LEGISLATIVE COUNCIL

Thursday 12 November 1981

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

ESSENTIAL SERVICES BILL

At 2.16 p.m. the following recommendations of the conference were reported to the Council:

As to Amendment No. 1:

That the Legislative Council do not further insist on this amendment but make the following amendment in lieu thereof:

Page 1 (Clause 2)—Lines 6 to 8—Leave out 'health of the community would be endangered, or the economic or social life of the community seriously prejudiced' and insert 'the safety, health or welfare of the community or a section of the community would be endangered or seriously prejudiced:'

and that the House of Assembly agree thereto.

As to Amendment No. 2:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 3:

That the Legislative Council do not further insist upon this amendment but make the following amendment in lieu thereof:

Page 2 (Clause 4)—After line 40 insert subclause as follows:

(2a) No direction shall be made under this section unless it relates to the provision or use of proclaimed essential services.

and that the House of Assembly agree thereto.

As to Amendment No. 4:

That the House of Assembly do not further insist on its disagreement thereto.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

It is appropriate that I outline the nature of the agreement that has been reached between managers of the Council and managers of the House of Assembly for the guidance of members of this Council. The first amendment relates to the definition of 'essential service' in clause 2 of the Bill. The Council resolved to delete part of the definition and to insert words that were identical to an earlier Bill which was not passed by Parliament. The Council's original amendment defined 'essential service' as:

a service (whether provided by a public or private undertaking) without which the community, or a section of the community, would be deprived of the essentials of life.

At the conference it was conceded that the reference to 'social life' as it appeared in the Bill as it came from the House of Assembly gave an ambit to the definition of 'essential service' which was particularly wide.

The managers at the conference resolved that that should, in fact, be limited to the safety, health or welfare of the community or where a section of the community would be endangered or seriously prejudiced. That is very much narrower than what was in the previous Bill, yet wider than the amendment that the Council finally approved. One of the concerns with the Council's amendment was that the reference to essentials of life, as with other definitions, lacked particular clarity. If one were to define essentials of life strictly, the term may, in fact, be limited to the provision of food, water, and possibly shelter.

As a result of the conference, the broader definition was included, so 'essential service' will now mean a service, whether provided by a public or private undertaking, without which the safety, health or welfare of the community or a section of the community would be endangered or seriously prejudiced. It is the managers' view that that is an acceptable definition that does, to some extent, limit the operation of this emergency legislation.

The second amendment related to the period within which Parliament must be called together after a period of emergency has been declared by the Government. The Government's Bill originally provided for 28 days. Members will recollect that the Opposition was in favour of a period of seven days, and the compromise that was accepted by the Council was 14 days. The period of seven days was a period with which any Government would have considerable difficulty in managing the logistics of calling Parliament together at the time of an emergency.

A period of 14 days will create some constraints on a Government, but the managers for the House of Assembly and the Government take the view that a period of 14 days after the proclamation of an emergency and before Parliament is called together is a period with which any Government can live. The Government has never sought to avoid the requirement that Parliament should be called together when a period of emergency has been declared. It has been concerned only to define a reasonable period within which the Parliament should be called together. The Government is prepared to accept a period of 14 days.

The third amendment that the Council had originally insisted on was that, where the Minister gives directions under clause 4 of the Bill, the provision was inserted that a direction should not impose any form of industrial conscription. As the provision read, it was particularly broad and would have, in fact, emasculated completely the operation of the Bill. I do not think anyone can deny that, in certain circumstances, it will be necessary to give directions to individuals to provide essential services. For example, in the case of milk, which was one of the topics of discussion in Victoria during the recent strike and which is a necessity for many people, particularly children, there ultimately was a necessity in Victoria to give some directions in respect of the supply and delivery of that essential commodity. At no stage has the Government been of the view that this Essential Services Bill should, or ought to, be used to give a general direction to break a strike.

One example raised at the conference was the case of a strike by transport workers, which might affect not only the essentials of life, but other areas within the community. There was no suggestion by the Government that this particular clause, allowing the Minister to give directions, should be used in such a way as requiring all transport workers to go back to work and deliver not only essential services, but all goods and services affected by the strike.

Thus, it was important for us to clarify that because we certainly did not intend the breadth of application that the Hon. Lance Milne and other members opposite feared, as a result of the original drafting of this Bill. On the other hand, the amendment subsequently carried by this Council was much too wide. A result of the conference was that the power to give directions should be only in relation to the provision or use of a proclaimed essential service, so the fear that some members had of a general application of this power is removed.

The last amendment relates to clause 11 of the Bill. As it originally came to the Council, it provided:

No action to compel the Minister or a delegate of the Minister to take, or to restrain him from taking, any action in pursuance of this Act shall be entertained by any court.

Notwithstanding the difficulties that can arise in an emergency, if certain persons take proceedings in court in an attempt to thwart the settlement or handling of the emergency, the Government has been prepared to accept that that clause should be deleted. During the course of an emergency, one would hope that any body or persons who sought to take proceedings against the Minister with a view to thwarting the handling of an emergency would receive severe criticism from the public at large and the media in

particular. Therefore, we are prepared to rely on public comment on any attempts to thwart the handling of a dispute by that means. So, the managers were able to come to an agreement that clause 11 should be deleted from the Bill. I appreciate the manner in which members from both Houses entered into the conference in an effort to reach a compromise. I am pleased that that compromise has been reached and that the results of it are now before us.

The Hon. C. J. SUMNER: I must oppose the motion. The Bill as passed by this Council initially was unacceptable to myself and Labor members. We voted against the third reading of the Bill. The amendments made by the Council before the third reading were unacceptable to Labor members of this Chamber. The amendments that have now been made to the Bill are no less unacceptable. The Attorney-General has outlined the effect of the recommendations of the conference.

As to the first recommendation dealing with the definition of an essential service, our view initially was that that should be defined strictly and should apply in a situation in which a person or community was actually deprived of the essentials of life. The Attorney says that that phrase cannot be sufficiently defined. There are difficulties in defining many phrases that appear in legislation. Ultimately, the courts have the job of defining what a particular phrase means. The Attorney would be aware that in contract law there is a concept of 'necessary', of items that are necessary for life, in which case a contract can be enforced against an infant who enters into a contract for a 'necessary'.

Of course, a 'necessary' is a broad, vague definition and the courts have the job of defining what that means. In this case, the courts would have the job of defining what was meant by the essentials of life within the context of this legislation. I do not believe that that would be beyond them. I believe that that definition was more satisfactory because it confined the Bill to what it was really designed to do—to ensure that no-one in the community was left without the essentials of life, should an emergency arise.

We believe that that amendment, which was made by the Council, was appropriate. The amendment that is now recommended is to some extent a half-way house between the original Bill, which referred to the social life of the community being affected, and the original Council amendment, which referred to the essentials of life. The essence of the definition now concerns the safety, health or welfare of the community being endangered or seriously prejudiced. That is still too broad. Admittedly, it has removed the notion of the social life of the community being seriously prejudiced, but it does go beyond maintaining services for things that are essential to life; as such, it is still not acceptable to me.

The House of Assembly has agreed to the second amendment, which related to the period of time within which Parliament must be called together being 14 days. Originally our view was that it should be seven days, and that is still our view. That amendment was not accepted by this Chamber in the original Committee stage, and the present recommendation is unacceptable to us.

The third recommendation relates to the question of industrial conscription. Honourable members will recall that our amendment was much broader than the amendment which actually found its way into the Bill. Our amendment was as follows:

> A direction under this section—
> *(a)* shall not impose any form of industrial conscription;
> *(b)* shall not prevent a person from taking part, or continuing to take part, in a strike or other industrial action or from encouraging by non-violent means other persons to take part in a strike or other industrial action;
> and
> *(c)* shall not otherwise interfere with a strike or other industrial action.

In other words, our original proposal was to take the industrial situations out of the purview of the legislation. The rationale for that quite simply was that there has not been a case of which I know in modern times nor, I believe, in the history of the State, when legislation of this kind has been necessary in an industrial situation. Any threat to or difficulty with essential services has been negotiated with the unions concerned, as it was so negotiated in the recent transport workers dispute.

Our view was that there was no need for the legislation to apply to an industrial situation, and the amendment which I have just outlined was moved in the original Committee stage. The amendment which was passed merely picked up the first part of our amendment and referred to the prohibition of industrial conscription under the legislation. That was the form in which the Bill passed this Council. It was for that reason that we also voted against the third reading. The amendment which has been recommended by the conference is again unacceptable, because it takes a further step backwards from our original intention, which was to take the industrial situation out of the ambit of the Bill. The proposed recommendation from the conference weakens the prohibition which we had originally formulated against this Bill being used to impose any form of industrial conscription. Again, that amendment is unacceptable.

The fourth recommendation relates to a court scrutiny of the legislation. In this respect, the House of Assembly or the Government has agreed with our proposition but, given that there are four amendments and that that really is the only one that has been agreed to *in toto* of all those we put up, we believe that the package which has now finally been agreed to at the conference is still unacceptable. I would remind honourable members that we voted against the Bill at the third reading. The original amendments were unacceptable. These amendments, to our mind, are less effective than the original amendments and, accordingly, I cannot support the recommendations of the conference.

The Hon. D. H. LAIDLAW: I was pleased to serve on the conference of managers. The Attorney-General has explained the details of the compromises reached. The Hon. Mr Sumner doubts whether there is any need for legislation of this kind. They are his views but may I remind him that, when the Labor Party came into power in New South Wales in 1976, Mr Wran moved very quickly to gain emergency powers with regard to industrial disputes.

The Hon. R. C. DeGaris: As did the Dunstan Government.

The Hon. D. H. LAIDLAW: The Dunstan Government also wanted such legislation. With regard to amendment 1, much time was taken in agreeing on an acceptable interpretation of 'essential services' in clause 2. It is inevitable that the object of a Bill of this nature must be defined in broad terms, and it is to be hoped that public opinion will restrict any Government from acting in a Draconian manner. The former Premier, Mr Dunstan, agreed with this approach when he said in the House of Assembly in 1974, when debating a state of emergency Bill:

> It is not possible to spell out the particulars, simply because there must be a discretion in relation to matters of this kind.

They are Mr Dunstan's views.

Amendment No. 2 limits the period during which the Governor may proclaim a state of emergency before recalling Parliament to debate the matter. The Government proposed a maximum period of 28 days. The Opposition wished to restrict that to seven days, which seems too short a time

considering that Ministers and other members may be overseas when Parliament is not in session.

The Hon. Mr Milne moved to amend the period to 14 days, and as members will recall, that amendment passed the Council with the support of the Opposition, the Hon. Ren DeGaris and me. The managers agreed that 14 days was the shortest practicable time in which to recall Parliament. I am pleased with this decision, but I remind members that, in regard to the Energy Authority Bill that was passed in New South Wales in 1976, when a state of emergency is declared in that State, the maximum period for which the state of emergency can be proclaimed is for periods up to 30 days. I have no comments to make about amendments 3 and 4. I support the recommendations.

The Hon. R. C. DeGARIS: I find some difficulty in understanding why the Leader of the Opposition is so strongly opposed to the managers' recommendations. If one looks at the recommendations, one can only congratulate the managers on the manner in which they must have presented the views of this Council to the conference. The House of Assembly no longer disagrees to amendments 2 and 4; therefore, 50 per cent of the amendments that passed this Council have been accepted by the House of Assembly, because of the managers.

The Hon. Anne Levy: You are ignoring the content again.

The Hon. R. C. DeGARIS: Does the honourable member deny that what I say is right? Half of the amendments have been agreed to by the House of Assembly.

The Hon. Anne Levy: You are saying that they are all of equal value.

The Hon. R. C. DeGARIS: I am offering my congratulations to the managers because they have succeeded in having two of the four amendments totally accepted by the House of Assembly. The managers deserve congratulations on that. In regard to the first amendment, the managers of the Council succeeded in achieving a considerable change to the original clause of the Bill. I will not judge to what extent the House of Assembly has backed off, but this represents a considerable change in the attitude of the House of Assembly. Regarding amendment No. 3, I believe that we must admit that the amendment, which dealt with industrial conscription, was absolutely ridiculous. We have argued this point at length, and I challenge members in the Council to look in the Oxford English Dictionary at the definition of the words 'industrial' and 'conscription' and then to tell me what that term means in relation to the Bill.

The Hon. C. J. Sumner: The word 'conscription' is well and truly defined.

The Hon. R. C. DeGARIS: So is the word 'industrial' but, if we put the two together, I wonder whether the Leader can tell me what that term means. The managers' recommendation in regard to amendment No. 3 is a practical expression that the Council should be able to accept. I am finding great difficulty in understanding why the Leader, when the managers have done so extremely well at the conference in convincing the House of Assembly of the view of this Council, totally opposes the passage of this Bill. I find that quite difficult to understand.

The Hon. G. L. BRUCE: I oppose the passage of the Bill. While there has been a change in the amendments, I do not agree with the change. I believe that it does not go far enough. The definition of 'essential service' still leaves too wide the context of what is an essential service. The Bill can be used as a strike breaker, and I believe that that was why it was originally introduced; the reason for its introduction had nothing to do with essential services. The Bill can be abused by the Government of the day. I am yet to be convinced that, when this Bill is brought in, it will be effective. I believe that, if the unions concerned have not already exempted essential services, consultation with them can achieve this. I do not believe that a Bill is necessary to achieve that. If the Government believes that the Bill will be a blueprint of how to resolve a strike, to get people together in a conference in a reasonable, rational way, it is in for a shock.

I do not believe that the trade union movement will accept this Bill being thrust on it. I do not think it will help to get trade unions and employers together to thrash out any problem that may arise. What will happen, of course, is that the employers will try to hide behind this Bill. They will sit on the fence and wait for the Bill to get them out of any trouble. They will attempt to use the Government and this Bill as strike breakers. I believe the Opposition's original amendments got to the heart of the problem and made this a true Essential Services Bill—not a strike breakers Bill.

While there has been a compromise and both Houses have reached agreement, I believe that the Hon. Mr DeGaris was completely missing the point when he said that there were four amendments in all and the Council was successful in having 50 per cent of them accepted. The Hon. Mr DeGaris failed to recognise the importance of the amendments. I thought that two of the amendments were rather insignificant and whether they were passed or not did not matter one way or the other to the Government or the Hon. Mr Milne. The position about one of the other two amendments was flexible, and the Government was quite prepared to accept it. However, the Government was completely adamant about the remaining amendment. Therefore, there is a great deal of difference in the degree of importance of the four amendments.

For the Council to say that it has had a magnificent victory because 50 per cent of its amendments have been successful does not get to the heart of the matter. I believe that the Opposition's move in opposing the Bill at the third reading was correct, and I still oppose the Bill now. The fact that members opposite have seen fit to draw up amendments that are suitable to the Government does not make the Bill any better.

The Hon. FRANK BLEVINS: I will be brief. I particularly want to follow up the point made by the Hon. Mr DeGaris that the House of Assembly agreed to 50 per cent of the amendments proposed by the Council.

