## LEGISLATIVE COUNCIL

Tuesday 2 December 1980

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

### ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Adoption of Children Act Amendment,
Domicile,
Electricity Trust of South Australia Act Amendment,
Liquefied Petroleum Gas Subsidy,
Royal Commissions Act Amendment,
South Australian Heritage Act Amendment,
Stock Exchange Plaza (Repeal of Special Provisions).

### PAPERS TABLED

The following papers were laid on the table by the Attorney-General (Hon. K. T. Griffin)—

*Pursuant to Statute—*

Motor Vehicles Act, 1959-1980—Regulations—Label Destruction Exemption.

Department of Mines and Energy—Report 1979-1980.

By the Minister of Local Government (Hon. C. M. Hill)—

*Pursuant to Statute—*

Department of Lands—Report, 1979-80.

Kingston College of Advanced Education—Report, 1978.

Sturt College of Advanced Education—Report, 1979.

River Murray Commission—Report, 1980.

Corporation of Adelaide—By-Law No. 16—Central Market.

Corporation of Whyalla—By-Law No. 34—One Way Streets.

By the Minister of Arts (Hon. C. M. Hill)—

*Pursuant to Statute—*

Regional Cultural Centres Act, 1976—Whyalla Regional Cultural Centre Trust Report, 1979-80.

By the Minister of Community Welfare (Hon. J. C. Burdett)—

*Pursuant to Statute—*

Country Fires Act, 1976—Report, 1979-80.

By the Minister of Consumer Affairs (Hon. J. C. Burdett)—

*Pursuant to Statute—*

Commissioner for Equal Opportunity—Report, 1979-80.

### MINISTERIAL STATEMENT: CORONER'S INQUEST

**The Hon. K. T. GRIFFIN (Attorney-General):** I seek leave to make a statement.

Leave granted.

**The Hon. K. T. GRIFFIN:** Last week in this Council the Hon. Dr. Cornwall made what purported to be a personal explanation of matters relating to the Horsnell Gully fire. Rather than a personal explanation, it constituted a personal attack on reputable persons.

In his explanation, Dr. Cornwall alleged "collusion between witnesses" to give an amended version of evidence to the Coroner's inquiry. The honourable member went on to assert that there had been a "cover-up" and collusion, particularly between the Director of Country Fire Services, Lloyd Johns, and Fire and Emergency Operations Officer, John Fitzgerald. The honourable member is alleging what is, in effect, perjury.

These remarks by the Hon. Dr. Cornwall are totally ill-founded and simply should not have been made. They cast aspersions on officers whose integrity is unquestioned and whose fire-fighting expertise is second to none. The imputations are obnoxious and unwarranted.

I have received a report from the State Coroner, who has expressed his own deep concern that the honourable member's comments may well be interpreted as criticism of the Coroner's own conduct of the inquest. The Coroner has indicated to me that his findings were based on the evidence given at the inquest and were only reached after detailed consideration of all of that evidence. Dr. Cornwall, in his statement, refers to a private conversation with Mr. Fitzgerald. The Coroner says:

> I am totally unaware of such (a conversation) and, in any event, presumably it was unofficial.

I should add that both Mr. Johns and Mr. Fitzgerald have given evidence at other inquests. They have impressed me as persons with considerable experience in fire-fighting techniques and as men of integrity. It is also important to note that Dr. Cornwall makes no reference whatsoever to the evidence of the Director, or for that matter to the evidence given by Mr. Fitzgerald. He has selectively used both statements of officers and the Coroner for his own ends.

The honourable member referred to two documents. One was a statement by Dr. Morley, the then Acting Director of the National Parks and Wildlife Division, and the other was a statement by Mr. J. L. Fitzgerald, Fire and Emergency Operations Officer of that division. That statement by Dr. Morley refers to Mr. Fitzgerald's actions, opinions and conclusions, mainly in regard to the question of whether or not the fire could be held on a north-southerly track east of Horsnell Gully Conservation Park.

Dr. Morley acknowledged that his report was brief and was compiled when informants were extremely tired. He added that "it is likely that a number of issues will clarify after the fire has been dealt with". In his statement, Mr. Fitzgerald acknowledged the need for a back burn, and gave his own view that a stand could be made along the track referred to as at that time there appeared to be no danger of the fire jumping it. He also makes quite clear that a subsequent change in the weather conditions altered this assessment.

Dr. Morley, in his statement, also refers to this, but in a paragraph conveniently omitted by the Hon. Dr. Cornwall when quoting from Dr. Morley's statement. In his evidence given at the inquest Mr. Fitzgerald is quite clear that his plan to make a stand along the track did not receive the support of the C.F.S. officers, as the latter considered it would be dangerous to place men and units along the track. The evidence given by Mr. Fitzgerald at the inquest does not appear to be at odds with information contained in the statement which he prepared on the day of the fire and which the honourable member tabled. It is clear that there has not been a cover up, nor is there evidence of collusion between witnesses. The assertion by Dr. Cornwall is to be deplored.

### MINISTERIAL STATEMENT: CORRECTIONAL SERVICES

**The Hon. C. M. HILL (Minister of Local Government):** I seek leave to make a statement.

Leave granted.

**The Hon. C. M. HILL:** On 10 September, I announced that a major corporate review of the Department of Correctional Services would be undertaken by the Public Service Board in conjunction with a private consultant. I now wish to inform the Council that, as of 1 December, the Government has engaged Touche Ross Services to work with the Public Service Board in conducting this review.

Four officers from the consultancy firm will be involved in the study. They are: Mr. H. J. Swinks, Project Manager; Mr. L. E. Shannon, Senior Consultant; Mr. P. A. Speakman; and Mr. J. Harrington. The Government has also decided to engage a specialist consultant, Mr. J. Van Gronigen, who has wide experience in the correctional field in academic, consulting and line management capacities. The terms of reference of the review are to examine:

the adequacy of existing security measures, and the effectiveness of the upgrading proposals which are currently with the Government;

the organisation and staffing levels of the department, with particular attention to the executive management needs of the department;

the cost effectiveness of the South Australian prison system in comparison with other prison systems in Australia, with particular reference to prison industry activities;

the adequacy of training of prison officers at various levels of classification, with special reference to the need for succession planning to ensure an adequate supply of appropriately experienced prison managers;

the recruitment process for prison officers, and desirable standards for recruits;

the need for, and scope of, a research function to meet the information requirements of departmental specialists and senior managers;

the adequacy of existing information services and procedures;

any other matters which are likely to improve the efficiency of the prison system in the next five years.

As members are aware, the Government has already received the Stewart Report on some aspects of correctional services, and there is under way at present a separate investigation by the Public Service Board into institutional staffing and a Royal Commission investigating specific allegations of impropriety. It should be made clear that the corporate review I have announced today complements, rather than duplicates, these other investigations, which together constitute the most searching review of correctional services undertaken in this State for many years. Briefly, the lines of demarcation separating the different inquiries are as follows. The Stewart Report investigated such matters as: accommodation requirements, institutional security standards, security procedures, equipment, and staff. Already many of the Stewart Report recommendations have been implemented, and others are under active consideration. Security will be improved by the installation of T.V. surveillance equipment at both Adelaide Gaol and Yatala Labour Prison, at a combined cost of $563 000, and by the installation in both centres of a radio communication system costing $261 000. New security fencing at Yatala has been approved at a cost of $95 000, a new tower has been erected in No. 5 yard at that prison, and approval has been granted for the establishment of a full-time Dog Squad.

Staff levels have been increased on three occasions since October 1979, resulting in the employment of a further 56 officers—five in the Dog Squad, six in the Probation and Parole Branch, and 45 additional prison officers. With respect to new capital works for improved accommodation, industrial facilities and security, expenditure of $3 870 000 has been approved in the past 14 months, a further $1 600 000 has recently been before the Public Works Committee, and another 10 projects costing $16 700 000 is planned for future development.

In the most important area of staff morale, training programmes have been instituted for both new and existing prison officers, and significant progress has been achieved in preparing academic course in justice administration. As I say, these initiatives in areas affecting accommodation, security and staff, are related directly to the ambit of the Stewart Report and do not in any way cut across the other investigations in train.

The separate matter of organising staffing levels and responsibilities within correctional service institutions is being examined by the Public Service Board in consultation with the appropriate unions. The investigation I have announced today, as the terms of reference clearly indicate, will be concerned primarily with the structure, management, effectiveness and staff development functions of the central department.

## QUESTIONS

### PRISON REGULATIONS

**The Hon. C. J. SUMNER:** Can the Minister of Local Government, representing the Chief Secretary, say whether the variations to the prison regulations gazetted last Thursday will be tabled in either House of Parliament today? If not, why not?

**The Hon. C. M. HILL:** The answer is "No". Government procedure has not made that possible.

**The Hon. C. J. SUMNER:** I seek leave to make a brief explanation before directing a supplementary question to the Attorney-General as Leader of the Government in this Council.

Leave granted.

**The Hon. C. J. SUMNER:** As members will know, last week, in a final attempt to thwart the actions of those groups in the community, including the A.G.W.A. and the P.S.A., which wanted the terms of reference of the Royal Commission into prisons widened, and in the face of action by those organisations in the Supreme Court, the Government acted to vary the prison regulations so as to avoid having the legality of the Chief Secretary's action in cancelling regulations in prisons tested in the courts. In other words, the Government was not game to allow this matter to proceed in the courts and has decided to try to avoid a decision being made by altering the regulations. The Government will take any steps to avoid having the Royal Commission into prisons terms of reference widened, and its action last Thursday was the final example of that. Following that, I indicated publicly that the Opposition would challenge the regulations in Parliament and that a notice of disallowance would be given when the regulations were tabled.

As everyone knows, the Parliament will sit this week, but may not sit next week. The Government has not tabled that variation of regulations today. Clearly, it has tried yet again to avoid a public debate on this issue. The Government obviously should, in a matter as important as this, table the regulations today. Those regulations were gazetted last Thursday, and obviously the Government has deliberately not tabled them today, because it is afraid of a debate on this issue. Had the Government tabled those regulations today, I would have given notice of

disallowance for debate tomorrow, and the matter could have been aired before the Parliament rose. However, it is clear that the Government intends to avoid this debate. As the Government has not tabled the regulations today, will the Government ensure that those regulations are tabled in both Houses tomorrow?

**The Hon. K. T. GRIFFIN:** The Government is not afraid of a public debate on the question of prisons. We have already had one such debate in the past week to 10 days, when we were extensively debating amendments to the Royal Commissions Act. If anyone suggests that that was not a full debate, they are living in cuckoo land.

**The Hon. C. J. Sumner:** This is another issue.

**The Hon. K. T. GRIFFIN:** You raised the question of regulations in the course of the debate on the Royal Commissions Act Amendment Bill and placed your emphasis on widening the terms of reference. You also sought to debate the question of regulations.

**The Hon. C. J. Sumner:** You've now taken further action and changed the regulations.

**The Hon. K. T. GRIFFIN:** The Opposition's ploy is a diversionary tactic; it is seeking to divert attention away from the evidence that is likely to be given to the Royal Commission. I indicated last week, in answer to a question about the regulations, that regulation 7 had been invoked by the Chief Secretary at the request of the superintendents of prisons, because we wanted to formalise the passive acquiescence in variations of the prison regulations, particularly regulations 67 and 70, over the last 10 years.

**The Hon. C. J. Sumner:** You weren't willing to have them challenged in the courts.

**The Hon. K. T. GRIFFIN:** They have never been challenged in the courts, of course they have not. The Leader's Government for 10 years acquiesced in the variation of those regulations by supporting, for example, doubling up and other activities which were not technically in conformity with the prison regulations. If we are looking at doubling up, that has been occurring for the last 30 years. If we are looking at the problem of prisoners being confined for periods of, say, 17 hours a day in their cells, then we only have to go back three years to find where the blame for that lies.

The previous Government sought to take a number of steps which would have allowed prisoners to have more time out of their cells, but the Australian Government Workers Association took up the gauntlet and decided that it was not going to co-operate unless it got a 37½ hour week and six weeks annual leave. Since that time the A.G.W.A. has sought to create problems in manning gaols and in the running of prisons.

*Members interjecting:*

**The Hon. K. T. GRIFFIN:** We are not blaming the unions completely.

**The Hon. Anne Levy:** Answer the question.

**The PRESIDENT:** Order!

**The Hon. K. T. GRIFFIN:** That was one of the reasons why nothing has been done to change the difficulty of prisoners being confined for long periods.

**The Hon. N. K. FOSTER:** On a point of order, Mr. President. I do not know whether you can assist those members on this side who constitute half the Council, and I do not know whether you are in a position to control the Minister, but I believe that the Minister should be requested to answer the question and not take up Question Time in such a way.

**The PRESIDENT:** I take the point of order. I think the Minister is taking a long while to reply. I point out, however, that the question took a long time to explain. If you want a work-to-rule situation I can easily comply with that, but I suggest that you do not take that point too far. The honourable Attorney-General is taking a long time to answer.

**The Hon. K. T. GRIFFIN:** With respect, Mr. President, the Leader of the Opposition referred in the question to regulations, and relevant to that is the way in which those regulations have been complied with, or the way in which variations to them have been acquiesced in over a long period. I was leading up to the point that the variation of regulations that occurred last Thursday was really to formalise once again the practice that has occurred over many years and the variation that has been acquiesced in by prisoner officers, prisons and Governments. The fact is that the variation was made only to—

**The Hon. C. J. Sumner:** To thwart the court case.

**The Hon. K. T. GRIFFIN:** —reinforce the direction given by the Chief Secretary under regulation 7. It was not to thwart the court case. If we want to talk about the court case—

**The PRESIDENT:** I must bring the honourable Attorney-General to the point.

**The Hon. K. T. GRIFFIN:** Mr. President, the Leader indicated that the Government changed the regulations to thwart the court case. I am saying that that is not correct. The reason for varying the regulations last Thursday was to formalise a change that had been acquiesced in over many years. I am not prepared to give any undertaking as to when those regulations will be tabled, but they will be tabled in accordance with the law.

## SOUTH PARKLANDS TIP

**The Hon. L. H. DAVIS:** I seek leave to make a brief explanation before asking the Minister of Local Government a question about old bottles and antiques in city parklands.

Leave granted.

**The Hon. L. H. DAVIS:** The Minister would no doubt be aware of the front page story in the *Advertiser* on Monday 1 December headed "Bottle hunt threatens club". The Dressage Club of South Australia leases an area of parklands bordering Greenhill Road, but it is unusable because of the activities of nocturnal diggers seeking old bottles and antiques. This area is the site of the earliest extensive tip in Adelaide covering the period 1855-1875. Members of the Adelaide Historical Bottle Collectors Club claim that this tip contains excellent examples of Hindmarsh pottery, Doulton ware, earthenware, glassware and ceramics. Many of these items would have been brought from England by our earliest settlers.

Although no-one would condone the recent less traditional nocturnal activities which have resulted in disturbing the Dressage Club's use of this area, I am told that this old South Parklands tip could be fully dug out and satisfactorily resurfaced within a few days. In view of the apparently valuable historical nature of many items in this tip and with this State celebrating its 150th anniversary in 1986, will the Minister have discussions with the South Australian Museum, the State Archives, representatives of the Dressage Club, Adelaide City Council, and the Adelaide Historical Bottle Collectors Club with a view to overcoming the current difficulty by what seems a simple solution? The area could be dug up with the co-operation of the parties I have referred to, and any valuable items could be retained by the appropriate State body.

**The Hon. C. M. HILL:** I shall be very pleased to have a closer look at this question and, as has been suggested, perhaps call a conference of the parties concerned in an endeavour to see whether there are items of a historical

nature still in the parklands which could be obtained by a process of co-operative digging. My department will have a general look at the matter to see whether it can be investigated.

## WOOD CHIPS

**The Hon. B. A. CHATTERTON:** I seek leave to make an explanation before asking the Attorney-General, representing the Premier, a question about wood chips.

Leave granted.

**The Hon. B. A. CHATTERTON:** Over the past two weeks I have been asking a series of questions of the Premier to try to determine the links between the South Australian Government and the Marubeni Corporation of Japan. I can understand the Government's embarrassment over its links with a company that was a major participant in bribing Japanese politicians in an attempt to increase the sale of Lockheed aircraft. That scandal rocked the Japanese Government and led to the resignation of the Prime Minister. However, embarrassment is not sufficient excuse for denying those links and misleading the Parliament.

Those links were proved last week when I quoted from a report by the Director of Woods and Forests (Mr. South) to the Minister. Mr. South reported that a meeting had been set up between a senior managing director of Marubeni and Tony Coles (Assistant Director, Woods and Forests) in March 1980. The Government has denied that those discussions took place. In addition, the Government has tabled a minute which made direct reference to a "Marubeni letter". The tabled minute also contained an outrageous recommendation that the idea of cancelling the legally binding agreement be floated with Mr. Dalmia of Punalur Paper Mills in order to allow the Japanese and A.P.M. to compete with him for this suddenly very valuable resource.

I now have a document that proves that "the Japanese" referred to in the sentence in the tabled minute dated 28 February 1980 (tabled by the Acting Minister of Agriculture on Wednesday 29 November) and which read "interested parties including the Japanese, A.P.M. and Dalmia" was the Marubeni Corporation of Japan. The document I refer to is a submission made to the Minister of Forests, Mr. Chapman, and signed by L. N. Dalmia, Chairman of Punalur Paper Mills, on 1 March 1980. Paragraph (4) of that submission states:

> . . . that department wants to cancel the deal with P.P.M. [Punalur Paper Mills] and sell it to other Asian softwood buyers who favoured an equity in procurement and supply [Marubeni of Japan] and recommended seeking of legal opinion on procedure for termination of the Punwood agreement.

Yet the Government continues to deny the Marubeni connection. "Legal opinion" demonstrated that the contracts were legally binding on the Government, and a police investigation into Mr. Dalmia found him innocent. There is now evidence to suggest that the Minister instructed his officers to undertake a "dirty tricks" campaign to sabotage the agreement and undermine the credibility of the Indian company. The submission from which I quote outlines some of the elements of that "dirty tricks" campaign. According to that submission the Government tried unilaterally to impose additional conditions that denied Punalur access to 450 000 tonnes of chip it was entitled to under the agreement, while Punalur was to pay part of the cost of a mammoth $1 000 000 consultancy by H. A. Simons. The submission goes on to detail other examples of the obstruction put in the way of the Indian company. The document outlines the motive for the campaign. It names Marubeni as the Japanese company, and it explicitly describes the obstruction undertaken by the South Australian Government and the Japanese.

Why is the Government continuing to hide its links with Marubeni of Japan in spite of the documentary evidence confirming those links? In view of the mounting evidence that the negotiations surrounding a contract for an $80 000 000 resource owned by the South Australian Government were clouded by mystery connections and alleged forgeries, will the Premier take steps to investigate and report to Parliament on the matter?

**The Hon. K. T. GRIFFIN:** I will refer the honourable member's question to the Premier.

## PASTORAL AREAS

**The Hon. J. R. CORNWALL:** I seek leave to make a short statement before asking the Minister of Local Government, representing the Minister of Lands, a question about pastoral areas.

Leave granted.

**The Hon. J. R. CORNWALL:** Yesterday I issued a press statement concerning proposals being considered by the Government to alter land tenure and cancel camping rights in pastoral areas. The Minister responded to that call in this morning's *Advertiser* by saying that my claim that the Government was considering sweeping changes was sheer conjecture. The *Advertiser* reports Mr. Arnold as saying that my claims were wild, rash and premature. My claims are by no means premature. Indeed, I have been extremely patient about this matter, because the first inkling that it was going on came as a result of a quite lengthy article in the Port Augusta *Transcontinental* on 15 May, when the Director-General of Lands and the Director of the Land Resource Management Division of the Lands Department addressed a meeting of the United Farmers and Stockowners in that region.

Subsequently, on 15 July, the Recreational Vehicles Co-ordinating Council of South Australia, which was also concerned, wrote to the Minister of Lands asking what was the policy in relation to pastoral lease land in particular. Eventually, much later, on 25 August, when they had not received a reply to that query, the council wrote again asking, "What is the policy queried in question 3 of our original letter?" Ultimately, they received a reply from the Minister on 25 September, in which reply the Minister said, among other things:

> A pastoral lessee may apply to convert his tenure to any other forms of tenure permissible under the Crown Lands Act.

Eventually, in November, we had the setting up of an inter-departmental committee directed by the Pastoral Board. Its terms of reference included the following:

> To review and recommend to the Minister of Lands any appropriate statutory or administrative amendments for the more effective administration of the land tenure system.

That certainly has some strange connotations. Why a special inter-departmental committee was set up, unless it was purely as a political exercise, I do not know, because the Arid Zone Management Investigation Group, AZMIG, had been working on the problems for some years. Indeed, both the Minister of Lands and the Minister of Environment had referred to AZMIG in reply to questions and correspondence that I directed to them many months ago. There is a certain sense of *deja vu* in all of this or even (and one should pardon the tautology) an element of "We have seen it all before." A great deal of

abuse was directed to the Hon. Mr. Chatterton and me more than 12 months ago when we first flagged the fact that the Minister of Agriculture was considering the alienation of Crown lands on Kangaroo Island for farming. That was said to be not true at all. We were said to be premature, precocious and all manner of terrible things.

A further thing has been injected into this debate today. I have here a letter dated 1 December and addressed to my colleague, the Hon. Frank Blevins, in which the writer, who is reporting on matters of current concern in the outback areas, said:

> The second matter is that I understand the Pastoral Board is hoping to see legislation passed that would give perpetual leases to the present pastoral lessees, and also give them rights to close off roads, paths and ways, or at least have discretion over their use. Since Aboriginal people feel the whole issue of land usage in the North of the State is still held in question, such a move would very much inflame the land rights issue, and make more practical solutions to the problems of social development, and land usage, far more complicated.

So, there is no doubt at all from the evidence that is mounting that there is a great deal of fire behind the smoke. I therefore ask the Minister of Local Government, representing the Minister of Lands, how many pastoral leases will be eligible for conversion to perpetual lease or free-holding under the Government's policy, and to what extent and by whom will transit and camping rights for legitimate and responsible recreational purposes be curtailed.

**The Hon. C. M. HILL:** I will refer those matters to the Minister of Lands and bring back a reply.

## ADELAIDE FESTIVAL CENTRE TRUST APPOINTMENT

**The Hon. ANNE LEVY:** I seek leave to make a brief statement before asking the Minister of Arts a question regarding an appointment to the Adelaide Festival Centre Trust.

Leave granted.

**The Hon. ANNE LEVY:** Last Thursday, Executive Council approved the appointment of Stephen John Mann, A.C.A., as Chairman of the Adelaide Festival Centre Trust. He replaces Mr. David Wynn. At the same time, Patrick Charles Bourke of the Adelaide College of Arts and Education replaced His Honour Judge Roder, and John Noble, a wellknown member of the Stage Company, was put on the trust in place of David Bright. I would agree that one does not have to be an expert practitioner in one of the arts to become a trustee of the Festival Centre, but it is generally accepted, I believe, that a trustee must have shown some interest in the arts and community culture.

What concerns me about the appointment of this Chairman is, quite bluntly, that it is a political one. The fact is that no-one connected with the Festival Centre or the arts generally had ever heard of Stephen John Mann when his appointment was made public last Thursday. Around the centre, they are asking, "Stephen who?"

The only people who had heard of Stephen John Mann were close observers of the Liberal Party. Unless there are two Stephen John Manns, it appears that the new trust Chairman (and I stress that this is an appointment of some honour in the community and not lightly to be bestowed) has distinguished himself in the public eye almost entirely through his efforts at the time of the February 1979 Norwood by-election caused by the resignation of the Hon. D. A. Dunstan and by his efforts in the September 1979 State election in the seat of Mitcham.

Stephen John Mann was extremely active and vocal over succession duties in the campaign waged by the Liberal Party in the February 1979 Norwood by-election. Mr. Mann was acting in his capacity as President of the Taxpayers Association. It was the first intervention by the association in active Party politics for very many years, and it was extremely pointed and partisan. If anyone doubts this, they can study the columns of the afternoon newspapers at that time. This will confirm beyond doubt the depth and persistence of Mr. Mann's involvement in the Norwood by-election.

I add, too, for the information of the Minister of Arts, that the name of Stephen John Mann has also appeared on an election leaflet circulated in the Mitcham electorate last September, in the Liberal Party's interests, advising voters not to favour the Australian Democrat candidate. Doubtless, the Minister will be aware of this, as he livesin the Mitcham electorate.

**The Hon. C. M. Hill:** As a matter of fact, he doesn't, but it doesn't matter.

**The Hon. ANNE LEVY:** You did live in Mitcham.

**The Hon. C. M. Hill:** You didn't say that.

**The Hon. ANNE LEVY:** So, there are signs of Mr. Mann's commitment to political causes, to the Liberal Party, while there are no signs that this gentleman has ever had a recognisable or genuine commitment to the arts. I am not making any charges against Mr. Mann personally, and I want that clearly understood. There is absolutely no reason why he should not engage freely in whatever political activity he wishes.

However, what is in question is Mr. Mann's choice by the Government for such a prestigious position as Chairman of the Adelaide Festival Centre Trust. This surely leaves Mr. Mann wide open to the imputation of "jobs for the boys", and the guilty party is not Mr. Mann but the Cabinet, which has approved such an appointment.

Can the Minister tell the Council whether the Stephen John Mann who has just been appointed to the chair of the Adelaide Festival Centre Trust is the same Stephen John Mann who was centrally involved in the politically partisan campaign over succession duties that happened to coincide with the first Norwood by-election in February 1979, and is he the same Stephen John Mann whose name appeared on Liberal election literature in the Mitcham area at the last State election?

**The Hon. C. M. HILL:** The Mr. Mann to whom the honourable member refers is the Mr. Mann who was Chairman of the Taxpayers Association. I do not know whether he is still that association's Chairman, but he was such at some stage or other. I cannot recall his being involved in the Norwood by-election campaign. Regarding public figures who were involved in the last State election campaign, I am sure that they came from everywhere. So many of the population rose up and took part in the campaign against the Labor Government at that time that he could have been involved in that operation.

**The Hon. Anne Levy:** Do you deny that you knew about it?

**The Hon. C. M. HILL:** Let me remind the honourable member that I did not see her get to her feet when I appointed Professor Hugh Stretton to the Vice-Chairmanship of the Housing Trust. I did not see her get to her feet when I appointed Mr. Murray Glastonbury as the Acting Chairman of the Housing Trust.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. C. M. HILL:** The honourable member has the audacity to accuse me of making political appointments. I

can give her names of wellknown members of the Labor Party whom I have been happy to appoint and reappoint to public office. This Government does not give political favour in this way. This Government appoints the best people for the job. That is the principle that guides this Government in its appointments.

**The Hon. Anne Levy:** What about his qualifications?

**The Hon. C. M. HILL:** I will come to his qualifications. The honourable member who talks of a prestigious position and who wants to give office to people because there is some honour involved must acknowledge that an office of this kind goes much deeper than that of honour and status. A position of this kind has to go to somebody who is expert in business affairs, because this person chairs a board which absorbs $2 000 000 a year of public funds. The honourable member can talk about honour and reputation. It does not worry her or her Party when they hand out money by the millions.

**The PRESIDENT:** The Minister is getting off-side with the question.

**The Hon. C. M. HILL:** I will endeavour to come back to a narrower field. I deny entirely the question of political patronage. The present Government is seeking young men in this State and city who have made their mark in their professions and business callings and to whom older men in public office can hand over the reins of responsibility.

**The Hon. K. T. Griffin:** Labor Party members haven't caught up with that yet.

**The Hon. C. M. HILL:** No, they have not. I do not deprecate in any way at all the record of the former Chairman. In fact, I commend him again now as I did personally a few days ago for the service that he gave to the State and to the Festival Centre. However, I understand that his age is somewhere in the mid-60's. If the honourable member wants to keep to that age bracket for appointments, this Government does not. Mr. Mann is a young man with 20 years business leadership experience. He has proved himself as one of the great young men in the commercial world and he will ably carry out the role of Chairman. I make the point that, of the three new appointees, the Government found a balance between professional business expertise and artistic input. We appointed Mr. Noble as the third man.

**The Hon. N. K. FOSTER:** I rise on a similar matter in regard to the Minister not answering the question.

**The PRESIDENT:** Order! If the Hon. Mr. Foster is not raising a point of order, he is out of order.

**The Hon. C. M. HILL:** In the three appointments that we made, we struck a balance between professional business expertise and artistic ability, because it was essential that the new members of the Adelaide Festival Centre Trust should provide their own input and that we should have artistic input as well as a professional business input. I am sure that the Adelaide Festival Centre Trust will be in very good hands in the next few years.

## REPLY TO QUESTION

**The Hon. J. E. DUNFORD:** Mr. President, am I in order in asking the Attorney-General for an answer to Mr. Foster's question of 23 October on the O'Bahn system? Mr. Foster has asked me to ask for the reply on his behalf.

**The PRESIDENT:** If the Hon. Mr. Foster wants a reply to the question, the Hon. Mr. Foster can ask for it.

## SPECIAL BRANCH

**The Hon. C. J. SUMNER:** Has the Attorney-General an answer to my question of 28 October on the Special Branch?

**The Hon. K. T. GRIFFIN:** Cabinet has decided on the new guidelines for the operation of the South Australian Police Special Branch. An Executive Council order of 20 November 1980, which was published in the *Government Gazette* on the same date, details the guidelines. These guidelines have been conveyed to the Commissioner of Police.

