of his product. This will be difficult enough for the corporation to handle within the "normal" range of canned fruits, with different fruits, mixtures, different syrups, and so on, but it becomes impossible in the range of exotic fruit products.

I will be moving amendments to the Bill to give the corporation power to exclude certain canned fruits from the quotas. My reasons are that the market for these exotic products, such as pears in brandy or peaches in liqueur, is currently small, but almost wholly imported. Competition for this small but potentially valuable market will not hurt other canners and fruitgrowers in Australia, but will lower the level of present imports. Currently, canners show little or no interest in the market because the production runs are too small. If, however, the production of these exotic lines was allowed over and above normal domestic sales quotas, this might be a sufficient incentive for them to enter and compete in this market.

We have the fruit, the wines, and brandies, and I am sure that we have the expertise. Unfortunately, we have tended to dismiss this market rather disparagingly as the "fancy" market. I hope the canning fruit industry has enough foresight to look outside itself to the dairying industry, where the same sort of dismissive approach was

taken to "fancy" cheeses. Now, such imported cheeses hold a large part of the Australian market, which is continuing to expand and is most profitable for the overseas exporters. The canning fruit industry must not let new opportunities pass. If, however, it penalises new initiatives by deducting such marketing initiatives from existing quotas, then not only will we miss out on valuable export markets but we could lose a slice of the domestic market as well.

There is, of course, a danger that the establishment of a corporation to control the domestic market will result in a cartel which will disadvantage the Australian consumer. No doubt this possibility exists, but the corporation will be restrained, one hopes, by the all too real possibility that overall demand will fall if it pushes up the domestic price too high. There are sufficient other products on the market to allow consumers the opportunity to move out of canned fruits and still enjoy fruit.

Probably the greatest potential rival to canned fruits is the revived interest in fresh fruit. Currently, there are moves to form a "United Fresh" organisation in Australia to promote the use of fresh fruit and vegetables. If this organisation is successful in improving the quality and packing of fresh fruits, there is no doubt that it could make serious inroads into the market for the canned product. While Australia produces some of the finest fruit in the world, it is so badly handled that consumers are forced to buy the processed product. Anyone who has seen the way in which New Zealand handles fresh peaches and apricots will understand the potential for improvement that exists in Australia. I support the Bill, but I will move an amendment to allow the corporation greater flexibility in excluding some products from quotas.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank the honourable member for his interesting contribution to this debate.

Bill read second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

ADJOURNMENT

At 5.29 p.m. the Council adjourned until Thursday 6 March at 2.15 p.m.