The Hon. Anne Levy: People like him give statistics a bad name.

The Hon. FRANK BLEVINS: As the Hon. Miss Levy said, people like the Hon. Mr DeGaris give statistics a bad name. He gives lots of other things a bad name, too. His action was a typical use of facts in a completely misleading way.

The Hon. M. B. Cameron: In your opinion.

The Hon. FRANK BLEVINS: Not in my opinion at all. I do not dispute that they are facts, but they were used in a completely misleading way. Amendment No. 1 virtually only removed the word 'social'. The word 'welfare' has been left in the Bill. I am sure that lawyers could make a lot of money arguing, if necessary, that a person's social life could be included in the definition of 'welfare'. Therefore, that amendment means nothing.

The second amendment, over which the Council apparently had a victory, according to the Hon. Mr DeGaris—and this was half of that victory—was the 14-day time limit instead of seven days, as proposed by the Labor Party. When speaking to this amendment in Committee, I personally did not agree with seven days: I did not agree with any time limit. I think in any emergency the Government has an obligation to immediately call Parliament together, and at that time Parliament should deal with any emergency. A Government should not be given even for one day, powers as broad as this to use as a card up its sleeve. What is

proposed is a total abrogation of the responsibilities of Parliament. I am astonished that the Council has agreed to this amendment, particularly after the many fine speeches that were made two or three years ago on similar legislation by the Attorney-General, the Hon. Mr Hill—

The Hon. K. T. Griffin: I have not made any speech on this legislation.

The Hon. FRANK BLEVINS: Not on this Bill, but on other pieces of legislation (and I think the petrol resellers legislation was one case) the Attorney-General said that this type of clause was a complete abomination and should not appear in any Bill.

The Hon. K. T. Griffin: Which ones?

The Hon. FRANK BLEVINS: The Attorney-General can look at previous debates. I am not prepared to go over those debates again.

The Hon. K. T. Griffin: You're on very shaky ground.

Members interjecting:

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: I have been asked to provide the Attorney-General with examples, so I will ask my colleague, the Hon. Mr Foster, to hold the floor for an hour or two while I find them.

Amendment No. 3 is the only amendment that counts. It is the only part of the Bill that has any substantial meaning. To use the vernacular, this is the guts of the Bill. Without this clause the Bill is worthless. When the Legislative Council inserted an amendment to this clause prohibiting it from being used for industrial conscription, the Hon. Mr Dawkins was perhaps the most honest member on the other side, because he said that if the amendment was accepted the Bill would be worthless. I followed the Hon. Mr Dawkins in that debate and said that I completely agreed that the Bill was worthless.

The Bill is good for only one thing—industrial conscription. I do not know why the Hon. Mr DeGaris had any difficulty in defining it. It is easy to define: it means compelling people to work. It is as simple as that. This Bill is designed to compel people to work. The Government says that it has no intention of using the Bill in an ordinary industrial dispute. I do not trust the Government, but I will give it the benefit of the doubt. That may not be its intention this afternoon but, if we get into an industrial dispute that looks a bit sticky, the temptation to use this Bill will be great.

If the Government succumbs to this temptation, particularly at a time close to an election, all hell will break loose. That is precisely what the Government wants. This Bill will be a temptation for the Government to use against the trade union movement to create a very bad situation, particularly close to an election. That is what I object to; I object to the totality of the Bill. Although I voted for some of the amendments, I disagree with this Bill in total. I would have done that in the Party room, too, if my Party had introduced a Bill of this nature.

Some of those learned and not so learned gentlemen opposite, particularly Mr DeGaris, virtually said that amendment No. 4 did not mean anything, anyway. He said that during the debate. He said that everyone was reading this particular clause incorrectly and that it did not mean what it said. I think the Attorney-General said that there were many other safeguards and that the clause did not mean quite what it appeared to say on the surface. I now agree with that comment, although I did not agree at the time, because I thought there was something sinister about it. I now agree with them that there was nothing in this clause, because they agreed to its deletion from the Bill, so there could not have been very much in it, or the Hon. Mr Milne would have given way on that, too. I was not convinced during the debate, but what has happened since then and during the conference has convinced me.

I will certainly vote against the motion. I think the Bill could be an unlit stick of dynamite and the Government could light the fuse anytime it desired. I believe this Bill will be used. The temptation to use it will be so great, particularly just before an election, that it is certainly a recipe for an industrial explosion in this State, the like of which we have never seen before.

The Hon. C. J. SUMNER: I feel compelled to respond to the contribution made by the Hon. Mr DeGaris, who found it difficult to see why I could not agree with the recommendations of the conference because, he said, in effect the Legislative Council had achieved some success. He said that it had got two of its amendments accepted and had got compromises on the other two, but the Hon. Mr DeGaris forgets that I and other Liberal members voted against the third reading of the Bill in any event. We did not find the Bill suitable even with the amendments put into it by this Council.

The situation as far as we are concerned simply is that it is like someone asking for a Rolls Royce, being offered a Commodore, and accepting a compromise of a Mini Minor. It is quite pointless as far as we are concerned. This is no compromise at all, because the original starting point was unacceptable to us. Obviously, what the Hon. Mr DeGaris said (and I was a little surprised that he said it) overlooked the fact that we had voted against the third reading. The Bill, when it left this place, in no way was acceptable to us, so the fact that some compromise arranged by the conference lessens the strength of the amendments that originally had been agreed to would obviously not make the Bill any more acceptable to us. Accordingly, I must maintain my opposition and oppose the motion.

The Hon. N. K. FOSTER: I will speak briefly because my Leader does not want me to impart my great knowledge of industrial matters at this stage, but the hypocrisy on the part of the Government in its violation of the system of conferences in this place is almost disgusting. There can be no second bite of the cherry so far as this side of the Council is concerned. The Government had placed before the Council something that it hoped would at least provide some fabric of integrity for matters of industrial delicacy, but we refused to have anything to do with the third reading.

Strikes will occur and, in the Government's overkill, it has failed to grasp the absolute significance of the speeches made by members on this side and the absolute fact that there was no necessity for any clause to be in the form in which the Government presented it. To say that we ought to accept the Bill on the basis that at least two clauses are no longer enshrined in it indicates that the Government fails to understand correctly and properly the vicious clauses that if found it necessary to place in the Bill.

The Attorney-General may smirk and take false comfort in the fact that he may have said certain things on similar legislation when his Party was in Opposition. The thrust of the argument at that time, of the Hills of the Liberal world and the other Liberal members in the House of Assembly, absolutely condemned the then Government. The Hon. Mr Laidlaw a few moments ago interposed and said that the legislation introduced by a Labor Government in this State contained provisions as wide as those in this Bill, but he failed to realise that that overkill was corrected, as it was in Western Australia.

I do not give a damn about what Neville Wran has done. The people of New South Wales are not constituents of members of the South Australian Parliament. Whatever the Hon. Mr Hill or the Hon. Mr Griffin may say about that is irrelevant and I am not concerned about it. I say that

directly to you, Mr Griffin, because in a question today or on Tuesday I will be ramming down your throat the attitude of the public to other current industrial matters.

The Committee divided on the motion:

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

Noes (8)—The Hons Frank Blevins, G. L. Bruce, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Pairs—Ayes—The Hons M. B. Cameron and L. H. Davis. Noes—The Hons B. A. Chatterton and C. W. Creedon.

Majority of 1 for the Ayes.

Motion thus carried.

Later:

The House of Assembly intimated that it had agreed to the recommendations of the conference.

QUESTIONS

FEDERAL HOUSING POLICIES

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Minister of Housing a question about a campaign launched in Victoria against the Federal Government's housing policies.

Leave granted.

The Hon. C. J. SUMNER: The Victorian Minister of Housing, Mr Kennett, has launched an advertising campaign in his State against the Federal Government's housing policies. This campaign includes advertisements in all newspapers in Victoria and includes a letter that Mr Kennett sent to the Prime Minister. The letter indicates that there are 30 000 genuine applicants for housing assistance in Victoria and states that this figure will grow if decisive action is not taken quickly through a special housing grant to the States. In effect, the essence of the campaign is to try to ensure that the Federal Government reviews the situation regarding housing finance and the extraordinary cutbacks made in this area over the past few years. Does the Minister support the campaign of Mr Kennett against the Federal Government? Is the Minister prepared to launch a similar campaign in South Australia?

The Hon. C. M. HILL: I support the general thrust of the Victorian campaign to seek more money for welfare housing. As far as supporting it in detail, we are making, and have made, representations to the Commonwealth Government in an endeavour to seek more benefit and aid for South Australia, but not along exactly the same detailed lines as advanced by Mr Kennett. I would prefer that our endeavours be pursued, rather than joining Mr Kennett in his particular approach.

RURAL ASSISTANCE FUNDING

The Hon. B. A. CHATTERTON: I seek leave to make a short statement before asking the Minister of Community Welfare a question on the matter of rural assistance funding.

Leave granted.

The Hon. B. A. CHATTERTON: Yesterday in the House of Assembly the Minister of Agriculture, in answer to a question, was very critical of remarks I made during an interview on the A.B.C. *Country Hour*. During that reply he tried to give the impression that the Rural Assistance Act, 1977, superseded the earlier Act of 1971. Can the Minister state how much money has been lent over the past two years from funds that were recycled from the moneys originally lent under the 1971 Act? The recycling process goes on continually in the rural assistance area where funds are repaid by farmers ahead of the scheduled time and are then re-lent to other farmers. The Rural Assistance Committee had the task of reviewing loans refused by the branch. I have been informed by some members of the farming community that they were not told of this review function. This situation is similar to what was exposed yesterday by the Hon. Anne Levy in her question to the Minister of Housing, where a certain scheme was in operation but people were not told that it was in fact operating. Can the Minister say whether the people who had their loans refused by the Department of Agriculture were told that they could seek a review from the Rural Assistance Committee?

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

BLOOD ALCOHOL LEVELS

The Hon. R. J. RITSON: I seek leave to make a brief statement before asking the Minister of Community Welfare a question concerning section 47f of the Motor Vehicles Act.

Leave granted.

The Hon. R. J. RITSON: On 29 September this year I directed a question on this subject to the Minister of Health. By way of explanation I pointed out that, with amendments to section 47f, the number of bottles in the kit provided in hospitals for the taking of blood for the purpose of estimating blood alcohol concentrations had been reduced from three to two due to the reduced requirement on the part of the Government Analyst, who now requires only one bottle. In many cases doctors have continued to send both specimens to the Government Analyst and have not given a specimen to the defendant. Since that time several people have asked me what the outcome of the question was. Therefore, I ask today whether the Minister would provide an answer.

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

INDUSTRIAL CLAIMS

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question about industrial claims.

Leave granted.

The Hon. N. K. FOSTER: I rise on this serious matter. I preface my question by referring to proceedings in the State Industrial Commission concerning an application by a number of unions for a 2.4 per cent wage increase based upon movements in the c.p.i. for the June quarter of this year. The Minister of Industrial Affairs intervened in the proceedings. I draw attention to comments of the Minister in the House of Assembly on page 795 of *Hansard*, regarding a previous Bill before both Houses of Parliament. At that time at various stages of the Bill a great deal was said as to the effect of that Bill in restricting the trade union rights before the arbitration commission. The Minister in the House of Assembly said:

It is well known that there have been discussions with the parties involved and that basically is what Parliament is all about—trying to reach a resolution and take into account some of the different views that have been expressed in the House. There have been discussions between the Government and particularly the Australian Democrats, who expressed a veiwpoint on this. The amend-

ments that we have before us are as a result of those discussions. We do not hide anything about the fact—

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

That so much of Standing Orders be suspended as to enable Question Time to continue until 3.45 p.m.

Motion carried.

The Hon. N. K. FOSTER: In regard to that *Hansard* report, I express my disappointment again and refer to the report as follows:

The Hon. J. D. Wright: And you took it up!

The Hon. D. C. BROWN: That is right. We took out the Public Service. It does not worry me in the slightest, because in three or four weeks time, as part of the agreement with the Australian Democrats, we will be bringing back a further Bill and a part of that Bill will be to include the Public Service Board as well as the Public Service Arbitrator.

The report goes on from there. I wish to refer to the fact that there have been a number of press statements by the Minister on this matter over a period since then. A report in the *News* of 22 September about the Minister of Industrial Affairs is as follows:

In Parliament last month the Industrial Affairs Minister, Mr Dean Brown, said to allow a wages explosion 'would be to run the very grave risk of returning to the events of 1973-74, when massive wage increases led to great inflationary problems, significant increases in unemployment and a total loss of international competitiveness by Australian manufacturing industry.

That is a load of rot. The report continues:

The Australian economy and, in particular, the South Australian economy, has not yet fully recovered from that disastrous position.

That was almost 10 years ago, and is also a load of nonsense. The report continues:

Similar alarm is being expressed by the general manager of the Chamber of Commerce and Industry in South Australia, Mr Arnold Schrape.

The report goes on to name people in the industrial world other than the organised industrial unions in this State. I now refer to the *Australian* of 31 October, which states:

The nation's chaotic wage-fixing system has been further confused by the West Australian Industrial Commission going it alone yesterday and awarding the State's 400 000 workers a $6.30 per week pay rise linked to the consumer price index.

I do not wish to say anything further about that, but I remind the Attorney and the Hon. Mr Laidlaw of their comments concerning the conference. They indicated that we should be happy if we could emulate other States in the Commonwealth in regard to the Essential Services Bill. I suggest that they attempt to emulate the situation in Western Australia in regard to workers' claims. Further, 10 per cent increases have been extracted in South Australia by certain unions in recent weeks, as is their right. Those agreements have been reached, but I am not sure whether they have been given the blessing of the Industrial Commission. That leaves the smaller unions which perhaps do not have the industrial muscle of some of their brothers in this matter. The Minister has intervened in respect to proceedings in the current application, and there is no doubt tht he intervened solely at the behest and demand of the Chamber of Commerce, which subscribed money to the political campaign of the Liberals at the last election. If the faces of some honourable members in this Chamber go red, then they must live with their consciences. I understand that the application has been brought forward by the union movement in the State Industrial Court in order to preserve an orderly system of wage fixation following a decision of the Australian commission on 31 July to abandon wage indexation. I relate my comments to the report in the *Australian.*

My question is directed to the Hon. Mr Burdett, representing the Minister of Industrial Affairs, as is his unfortunate lot in this Chamber. Therefore, my questions are as follows: First, in light of a decision given by the Western Australian industrial commission (reported in this week's *National Times* and the *Australian* on 31 October, on 30 October where, in spite of the Australian commission's abandonment of indexation and in spite of submissions on behalf of the South Australian Government, that the Western Australian commission should not entertain consideration of the claim, the commission did award full indexation based on the c.p.i increase for Perth for the June quarter, will the Minister now support the application before the South Australian commission and, if not, why not?

Secondly, will the Minister provide to the Council the reasons why the application is not supported by his Government and a precis of the argument in opposition to the claim that he intends to place before the commission?