## BUILDING APPROVALS

**The Hon. C. J. SUMNER:** Has the Minister of Housing an answer to my question of 26 November on building approvals?

**The Hon. C. M. HILL:** One component of the drop in Government dwelling approvals between January-August 1979 and the same period in 1980, is dwellings which are not Housing Trust ones. In July 1979 the Electricity Trust registered with the Bureau of Statistics approvals for 274 dwellings in the new Leigh Creek township. This exceptional project accounts for some of the decline between 1979 and 1980. Nevertheless, Housing Trust records indicate that approvals for Housing Trust dwellings did decline by 427 between the 1979 and 1980 periods. The main reason for this decline was the fall-off in the Housing Trust's sales programme, as a result of the trust having no special protection from the general downturn in the housing market that has occurred over the last three years.

The increase in the trust's rental programme does not seem to have compensated fully for the fall-off in the trust's sales programme, because of an increase in their special rental programme, and increased building costs. During 1979-80 the number of established houses acquired for rental purposes increased to 343, compared to 204 in the previous year. In 1980-81, over 500 established dwellings are expected to be purchased. This changed emphasis reflects the trust's policy to provide more rental accommodation in established communities where waiting times are longest. I should emphasise that approvals are not the best indicator of current trust activity. Commencements are planned to be at nearly the same level in 1980-81 as in 1979-80—1495 compared with 1549. Completions are running somewhat higher in 1980-81 than in 1979-80. Completions this year to the end of October number 620, compared with 537 in the same period last year. I must also reiterate that the State Government is channelling very significantly greater funds to the Housing Trust.

## MARBLE HILL

**The Hon. BARBARA WIESE:** I seek leave to make a brief explanation before directing a question to the Minister of Community Welfare, representing the Minister of Environment, about Marble Hill.

Leave granted.

**The Hon. BARBARA WIESE:** In yesterday's *Advertiser* a letter to the editor expressed some dissatisfaction over an apparent National Trust decision to leave the historic Marble Hill property, which was the former country residence of South Australian Governors, as a "romantic ruin" rather than provide finance to enable the restoration work which was commenced some years ago to be continued. Has the Government been approached about funding for this project? If so, what amount, if any, has been allocated? If no money has been allocated, will the Minister say why this is so, in view of the importance of Marble Hill to South Australia's history and heritage?

**The Hon. J. C. BURDETT:** I will refer the honourable member's question to my colleague in another place and bring back a reply.

## O'BAHN

**The Hon. N. K. FOSTER:** I do not know whether he will answer or not (I hope he does—he might have composed himself since last Thursday) but I have a strip of paper that tells me that the Attorney-General has an answer to a question I asked on the O'Bahn system way back on 23 October.

**The Hon. K. T. GRIFFIN:** The service life of the north-east busway project, including the O'Bahn segment, is indefinite, as is the case for all major new transport facilities. However, the choice of fuel to power the buses could vary substantially over this life, depending on the cost and availability of fuels of various types and technical change and development.

At the present time, and for the next 10 to 15 years, current assessments indicate that the continued use of diesel fuel is the most economic and the most energy efficient way of powering the system. The efficiency of the process of converting coal to electricity, transmitting it and using it in public transport vehicles is, in fact, lower than that of using diesel fuel directly. Many transport authorities have also found that the operating cost is less for diesel powered vehicles than for electric propulsion, when the costs of constructing and maintaining the distribution system is taken into account.

The Government is aware that adequate fuel resources exist within South Australia to generate sufficient electricity for public transport operations in addition to other demands, and this busway will be designed in a way which permits its conversion to electric propulsion when such work is justified. In addition, the adoption of a busway provides the flexibility to use other forms of liquid fuel such as l.p.g., liquefied natural gas, hydrogen and methanol if or when the use of such fuels is warranted on economic or fuel availability grounds. The system is therefore inherently adaptable to take advantage of the most cost effective and appropriate sources of power which may arise from the current world wide research on energy alternatives. The construction of a busway to use diesel buses initially is an effective way of providing an efficient system in the first instance and building in the flexibility to meet future change.

## SPECIAL BRANCH

**The Hon. ANNE LEVY:** Has the Attorney-General an answer to the question I asked on 26 November about Special Branch?

**The Hon. K. T. GRIFFIN:** The staffing of the Special Branch consists of one commissioned officer-in-charge and three other ranks, namely, a Sergeant, Senior Constable First Grade and a Senior Constable. A clerical officer assists the officer-in-charge with his administrative duties. My colleague agrees with my earlier reply that the naming of the officers would be inappropriate.

## CORPORAL PUNISHMENT

**The Hon. ANNE LEVY:** Has the Minister of Local Government an answer to the question I asked on 25 November about corporal punishment?

**The Hon. C. M. HILL:** The answer regarding the application of regulation 123 (3) is "No".

## DISPLACED TEACHERS

**The Hon. ANNE LEVY:** Has the Minister of Local Government an answer to the question I asked on 20 November about displaced teachers?

**The Hon. C. M. HILL:** A family impact statement was not prepared because the policy is a long-standing one, and not a new proposal. However, in all cases of possible displacement, compassionate reasons advanced by the teacher are taken into account before a decision is made. Furthermore, a panel of six teachers, nominated by the President of the South Australian Institute of Teachers acts as a review group for these decisions.

## NURSE TRAINING

**The Hon. FRANK BLEVINS** (on notice) asked the Minister of Community Welfare:

1. Which South Australian hospitals conduct training courses for persons wishing to become registered as general nurses by the Nurses Board of South Australia?

2. For each of the hospitals named in answer to Question No. 1:

*(a)* How many applications were received for positions as student nurses during the years 1977-78, 1978-79, 1979-80 from—
(i) females;
(ii) males?

*(b)* How many of the successful applicants during the periods mentioned were—
(i) female;
(ii) male?

3. Which hospitals conduct training courses for persons wishing to become enrolled with the Nurses Board of South Australia?

4. For each of the hospitals named in answer to Question No. 3:

*(a)* How many applications were received for positions as trainee nurses from—
(i) females;
(ii) males?

*(b)* How many of the successful applicants during the periods mentioned were—
(i) female;
(ii) male?

**The Hon. J. C. BURDETT:** The replies are as follows:

1. South Australian hospitals which conduct full-time training courses are: Adelaide Children's Hospital; St. Andrew's Presbyterian Hospital; Royal Adelaide Hospital; Queen Elizabeth Hospital; Repatriation General Hospital; Lyell McEwin Hospital; Modbury Hospital; Mount Gambier Hospital; Port Augusta Hospital; Port Pirie Hospital; Whyalla Hospital; Port Lincoln Hospital.

There are 23 approved affiliate hospitals (part-time training schools), of which 16 admitted students during the calendar year 1979.

2. *(a)* (i) and (ii). Very few institutions record the number of applications received, therefore complete information on initial applications or inquiries is not available.

*(b)* For the calendar year 1979, examination of the data available suggests that a variable number to around 9·54 per cent of the approved applicants were male. Not all of these would have taken up the option to commence training, and not all would have commenced during the year ended 1979.

(i) Similar information for the calendar year of 1978 is not available in a readily accessible form. Some data for 1977 also exists but it is not known at this stage if the required information can be extracted.

(ii) The figure of 9·54 per cent obtained for 1979 is marginally less than the results shown in the National Survey of Nursing Personnel carried out from March to August 1978, wherein it was revealed that 12 per cent of students for the Registered Nurse course were male.

3. South Australian hospitals which conduct full-time training courses for persons wishing to become enrolled nurses with the Nurses Board of South Australia are: Adelaide Children's Hospital; Flinders Medical Centre; Lyell McEwin Hospital; Repatriation General Hospital; Royal Adelaide Hospital; St. Andrew's Presbyterian Hospital; the Queen Elizabeth Hospital; Mount Gambier Hospital; Port Augusta Hospital; Port Pirie Hospital; South Coast District Hospital (Victor Harbor); and Whyalla Hospital.

There are 51 approved affiliated hospitals (part-time training schools) of which 47 admitted students during the calendar year 1979.

4. *(a)* (i) and (ii) Applications are received by all 63 individual hospitals. Very few institutions record the number of applications received, therefore, complete information on initial applications or inquiries is not available.

*(b)* For the calendar year 1979, examination of data available suggests that a variable number of to around 5·23 per cent of the approved applicants were male. Not all of these would have taken up the option to commence training and not all would have commenced during the year ended 31 December 1979.

(i) Similar information for the calendar year of 1978 is not available in a readily accessible form. Some data for 1977 also exists but it is not known at this stage if the required information can be extracted.

(ii) The figure of 5·23 per cent obtained for 1979 is less than the national average revealed by the result of the National Survey of Nursing Personnel carried out from March to August 1978, where it was revealed that 9 per cent of enrolled nurses were male.

## RELIGIOUS EDUCATION

**The Hon. ANNE LEVY** (on notice) asked the Minister of Local Government:

1. In how many schools (primary, secondary, and area schools) is the subject of Religious Education being taught in 1980, and which are they?

2. In each of these schools, which years of students are taking the subject of Religious Education, and approximately how many students are in these classes?

3. In how many schools (primary, secondary, and area schools) is the subject of Religious Education expected to be taught in 1981, and which are they?

4. How many teachers in the Education Department have been specially trained (either pre-service or in-service) to teach the subject of Religious Education?

5. Are any teachers teaching the subject of Religious Education who have not had either pre-service on in-service training for this subject, and, if so, how many?

**The Hon. C. M. HILL:** The replies are as follows:

1. 86. The individual schools are listed on the attachment.

2. Religious Education can be and is being taught at all levels from Junior Primary through to Upper Secondary. Decisions as to the level at which Religious Education is taught in individual schools are taken at the local level, and it would be necessary to circularise all schools to provide an accurate answer to the question. Similarly, information of numbers of students involved cannot be obtained without approaching all schools.

3. An additional 27. The individual schools are listed on the attachment.

4. 486.

5. All teachers at schools which offer Religious Education have had some formal pre-service or in-service training for the subject.

RELIGIOUS EDUCATION PROJECT

*Primary and junior Primary Schools Currently Offering Religious Education*

Ascot Park Primary School
Darlington Primary School
Hawthorndene Primary School
Morphett Vale East Primary School
Noarlunga Primary School
Stanvac Primary School
Victor Harbor Primary School
Eden Hills Primary School
Westbourne Park Primary School
Christies Beach Primary School
Warradale Primary School
Eden Hills Primary School
Seaford Primary School
Ethelton Primary School
Fulham Primary School
Kingscote Area School
Largs North Area School
Le Fevre Junior Primary School
Le Fevre Primary School
Brahma Lodge Primary School
Direk Primary School
Enfield Primary School
Fairview Park Primary School
Ingle Farm Primary School
Ingle Heights Primary School
Madison Park Primary School
Northfield Primary School
Parafield Gardens Junior Primary School
Parafield Gardens East Primary School
Para Hills West Junior Primary School
Salisbury North Primary School
St. Agnes Primary School
Surrey Downs Primary School
Williamstown Primary School
Unley Primary School
Blyth Primary School
Clare Primary School
Kadina Primary School
Port Vincent Rural School
Price Primary School
Spalding Primary School
Wallaroo Primary School
Warooka Primary School
Minlaton Primary School
Crystal Brook Primary School
Gulnare Primary School
Cummins Area School
Bordertown Primary School
Beachport Primary School
Frances Primary School
Glenburnie Primary School
Kingston Area School
McDonald Park Primary School

Mil Lel Primary School
Millicent South Primary School
Mt. Gambier East Junior Primary School
Mt. Gambier East Primary School
Mt. Gambier North Junior Primary School
Mt. Gambier North Primary School
Naracoorte Primary School
Tarpeena Primary School
Yahl Primary School
Fraser Park Primary School
Tailem Bend Primary School
Geranium Area School
Lameroo Area School

*Primary and Junior Primary Schools Training Key Teachers to Implement Religious Education*
Ardtornish Primary School
Modbury West Primary School
Glen Osmond Primary School
Parafield Gardens Junior Primary School
Two Wells Primary School
Flaxmill Primary School
South Downs Primary School
Glenelg Primary School
Murray Bridge South Primary School
Salisbury North Junior Primary School
Elizabeth West Primary School
Hackam East Junior Primary School
South Road Primary School
Myponga Primary School

*Primary and Junior Primary Schools Waiting on Material Before Implementing Religious Education*
Clapham Primary School
Colonel Light Gardens Primary School
Seaview Downs Primary School
Parndana Primary School
Ingle Farm Junior Primary School
Highgate Primary School
Burnside Primary School

*Secondary Schools Currently Offering Religious Education*
Cummins Area School
Daws Road High School
Geranium Area School
Gladstone High School
Heathfield High School
Ingle Farm High School
Kingscote Area School
Marden High School
Marion High School
Minlaton High School
Mitcham Girls High School
Modbury High School
Mt. Barker High School
Mt. Gambier High School
Murray Bridge High School
Nailsworth High School
Norwood High School
Plympton High School
Salisbury High School
Seacombe High School
Smithfield Plains High School
Thebarton High School
Grant High School

*Schools Interested in Commencing Religious Education in 1981-82*
Gawler High School
Marryatville High School
Naracoorte High School
Penola High School
Salisbury East High School
Augusta Park High School

## COMMUNITY AID ABROAD

**The Hon. C. W. CREEDON** (on notice) asked the Minister of Local Government: In view of the fact that Community Aid Abroad has stated, through its Director, that it has now turned its attention to Australian Aborigines because "State Governments are not delivering the goods"—

1. Is the State Government financially involved with C.A.A. funding of projects in connection with South Australian Aborigines?

2. If so, what proportion of State Government funding constitutes the total cost of the particular projects?

3. Is the Government aware of C.A.A. funding in any other projects involving South Australian Aborigines, and if so, what are the particular projects?

**The Hon. C. M. HILL:** The replies are as follows:

1. No.

2. Not applicable.

3. Yes. The programme is the Pitjantjatjara Homeland Health Service based at Kalka. To date a contribution of $5 000 has been made to the programme through the Pitjantjatjara Council based at Alice Springs.

## EXECUTORS COMPANY'S ACT AMENDMENT BILL

**The Hon. K. T. GRIFFIN (Attorney-General)** obtained leave and introduced a Bill for an Act to amend the Executors Company's Act, 1885-1978. Read a first time.

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

*That this Bill be now read a second time.*

In 1978 an amendment was made to the Executors Company's Act limiting the number of votes that could be exercised by any individual shareholder or group of associated shareholders to a maximum of 1·67 per centum of the total number of class A and class B shares issued by the company. (The limitation did not extend to class C shares.) It will be noted that the amendment related only to voting rights and did not impose any limitation on the number of shares that might be held by any shareholder or group of shareholders. However, soon afterwards an amendment was made to the articles of association of the company imposing a corresponding limitation on the number of shares that could be held by a shareholder, or over which he could exercise control.

The inclusion of the limitation upon maximum shareholdings in the articles of the company has resulted in a number of problems of a technical nature. It would clearly be more satisfactory to include both the limitation upon the size of shareholdings and upon voting rights in the Executors Company's Act. This would obviate problems that arise by reason of the contractual nature of the articles. The present Bill is designed to accomplish this object.

The 1978 amendments also included powers to enable the Directors to ascertain whether or not the Act and the articles of association were being complied with. The Government has been informed that the powers are inadequate and that the provisions of those amendments are being circumvented. A device being adopted to circumvent the Act is to acquire shares and not register the transfer of those shares, and to refuse to respond to a request by the Directors either for a statutory declaration under section 21a (4) of the Act or other information. The Government is of the view that the provisions of section

21a should not be circumvented. Accordingly, this Bill gives wider powers to ensure that the principle established by the 1978 amendment is not circumvented.

The provisions imposing a limitation upon the size of shareholdings largely follow corresponding provisions recently enacted by the Parliament in the South Australian Gas Company's Act. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

**Explanation of Clauses**

Clauses 1, 2 and 3 are formal. Clause 4 repeals the existing provisions of the principal Act under which voting rights of shareholders are limited and enacts new provisions in their place. New section 22 contains a number of definitions required for the purposes of the new provisions. It should be noted that the definition of "share" is limited to class A and class B shares (that is, class C shares are excluded). New section 23 defines what is meant by an "associate" for the purposes of the new provisions. This definition largely follows a corresponding provision in legislation recently enacted relating to company takeovers. New section 24 defines a "relevant interest" in a share. This concept broadly denotes a power of control over the share or rights attached to a share. The definition is also derived very largely from the company take-over legislation.

New section 25 provides that where shareholders are associates in terms of the new provisions, they shall be treated as a group of associated shareholders. New section 26 provides that no shareholder or group of associated shareholders is entitled to hold more than 1·67 per centum (or such greater percentage as may be prescribed) of the total number of the issued shares of the company. New section 27 enables the company to obtain information relevant to the enforcement of the new provision from transferees of shares and new section 28 enables similar information to be obtained from shareholders. New section 29 enables the company or the Corporate Affairs Commission to obtain a summons for examination before the Supreme Court of a person who may be able to give information relevant to the question of determining whether the limitations imposed by the new provisions are being infringed. New section 30 limits the voting rights of shareholders, or groups of associated shareholders, who hold more than the maximum permissible number of shares. New section 31 empowers the Minister to require a shareholder, or a member of a group of associated shareholders, that holds more than the maximum permissible number of shares to dispose of portion of his shareholding. Failure to comply with such a requirement will result in forfeiture of the shares, and sale by the Corporate Affairs Commission.

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

## EVIDENCE ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments.

(Continued from 27 November. Page 2334.)

*Amendment No. 6:*

**The Hon. K. T. GRIFFIN:** When we were debating this matter last Thursday afternoon the Leader made a number of comments about amendment No. 6 and the proposed amendment that he was supporting. I want to make a few brief comments on the principle embodied in the Leader's amendment, which of course is relevant to amendment No. 6. The Leader is seeking to emasculate the power which is sought to be given to a police officer conducting an inquiry into an area of corporate crime. It emasculates it because, if notice of the order is to be given to the person whose records are the subject of the order within 30 days after making the order, it will alert both that person and possible accomplices to the fact that the inquiry is being conducted and that records have been examined.

In the area of corporate crime in particular, which is the area that prompted the amendments to the original Bill, it is not uncommon for a number of companies to be inter-related and to be involved in a suspected fraud. In that context, such a scheme will often involve a number of different people. It is important for the purpose of tracking down the facts that investigators have access to information at an early stage to assist them to tie together the complex schemes that are often involved in corporate fraud.

I refer to the situation in New South Wales where the Bartons, who are notorious evaders of the law and responsibility, have used every device in the book to avoid being brought to court. If one checks the report of the special investigation undertaken when the Barton companies were being examined, one will see how complex the transactions were which enabled the Bartons to outwit the investigators. One must remember that the perpetrators of fraud have a two-fold head start on the investigators. First, their actions have been taken well in advance of coming to the notice of the authorities, and, secondly, the people concerned are way ahead of the investigators, because the perpetrators of corporate fraud know what scheme they have adopted and obviously have carefully thought it through before implementing it. The investigators start at a distinct disadvantage and well behind the perpetrators of corporate fraud.

The Government believes that the earlier access can be given to records, including bankers' records of both companies and individuals suspected of being involved in a corporate fraud, the greater the chance that the perpetrators of the fraud will be apprehended and brought to justice and the greater the opportunity will be to ensure that evidence is not tampered with or destroyed or accomplices warned so that they, too, can take evasive action. It is really quite strange that the Opposition, which was so vocal about corporate fraud when it was in Government, should now be seeking to emasculate the provision so that accomplices, for example, even persons whose records are under investigation, may have an early opportunity to avoid the responsibilities placed on them by law and avoid being brought to justice. That is really what this clause will do if the Leader of the Opposition's amendment is accepted by the Committee.

Within 30 days of a court making an order, the person whose records are being investigated will be notified, and he will have every opportunity to take evasive action to warn others or even leave the country. The Committee should remember that there is already, under section 49 (2) of the Evidence Act, power for a court to order the inspection of banking records. That provision empowers a judge or a special magistrate to make an order with or without summoning a banker or any other party to be heard on the application. Obviously, inherent in that provision is a judicial discretion as to whether or not any one or more of the interested parties should be given notice of the application, and then of the order. The application which is presently allowed under the Evidence Act is upon a complaint being issued. I think all members

would be aware that a complaint need not be issued based upon evidence which will sustain a charge, but can be issued for the purposes of invoking section 49 (2). Under my authority as Minister, that course of action would certainly not be pursued, and I am not suggesting that it has been done in the past.

At least there is an opportunity for a complaint to be issued, based upon fairly flimsy evidence, with a view to invoking section 49 of the Evidence Act and then to build up a case. What happens in practice is that the complaint is only issued when investigators are satisfied that they have a reasonable prospect of succeeding in proving the charge that is the subject of the complaint, and it is at that point, when the complaint is issued, that application is made to the court for access to bankers' records. This provision merely seeks to bring back to a much earlier time the opportunity for investigators to obtain evidence in relation to those persons who are suspected of being involved in corporate fraud. I believe that is quite an appropriate basis upon which Parliament should support the amendments that I originally proposed in the legislation.

I now turn to the second part of the Leader's proposed amendment, and that is to require the Commissioner of Police in each month to cause to be published in the *Government Gazette* a notice setting out the number of applications made during the preceding month, the names of the judges to whom the applications were made, and the number of applications granted by each judge. I believe that that will also contribute to the emasculation of this clause, because it works to the detriment of the administration of justice and not to its advantage. I can forsee that the publication of this type of information will cause a great deal of concern to many people in the community who have nothing to fear from the clause, and that they will begin to ask questions. Whether one is in Government in Opposition, undoubtedly political questions will be raised about the way in which the courts have been administering this particular proposal. I am not opposed to that, but I believe that it could well be used to the detriment of the administration of justice, rather than the administration of justice in this context.

To publish the names of judges to whom applications have been made and the number of applications granted by each judge would, in my view, introduce a somewhat unsavoury element into the administration of this particular clause. I certainly have no objection to the type of amendment that was accepted in another place, although I believe that it is unnecessary. Nevertheless, I am prepared to accept it if it puts people's minds at rest. The Leader's amendment, however, will undoubtedly create a great deal of concern in the community as and when numbers of applications and the names of judges are published monthly. If this amendment became part of the legislation, the clause would never be used for that very reason. Other steps would be taken to obtain the evidence under the provisions which already exist in the Evidence Act and which have already proved to be inadequate in several investigations conducted by the Corporate Affairs Commission. For those reasons, I believe that the Leader's proposed amendments are quite inappropriate.

**The Hon. C. J. SUMNER:** I have listened carefully to what the Attorney-General has said about this matter, but I am not convinced. As justification for his opposition to my amendment, he referred to the Government's determination to fight corporate crime. I imagine that the Opposition is at one with the Government in that endeavour, because the opposition has no intention of condoning corporate crime. We recognise the difficulties that exist in this area because of the complicated arrangements which can be entered into between people and companies to defraud other people.

Accordingly, while realising the difficulties, the Opposition does not believe that the amendment that I intend to move will hamper the law enforcement authorities in their fight against corporate crime. My amendment merely provides that, within 30 days of a judge making an order that bank records can be inspected by the police, the person whose bank account is being inspected should be notified.

I do not see how that can interfere with the authorities' actions in enforcing the law in this area. First, the order relates to banking records: it is not an order to inspect records in the hands of the suspected person so that, if he gets notice of this, he can destroy, hide or do something with them. They are banking records and are secure in the bank, so there is nothing that a suspected individual, his friends or accomplices could do to obtain those records.

I do not therefore see that there is much validity in that argument. The Attorney-General said that the suspected person could warn others of the investigation. That may be so, but surely the other persons or the suspected person cannot do anything with the records, because they are in the security of the bank.

So, while supporting the Government's desire to ensure that people engaging in corporate crime or white collar crime are caught, the Opposition does not see that this amendment is necessary in order to achieve that purpose. The Council for Civil Liberties and Mr. Lewis, the member for Mallee in another place, have indicated that the normal principles of our criminal justice system are that, where a person has an order made against him, he ought to be given notice of that order within a reasonable time.

Regarding the second part of my amendment, namely, the gazettal of the number of applications made and the names of the judges before whom they are made, it seems to me that the Attorney-General has resorted to a veiled threat. He has said, "If this passes in its present form, the section whereby police can inspect banking records will not be used." I find that a rather strange attitude, which should not be acceptable to the Council.

The Attorney-General is virtually saying, "Unless you agree with me, the Government will not use the provisions in the Bill." I cannot see any objection to making public the number of applications that are made or the names of the judges before whom they are made. I do not see what detriment to the public interest there can be in that. After all, matters come before the court daily that are made public. The names of the judges who hear cases are often made public.

Why, therefore, the Attorney-General should be shying away from judges having their names published in the *Government Gazette* as having heard these applications, I do not know. Obviously, the basis to this amendment is that, in an area where it is not necessary to have the attendance of a person whose records are being inspected, there should be no suspicion that anything untoward is happening in relation to the administration of the provision.

Undoubtedly, Mr. Lewis and the Opposition certainly have in mind that the gazettal of this information would ensure that people see that justice is done in relation to these applications. The Committee should find inappropriate the threat that has been made. Gazettal, as suggested by my amendment, is appropriate. Regarding banking records and notice being given of an inspection, I cannot, despite the Attorney-General's attempts to persuade me otherwise, see that this will hamper police attempts to get to the bottom of any corporate misfeasance. I now formally move to amend the House of Assembly's

amendment as follows:

Leave out the passage: "Where an order is made under this section authorising the inspection of banking records relating to the financial dealings of a person, and that person was not summoned to appear in the proceedings in which the order was made,".

**The Hon. K. T. GRIFFIN:** The Leader of the Opposition does not seem to recognise that bank records include things such as cheques. A bank customer can require his bank to deliver over cheque forms and, while a person under investigation might already have required the return of those cancelled cheques to him by the bank, the fact is that, if such a person and possible accomplices are alerted, they will have an opportunity to recover from their banks their own cancelled cheques, which are, of course, the best evidence available to identify the chain of a certain transaction.

The other point that has been overlooked is that, if notice is given to an individual that his or her bank records have been the subject of an order, the accomplices will have an opportunity to alter or destroy their other records in addition to obtaining their own cheques from the bank. They will also have an opportunity to avoid apprehension by departing from the jurisdiction.

For those reasons, the provision that the Leader is suggesting is quite inappropriate, because it will act to alert an individual and accomplices to an investigation of their records, and will give them an opportunity not only to destroy and alter both banking and other records but also to leave the jurisdiction.

Regarding the other matter, I did not make a veiled threat to the Committee. I indicated that, if the proposed amendments ended up in the Bill, it would be unlikely, because of the undoubted difficulties that they created, that they would be of any use to investigators of corporate fraud.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Cameron.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Leave out remainder of proposed subsection (2a).

Amendment carried.

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

That the House of Assembly's amendment be amended by inserting the following subsection:

(2a) Where an order is made under this section authorising the inspection of banking records relating to the financial dealings of a person, and that person was not summoned to appear in the proceedings in which the order was made, the judge shall, within 30 days after making the order, cause written notice of the order to be given to that person.

**The Hon. K. T. GRIFFIN:** I oppose the amendment but, as the Leader of the Opposition succeeded in the first round, I do not intend to call for a division.

Amendment carried.

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

That the House of Assembly's amendment be amended by leaving out proposed subsection (2b) and substituting the following subsection:

(2b) The Commissioner of Police shall, in each month, cause to be published in the *Gazette* a notice setting out—

*(a)* the number of applications made under subsection (1a) during the preceding month; and

*(b)* the names of the judges to whom the applications were made, and the number of applications granted by each judge.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Cameron.

Majority of 1 for the Ayes.

Amendment thus carried; motion carried.

The following reason for disagreement to the House of Assembly's amendment No. 1 was adopted:

Because the amendment is inappropriate at this time.

## ART GALLERY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 2320.)

**The Hon. ANNE LEVY:** I support the second reading of this Bill. As indicated in the Minister's second reading explanation, the effect of this Bill is to abolish section 15 of the Art Gallery Act. This section of the principal Act defines the existence of the Art Gallery Department in the Public Service and indicates that the Director of the Art Gallery will be the permanent head of that department. As explained by the Minister, to so abolish the Art Gallery Department within the Public Service is in line with the Corbett Report on the administration of the Public Service, which recommended the amalgamation of small departments. The result, in this case, will be to group together all bodies concerned with the arts into a single department, with simplified administration and Ministerial structure. The Art Gallery will then become a division within the Department of the Arts in the same way as the Museum is currently a division within that department.

I presume that when this occurs applications will be called for a Director of the Department of the Arts, as currently no such person has been appointed. I think we need to note that the legislation before us in no way alters the structure or function of the board of the Art Gallery, which will continue to have exactly the same responsibilities with regard to the Art Gallery as it has always had. The Minister did not indicate what the members of the Board of the Art Gallery felt about this legislation. I would be interested to hear any comments he cared to make on their reaction to it. I have heard talk that at one time when such a move was being proposed certain members of the then Board of the Art Gallery opposed such a move on the grounds that they feared it would limit public donations to the Art Gallery if it ceased being a department on its own and became part of another department within the Public Service.

I hope that any such fears are unfounded and that the current Board of the Art Gallery does not have such fears and is perfectly happy with the arrangement suggested. I would also like reassurance from the Minister, if possible, that the Chairman of the Art Gallery Board has been consulted about this matter. I say this particularly as I

know that the Chairman has been away from Adelaide during 1980. I think he is now back in Australia but certainly not back in Adelaide. I trust that consultation has occurred with him, so that he does not arrive back in Adelaide to a *fait accompli* about which he had no warning.

The second point about section 15 of the principal Act which I would like to comment on is that, by repealing this section, the status of the Director of the Art Gallery will of course be altered. Under the section which is being repealed, the Director of the Art Gallery is currently permanent head of the Art Gallery Department, but he will now lose his status as permanent head of a Government department. I should add, of course, that he will not lose in salary but will become head of the Art Gallery Division within the Department of the Arts. This is a lower status than he has had before and will put him on a par with the Director of the Museum and the Director of the Libraries Board, which is a division within the Department of Local Government. The Opposition sees no objection whatsoever to this occurring. It would seem logical that the Director of the Art Gallery should have the same status as the Director of the Museum and the Director of the Libraries Board.

I would seek reassurance from the Minister that Mr. Thomas has been consulted on this matter; I am sure he has been, but perhaps the Minister could indicate publicly that there has been consultation and that Mr. Thomas is happy with the arrangement that has been proposed. I support the second reading.

**The Hon. C. M. HILL (Minister of Arts):** I thank the honourable member for her support. I will deal briefly with the points that she has raised in her contribution to the debate. In regard to the absence from Australia of the Chairman of the board and perhaps the need for him to be informed, the situation is that I have not contacted the Chairman of the board. I understand that he is still out of Australia and the Acting Chairman, His Honor Mr. Justice Ligertwood, has been formally appointed as Acting Chairman.

I have been speaking with him in regard to this matter. One reason why I believe there is not any real need to contact the Chairman is that the Government decided to leave the board with its present role and responsibilities untouched in this matter. The board has very wide powers and heavy responsibilities. The question did arise about whether it would be an appropriate time for the board's powers to be reduced more in line with the powers of the boards of other comparable institutions, but the Government decided not to touch the board in any way at all. Had it decided otherwise, then a strong case could have been made out in support of the need to contact the Chairman whilst he was overseas. However, I have had personal discussions with the present board. I attended a special board meeting which was held at my request so that I could explain the Government's attitude on the need for change and, in broad terms, the board is satisfied with the change. Naturally, it was a little fearful of change.

It raised one or two queries in regard to its future, but I reassured the board that it certainly was not through any criticism at all of the board that the change was being brought about—it was simply for the reasons that I gave in the earlier debate when I introduced the Bill, that is, that there seems to be no need for two separate authorities (namely, the Department for the Arts and the Art Gallery Department) to be two separate departments under the one Minister of Arts. The board accepted that explanation and accepted, too, the inevitability of this change at some time or other in the history of the board.

In regard to the Director, I have had long discussions with the Director about it, and it was true that when the Director lost his title of permanent head of a Public Service department (and that title he will lose as a result of this change), there were one or two considerations that could have adversely affected him had the Government not taken special action. The most important of these is the allowance that is paid to all permanent heads for entertainment purposes, an allowance which I understand is added to their normal salary as permanent head. The Government has agreed that in this instance, because the Director of our Art Gallery does receive special guests to his gallery and because there is a need for the Director to be involved with some expenses on such occasions, the same extra remuneration that the permanent head now receives from the Art Gallery Department, that same amount will be paid to Mr. Thomas in future as a special Art Gallery Director's allowance.

So, from the monetary angle he will not be at any disadvantage. I point out that this morning I discussed the matter with the staff of the Art Gallery and invited questions from the staff and answered questions in regard to the change. In the same manner I reassured the staff as I reassured the board and Mr. Thomas. I emphasised throughout the negotiations that this change is not to be interpreted as flowing from any criticism or dissatisfaction by the Government of the board, the Director or the staff. Indeed, we have a very high admiration for the staff, the Director and the board of the gallery. It is simply in the cause of efficiency in keeping with our general policy of achieving smaller government wherever possible and bearing in mind the opinions of the Corbett Report that we have introduced this change. I hope those explanations satisfy the honourable member.

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

## PRICES ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 27 November. Page 2319.)

**The Hon. B. A. CHATTERTON:** I support the Bill, which amends the Prices Act in regard to the payment of money to grapegrowers by winemakers. The minimum price legislation for wine grapes in South Australia is generally accepted by both sides of the Council although, of course, there are some members of the Liberal Party who have quite strongly opposed it on a number of occasions. I am pleased to see that the Government intends to continue with the system of minimum pricing and that it has rejected the report of a committee of inquiry that it established to look into the system.

That committee had a majority recommendation to abolish the system of minimum price determination as we have it presently in South Australia. The Government has rejected that recommendation, and I assume that the system will continue much in its present form.

The major problem in relation to fixing a minimum price has always been the enforcement of the payment of that particular price. The previous Labor Government started to work in this direction by amending the Prices Act to allow the Prices Commissioner to issue an order determining the price that should be paid for grapes. After a certain time the winery was to pay interest on the money outstanding. Most of the wineries in South Australia have complied with that order and do pay for the grapes they have purchased by 30 September each year. However, there is a small minority of wineries that have not

complied with the spirit of the legislation and the orders issued under that legislation and have delayed payment for their grapes over many years. Of course, that has caused a great deal of hardship to many growers.

I feel very sympathetic towards growers placed in that position, because there has been a surplus of red wine grapes particularly, and growers have been so desperate in their attempts to dispose of their grapes that they have continued to supply them to these wineries in spite of their reputation, in the hope that they would eventually receive some money. The private member's Bill that I introduced earlier this session attempted to go some way towards correcting this situation and assisting growers who were faced with long delays in receiving payment for their grapes. The Government's legislation goes further than my Bill, which I withdrew. The Government's Bill does not allow wineries to take grapes from a grower until the previous vintage has been paid for. I believe that that is an effective way of ensuring that growers are paid for their grapes within a reasonable period of time. The Bill also ensures that those wineries that have been evading paying for grapes cannot escape the provisions of this new Bill by setting up new companies. The Bill ensures that any related companies will be included in this net and will be forced to pay as if they were the same company.

The Minister will have power to exempt particular wineries from the provisions of this legislation. That is reasonable, because on certain occasions some wineries will not be able to pay for the previous vintage before they take in their next vintage. The reasons for not paying will, in some cases, be quite legitimate and it would be quite reasonable for the Minister to provide those wineries with exemptions so that they can continue trading and continue operating, which will allow them to eventually pay for their grapes. Naturally, the Minister will have to conduct a very detailed investigation into the reason put forward by any winery applying for an exemption, but I am sure that his officers will be able to conduct such an investigation and provide the Minister with recommendations as to whether he should grant an exemption or not.

The Bill does not cover the situation in relation to co-operatives. Co-operatives are not included in the prices legislation at the present time, so they do not have to pay the minimum price determined by the Prices Commissioner. I can quite understand the reasons for not including them in this Bill. In fact, it would be impossible to include them. I draw the Government's attention to the problems faced by growers supplying grapes to co-operatives, particularly in the Riverland, and the long delays that are occurring in the payment for those grapes. A Government committee is looking into co-operatives, and I believe that it has looked at this situation as one of the major problems facing co-operative wineries in this State. I also understand that another committee is looking into the problems of Riverland co-operative wineries. That committee will hold discussions with the Government in relation to providing additional funds to pay growers more quickly for grapes that are delivered to those co-operative wineries. I realise that this situation cannot be covered in this Bill, but it is very important to Riverland growers, and I hope the Government is able to do something to help Riverland growers in the future.

The Bill does not prevent the bankruptcy of a winery. That would be impossible to do, but it does protect growers to the extent that they should lose only the money that was due to them for one season's grapes, rather than the present situation where if a winery has gone bad it is usually owing growers for many vintages and, of course, considerable amounts of money. The legislation is a positive step towards helping growers obtain in a more reasonable time, money that is owed for their vintages. This legislation will not adversely affect the great majority of winemakers who already comply with the order under the Act to pay for their grapes by 30 September. This Bill will only bring control over a very small minority of winemakers who have not been abiding by the spirit of this legislation.

**The Hon. D. H. LAIDLAW:** I support the second reading of this Bill, which enforces more strictly the terms by which a winemaker or brandy distiller must pay for grapes. In effect, it says that, if a winemaker has not paid for grapes bought at previous harvests, he cannot take any grapes at the next harvest. This could be quite devastating for a winemaker who has established a market for particular varieties of wine. It is unfortunate that the Government feels compelled to interfere with contracts for the supply of goods, and I hope that the provisions of this Bill are not taken by some future Government as a precedent to interfere with contracts for the sale of livestock, wool or other primary produce when producers are deemed to be in a weak bargaining position.

It has been stated many times that the Liberal Party will not interfere readily with normal commercial practices, but when the public interest is at stake it will take action. Presumably this is such an occasion. I have said previously that the Liberal Party is not a *laissez faire* Party. One only has to read the Liberal Party policy to find that that is so.

The previous Labor Government amended the Prices Act to force winemakers, who have not paid for grapes by 30 September of the year of harvest, that is, within about six months, to pay interest on the moneys outstanding. The vast majority of growers have small blocks and to wait months for payment for what may be their only source of income in a year can be financially disastrous. As the Minister pointed out, most winemakers do pay for grapes in reasonable time, but a few have avoided the intentions of the amendment by adding the interest charge imposed by Statute to the debt owing to growers, but still not paying over any cash.

Members may suspect that I have a pecuniary interest in this matter but this is not so. I am the managing partner of a vineyard but it sells under contract to a co-operative and, as the Minister has pointed out, co-operatives are not subject to the provisions of the Prices Act. I do, however, have considerable sympathy for grapegrowers, who in recent years have been in a weak bargaining position because there has been a surfeit of black grapes and an increasing shortage of white varieties such as rhine riesling and the like.

About 10 years ago, many winemakers persuaded growers to plant large acreages of cabernet sauvignon, shiraz and other black varieties in their belief that the demand for red wine would continue to rise. The winemakers offered to take the grapes from these new plantings, and hundreds of growers in South Australia planted still more black grape vines. The terms of payment usually were quite vague, and growers hoped for the best.

Instead of continuing to rise, the demand for red wine remained static, and many wineries failed to abide by their earlier undertakings, or, if they did so, it was on condition that they would pay for the black grapes either over extended periods or when they sold their surplus red wine in stock. These terms of payment sometimes were not conveyed to the growers until harvest time, when growers generally were too busy picking and carting grapes to have time to look for other outlets for their produce.

The Bill provides that a winemaker or brandy distiller shall not accept delivery of any grapes under a contract unless he has paid in full for grapes delivered in previous

harvests. For example, if he wants rhine riesling or pinot chardonnay grapes in the 1981 harvest, he must have paid for all of the black varieties as well as the white varieties from previous harvests.

The grower who is tied to a winemaker under an exclusive supply contract (and there are hundreds of such contracts in existence) will have the option of avoiding the contract and selling elsewhere if the winemaker has not paid and therefore cannot take the grapes in question. However, there is provision for the Minister to grant exemptions, especially when a winemaker can establish that he is in financial difficulties.

I have said that it is unfortunate that the Government feels compelled to interfere with contracts for the supply of goods. However, it seems necessary to do so in this instance in order to prevent serious financial embarrassment for many small growers. I support the second reading.

**The Hon. J. C. BURDETT (Minister of Consumer Affairs):** I thank honourable members for their contributions. The Government is concerned about slow payments for grapes by some co-operatives and, as the Hon. Mr. Chatterton has said, the matter is being examined.

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

## PRICES ACT AMENDMENT BILL (No. 5)

Adjourned debate on second reading.

(Continued from 27 November. Page 2320.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** I am at this time prepared to give qualified support to this Bill, which, on the face of it, enlarges the Minister's power in relation to fixing maximum prices. It enlarges and makes more flexible the situations in which maximum prices can be fixed.

The Government has stated many times that it is opposed to an extension of price control. Indeed, the actions that the Government has taken to date in this area have tended to downgrade the importance of price control, and, in some ways, to weaken it. So, while the Government has stated that as its philosophy, which was in general terms to allow free market forces to find the appropriate level, in this Bill the Government is proposing that Parliament agree to a broadening of the price control powers and an increasing flexibility for the Government in the use of those powers. The Council ought to be aware of section 21, which is being deleted by the Bill and which provides:

> (1) The Minister by order may fix and declare the maximum price at which any declared goods may be sold throughout the State or in any part of the State specified in the order.
>
> (2) Without limiting the generality of the preceding subsection the Minister may, by order made in the exercise of his powers under that subsection, fix and declare—
>
> *(a)* different maximum prices according to difference in quality or description or in the quantity sold, or in respect of different forms, modes, conditions, terms or localities of trade, commerce, sale, or supply:
>
> *(b)* different maximum prices for different parts of the State:
>
> *(c)* maximum prices on a sliding scale:
>
> *(d)* maximum prices on a condition:
>
> *(e)* maximum prices for cash, delivery or otherwise, and in any such case, inclusive or exclusive of the cost of packing or delivery:
>
> *(f)* maximum prices based on landed or other cost together with a percentage of such cost or a specified amount or both:
>
> *(g)* maximum prices based on such standard of measurement, weight, capacity or other principles as are specified in the order, or based on prices charged by industrial traders on any day specified in the order, with such variations as are specified in the order or with variations determined by reference to a standard, or time, profits, wages, costs or other matters specified in the order.

Honourable members will see that that power is very broad. The Minister said in his second reading explanation that some doubts have been expressed regarding whether section 21 in its present form has the necessary flexibility to allow an order on a certain part or aspect of the market. Although the Minister has said that some doubts have been expressed, he has not said what those doubts are or whether the Government wants to focus on a certain part or aspect of the market. In that sense, the second reading explanation is deficient.

I ask the Minister whether any specific incident or example has arisen in his department that has given rise to this legislation. These things do not usually drop out of the air. Usually, some problem is brought to the department's attention, as a result of which an amending Bill is introduced.

Although this amendment is in general terms, I imagine that the Prices Commissioner has been concerned about specific examples in relation to which he did not have sufficient power to act. I should therefore like the Minister to provide that information to the Council and to say whether he believes that this Bill is an enlargement of those powers, or whether it gives a greater degree of flexibility in the Minister's powers over prices.

I say that because section 21, as I read it, is very broad. Before we change it I think we need to be assured that we are changing it in a way that is not containing the powers over price control which has existed in section 21 since, as the Minister pointed out, 1948. New section 21 provides:

> (1) The Minister may, by order, fix and declare maximum prices in relation to the sale of declared goods.
>
> (2) An order under this section—
>
> *(a)* may fix differential maximum prices that vary according to factors specified in the order;
>
> *(b)* may apply to sales generally or to specified classes of sales; and
>
> *(c)* may apply throughout the State or in specified parts of the State.

So, the proposal is to replace a number of specific cases where the powers may be used and the way in which they may be used by a general power which can be changed and, depending on the circumstances, would need to be specifically mentioned in the order. At this stage I am not completely convinced that new section 21 does improve the situation in terms of enlarging the powers or giving greater flexibility. I would like the Minister to give attention to the present subsection 21 (2) *(d)* which says that the Minister can exercise his powers to fix and declare maximum prices on a condition. I am not sure that the proposed amendment covers that situation. I cannot see anything in the proposed amendment which would do that. Certainly, there is the power to apply difficult maxima in different parts of the State. That is in the present section 21 as in the proposed new section 21. Certainly, the proposed new section 21 ensures that the power can be exercised in relation to sales generally or to certain sorts of sales. In that sense it picks up what is in the present section.

Certainly, the new proposal that an order may fix

differential maximum prices that vary according to factors specified in the order is very broad. I have no doubt that that is what the Minister would rely on in saying that fixing maximum prices on a condition (which exists now in the legislation) is covered. However, I am not so sure that that is broad enough to cover fixing maximum prices on a condition. What the proposed new subsection 21 (2) *(a)* says is that an order may fix differential maximum prices that vary according to factors specified in the order. It does not say whether those factors are a condition. It may be that there are other sorts of general market factors that apply, and it could be interpreted that this new section did not give the Minister power to fix maximum prices on a condition. So, I would like the Minister to give attention to that matter, and I would like his assurance that all the matters at present contained in section 21 will be covered by new section 21. Subject to those explanations and considerations in Committee, the Opposition is prepared to support this legislation.

**The Hon. J. C. BURDETT (Minister of Consumer Affairs):** As the Leader has said, it is true that this Government has wished to move away from price control. We believe, philosophically, that prices should be fixed in the market place. However, we acknowledge that there are times when that does not happen. Then, there must be the power in the Government, through procedures laid down in the Prices Act, to fix the maximum price. When we do maximum price control, we must make sure that it works and we must make sure that it is effective. The reason for this Bill is simply to make certain that the Act is effective. It has been assumed for many years that section 21 is effective. Many prices orders have been made under it which could have been challenged but they were not challenged, mainly, I expect, for the reason that most orders have been for upward movements in prices. However, when we get a downward movement in price, the possibility of challenge arises. I do not believe that it is necessary for the Government, in its second reading explanation, always to give reasons, when we have a Bill and an explanation like this, which sets out frankly what the Bill does. The honourable member has asked for examples, and I will give him one. First, I will quote what I said in my second reading explanation, as follows:

> This section was enacted in 1948 and there have, of course, been substantial changes in trading practices since the date of its enactment. It is now often necessary for the order to focus on a particular part or aspect of the market.

By "market" I refer to both retail and wholesale. The explanation continues:

> Some doubts have been expressed as to whether section 21, in its present form, has the necessary flexibility to allow this to be done. The purpose of the present Bill is to make it clear than an order of limited application—

that is, limited in regard to parts of the State or limited in regard to parts of the market—

> is possible under the Prices Act.

As an example I refer to orders which this Government issued, and they have been discussed in questions in this Chamber on several occasions. We reduced the maximum wholesale price of petrol by 3c. That has been queried, and it has been suggested that it is invalid because it does not address itself to the whole of the market and the whole of the State. It has been suggested that one cannot reduce the maximum wholesale price of petrol without also reducing the maximum retail price of petrol and the price of petrol right across the board.

The matter to which the Leader has referred is the apparent extreme flexibility of subsection 21 (2) in the present Act. Certainly, I agree with him that it does appear to be extremely wide. I must say that it had seemed to me that the doubts which had been cast on the prices orders, which are in a form that they have always been in and have never been challenged and have been properly prepared, might not have merit because of the breadth of subsection 21 (2). However, the argument raised was that subsection 21 (2) does not apply unless one comes within subsection 21 (1). It was suggested that the wording of subsection 21 (1) is such that, unless there is an application across the State and across the board, the power does not exist. That, very briefly, is the argument which has been used. It has been suggested that, in regard to the prices orders which have been made to reduce the maximum wholesale price of petrol, they are invalid for this reason. We want price control to be flexible and to apply in a part of the State or to a part of the market.

**The Hon. C. J. Sumner:** It didn't apply to petrol.

**The Hon. J. C. BURDETT:** No, there are other orders which still apply. This was introduced by the previous Government and never queried. I am not necessarily agreeing with the argument that has been raised, but it has been raised. It seems to me to be necessary to make it clear that where you have control you should be able to exercise it, and to exercise it with regard to all parts of the transaction and all parts of the State where necessary.

The Leader has raised the question that no longer is there power to impose a condition. The Government does view this amendment as one that will make the Act more flexible rather than widening the powers, making it clear that powers which already have been used within the ambit of the Act really were there. It is the view of the Government that power to fix differential maximum prices, that is, to vary them and vary them in various circumstances and according to factors specified in the order, is tantamount to making them subject to a condition. I thank the honourable member for his contribution and assure him that the purpose of the amendment is to make clear that where there is price control it can be used with flexibility and in the kind of circumstance which I think everyone who acknowledges that price control may sometimes be necessary would agree that it ought to apply.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Determination of maximum prices."

**The Hon. C. J. SUMNER:** Would the Minister be prepared to report progress on this clause and place Committee consideration of the matter on motion for some time later today so that I might have an opportunity of conferring with Parliamentary Counsel about the drafting of this provision? I am still not convinced that the power in proposed section 21 is broad enough to impose maximum prices, and I would like the opportunity of further considering that matter. I think that we have indicated our general support for the measure, so there is no intention of delaying it, and I would be happy for the Committee to resume considering the matter later today.

Progress reported; Committee to sit again.

## ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Second reading.

**The Hon. K. T. GRIFFIN (Attorney-General):** I move:

*That this Bill be now read a second time.*

The function of this short amending Bill is to provide for a new give-way rule in relation to what are commonly known as T-junctions. In July 1980, the Australian Transport Advisory Council endorsed the adoption of a

new traffic rule at these junctions for implementation on an Australia-wide basis. In essence, the new rule is very simple; it requires that a driver approaching a junction from a terminating carriageway, that is, the stem of the T, shall give way to any vehicle which has entered or is approaching the junction from the continuing road. This rule marks a major change in the approach to traffic control in Australia by overriding the give-way-to-the-right rule and relegating it to a relatively minor role in the future. It would virtually eliminate the need for signs at T-junctions, thereby introducing significant cost benefits.

The Government is of the view that the rule will assist traffic flow, regularise driver behaviour and improve road safety. This law has been in operation in Western Australia since June 1975. The experience there indicates that there has been a reduction in rear-end collisions on the continuing road and has resulted in a smoother traffic flow. Clauses 1 and 2 are formal. Clause 3 amends section 63 of the principal Act, which deals with giving way at intersections and junctions, and provides, in general, that a person who is approaching a junction on a road that does not continue beyond the junction is required to give way to any vehicle approaching the junction on any other road.

**The Hon. FRANK BLEVINS** secured the adjournment of the debate.

## STATE DISASTER BILL

Second reading.

**The Hon. K. T. GRIFFIN (Attorney-General):** I move:

*That this Bill be now read a second time.*

In July 1975 Cabinet gave approval for the formation of a State Disaster Committee to develop a plan to deal with a major disaster or emergency in South Australia. The committee included representatives of the Premier's Department, the Commissioner of Police, the Joint Services Local Planning Committee, the Engineer-in-Chief and the Director-General of Medical Services. For the purpose of looking into arrangements, a major disaster/emergency was defined as "a serious disruption to life arising with little or no warning causing or threatening death or injury to numbers of people in excess of those which can be dealt with by the Public Service operating under normal conditions and requiring the special mobilisation and organisation of those services together with support from other bodies".

The purpose of this resultant Bill is to make provision for the protection of life and property in the event of a disaster by providing for a State Disaster Organisation clothed temporarily in adequate powers. Experience in dealing with disasters elsewhere highlights the necessity for legal backing for those who have to shoulder the burden at a time of emergency. Not only do responsibilities need to be clearly defined but the extent of powers temporarily vested in combatants also needs to be set. A preliminary survey had already assessed that most departments and large organisations were adequately prepared to meet emergencies within their own area, and other organisations such as the Salvation Army and the South Australian Country Women's Association said that they could quickly summon help and assistance from their members. Indeed, it will be remembered that during the emergency arrangements to assist refugees from the Darwin cyclone disaster it was found that considerable help could be mobilised on an *ad hoc* basis. In that instance, however, the disaster itself occurred in a remote area, and we were not faced with the problems of the area itself.

Local disasters will vary in intensity, loss of life and property and many other factors, so that the prime object of any State plan should be to provide the maximum information on what is available to mitigate a disaster and provide some strong authority which can call up what is needed quickly. Obviously, an effective plan must provide for quick communication to facilitate arrangements and to avoid unnecessary duplication. The basic concept is for one authority to be responsible for the co-ordination of effort, and the State Emergency Plan provides for a State Co-ordinator who will assume command in a declared disaster area. The Bill provides for emergency declarations of disaster areas for periods of up to 12 hours by the Minister. Longer periods are to be declared by the Governor in Executive Council.

The State Co-ordinator is to be the Commissioner of Police. His function will include the execution of all disaster relief measures. There are State Controllers to be appointed in regard to the Armed Services (which will give support to other function services), catering services (to provide for the mass feeding of victims and the provision of meals for field combatants), communications, engineering aspects, fire control services, health and medical services, law and order, State Emergency Service (reconnaissance, search and rescue, registration of volunteers and short-term welfare services), supply of materials, transport services, medium term welfare services and media relations.

Each of these State Controllers would establish headquarters for their function, and the State Co-ordinator would use headquarter facilities which exist in the Police Building in Angas Street until an Emergency Operation Centre is constructed. There is provision for alternative headquarters under certain circumstances. The metropolitan section of the State plan has been completed, and the organisation arrangements have been settled. So, too, have country plans and arrangements.

Because the major hazard in South Australia is probably an earthquake, exercises have already been held to test the efficacy of the organisation arrangements. The necessity to keep personnel aware of their duties in regard to disasters will require similar exercises from time to time. It will be possible of course for the State Disaster Organisation to call upon the Natural Disaster Organisation in Canberra for help. No doubt similar organisations which are being set up in other States would also provide assistance on a reciprocal basis.

A State Disaster Committee is provided in the legislation as a body responsible for reviewing the State Disaster Plan from time to time. In country areas it is planned that police regional commanders will act as co-ordinators in areas which will be synonymous with the police regions.

This Bill, therefore, provides for the setting up of a State Disaster Organisation which will furnish as effective help as possible should a natural disaster occur. Obviously, arrangements would be of assistance in the event of hostilities too. 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 that the Act shall come into operation on a day to be fixed by proclamation. Clause 3 sets out the arrangement of the Act. Clause 4 sets out the definitions necessary for the purposes of the measure. Clause 5 provides for the scope and application of the Act. The Act binds the Crown. Its provisions prevail

over any inconsistent Act or law. Powers conferred are in addition to existing powers: for example, a police officer who becomes an authorised officer retains his usual powers as a police officer. The provisions of the Act are not to be used to bring a strike or lock-out to an end or to control civil disorders, other than civil disorders resulting from, and occurring during, a state of disaster.

Clause 6 provides for the appointment of members of the State Disaster Committee. Clause 7 provides for the conduct of business by the committee. Clause 8 sets out the functions of the committee. Clause 9 provides that the Police Commissioner shall be the State Co-ordinator and also provides for the appointment of a Deputy State Co-ordinator. Clause 10 provides for the delegation by the State Co-ordinator of any of his powers or functions under the Act. Clause 11 provides for the appointment of authorised officers. Clause 12 provides for an interim declaration of a state of disaster by the Minister, because it may not be possible to bring Executive Council together at very short notice. The declaration would remain in force for 12 hours. Clause 13 provides for a declaration of a state of disaster by the Governor. Such a declaration, unless sooner revoked, would remain in force for four days and would not be renewed or extended without the authority of Parliament.

Clause 14 provides for the expenditure by the Government of sums of money necessary for counter-disaster operations and for the relief of distress. Clause 15 provides that during the continuance of a state of disaster the State Co-ordinator may take any necessary action to carry the State Disaster Plan into effect. In particular he may requisition any property, real or personal, within a disaster area, and he may direct the evacuation of any area. Subclause (3) sets out the powers that may be exercised within the disaster area by authorised officers in carrying out the directions of the State Co-ordinator. Subclause (4) provides for compensation to be payable to people who suffer injury, or damage to property, as a result of the exercise of powers under the section. Clause 16 makes it an offence to refuse to carry out the directions of an authorised officer during the continuance of a state of disaster, or to obstruct counter-disaster operations. The maximum penalty for each offence is $5 000.

Clause 17 provides an exemption from liability in the case of a person who has exercised his powers under the Act in good faith. Clause 18 provides that a person who is absent from his usual employment while engaged in counter-disaster operations shall not be prejudiced in his employment. Subclauses (2) and (3) provide for the reimbursement by the Minister of employers who have paid wages or salaries due under this clause. Clause 19 provides that the Workers Compensation Act applies to a person who is injured in the course of counter-disaster operations undertaken pursuant to the Act. The Workers Compensation Act will apply as though the person were an employee of the Minister and in receipt of a prescribed wage. Generally, the prescribed wage would be the same as the usual weekly earnings of the person concerned, but special provision will be necessary for those who are self-employed or unemployed.

Clause 20 provides that a certificate of the Minister relating to counter-disaster operation shall be received in any legal proceedings as proof of the facts certified therein, in the absence of evidence to the contrary. Clause 21 provides for the summary trial of offences against the Act and states that proceedings shall not be taken in relation to such an offence except with the approval of the Attorney-General. Clause 22 provides that where a corporation is convicted of an offence under the Act a director or manager may be convicted of a similar offence. Clause 23 is the general appropriation provision. It is in addition to the special appropriation under clause 14. Clause 24 provides for the making of regulations.

**The Hon. FRANK BLEVINS** secured the adjournment of the debate.

## SHOP TRADING HOURS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 2323.)

**The Hon. FRANK BLEVINS:** The Opposition generally supports this Bill. We have some small sympathy with the Government in relation to shopping hours. Obviously, this is an area where one cannot satisfy everyone. There are a large number of competing interests, including some traders. The larger traders (most of them, anyway), basically do not want an extension of trading hours, and all small traders seem to want the right to trade whenever they wish. The permanent shop assistants in the industry are being hurt no end by the extension of shopping hours, by the casualisation of that work, and by the industry's ruthless shopowners who are introducing casual labour.

They are introducing such labour to cut costs and deprive consumers of suitable service. They are introducing permanent part-time work which, in the long term, will reduce living standards of workers. There is some conflict there. There is also a conflict of interests among consumers: some want to shop at any hour they wish while some realise that in theory it is fine but in practice it results in increased costs in the industry and increased prices.

How does one sort out all these conflicting interests? The Labor Party's position is perfectly clear. We say that Parliament has no role in this area and that the conflicts are best resolved by the parties themselves, by the shop assistants, by the Retail Traders Association, the Small Businesses Association, the employers in general and the State Industrial Commission.