Thirdly, I refer to speculation in and around the Council during the passage of recent amendments (August 1981) to the Conciliation and Arbitration Act, concerning the likelihood of the Government's introducing, at a later time, further amendments to the Act (that does not include the amendments to the Act concerning sick leave provisions).

Finally, will the Minister advise the Council whether any further amendments are in train and, if so, do they have any bearing upon, or affect in any way, the wages case before the commission, to which I earlier referred, and which will be heard on 20 November 1981? Is it the intention of the Minister to make a public statement over the weekend or a statement in Parliament before Friday of next week?

The Hon. J. C. BURDETT: I must say that I do not feel unfortunate in representing the Hon. Dean Brown in this Council: in fact, I feel privileged. I will refer the honourable member's questions to my colleague and bring down a reply.

MEDICAL ETHICS AND SECRECY

The Hon. J. R. CORNWALL: I seek leave to make a brief statement before asking the Attorney-General, representing the Premier, a question concerning medical ethics and secrecy.

Leave granted.

The Hon. J. R. CORNWALL: On 15 July 1978 an article by Dr D. O. Crompton appeared on page 146 of the prestigious medical journal *The Lancet.* The author discussed infection of the eyeball. Referring to suppression of information, he said:

Publication of complete details of a similar episode in a South Australian repatriation hospital was prevented by threat of litigation against the author, who also received intimidating legal letters because he had mentioned the loss from infection of an eye of a newborn baby in the Broken Hill Hospital.

A major factor allowing these serious incidents to recur is the tight secrecy that surrounds medical disasters . . . Doctor's fears that publication of articles about medical mishaps may prejudice their careers must be assuaged . . . the law needs to recognise that publication of information does not constitute an admission of legal liability.

There are innumerable examples of this ever-present preoccupation with medical secrecy. I have a letter written to Dr Crompton in 1978 by a prominent medical scientist concerning an incident at the Royal Adelaide Hospital. In the letter he says:

The prejudice against 'dobbing one's mates' even for public interest is oddly strong . . . I can vividly remember the case you want to know about.

The case concerned the treatment of a patient in Royal Adelaide Hospital who had tetanus. The writer gives some details of the particular incident and goes on to say:

I later discussed this case in a meeting we regularly had for the (medical) residents and emphasised the need for keeping records of what was being done, especially when shift work [was] the

norm. The registrar then warned me of a slander action if the news got around, although neither patient nor doctors were named.

In *The Lancet* of 22/29 December 1979 at pages 1358 and 1359 an article appeared on the same subject and said, in part:

What has so far inhibited many doctors from pressing for any sort of judgment on their fellows is an uncomfortable feeling of 'there but for the grace of God' . . . Knowing that we all make mistakes many members of the medical hierarchy are loath to sit in professional judgment on their colleagues.

Anyone can make a mistake and to make one is a misfortune. To continue to do so is usually carelessness . . . fortune largely favours the diligent.

How shall we deal with the ignorant, the greedy, and those totally without conscience? Clearly not by the 'three wise men' principle.

As long ago as 1973 the Bright Commission came to the unanimous conclusion that:

It is wrong for those aware of an imperfection in treatment to withhold information from the person affected. How, otherwise, can he even know, much less assert his rights? There should be no attempt to suppress information with respect to possible imperfection in treatment. Departmental procedures should encourage disclosure and should in no way attempt to preserve secrecy from the patient in such cases. Compensation for injury resulting from wrong treatment should be thought of in the same way as compensation for injury resulting from an unsafe system of work.

In February 1975 the Journal of the Australian College of Ophthalmology Vol. 2 No. 1 carried a lengthy paper which was the Presidential Address given to the college by Dr Crompton in Adelaide in April 1974. What was perhaps far more important were those parts which the editor saw fit to delete. I quote parts of the original paper which was suppressed from publication. I am quoting from the originals that were suppressed as follows:

The secrecy maintained by medical men, and enforced by hospital administrators on the order of politicians and their bureaucrats, is to be deplored.

Following (publication of the Bright Report) the Administrator of the Royal Adelaide Hospital, on instructions from the Crown Solicitor, issued to the staff on 22 May 1973 a memorandum stating:

> The Crown Solicitor has advised that whenever there is any complaint of negligent treatment by the hospital or its staff, the patient or his next of kin could be advised that they may wish to obtain independent advice on the matter. Details of the circumstances should not be discussed between the possible claimant or his representative and the Hospital staff but be left for official attention by persons nominated by the Board of Management or its legal adviser.

Referring to this memorandum in the censored, unpublished portion of his address, Dr Crompton went on to say:

The patient is unlikely to receive justice unless the word 'should' were to replace 'could' in the first sentence. It is implicit in this memorandum that only biased persons nominated by the Hospital Board of Management or its legal adviser should discuss the circumstances with the patient.

This continued secrecy will prevent patients taking action at common law. This is not only an injustice to the patient but also detrimental to the public in general . . . a free flow of information concerning errors in technique is hindered and this inevitably retards the adoption of improved methods both in the hospital concerned and elsewhere.

It is obvious that nothing has changed since then. Recently members will recall that I produced a series of memos in the Legislative Council concerning the incompetence, negligence and alcoholism of an ophthalmologist operating at an Adelaide hospital. A few days later the following instructions appeared on the notice board in one of the staff tea rooms at that hospital:

Management Procedures
Confidential Information

1. Employees shall not discuss, except in the course of official business, the affairs of patients with other employees [not even with each other] or with persons who have no connection with the hospital.

2. No employee shall publish or furnish or cause to be published or give to any person a report on any patient in the care of the hospital unless so authorised by the Hospital Administrator.

It seems that the medical machine strikes back to enforce its own omerta—the Code of Silence. Will the Premier, as a respected member of the medical profession in South Australia, please give a public undertaking that he intends to take action to reform the law in order to remove these malignancies from medical practice in South Australia? Will he appoint a representative and prestigious committee of inquiry to advise the Government what administrative and legislative reforms are necessary?

The Hon. K. T. GRIFFIN: I will refer the questions to the Premier.

HEALTH PAMPHLETS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question on health pamphlets.

Leave granted.

The Hon. ANNE LEVY: I know that the Health Commission in this State will perhaps, some time in the far distant future, produce a pamphlet on abortion which was recommended to it in 1977 and which was ready for publication in 1979 but which has still not been published. No date has yet been set for it, as indicated in a reply to my earlier question this week. However, it may not be generally known that Health Commissions in other States produce a large range of pamphlets on a variety of topics which are published for public information and which are available in a large variety of locations such as community health centres, the out-patients or casualty departments of hospitals, in family planning associations, through women's information switchboards, in doctors' surgeries and so on.

The pamphlets published in the Eastern States cover a wide variety of topics related to women's health. The New South Wales Health Commission, I understand, produces leaflets about infertility, genital herpes and methods of contraception. The Queensland Health Department has leaflets on hysterectomy, self-examination of breasts, smear tests and general information on cigarettes and pregnancy. Such leaflets fill a very valuable public function in providing information to people who benefit from it, particularly if the pamphlets are widely available.

Will the Health Commission give consideration to putting out such pamphlets in this State? I am sure many groups would be happy to co-operate with it in the production of pamphlets if it believed it had any difficulties in producing them unaided. Those pamphlets could be made available at the same time or even sooner than the long-awaited pamphlet on abortion.

The Hon. J. C. BURDETT: I will refer the honourable member's question to the Minister of Health and bring back a reply.

MOUNT GAMBIER TRAIN SERVICE

The Hon. G. L. BRUCE: Has the Attorney-General a reply to my question of 30 September on the Mount Gambier train service?

The Hon. K. T. GRIFFIN: The Chairman of Australian National has advised that sufficient accommodation was not provided on the passenger service from Mount Gambier to Coombe *en route* to Adelaide on Friday 25 September due to an unfortunate oversight by the officer controlling the car working. Suitable disciplinary action has been taken with the officer concerned.

With a limited number of Bluebird cars available the consist is normally reduced at Coombe in order to conserve

the use of the cars to cater for services throughout the system. However, in this case a two-car consist should have worked through to Mount Gambier in order to convey the special party and local passenger traffic offering on the return journey. The inconvenience caused is sincerely regretted.

A refreshment service is only available between Coombe and Mount Gambier and *vice versa* during peak periods, that is, school holidays, long weekends, etc., when passenger patronage warrants this catering. The commission cannot justify the expense of providing a service at other times, as sufficient demand for refreshments does not exist.

HOOLIGANISM

The Hon. J. E. DUNFORD: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Chief Secretary, a question about hooliganism in the suburbs of Adelaide.

Leave granted.

The Hon. J. E. DUNFORD: An article appeared in the *Advertiser* this morning under the heading 'People near Hackney Hotel living in fear'. The article stated that the residents say that they are frightened to go outside their homes on Friday and Saturday nights because of hooliganism, which they associate with discos held at the hotel. The St Peters council has been reluctant to send its inspectors to the area to police council by-laws because it fears that they will be assaulted. Thus, even though this question is directed mainly to the Chief Secretary, it will be of interest to the Minister of Local Government. Arsonists destroyed a custom-built motor vehicle, which was equipped with $2 000 worth of accessories, including a television set. This was the last straw for its owner, a 24-year-old worker, who lost his job only three days previously.

All sorts of vandalism is occurring: petrol is being milked from petrol tanks and car wireless aerials are being smashed.

The Hon. Anne Levy: That is happening all over Adelaide.

The Hon. J. E. DUNFORD: I agree. Padlocked chains erected across entrances to car parks have been knocked down by motorists driving against them, and empty beer bottles have been thrown into the yards of units. The article states:

> Despite complaints to police, the St Peters Council, Housing Trust, the Licensed Premises Division of the Department of Public and Consumer Affairs and the Hackney Hotel management, vandalism and filthy language continues until 2 a.m. and 3 a.m. on Saturdays and Sundays.

One can see that the people have gone to all the responsible authorities to get some sort of justice and protection, but their efforts have failed. It is the responsibility of the Government to take some sort of action, as I have stated previously. The Government will receive my support if it takes drastic action. Something must be done. Under the heading 'Fear of assault' the article states:

> Trust tenants, some of whom are paying more than $60 a week rent, and other residents in the area, say they are afraid to walk the nearby streets on these two nights for fear of being assaulted. Their requests to the trust to fence-in the car parks have been refused.

The amount of rent that was quoted comes into the area of minimum rents. It is all right for the Minister to nod his head. The area in which he lives (Unley) and other such areas are insulated from this sort of thing. Instead of grinning, it would be a good idea if the Minister went out to see what is going on. The article further states:

> A spokesman for the St Peters Council said yesterday the corporation was reluctant to send inspectors to the Hackney area at night 'for fear they end up in hospital'.

If people cannot carry out their lawful duties, policing the laws that we enact in Parliament, without ending up in hospital, the Government must do something. What is the Government going to do about it? It was further stated:

> There were many girls who went to the discos and drank who appeared to be under the legal age.

How many times have I raised this matter in Parliament, and nothing has been done?

The Hon. Anne Levy: It is not only girls.

The Hon. J. E. DUNFORD: That is right. There are probably boys with them.

The Hon. Anne Levy: Or they are alone.

The Hon. J. E. DUNFORD: Yes. I am glad you brought that to our notice; you never miss. The article further stated:

> By imposing conditions on trading, privileges of a particular hotel could be restricted. That might mean that liquor sales could be prohibited beyond midnight.

I have asked this question of the Minister because he represents the Chief Secretary, who up to date has been quite hopeless in his portfolio. However, this matter may be something he can grab on to, and I hope to goodness that he does. When will the Chief Secretary, as the responsible Minister, take action to fulfil the Liberal election promise to make our footpaths safe for people to walk on? If action is to be taken, will the Chief Secretary inform the Council what form that action will take? I want to know. The Chief Secretary will probably say that he is looking into the matter or that a report will be prepared.

The Hon. M. B. Cameron: Who wrote your question?

The Hon. J. E. DUNFORD: I know that you, Mr President, want to know, because you are sitting on the edge of your chair. I know that you are interested, even though you do not live in the metropolitan area.

The Hon. M. B. Cameron: That was not written for you.

The Hon. J. E. DUNFORD: No. The President is concerned, but the honourable member is not. He would do better to take some interest in the matter. Does the Minister believe that the closing of one hotel or the cancellation of a licence for late closing will solve the problem? That is what the report says. The hotels will have their turn. If a licence is cancelled, the hooligans will go to another hotel. I suppose that the Government will take the licence from the Hackney Hotel and give it to the Norwood Hotel; then the hooligans can go there. The hooligans will finish up going around the whole State; they will not miss anyone. We might as well leave them where they are and tidy them up. Finally, how many hotel people have been charged with serving alcohol to children under the age of 18 years?

The Hon. C. M. HILL: There are at least two matters to which I must reply, apart from the main thrust of the honourable member's question. First, the honourable member made disparaging remarks about the Chief Secretary. The Chief Secretary does a splendid job in carrying out his very difficult task, which was made even more difficult because the previous Government did not do a thing about gaols for 10 years. Secondly, the honourable member referred to the suburb in which I live. He placed special emphasis on that. Of course, the honourable member may talk about those who live in suburbia now, because he does not live here anymore. He has become a rural producer in the high value region of McLaren Vale.

The Hon. J. E. Dunford: Next door to a tip that you opened last week.

The Hon. C. M. HILL: The honourable member's answer to the problem is to turn his back on suburbia and live like a country gentleman on his rural estate.

The Hon. N. K. Foster interjecting:

The Hon. J. E. Dunford: You're jealous.

The PRESIDENT: Order!

The Hon. C. M. HILL: I shall be pleased to refer the questions that I have been asked to my colleague in another place and I will bring back a reply.

The Hon. N. K. Foster: You touched everyone in the State.

The PRESIDENT: Order! The Hon. Mr Foster must come to order.

The Hon. N. K. Foster: What I said is true.

The PRESIDENT: Order! I am not concerned about whether it is true. I ask the honourable member to come to order.

The Hon. N. K. Foster interjecting:

The PRESIDENT: Order! If the honourable member does not stop—

The Hon. N. K. Foster: I will deal with the matter in a later debate.

The PRESIDENT: Order! I intend to have order, even if some members have to leave.

STATUTES AMENDMENT (JURISDICTION OF COURTS) BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Local and District Criminal Courts Act, 1926-1981; the Justices Act, 1921-1981; the Criminal Law Consolidation Act, 1935-1980; and the Companies Act, 1962-1981; and to make consequential amendments to the Local and District Criminal Courts Act Amendment Act, 1978. Read a first time.

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

That this Bill be now read a second time.

It proposes amendments to the Local and District Criminal Courts Act, the Justices Act and the Criminal Law Consolidation Act affecting both the civil and criminal jurisdiction of the Supreme Court and the District Court, the civil jurisdiction of local courts of limited jurisdiction and the criminal jurisdiction of courts of summary jurisdiction.

In 1978, legislation was passed relating principally to the enforcement of judgments but also making various changes to jurisdictional limits. This legislation has not yet been proclaimed for various reasons, including the substantial costs that would result from its implementation and some residual difficulties that would need, in any event, to be resolved.