If there is any conflict when there is no agreement between the two parties representing employers and employees, then that is where the role of the commission comes in. In general, its role is to regulate working hours and rates of pay. That is not the role of Parliament, nor should it be. In this area the Australian Labor Party feels strongly that there is no role for Parliament. I think it was in 1976 when we attempted to get rid of the shopping hours question from the hands of politicians and put it in the hands of the people primarily concerned. That desire was frustrated by this Council, and we had to achieve our intention by a round-about attempt through establishing a Royal Commission under former Commissioner Lean.

The result of that Royal Commission was the passing of the shopping hours legislation. In the main, this amending Bill does not detract from that, except in one important area. The reason we support the Bill is that it is basically in line with the findings of the Royal Commission. The Bill provides fairly strict restrictions on the large stores, particularly department stores and large supermarkets. It does permit one late trading night a week, which we believe is necessary for people on shift work and day work to enable them to have some form of flexibility in the hours that they go shopping.

At the same time it provides much flexibility for family businesses. We concede that there is a role in society for small businesses, particularly in the retail area, because they fill a gap that the big stores tend to ignore, as it is relatively unprofitable unless one works extremely long

hours for extremely low returns. The big stores are not interested in that, and small businesses do fill a need.

The Bill also allows some latitude in regard to the purchase of cars, boats, caravans and the like. There is a call for such items to be bought outside normal shopping hours. They are not items that one can walk in and take from the shelf in two or three minutes. It takes much time to decide on the purchase of such items, and it is traditional for families to be involved in a joint decision in the purchase of such items. In our society this is no longer the sole province of the male, although I do not believe that the number of males in the work force has decreased but that the number of females in the work force has increased. This explains the need to provide these items outside normal shopping hours.

Special provision was also made in the original Bill for so-called convenience shops which can best be described as small supermarkets. They appear to fulfil a need and fill a gap in regard to the hours and availability of food. That provision is retained in this Bill, but with some alteration. After the original Bill was passed, a large number of shopowners and proprietors showed enormous initiative and got around the Act successfully. They did this by a variety of means, including the artificial partitioning of shops so that there were no more than three salespeople present in each partitioned area of the shop.

They said that only one small part of the shop comprised the actual shop floor and that nine-tenths of the area was a storeroom. Once again, that showed a great deal of ingenuity. One would have thought that, given the political persuasion of the present Government, such ingenuity, such get up and go and such striving for self-betterment to make a dollar (and all the other nonsense that the Government normally talks about) would not disturb the Government too much. Apparently its bosses in the Retail Traders Association, however, did not like that situation at all, because they have come down fairly heavily on the Government and made it tighten up this area through this amending Bill. I believe that it has done this very successfully.

Some businesses, particularly car yards, boat yards, and so on, ignored the legislation altogether. There is nothing much one can say about that other than they were trading illegally. Persons working in that area decided to work long hours in an attempt to improve their financial position. They decided to go into the market place and compete. Again, one would have thought that this Government would find that commendable. However, such trading is to be stopped. That show of initiative and get up and go has apparently offended some of the larger motor car retailers, who have asked this Government to stop that practice, which the Government has done with a vengeance.

The Government has dramatically increased the penalties from a maximum of about $500 (the system of fines works on a three tier system and I think the present maximum fine is $500, but I stand to be corrected on that) to a maximum fine of up to $10 000. If people show any initiative by working long hours outside the hours prescribed by this so-called free enterprise Government, they will be squashed with up to a $10 000 fine.

**The Hon. L. H. Davis:** Up to $10 000.

**The Hon. FRANK BLEVINS:** I previously said "up to $10 000". I know that the Hon. Mr. Davis has difficulty in reading, but I did not think that he also had difficulty in hearing. Not only will these businessmen be squashed with a fine of up to $10 000: they will receive an additional penalty to be decided by the court as the amount that they would have benefited by when trading illegally. That is a very powerful weapon. If the Labor Party had introduced a similar provision when it was in Government the screams from the Liberal Party would have been deafening. The Labor Party would have been accused of all kinds of things: stifling free enterprise and introducing quite unnecessary and Draconian penalties. It seems to me that there is one law for the Labor Party when in Government and one law for the Liberal Party when it is in Government. Everything that the Liberal Party said about shopping hours when it was in Opposition has been overturned by this Bill. When in Opposition, Mr. Tonkin said on 1 November 1977, at page 537 of *Hansard:*

> The Liberal Party believes, in general principal, that, if all restrictions were removed during the working week (that is, from midnight on Sunday to 1 p.m. on Saturday), traders, shop assistants, consumers, and everyone else concerend would be able to reach agreement on rational, reasonable and desirable shopping hours without the intervention of Parliament at all.

Three years later, the Government is intervening with a vengeance.

**The Hon. R. J. Ritson:** We're liberalising it.

**The Hon. FRANK BLEVINS:** Do you call this liberalising?

**The Hon. R. J. Ritson:** Yes.

**The Hon. FRANK BLEVINS:** I do not know how the Hon. Dr. Ritson can rationalise that statement. This Bill in no way liberalises anything at all. Another clause causing the Opposition some concern is clause 4, and we will strongly oppose it. Clause 4 gives the Minister the right to issue a certificate of exemption to a shopkeeper in relation to a shop specified in the certificate. In other words, at his whim, the Minister can exempt any shop from this trading hours legislation. The abuse that that power is open to is absolutely enormous. The Minister can, on a grace and favour basis—

**The Hon. J. C. Burdett:** Come on!

**The Hon. FRANK BLEVINS:** I did not say that he will: I said that he can, on a grace and favour basis, give a shop an advantage over its competitors. If this provision remains we may as well toss out all the shopping hours legislation. In fact, it comes down to the Minister deciding when a shop should or should not trade. The Minister can say that every other shop shall comply, but for reasons best known to himself, which he does not have to justify, he will let certain shops do as they wish. Once again, if the Labor Party had introduced that clause into shopping hours legislation, the screams would have been very loud indeed—and justifiably so.

I realise that there is a clause elsewhere in this Bill that certainly does not go as far as that, but it does give the Minister some latitude. This clause, which is quite definite and specific, gives the Minister the right to virtually tear up the Act and do exactly as he wishes in relation to the opening and closing of shops. That situation is absolutely intolerable. If a case can be made out for regulating shopping hours at all (and this Government certainly seems to think it can, because it has introduced this amending Bill), there can be no justification for allowing the Minister, at his own whim and for reasons known only to himself, to exclude certain shops from those shopping hours. That provision is totally unacceptable to the Opposition. One may as well forget the entire Act and simply leave it up to the Minister.

Obviously, the Government's intention in clause 3 is to protect small business men and give them greater flexibility regarding the hours they open, as opposed to the large retail stores. Whilst the Opposition generally supports that concept, we feel that the Government has not gone about it in the correct way. The original Bill as introduced by the then Minister of Labor and Industry,

Mr. Wright, is the best way to go about it. That Bill was based on the findings of a Royal Commission which, from my information, was the first completely independent inquiry into shopping hours that this State has had this century. The Royal Commissioner recommended that small business be protected by defining the people employed as natural persons. That means that they were not to be incorporated companies. Argument has been put in another place that that is not the best way to go about it and that this Bill is a better way of approaching the matter. The Opposition cannot accept that. We still believe that the best course is to include natural persons in the legislation. They will be the genuine small business people.

**The Hon. R. J. Ritson:** What about the small family company running a delicatessen?

**The Hon. FRANK BLEVINS:** I was going to conclude on this note: this is obviously a Committee Bill, and such points are better debated in Committee rather than, as the Hon. Dr. Ritson wishes to debate them, by way of interjection. This is a complicated and sensitive area, and I should much prefer to debate the matter of natural persons *versus* the Government's desires when I move my amendments to clause 3.

The Opposition supports the Bill generally, but totally opposes clause 4, which is an unnecessary provision that virtually enables the Minister to tear up the Bill. The Opposition comments on, although does not oppose, the absolute Draconian penalties for people who violate the provisions of the Bill. We believe that our amendments to clause 3 will satisfy the desire to look at small businesses more than the Bill does. I indicate the Opposition's support for the second reading of this Committee Bill, and state that we will move amendments that I hope are on file by now.

**The Hon. L. H. DAVIS:** It is pleasing to know that the Labor Party in this place and in another place is in broad agreement with the principles that have been set out in the Bill. This reflects a good deal of work and consultation by the Minister and the Government. After a period of many months, the matter has finally come to fruition in the form of this Bill.

The Hon. Mr. Blevins was correct in stating that this is a contentious area, on which it is always difficult to achieve a consensus. However, as the Minister who introduced the Bill in another place said, a high degree of consensus has been achieved in this case because of extensive consultations between the various parties involved in an attempt to accommodate the inevitably varied views of those parties.

I should like to reflect on some of the comments made by the Hon. Mr. Blevins and to correct some of the points that he made. The honourable member implied that the Liberal Government was imposing restrictions that might impact more on the hardware and building material area because of pressure that was being applied by the Retail Traders Association and other groups. Of course, that is absolute nonsense.

The Hon. Mr. Blevins did not give one instance of where an existing hardware or building material store would be affected by the legislation. I understand that this group is pleased with the proposed amendments; that can also be said in relation to motor car retailers. In fact, the Professional Car Dealers' Association is pleased that the proposal will effectively bring an end to weekend trading in that area.

Although the Hon. Mr. Blevins is able to read from the Bill that the maximum penalty involved is $10 000, he has had some difficulties in relation to interpretation. As the Minister of Industrial Affairs observed during the Committee stages of the debate on this Bill in another place, the fact is that a maximum $10 000 fine has been provided to accommodate a situation that may well exist where a large retail centre flouts the Bill's provisions. The Minister said that the Government had estimated that such a firm could take between $500 000 and $1 000 000 in one day. Therefore, what is the point when companies can trade and flout the law and yet be subjected to only a small fine? Obviously, a maximum fine of $10 000 is prescribed, and a court would use its discretion, as it does in so many other cases. In this instance, the court has the option of imposing no fine at all or one up to $10 000.

Also, it is fatuous to say that the Minister is being given too much power when being allowed to provide exemptions in certain cases. If the Minister was to act improperly, the chickens would soon come home to roost.

**The Hon. Frank Blevins:** Give me an example of his acting properly.

**The Hon. L. H. DAVIS:** The Hon. Mr. Blevins would accept that in certain cases the Act may technically not be complied with but the spirit of the law is observed. All States have had problems with this very difficult area of shopping hours. In fact, at this very moment discussions on trading hours are proceeding in Tasmania, Victoria and New South Wales. A large measure of public disagreement exists in relation to this matter. This has also been a feature of this matter in South Australia over the past decade.

Although philosophically I should like to take the view that shopping hours ought to be left in the hands of those who trade, so that they can open at any time they like, I am concerned about the realities of the matter. Indeed, the Government, being concerned by those realities, has introduced these measures. The reality is that big shopping groups can take advantage of their size, in terms of advertising and strength, to make it difficult for small businesses.

This is an area where the Liberal Party has indicated its concern for small businesses by introducing legislation of this nature that continues to advantage those who have trading areas of 200 square metres or less and who can remain open at any time they like. It will also preserve employment opportunities. One cannot look easily at this area of concern and compare it with the situation that obtained in 1970, when employment opportunities and job levels were far different. In this State, unemployment levels are high. Indeed, they are high throughout the country, and the retail area is a large employer of labour.

*Members interjecting:*

**The Hon. L. H. DAVIS:** If we are suffering the consequences of a decade of Labor Government, it is not on this Government's head. Another constraining factor is the issue of penalty rates. We in this country are still at variance with most Western countries in terms of salary and wage payments. I go on record as stating that, the sooner we can work a seven-day week and regard all days as equal, the better it will be.

**The Hon. Frank Blevins:** Even for Legislative Councillors?

**The PRESIDENT:** Order!

**The Hon. L. H. DAVIS:** As has been stated, the essence of this legislation is to provide especially for those areas of foodstuffs, hardware and building materials, as defined by the Australian Standards Industrial Classification, and to provide trading hours for motor vehicles, caravans, and boats. Those matters have already been well detailed by the Hon. Mr. Blevins and the Minister. A commendable aspect of the Bill is the flexibility that it provides.

The Governor, by proclamation, can vary late night

trading in any proclaimed shopping district—for example, Gawler. The Act will now provide only for the alteration of closing times for shops. The Minister can declare a shop exempt, subject to conditions, which the Hon. Mr. Blevins disagreed with. The Hon. Mr. Blevins mentioned something which the Labor Party has been consistent with over the years; namely, that it would like to transfer the control of shopping hours from the Parliament to the Industrial Commission. That is a view that I recollect it held in 1977 and again in 1979. It is one thing to say that shopping hours should not be subject to Parliament, but it is another thing to look at the reality of the situation.

The Hon. Mr. Wright in another place claimed that Queensland was an excellent example of where that transfer of power had worked well. Yet, the Hon. Mr. Brown stated that in recent discussions with the Minister in Queensland that was far from the truth. One can go back to 1970, when again the Labor Party showed a great reluctance to handle the issue as a Government and preferred to hold a referendum asking people whether they were in favour of the metropolitan planning area and Gawler being permitted to remain open for trading until 9 p.m. on Fridays. This Government has tackled head on the difficult area of shopping hours.

**The Hon. Frank Blevins:** What was the result of the referendum?

**The Hon. L. H. DAVIS:** The result was that people were against it at that time. As I mentioned previously, I do not think it is particularly relevant to look at it in terms of community attitudes in 1970. The point I am really trying to make is that this Government is not ducking the issue, as the Labor Party has done over a 10-year period. One can understand why the Labor Party first ducked the issue: it had problems with the unions. We have not ducked the issue; we have taken into account the varying views of the retail traders, the Mixed Business Association, the car dealers and the public at large in well over 1 000 submissions that the Minister processed in coming to this final draft. In so doing, we have faced up, in a responsible way, to giving the public something which they will generally accept. We have presented a Bill which reflects the nature of the economy at the time and reflects the wishes of the employers and employees by and large in the retail trade. I support the Bill.

**The Hon. R. C. DeGARIS:** I want to add my annual contribution to the shopping hours debate which goes on practically every year in this Council.

**The Hon. N. K. Foster:** Are you supporting it or opposing it this time?

**The Hon. R. C. DeGARIS:** I have always supported most things in regard to shopping hours, although I believe that all of us should apply at least some reason and logic to the issue of shopping hours. It has been a difficult issue. I do not agree with the suggestion of the Hon. Mr. Blevins that Parliament should abrogate responsibility.

**The Hon. N. K. Foster:** It is being responsible and putting it into a responsible area.

**The Hon. R. C. DeGARIS:** I do not agree that shopping hours as such should be removed from the discussions in Parliament to the Industrial Commission. I believe that Parliament has the responsibility to lay down the law in regard to shopping hours and has a responsibility in laying down the law in many areas. In laying down the law in this area we must be certain that we are doing justice to all people.

I come to the issue of red meat, about which I always move an amendment when this Bill comes before the Council. It is untenable that in shopping hours we have a situation where all meat can be sold during late night shopping with the exception of red meat, unless it is frozen. I appeal to this Council—

**The Hon. J. C. Burdett:** What about the butchers?

**The Hon. R. C. DeGARIS:** I will come to the butchers. If we had existing in this Bill a situation where all goods made of cotton but not of wool could be sold after certain hours, people would say that that was ridiculous. Yet, we are applying the same sort of logic to the question of red meat, where one of our major products in this State cannot be sold after 5.30 p.m. on any day. I appeal to the Council to realise that that is a ridiculous situation. The Hon. John Burdett asked, "What about the butchers?" There is at the present time a number of butchers who are facing difficulties financially because supermarkets are intruding into their traditional area of business. If we provide a situation where we can buy in a supermarket all meats other than red meat after 5.30 p.m., the butchers in the long term are going to create a greater difficulty for their trade than if they themselves open for late night trading. A number of people in this community have approached me and said, "This is ridiculous." A large number of housewives go shopping during late night trading and cannot buy red meat and have to go down next day to get it. It is a ridiculous situation.

I have always argued strongly on this and I shall be moving again for the inclusion of red meat to be sold during late night shopping. What is happening is that the delicatessens and other shops that are open at night are doing their best to get around the existing position. We can go into delicatessens and see semi-processed meats, bits of meat on a skewer, and bits of meat with onion on them.

**The Hon. N. K. Foster:** They are shasliks, not bits of meat on a skewer.

**The Hon. R. C. DeGARIS:** However, they are selling it as processed meat. It is quite untenable to have a situation where one product—red meat (a major industry in the State)—after 5.30 p.m. on any night cannot be sold whilst its competitors—chicken, white meat, and fish—can be sold during late night shopping. I will be once again seeking support for the discrimination against red meat to be removed from the shopping hours legislation.

**The Hon. J. C. BURDETT (Minister of Consumer Affairs):** The Hon. Mr. Blevins said that it is a complicated and sensitive issue, and so it is. I believe that the Minister of Industrial Affairs, the Hon. Dean Brown, is very much to be congratulated in that he has been so persistent in seeking the maximum consensus that one could hope to attain. He has gone to a great deal of trouble in consultation with all parties concerned. He has varied his original ideas considerably to meet with what appears to be the best consensus that one can get, and a very high degree of consensus. The Hon. Mr. Blevins also said that this is a Committee Bill, and of course that is true. I will not refer to individual parts of the Bill at great length at the moment. The Hon. Mr. Blevins got very excited about the Ministerial exemption. The Opposition is very ambivalent about Ministerial exemptions. A few hours ago the Hon. Mr. Chatterton praised the Government in the Prices Act Amendment Bill (No. 4) for including a Ministerial exemption.

He seemed to think that that was a good thing to do because it catered for individual, specific cases that could arise. He acknowledged that, in regard to the minimum price of wine grapes, there would be some cases where wine growers legitimately could not pay and where the Minister should have a power to exempt. I am, therefore, surprised to find that the Opposition in this case is saying that the Minister should not have a power to exempt even in unique and particular cases, and that is all that is

intended. Honourable members will have heard about the position of Toyland, which has been referred to in the press. It is unique because it is a situation where manufacturing, wholesaling and retailing all take place on the same premises and where a large part of their trade depends on Sunday trading. It was entered into in goodwill, in good faith, and the best way to cater for it is not to put something in the Act which will allow somebody else to enter into the same situation, and not to introduce a grandfather clause that can involve difficulty in identifying, particularly in a case like this, but to allow a power of exemption.

As the Hon. Mr. Chatterton praised the Government for allowing it in another Bill, I think that the Opposition ought to praise the Government for allowing it in unique cases in this Bill. The Hon. Mr. Blevins says that the Minister could exercise the power of exemption at his whim. He knows better than that. He knows that the power will be exercised responsibly, and that it must be exercised responsibly, because the Minister and the Government will be in trouble at the ballot-box if they do not act responsibly. Therefore, the Hon. Mr. Blevins cannot dismiss the exemption being exercised responsibly with a debonair wave of his hand.

Addressing myself to the other major matter which he raised, I believe that to restrict the relevant clause of the Bill to natural persons is an undue restriction on the small business man—it is telling him how to run his business. He may, for various reasons, wish to operate together with his wife and family, perhaps, a family company, and why should he be prevented by this Bill, which is about shop trading hours, not about how to run your business? The other major amendment foreshadowed was that of the Hon. Mr. DeGaris. I cannot agree with him on this occasion with regard to red meat. It seems to me he still ignores the position of butchers who have to actually handle the meat, have to cut up the various cuts, package it and so on, and who, after they close, with their employees (and it is the employees I feel particularly sorry for) have to spend a considerable amount of time cleaning up and getting the shop ready for the next day's trading.

**The Hon. Frank Blevins:** And preparation before they start.

**The Hon. J. C. BURDETT:** Exactly. With regard to frozen chickens and other meats, they are in a package, and none of that occurs. That is the distinction. It is all very well to talk about the cotton and wool situation, but it is not that sort of matter at all; it is a question of the way in which the product is handled, and butcher shop meat has to be cut up and a mess made (if I can use that term) which has to be cleaned up. Also, there has to be preparation the next morning. I have not seen the proposed amendment yet, but I expect to be opposing that amendment. I thank honourable members for their contributions and commend the Bill to the Council.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

**The Hon. J. C. BURDETT:** I understand that the Hon. Mr. DeGaris wishes to have his amendment drafted. Therefore, I ask that progress be reported.

Progress reported; Committee to sit again.

## PRICES ACT AMENDMENT BILL (No. 5)

Adjourned debate in Committee (resumed on motion).

(Continued from page 2382.)

Clause 2—"Determination of maximum prices."

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

Page 1—After line 18, insert subsection as follows:

(3) The Minister may, in an order under this section, declare that the order is subject to conditions specified in the order, and any such declaration shall have effect in accordance with its terms.

I expressed concern during the second reading debate that, while new section 21 purports to broaden the scope that the Minister has to order maximum prices, I was concerned that there was one matter in old section 21 which did not seem to be covered by the new section. That was the power in the old section 21 for the Minister to be able to order or declare a maximum price of goods on a condition. I do not believe that this power has been used in recent times, at least, but presumably there is some historical reason for it. Some examples no doubt exist in the past where a maximum price was subject to a condition that had been imposed. I suppose one could say that, had the Government wished in relation to the reduction in the wholesale price of petrol to impose a condition, it could have said that that reduction was subject to the oil companies doing certain things. So, it could conceivably have imposed a condition on that occasion. I do not imagine that the use of this power would be very common, but I am concerned to ensure that in altering the wording of the present section 21 we are not, in fact, restricting the powers which the Government has and, in the guise of increasing flexibility, are in fact reducing flexibility and reducing the powers. As the Minister has said, although the Government has some philosophical objection to price control in general terms, it does accept that in some situations price control is necessary. Of course, its action in relation to the wholesale price of petrol is a prime example of it. If the Government concedes that powers are needed on some occasions, it is important that as broad as possible a power be provided, whether or not it is in fact used. My amendment clarifies the question of whether under new section 21 a maximum price, subject to conditions, can be ordered by the Minister.

It may be that it has already been covered by proposed section 21, but I am not convinced of that. I would not like to see new section 21 restricted the powers that existed in the old section 21. To clarify the position I have moved my amendment, which ensures that the Minister has the same powers that he had under the old section and can order a maximum price subject to any conditions.

**The Hon. J. C. BURDETT:** The Leader does not seem to be very enthusiastic about his amendment but, nonetheless, I will accept it. I believe that the matters he has raised are covered in the new section as it appears in the Bill but the amendment, it seems to me, cannot do any harm, and the Government accepts it.

Amendment carried; clause as amended passed.

Title passed.

**The Hon. J. C. BURDETT (Minister of Consumer Affairs):** I move:

*That this Bill be now read a third time.*

**The Hon. C. J. SUMNER (Leader of the Opposition):** We now have an amendment that does strengthen the powers that the Prices Commissioner and the Minister have. It does provide a considerable degree of flexibility that may not have existed previously. I would not like the opportunity to pass with the Minister having said that I was less than enthusiastic about my own amendment—

**The Hon. J. C. Burdett:** I said that because—

**The Hon. C. J. SUMNER:** I said that there was an argument that could be put to that effect and that I wanted to clarify it. I appreciate that the Minister accepted the amendment. To put the record straight, I was most enthusiastic about my amendment. Just because I moved it

in a calm, reasonable and rational tone, the Minister was so surprised that he felt constrained to make that remark, but it does not indicate any lack of enthusiasm for my amendment.

**The Hon. J. C. BURDETT:** The Leader did acknowledge in moving his amendment that it may not be necessary, and just to set the record straight (as the Leader said), I point out that the new section in the Bill provides:

> An order under this section—*(a)* may affix differential maximum prices that vary according to the factors specified in the order;

That would cover any condition. I make it clear that I did not consider the amendment to be necessary but, as it appeared to do no harm, I accepted it.

Bill read a third time and passed.

*[Sitting suspended from 5.55 to 7.45 p.m.]*

## SHOP TRADING HOURS ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2388.)

Clause 2 passed.

Clause 3—"Interpretation."

**The Hon. FRANK BLEVINS:** I move:

> Page 1—Leave out paragraph *(d)* and insert the following paragraph:
>
> *(d)* by striking out from paragraph *(a)* of the definition of "exempt shop" the passage "a shop (not being a hairdresser's shop)" and substituting the passage "a shop (not being a hairdresser's shop) of which the proprietor is a natural person and".
>
> Page 2—After line 16 insert the following paragraphs:
>
> *(ea)* by striking out the word "or" between subparagraphs (xi) and (xii) of paragraph *(b)* of the definition of "exempt shop";
>
> *(eb)* by inserting after subparagraph (xii) of paragraph *(b)* of the definition of "exempt shop" the following word and subparagraph: or (xiii) toys;
>
> Lines 17 to 39—Leave out all words in these lines.

I canvassed this issue during my second reading speech, so I will not go through it all again. By and large, this amendment is in line with the recommendations of the Lean Royal Commission of 1977. The Opposition believes that genuine small business does not consist of companies or incorporated organisations. Those bodies are outside the ambit of what genuine small business is all about. If the Bill is left untouched, some large trading organisation could set up small companies under various names with one or two people as directors of those companies, which could be conducted as small businesses. In those circumstances the beneficial owners of those small businesses would be large trading corporations. I am quite sure that the Government does not intend that to happen, and the only way to prevent it from happening is to allow the Opposition's amendment. In his second reading speech the Minister indicated that he felt that some small businesses would be disadvantaged by this amendment. I look forward to hearing the Minister's argument.

**The Hon. J. C. BURDETT:** I oppose the amendment. The honourable member who moved this amendment suggested that genuine small businesses and small family businesses would not be incorporated, but that is far from the truth. Very many small businesses and family businesses are incorporated as companies. That has nothing whatsoever to do with shop trading hours, but is done for the owner's own purposes. There is no reason why that situation should be interfered with. If it should be interfered with, it should not be done through this kind of Bill. This kind of Bill should not constrain people to conduct their business in a certain way. People should be able to conduct their business in any way that they wish and have this Bill apply to them accordingly.

If small businesses are forced to remain open and operated by natural persons, we are forcing them to place at risk not only the money they have invested in their buildings, plant and stock but also their personal property such as their own homes. In debate in another place, the member for Playford rejected this argument saying that in the vast majority of cases small incorporated businesses are still required to put up as collateral personal property such as homes if they are to raise sufficient finance for their operations. Whilst that may be true, the Government believes that it is unreasonable to place in the legislation anything that would effectively prevent small businesses from taking advantage of incorporation if they are able to do so and if they so wish. In most cases, as a small business grows from its infancy until the stage where it could reasonably be described as a medium or large business, a number of expansion phases are undertaken.

Whilst it may be true in the first instance that the small business man is required to put up his family home as collateral, the likelihood of this in relation to future expansion rapidly diminishes. If the Opposition amendment was accepted there would be no chance whatsoever of small business men avoiding risking their homes and losing them through bankruptcy. More importantly than that is the question that we are dealing with in relation to shop trading.

We are not dealing with the matter in which small businesses wish to operate. If they wish to operate as sole traders, that is their affair. If they wish to operate under a partnership, that is also their affair. If they wish to operate as a company, and many of them do (for example, a corner store, a deli, a local service station, and so on), that is their affair. In relation to shop trading hours, we should not discriminate, which is what this amendment seeks to do. The Opposition amendment seeks to discriminate between the various systems of business—a sole trader, a partnership and a company. I can see no merit whatsoever in this amendment, and can see no way that it will help shop trading. The amendment will simply discriminate against small businesses in the way in which they choose to operate.

**The Hon. FRANK BLEVINS:** Two things arise out of the Minister's response to the amendment. The Minister said that very many small businesses do incorporate. I assume that the Minister has some evidence on which to base that statement. Will he say what percentage of small businesses incorporate and on what basis he makes his statement?

The Minister did not respond to my outlining a situation that could arise, namely, a large trading organisation setting up companies of which it is the beneficial owner and which are in the name of only a couple of people. I am sure that if this happened it would have the effect of endangering the entire object of this part of the Bill.

**The Hon. J. C. BURDETT:** I do not know the percentage. After all, this is not my amendment but that of the honourable member. I know from personal knowledge, having been in practice as a lawyer and having lived in a country town (I should have thought that the Hon. Mr. Blevins also knew this), that many small country businesses are incorporated. The answer to the other part of the question is that they are still restricted by the space requirement.

**The Hon. L. H. DAVIS:** From personal experience, I

support the Minister's proposition. I know quite a few proprietors of shops with an area less than 200 square metres, which businesses are incorporated. The Hon. Mr. Blevins' proposal seeks to exclude those businesses by restricting this to natural persons. That is at odds with reality. The Bill seeks to take note of the real world and to comment only on shopping hours rather than the mode of operation of the proprietors of businesses. It has no intention of saying whether they should be a sole trader, or in a partnership or company. The amendment is quite ridiculous and should be thrown out of court.

**The Hon. FRANK BLEVINS:** I should like the Minister to answer my question. It has nothing to do with the size of shops. A large trading organisation could set up companies of which it was the beneficial owner. That large company could have a couple of people operating a shop of less than 200 square metres. Indeed, there could be a chain of stores with different names, the beneficial owners of which were the same. Is the Minister saying that that could not happen? If (as I believe) it could happen, would not that negate the entire intention of this Part of the Bill?

**The Hon. J. C. BURDETT:** I suggest that the honourable member read the Bill. If he does so, he will find that each shop that will get the benefit of the Bill will be restricted to 200 square metres. To say the least, it would be most uneconomic for any large company to subdivide its enterprise into shops of 200 square metres. In the real world that would not happen.