The implementation of changes to jurisdictional limits is regarded by the Government as a pressing necessity. The other matters raised by the 1978 legislation will fall within the purview of a committee, established by the Government, to review the Supreme Court Act, the Local and District Criminal Courts Act and the Justices Act. This review will be carried out in close consultation with judges, magistrates and the legal profession. It is hoped that separate Bills will be introduced relating both to the manner in which courts are structured and to civil and criminal procedure. A rationalisation of procedures is long overdue as is a comprehensive review of the legislation dealing with the structure of the State's judicial system.

This Bill proposes changes in the civil jurisdiction of local courts, increasing the limited jurisdiction from $2 500 to $7 500, the small claims jurisdiction from $500 to $1 000 and the full jurisdiction of the District Court from $20 000 to $40 000 although, where a claim relates to damages for injuries sustained in a motor vehicle accident, the jurisdictional limit of the District Court will be $60 000. At present, an appeal lies to the Supreme Court, by leave of that court, from a decision in proceedings based on a small claim. This Bill proposes that an appeal should instead lie to a District Court, by leave of that court, and that the appeal should be dealt with informally either in court or in chambers. This proposal seems more in keeping with the nature of the small claims procedures.

Criminal offences are presently divided into groups by reference to the maximum penalty which may be imposed. This division is relevant for the purpose of determining whether an accused person should be committed for trial in the Supreme Court or the District Court. Under the proposed amendments it will also be relevant to the definition of 'minor indictable offences'. Group I presently covers offences for which the penalty exceeds 10 years; Group II presently covers offences for which the penalty is more than four years but does not exceed 10 years, and Group III offences are those which attract a maximum penalty of less than four years. The Bill proposes a revision of these categories. Under the revised categorisation Group I offences will be those attracting a maximum penalty of 15 years or more, Group II will comprise offences attracting penalties of between five years and 15 years and Group III will comprise offences attracting a penalty of up to five years.

The Bill enlarges the range of offences which are presently categorised as minor indictable offences. These are offences in relation to which a defendant may be dealt with summarily by a magistrate, or alternatively, if he so elects or the case is of particular seriousness or difficulty, be committed for trial before a jury. The range of offences which comes within the revised definition is broad. It includes common assault, simple larceny, embezzlement, false pretences, fraudulent conversion, larceny, larceny as a bailee, larceny as a servant, passing a valueless cheque, receiving stolen property, and drug offences. Assault occasioning actual bodily harm, unlawful wounding and break, enter and larceny cases will also be included. But offences against the person (other than those specifically mentioned) and offences relating to property that involve property exceeding $2 000 in value are excluded from this category. The maximum fine that may be imposed by a court of summary jurisdiction in relation to a minor indictable offence is increased from $200 to $2 000. The maximum term of imprisonment that may be imposed in respect of such an offence by a court of summary jurisdiction will remain fixed at two years. However, a new provision will enable a court of summary jurisdiction to remand a convicted defendant to a District Court for sentence where in the opinion of the court an adequate sentence cannot be imposed in the particular case because of the limitations referred to above.

The Bill empowers the Supreme Court to remit cases to a District Court where they may be appropriately dealt with by that court. No case of treason, murder, attempted murder, rape, and armed robbery may, however, be referred to a District Court for trial. Conversely, the Bill provides that in cases where it is more appropriate for a trial to take place in the Supreme Court rather than in the District Court, the Crown or the defendant have the right to apply to the Supreme Court for the trial to be moved into the Supreme Court.

The Bill proposes a change to the qualification for judicial office for the District Court. Eligibility for appointment to the Supreme Court requires ten years standing as a legal practitioner. To be eligible for appointment as a judge of the District Court a person must be a legal practitioner who has held a practising certificate for not less than seven years or be a special magistrate or acting judge. This provision presently leaves open the possibility of the appointment of unqualified persons to the Bench. The Bill ensures that a person appointed to judicial office must be a legal practitioner and that a minimum period of seven

years must have elapsed since admission. Existing special magistrates who are legal practitioners, have existing accrued credits leading to eligibility for appointment to the District Court. These will be preserved, although the Government does not subscribe to any general principle of 'promotion' through judicial offices. The Bill also deals with a miscellany of more minor matters that are best explained in the context of the individual clauses of the Bill. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 to 3 are formal. Part II amends the Local and District Criminal Courts Act. Clause 4 is formal. Clause 5 amends section 4 of the principal Act in a number of respects. First, it increases the amount of a small claim from five hundred to one thousand dollars. Secondly, it increases the jurisdictional limit of local courts of full jurisdiction. This is increased from $20 000 to $40 000 and, in relation to a cause of action in tort relating to injury, damage or loss caused by, or arising out of, the use of a motor vehicle, to $60 000. The jurisdictional limit of local courts of limited jurisdiction is increased from $2 500 to $7 500. Amendments are also made to the definitions under which offences are categorised into 'group I', 'group II' and 'group III' offences. A group I offence will in future be an offence attracting a maximum penalty of more than 15 years imprisonment. A group II offence will be an offence attracting a maximum penalty of between five and 15 years imprisonment and a group III offence will be an offence carrying a maximum penalty of up to five years imprisonment.

Clause 6 is a transitional provision providing that where proceedings in respect of a claim for a pecuniary sum exceeding five hundred dollars but not exceeding one thousand dollars had been instituted in a local court before the commencement of the amending Act, the claim does not become a small claim by virtue of the provisions of the amending Act.

Clause 7 amends section 5b of the principal Act by making it clear that a person appointed as a judge under the Local and District Criminal Courts Act must be admitted and enrolled as a practitioner of the Supreme Court. This amendment does not however preclude the appointment of a special magistrate as a judge of the District Court provided that the special magistrate is admitted as a legal practitioner. But periods for which a special magistrate has not held a practising certificate are not to be taken into account in determining whether or not he has attained seven years standing as a legal practitioner (except in the case of such periods occurring before the commencement of the amending Act).

Clause 8 makes consequential amendments to section 31 of the principal Act which deals with the jurisdiction of a local court of full jurisdiction. The amendments relate to the redefinition of the local court jurisdictional limit. Clause 9 amends section 32 in view of the redefinition of the jurisdictional limit of local courts of limited jurisdiction. Clause 10 makes it clear that a question of law cannot be reserved for the opinion of the Supreme Court in a case based upon a small claim. Clause 11 amends section 58 of the principal Act which relates to appeals from local courts. The amount that determines whether an appeal lies of right is increased from five hundred to one thousand dollars. A further amendment provides that no appeal will lie either as of right or by leave from proceedings relating to a small claim.

Clause 12 amends section 107 of the principal Act. This section deals with the rate at which interest accrues upon judgments of the local court. The amendment provides for the rate to be prescribed by rules of court. This will enable adjustments to be made reflecting changes in interest rates as they affect the community at large. Clause 13 makes a corresponding amendment to section 126 of the principal Act. Clause 14 makes an amendment to section 152b of the principal Act which is consequential upon later amendments. Clause 15 makes an amendment to section 152f of the principal Act reflecting the increase in the amount of a small claim from five hundred to one thousand dollars.

Clause 16 introduces new section 152g of the principal Act. This new section allows a party to proceedings based upon a small claim who is dissatisfied with a judgment given in the proceedings to apply to a local court of full jurisdiction for leave to appeal against the judgment. If leave is granted the local court of full jurisdiction may hear the appeal and confirm, vary or quash the judgment subject to the appeal. Proceedings on the appeal are to be heard and determined without unnecessary formality, and may be heard, at the discretion of the appellate court, either in open court or in chambers. A party to an application for leave to appeal, or to an appeal, under the new section may by leave of the court to which the application or appeal is made, be represented by counsel.

Clause 17 makes a consequential amendment to section 153 reflecting the fact that the rate of interest to be paid on judgment debts will in future be fixed by rules of court. Clause 18 amends section 165 of the principal Act. This section presently gives the court power to suspend execution of a judgment for a sum not exceeding three hundred dollars in a case where the judgment debtor is unable because of sickness or some other sufficient cause to pay the judgment debt. The amendment increases the amount of the judgment debt in respect of which the power is exercisable from three hundred dollars to one thousand dollars.

Clause 19 amends section 168 of the principal Act. The amendment relates to the value of wearing apparel, bedding and tools and implements of trade that are protected from execution. The value of such items is increased from sixty dollars to one hundred dollars. Clauses 20 to 24 relate to the proposed repeal of section 390 of the Companies Act. This section will not be reproduced in the uniform company codes which are to come into operation early next year. Section 390 of the Companies Act presently adapts the u.j.s. procedure of the local court so that it applies also to companies. This adaptation is now to be accomplished by the amendments proposed in these clauses. It should be noted that the pecuniary limit upon the application of the u.j.s. procedure to a company is now to be removed by the proposed amendments.

Clause 25 increases from sixty dollars to one hundred dollars the amount of compensation that may be awarded by a court where a judgment debtor is vexatiously brought to answer an unsatisfied judgment summons. Clause 26 makes a consequential amendment to section 183 of the principal Act. Clause 27 amends section 216 of the principal Act which deals with recovery of premises by a landlord. The premises in respect of which proceedings may be brought in the local court are to be those in respect of which an annual rent of up to six thousand dollars is payable. This increase is in line with other increases to the jurisdictional limits of the local court. Clause 28 makes a corresponding amendment to section 228 of the principal Act.

Clause 29 increases from twenty thousand dollars to forty thousand dollars the value of property in respect of which ejectment proceedings may be brought in a local court of

full jurisdiction. Clause 30 amends the special equitable jurisdiction of a local court from cases involving equitable claims of up to twenty thousand dollars to those involving equitable claims of up to forty thousand dollars. Clause 31 amends section 279 of the principal Act increasing from ninety dollars to two hundred dollars the amount of compensation that may be awarded to a person who is vexatiously arrested under the provisions for the arrest of absconding debtors.

Clause 32 amends section 284 of the principal Act which provides for the examination of witnesses who are unable to attend the hearing of an action. This procedure can preesently be used in a case where more than ninety dollars is claimed by the plaintiff. Because a local court, in hearing a small claim is not bound by the rules of evidence, the amendment provides that the procedure is available except in cases based upon a small claim. Clause 33 amends section 285 of the principal Act which empowers a judge or special magistrate to issue a commission for examination of witnesses on oath. This procedure is not in future to apply in relation to actions based on a small claim by the former Government. The amendments made by this clause repeal those provisions of the amending Act which are inconsistent with the provisions of the present Bill.

Part III contains amendments to the Justices Act. Clause 41 is formal. Clause 42 amends the definition of 'minor indictable offence' in the principal Act. Under the amended definition a minor indictable offence will include

(a) an offence declared to be, or designated or described as, a minor indictable offence by any other Act;

(b) a group III offence (i.e. an offence attracting a prison sentence of up to five years) but not including an offence against the person (other than common assault, assault occasioning actual bodily harm and unlawful wounding), concealment of childbirth, or property in offences involving amounts of up to two thousand dollars; or

(c) certain other designated offences which comprise breaking and entering, certain forms of aggravated larceny, and receiving provided that they do not involve property of a value of more than two thousand dollars.

An adjustment of a technical nature is made to the definition of 'simple offence'.

Clause 43 amends section 106 of the principal Act and clause 44 repeals section 106a of the principal Act. Both these amendments are consequential upon subsequent amendments which affect the procedure for dealing with minor indictable offences. Clause 45 amends section 120 of the principal Act. The effect of the amendment is to provide that a court of summary jurisdition that sits to hear and determine proceedings in relation to a minor indictable offence must be constituted of a special magistrate. Clause 46 repeals section 121 of the principal Act. The amendment is consequential upon the repeal and re-enactment of section 120.

Clauses 34 and 35 amend sections 295 and 296 of the principal Act. The amendments relate to taxation of costs. The monetary limits which determine whether the taxation is to be conducted by a clerk or special magistrate are amended to accord with changes in the jurisdictional limits of a local court of limited jurisdiction. Clause 36 of the principal Act amends section 302 by removing a power to impose a fine upon a clerk, bailiff or officer not exceeding forty dollars for the offences of extortion, or levying money under the Act and failing to account for it. Such offences would of course normally attract heavy criminal sanctions and it is quite unnecessary and inappropriate to deal with them in the context of section 302 of the principal Act.

Clauses 37 and 38 are consequential upon proposed amendments to the Criminal Law Consolidation Act which will permit certain defendants who have been committed for trial in the District Criminal Court to be tried instead by the Supreme Court and *vice versa*. These new provisions supplant existing sections 335 and 336 of the principal Act. They also require an amendment to subsection (2) of section 328 to ensure that a District Court will have jurisdiction to try a group I offence referred to it by the Supreme Court. These clauses make the necessary repeals and amendment. Clause 39 empowers a District Criminal Court or a judge to remit in whole or in part a fee payable under the District Criminal Court provisions or the rules of court relating to those provisions if it appears to the court or judge that the remission should, on account of the poverty of the party liable to pay the fee, or for any other appropriate reason, be granted. This power corresponds to similar powers exercisable by courts of summary jurisdiction and the Supreme Court.

Clause 40 amends the Local and District Criminal Courts Act Amendment Act, 1978. This amending Act has not yet come into operation. It forms part of a package of legislation relating to enforcement of debts and debt counselling which was introduced.

Clause 47 repeals and re-enacts section 122 of the principal Act. This section deals with the procedure and powers of a court of summary jurisdiction in relation to the hearing and determination of a charge relating to a minor indictable offence. The proceedings in relation to such an offence will be conducted in much the same way as those relating to a summary offence, but if the court determines not to deal with the matter in a summary way, or if the defendant elects to be tried upon indictment, then as from that point, the proceedings will continue as a preliminary examination.

Clause 48 amends section 124 of the principal Act to provide that where a person appears before a justice (not being a special magistrate) charged with a minor indictable offence, the justice is to remand him to appear before a court of summary jurisdiction constituted of a special magistrate. Clause 49 repeals sections 125 and 126 of the principal Act. These repeals are consequential upon the earlier amendments.

Clause 50 amends section 129 of the principal Act which sets out the powers of a court of summary jurisdiction in relation to the sentencing of an offender found guilty of a minor indictable offence. At present a court of summary jurisdiction may not impose a fine exceeding two hundred dollars in the absence of some special authorisation. This limitation upon the amount of a fine is altered so that the court can impose a fine of up to two thousand dollars. The limitation preventing imposition of a sentence of imprisonment of more than two years remains unaltered. New subsections (4) and (5) are added. These provide that where a person is convicted of a minor indictable offence by a court of summary jurisdiction and the court is of the opinion that the above limitations prevent it from adequately sentencing the convicted person, the court may remand him in custody or on bail to appear for sentence before a District Court. Part IV deals with amendments to the Criminal Law Consolidation Act. Clause 51 is formal.