The honourable member is suggesting that a large company could run a chain of small shops of less than 200 square metres under different management. What is necessarily so terribly wrong with that, anyway? It would be totally uneconomic, as one would end up with a shop of 200 square metres or less. If one has a large shop, it is a large shop, and, if one has a supermarket, it is a supermarket, and one enjoys the space and the usage that comes therefrom. However, if one has a small shop, one is restricting it and losing the advantages. The honourable member knows very well that that would not happen.

**The Hon. R. J. RITSON:** I understood that the Bill sought to ensure some measure of fairness of competition between small businesses and the large department stores. I believe that the size prohibition does that: it prevents very large stores that sell enormous ranges of material from totally overwhelming the smaller specialty shops. If the Government intended to prevent chain stores from setting up I suppose it could have drafted the Bill accordingly. However, this Bill does not prevent chain stores from setting up; nor is it the Government's intention that it should do so. Does the Hon. Mr. Blevins think that this Bill should be designed to do such things as getting rid of Friendly Societies pharmacies, for instance? The Government does not intend to do that.

**The Hon. J. A. CARNIE:** Although I have not entered into this debate previously, I am sure that honourable members know full well my view on shop trading hours in South Australia, as I introduced and had passed in this Council about four years ago a private member's Bill relating to shop trading hours.

I think that I am the only member in this Chamber who has conducted a retail business, so I feel qualified to speak on this amendment. The Hon. Mr. Blevins has asked the Minister to give percentages of small businesses that are incorporated. I can say from my own experience that the majority of small retail businesses are incorporated. I say that as one who has been frustrated, because I could not, with the type of business that I owned, incorporate, as the Act states that all partners in pharmacies must be qualified pharmacists. I was therefore prevented from bringing my wife and family into the company, which I certainly would have done if I was allowed to do so.

I know from my personal experience in Port Lincoln that most of the businesses there were incorporated; they were family companies. The Hon. Mr. Blevins has put forward a hypothetical case, where a large company could form a whole lot of small companies with two or three figureheads. Of course, that would be possible. However, as the Minister said, the cost of doing this would be counter-productive. It would not be economically viable for one to do that to any large degree. Therefore, while theoretically it may be possible to do so, the Hon. Mr. Blevins is really tilting at windmills.

But, in trying to force this amendment through, he would be preventing the small legitimate company—the family who forms a company to conduct their corner delicatessen, newspaper agency or butcher shop, etc.—from being able to take advantage of the system as it exists, simply as a result of this unwarranted fear that large companies are going to incorporate a dozen small companies under figureheads. For that reason I implore members to oppose the amendment.

**The Hon. FRANK BLEVINS:** The Minister finally managed to grasp what I was on about, but when he did he said, "What's wrong with that?" I will tell him what is wrong with that. If this Bill is designed to protect small businesses and the Government is leaving a loophole which means, for example, that Woolworths could open 5 000 delicatessens in this State under different names—

*Members interjecting:*

**The Hon. FRANK BLEVINS:** Members opposite have all had a go and they can have another go later. However, the Minister said, when he finally grasped the point that that was possible. The 200 square metre limit, he said, prevented that happening but that is completely incorrect. It does not prevent it at all—it has nothing to do with the size. It is quite possible for Woolworths or any large company to set up 5 000 delicatessens in this State. Not only will it corner the market during normal trading hours but also it will corner the market outside normal trading hours. That is possible under this Bill. Not only does the Government recognise that that is possible: the Minister himself said that there would be nothing wrong with that. That is an appalling admission for a Minister to make when he is in charge of a Bill allegedly designed to protect small business.

This Government is allegedly supposed to protect small business. However, the Minister sees nothing wrong in that possibility. I am not satisfied with the answers given by the Minister; in fact, I am quite appalled by them. It makes me want to persist even more with my amendment. Perhaps if my amendment is successful, we can get to a conference where these matters can be discussed. Possibly the point can be overcome by the Government having a look at the amending Bill again. I urge the Committee strongly to support the amendment so that we can at least get some negotiation on this obvious loophole that has been revealed.

**The Hon. R. J. RITSON:** I would ask the Hon. Mr. Blevins to listen for a moment. We are not trying to protect delicatessens from delicatessens. True, this probably will permit Woolworths to set up 5 000 delicatessens, but that organisation probably would not do that. If it did, that would not concern me very much, because we are not trying to protect delicatessens from other delicatessens. We are trying to protect them from people who sell milk, along with chainsaws, posthole diggers and cosmetics. We are trying to protect them from the big department stores and supermarkets which make inroads into their specialty businesses.

**The Hon. FRANK BLEVINS:** It is quite obvious from

what every speaker on the Government side has said that this scenario painted as a possibility is quite permissible in the Bill. If that was not the intention, I would like to know. I assume that other members of the Liberal Party would perhaps agree that that was undesirable if it was a possibility. Perhaps the Minister could give some assurance that that was not the intention after having second thoughts about his scandalous comment that there was nothing wrong with it. On second thoughts, he may see something wrong with it, and perhaps we could adjourn the debate on motion and discuss it with Parliamentary Counsel with a view to inserting a clause that would prevent that happening. It is undesirable in a Bill that is designed to protect small businesses to allow such a loophole.

**The Hon. R. J. Ritson:** It isn't a loophole.

**The Hon. FRANK BLEVINS:** The Hon. Dr. Ritson says that it is not a loophole. We use the word "loophole" as meaning an oversight. If it is not a loophole, then it is there deliberately. If it is there deliberately, it is quite outrageous to leave a Bill open to that kind of abuse.

**The Hon. R. J. Ritson:** It is not abuse.

**The Hon. FRANK BLEVINS:** Again, the Hon. Dr. Ritson says that it is not abuse. In a Bill that is designed to protect small business, to allow a situation or a set of circumstances to arise where a large trading organisation can corner a particular market, both inside and outside normal trading hours, and to not regard that as abuse, makes me even more concerned about the legislation. What would the Government say about a grandfather clause so that people in business would not be subject to this amendment? I would be interested to hear about that, because in effect that would stop companies and large trading organisations from exploiting this admittedly open provision in the Bill.

**The Hon. R. C. DeGaris:** Do you think there should be Ministerial discretion?

**The Hon. FRANK BLEVINS:** I should hope that there would not be Ministerial discretion. We will come to that later. The provision in the Bill is quite unacceptable as it is. Several members on the opposite side have admitted that it is a possibility. They have said that it is not a loophole and for this to happen it would not be an abuse. If it is not an abuse, it is a normal course of events. I have yet to hear their response to the question of a grandfather clause. Under the present Act, people would not be disadvantaged if this were carried.

**The Hon. J. A. CARNIE:** I feel constrained to rise again because of what the Hon. Mr. Blevins has just said. He is accusing the Government of not looking after small businesses. He claimed that his amendment would improve that situation.

I contend that his amendment makes the matter worse, because the majority of small businesses are incorporated, and his amendment will prevent them from operating.

**The Hon. Frank Blevins:** They are not incorporated.

**The Hon. J. A. CARNIE:** I would say, from my experience, that the majority are certainly incorporated if they have good accountants, because that is by far one of the easiest ways of minimising one's taxation. The Hon. Mr. Blevins keeps harping that Woolworths or some other huge company will set up a chain of shops. I do not know whether he mentioned a figure, but he said that a large number of small businesses would be set up under fronts. It would be just as easy to do that under the front of a natural person, if they wanted to do that. Big companies would not want to do it that way; they do not operate that way because the cost would be far too great for it to be economical for them to do so. All the Hon. Mr. Blevins's amendment will do is disadvantage those people who are now operating small companies—running their deli, butcher shop or corner newsagency. The Hon. Mr. Blevins has expressed the fear time and time again about large companies setting up front companies, but I do not believe that that will happen, and anybody who had been involved in business would not believe that that would happen.

**The Hon. J. C. BURDETT:** I do not think that the Hon. Mr. Blevins is terribly serious about this amendment. It is a preselection week, and he does have to perform, but when one looks at the amendment it does not make very much sense for the reasons expressed and because there is the restriction of the 200 square metres. It would be very uneconomic, as has already been said, for a company to set up that number of shops. It would prevent the company from having the advantages of a supermarket type of establishment. As the Hon. Mr. Carnie has just said, if this is possible, and if it is economic, such companies could also use a natural person as a front and do it, anyway, so the amendment would achieve absolutely nothing. It has been said several times that small businesses should not be told what to do, and that they should be able to run their affairs as they wish as a sole trader, partnership or family company.

The Hon. Mr. Milne, with his experience as an accountant, would know very well that many small businesses, for various reasons best known to themselves (it could be taxation reasons, reasons of limited liability, or all sorts of reasons) want to operate as family companies, as incorporated bodies and not as natural persons. They should be allowed to do that. As I have said before, if there is any reason to stop them, which I do not believe there is, it should not appear in a Shop Trading Hours Bill but in a Bill specifically directed at the enterprise. People should not be told how they will manage their own businesses; they are entitled to manage them as they wish, either as sole traders, partnerships, family companies or any other sort of company. For that reason, I oppose the amendment.

**The Hon. D. H. LAIDLAW:** I wish to support the Minister's remark. I do not like private companies because when you have private companies you have to pay company tax, and I do not like paying company tax. However, there are a number of occasions when, if a family has a partnership, it is very difficult to transfer shares in that partnership, and that partnership has to be wound up every time the partners wish to make a change in the shareholding. If the owner of a delicatessen, for instance, has another child and wants to include that child in the shareholding, he has to wind up the partnership and start again. Therefore, on many occasions the owner of a family business would prefer to have a company and face the obligation to pay company tax to gain the advantage of being able to transfer shares in that business. I do not think it is right to deprive people owning small businesses of the benefits that the people who own large businesses have of being able to incorporate if they want to.

**The Hon. R. J. RITSON:** If the Australian Labor Party wished to legislate to prevent the incorporation of small businesses it would be more honest if it introduced a Bill under its true colours instead of disguising it in this way.

**The Hon. FRANK BLEVINS:** I want to respond to a comment made by the Minister about this being preselection week and my moving this amendment having something to do with preselection. I would like to give the Minister a few facts about our preselection methods. The Shop Assistants Union is the one primarily affected by this Bill, yet at a State convention it would have less than 1 per cent of the vote for preselection. The people at that convention who want much more open shopping hours would be a far higher percentage than that. The reason for

that is that those people do not stand behind a counter throughout these long shopping hours. So, if one was doing this for preselection reasons, it would be in one's interest to do (for selfish reasons) what the majority of that convention wanted and to push for more open shopping hours. Perhaps I am doing myself some harm regarding my preselection in doing what I am doing here, but I believe in this amendment.

*Members interjecting:*

**The CHAIRMAN:** Order! We do not want to get on to the subject of elections. The Hon. Mr. Blevins.

**The Hon. FRANK BLEVINS:** I suggested previously that this amendment should be carried so that we could get into a situation of negotiating this matter. Every member of the Government to whom I have spoken agrees that large trading organisations could move into this area—everybody believes it is possible. The Minister says that there is no loophole so what is wrong with that. I think that is a quite scandalous thing to say. If there is concern about companies being disadvantaged, what is wrong with a grandfather clause being inserted in the Bill so that people who have incorporated their businesses will not be disadvantaged? The Minister has not responded to that suggestion. I do not know why; perhaps he has not thought about it.

**The Hon. J. C. Burdett:** It's not worth responding to, but I will, if the honourable member likes.

**The Hon. FRANK BLEVINS:** I hope that the Minister does, because he says it is not worth responding to. I do not think that that was a very nice remark, either, because many Bills that have had the potential to affect people in a particular industry or organisation have contained a grandfather clause, so that those people are not disadvantaged. I do not think that that is an unreasonable proposition, and I believe that it is worthy of some further discussion. If my amendment is carried both Houses can get together at a conference and discuss issues such as this to see whether it is not the Government's intention to have a large trading organisation presented with this ability to take over certain areas of business through front companies. Let us talk about that. The only way that those things will be discussed and thrashed out satisfactorily, hopefully, from the point of view of all parties (because all parties are not, contrary to what the Minister said when he made his second reading explanation, in agreement with this; there are some significant sections of the Bill with which the parties do not agree), is to let us get to that conference situation.

The conference situation is one that the present Government, when in Opposition, said was the best way for democracy to operate, because people could thrash out the problems and come to agreement. I agree that generally that is what happens in conference. The only way we can iron out the problems remaining in the Bill is to get to a conference situation by passing this amendment. I would like the Minister to respond to this point.

**The Hon. J. C. BURDETT:** It is hardly worth responding to. The Hon. Dr. Ritson pointed out, and I think I had before, that if it is desired to prevent small businesses from being incorporated it should be in another Bill and not in this Bill, which is simply about shop trading. A grandfather clause would be quite hopeless and would have no point in regard to this Bill because in future, I do not see why the corner deli, store, or small business or garage should not be able to incorporate and operate as family companies if they wish. A grandfather clause would be most inappropriate. As I have said, anyone who has had any knowledge in the real world, which I think the Hon. Mr. Blevins has not had in this respect, such as accountants and lawyers, knows that from time to time in the past small business men have had their reasons to be incorporated. There is no reason whatever why this amendment should be used to stop that. There is no reason to stop them from using the various methods of trading that have been available for hundreds of years as sole traders, as partnerships or as companies. If there is, it is not the place in this Bill for such an amendment, because this Bill deals with shopping hours, the hours in which businesses are allowed to trade. That is my answer. A grandfather clause would be quite inappropriate.

**The Hon. C. J. SUMNER:** I am not sure that the Minister really has come to grips with this problem. He has not responded to the recommendations which were made—

**The Hon. C. M. Hill:** We'll be here at 4 a.m. the way you're going.

**The Hon. C. J. SUMNER:** That is all right. Mr. Lean was the Royal Comissioner into shop trading hours in 1977. He heard evidence from a large number of community groups, businesses and others who, over a considerable period had an opportunity to make submissions. The Royal Commissioner concluded that certain shops should not be controlled by corporate entities. I imagine that the reason for that was similar to the reasons given by the Hon. Mr. Blevins, namely, that if you allowed corporate entities to take over these small shops you would destroy the small business nature of them and this could lead to greater concentration in the market place.

**The Hon. L. H. Davis:** Has that happened in the past three years?

**The Hon. C. J. SUMNER:** I have no evidence to suggest one way or the other what has happened in the past three years. The Minister may have but, if he has, he has not provided it to the Committee. In regard to category 16, the Royal Commissioner stated:

> Any other shops . . . in which no more than two persons at any one time including working proprietors are engaged, whether as employees or otherwise, in the shop and whether engaged in the process of sale or not. (It is intended to exclude from this category shops owned or controlled by corporate entities. It is intended to include particularly in this category small owner/operated shops.)
>
> In my opinion the principal factor to be taken into account in defining a shop (a shop of a particular type) is the type or types of goods which the shop sells.

At page 27 of his report the Royal Commissioner had this to say:

> During the hearing, there was strong pressure applied by certain small traders to the effect that they should be permitted to trade beyond normal trading hours, particularly at weekends. The majority were family businesses. The business was usually a small one and did not employ labour other than casuals to assist during busy periods or to fill in for members of the family who were on holidays or who were sick. The businesses were not corporate entities and they claimed they should not be inhibited by any trading laws. For example, they include licensed secondhand dealers, owners of boutiques in Melbourne Street, North Adelaide, craft shops, shops catering for hobbyists, that is, stamps, militaria and coins, gift shops, bazaar type shops and others.
>
> There was no strong opposition to this type of business being classified as exempt provided that the size and pattern of its trading was controlled. I fully agree with this concept.

The point made by Mr. Lean there is that the submissions from these businesses were made by people who were not corporate entities. In other words, the majority of the submissions that were received—perhaps even all the submissions received—were not submissions from corpor-

ate entities. That contradicts the statement that the majority of people running these small businesses and shops are incorporated.

**The Hon. J. C. Burdett:** Who said that?

**The Hon. C. J. SUMNER:** I thought you or the Hon. Mr. Davis said that. The argument then was that the people making submissions for exemptions were small business people, that they were not incorporated in any event, and that incorporation could produce undesirable results. I think this is the major thrust of the argument: there was concern that the large corporate chains could take over the small businesses and gain an outlet beyond the normal trading hours, as the Hon. Mr. Blevins has said. If the Bill is designed to help small businesses with their trading outside normal hours, because large chains and shopping centres will not do that, that could be subversive. That is the simple fact, and that is what I believe Commissioner Lean had in mind. Certainly, he considered the matter. He made that recommendation in relation to some shops, and I think the reason for it is that he did not think that the larger corporate chains ought to be able to get into the act.

**The Hon. L. H. Davis:** What is the date of the report?

**The Hon. C. J. SUMNER:** 1977.

**The Hon. L. H. Davis:** Where is the subsequent evidence?

**The Hon. C. J. SUMNER:** The Minister may be able to provide us with that evidence. He has been in office for too long already; he has been in office for over a year and should be able to assist this Committee in that respect. I think that is the major problem, and I do not think the Minister has come to grips with it.

**The Hon. J. C. Burdett:** What is that?

**The Hon. C. J. SUMNER:** The potential for large corporations to take over such businesses. That is what the Royal Commissioner had in mind, and I would like the Minister to comment on his recommendations.

**The Hon. J. C. BURDETT:** The Government is quite aware of the Royal Commissioner's recommendation. However, that recommendation is as unacceptable now as it was at that time. If that recommendation was adhered to it would severely restrict the ability of small businesses to take advantage of the benefits of incorporation. Small businesses should have the opportunity of saying how they will operate and they should be able to operate in any legal way they wish.

The Committee divided on the amendment:

Ayes (8)—The Hons. Frank Blevins (teller), G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (9)—The Hons. J. C. Burdett (teller), J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, and K. L. Milne.

Pairs—Ayes—The Hons. J. E. Dunford and Barbara Wiese. Noes—The Hons. M. B. Cameron and R. J. Ritson.

Majority of 1 for the Noes.

Amendment thus negatived.

**The Hon. FRANK BLEVINS:** I move:

Page 2, lines 41 to 43—Leave out all words in these lines.

This amendment is linked to my following amendment to clause 4. That clause deals with Ministerial discretion, but clause 3, refers to it also. This amendment is a test as to whether or not I will proceed with my amendment to clause 4. The Opposition's problems with this clause were extensively canvassed during the second reading debate, so I will not go into the matter in the same depth. The Opposition would like to know why the Minister requires such enormous discretion. Small business is hardly an area where any emergency type situation could arise, unlike petrol reselling where it is quite reasonable for the Minister to have a very wide discretion. Why is that discretion necessary in a Bill of this type?

The effect of the Minister's discretion is that this Bill has no real meaning. We have a substantial Act in relation to shop trading hours, but if the Minister wishes, without reference to anyone else, he can simply say that the legislation will not apply to a particular shop, a chain of shops, and so on. It seems extraordinary that we should go through a lengthy process of carefully defining the hours when a shop can trade after receiving a reasonable consensus of opinion from shop assistants, shop retailers and the community and then, after all that work, insert a clause giving the Minister this discretion. The Minister praised the Hon. Mr. Brown for this Bill, and in all fairness I must do the same. If shop legislation is necessary, then this is fairly reasonable legislation, but after having gone through the enormous process of putting it together it is all undone by this clause.

The Government is accepting kudos for this legislation, but we should not get carried away, because in the final analysis it is the Minister who will really say what will happen. Not only is that unreasonable, it is totally unnecessary, because no situation can arise that would warrant the Minister having such wide discretion. Further, there is no right of appeal. Two shops can apply to the Minister for an exemption, and the Minister can grant an exemption to one shop and not to the other. No reason has to be advanced for not granting an exemption, and the shop receiving a refusal has no right of appeal. The Minister did not satisfactorily respond to the query I raised in my second reading speech. The Opposition strongly believes that this clause should be deleted from the Bill, and no-one will be disadvantaged as a result.

**The Hon. J. C. Burdett:** What about Toytown? You haven't moved an amendment.

**The Hon. FRANK BLEVINS:** No, but I shall be pleased to do so.

**The Hon. J. C. Burdett:** You've elected not to.

**The Hon. FRANK BLEVINS:** If the Minister is objecting to this in order to save Toytown—

**The Hon. J. C. Burdett:** Not entirely.

**The Hon. FRANK BLEVINS:** Then I am asking the Minister to explain why it is necessary for him to have such a power and what he intends to do with it. Obviously, there are reasons behind this, and I should like those reasons to be brought out into the open. The Minister has said that Toytown could be disadvantaged under this legislation, and I shall be pleased to move an amendment to add toys to the list in Part IV of the Act. I do not think that Toytown should be disadvantaged. If that is the only reason, it can be done another way. If it is not the only reason, I should like to know what the other reasons are.

**The Hon. J. C. BURDETT:** I made clear when I replied to the second reading debate that Ministerial exemptions for proper purposes are very common in Bills. The Hon. Mr. Chatterton commended the Government earlier today for inserting such an exemption. The honourable member's comment related to the Prices Act Amendment Bill (No. 4), which prohibited wineries from accepting wine grapes if previous vintages had not been paid for.

The exemption gave the Minister power to grant a certificate so that the winery could accept grapes. That was commented on favourably by the Hon. Mr. Chatterton, who said that there might be valid reasons why a winery had not been able to pay for previous vintages and that the Minister should have the power in those circumstances. The Opposition ought to be consistent and acknowledge that there is a proper place for Ministerial exemption.

The historical example is where a large departmental store has wanted to hold a fashion parade at night, often in aid of some charity. Past ruling of the department has been that the parade may be held, provided that access to the store is only provided to those patrons of the parade who have been specifically invited. Additionally, it has been a requirement that no sales can take place, that is, not even orders can be taken at the parade. Under the new power the Minister would be able to issue a certificate of exemption to allow the fashion parade to be held and with similar restrictions as in the past, that is, access only to those who have been specifically invited. However, the benefit of the new provision would be that orders would be able to be taken.

The second example is where the normal trading hours for a particular class of shop do not suit a particular shop within that class. For example, the Bill provides that, for hardware and/or building materials stores, the trading hours will be until 4 p.m. on Saturday and from 10 a.m. to 4 p.m. on Sunday. A problem has been identified with one or two building material stores that sell pre-mixed concrete to handyman users. The operation is normally based on a system whereby the consumer comes to the concrete batching plant, purchases his requirements, which he then takes home in a special trailer which is provided by the concrete outlet and which he then returns upon completion.

The "You Cart It" operation at Ridleyton and the "Cart-Away Concrete Centre" at Salisbury are examples of this type of operation. The problem occurs because the major demand from these operators is in respect of early Sunday morning trading, that is, from 7 a.m. to 10 a.m. Customers want to avoid the heat of the day and/or start laying the concrete early where it is anticipated the job will take all day. It may be unreasonable in these circumstances to require that such stores cannot commence trading on Sundays until 10 a.m. Thus, the Minister should have the power to issue a certificate of exemption in respect of such operators, subject to whatever conditions and restrictions as are deemed desirable.

A third example of where the power would be desirable is in respect of shops which are unique in nature for some reason or other. The Minister of Industrial Affairs, in his second reading speech in the House of Assembly, mentioned the example of Toytown, to which I also referred when closing the second reading debate. That was unique, in that it is a vertically integrated operation including manufacture, wholesaling and retailing, with the viability of each section being interdependent. Another example was raised by the member for Semaphore, Mr. Norman Peterson, in respect of a small private boat-builder operating in his area. Again, the shopkeeper both manufactures and retails his product. In that case, the shopkeeper maintains that his viability depends upon his being able to open on weekends to discuss with potential consumers the purchase of one of his boats. There may be other examples: a particular store may be planning some special activities in celebration of its centenary, for example. It must be stressed that the Minister has always stated that such exemptions will be granted only following consideration by Cabinet. It is not his intention to issue certificates of exemption unilaterally.

So, there are various examples, and I have given some of them. This situation, of enabling the Minister to cater for a unique case, was accepted readily and willingly earlier today by the Opposition, and I suggest that it should be accepted now. It should be acknowledged that some situations cannot be catered for by a grandfather clause and that there must be some discretion. As I said before, it is ludicrous, absurd and politically naive to suggest that a Minister, in exercising a discretion such as this, will not act responsibly.

**The Hon. R. J. RITSON:** I support what the Minister has said. I should like to make a few remarks about the exercise of Ministerial discretion and to refer to some instances of previous Labor Party attitudes on this matter. I recall last year a very simple amendment to the Boating Act which was introduced into the Council and which transferred powers from the Minister to the Director. Under that Act, the Minister had power to exempt certain persons or classes of person, or certain boats or classes of boat, from all or any of the provisions of the Act. It was a very wide power indeed.

When that Bill came into this place, the Labor Party argued very convincingly that that power should reside with the Minister and not with the Director. The Labor Party won that point on the voices. So, Labor members were obviously very pleased on that occasion for that wide amount of Ministerial power to be held, because the Minister is responsible: he is, as the Hon. Mr. Burdett has already explained, responsible to the Parliament and to the people at the ballot box. It was good enough for the Labor Party then, and I wonder why it is not good enough for that Party now.

**The Hon. FRANK BLEVINS:** The question of Ministerial discretion is one that in every Bill should be considered on its merits. I can see that in certain circumstances the Minister should have discretion, but in others the discretion should be limited. I suggest that the shop trading hours legislation does not lend itself to total Ministerial discretion. If we had emergency situations coming up, as we have in petrol retailing, I can see that a broad discretion should be granted to the Minister. However, we are talking here about selling everyday commodities, and it strikes me as completely incongruous that a Bill, which is primarily concerned with selling everyday articles, should give the Minister this enormous power. Not only does it give the Minister this enormous power but also it allows him to exercise the power in total secrecy.

The Minister in the Assembly indicated that, before granting an exemption, he would discuss it with Cabinet. That is an undertaking given by the Minister, but how do we know what goes on in Cabinet? If one asks a question of a Minister about anything that goes on in Cabinet, he quite rightly tells us to mind our own business. So, it is virtually in total secrecy. Not only is it unnecessary but also it is quite appalling. I can imagine that, if the roles were reversed, the so-called protectors of civil liberties would be screaming about a measure like this, and they would be correct in screaming about such a measure. I agree completely with the Hon. Mr. Chatterton that it was proper to have a discretion in the earlier Bill that we dealt with this afternoon. It was totally appropriate in a Bill where emergency situations may arise. What concerns me is the secrecy about it. The Minister said that he will, before granting an exemption, discuss it with Cabinet. With whom is he going to discuss it before he refuses an application? There has been no mention of that at all.

Somebody may apply to the Minister for an exemption, but the Minister may assess it and may use measures that may not be sound to decide whether or not he is going to grant that exemption. He does not take it to Cabinet or to Parliament. In total secrecy he rejects that application. It is absolutely and totally wrong. This issue is one that should be talked out further. The Government has been quite unreasonable, but I know that there are reasonable people on the Government benches who would not have a bar of this type of clause if it was a Government Bill and

they were in the Opposition. The first time that Government back-benchers see what is in a Bill is when it hits the Parliament. Therefore, they are locked into a position of supporting the Government in virtually a blind way. We on this side support our Party totally, but the process by which our Bills come before Parliament is totally different. Why should it be a secret? I believe that this clause is outrageous and should be modified. The only way that it can be modified is for this amendment to be passed so that we can have negotiations outside the Chamber at a conference. I urge the Council strongly to support my amendment.

**The Hon. J. C. BURDETT:** I cannot really believe that the honourable member is serious. He has admitted that there are some circumstances where there ought to be Ministerial discretion. However, the Hon. Mr. Blevins then referred to the Prices Act in relation to wine grapes. At another time he referred to an emergency situation. The position contemplated by the Prices Act Amendment Bill in relation to wine grapes was not an emergency. I cannot see any difference in principle between the exemption which was provided for in that Bill and the one provided for in this Bill. It was a situation where, in terms of the Bill at large, the wine maker was prohibited from accepting grapes unless he had paid for previous vintages. The Bill gave the power to the Minister to exempt wine makers from that provision. Because of the unique situation, such as the wine maker having financial difficulties that he may be able to trade out of the Minister could give the exemption in that case.

**The Hon. Frank Blevins:** I agree with you.

**The Hon. J. C. BURDETT:** This is precisely the same. It gives the Minister the power to grant exemptions where there are unique situations. I have given a number of other examples. When the honourable member suggested that this power should be given to a Minister only in an emergency situation, he was quite wrong, because the provision in the wine grape legislation was not an emergency situation at all, any more than this one is. That Bill and this Bill acknowledge that there are unique situations which cannot be legislated for specifically and which cannot properly be covered by a grandfather clause. In that case the only sensible thing to do is give the Minister power to exempt. As I have said several times, everyone knows that such a power has to be exercised responsibly. The Minister is responible to Parliament—

**The Hon. Frank Blevins:** How do we know that there has been a rejection of an application?

**The Hon. J. C. BURDETT:** If a person has his application rejected, he is going to complain, and that is how we will know. The Minister is responsible, and exactly the same applies in relation to wine grapes, and the Hon. Mr. Blevins knows that. The two matters are precisely the same.

**The Hon. Frank Blevins:** No, they are not.

**The Hon. J. C. BURDETT:** If a person makes an application to the Minister, and the Minister does not accede, the applicant complains. If the Minister accedes and there are people who believe that he should not have acceded, then those people complain. I cannot see any difference at all between the two positions. There is no question of an emergency. When the honourable member raised that just now it was a complete furphy. There is nothing whatever to do with an emergency in the wine grape position any more than there is in this one. That was quite wrong and should not have been said. The position of a Ministerial exemption is difficult.

It is a question of judgment as to where it should apply and where it should not apply. There must be very many one off situations that cannot be catered for in the Bill or in a grandfather clause, because one cannot identify when that position will arise, so it must be allowed for in this way.