Clause 52 enacts a new provision which makes possible a change in the forum in which a criminal trial is to be conducted. New subsection (1) provides that, where a person is committed for trial in the Supreme Court, and the court is of the opinion that the trial might be appropriately conducted by a district court, then the Supreme Court may of its own motion or on the application of the Attorney-General or the defendant, refer the case for trial in a

District Court. However no such direction is to be given in a case involving a charge of treason, murder, attempted murder, rape or armed robbery. New subsection (3) deals with the case of a person who has been committed for a trial in a District Court. In that event, the Supreme Court may, in appropriate cases, order that the matter be referred to the Supreme Court for trial. New subsection (4) sets out the considerations to which the Supreme Court is to have regard in determining whether to make a direction under the new section.

Clause 53 enacts a new heading. Part IV amends the Companies Act. Clause 54 is formal. Clause 55 repeals section 390 of the principal Act. This section will be no longer required in view of the amendments to the Local and District Criminal Courts Act adapting the unsatisfied judgment summons provisions so that they embrace unsatisfied judgment summons issued against companies.

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

PARKS COMMUNITY CENTRE BILL

The Hon. C. M. HILL (Minister of Local Government) obtained leave and introduced a Bill for an Act to establish the Parks Community Centre; and to deal with other related matters. Read a first time.

The Hon. C. M. HILL: I move:

That this Bill be now read a second time.

Its object is to establish the Parks Community Centre as a body corporate, with clearly defined powers, functions, duties and responsibilities. The centre was established in the late 1970s to provide a combined community resource for residents within the areas of Angle Park, Mansfield Park, Woodville Gardens, Athol Park, Wingfield and Ottoway. These areas had been identified earlier as either lacking certain basic facilities and services, or as having facilities and services that were quite inadequate.

The centre cost approximately $16 000 000 and was financed jointly by the Commonwealth and South Australian Governments. The Corporation of the City of Enfield contributed significantly to the cost of the swimming pool and library. Community facilities and services include a secondary school, a Department of Further Education facility, a joint school/community library, an indoor sports centre and swimming pool complex, a Department of Community Welfare District Office, a community health centre, which also offers dental facilities, a legal services unit, a child-minding centre and performing arts and restaurant facilities.

An interim board, chaired by Ms B. Elleway, has the responsibility for managing and supporting a variety of these activities, ongoing funding for which is provided through the Department of Local Government, such as the child-minding service, the legal service, the library service, and the sporting and recreational, arts and crafts and performing arts facilities. The board also offers an extensive range of self-help programmes to help the disadvantaged, the unemployed and the youth of the area.

In addition, the interim board provides a support service in respect of the security, cleaning and maintenance of all buildings and the development, cleaning and maintenance of the grounds. This service extends to those areas occupied and utilized by the Departments of Education, Further Education, Community Welfare and Health Commission. However, those agencies continue to manage their own facilities and are fully responsible for their own programmes. The Bill does not alter this arrangement.

The interim board, in the course of its duties, has faced a number of problems in implementing policies and enforcing rules because it has not had the backing of legislation. In the meantime, it has become apparent that the arrangement whereby the Department of Local Government oversees the operation of the functions of the interim board is unsatisfactory for a community complex of the size and nature of the Parks Community Centre.

In the preparation of this Bill, officers from my department have consulted at length with the interim board and I have met deputations from the board. The Government recognizes the importance of involving the community in the management of the Centre and accordingly has made provision for staff and community representation on the 12 member board, thereby giving those who use the centre the opportunity to have direct involvement in the management of the centre. Power has been given to the centre to operate licensed premises so as to improve the present catering facilities. The Government acknowledges the benefits of allowing an exchange of staff between the Public Service and the centre by including provisions for staff to be appointed under the Public Service Act where appropriate.

I wish to record the Government's appreciation and thanks to the Chairperson of the interim board, Ms. Barbara Elleway, and to all board members, for the conscientious manner in which they have carried out their responsibilities. I commend this Bill to honourable members as a measure that will enable the further implementation of a concept that is unique and of immense benefit to a large number of the citizens of this State. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides the Act to come into operation by proclamation. Clause 3 supplies the necessary definitions. 'Member of the staff' is defined to include Government and local government personnel working at the centre. Clause 4 establishes the Parks Community Centre as a body corporate with all the usual powers. The centre holds all its property on behalf of the Crown. Clause 5 provides for the board of management which will run the centre. Of the 12 members, eight will be apointed by the Governor upon the nomination of various Ministers of the Crown and the Enfield council, three will be elected by persons who use the centre's facilities and services, and one member will be elected by the permanent staff of the centre. The members to be elected by the users of the centre must themselves be users of the centre, thus ensuring direct consumer participation in the affairs of the centre. The Governor will appoint three interim members until an election by registered users can be held. Clause 6 provides for the compilation of a register of users. The Electoral Commissioner will conduct elections by registered users. Clause 7 provides for the terms of office of members. The interim members will be appointed for no more than one year. Other appointed members will be appointed for terms not exceeding three years. Members elected by the registered users of the centre will be elected for terms of office determined in accordance with the regulations. The staff member will be elected annually. Clause 8 provides that the Governor may appoint deputies to the appointed members of the board.

Clause 9 makes provision for the payment of allowances and expenses to board members. Clause 10 sets out the usual provisions relating to removing members from office and filling casual vacancies. Clause 11 gives board members the usual immunity from liability. Clause 12 sets out various

procedural requirements for meetings of the board. Clause 13 gives the board power to delegate any of its powers, functions or duties to a committee appointed by the board, or to an individual board member or staff member. Clause 14 requires board members to disclose any interest they may have in contracts of the centre. Clause 15 sets out the major functions of the centre. It is provided that the centre itself may provide any facility, amenity or service, apart from the Government or local government facilities, amenities or services located at the centre. It is made clear that the centre will not interfere with the way in which any Government or local government facility, amenity or service is run.

Clause 16 provides that the centre is subject to the control and direction of the Minister. Clause 17 provides that public servants may be appointed to the centre, and that the centre itself may appoint staff, and use volunteers. Ministerial appointees currently working at the centre will automatically become officers or employees of the centre upon the commencement of the Act. Clause 18 provides that officers and employees of the centre may continue in, or join, the South Australian Superannuation Fund. Full portability of leave rights is given to persons who are employed by the centre immediately upon cessation of employment with the Public Service. Where there is a break of not more than three months between employment with the centre and previous employment with the Public Service or with prescribed employment, portability of leave rights will be given to the extent directed by the centre. This overcomes problems that occur where a person has already been paid out for his accrued leave rights before starting with the centre, or has such a large amount of accrued leave that the centre might be wary of taking him on to its staff, thus prejudicing his chances of employment with the centre.

Clause 19 defines the lands that comprise the premises of the centre over which it has control. The centre cannot acquire any land, or lease, dispose of or in any other way deal with land vested in the centre, unless it has the approval of the Minister. The lands referred to in subclause (1) *(a)*, the current premises of the centre, are vested in the Minister of Education, and will remain vested in that Minister, or such other Minister as at any time may be appropriate. Clause 20 sets out various financial provisions, including the power of the centre to borrow or invest money with the approval of the Treasurer. Clause 21 requires the centre to maintain a fund into which all its income, from whatever source, must be paid. Clause 22 requires the centre to keep proper accounts, to be audited by the Auditor-General at least once a year. Clause 23 requires the board to furnish the Minister with an annual report which will be laid before Parliament in the usual way.

Clause 24 gives the board power to make by-laws for the proper control of the use of the grounds of the centre. Such by-laws must be submitted to the Minister for his approval before being laid before Parliament in the usual way. Certain evidentiary provisions relating to the prosecution of offences against the by-laws are provided. Clause 25 provides that offences against the by-laws are summary offences. Clause 26 empowers the Governor to make regulations for the purposes of the Act.

The Hon. C. W. CREEDON secured the adjournment of the debate.

PETROLEUM (SUBMERGED LANDS) 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.

It will replace the Petroleum (Submerged Lands) Act, 1967-1974. The proposed legislation will control petroleum operations in the territorial sea off the coast of South Australia on the basis that the width of the territorial sea is three nautical miles. The Bill compliments similar Commonwealth legislation covering the exploitation of petroleum resources on the continental shelf beyond the territorial sea.

The Bill forms part of a legislative package which was agreed to after the 1975 High Court decision on the Seas and Submerged Lands Act 1973 of the Commonwealth, which declared and enacted that sovereignty in respect of the territorial sea and sovereign rights in respect of the continental shelf, for the purpose of exploration and exploitation of its natural resources, were vested in and exercisable by the Crown in right of the Commonwealth. The High Court decision, however, left unsettled complex and contentious offshore constitutional issues.

In order to resolve these issues, at the Premiers' Conference of 29 June 1979, the Commonwealth and the States completed an agreement on a legislative package that was intended to vest the administration of the law relating to the exploitation of resources in the continental shelf adjacent to each State in the State concerned without derogating from the Commonwealth's responsibility in matters of overriding national or international importance. The legislative package will give to each State the same powers with respect to the territorial sea (including the seabed) as it would have if the waters were within the limits of the State. To give effect to the package the State has passed the Constitutional Powers (Coastal Waters) Act, 1980, and the Commonwealth has enacted the Coastal Waters (State Powers) Act 1980 and the Coastal Waters (State Title) Act 1980. These Acts have yet to be proclaimed.

By proclamation made under section 7 of the Seas and Submerged Lands Act 1973 the Governor-General has power to declare the limits of the territorial sea abutting South Australia. Negotiations between the State and the Commonwealth are in progress but it has been tentatively agreed that the territorial sea adjacent to the gulfs will lie seaward of a baseline drawn from Cape Carnot at the bottom of Eyre Peninsula to Vennachar Point on the western end of Kangaroo Island. It will travel along the southern coast of the island and then from Cape Willoughby it will travel to Newland Head on the mainland via the Pages Islands. Waters lying on the landward side of the baseline will be internal waters of the State. Both gulfs, Investigator Strait and Backstairs Passage therefore will fall into this category and this Bill will not apply to them. The Petroleum Act, 1940-1981, will provide for the exploration for and recovery of petroleum in these waters.

Offshore petroleum operations outside the three mile territorial sea limit will be governed by Commonwealth legislation alone. The Commonwealth Petroleum (Submerged Lands) Amendment Act 1980 has already passed both Houses of Parliament and is awaiting the passing of the appropriate complementary State legislation (over territorial sea areas) before being proclaimed. Under that Act the day-by-day administration of the adjacent area beyond the territorial sea will continue to be in the hands of the designated authority appointed for the adjacent area of each State. The designated authority is a State Minister and it will continue to be State officers who will administer the day-by-day operation of the Act. However, this Commonwealth legislation will establish for the first time a joint authority for each adjacent area consisting of the Commonwealth Minister and the State Minister, and these joint

authorities will be concerned with decisions on major matters arising under the legislation.

The Bill before the House will regulate petroleum operations inside the outer limit of the three-mile territorial sea. It will be administered by State authorities alone and will complement the Commonwealth Act in that the common mining code will be retained and existing permittees and licensees will not be disadvantaged. The Bill includes transitional provisions to cover cases where existing permits straddle the outer limit of the territorial sea and to cover those cases where petroleum fields straddle legislative boundaries.

Commenting specifically on the Bill, it will be noted that the main variations contained in the clauses of the Bill as compared with the present provisions contained in the Petroleum (Submerged Lands) Act, 1967-1974, are:

Preamble—This recites the new agreement between the Commonwealth and the States. It will be noted that paragraph *(d)* of the fifth recital refers to parties maintaining a common mining code for petroleum resources of the submerged lands that are on the seaward side of the inner limits of the territorial sea of Australia. This will ensure that offshore petroleum explorers and producers will carry on their operations throughout Australia within the framework of a consistent set of rules.

Application of Laws—The Off-shore Waters (Application of Laws) Act, 1976-1980, provides that State legislation applies to waters off the coast of South Australia. The Bill before the House, however, provides for the making of regulations which can modify or exclude the operation of State legislation in that area in so far as it relates to petroleum operations. Thus, certain State laws which are appropriate to onshore situations but may be inappropriate, or even potentially hazardous, offshore may be modified or excluded altogether. It will also allow an offshore petroleum regime to be established which will be able to be administered by a single Government agency. This is the course that has been followed by Victoria in the past and also the course approved by the United Kingdom Government in November, 1980, for adoption in the North Sea area following the recommendations made in the Burgoyne Report on Offshore Safety.

Mining for Petroleum—Because it has been proven with 13 years operating experience in the Bass Strait that the common mining code contained in the Petroleum (Submerged Lands) Act, 1967, was a completely satisfactory legislative base for such operations, the decision was taken to keep amendments to a minimum. Petroleum explorers and producers should have no problem whatsoever in accepting the new legislation package.

Royalties—Sections 42, 129, 130 and 143 to 151 inclusive relating to royalty are complementary to the legislation passed by the Commonwealth for the Commonwealth adjacent area and are similar to existing legislation, first, in respect of the rates of royalty to be imposed and, secondly, to the extent that such royalty will be calculated on the well-head value of the petroleum. It has been agreed that the Commonwealth-State royalty sharing arrangements which apply in the Commonwealth adjacent area will also apply to royalties collected pursuant to this legislation.

Regulations—The introduction of this Bill will necessitate the preparation of new rules. This has been an ongoing situation in the past and no difficulties are anticipated in having a new set of rules covering all aspects of offshore petroleum operations, including the safety, health and welfare of persons engaged in such operations, ready for issue upon the commencement of the Act.

The offshore constitutional settlement giving rise to this Bill has been claimed in other forums as a major achievement of the policy of co-operative federalism. The Government believes that the legislative base upon which the exploration for and the production of these offshore petroleum resources are carried out is unequalled in any other nation of the world. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 provides that the Act may be cited as the Petroleum (Submerged Lands) Act, 1981, and shall come into operation on the first day on which certain specified Commonwealth Acts are in operation. Clause 2 repeals the Petroleum (Submerged Lands) Act, 1967-1974, and amends the Off-shore Waters (Application of Laws) Act, 1976-1980, and gives effect to certain transitional provisions set out in the fourth and fifth schedules. Clause 3 sets out the Divisions of the Act.

Clause 4 contains provisions relating to the interpretation of the provisions of the Act. The definition of the 'adjacent area' is particularly important. The area is basically the territorial sea as declared by proclamation under the Seas and Submerged Lands Act, 1973 of the Commonwealth but by reason of subsection (2) of section 4 cannot extend seaward more than three nautical miles. As I mentioned earlier the baseline crosses from Eyre and Fleurieu Peninsulas to Kangaroo Island and therefore the gulfs are not included in the adjacent area. Paragraphs *(a)*, *(b)* and *(c)* of the definition together with subsection (3) of section 4 comprise a transitional provision to preserve the position under this Bill of permits under Commonwealth legislation in areas that would otherwise, when this Bill becomes law, be internal waters of the State.

Clause 5 provides that the Act is to be construed having regard to the limits on the powers of the Parliament to legislate. Clause 6 applies the Act to all natural persons and corporations, whether South Australian or not. Clause 7 contains provisions relating to petroleum recovered from a field extending into two or more areas. Clause 8 defines the geodetic datum to be used in measurements under the Act. Clause 9 defines the 'Commonwealth adjacent area'. Clause 10 relates to the exercise of powers by the Minister under the Commonwealth Act as a member of the joint authority.

Clause 11 authorises the Minister to be the designated authority under the Commonwealth Act in the Commonwealth adjacent area. Clause 12 covers delegations by the Minister under the Commonwealth Act to State Public Service officers. Clause 13 requires public servants to perform functions as directed by the Minister as the designated authority or as a member of the joint authority. Clause 14 enables the Governor to make regulations varying the operation of the Off-shore Waters (Application of Laws) Act, 1976-1980. Clause 15 is consequential. Clause 16 empowers the Minister to delegate his powers or functions under the Act.

Clause 17 specifies the graticulation of the earth's surface for the purposes of the Act. Clause 18 provides for the reservations of blocks. Clause 19 prohibits exploration for petroleum except in accordance with a permit or with the provisions of Part III of the Act. Clause 20 enables the Minister to invite applications for the grant of permits in respect of blocks. Clause 21 prescribes requirements of applications for permits. Clause 22 provides for the grant or refusal of permits by the Minister.

Clause 23 enables the Minister to invite applications for permits for blocks in respect of which a previous licence or permit has been cancelled or surrendered. Clause 24 prescribes requirements for an application under section 23.

Clause 25 provides the manner in which the Minister may deal with applications. Clause 26 provides for the making of a request to the Minister and the lodging of a security. Clause 27 covers the granting of a permit on request by an applicant.

Clause 28 details the rights conferred by a permit. Clause 29 outlines the period during which a permit remains in force. Clause 30 details procedures required by a permittee desiring to renew a permit. Clause 31 sets out the formula to be used in determining the area over which a permit may be renewed. Clause 32 gives power to the Minister to renew a permit. Clause 33 allows conditions to be attached to a permit.

Clause 34 requires the discovery of petroleum to be notified to the Minister. Clause 35 gives the Minister power to direct action in the event of a discovery of petroleum. Clause 36 details the procedures required by the permittee to nominate a block for the purposes of declaring a location. Clause 37 outlines the procedures to be followed in respect of the declaration of a location for licence purposes. Clause 38 defines adjoining blocks for the purposes of defining locations. Clause 39 requires persons to obtain a licence before recovering petroleum from the adjacent area.

Clause 40 specifies the number of blocks in respect of which a permittee may apply for a licence. Clause 41 specifies the form in which a licence application may be made. Clause 42 relates to royalty rates payable where a secondary licence is applied for. Clause 43 covers the notification to the applicant that the Minister is prepared to grant the licence. Clause 44 covers the procedure by which the applicant who has been served a notice under section 43 may accept the offer of a licence. Clause 45 makes provision for a variation by the Minister of the licence area.

Clause 46 provides for the determination of a permit in respect of location blocks not taken up by the licensee. Clause 47 provides for a procedure for subsequent application for a licence in respect of surrendered, etc., blocks. Clause 48 outlines fees required for the application and grant of a licence. Clause 49 details the procedures required by the applicant for the grant of a licence. Clause 50 obliges the Minister to grant a licence upon request under the provisions of section 49. Clause 51 makes provision for the granting of two or more individual licences over areas in which a single licence is existing. Clause 52 specifies the rights conferred by a licence.

Clause 53 prescribes the term of a licence, including a renewed licence. Clause 54 outlines the procedures required on an application for renewal of a licence. Clause 55 sets out the powers of the Minister to grant or refuse renewal of a licence. Clause 56 relates to conditions contained in a licence. Clause 57 prescribes a minimum monetary commitment for each block in a licence. Clause 58 allows directions by the Minister to be given in respect of recovery of petroleum. Clause 59 relates to unit development agreements.

Clause 60 requires the operator of a pipeline to obtain a pipeline licence. Clause 61 provides exceptions to the provisions of section 60 for acts done in an emergency. Clause 62 provides for the removal of a pipeline or associated facilities which have been constructed in contravention of the Act. Clause 63 provides power for the Minister to declare a terminal station. Clause 64 details the procedures to be followed in the application for a pipeline licence. Clause 65 sets out the power of the Minister to grant or refuse a pipeline licence. Clause 66 sets out the rights conferred by a pipeline licence.

Clause 67 details the term of the pipeline licence. Clause 68 allows a pipeline licensee to make application for renewal of a pipeline licence. Clause 69 contains provisions which must be taken into consideration by the Minister in renewing or refusing to renew a pipeline licence. Clause 70 details the conditions to which a pipeline licence may be subject. Clause 71 enables a pipeline licensee to make application for the variation of a pipeline licence. Clause 72 makes provision for variation of a pipeline licence by the Minister. Clause 73 gives the Minister power to direct that a pipeline licensee is a common carrier.

Clause 74 prohibits the commencement of operation of a pipeline without the consent of the Minister. Clause 75 requires the Minister to keep a register of certain instruments. Clause 76 details what information is to be maintained in the register. Clause 77 requires memorials of determined permits, etc., to be entered in the register. Clause 78 requires approval and registration of transfers of titles to be entered in the register. Clause 79 covers entries in the register on devolution of title. Clause 80 requires any interests in titles to be created by instrument in writing. Clause 81 covers the approval of instruments creating interests in title.

Clause 82 requires the true consideration to be shown for any transfer of title. Clause 83 provides that registration does not affect the legal validity of registrable instruments. Clause 84 gives the power to the Minister to require information on certain title dealings. Clause 85 authorises the Minister to require production and inspection of certain documents. Clause 86 sets out the conditions relating to the inspection of the register and registered instruments. Clause 87 provides that the register is evidence in all Courts. Clause 88 provides that a person may apply for rectification of the register.

Clause 89 states that a Minister is not liable to legal action in respect of maintenance of the register. Clause 90 creates offences relating to entries lodged in the register. Clause 91 covers the assessment of the fee payable under section 92. Clause 92 imposes registration fees for documents registered. Clause 93 provides that certain instruments are exempt from stamp duty. Clause 94 details what documents are required to be published in the *Gazette*.

Clause 95 provides that certain instruments have effect on publication of notice in the *Gazette*. Clause 96 requires work required to be carried out by a permittee, licensee or pipeline licensee to be commenced within six months of the grant of the permit, licence or pipeline licence. Clause 97 provides that all petroleum operations shall be carried out in accordance with good oilfield practice. Clause 98 requires operators in the adjacent area to maintain structures and other property correctly. Clause 99 makes sections 97 and 98 subject to certain specified provisions. Clause 100 requires Ministerial approval if drilling is carried out closer than 300 metres to a boundary of a permit area or licence area.

Clause 101 sets out the direction-making power of the Minister. Clause 102 requires a person to comply with any direction given by the Minister. Clause 103 gives the Minister power to grant exemptions from conditions of permits and licences, etc. Clause 104 covers the procedure for the surrender of titles. Clause 105 covers the procedure for the cancellation of titles. Clause 106 provides that the holder of a cancelled title is still subject to the provisions of the Act notwithstanding the cancellation.

Clause 107 requires the removal of all property from the adjacent area by title holders upon determination or cancellation of such title. Clause 108 gives the power to the Minister to remove property from the adjacent area. Clause 109 provides that permit and licence fees payable may be paid by instalments. Clause 110 provides a penalty for late payment of instalments under section 109. Clause 111 allows special prospecting authorities to be granted. Clause 112 contains provisions for granting access authorities.

Clause 113 sets out the powers of the Minister to remove or dispose of property in the adjacent area. Clause 114 details the security required for the varying types of title. Clause 115 gives the Minister an enabling power to require information to be furnished in respect of operations in the adjacent area. Clause 116 gives the Minister power to examine persons on oath. Clause 117 prohibits people from refusing to furnish information, etc. Clause 118 sets out the type of title information that may be released and the timetable at which such information is released.

Clause 119 allows the Minister to specify a safety zone which vessels may not enter around a well or structure. Clause 120 provides for the notification of the discovery and use of water in the adjacent area. Clause 121 relates to the survey of wells drilled in the adjacent area. Clause 122 makes provision for the Minister to direct that certain records be kept. Clause 123 gives the Minister power to consent to scientific investigations. Clause 124 provides that any operations in the adjacent area under the Act are to be carried out without interference with certain other operations.

Clause 125 covers the appointment of inspectors under the Act. Clause 126 covers the powers of inspectors appointed under section 125. Clause 127 gives the property in petroleum to permittees or licensees. Clause 128 gives power to the Minister to suspend the rights conferred by permit. Clause 129 provides that certain royalty payments are to be made by the State to the Commonwealth. Clause 130 relates to a determination as to wellhead value in calculating the royalty to the Commonwealth in section 129.

Clause 131 covers offences against the regulations or directions under the Act. Clause 132 makes a person who has been concerned in the commission of an offence guilty of the offence himself. Clause 133 covers procedures for the prosecution of offences under the Act. Clause 134 provides for the forfeiture of certain equipment in respect of certain licences. Clause 135 covers the disposal of goods forfeited under the provisions of section 133. Clause 136 sets out the time for bringing proceedings for offences.

Clause 137 requires courts to take judicial notice of the signature of the Minister. Clause 138 relates to the service of notices. Clause 139 covers permit fees. Clause 140 covers licence fees. Clause 141 covers pipeline licence fees. Clause 142 covers the time of payment of fees. Clause 143 requires a permittee or licensee to pay royalty to the Minister. Clause 144 makes allowance for reduction of royalty in certain cases. Clause 145 gives the power to the Minister to not require royalty to be paid in certain cases.

Clause 146 relates to the ascertainment of the position of the wellhead for royalty purposes. Clause 147 relates to the ascertainment of the value of petroleum at the wellhead for royalty purposes. Clause 148 provides for the ascertainment of quantity of petroleum recovered from a well. Clause 149 relates to the time of paymnent of royalty. Clause 150 provides a penalty for late payment of royalty. Clause 151 states that fees and penalties are debts due to the State of South Australia. Clause 152 sets out the regulation-making powers of the Governor in Council.

The first schedule lists amendments to and repeals of certain enactments. The second schedule sets out the 1958 Convention on the Continental Shelf. The third schedule describes the area that includes the adjacent area under this Act. The fourth schedule sets out transitional provisions which will apply to permits and pipeline licences that straddle the boundary of the territorial sea. The fifth schedule contains transitional provisions ensuring that certain things done under the Commonwealth Act prior to the commencment of this Act continue to have effect for the purposes of this Act.

The Hon. C. W. CREEDON secured the adjournment of the debate.

RIVER TORRENS (LINEAR PARK) BILL

Third reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a third time.

The Hon. B. A. CHATTERTON: I am grateful for replies given to me by the Minister yesterday during the Committee stage to questions I asked during the second reading debate. After looking at the replies carefully, I felt some of them required further definition. Can the Minister give further assurances regarding the purpose of the Bill and the nature of his administration? First, the plan defined in the Bill is a concept plan and does not precisely define the individual properties or the portions of properties to be acquired. Can the Minister give an assurance that the detailed plans will be put on display locally and that local residents will be given the opportunity to comment on those detailed plans before the properties are in fact acquired?

Secondly, can the Minister give an assurance that property owners will be told whether their land is being acquired for the purpose of the linear park or for O'Bahn, or whatever? It seems to me that these people should be given an assurance on the purpose of the acquisition. Thirdly, will the Minister confirm that any amendments to the concept plan will be made only after public consultation and amendment to this Bill, which will be an Act after it has passed through Parliament.

The Hon. C. M. HILL: I am pleased to be able to give the following replies to the questions asked by the Hon. Mr Chatterton. First, the detailed plans are required to be agreed to by councils, and arrangements will be made for local residents to see and comment on the detailed plans before properties are acquired. Secondly, the land for the north-east public transport facility cannot be acquired under this Act. Thirdly, any amendments to extend the area of linear park by compulsory acquisition, beyond that indicated in the plans, will only be made after public consultation and the appropriate amendments to the Bill, which hopefully then will be the relevant Act of Parliament. I hope that these answers are satisfactory to the honourable member.

Bill read a third time and passed.

BUILDING ACT AMENDMENT BILL

Read a third time and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

In Committee.

(Continued from 11 November. Page 1818.)

Clause 1—'Short titles.'

The Hon. C. M. HILL: I will speak briefly at this stage to the Committee in further detail than that included in the report tabled yesterday by the Select Committee. Members of the Select Committee met seven times. Witnesses came before the committee and showed their interest in this measure. Evidence was taken from representatives of the Levi Park Trust, the Corporation of the Town of Walkerville, representatives of the Walkerville Society, the local member (Mr J. W. Slater, M.P.), the Town Clerk of the

Corporation of the City of Enfield, who spoke for the corporation, and Mr K. W. Lewis, Director-General and Engineer-in-Chief of the Engineering and Water Supply Department.

Further to taking that evidence, the committee inspected Levi Park and made itself aware of the situation relevant to that site. The committee has suggested some amendments to the Bill as first dealt with in this Chamber and those amendments involve clause 3. As a result of the Select Committee, the amendments considerably improve the Bill. I thank members of the committee and the Secretary, an officer of this Chamber, for the work carried out in their duties on this Select Committee.

The Hon. C. W. CREEDON: My Party also supports the findings of the Select Committee. Witnesses appearing before the committee all appeared to have the same thing in mind—that control of Levi Park should revert to a council authority, but that safeguards should be enacted to protect the present usage of the park. There is no doubt that the caravan park provides the cash for the improvements to the area. The committee was pleased to note how enthusiastic and competent were the people who made up the controlling body operating Levi Park.

Their sound management of the park has brought reasonable profits which have enabled the expansion of services to the local public and the touring public alike, and the profits have also helped in the restoration work undertaken so far on Levi House. One can understand our trepidation when this Bill was first introduced—some honourable members were concerned that the Bill was an attempt to deprive the public of a facility which, over 30 years, they had grown used to and which the caravaning public looked forward to visiting. The caravan park is close to Adelaide, and we did not want to see the trust's work destroyed or allowed to run down.

We now know that this will not be the case because, except for a change in the controlling authority from the State Government to the Walkerville council, nothing has changed. I am sure that the trust looks forward to its continuing existence. The questions which I raised during the second reading debate have been answered during our visit to Levi Park and by the evidence received from witnesses before the committee. I expect that Levi Park will continue to prosper in the interests of all those who have occasion to use it.

The Hon. J. A. CARNIE: I speak in support of the remarks of the Minister and the Hon. Mr Creedon. After 43 years the original wishes of Mrs Adelaide Constance Belt have been finally realised. She died in 1948, and the best way of describing what her wishes were is by referring to the original preamble of the 1948 Bill, which provides:

> Whereas Adelaide Constance Belt, of Walkerville, has given to the corporation of the town of Walkerville approximately ten acres of land situated at Vale Park in the hundred of Yatala, county of Adelaide, and the sum of five thousand pounds and has expressed her desire that the said land shall be used in perpetuity as a public park, and that the said sum shall be applied to the improvement and maintenance of the said land as a public park:

Mrs Belt was strong in her wish that Walkerville council should be involved in this park. Evidence was given to the Select Committee involved in 1948 by Mr Elliott, then Town Clerk of the Town of Walkerville. He gave evidence that he and a member of the council had discussed the matter with Mrs Belt, who had said that if Walkerville did not have a big say in the administration of the area she would not be prepared to hand over the property.