**The Hon. FRANK BLEVINS:** I feel that the Minister is having some difficulty in understanding tonight, or is misrepresenting me. I did not say that there was any difficulty in the legislation that went through the House ealier in relation to wine grapes. I did say, and I repeat for the benefit of the Minister, that in certain Bills (and every Bill has to be treated on its merits) the question of Ministerial discretion is valid and that an area of an emergency nature where emergency powers may be required is one instance where I see that a wide Ministerial discretion could be appropriate. I also said in relation to legislation that went through the Council earlier that it was appropriate, not because it was anything to do with emergency powers but because what happened was that the Minister came to power, outlined the problem and said, "I want the discretion to deal with that problem." It was an instance, I agree, but it has absolutely nothing in common with this blanket, total discretion given to a Minister to conduct in secrecy—

**The Hon. R. J. Ritson:** Not in secrecy.

**The Hon. FRANK BLEVINS:** It is in secrecy, and if the honourable member had listened he would have heard the Minister admit it. I maintain that this discretion is totally unnecessary, far too wide, and that if the Minister wants to deal with the problem of Toytown, which I agree is a problem, the Opposition will certainly assist him to do so in isolation. The Opposition feels it is completely wrong, merely because of Toytown, to give the Minister complete discretion to do anything he likes in total secrecy and totally ignore the Act.

The Committee divided on the amendment:

Ayes (8)—The Hons. Frank Blevins (teller), G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Noes (9)—The Hons. J. C. Burdett (teller), J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. J. E. Dunford and Barbara Wiese. Noes—The Hons. M. B. Cameron and M. B. Dawkins.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 4—"Certificate of exemption".

**The Hon. FRANK BLEVINS:** I move:

Page 4—

Line 4—Leave out the words "and the following section is".

Lines 5 to 16—Leave out all words in these lines.

The arguments in support of this amendment are exactly the same as those put on behalf of the previous amendment. I will not repeat or summarise those remarks. The Opposition thinks that it is completely wrong for the Minister to have such broad and sweeping powers. I urge the committee, for the last time tonight, to support the amendment.

**The Hon. J. C. BURDETT:** I go through the motion of opposing the amendment.

Amendment negatived; clause passed.

Clauses 5 and 6 passed.

Clause 7—"Closing time for shops."

**The Hon. R. C. DeGARIS:** I move:

Page 5, lines 8, 9 and 10—Leave out paragraph *(b)* and insert paragraph as follows:

*(b)* by striking out subsection (4).

I rise once again to support my amendment to allow red meat to be sold at the same time as its competition is being

sold. At this stage butchers are having a rather difficult time. All other meats are being promoted and markets for these meats are being developed, while the butchers attempt to put up a false protective screen in the hope that all these other meats will go away. We are creating a position where one particular commodity is going to suffer, whether the butchers suffer or not. I did consider amending the provision in the Bill dealing with the definition of "meat". Section 4 of the Act provides:

> "meat" means the flesh of a slaughtered animal intended for human consumption but does not include bacon, cooked meat, frozen meat, fish, poultry, rabbits, sausages and other small goods or any other prescribed meat or prescribed product derived from meat:

Section 13 (4) provides:

> Notwithstanding anything in subsection (1) or (2) of this section, the closing time for any shop the business of which is mainly or predominantly the retail sale of meat shall be 5.30 p.m. on every weekday and 12.30 p.m. on a Saturday.

I suggest that there is absolutely no logic in the position. I have also contacted a number of butchers and their employees. The industry is beginning to realise that unless it has the same trading hours as its competitors it will be in for a difficult time. If a poll were taken of meat employees and butchers we would find a different answer to what we are led to believe is the case. I ask any honourable member to travel around the State and talk to shoppers and see how ridiculous they see Parliament for determining that all meats other than red meat can be sold during late night trading. Members will find that Parliament is held in ridicule.

*Members interjecting:*

**The CHAIRMAN:** Order! This is a serious matter.

**The Hon. R. C. DeGARIS:** It is a serious matter. I believe the community believes the present situation is ridiculous. I do not expect much support for my amendment, because I know the view of the Labor Party. It is adamant that red meat will not be sold because, I believe, the Meat Industry Union has determined accordingly. However, from my discussions with people, I believe that they are beginning to realise the stupidity of the position. I believe they will change their mind on this question. My amendment will lead to the same hours applying to red meat as to other commodities defined in section 4.

**The Hon. J. C. BURDETT:** I oppose the amendment. The community has some common sense, too. True, we are not just talking about the products sold, and I said this in my second reading reply. It is not a question, as the Hon. Mr. DeGaris said in his second reading speech, of wool and cotton—it is a question of the procedure of selling the product because, in regard to red meat sold in a butcher shop, it has to be cut up and packaged. There will be mess and there are things that have to be cleaned up after the shop has closed. That does not apply in regard to chicken or fish.—

**The Hon. R. C. DeGaris:** It does in regard to fish.

**The Hon. J. C. BURDETT:** It does not apply when it is sold in a package, which is the only way it can be sold in a supermarket. It does not apply in regard to frozen meats: they are sold in a package the same as soap or any other product. There is not much reason why they should not be included within the ambit of the Bill, but there is a good reason why butchers and their employees should not have to labour for long hours into the night after the shop has closed.

Butchers have suffered economically in recent times. I think some of them are in severe financial plight, and many more would be if this amendment were passed. They cannot afford to pay overtime. They could be forced to sell their meat during late shopping hours but be nowhere near finished when they closed their shops. As a member opposite said in the second reading debate, butchers start work long before the shop opens. It would be a gross imposition on butchers and their employees if this amendment was passed, and I oppose it.

**The Hon. FRANK BLEVINS:** The Opposition opposes the amendment. The butchers do not want it, and they have made their position clear. Many persuasive petitions, containing thousands of signatures, have been presented to Government members. This Bill is to protect the small businessman and, if this amendment is passed, the only beneficiaries will be the large supermarkets that will sell a large amount of red meat on late night shopping days to the detriment of butchers. The Government has been responsible in protecting these small businessmen.

From my reading of the debate in another place, the members who represent the largest areas of rural producers in South Australia—the member for Eyre and the member for Flinders—both agreed that the position regarding red meat should stay exactly as it is. I believe that the United Farmers and Stockowners' position is unclear at the moment. It has a committee looking at the position and perhaps, if we agreed to the amendment, we will be going against the considered view of that organisation.

As the Minister has pointed out, the reason for the restriction is not just to protect small businessmen—it is also to protect employees in the industry. Not only do they work for many hours after the shop is closed, but they are also involved before the shop opens. Sometimes they have a couple of hours of preparation, and on some days, particularly on Friday, they start at 4 a.m. If butchers had to stay open for late night trading until 9 p.m. and then had to spend a couple of hours cleaning up, they could still be faced with having to begin work at 4 a.m. the following day. Parliament should not subject anyone to those hours. I do not believe people could work those hours. It would probably lead to considerable industrial action that could restrict red meat sales even further.

The Hon. Mr. DeGaris's comments are fine in theory, but his proposition is totally impractical and is not wanted by either of the major political Parties in this State; that fact has been demonstrated by petitioners to both the Labor and the Liberal Parties. It is not wanted by butchers, consumers or members in another place who represent the rural industry. Further, it is probably not wanted by the organisation that represents the rural industry, and I refer to United Farmers and Stockowners, whose position is unclear. The Opposition opposes the amendment.

Amendment negatived; clause passed.

Clauses 8 to 14 passed.

Clause 15—"Regulations."

**The Hon. K. L. MILNE:** I have received a letter in relation to a problem that I do not believe is covered in this Bill. The letter states:

> These views are expressed by the small (under 200 square metres) owners trading in large shopping complexes. We have two shops paying rent of $500 a week each, and our trading hours are dictated by the management [referring to the management of the shopping centre]. Although the proposed legislation will allow us to open and compete, we will not be able to do so under our lease agreement. The little stores in the area, open all weekend, paying very little rent, are forcing us out of business. Sunday trade is 80 per cent of their business—they will tell you that.
>
> Since they have been operating during the last 12 months, one of our stores' turnover has dropped 50 per cent. We do not fear the large traders—we can compete with them,

offering service and attention, but we cannot compete when our doors are closed. Is this fair trading?

Will the Minister say whether that situation is covered in the Bill? Will these people have any protection? The shops are of the correct size, selling the right things, but they are unable to open because of the restricted lease agreement they have with the management of the shopping centre.

**The Hon. J. C. BURDETT:** As the honourable member has acknowledged, this matter is not really relevant to the Bill, which simply deals with shop trading hours. I sympathise very much with the problem outlined by the honourable member, and I have taken some action about it which I will outline in a moment. It is certainly true that in many of the shopping centres there are highly restricted leases containing improper conditions providing that part of the turnover be taken into account in the rent.

**The Hon. J. R. Cornwall:** What will you do about it?

**The Hon. J. C. BURDETT:** As I have just said, I will deal with that in a moment. That practice may or may not be proper, but it is a rather new concept. Some time ago I set up a working party comprising a member from my department, a member from the Department of Planning, and a member from the Department of Industrial Affairs to investigate and report on conditions contained in shopping centre leases. That working party has been looking into the problem, but it has not yet produced a report. The matter raised by the Hon. Mr. Milne is irrelevant to this Bill, but it is a real problem that the Government acknowledges and is examining.

Clause passed.

Title passed.

Bill read a third time and passed.

## PLANNING AND DEVELOPMENT ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 26 November. Page 2228.)

**The Hon. J. R. CORNWALL:** This Bill is a farce and a sham. Further, it is grossly misleading and dishonest. I had intended to salvage something from the wreckage by amending it and, in fact, I had gone as far as having an amendment prepared. However, further examination, and further information presented to me during the afternoon and early this evening, has resulted in the Bill proving to be so bad that the Opposition now has no option but to oppose it entirely and to vote against the second reading.

I will not go over the history of the retail planning fiasco at any great length this evening, as it was debated in this Chamber eight months ago. Briefly summarised, the position is that there is still gross over-provision of retail space, and that position is continuing to deteriorate. For example, within the past 10 days shopping centres at The Avenues, Newton and the Port Adelaide market have all opened. Secondly, as the Minister has just acknowledged, we still have rack-renting and exploitation of tenants. We still have the practice of skimming, which involves taking a percentage of the gross turnover and, despite the fact that the Government promised to do something about it eight months ago, we still have the participation of landlords in any goodwill at sale that might accrue to small business people who are fortunate enough to survive and have something to sell.

As the Minister of Industrial Affairs recently acknowledged, we have an ever-increasing number of small business bankruptcies. The Minister himself said only this week or late last week that most of those bankruptcies occur in the first two years of operation. That situation is hardly surprising because most of those bankruptcies are occurring with the type of person referred to by the Hon. Mr. Milne in the letter he read a short time ago. There seems to be a never-ending queue of these poor unfortunate people who are lured into taking up leases in new very attractive shopping centres at $400, $500 and in some cases up to $800 a week. They have absolutely no hope of surviving. It is well past the time when the Government should have acted to do something about this situation.

The other reason that makes this Bill an absolute farce is that it breaks a clear undertaking given by the Minister of Planning, when eight months ago we debated the Planning and Development Act as it related to retail development planning, that a new Act would be introduced before the end of 1980. That has simply not happened. In the circumstances, the draft Supplementary Development Plan for Metropolitan Centres, which we have before us and which is the only document on which we can make any judgment at all, means absolutely nothing. At this stage, it is still only a draft. Even if it was the final definitive document, it is being introduced without the new Planning and Development Act. So, as the member for Mitcham in another place said, we are being asked to buy a pig in a poke.

Secondly, and more important in the present scene, it has been absolutely shattered by recent events in the northern suburbs. I refer to a report in this morning's *Advertiser* headed "Way clear for Myer shopping plan". Members will recall that the matter of what Myers was about at Salisbury and its attempts at rezoning were canvassed at considerable length when retail planning was before the Council in March. I said then that the amendments which were moved and which we had ultimately to accept as a compromise would do nothing to stop Myers proceeding with its application for the proposed rezoning of Salisbury. That has now become a fact. Last night, Salisbury council approved a proposal to rezone residential land for district shopping at Salisbury. It was carried on the casting vote of the Mayor, Mr. R. T. White. The report states:

> The company's Executive Director, Mr. J. I. Cox, earlier had told the council the company had control over almost two-thirds of the land. The company proposed a 10 000 square metre fashion shopping development with about 8 000 square metres of other shopping.

Altogether, that is 18 000 square metres immediately adjacent to the Parabanks Shopping Centre. So, it is proposed to have a very large complex of regional shopping centre size in that area. The report continues:

> Opposing the rezoning, Councillor D. J. Moore said it would not comply with the South Australian Government's policy that Elizabeth and Modbury were regional shopping centres for the northern districts.

That is the nub of the matter, because this draft Supplementary Development Plan talks specifically about a hierarchy of centres, and nominates five in suburban Adelaide. Those centres are to be the only regional shopping centres. Once one moves away from the regional centres, one comes to district, neighbourhood and local centres. However, this talks specifically about five regional shopping centres: at Marion, Noarlunga, Stirling, and, most important to this debate, Elizabeth and Modbury.

That whole draft plan was thrown out the window last night when Salisbury council gave Myers permission for its rezoning to shopping in that area at Salisbury. It was completely destroyed.

The history of the rezoning is a very dubious, shabby and nefarious one. All sorts of pressure has been exerted

on councillors, residents and many people living in the Salisbury district. Over a period of almost 12 months, there has been a persistent and unrelenting dirty-tricks campaign. The whole proposal to rezone Salisbury has been given the full and enthusiastic support of this Government and, despite the fact that it destroys the five regional centres concept before the plan has even been introduced or before its implementation has even started, we now know why. I believe that, when the events are all revealed, it will be seen that there is in this business a serious hint of corruption.

**The Hon. J. C. Burdett:** That's a serious allegation.

**The Hon. J. R. CORNWALL:** Indeed it is.

**The Hon. J. C. Burdett:** How about establishing it?

**The Hon. J. R. CORNWALL:** I am proceeding to do so. I wish at this point to make an announcement on behalf of the Minister of Housing and the Housing Trust which was to be made tomorrow. The Minister, who is present in the Chamber now and is no doubt listening to what I am saying, will be given an opportunity to enter the debate. The Elizabeth Shopping Centre—

**The Hon. G. L. BRUCE:** I rise on a point or order. I understand that notes are not to be taken in the gallery. I understand, however, that notes are now being taken in the gallery.

**The ACTING PRESIDENT (Hon. R. J. Ritson):** I understand that that is one of the Council's rules.

**The Hon. J. R. CORNWALL:** This is the announcement that I wish to make. The Elizabeth Shopping Centre, which belongs to the South Australian Housing Trust and, consequently, to the people of South Australia, is to be leased on a long-term basis to private enterprise. The written-down value for leasing purposes is now conservatively $10 000 000 to $12 000 000 because of the rezoning that has occurred at Salisbury. It seems an extraordinary coincidence that the announcement about leasing of the shopping centre at Elizabeth will have been made within 48 hours of the decision which was taken by Salisbury council and to which I have referred.

I am unashamedly alleging that the Government has connived with Myers to write down the value of one of the regional shopping centres prescribed in its own Supplementary Development Plan. It has connived to write down the market value of the Elizabeth Shopping Centre, which is owned by the South Australian Housing Trust and, therefore, by the people of South Australia.

Myers has said that it does not intend to open the Salisbury centre before 1985. The announcement was greeted with some joy, but no firm programme was announced that it would be proceeded with as soon as possible. Those involved did not say, "We hope that we can have workmen on the site within three months to six months" (or whatever the time might be). They have simply said, "We do not intend to open until 1985." The fact is that they may never open it at all.

For an investment of approximately $1 000 000 on options, promotion and pressure they have written down the value of the Housing Trust investment at Elizabeth by something up to $15 000 000. Now, they intend to turn around and lease it at bargain basement prices.

That is what the whole business at Salisbury has been about and what the Government has been about. That is what all the enthusiastic support has been about. In the circumstances, this makes an absolute sham of this Bill, which has been introduced at one minute to midnight, with the partial moratorium clause that we approved reluctantly in March to expire on 31 December. The Government has introduced this Bill, which turns out now to be a complete sham. The Opposition opposes it entirely.

**The Hon. J. C. BURDETT (Minister of Community Welfare):** I deny most categorically any suggestion of connivance. By interjection, I asked whether the honourable member could substantiate the allegation, and he said that he could. However, he has not done so. Indeed, he has done nothing about that at all.

The thing that needs to be said is that eight months ago, when amendments to this legislation were considered, there was considerable apprehension among small traders. Honourable members, including the Hon. Mr. Milne, would remember that. Two meetings were held at which the honourable member, the Minister and I were present, and there was quite a strong lobby. Eventually, the Bill was passed, and it provided for a freezing of the situation until the end of this month.

The significant point is that at this time there is no lobby. The small trader has accepted the position. The position is that the Government has prepared its draft Supplementary Development Plan, and the lobbying and submissions have gone towards that plan. It has been on public display, and a number of submissions have been made by the small traders and others in regard to that plan. However, virtually none has been made to members of Parliament, whereas eight months ago members received a lot of submissions and lobbying. The small traders and other people affected by this position have accepted what the Government is doing. The Government applied the freeze to allow a stop until the Government could work out and announce its policy. The Supplementary Development Plan is in effect just that—it is a policy. It cannot be enforced as such, as no doubt we will be told that when the Hon. Dr. Cornwall moves the amendment that he has placed on file.

**The Hon. J. R. Cornwall:** I don't intend to proceed with it. The whole Bill is a sham.

**The Hon. J. C. BURDETT:** I am pleased that the honourable member does not intend to proceed with his amendment, but the Bill is not a sham. The procedure set up by what has gone before and by the Bill is to provide for a Supplementary Development Plan to be prepared and displayed, and it has been. Very considerable useful public comment has been received. Councils are invited and have been invited (as I said in the second reading explanation and as did the Minister) to prepare their own development plans which, again, are only policy. However, they do lead to regulations which are enforceable and are able to be enforced.

It has been a principle accepted certainly by members on this side of the Council that the more local government can be involved in the planning process the better, and that is exactly what this policy involves. Local government has been invited to prepare its own development plans based on the Supplementary Development Plan and to proceed from there to introducing their regulations, which are enforceable. To me that is the way that planning ought to be approached. I repeat that, whereas eight months ago we were all lobbied heavily (we all received letters and telephone calls, and people were most concerned) these people have now accepted the position. The Government acted: it has presented the Supplementary Development Plan and people have responded to that plan, but they have not asked Parliament to defeat the Bill. We do not have the lobbying that we had before. For those reasons, I commend the Bill to the Council.

The Council divided on the second reading:

Ayes (9)—The Hons. J. C. Burdett (teller), J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Noes (8)—The Hons. Frank Blevins, G. L. Bruce,

B. A. Chatterton, J. R. Cornwall (teller), C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Pairs—Ayes—The Hons. M. B. Cameron and M. B. Dawkins. Noes—The Hons. J. E. Dunford and Barbara Wiese.

Majority of 1 for the Ayes.

Second reading thus carried.

Bill taken through its remaining stages.

## SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 27 November. Page 2323.)

Clause 6—"Authority may cause certain work to be carried out and the cost recovered from the landholder."

**The Hon. R. C. DeGARIS:** I move:

Page 2, lines 17 to 20 (Clause 6)—Leave out "Where the authority for an area considers that a person has refused or failed to comply with any provision of this Act, or any requirement made of him in accordance with this Act, in relation to its area, the authority" and insert "Where a person refuses or fails to comply with a provision of this Act, or a requirement made of him in accordance with this Act, in relation to an area, the authority for that area".

When the Bill was in this place before I raised a question about the drafting of this clause. I was not happy with that drafting. I took the matter to the Parliamentary Counsel, who drafted the clause for me as I believed it should read. The clause as redrafted goes back to the original drafting of the principal Act. It does, I believe, allow the board to make a decision where a person refuses to comply with a requirement of the Act or a requirement made of him in accordance with the Act in relation to the area and the authority for that area, whereas the clause as presently drafted states that "where the authority for an area considers that a person has refused", which I believe places too much power in the hands of the board. I think that the Government can accept the amendment, which is purely, in my opinion, a drafting amendment as to the intention of the clause.

**The Hon. C. M. HILL:** I do not oppose the amendment.

Amendment carried; clause as amended passed.

Clause 7 and title passed.

Bill read a third time and passed.

## REGIONAL CULTURAL CENTRES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 2227.)

**The Hon. ANNE LEVY:** The Opposition supports this Bill. As the Minister explained in his second reading explanation, the legislation is designed so that the three currently existing regional cultural centre trusts can be enlarged in membership. At the same time, it is proposed to enlarge the boundaries covered by each regional cultural centre trust so that when the fourth regional centre trust in the Riverland is established the whole State outside the metropolitan area will be covered by a regional cultural centre trust, with the exception of Kangaroo Island. The Whyalla Regional Cultural Centre Trust is to become the Eyre Peninsula Regional Cultural Centre Trust, which will enable places like Port Lincoln to come under the umbrella of that cultural centre trust. Likewise, the Port Pirie Regional Cultural Centre Trust will become the Northern regional body and will include Yorke Peninsula and other areas of the Mid North and Central Northern Regions.

The South-Eastern Regional Cultural Centre Trust, which is centred on the Mount Gambier area, will also be enlarged to include further areas of the South-East. There are obviously advantages to different country centres when this occurs. The cultural centre trusts are, of course, responsible for establishing cultural centres, and new buildings are planned in the different areas. The south-eastern one is the most advanced. The northern regional one is well on the way, and it is hoped that plans for the Eyre Peninsula building in Whyalla will soon proceed. There will certainly be advantages to towns outside Port Pirie, Whyalla and Mount Gambier in that these cultural centre trusts have available Loan moneys which can be used to upgrade many of the country halls in these towns, an upgrading which is extremely necessary in many cases. Some of the community halls in these towns date from the nineteenth century and have hardly been touched since then. Others, from earlier this century, have facilities that are totally inadequate for the functions one would like to see undertaken in them in the 1980's by members of the cultural centre trusts in each region. Help can be given to upgrading these halls and, for example, Port Lincoln will no doubt benefit from this enlargement, and the community and cultural activity of the town will benefit as a result.

I wonder whether in replying the Minister could tell us a bit more about the proposed Riverland Cultural Centre Trust, which has not yet been established but which is, I understand, at the planning stage and may even be set up early in the new year. I do not know whether the Minister can give any indication as to where the centre of the cultural centre trust will be located in the Riverland as this is, no doubt, a difficult issue in view of the competing interests of the various important towns in the Riverland area. I would certainly be interested to know how the Minister proposes to resolve this matter of making a decision where any cultural centre is to be built in the Riverland.

The enlarging of boards will result from this legislation, which will of course mean that people from the wider area can be represented on the cultural centre trusts, thereby enabling representation from an enlarged geographic area. As I understand it, this measure has been widely discussed and is approved of by everyone connected with the cultural life of these diverse areas throughout the State. The Opposition is glad to associate its welcome of this legislation with that which has already been expressed by many people in different areas of the State. I support the legislation.

**The Hon. C. M. HILL (Minister of Arts):** I thank the honourable member for her support. Turning to her query concerning the Riverland Cultural Centre Trust, I think I am right in saying that last week the trust was proclaimed, so we have the machinery under way to establish it fully. The personnel for that trust are now being chosen and I should have their names to recommend to Cabinet in a matter of a week or two.

The Riverland trust is going to be unique compared with the other trusts simply because of the geography of the Riverland compared with the more centralised geography of the other regions in this State being served by the trusts to which the honourable member referred, such as the South-East trust and the northern one and the Eyre Peninsula trust.

What is envisaged now by the Government, although I hasten to say that it can be amended by the new trust when its personnel are known, is that there will be a form of divided interest and responsibility stretching along the Riverland region, thereby serving as well as possible the various separate communities, towns and districts that make up the Riverland. It is foreseen that a major theatre for the new trust's use will be in the Department of Further Education complex at Renmark. It is also envisaged that the considerable upgrading which has taken place and which is still taking place in the principal hall at Berri will also come under the control of the trust.

Doubtless there will be other ventures and facilities in the other towns that will all form part of the trust's area of control. I am saying that there will not be in the Riverland one central venue, as is being built at Mount Gambier and as is being planned at Port Augusta and Whyalla. In that respect the Riverland trust will be different from the other trusts. That is the most realistic and sensible way to establish a trust along the Upper Murray area. I hope that when the personnel are known and the appointments are made the trust can work well in the interests of the people of the Riverland.

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

## LICENSING ACT AMENDMENT BILL

In Committee.

(Continued from 27 November. Page 2330.)

Clause 8—"Exclusion of unlicensed persons from interest in profits, etc., of licensed premises."

**The Hon. J. C. BURDETT:** I seek your guidance, Mr. Chairman. We had proceeded to clause 7, and as part of what I intend to do to clause 8, I need to amend clause 3. What is the most expeditious procedure?

**The CHAIRMAN:** It will not be necessary to recommit the Bill, but to move to reconsider clause 3 after we have proceeded through the clauses.

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

Page 3, lines 8 to 10—Leave out subparagraph (ii).

As I said in regard to this clause in my second reading reply, I am prepared to agree to the matter raised by the Hon. Mr. Bruce in regard to the contracting out of food contracts in licensed premises, but I said that I thought that there was not necessarily any harm in that procedure, particularly in regard to licensed clubs. I know of some licensed clubs where previously there was no food service at all. I understand what the honourable member said in regard to food services in hotels and, if they are let on contract, there is the possibility of employees in the hotel being dismissed and not receiving their *pro rata* long service leave. I can accept that.

In regard to some licensed clubs, and I know of some, there previously was no food service at all and the management committee was not prepared to enter into the catering of meals. They were prepared to contract out and allow contractors to provide meals which otherwise would not have been provided at all. In regard to what the honourable member said, I did accept that he had a point and I indicated that the Government was prepared to go along with it. My amendment will prevent the subcontracting out of catering services, dining room services for food. Therefore, because of the commitment I made to see that food services cannot be contracted out, I accept the conclusion reached by the Hon. Mr. Bruce that this should not be permitted.

**The Hon G. L. BRUCE:** The Opposition does not disagree with the Minister's amendment, and in fact we welcome it. I will also be moving an amendment to this clause in a moment. By removing subparagraph (ii) this amendment goes a long way towards answering many of the Opposition's queries. However, I must disagree with the Minister's comments about licensed clubs. Licensed clubs are not involved in this because of the low profit margin. To a big degree, it depends on the size of the club. If it is a small country club, voluntary labour is used and no wages are paid at all. In fact, it is even worse than that, because in many cases the food is donated to the club. In that situation there is no way that licensed premises, such as a hotel, could compete with the club.

In many country clubs, cattle and sheep are donated, butchered, cooked and then sold to the members of the club at less cost than that of a similar meal at licensed premises such as a hotel, which has to pay for the meat, wages and so on. Clubs would have to lease their dining rooms on a contract basis, and in such a situation it would be very hard to make money. I thank the Minister for his courtesy in making an adviser available to the Opposition and for making his amendment available before we met in Committee. That went a long way to answering many of the Opposition's questions. However, the Opposition's fears about this Bill are still relevant. Will the Minister explain in more detail the two clauses that still enable someone to share in profits in licensed premises?

**The CHAIRMAN:** Order! When the Hon. Mr. Bruce rose I thought he wished to speak to the Minister's amendment. He is now talking to his own amendment.

Amendment carried.

**The Hon. G. L. BRUCE:** I move:

Page 3—After line 13 insert subsection as follows:

(2a) An agreement or arrangement shall not be approved under subsection (2) unless the court is satisfied that the agreement or arrangement will not adversely affect the rights and reasonable expectations of persons presently in employment.

This amendment will safeguard the people I have mentioned, from the licensee down. It will protect those people already employed in a hotel and it will ensure that they receive entitlements such as long service leave, holiday pay and sick leave accumulation. This amendment will only strengthen the Bill because it will help those persons vitally affected in this industry.

**The Hon. J. C. BURDETT:** The Government accepts the amendment, but I will make quite clear what the honourable member wants to do. The Hon. Mr. Bruce referred to small country clubs receiving donations to provide a meal. I assure the honourable member that there are other clubs where no meals are provided, and no meals will be provided, because the management committees do not wish to enter into that business. If they cannot contract out, no meals will be provided. I am aware of several country clubs which do not provide meals. For their own reasons the management committees of these clubs do not wish to enter into that trade because they will have to employ more people. They would like to engage contractors, but that is not permitted, so no meals will be provided.

It is not quite as cut and dried as the Hon. Mr. Bruce has stated. The Hon. Mr. Bruce's amendment and my amendment will mean that some fairly significant country clubs will not provide meals.

Amendment carried.

**The Hon. C. J. SUMNER:** I wish to raise a serious matter regarding this clause, as it is quite clear, to my way of thinking, and from what the Minister said in his reply to the second reading debate, that this clause has been introduced into the Bill as a result of certain agreements

that were made by the Government with the consortium that is building and will operate the International Hotel. I put that to the Minister in the second reading debate, and he did not dispute it. In other words, in his reply to the second reading debate, the Minister conceded—

**The Hon. J. C. Burdett:** I didn't.

**The Hon. C. J. SUMNER:** What is the Minister saying? Is he saying that this amendment to the Licensing Act has not been introduced as a result of undertakings given by the Government? That is the answer on which the Minister ought to come clean.

**The Hon. J. C. Burdett:** I will, as I did before.

**The Hon. C. J. SUMNER:** Very well. The Minister said previously that these amendments would apply to the Victoria Square Hotel.