As the Minister said in his second reading explanation, the difficulty was that the land was not in the Walkerville council area, and Levi Park and the subsequent trust were set up. It is fitting that finally, after all this time, the original wishes of Mrs Belt have been realised. Most of the evidence we heard expressed one fear—that Walkerville council would do away with the caravan park in Levi Park. In this connection I refer to a letter from Walkerville council to the then Minister of Local Government in February 1979. It was stated clearly that the council had no intention of closing the caravan park. That fact was reiterated in the evidence given to the committee.

To the best of my knowledge Walkerville council has never considered closing Levi Park caravan park. I believe that the matter of whether it could be closed by the council was covered in the Bill by new section 886d (5), which provides:

> The council shall not alter the nature of the use to which the park or any of the park is put unless the Minister consents.

However, to satisfy people who gave evidence expressing this view, clause 3, with which we will deal in a moment, writes into the Bill the fact that the council will be required to maintain and preserve the caravan park and camping ground in Levi Park.

I have no objection to that, because it spells out something which was already there. The other areas covered by clause 3 deal with the constitution of the board and the security of the secretary. I believe that Walkerville council recognises the good work done by the current trustees by intending to retain them and continue with them in office. I support the amendments.

The Hon. K. L. MILNE: I support the remarks that have been made by made by my colleagues and say what a pleasure it is for me as a former member of Walkerville council—

The Hon. J. A. Carnie: You are a former mayor.

The Hon. K. L. MILNE: True, I was a former mayor. It is a great pleasure to see the wishes of Mrs Adelaide Constance Belt being realised in this Bill. I congratulate the Minister, as the Chairman of the committee, on the way he handled the matter, and my colleagues on the way they understood what he had to say; they were outstanding in that respect.

It is important for us to say, and I believe it to be true, that no adverse evidence was given at all. Everybody was in favour of this move, provided caravans were protected. We were concerned about how much of the park the River Torrens Linear Park Scheme might take or whether it would take land from the park next door. We received assurances on that which satisfied us all. It was a great satisfaction to be on the committee.

Clause passed.

Clause 2 passed.

Clause 3—'Vesting of Levi Park in the Corporation of the Town of Walkerville.'

The Hon. C. M. HILL: I move:

Page 1—
Line 21—Leave out 'and'.
After line 23—Insert paragraph as follows:
and
(d) maintain and preserve the caravan park and camping ground in the Park.

This amendment covers a matter that has already been explained by other honourable members. It is simply writing into the legislation that the caravan park and camping ground in Levi Park shall be maintained and preserved. In drawing up the Bill the Government believed that it had the issue covered in new section 886d (5). I still believe that that is so. As witnesses sought further assurances on the matter, the committee believed that it was appropriate to spell it out in the way we have done.

Amendments carried.

The Hon. C. M. HILL: I move:

Page 1—

Line 24—Leave out all words in this line and insert 'The Council shall be deemed to have constituted, in pursuance of section 666c, a'.

Line 25—Leave out 'five members' and insert 'a chairman and four other members'.

Line 27—Leave out 'unless the Minister consents to its abolition' and insert 'within the period of three years next ensuing after the commencement of the Local Government Act Amendment Act (No. 3), 1981, and shall not be abolished subsequently unless the Minister consents to its abolition'.

After line 27—Insert subsections as follow:

(4a) The chairman and members of Levi Park Trust shall be deemed to have been appointed upon the commencement of the Local Government Act Amendment Act (No. 3), 1981, as the first chairman and members of the controlling body for a term of office, in the case of the chairman, of three years, and in the case of the other members, of two years.

(4b) The secretary to the Levi Park Trust shall be deemed to have been appointed by the Council, on terms and conditions no less favourable than those on which he held office as secretary to the Trust, and for a term of two years as from the commencement of the Local Government Act Amendment Act (No. 3), 1981, as secretary to the controlling body.

The balance of the amendment deals with the situation of the first controlling body of the park after the change is effected. Again, the Bill intended (and assurances had been given previously) that the existing trustees would continue in office as members of the new controlling body. Witnesses suggest that perhaps it ought to be specifically included in the legislation and so these amendments lay down that the new controlling body shall be a body formed under section 666c of the Local Government Act. They also lay down that the existing members of the trust shall be members of the new controlling body. They lay down that the present Secretary of the trust shall have a term of office with absolute surety when the new controlling body comes into being. Later changes will be subject to Ministerial consent, as applied in the original measure.

Amendments carried; clause as amended passed.

Clause 4 passed.

Title passed.

Bill reported with amendments. Committee's report adopted.

INDUSTRIAL SAFETY, HEALTH AND WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 1819.)

The Hon. FRANK BLEVINS: The Opposition supports this small Bill which is an amendment to the Industrial Safety, Health and Welfare Act. It does precisely what the Minister said it did in his second reading explanation. The intent of the Bill is to simplify some of the procedures that small business has to go through from time to time. It certainly is very necessary to do all that we can to assist small business. I myself cannot see this measure making a great deal of difference to small business. It is more the thought that counts rather than the measure itself. I cannot see that, after this Bill is enacted, some small businesses will be able to continue where otherwise they would have failed. However, it is a step in the right direction to tidy up some of the procedures which seem to plague all businesses. As such the Opposition is happy to support it.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

In Committee.

(Continued from 11 November. Page 1821.)

Clause 2—'Commencement.'

The Hon. B. A. CHATTERTON: I believe that the Attorney-General was to provide some answers to queries raised by the Hon. Mr Sumner during the second reading debate.

The Hon. K. T. GRIFFIN: I would prefer to answer those queries later.

Progress reported; Committee to sit again.

RACING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 1768.)

The Hon. J. R. CORNWALL: The Opposition supports this Bill, although I give notice that during the Committee stage I intend to move amendments, which will be circulated. This Bill virtually completes the Government's initiatives in writing into legislation most, if not all, of the recommendations that were made by the Committee of Inquiry into Racing. Principally, it provides in clause 20 for after-race pay-outs. We support that quite enthusiastically. It has been claimed, with a degree of optimism (possibly a little misplaced), that this will significantly cut down S.P. bookmaking, in concert with other measures that the Government has taken.

The Hon. R. C. DeGaris: Do you believe that?

The Hon. J. R. CORNWALL: I will reply to that in a moment. Therefore, it is claimed that it will significantly contribute to the turnover of the T.A.B. I am somewhat sceptical about that. The stamping out of S.P. bookmaking will be rather more difficult than a lot of people imagine. Certainly, there has been a lot of increased police activity in this area recently and many people have been charged, but it remains to be seen what degree of success that campaign will achieve. Nevertheless, I believe quite firmly, and I always have believed, that, if the State is in the business of providing betting facilities through the Totalizator Agency Board, it should provide facilities on a basis that can compete with other sources. It has always seemed foolish that anyone who has the resources to have a telephone account can bet on his accumulated credit if he backs winners during a race meeting, but the ordinary battling punter who is investing his few units before a race cannot have access to his winnings in order to reinvest them later in the day. Because after-race pay-outs will be advantageous to the small and battling punter, we certainly support that part of the Bill.

Clause 27 extends the powers and functions of the Racecourse Development Board to allow the various codes to provide other than public facilities. In other words, it would give them more flexibility to improve amenities on racecourses, trotting tracks and greyhound tracks in general. That seems to be entirely sensible.

I give notice that the Opposition intends to oppose clause 30, and I will be very interested to hear contributions from members opposite in this regard. If passed as proposed, this clause will allow bookmakers to sue and to be sued. We oppose that on the basis that we believe that it could impose quite unnecessary hardship on families. At present, it is entirely up to bookmakers to make judgments as to whether a punter, whom a bookmaker is allowing to bet on the nod, is a decent credit risk and whether or not he is creditworthy.

Under the new arrangements, no such duty would be before the bookmakers. Circumstances could arise where inveterate or addicted gamblers could run themselves into debt to such an extent that whatever equity they might have in the family home, for example, would be taken away from them. If a person was bitten by the gambling bug, it

is entirely possible that he could be allowed credit to bet by a bookmaker, particularly an unscrupulous bookmaker.

The Hon. R. C. DeGaris: Are there any?

The Hon. J. R. CORNWALL: Although there are few of them, they do exist. In those circumstances, a person could place the family home in jeopardy. His wife and children would suffer. We do not believe that that is desirable. We believe that the present system has operated quite effectively for a very long time. The bookmakers use their own discretion. It is up to the punter to establish with the bookmaker in advance, or because of the bookmaker's personal knowledge of the background of the punter, his creditworthiness. That circumstance should continue. Regarding the right of the punter to sue the bookmaker, the punter already has certain protection under the existing arrangements, because bookmakers must show the Betting Control Board that they are people of considerable substance. The punter already has a very significant degree of protection. We believe that the punter's family should be afforded a degree of protection, and that would not be so if this clause was passed.

There are two other comments that I would like to make. I refer first to the Port Pirie betting shops. The decision that the Port Pirie betting shops would ultimately close was taken by the Dunstan Government when the original Racing Act was passed in 1976. I have a personal feeling that the Port Pirie betting shops have added some local colour to the town. I am not sure that this measure is not a little Draconian. However, I do not feel strongly enough about it to oppose the clause, because it was the policy of not only the previous Government but also it is now quite clearly the policy espoused vigorously by the present Government. Therefore, I indicate that I do not intend to take any initiative that would alter the existing clause in the parent Act. However, it seems to me that more and more Governments tend to get into the business of wanting to do everything up to and including wiping people's noses, and I really wonder whether that is what good government is all about.

The Hon. R. C. DeGaris: That is a conservative view.

The Hon. J. R. CORNWALL: I do not think that it has anything to do with political ideology at all. It certainly does not advance the cause of democratic socialism, to which I am firmly committed. I would not have thought that it advances the economic theories or conservative policies of the present Government one wit. Quite frankly, I consider it to be a trifle foolish but, as I said, I do not feel strongly enough about it to take any initiative while the Act is open.

The other thing that I am pleased to notice is that common sense has prevailed in relation to country racing clubs. I know that you, Mr President, have a very keen interest in this. I do not think my comments will necessitate your leaving the Chamber while I discuss this matter very briefly. You would know very well, Mr President, that a lot of strong lobbying went on in favour of country racing clubs being guaranteed a fixed distribution of T.A.B. funds. In my view they presented an undeniable case. Indeed, it eventually came back to the simple fact of whether or not we wanted country racing to survive. A significant body of authority has stated that it costs $15 a day, seven days a week to keep a horse in work, and therefore it is unreasonable to expect any owner to race a horse for a stake of anything under $1 000. To some extent I can appreciate that.

The Hon. R. C. DeGaris: Most of them do not pay anyway.

The Hon. J. R. CORNWALL: Indeed, it is only the very major figures in racing who make any money out of racing horses these days. Race meetings are traditionally held in country areas whether it be an annual meeting, meetings twice a year, or in the case of some of the bigger provincial centres, such as Mount Gambier, regularly throughout the year. The question of a fixed percentage distribution to these country areas has become extremely important. It is not as though those clubs do not do a great deal to support themselves. They are not asking for charity, nor for a handout. Many of those clubs have been extraordinarily active and effective in seeking sponsorship and involving themselves in all sorts of fund-raising not immediately related to their racing activity, and they have done a splendid job.

I am delighted that the S.A.J.C., in its wisdom, perhaps subject to completely legitimate pressure, has seen fit to write to the Minister expressing its intention to give a fixed 11½ per cent of those funds over the next two years and, just as importantly, it will fix what is known as the first charge of $460 000 a year indexed to c.p.i. increases. I think that is very much a step in the right direction.

I will be moving an amendment to clauses 5 and 12, which refer to the membership of the newly formed Greyhound Racing Control Board and the Trotting Control Board. I do not think I need to canvass that matter at this time, but I will leave it until the Committee stage. I support the second reading.

The Hon. R. C. DeGARIS: This Bill makes several unrelated amendments to the principal Act following the racing inquiry. As the Hon. Dr Cornwall said, this virtually completes the introduction in legislative form of most of the recommendations of that inquiry. Many of the proposals in the Bill are acceptable to all honourable members. However, as the Hon. Dr Cornwall said, some of the proposals need further examination. The effect of some of the amendments needs to be understood thoroughly by the Council before they are passed into law. I do not intend to deal with all of the Bill's proposals, but I will concentrate on those clauses which I believe deserve closer examination.

The Hon. Dr Cornwall has already referred to clauses 5 and 12 in relation to the Trotting Control Board and the Greyhound Control Board. The point is not a nation-rocking one, yet it is causing some concern to those associated with the administration of trotting and greyhound racing. Under the existing Act the Trotting Control Board consists of seven members, while the Greyhound Control Board has six members. I will confine my comments to trotting, but they are also relevant to the greyhound racing as well.

Under the existing Act the Trotting Control Board consists of seven members: one (the Chairman) is appointed by the Minister, one is appointed by the Breeders, Owners and Trainers Association, two are appointed by the South Australian Trotting Club, and three are appointed from the registered trotting clubs other than the South Australian Trotting Club. Therefore, six of the seven board members are appointed by those organisations associated with the trotting industry. The Government has the right to appoint the Chairman. This Bill changes that, whereby the Government can appoint the Chairman and the Deputy Chairman. Another three members will be chosen from a panel of three names nominated respectively by BOTRA and the S.A.T.C. and one chosen by the Minister from the three names submitted by clubs other than the S.A.T.C.

One must notice that this arrangement allows for an increased power over the administration by the Government or by the Minister. The same applies exactly in regard to greyhound racing and the six members of that particular board. If the Minister has the power of appointment of two out of five members, and those two positions are the Chairman and the Deputy Chairman, the balance should be the actual nominees of the bodies which are guaranteed representation.

I am not opposing on all occasions the correctness of a panel being put forward and the Government having the right to choose one of those members put forward for that panel. However, where the Chairman and the Deputy Chairman are nominated by the Government, that puts a slightly different emphasis on this particular matter. I believe the Government needs to explain why this particular procedure is necessary. I know that both the greyhound industry and the trotting industry are not impressed by these proposals.

Clause 20 of the Bill deals with after-race pay-outs. That matter has already been dealt with by the Hon. Dr Cornwall. Clause 20 provides:

> Except as otherwise directed by the Minister, the Board shall pay the dividend on every off-course totalizator bet as soon as practicable after the completion of the race on which the bet was made.