**The Hon. J. C. Burdett:** And others.

**The Hon. C. J. SUMNER:** That is quite right.

**The Hon. J. C. Burdett:** Surely that's the whole point.

**The Hon. C. J. SUMNER:** The point is that the agreement was made. Did the Government give to the Victoria Square Hotel consortium undertakings that it would amend the Licensing Act because that consortium's arrangements for the operation of the hotel contravened the Act? Was that undertaking given by the Government? I am sure that it was. I want to know whether these amendments, particularly clause 8, are giving effect to those undertakings and, if that is the case, why this was not mentioned in the Minister's second reading explanation.

The Government has been quite dishonest in the way in which it has introduced amendments to the Licensing Act to assist the Victoria Square International Hotel to obtain a licence. At present the leasing arrangements contemplated for the hotel would contravene the Licensing Act. Because of this, the Government agreed to amend the Act so that the court could grant exemptions from the normal requirements of the Act, and they are the amendments that the Committee is now considering. I refer particularly to the amendment to clause 8, and I should like the Minister to confirm that.

At present, the Act is designed to ensure that only licensed persons share in the profits of or manage or conduct business on licensed premises. This is to ensure that it is the licensee who is responsible for the control of licensed premises and that he is not just a front man for other unlicensed persons. This clause would allow the Licensing Court to grant exemptions from this in certain circumstances. I believe that these exemptions will be required by the Victoria Square International Hotel. Again, I want the Minister's answer to that question. Although the amendments to clause 8 will be of general application, it is now clear that the reason for this is the deal done between the Government and the Victoria Square consortium.

The Government was less than frank, first, in making no mention of this agreement with the Victoria Square Hotel when the Bill was introduced and, secondly, in not providing any details of the Victoria Square Hotel's leasing arrangements that would contravene the Licensing Act and thus require these amendments.

The Minister should now fully explain this matter to the Parliament and the public. The Government has already given considerable concessions to the Victoria Square International Hotel that are not available to other hotels in South Australia, and it is now trying to sneak through Parliament amendments to the Act to overcome other problems that the hotel would have in obtaining a liquor licence. It may be that this is fully justified and, if it is, Parliament should have been given the full facts. Instead, we were told nothing about this aspect until I raised the matter in the second reading debate. At the end of that debate, the Minister said:

> New section 141, which is contained in clause 8, certainly could have application with regard to the Victoria Square Hotel. Certainly, the Government did have that in mind, because there is an arrangement envisaged by that hotel which could be in breach of that section.

Why did not the Minister tell the Parliament that in his second reading explanation? Was an undertaking given by the Government to the Victoria Square Hotel consortium that amendments would be introduced, and are these those amendments? If they are, why was this not mentioned in the Minister's second reading explanation? Instead of that, the second reading explanation, which is a complete farce, refers to Leigh Creek. Why was it mentioned?

**The Hon. J. C. Burdett:** Because that's in the Bill.

**The Hon. C. J. SUMNER:** One aspect of it was.

**The Hon. Frank Blevins:** It was raised as a smokescreen.

**The Hon. J. C. Burdett:** It was not.

**The Hon. C. J. SUMNER:** The Bill states that a full publican's licence can be granted to E.T.S.A., but not the arrangement relating to catering and the like. Virtually the whole of the second reading explanation dealt with that matter. Yet, absolutely no mention was made of the Victoria Square Hotel. Why did the Government emphasise the Leigh Creek situation and E.T.S.A.'s position, but not make any mention of the Victoria Square Hotel arrangement?

I believe that the Government wanted to get the Bill through Parliament as quietly as possible. It did not want any more fuss about the Victoria Square Hotel because it knew, as did the Hon. Mr. Milne, that considerable concessions had been granted to the hotel. Now, the Government is about to legislate to accommodate for the hotel in yet another way. The Government was not game to put the matter into the public arena, so it no doubt devised a means of getting around the matter by raising the smokescreen of E.T.S.A. at Leigh Creek and not mentioning at all the Victoria Square International Hotel.

I want to know whether the Bill gives effect to the undertakings that I know were given by the Government, and what arrangements relating to the Victoria Square Hotel would have contravened the existing Licensing Act, necessitating the passing of this clause.

**The Hon. J. C. BURDETT:** I am not sure what the Leader is on about, as I replied to this matter in the second reading debate. It is common when giving the second reading explanation of a Bill (and it is certainly a practice that I intend mainly to follow) for a Minister to explain fully and fairly what the Bill does.

**The Hon. C. J. Sumner:** You didn't do it.

**The Hon. J. C. BURDETT:** I did. It is certainly the practice to explain fully and fairly what a Bill does and not to use individual examples.

**The Hon. C. J. Sumner:** Then why did you mention Leigh Creek?

**The Hon. J. C. BURDETT:** Because it was in the Bill. Leigh Creek was specifically referred to therein. I intend generally, except in special cases, not to refer to individual cases, hotels or persons that may have provided examples for what is contained in a Bill, but to explain what the Bill does. Leigh Creek was mentioned for one reason only: it is referred to specifically in the Bill.

There are several cases where examples have come up which have led to the Bill being in its present form and which have not been referred to in the second reading explanation.

**The Hon. C. J. Sumner:** They should have been.

**The Hon. J. C. BURDETT:** No, I do not think they should. The best thing to do is not to refer to examples but

explain clearly what the Bill does when it applies across the board. When it applies to specific cases such as Leigh Creek, it should be mentioned in the second reading explanation, as it was, and it has been mentioned in the Bill. When the amendments made apply across the board, I do not think it is wise to refer to examples.

**The Hon. C. J. Sumner:** Not even when it is as a result of a specific agreement with a particular company?

**The Hon J. C. BURDETT:** If I may proceed, I wish to refer again to clause 4 of the Bill to explain why I have not mentioned examples. Clause 4 was the one relating to a limited publican's licence. Whereas under the existing Act it was not possible to grant such a licence where the premises were not constructed for the specific purpose, it was suggested in the second reading explanation that this was not necessary and that, where those premises were converted and adapted for such a purpose, a licence could be granted; otherwise there was a complete prohibition.

With the amendment which has been passed to clause 4, it is possible for the court (and this is important) to grant such a licence. That was as a result of a specific example. I mentioned that when I was questioned by the Hon. Gordon Bruce. I did not mention the motel and I do not propose to. However, I mentioned that there was a specific case of a stately country home being adapted for the purpose of a motel which could not be licensed if there was an absolute prohibition and the court could not grant a licence under the existing Act. I did not refer to that in the second reading explanation, as I saw no reason to. I explained what the amendment did. The same applies in regard to the amendment to section 141. There have been some examples. When I was questioned, I told the Leader that the Victoria Square hotel was only one of them. There have been a number of examples recently where the State has been deprived of development, which would be in the interests of the State, because of the absolute prohibition in section 141 in regard to leasing arrangements. All that this Bill proposes do is enable the matter to be considered by the court.

As I have said before and repeat, the Licensing Court has been a most successful, if unusual, operation. It has exercised its discretion well and in the interests of the public. I submit that there is nothing wrong in removing this absolute prohibition in regard to leasing arrangements and enabling the court to consider them. One of the examples that came to my notice was the Victoria Square hotel. As I said before when I answered the Leader, it was brought to my notice that the leasing arrangements could offend against section 141. But, there have been other cases and they have gone further back. One of them (and I only mention this because I have received specific approval to do so today from the hotel in question) is the proposed West Lakes hotel, which has not been able to proceed because of section 141. The proprietors have made numerous attempts to reach suitable leasing and financial arrangements but have been prevented because of section 141. As recently as 26 September 1980 discussions were held with West Lakes in regard to that matter. For more than 12 months we have been deprived of the substantial investment in this State of West Lakes, because of section 141 and because there is an absolute prohibition and no way that the applicants can get a licence. The leasing arrangements do not in any way enable the financier or the lessor to get some slice of the action. That is one example. The Victoria Square hotel is another example.

**The Hon. C. J. Sumner:** Tell us what the arrangement is.

**The Hon. J. C. BURDETT:** I do not know, because I have not been involved in the negotiations.

**The Hon. C. J. Sumner:** You introduced the Bill as the result of an agreement.

**The Hon. J. C. BURDETT:** I did not.

**The Hon. C. J. Sumner:** The Government did.

**The Hon. J. C. BURDETT:** I did not introduce any Bill in relation to any agreement concerning the Victoria Square hotel. I have not been involved in the negotiations. I was told that there was a problem in regard to section 141. That was no news story. I had heard it in regard to West Lakes and various other operations. So, I make no excuse or apology at all. I have acted entirely correctly and properly. I have explained in the second reading explanation, exactly and accurately, what the Bill does, and nobody has said that I have not.

**The Hon. C. J. Sumner:** I have.

**The Hon. J. C. BURDETT:** No, the Leader has not. There was no smokescreen at all. The only reason why Leigh Creek was mentioned was that it was referred to specifically in the Bill. In regard to section 141, I said in the second reading explanation what that did and what the change did: it gave the court (and I must emphasise "the court") the power to consider whether or not such applications could proceed and, if they did proceed, on what conditions, instead of there being an absolute prohibition, which seems to be ridiculous having regard to our Licensing Court system where almost everything is determined by the court.

The Victoria Square hotel, I was aware, was one example of why the amendment was needed. The West Lakes hotel is another one, and I have been aware of that for a long time. I would not have referred to that had I not received permission this morning to refer to it. This applies across the board, not only to the Victoria Square hotel or to West Lakes but also possibly to many cases where it is quite proper for the court to be able to consider whether the leasing arrangements ought to be approved by the court.

**The Hon. C. J. SUMNER:** The Minister has made a fair fist of a very poor case. He has certainly tried to gloss over what I believe to be a serious breach of the proceedings of Parliament. He has not answered the question that I put to him which was whether there was an agreement by the Government with the Victoria Square international hotel consortium to introduce amendments to the Licensing Act to enable their leasing arrangements to be accommodated. I ask the Minister to provide that answer.

**The Hon. J. C. BURDETT:** I have provided the answer. I was not a party to the negotiations. I was aware that there was a problem in this case, as there was a problem with West Lakes, and I considered that that problem ought to be removed through this means of leaving it to the court. However, I was not a party to the negotiations, and I do not know what the detailed provisions of the agreement were.

**The Hon. C. J. SUMNER:** This is completely unsatisfactory. A Minister of the Government has brought legislation before the Parliament which will assist the Victoria Square hotel consortium—

**The Hon. J. C. Burdett:** And others.

**The Hon. C. J. SUMNER:** —and others, but certainly the Victoria Square hotel consortium, to obtain a liquor licence. The Minister refused to mention it in the second reading explanation and he does not know whether there is any agreement with the Victoria Square hotel people to introduce this legislation.

The Minister is a member of Cabinet and has seen Cabinet decisions, or should have, in which this agreement should have been mentioned. I find the Minister's remarks totally and absolutely inexplicable. What the Minister is saying now indicates to me that he has been completely

misinformed by his Premier, he has not been kept informed about negotiations, or he has not read his Cabinet submissions. It is quite clear (and I have the documentation) that an agreement was reached by the Government with the Victoria Square hotel consortium to introduce amendments to the Licensing Act so that their obtaining a licence could be facilitated. It is completely unacceptable for the Minister to say that he does not know anything about it and that someone vaguely mentioned to him that there was a bit of a problem with the Victoria Square hotel and that it was a fix-it-up job. I cannot believe that the Minister, if he was on top of his job in this Council, did not know of that agreement.

He is telling us that he did not know of the agreement, but there is no doubt at all that, in a Cabinet submission forwarded by the Premier, the following statement appeared in relation to the arrangements that were entered into:

> An amendment to the Licensing Act will be required to give the Licensing Court power to dispense with certain conditions in the leasing documents of applicants for licences. The Government has agreed to introduce amendments to cover this situation.

That appears in the Cabinet submission. The Hon. Mr. Burdett is a member of Cabinet, yet he comes along here and tells us in all seriousness that he just knew about the problem, that it had been referred to him, but that he did not know of any agreement. There was clearly an agreement. Again, the document states:

> The Government has agreed to introduce amendments to cover this situation.

There is a clear agreement made with a specific interest group that intends to construct an international hotel in Victoria Square. This amending provision may be justified: I am not arguing about that at this stage. What I am complaining about, and what I think the Hon. Mr. DeGaris would complain about, too (as all members ought to complain), is that a specific agreement was entered into by the Government.

**The Hon. J. C. Burdett:** I said that the Government had agreed, as you agree to our amendments.

**The Hon. C. J. SUMNER:** The Government has agreed to introduce a Bill. The Hon. Mr. Burdett would know that an agreement, whether it is under seal or written and signed, is of no greater validity than an agreement that we might make by word of mouth between ourselves. It may be easier to prove, but it has the same validity. The fact is that there was an agreement, and the Hon. Mr. Burdett did not mention it in his second reading explanation.

**The Hon. R. C. DeGaris:** Do you know what that agreement was?

**The Hon. C. J. SUMNER:** The agreement was to introduce amendments to the Licensing Act to facilitate the obtaining of a liquor licence by the Victoria Square international hotel. It may be all above board, but surely if that is what has given the impetus to this legislation it ought to have been mentioned in the second reading explanation. We ought to have known what leasing arrangements for the Victoria Square international hotel are which have given rise to it, but the Minister has provided no informtion at all, apart from saying that he does not really know what the problem is with the Victoria Square hotel.

**The Hon. J. C. Burdett:** I have.

**The Hon. C. J. SUMNER:** Tell us.

**The Hon. J. C. Burdett:** I have told you just what you have said.

**The Hon. C. J. SUMNER:** The other thing which astounds me, coming from this Minister, is that he has tried to justify what he has said about the Electricity Trust by saying that it is covered in such detail because it is specifically mentioned in the Bill. The only thing about the Electricity Trust that is specifically in the Bill is the granting of the full publican's licence to the Electricity Trust at Leigh Creek. There is nothing specific about the Electricity Trust having independent contractors coming into licensed premises. There is nothing about that in the Bill, yet the Minister went on at quite some length to explain that new section 141 was designed to fix up the problem at Leigh Creek. He said:

> This Bill allows the trust also to be granted a full publican's licence in respect of facilities it provides in this new township.

That is all right; that is mentioned in the Bill, but what follows is not:

> The trust wants to be able to make arrangements for an independent contractor to operate the kitchen facilities of the new canteen at Leigh Creek South, under which that contractor would share in the profits of the canteen's operations. The Act at present prohibits a licensee (in this case, the trust) from permitting an unlicensed person to share in such profits, or to have other interests in licensed premises. In addition, instances have arisen in the past of licensees who wish to enter into similar arrangements, and of persons who want to obtain a licence only on the basis of such arrangements, but who do not know for certain whether those arrangements are prohibited under the Act. In the case of persons wishing to apply for a licence, the only way to determine the matter is to apply to the court for a licence on the basis of the proposed arrangements (which can be a costly and time-consuming process) and to await the court's decision.

So virtually the only justification that the Minister gives for this clause is the situation at Leigh Creek, and on this particular point in the Bill Leigh Creek—and the Electricity Trust—is not singled out. If it was good enough to give an example relating to the situation at Leigh Creek, it was good enough to give us other examples such as the agreement that had been reached with the Victoria Square hotel people to introduce this Bill and the others the Minister has mentioned such as West Lakes. I am quite amazed that the Minister has had the gall to try to defend this bit of deception, which is all it can be described as. I would have thought that the Victoria Square hotel arrangement ought to be mentioned in the second reading explanation. I would have thought that the Government would outline the problems involving this hotel. All I can ask is that the Minister now make that information available.

**The Hon. J. C. BURDETT:** The Leader is in the same parlous position as Mr. Chatterton: he is in possession of a stolen document. Either he is misleading the Committee or he has in his possession a Cabinet submission.

**The Hon. C. J. Sumner:** I didn't steal it.

**The Hon. J. C. BURDETT:** Nobody said that Mr. Chatterton did, either, and I have not accused the Leader of stealing, but he has in his possession a stolen document.

**The Hon. C. J. Sumner:** No.

**The Hon. J. C. BURDETT:** The Leader has, if he has correctly informed the Committee, because it is not proper, as everyone knows, for a Cabinet submission to be removed or taken to any member of the public. An investigation should be instituted to ascertain how and why the Hon. Mr. Sumner has in his possession a Cabinet submission. I make absolutely no apology for what I have said: it has been quite correct in every way. I did not refer to examples—

**The Hon. C. J. Sumner:** Why did you refer to Leigh Creek, then?

**The Hon. J. C. BURDETT:** Because it was in the Bill. I did not refer to the example with regard to a limited

publican's licence. I did not refer to West Lakes. I did not refer to the Victoria Square hotel. The Bill was clearly explained, and I am sure that the Leader is capable of appreciating its terms. They were correctly explained to the Chamber.

**The Hon. C. J. Sumner:** Why did you not explain the agreement?

**The Hon. J. C. BURDETT:** The agreement as read by the Hon. Mr. Sumner from the alleged Cabinet submission was an agreement of consent, of agreeing to, of going along with, in the same way that we have gone along with what West Lakes wanted us to do. I am certainly not aware, if it happened, that there was any written agreement; nor was there with West Lakes. It is simply the position that this is an unduly restrictive section at present, and all that is being done is to give power to the Licensing Court. I do not think that even the Hon. Mr. Sumner would suggest that it was in any way corrupt to give the court that opportunity, as I said in the second reading explanation, to grant a licence where the provisions of the old section 141 were not fully complied with and, in particular, where there were specific leasing arrangements. That is exactly what I told the Council. I did not mention any of the examples—

**The Hon. C. J. Sumner:** Why did you refer to Leigh Creek?

**The Hon. J. C. BURDETT:** Because it is in the Bill.

**The Hon. C. J. SUMNER:** What are the leasing arrangements for the Victoria Square hotel consortium that contravene the present Licensing Act that this Bill is designed to overcome? We ought to know. Agreement was reached, there can be no doubt. I am surprised the Minister did not know; he should have known, but obviously the Premier is not keeping him informed or he does not read Cabinet submissions.

**The Hon. C. M. Hill:** If you were honest you would hand over the documents and name the person who gave them to you.

**The Hon. C. J. SUMNER:** Is that what you did with the documents that you obtained in regard to the Environment Department, the Public Accounts Committee concerning the leaks at Northfield—

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. C. J. SUMNER:** I just want the Minister to come clean and tell us what the arrangement is. If he does not know, he should report progress and obtain information from the Premier and bring a reply to the Committee so that we can have an informed debate.

**The Hon. J. C. BURDETT:** It is absolutely disgraceful for the Leader to carry on in this way on the basis of stolen documents.

**The Hon. C. M. Hill:** And he is proud of it.

**The Hon. J. C. BURDETT:** He is proud and blatant about it. The Leader says that as long as he gets stolen documents he will read them and act on them. It is disgraceful and should be taken into account by the Committee. I do not know the arrangements concerning the Victoria Square hotel, and it is not correct to say that I ought to.

**The Hon. C. J. Sumner:** Why not?

**The Hon. J. C. BURDETT:** I am just about to tell you, if you will just shut up for once. Certain Ministers were involved in the detailed negotiations, and I was not one of them. Although I was not aware of the detailed provisions, I was aware that section 141 was a problem for the same reason as it was in the case of West Lakes. Because of this, because it was quite apparent that South Australia was going to lose much investment for no reason, because the courts still had the power to protect our interests and because I was made aware of this and advised by my department, I introduced the amendment.

It is quite disgraceful that the Leader is so blatant and arrogant about his stolen documents and his misinterpretation of them. Any sense of agreement was meant as assenting to the detailed arrangements. As I said before, I do not have the conduct, I should not have the conduct and I should not know about that.

**The Hon. G. L. BRUCE:** I am concerned about this Bill. Parliament has been given the impression that the Minister seeks to tidy up the situation at Leigh Creek but, in doing that, the Government opens the door wide to subcontracting in respect of licensed premises generally. I was concerned about the effect of the provision on the livelihood of ordinary working people in the industry. The Minister's amendment has helped to ease my fear, but what is coming through loud and clear is that the amendments were not moved for that purpose and, if this situation had not been picked up, the industry could have been damaged irrevocably. I am concerned because of the subterfuge involved in this Bill. Further, it seems that the arrangement has been there for the bigger hotels in regard to investment. Can I get an assurance from the Minister that the leasing arrangements referred to and the sharing of profits relate from the licensee up and not from the licensee down?

**The Hon. J. C. Burdett:** Yes.

**The Hon. C. J. SUMNER:** The Minister has made certain accusations and referred to the disgraceful fact that I have been able to provide him with information that he should have known. He accused me of having stolen documents in my possession. First, in regard to the stolen documents, it seems that the Government is willing to wheel out statements that are contradicted by confidential documents and then get huffy and say that the docuemtns must have been stolen—that is its only response. In fact, in most cases the so-called stolen documents indicate that the Government has been misleading Parliament and not telling the full truth. On that issue this Government is absolutely hypocritical. I recall when we were in Government, over a whole range of issues confidential Government documents were being quoted in this council and in another place.

**The Hon. J. C. Burdett:** Not Cabinet submissions.

**The Hon. C. J. SUMNER:** Including Cabinet submissions.

**The Hon. J. C. Burdett:** On what occasions?

**The Hon. C. J. SUMNER:** I can name confidential documents in relation to the Department of Environment and the National Parks and Wildlife Service.

**The CHAIRMAN:** Sooner or later I will have to remind members that we are not dealing with confidential documents but with clause 8. It is almost time that we decided what we are going to do with it.

**The Hon. C. J. SUMNER:** The Minister has made an accusation that I have stolen documents, and I believe I should have the opportunity to refute such a serious accusation. The Government has been hypocritical on this matter, and I have given the example of the National Parks and Wildlife Service and the so-called hospitals scandal, and over a period of the Dunstan-Corcoran Government there were leaks of confidential documents that the Liberals got hold of and used, showing no qualms about it at all. Now that the boot is on the other foot, of course, they start squealing. I have not come by this document in any illegal or improper way. It is not a stolen document.

**The Hon. J. C. Burdett:** It must have been.

**The Hon. C. J. SUMNER:** Not at all.

**The Hon. J. C. Burdett:** It was confidential.

**The Hon. C. J. SUMNER:** Do all Cabinet documents and submissions remain confidential for all time? Do those documents ever find their way into the system at some time?

**The Hon. J. C. Burdett:** If they do, it is improper.

**The Hon. C. J. SUMNER:** No, it is not.

**The CHAIRMAN:** Order! This discussion about confidential documents has gone far enough.

**The Hon. C. J. SUMNER:** Mr. Chairman, I am just refuting—

**The CHAIRMAN:** Yes, you have done that several times.

**The Hon. C. J. SUMNER:** It is a serious accusation, Mr. Chairman. The really disgraceful thing about this is that the Minister, as I said, was prepared to try to mislead the Committee by omission. While the Opposition supports this clause, I still think that before we proceed with it any further the Minister should obtain further information from the Premier. I am happy for the Minister to attempt to get these details now. I believe that the Minister should report progress, obtain the details from the Premier and provide the Committee with them before we proceed with the final consideration of this clause. The Minister should ascertain from the Premier what recent arrangements were made with the Victoria Square hotel consortium which contravened the Licensing Act. Will the Minister obtain that information and report progress until it is obtained?

**The Hon. J. C. BURDETT:** No.

**The Hon. C. J. SUMNER:** That is straight out contempt of the Committee. Apparently the Minister is not prepared to provide legitimate information for Parliament about this matter. He was not prepared to do so during the second reading debate, and he is not prepared to now. Will the Minister make that information available at some later time?

**The Hon. J. C. BURDETT:** I will not give any such undertaking.

**The Hon. R. C. DeGARIS:** Am I to understand from the Minister that the only amendment being made will allow applications to be made to the court?

**The Hon. J. C. Burdett:** Yes.

**The Hon. R. C. DeGARIS:** If that is the case, how can any deal have been done in relation to the Victoria Square consortium, West Lakes, or any other organisation?

**The Hon. C. J. Sumner:** These amendments have been introduced to give them power to go to the court.

**The Hon. R. C. DeGARIS:** That may be so, but throughout the debate argument has been put that some particular deal was made and that some benefit will accrue. As far as I understand it, that question has been answered by the Minister. Quite clearly, the only power being given is for an organisation, whether it involves Victoria Square, West Lakes or anyone else, to make application to the court and put its case. I do not believe that the Government has any influence in relation to what the court may decide.

**The Hon. G. L. BRUCE:** I thank the Minister for his assurance that subletting will apply from the licensee up and not from the licensee down. That will help protect people employed in hotels. If this is not a specific change in the Licensing Act in relation to the Victoria Square consortium, will th government be looking at other changes in the Licensing Act relevant to the Victoria Square complex?

**The Hon. J. C. BURDETT:** Not that I am aware of.

**The Hon. G. L. BRUCE:** Is this clause for the specific purpose of meeting the requirements of the Victoria Square situation? If it is, and I do not disagree with it if that is so, I believe we should have been dealing with this clause in that context. The Committee should have been made aware of the relevant complexities. I strongly object to the way this has been wheeled in. If this clause is meant to give the Victoria Square consortium an edge, the Committee should have been made aware of that. I resent the fact that, as I have already heard someone say, we have been thrown a sprat to catch a mackerel. If this clause had passed in its original form many people would have been disadvantaged. In its amended form the clause will advantage some people, and I do not disagree with that. Will the Government be honest and tell the Committee what was behind the amendment? I have no argument with what the Government is trying to do or what the West Lakes consortium is looking for, as long as the working conditions of employees in the industry are protected. I believe that the Government should have been more honest than the Bill would indicate that it has been. I still support the Government's amendments.

**The Hon. J. C. BURDETT:** I am pleased that the Hon. Mr. Bruce still supports the amendments. This clause was not specifically designed to assist the Victoria Square hotel.

**The Hon. C. J. Sumner:** It will assist it, though.

**The Hon. J. C. BURDETT:** It will assist it if it is successful in its application to the court, and it will also assist West Lakes if it is successful in its application to the court.

**The Hon. C. J. Sumner:** What about other people?

**The Hon. J. C. BURDETT:** It will also assist other people who use this means. Instead of being absolutely prohibited in their leasing arrangements if they involve any kind of sharing of profits, people will be able to apply to the court, and they will be able to tell the court what they have in mind and then abide by the court's decision. There was no sneaking in and no dishonesty. It is made very clear in the Bill what this means, and it was made very clear in the second reading explanation. Various examples have come to the Government's notice; for example, the Victoria Square hotel, West Lakes, and there were others. As the Hon. Mr. DeGaris correctly said, the thing that completely cuts the ground from under the Opposition's feet is that there could be no kind of deal or dishonesty because this is simply a matter which goes to the court and is considered by the court.

**The Hon. C. J. SUMNER:** That argument is completely and utterly fallacious. I have made the point throughout the debate that the Government's amendments facilitate the obtaining of a liquor licence by the Victoria Square hotel. I did not say at any time that that would automatically mean it would be granted a liquor licence, but certainly at present it is prohibited from obtaining one. This will give it the chance to apply for a licence, and it was done as a result of undertakings given by the Government to the Victoria Square hotel people. I do not know why the Minister will not admit that, and I do not know why he is not prepared to give the Committee that information.

**The Hon. G. L. BRUCE:** The Government's intention appears to be to allow these complexes to have the right to lease their hotels out on a profit-sharing basis to a licensee. Surely it would have been better to lay down guidelines for the court to refer to. However, the Government has now opened a Pandora's box for the courts. The Government is now introducing a dog-eat-dog situation in relation to drawing up leases and contracts. The amendments contain no guidelines for the court to refer to. In one situation a hotel can operate on a profit-sharing basis which may not make the hotel a viable proposition, but the court will have no real guidelines to refer to when looking at the leasing arrangements. Surely it would have been better to debate the details surrounding the amount of profit-sharing that would be advisable and the guidelines for the

court to look at before profit-sharing arrangements were entered into. Some of these leasing arrangements would not make the complexes viable propositions for licensees.

**The Hon. C. J. SUMNER:** The Hon. Mr. DeGaris made a very pertinent point when he said, "Why cannot the Victoria Square Hotel consortium comply with the requirements of the present licensing Act?" That is exactly what I have been asking the Minister, and it is precisely what he will not tell us. I responded to the Hon. Mr. DeGaris by saying, "I do not know." However, the Minister should give us this information, and that is why I suggest that progress should be reported.

Clause passed.

Clause 9 passed.

Clause 3—"Leigh Creek and Leigh Creek South"—reconsidered.

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

Page 1—

Line 9—After "amended" insert—

"—

*(a)*"

After line 14—Insert the following word and paragraph:

"and

*(b)* by striking out subsection (2) and substituting the following subsection:—

(2) The trust is exempt from the following provisions of this Act:—

*(a)* subsection (5) of section 19;

*(b)* section 141;

*(c)* section 168; and

*(d)* any other provision from which the court thinks fit to exempt the trust."

This was agreed to by the Hon. Mr. Bruce. Despite the fact that the contracting out in regard to food has been prohibited everywhere else, it should be allowed at Leigh Creek because of the specific problem that the Electricity Trust of South Australia has there.

Amendments carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

## PETROLEUM SHORTAGES BILL

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

**The Hon. K. T. GRIFFIN (Attorney-General):** I move:

*That this Bill be now read a second time.*

This legislation is intended to provide permanent means of dealing promptly and effectively with problems arising from petroleum shortages in this State. It replaces the Motor Fuel (Temporary Restriction) Act, 1980, which will expire on 18 December. The background to this legislation was outlined in the second reading speech for the previous Bill. I shall only outline the key aspects here.