This does not prevent the Minister from directing that pay-outs will only apply to racing, to day meetings, or any other direction he may make. No-one can make any prediction of the effect that this will have on the profitability or the distribution of percentages that will be going to each of the codes in the industry, namely, racing, trotting and greyhounds. I do not intend at this stage to debate the issue as to the effect that this will have on illegal starting price betting, although I did interject when the Hon. Dr Cornwall spoke on that matter. At a guess (and I believe it to be an intelligent one), I consider that after-race pay-outs by the T.A.B. will have little effect on the incidence of illegal gambling in South Australia.

The Hon. J. R. Cornwall: We are agreeing on almost everything today.

The Hon. R. C. DeGARIS: We always agree on anything of importance. In my opinion, there will be an increase in the turnover of the T.A.B., particularly for the galloping codes, although there are those who take an opposing view, claiming that the overall effect will be detrimental to the galloping codes, but the increase in T.A.B. off-course turnover, because of after-race pay-outs, will come mainly from those who use the T.A.B., not from those who use illegal bookmakers. To think otherwise is not to face reality. From this reasoning, it is clear to see that the trotting and greyhound codes will decline in their percentage. The costs to the T.A.B. or after-race pay-outs will increase so that the galloping code will probably gain in two ways. Its percentage will increase, but the cost in achieving that turnover will be directly related to the galloping code. This, of course, does not take into consideration the arguments of the galloping codes that they will lose in course attendance because of after-race pay-outs.

Perhaps I could inform the Council as to the position in other States in relation to this matter, because the position is quite interesting. In New South Wales, although formulae for distribution of the T.A.B. surplus as between the three racing codes are quite complex, the proportion going to each depends basically on off-course turnover on each code. There is a maximum of 70 per cent of the funds available for distribution as the proportion payable to racing. If the proportion of turnover attributable to racing exceeds 70 per cent, that extra over 70 per cent of the surplus is divided evenly between the other two codes. I ask members to note that in New South Wales a floor is put beneath the greyhound and trotting codes.

In Queensland, distribution of the T.A.B. surplus as between the three racing codes and as between individual clubs depends on a fairly lengthy provision, regulation 52, which makes up Part V of the Totalizator Board distribution formula. Basically, distributions are in two parts. Part A depends upon distribution to each club in respect of year 1978-79, adjusted according to the number of meetings and amount of prizemoney paid in the latest year as compared with 1978-79. The basis of fixing 1978-79 distributions is not set out. Any funds left after Part A distributions are available as Part B distributions, which are divided between the three codes according to the investments on each code. After-race pay-outs do apply in Queensland. T.A.B. agencies do not remain open late at night to allow collection of after-race pay-outs, but re-investment of dividends for evening meetings is available to telephone bettors.

In Tasmania, the Racing Trust, not the T.A.B., fixes the proportions of T.A.B. surpluses to be distributed as between the three racing codes and individual clubs for stake money (which is kept at least as high as provincial Victoria), capital works and administration expenses, basically according to what is needed. Need is assessed each year by the Racing Trust. In Western Australia, greyhound racing is relatively new, and distribution is 60/40 between the galloping code and trotting, with greyhounds taking their share of the surpluses. In Victoria, according to a T.A.B. officer, the split-up is usually about 60 per cent to racing, 29 per cent to trotting and 11 per cent to greyhound racing. I do not know the basis upon which the V.R.C. assesses the proportions to go to the three codes, although the T.A.B. does actually distribute the money in accordance with V.R.C. decisions.

I believe that the procedure in New South Wales has a lot to commend it. While there is not a fixed percentage, there is a floor beneath which the greyhound and trotting codes cannot fall. I think that is a reasonable consideration for this Council. At present the distribution is about 69 per cent to the galloping codes and about 31 per cent divided between trotting and greyhounds. I put the suggestion, which I believe is worthy of notice, that we, too, should have a floor beneath which those codes should not fall.

The galloping code is also concerned (although I believe that the concern is wrong) that its share may fall in relation to the greyhound and trotting industry because of increased turnover from after-race pay-outs. I do not see the point but, to be fair, a floor could be put under galloping as well, so that galloping would not fall beneath 25 per cent but would not get more than 75 per cent. I make that suggestion as a practical one so that all the codes can have some guarantee upon which to rely, because there is great concern in the code that its position may deteriorate in relation to after-race payouts on the T.A.B.

I come to my last point, which also was touched on by the Hon. Dr Cornwall. I refer to the bookmaker's right to sue. The second reading explanation states that the committee of inquiry considered it an anomaly that South Australia was the only State in which neither bookmakers nor their clients were able to take legal action for recovery of gambling debts. On my information, the only State that has legislated for the legal right to sue is Victoria, but it does not matter to me whether all the States allow bookmakers to sue. I would still be opposed to that principle.

South Australia is totally different from all other States regarding the control of bookmakers and gambling. We have a Betting Control Board that operates in relation to these matters, and that does not exist in any other State. That board does a good job in prescribing rules and other provisions under which bookmakers and punters can operate. I believe that the reasons given by the Hon. Dr Cornwall are valid. For a long time, not only in this State but throughout the common law countries, one has not been able to sue for a gambling debt.

I will give reasons why I oppose their being able to sue. One reason was given by the Hon. Dr Cornwall. There are bookmakers who would encourage people to bet with them on the nod. They would be people who, the bookmakers know, have assets capable of being cashed if anything goes

wrong. More than that, there are many young people whose parents, the bookmakers know, could withstand an action for recovery of a gambling debt.

The bookmakers could encourage such a person to bet on the nod if the person was having a bad day at the races. I think that that is a fundamentally bad principle. Further, the bookmaker knows when he is going badly and if he is in trouble, and the punter does not know. The punter, by a nod bet, can be encouraged to assist the bookmaker who is going badly and can get himself into that situation. The principle which has been followed for a long time has produced no difficulties. Lately, one bookmaker is in serious trouble and I believe that the problem involves the bond put up to the Betting Control Board not being sufficient; that situation has changed.

I have said in this Chamber that there is no doubt that in this State a casino will be established. I have also said that I do not think there is any doubt that we will have poker machines. If one looks at the practicality of the position, one will see that what I am saying is bound to be correct.

An honourable member: Stick to the Bill.

The Hon. R. C. DeGARIS: This is very much part of the Bill. If a casino is established in this State, we will have a position whereby those who bet in it will get advance credit and then be sued for that debt. I believe that such a principle is quite wrong.

The Hon. J. E. Dunford: They don't sue in Las Vegas.

The Hon. R. C. DeGARIS: It does not worry me what happens in Las Vegas, but I do care what happens in Los Angeles. I make no bones about it at all: it does not worry me whether every State in Australia has the right to allow bookmakers to sue. I would oppose that being introduced in South Australia. In Victoria it is allowed, but there are many people in that State who oppose it. I ask the Government to re-examine that clause, because there are dangers if that is allowed to happen. I support the second reading.

The Hon. J. E. DUNFORD: I support the Bill but have some misgivings about clause 30, and I will refer to that shortly. As a former resident of Port Pirie, I am concerned about the betting shops there, of which I was a frequenter every weekend when I had money. Mr Olsen, in another place, moved to delete section 105 (2) of the principal Act, which provides:

> Premises shall not be registered or their registration renewed under this Part in respect of any period occuring after the thirty-first day of January 1983.

That provision deals with the Port Pirie betting shops. Agreement was reached between the previous Government and Port Pirie betting shop proprietors in 1976, when they were allowed seven years grace and were then to close down. I lived in Port Pirie for 4½ years and retired from the position of union organiser in 1965. I have since returned to Port Pirie.

The Hon. R. C. DeGaris: What clause of the Bill are you on?

The Hon. J. E. DUNFORD: I think I am in order. You are not the President, are you? I know you wanted the job. I am sure the President will pull me up if I am not following Standing Orders. I am dealing with the Racing Act, and this matter was opened up in another place by Mr Olsen, when he wanted to delete section 105 (2) of the principal Act. You were not listening, were you?

The Hon. R. C. DeGaris: Do you seek an instruction, too?

The Hon. J. E. DUNFORD: That is the President up there, isn't it?

The PRESIDENT: Order! It would be better if the honourable member adressed me, and did not argue with the Hon. Mr DeGaris.

The Hon. J. E. DUNFORD: I do not like arguing with him, but every time I get to my feet I have DeGaris having a go at me. I am sick of it. I am rather alarmed that there has been no reaction about this Bill in Port Pirie, outside of a television interview last week. On my last visit to Port Pirie two months ago, I went to a hotel and then next door to a betting shop. I was able to take the price that suited me, which was the starting price, and I then knew that if the horse had won I would have received $100 immediately because that amount was shown on my ticket.

In that particular betting shop I met five or six ex-B.H.A.S. employees whom I had had the pleasure of representing for 4½ years. I cannot understand why the Liberal Government, which is a private enterprise Government, did not concede on this point to one of its members. I can understand my Party sticking to the agreement made in 1976, and I have not been approached to impress on my Party that it ought to do otherwise. One of my colleagues does not like the betting shops in Port Pirie: he thinks they are old and rough.

All the betting shops that I visited over the years were close to hotels. If you go into any hotel in Port Pirie you will find smelter men having their Saturday afternoon off, having a few beers and walking to the betting shop, meeting their old comrades with whom they work in the lead smelters and enjoying a sociable afternoon.

The Hon. R. C. DeGaris: Do you intend seeking an instruction?

The Hon. J. E. DUNFORD: No, I am talking about this because I expect to hear why the Liberal Party rejected the proposition Mr Olsen put forward; I cannot ask him, as I am not in that House. I will not oppose the provision because my Party reached agreement with the proprietors that they should close in 1983. However, it would be remiss of me, having been a patron of the betting shops and getting good service from them, not to comment on this matter. They are part of the social heritage of Port Pirie that will disappear from the Port Pirie scene and leave a large gap in the social life of those people who have worked hard at the smelters to make Port Pirie a success.

Betting shops have many features that T.A.B. does not have. T.A.B. does not have, and will never have, the social atmosphere that betting shops have. I know many people who now do not go to T.A.B. because they cannot fill out the computer tickets, even though the women assist if one goes to the counter. However, old people do not like to be trained in new ways. My own mother, who is 84, ceased betting. That may be good, but she does not bet now because she cannot fill out the coupons and does not want to be shown. I am sure this will happen in Port Pirie. People are creatures of habit; they do not like things taken away from them. Further consideration should have been given to this particular provision.

The other clause I am firmly opposed to (and I was pleased to hear the outstanding contribution of my colleague, Dr Cornwall, on this matter, and surprised but also pleased to hear Mr DeGaris, too) is the right of the bookmaker to sue a defaulting punter. I spoke at length to my Caucus on this, but I will not make the same speech here. I have had much association with punting over 40 years, with S.P. bookmakers and every type of bookmaker from Melbourne to Bourke and beyond.

The Hon. R. C. DeGaris: Are you in front?

The Hon. J. E. DUNFORD: I am a long way behind, but I always settle my debts. I was always able to nod the head, which means that one can make a bet on the cuff, and that means that one can get credit (I am trying to help the

Minister with this explanation). I have found in places like Bourke and Mt Isa that credit betting goes on. I have seen friends of mine get into debt for many thousands of pounds. Bookmakers do not get the Mafia or hit men to chase up their debts. I have been asked to go along to see a punter in debt.

The Hon. D. H. Laidlaw: What's the difference?

The Hon. J. E. DUNFORD: He knew I was a friend of the punter. I will tell the Council what message I carried so that honourable members are not misinformed. I was told, 'Tell Jack to come back and have a bet; we will scrub what he owes. He is a loser, and I need his custom. We will scrub the £3 000.' The Government knows that bookmakers have high expenses. Some personal friends of mine are bookmakers, and I have not heard one complaint—and I challenge the Government about this—of a bookmaker wanting the right to sue a punter for a debt.

In fact, a bookmaker acquaintance of mine said that in no circumstances would he sue a punter. True, bookmakers expect to be paid but, if there is an error of judgment and they let a punter on for a certain amount and do not get paid, then they would not let him on again. A punter cannot get on again, especially if he loses $100 one week and then loses $100 the next without paying his debt. The smart bookmaker will say that the punter cannot get on again unless he gets off—unless he pays his debt. I will be interested to hear what the Minister has to say about bookmakers losing money.

Many punters are married and are involved in partnerships with their wives, be it for household goods or business goods. One partner in a marriage may be the punter. In my case, I am the punter and my wife is the non-punter and, because of our rural holding, I could lose her share in that property through my need to punt, or even through encouragement to punt. Some bookmakers sincerely like to see a customer punter win a bet now and again. The old saying is: if you do not feed them they will not lay. I have often seen bookmakers try to encourage a punter, not to bet out of his depth, but to bet on a horse that is given some chance of winning.

Bookmaking is a business. There are unscrupulous people sometimes involved, and the Hon. Dr Cornwall and the Hon. Mr DeGaris pointed out that perhaps an unscrupulous bookmaker would encourage a person to bet, be it a woman or a man, and thus affect his family or his business life. I believe a bookmaker who knows his business is capable of judging whether or not the person can pay, and that is part of the bookmaking scene. It is part of a bookmaker's experience, his apprenticeship and part of his learning. If he cannot do that, he should not be in the business of bookmaking.

When I say that bookmaking is a business, I mean that it is similar to those business houses that operated some years ago and encouraged people to buy television sets and home appliances by saying that there was no deposit required, that people could buy what they liked, and then those people were sued for those debts. That happens in the business community and, if clause 30 is included in the Bill, we will have the same situation occurring in the racing industry. I will have more to say in Committee.

The Hon. D. H. LAIDLAW secured the adjournment of the debate.

FORESTRY ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 10 November. Page 1773.)

The Hon. FRANK BLEVINS: The Opposition supports this Bill, which is certainly a necessary measure. The Bill provides that workers under State awards who are on annual leave and who fall sick will be entitled to take sick leave whilst on annual leave, and thus either extend their period of annual leave to take into account sick days or take other days at some later stage. That is a very favourable proposition and one that has been available for employees under most Federal awards for a considerable time.

It is rather amusing to read in *Hansard* the history of this Bill before its appearance in the Council. I would recommend to anybody who is interested that they do that. The Deputy Leader of the Opposition made a full and enlightening speech on it. In essence, the Trades and Labor Council took a test case to the Industrial Commission to get a provision such as this. The employers bitterly opposed the proposition and then realised that they did not have much of a case, and that it was possible that the commission would come down on the side of the employees. In fact, the provisions that the commission was likely to hand down could have been more favourable than provided for under some Federal awards and also more favourable than the Trades and Labor Council had asked the employers for in the first place. To get them off the hook, the employers ran to the Government and asked it to legislate for this provision that they had so bitterly opposed initially.

The Hon. Dean Brown acted as the employers' puppet and danced to their tune. The Bill was presented to Cabinet and Parliament in a very short time. Regardless of the history of the Bill, it is a measure that the Opposition agrees with completely. We are quite happy for the Bill to go through and for the provisions to apply to employees under the State awards as quickly as possible.

The Hon. D. H. LAIDLAW secured the adjournment of the debate.

ADJOURNMENT

At 5.25 p.m. the Council adjourned until Tuesday 17 November at 2.15 p.m.