This State is working closely with the National Petroleum Advisory Committee (N.P.A.C.) to identify appropriate arrangements for equitable allocation of liquid fuels during any period of supply shortage, and also to evolve priorities for the allocation of liquid fuels. It is particularly important, as has been recommended by N.P.A.C., that legislation to deal with liquid fuel emergencies should be such as to "ensure reasonable consistency of approach throughout Australia and effectiveness of operations in current and foreseeable circumstances".

So far, N.P.A.C. has brought forward an interim report which contained recommendations on "measures to reduce and regulate demand for motor spirit", together with recommendations on "essential and high priority users of petroleum products". When N.P.A.C. reports finally, all fuel emergency legislation in other States and in this State will be reviewed.

A major point on which the Secretariat and the members of N.P.A.C. place great emphasis is that each State needs permanent legislation, and that the legislation must be capable of dealing not only with short-term disruptions but also with a "more prolonged" crisis, and, by "more prolonged", I mean something like three months to six months or longer.

No-one who is aware of the situation in the Middle East would deny that a major conflict there could easily lead to major disruption of our petroleum supplies. South Australia is particularly vulnerable because our refinery is about 90 per cent dependent on Middle East crude. Furthermore, the possibility of industrial disputes in Australia is ever present, as the on-going disputes in or related to various areas of the oil industry testify. Significant proportions of our motor spirit and some distillates are obtained from other States, so disruptions in other States are also a matter of concern for South Australia's petroleum supplies. It is obvious that adequate powers are necessary to deal properly with the various possible emergencies that may arise.

What is required now is workable and effective legislation to enable stocks in retail outlets to be conserved early in any emergency; to enable essential services to be supplied; and to introduce systems of rationing for essential services and for the community if necessary. Honourable members will realise that there are many stages in the petroleum supply chain, from extraction and production to use and consumption, and problems can occur anywhere along the chain. Therefore, this Act needs to cover all of these aspects.

Whilst this Bill, like the Motor Fuel (Temporary Restriction) Act, 1980, is based in general on the Motor Fuel Rationing Act, 1980, it is drafted to reflect the need for restrictions, as well as rationing, if any emergency is to be dealt with adequately. Every other State recognises this and either has in place or is introducing legislation very similar to the intent of this Act.

The powers sought in this Bill reflect the experience gained from the deliberations of N.P.A.C. and also reflect the practical experience of implementation in other States, as well as our own recent experience of odds and evens restriction. Adequate powers are essential to enable implementation and administration of the necessary controls and to ensure that fuel emergencies can be dealt with in the best interest of the community as a whole.

The previous Act had to be introduced at short notice because of the gravity of the situation. Opportunity has been taken in the two weeks since the passage of that Act to incorporate the changes necessary to make the legislation more consistent with the guidelines suggested to N.P.A.C. and more consistent with the legislation in other States. These changes are necessary to ensure that the legislation works most effectively, especially over an extended period.

The broad scheme of this Bill remains the same as for the current temporary legislation. Where there are, or are likely to be, shortages of motor fuel in South Australia, the Governor may by proclamation declare a period of not more than seven days to be a period of restriction, and may also declare that period to be a rationing period. Such period of restriction may be extended for successive periods of not more than seven days each but so that the total period does not exceed 28 days.

The Bill allows rationing through a permit system, and also empowers the Minister to announce measures to

conserve fuel and to encourage the more effective utilisation of motor vehicles. Any person who is aggrieved by the refusal of the Minister to grant a permit may appeal to a judge of the Local and District Criminal Court or a special magistrate. There is also provision for a person who incurs expenses in consequence of a direction to recover the amount of those expenses from the Crown.

The name of the proposed Act has been changed to the "Petroleum Shortages Act, 1980" to reflect the fact that it will be a permanent Act relating to petroleum shortages. The length of time after a period of restriction expires before a further restriction can be imposed has been reduced to 14 days to reflect the practical necessities for dealing with an extended disruption. During such a disruption, we would be working closely with other States and with the Commonwealth. It would be imperative that this State's powers could continue to be operated in phase with those of the other States. Most other States have little or no restriction on on-going extension of their periods of restriction. It is considered that 14 days represents a reasonable compromise.

Details of the granting of exemptions and of issuing of permits have been presented in more detail in clauses 6 and 9. Part III of the Act has been extended to cover extraction, use and consumption of petroleum. Extraction needs to be included to make it clear that the extraction of crude petroleum in South Australia would be subject to the Act in a period of restriction. As the Act covers a wide range of petroleum products which could be used as (or could be processed to) motor fuel (for example, fuel oil and other industrial fuel, heating oil, petro-chemical feedstocks, etc.) means are needed to control the "use and consumption" of such products in a situation of emergency or extended shortages. Acts in other States have similar provisions.

Clause 11 (1) has been altered to allow a direction to be given to members of the public generally as well as the other persons envisaged in the previous Act. It will also be possible to issue a direction to a "class of person", rather than to each individual. This will simplify the operation of the Act and, by giving an order to the members of the public generally, a purchaser (as well as a seller) who fails to comply with a direction would be in contravention of the Act. This brings the provisions in regard to restricted fuel in line with those applying in the Act in regard to rationed fuel. Such a provision would be more equitable and would assist the control of breaches of the Act, in particular at self-serve stations.

The profiteering clause has been extended to allow the fixing of maximum prices for different areas and different classes of buyer. This will improve this provision in practice and will allow the determination of maximum prices to be restricted to those products, classes of buyers and areas which are necessary.

The provisions of the Bill will be seen to provide an appropriate scheme with reasonable safeguards. The legislation will provide for the necessary action to implement the interim N.P.A.C. recommendations in regard to: essential users; conservation measures aimed at the motorist/user; measures aimed at reducing motor car use; and measures aimed at fuel saving in the refinery.

In addition to the provisions of the Bill, appropriate action may be taken by the Government as and when necessary to encourage such things as car sharing; to provide free parking in the parklands for people sharing cars or operating a car pool; to extend or vary the Bee-line and City Loop bus services to cover these car parks; to provide additional public transport services; to introduce multiple hiring of taxis; and to amend instructions regarding the use of Government vehicles so that more than one public servant and others may be transported to and from work. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

**Explanation of Clauses**

Clauses 1 and 2 are formal. Clause 3 contains definitions necessary for the purposes of the new Act. Clause 4 empowers the Minister to delegate his powers under the new Act to any other persons.

Clause 5 empowers the Governor to declare periods of restriction and rationing periods. The declaration of a period of restriction brings into effect the Minister's power to make order in relation to petroleum under Part III. The declaration that a period of restriction also constitutes a rationing period brings into operation the rationing provisions under Part II. A period of restriction (whether or not it also constitutes a rationing period) may be declared initially for a period of seven days, and this initial period may be extended by further periods of up to seven days until a total of 28 days is reached. Thereafter, any extension must be made upon the authority of a resolution of both Houses of Parliament. When a period of restriction expires, no further declaration can be made until the expiration of 14 days, unless the declaration is authorised by resolution of both Houses of Parliament.

Clause 6 empowers the Minister to grant exemptions relating to any specified class of persons, any specified class of transactions, or any specified part or parts of the State. Clause 7 provides that the Minister is, in exercising his powers in respect of rationing, to give special consideration to the needs of those living in country areas. Clause 8 makes it an offence to sell or purchase rationed motor fuel unless the purchaser is a permit holder. This does not apply, however, to wholesale sales to persons carrying on the business of trading in motor fuel.

Clause 9 empowers the Minister to issue permits. Clause 10 permits an appeal to a local court judge or special magistrate against a refusal by the Minister to issue a permit. The appeal is to be heard expeditiously and without unnecessary formality. If an appeal is rejected by a special magistrate, the appellant may apply to a local court judge for a review of the decision.

Clause 11 enables the Minister to give directions relating to the extraction, production, supply, distribution, sale, purchase, use or consumption of petroleum. A person who incurs expenses in complying with a direction may recover the expenses from the Crown. Clause 12 enables the Minister to fix maximum prices in relation to the sale, during a period of restriction, of specified kinds of petroleum and establishes a substantial penalty for profiteering. Clause 13 enables the Minister to gather the information necessary to enable him properly to administer the Act.

Clause 14 prevents prerogative writs being taken out against the Minister in relation to the performance of his statutory functions. Clause 15 enables the Minister to publish principles that should be observed, during a period of restriction, in relation to the conservation of petroleum. These principles may involve car pooling and sharing arrangements which would result in technical breaches of policies of insurance. Thus, subclause (2) provides that any breach of a policy of insurance that a policy holder commits by acting in accordance with the published principles shall be disregarded in determining rights under the policy.

Clause 16 empowers police officers to stop motor vehicles and to ask questions relevant to the administration of the Act. Clause 17 is an evidentiary provision

dealing with proof of certain formal matters. Clause 18 provides that proceedings for offences are to be dealt with summarily and are not to be taken except upon the authority of the Attorney-General. Clause 19 is a regulation-making power.

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

## TRADING STAMP BILL

Adjourned debate on second reading.
(Continued from 20 November. Page 2083.)

**The Hon. C. J. SUMNER (Leader of the Opposition):** The Opposition opposes the Bill in its present form. We believe that it will open the way to a large number of undesirable promotions. The approach that I intend to adopt is to suggest to the Government that it should take the Bill back to its departments and reconsider it. I will therefore be moving that the Bill, instead of being now read a second time, be read six months hence, which is the procedure that is followed if one wishes not to consider a Bill at this stage and to provide, in effect, that it lie on the table to enable the Government to give it further consideration. What we need to ask ourselves is, "What is in it for the consumer?" I would have thought that in this area that is what we ought to be concerned with. I suppose that the Liberals would have a different approach. They would ask, "What is in it for the manufacturer or the retailer?". Presumably this opening up of promotional schemes that can be permitted in South Australia is some kind of pay off to the interests that supported the Liberal Party—

*The Hon. J. C. Burdett interjecting:*

**The Hon. C. J. SUMNER:** —at the last election. I see that the Hon. Mr. Burdett is getting hysterical at this late hour. There is no doubt that many of the people who would benefit from this scheme supported the Liberal Party financially and in other ways at the last election. If there is nothing in it for the consumer, one is inclined to ask, "Who gains any benefit out of it?" I do not believe that there is anything in it for the consumer. I am led to the conclusion that the Government is doing it to assist those people who have supported it in the past. The question is, "Will the consumer be better off? Will he be able to obtain better goods at cheaper prices?" My view is that the answer is "No". The consumer ultimately pays for all advertising and promotions so that, if gifts or prizes are offered, the consumer pays. Any benefit which he obtains by some bonus or some extra promotional gift is an illusory benefit, because in some way or other the consumer or consumers as a whole would have paid for it. That must have been obvious even to the Hon. Mr. Burdett.

Obviously, companies are not going to cut into their own profits to enable these gifts to be given. In fact, the whole purpose of them is to increase the companies' profits. If there was not an increase in the companies' profits, the companies would not be in it.

**The Hon. J. C. Burdett:** Like all advertising.

**The Hon. C. J. SUMNER:** Quite. Why get into another area of unnecessary advertising and unnecessary promotion which will increase the cost to the consumer? That is what it must do. These costs must be carried somewhere. They are not going to be carried by the companies because the companies will not reduce their profits. The whole purpose of the promotion is to increase profit. The only person who can be touched by it is the consumer. The Hon. Mr. Burdett says that advertising is a cost to the consumer. Why introduce another range of promotional schemes which are a further cost and burden on the consumer? It has been said that there is no such thing as a free lunch.

Certainly, in the commercial world there is no such thing as a free prize or gift. The first point that needs to be made about this Bill is that ultimately the consumer will pay for it. Secondly, by the use of such promotions (and there will be almost open slather on them if the Bill is passed), the consumer really has no idea of the real price of the product that he is buying. He may have an idea of the price that is marked on the product but, because of the extra promotional gift or bonus that he receives as a result of his purchase, the real price of the goods is camouflaged, because in some way he will be paying not only for the goods that he buys but ultimately for the goods that he receives as a gift.

The real price is to some extent hidden by the two products which the consumer gets, that is, the product that he actually wants and the other product that he probably does not want but which he is induced to take as a result of the initial offer on the first product. There is confusion in the consumer's mind about the real price, which is another aspect of the first point that I put, that the consumer ultimately has to pay for this sort of promotion. The third real problem with this Bill is that it is going to hit small businesses—

**The Hon. J. C. Burdett:** It will be just the opposite.

**The Hon. C. J. SUMNER:** The Minister should ask the Mixed Businesses Association and see what it has to say.

**The Hon. J. C. Burdett:** I spoke to it today and it did not disagree.

**The Hon. C. J. SUMNER:** The original rationale for introducing the Trading Stamp Act in 1924 and 1935 still has validity today. In his second reading explanation in regard to the historical justification for the Trading Stamp Act the Minister states:

> The Governments of 1924 and 1935 argued that the stamp system of trading undermined local enterprise and encouraged monopoly because those manufacturers and retailers who were able to offer stamps and associated gifts at no extra cost, in many cases large interstate manufacturers whose stock included the lines offered as gifts, gained an unfair advantage over those who were not able to.

**The Hon. J. C. Burdett:** You should read further.

**The Hon. C. J. SUMNER:** The Minister continues:

> In recent years it has become increasingly apparent that the very wide ambit of the Act is out of phase with modern market circumstances, for in prohibiting the more traditional coupon systems of trading the Act also prohibits such trade promotions as cash rebate schemes, bonus gift offers, free vouchers, and competitions. Such promotions have become standard features of the marketing environment.

They have become standard and undesirable features. The point I was making in regard to the first part of that statement was that the rationale for the trading stamps legislation was that people in South Australia were concerned that large interstate companies or other large companies which were turning towards monopoly (manufacturers and retailers) would swamp the smaller businesses because they would be able to operate trading stamp schemes and other promotional schemes more effectively than the small business man, and that applies equally today. The Minister can shake his head, but I do not know how he can indicate any other way. How can the small business man and shopkeeper whom we have been talking about in the shopping hours debate and whom the Minister and the Government seem to think they are supporting all the time, although they continue to

introduce legislation which disadvantages small business people, compete with the large companies with the capacity to offer a wide range of goods, gifts and bonuses, which have the manufacturer's backing to do this and which have the network of stores within the State to do it? The small business man running a sole operation will not have such back-up support. There is a real fear that the small business man will be disadvantaged because it will be the big corporations and chains who can make best use of such promotions.

It has been suggested that presently, because these schemes are prohibited in South Australia, South Australians are subsidising interstate promotions. If that assertion is to be made by the Minister, he should provide us with some figures or facts to back it up, but there is certainly nothing in the second reading explanation to that effect. The other thing that will probably occur that I have hinted at is that prices are likely to rise as a result of the introduction of these promotional schemes. As I have said, someone has to pay, and it has to be the consumer.

The only way the consumer pays is by an increase in the price. If the Minister accepts that the consumer ultimately must pay, then obviously overall the price must go up. Surely, before the Minister introduces such legislation he ought to try to ascertain to what extent that will occur. No doubt it will occur, but to what extent? Again, we are given no information on that point.

I believe the Bill should be referred back to the Minister to consider these matters and then, after having considered it, the Minister should re-present the Bill to Parliament in the next session. If the Council does not agree with my proposition and we move into Committee, the Bill should be amended to restrict its operation by expanding the prohibition that is presently contained in the Bill beyond a prohibition just on third party trading stamps. It should be expanded to include other promotional schemes as well. The Council ought to be aware that, with the repeal of the present Act and the introduction of this Bill, all promotional schemes will virtually be validated except third party trading stamp schemes. All others will be validated by this legislation. There are a number of unsatisfactory promotions that ought to be prohibited by this Bill.

The first question in this connection is whether any promotion is dependent upon the purchase of goods or services; that is, should we permit promotions which state that, if one buys a certain number of men's suits, as a bonus one will receive a certain number of men's shoes? In other words, one cannot receive the bonus unless one purchases other goods. So, it is not just a free voucher to receive some advantage. In other words, a distinction is made between the promotion which says that, if one buys a certain quantity of goods, one will receive a free gift of some kind, and a promotion which gives one something for nothing. For example, the Pancake Kitchen hands out vouchers for free pancakes. That scheme does not depend on the purchase of any other goods, but is an open offer for consumers to try their product. The open-ended *carte blanche* proposal contained in this Bill includes promotions requiring the purchase of goods.

These promotions are often advertised as being free. They are often conveyed as not costing the consumer anything. However, as I have indicated, there is no such thing as a free promotion. In the end, the consumer must pay. Some prohibition should be placed on the advertising that can be permitted in these circumstances. If the Bill passes the second reading stage I would like to consider some amendments to restrict the operation of these promotional schemes beyond third party trading stamps, and I refer to other schemes that I consider undesirable, including promotions that are dependent upon the purchase of other goods or services. I will also consider an amendment relating to the advertisements which surround these promotions and which indicate that somehow or other the goods are free. I trust that the Council will not pass this Bill, because in some ways it is a fraud on consumers because overall they will not benefit. I ask the Council to support the deferral of this Bill and ask the Minister to bring it back at a later stage after he has considered the issues and obtained the information that I have requested. I therefore move to amend the motion as follows:

Leave out "now" and after "time" insert "this day six months".

**The Hon. J. C. BURDETT (Minister of Consumer Affairs):** I do not propose to reconsider the matter because it has been carefully considered for nine months. The matter has been thoroughly investigated, and some of the results of the investigation will come out in my remarks. The person mainly considered has been the consumer, which is contrary to what the Leader just said. The consumer will obviously receive some advantage. If he receives a free cup of coffee he will obviously receive some advantage.

**The Hon. N. K. Foster:** What advantage?

**The Hon. J. C. BURDETT:** A free cup of coffee is obviously worth something. The consumer does not pay any more than he does for any other form of advertising. A very considerable matter that the Leader did not touch on is the fact that many promotions of this kind are conducted on a national basis. Consumers in South Australia do not pay any less for the product because they cannot get a share of the action. Many promotions are conducted on a national basis, but South Australians cannot legally share in the prizes offered. South Australians are not allowed to share in those prizes because of the present archaic and stupid Act. However, South Australians still pay the same price as consumers in Queensland, New South Wales, Victoria or any of the other States. Therefore, the South Australian consumer is greatly disadvantaged at the present time. South Australians cannot benefit from these promotions but must still pay the cost of such promotions the same as consumers in any other State of Australia.

There is absolutely no question of any kind of payout. This matter was initiated in my department. The present legislation is completely archaic and applied to an age quite different from the present time. New South Wales and Victoria do not have such archaic legislation at all.

**The Hon. C. J. Sumner:** It will chew up small businesses.

**The Hon. J. C. BURDETT:** I will come to small businesses, which this Bill will help. About two years ago legislation of this type was repealed in Queensland, including third party trading stamps, on the basis that it would be monitored to see whether any adverse consequences arose. About a fortnight ago I asked my colleague in Queensland whether any adverse consequences had followed and I was informed that they had not. At a recent meeting of the Standing Committee of Consumer Affairs Ministers I raised this matter and asked for comments from other Ministers. The Tasmanian Minister suddenly discovered that his State had an Act of 1905, but it had never been looked at, policed or worried about. I believe that Tasmania is now reconsidering its Act as well. Western Australia also has a similar archaic Act but pressure has been applied to the Western Australian Government to repeal or review its Act.

The present legislation is archaic and quite unrelated to any reality. It does not give any protection, but prohibits

many promotions which are perfectly legitimate and against which there should not be any restraints. It has been suggested that this Bill would be contrary to small business, but I believe just the opposite will apply. The type of promotion that will be allowed will be especially useful to small business. For example, there are several small restaurants in Adelaide which hand out vouchers outside picture theatres for free cups of coffee. One can go to the restaurant and receive a free cup of coffee, although I suppose one is expected to buy something else. There is nothing wrong with that promotion, and it is very suited to small business.

I suggest that this Bill would assist, not hinder, small business, because, if such a business wants to use other promotions, it can advertise in the daily press or in the throw-away papers. Even if they are very small, many of the fees paid are wasted because they reach a public that will not come to the business, anyway.

I refer to a recent example of a trading stamp that ought to be permitted. This involved a small hairdresser in an Adelaide suburb who was trying to promote a new business and who had letterboxed pamphlets which stated, "If you come to my hairdressing salon, you will get so many dollars off your first haircut." What is wrong with that?

**The Hon. Anne Levy:** Is that illegal at the moment?

**The Hon. J. C. BURDETT:** Yes, it is, and that is a point to which I will return. So much of this goes on but is not policed.

**The Hon. N. K. Foster:** Then police the Act.

**The Hon. J. C. BURDETT:** I suggest that there is nothing wrong with that sort of promotion.

**The Hon. C. J. Sumner:** Is discounting prohibited?

**The Hon. J. C. BURDETT:** Yes, it is prohibited by the present Act.

**The Hon. C. J. Sumner:** That's providing a discount. How is that prohibited?

**The Hon. J. C. BURDETT:** It is prohibited because it is a document put in letterboxes as a trading stamp. There is no doubt whatsoever that that is a trading stamp, and it is prohibited.

**The Hon. N. K. Foster:** Why don't you be specific?

**The Hon. J. C. BURDETT:** I have been quite specific and have referred to several harmless promotions. There are many others, and there is no question that they are prohibited at present. Another difficulty with the present Act is that it is hopeless to interpret. I do not know whether the Hon. Mr. Sumner was called on to interpret the Act when he was in practice, but I have been, and I have spoken to other practitioners who have been called upon more than I have, their having been in commercial practice. It is terribly difficult to interpret the present Act and to decide whether or not certain promotions offend.

That kind of law which is difficult to interpret is bad law. There is no harm in the kind of promotions that are prohibited at present, with the possible exception of third party trading stamps, which will remain prohibited. I cannot see anything wrong with promotions, despite what the Leader has said, where the benefit is dependent on the purchase of goods. For example, members will recall that earlier this year two leading car manufacturers put advertisements in the press stating that, if one bought the obsolete models, one would get a cheque for $200.

**The Hon. N. K. Foster:** They went broke.

**The Hon. J. C. BURDETT:** That is not true. The two car manufacturers are still viable and are the two leading manufacturers in Australia. They inserted this advertisement in the press, but it was illegal under the Trading Stamps Act. I cannot see anything wrong with those promotions. The Act is quite archaic and is not related to modern life or business at all. The repeal of this Act, except in relation to third party trading stamps, will not prejudice small businesses. There is nothing anti-social or immoral about this kind of promotion. We are simply dealing with an Act that is quite out of touch with modern life.

**The Hon. C. J. Sumner:** Who pays for it?

**The Hon. J. C. BURDETT:** As the Leader has admitted, in a sense the consumer pays. However, if this one is not used, some other form of promotion will be used.

**The Hon. C. J. Sumner:** Such as?

**The Hon. J. C. BURDETT:** I am referring to some other form of advertising.

**The Hon. N. K. Foster:** Such as?

**The Hon. J. C. BURDETT:** I am referring to putting advertisements in the press. That is far more effective for a big business than it is for a small business, which often finds that it is appealing to people in a limited area. The promotion, with a hairdresser putting a bill in letterboxes, is effective.

There is nothing in this Bill that will adversely affect small businesses. The Bill merely seeks to repeal a ridiculous and archaic form of prohibition which applies in our society but which is rarely enforced. This kind of law which is difficult to interpret is bad, and I cannot understand the Hon. Mr. Sumner's stance. In fact, I do not think that the Leader has done his homework on this matter. I commend the Bill to members.

*[Midnight]*

**The Hon. R. C. DeGARIS:** I should like to tell the Council what the amendment actually means, as some members may not actually understand it. When the second reading of a Bill is defeated, the Bill can be revived the next day.

**The Hon. C. J. Sumner:** That's not right.

**The Hon. R. C. DeGARIS:** It is correct, under Standing Order 281. However, with the postponement of the debate for six months, it means that the Bill is killed and that nothing more can be done for six months. If this amendment is carried, it will mean the absolute death of the Bill.

**The Hon. C. J. SUMNER:** That explanation is completely incorrect, as it will not involve the absolute death of the Bill. It will mean that the Minister must take away the Bill, look at it, and bring it back next session. It is absurd to say that it involves the absolute death of the Bill. Rather, it means that the Minister will have time to consider the Bill and bring it back next session.

The Council divided on the amendment:

Ayes (8)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner (teller).

Noes (9)—The Hons. J. C. Burdett (teller), J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pairs—Ayes—The Hons. Barbara Wiese and J. E. Dunford. Noes—The Hons. M. B. Cameron and M. B. Dawkins.

Majority of 1 for the Noes.

Amendment thus negatived.

**The PRESIDENT:** I declare the second reading carried in accordance with Standing Order 287.

In Committee.

Clause 1—"Short title."

**The Hon. C. J. SUMNER:** I am in some difficulty with this Bill because I have been discussing it and amendments to it with the Parliamentary Counsel. Our attitude on

amendments depended on the attitude that the Council took on the second reading. Obviously, if the Government agreed with us on the second reading, amendments would not have been before the Committee. However, there are now some amendments that I wish to consider. One has been drafted but there are others, and I am wondering whether or not the desire to have them drafted can be accommodated.

**The Hon. J. C. BURDETT:** I introduced this Bill quite early last week. The Leader asked whether it could be put off until Tuesday. It is now late Tuesday (or actually early Wednesday), but Tuesday was agreed to. That was requested so that the Leader would be aware of amendments to be moved to the Lottery and Gaming Act in another place which would have some bearing on this Bill. I said that I was prepared to make it an Order of the Day for Tuesday 2 December, which I did, upon the Leader's undertaking that it would go through on that day, and the Leader acknowledges that. However, if he wishes to have amendments drafted, I will not hold him to his undertaking, and I am therefore prepared to suggest that progress be reported.

Progress reported; Committee to sit again.

## WORKERS COMPENSATION (INSURANCE) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment and suggested amendments.

## EVIDENCE ACT AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment to the House of Assembly's amendment No. 6 and that it insisted on its amendment No. 1 to which the Legislative Council had disagreed.

Consideration in Committee.

*Amendment No. 1:*

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

That disagreement to the Houe of Assembly's amendment No. 1 be not insisted on.

**The Hon. C. J. SUMNER:** This is the matter relating to unsworn statements. It is pointless to repeat the arguments relating to it. There is to be a Select Committee, and it would be absurd to have the prohibition on unsworn statements reinserted in the Bill.

The Committee divided on the motion:

Ayes (8)—The Hons. J. C. Burdett, J. A. Carnie, L. H. Davis, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, K. L. Milne, and C. J. Sumner (teller).

Pairs—Ayes—The Hons. M. B. Cameron and M. B. Dawkins. Noes—The Hons. J. E. Dunford and Barbara Wiese.

Majority of 1 for the Noes.

Motion thus negatived.

*Amendment No. 6:*

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

That the Legislative Council's amendment to the House of Assembly's amendment No. 6 be not insisted on.

**The Hon. K. T. GRIFFIN:** This is something of a formality, because there are features in those amendments that I would not accept without question. However, to enable the conference to proceed it is important to move this motion.

Motion negatived.

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons. Frank Blevins, L. H. Davis, K. T. Griffin, K. L. Milne, and C. J. Sumner.

*Later:*

A message was received from the House of Assembly agreeing to a conference, to be held in the House of Assembly conference room at 9.30 a.m. on Wednesday 3 December.

## SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL (No. 2)

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

## ABORIGINAL LANDS: HUNDRED OF KATARAPKO

**The Hon. C. M. HILL (Minister of Local Government):** I move:

That this Council resolve to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1975, sections 83 and 84, Weigall Division, Cobdogla Irrigation Area, hundred of Katarapko, be vested in the Aboriginal Lands Trust.

Sections 83 and 84 contain 111·5 hectares and 26·08 hectares respectively and are located adjacent to section 80 which has been vested in the Aboriginal Lands Trust and is being leased to the Gerard Reserve Council.

Sections 83 and 84 were originally part of section U and part section E which were held under annual licence conditions by P. A., F. G. and T. A. Bartsch, who also held section 80 under perpetual lease conditions. The Gerard Reserve Council, after negotiating with the lessees, purchased sections 80, U and part section E with the approval of and funds provided by the Australian Government.

The land contained in section U and part section E comprised approximately two-thirds highland and one-third river flats subject to inundation. Following negotiations by the Minister of Lands with the Minister of Community Welfare and the Aboriginal Land Trust, it was agreed that the Crown should retain control over the river flats. A survey of the area was carried out resulting in the renumbering of the highland as sections 83 and 84.

The Gerard Reserve Council made a request to the Minister of Community Welfare in August 1975 to have the area transferred to the Aboriginal Lands Trust, subject to the trust leasing the land back to the council for 99 years with a right of renewal on expiry of the lease.

The permanent residential population of Gerard is dependent at present on the farm and irrigation activities. The acquisition of additional land is vital to the continued survival of the community as it will allow for agricultural and horticultural expansion sufficient to ensure the continued employment of the growing population, whilst at the same time providing a training medium for the younger people who wish to be employed and skilled in this direction.

The Department for Community Welfare and the Aboriginal Lands Trust agreed to the proposal and sections 83 and 84 have been absolutely surrendered to the

Crown as a necessary step to enable the vesting to proceed. A plan of sections 83 and 84 is exhibited for the information of the honourable members. In accordance with section 16 of the Aboriginal Lands Trust Act, the Minister of Lands has recommended that sections 83 and 84 Weigall division, Cobdogla Irrigation Area be vested in the trust, and I ask members to support the motion.

**The Hon. FRANK BLEVINS** secured the adjournment of the debate.

## ADJOURNMENT

At 12.48 a.m. the Council adjourned until Wednesday 3 December at 2.15 p.m.