LEGISLATIVE COUNCIL

Tuesday 9 February 1982

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

CONSTITUTION ACT AMENDMENT BILL (No. 2)

His Excellency the Governor, by message, informed the Council that he had reserved the Bill for the signification of Her Majesty the Queen's pleasure thereon.

ASSENT TO BILLS

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

Administration and Probate Act Amendment,
Building Societies Act Amendment (No. 2),
Business Names Act Amendment,
Coroners Act Amendment,
Criminal Law Consolidation Act Amendment,
Criminal Law Consolidation Act Amendment (No. 2),
Discharged Soldiers Settlement Act Amendment,
Harbors Act Amendment (No. 2),
Housing Agreement,
Industries Development Act Amendment,
Irrigation Act Amendment (No. 3),
Licensing Act Amendment,
Local Government Act Amendment (No. 4),
Motor Fuel Distribution Act Amendment,
Motor Vehicles Act Amendment (No. 5),
Parks Community Centre,
Planning,
Racing Act Amendment,
Road Traffic Act Amendment (No. 5),
Road Traffic Act Amendment (No. 6),
Savings Bank of South Australia Act Amendment,
South Australian College of Advanced Education,
South Australian Council for Educational Planning and Research Act Repeal,
South Australian Film Corporation Act Amendment,
South Australian Housing Trust Act Amendment,
State Theatre Company of South Australia Act Amendment,
Statutes Amendment (Jurisdiction of Courts),
Stony Point (Liquids Project) Ratification,
Tea Tree Gully (Golden Grove) Development Act Amendment (No. 2),
Valuation of Land Act Amendment.

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following interim report by the Parliamentary Standing Committee on Public Works:

Marla Township Construction.

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Adelaide Remand Centre—Brompton,
Port Adelaide High School and Primary School—Consolidation.

The PRESIDENT laid on the table the following final report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Marla Township Construction.
River Torrens Linear Park and Flood Mitigation Scheme,
Technology Park Adelaide Development.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

By Command—

Norwood District By-election, 16 February 1980—Statistical Return of Voting.

Pursuant to Statute—

Classification of Publications Act, 1973-1978—Regulations—Penalties.
Local and District Criminal Courts Act, 1926-1981—Local Court Rules—
Fees.
Various.
Motor Vehicles Act, 1959-1981—Regulations—Sales Tax on Number Plates.
Police Offences Act, 1953-1981—Regulations—Traffic Infringement Notices.
Racing Act, 1976-1980—Rules of Trotting—
Mobile Barrier Starts.
Amalgamation of Races.
South Australian Trotting Control Board—Report, 1981.
South Australian Dog Racing Control Board—Report, 1981.
Road Traffic Act, 1961-1981—Regulations—
Blood Analysis Hospitals.
Emission Control.
Parking of Vehicles (Amendment).
Carrying of Dangerous Substances (Amendment).
Stamp Duties Act, 1923-1981—Regulations—Credit and Rental Stamp Duty.
Supreme Court Act, 1935-1981—Supreme Court Rules—Arraignment of Prisoner.

By the Minister of Corporate Affairs (Hon. K. T. Griffin)—

Pursuant to Statute—

National Companies and Securities Commission—Report, 1980-1981.

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

Pursuant to Statute—

Architects Act, 1939-1981—By-laws—Subscriptions.
Building Act, 1970-1976—Regulations—Building Work Fees.
Education Act, 1972-1981—Regulations—Recreation Leave Loading.
Fisheries Act, 1971-1980—Regulations—Zone S Abalone.
Local Government Act, 1934-1981—Regulations—
Parking.
Parking (Amendment).
Outback Areas Community Development Trust Act, 1978—Regulations—Licensing.
Police Regulation Act, 1952-1981—Regulations—
Various.
Various (Amendment).
Recreation Grounds (Regulations) Act, 1931-1978—Regulations—Whyalla Recreation Grounds.
River Murray Commission—Report, 1981.
Sewerage Act, 1929-1981—Regulations—Plumbers Fees (Amendment).
South Australian College of Advanced Education Act, 1982—Statutes and By-laws.
Waterworks Act, 1932-1981—Regulations—Plumbers Fees (Amendment).
The University of Adelaide—Report and Legislation, 1980.
City of Adelaide—By-law No. 8—Rundle Mall.
City of Burnside—By-law No. 32—City of Burnside Library.
City of Port Adelaide—By-law No. 28—Playgrounds.
City of West Torrens—By-law No. 57—Bicycle Track Traffic.
Town of Thebarton—
By-law No. 9—Bees.
By-law No. 11—Fires.
By-law No. 12—Flags and Flagpoles.
By-law No. 13—Garbage Bins.
By-law No. 14—Gas.
By-law No. 16—Horses and Cattle.
By-law No. 18—Inflammable Undergrowth.

By-law No. 21—Nuisances.
By-law No. 22—Public Health.
By-law No. 26—Parklands and Reserves.
By-law No. 27—Restaurants and Fish Shops.
By-law No. 29—Streets and Footways.
By-law No. 36—Zoning.
By-law No. 37—Building Alignments.
By-law No. 38—Building Alignments.
By-law No. 39—Heights of Fences, Hedges and Hoardings.
By-law No. 40—Control of Dogs.
By-law No. 42—Weights and Measures.
By-law No. 43—Heavy Loads.
By-law No. 44—Child Minding Centres.
By-law No. 45—Rubbish Tips.
By-law No. 46—Lodging Houses.
By-law No. 48—Poultry and other Birds.
By-law No. 49—Playgrounds.
By-law No. 51—Street Traders.
By-law to repeal certain Model By-laws.
District Council of Light—
By-law No. 29—Dogs.
By-law No. 30—Traffic.

The Hon. N. K. FOSTER: Mr President, I rise on a point of order. The Minister is taking a considerable amount of the Council's time—and, fortunately, I came in late—in respect of these by-laws. I doubt whether any two members of this Chamber, including the Minister, know what these by-laws mean. We have enough trouble with local government, so I suggest that the Minister should provide an explanatory note for each by-law.

The PRESIDENT: Order! The by-laws are self-explanatory.

The Hon. N. K. FOSTER: Mr President, will you please define 'self-explanatory', because I do not believe they are.

PAPERS TABLED RESUMED

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

By Command—

Australian Agricultural Council—Resolutions of the 112th (Special) Meeting, Melbourne, 4 September 1981.

Pursuant to Statute—

Botanic Gardens Board—Report, 1980.
Coast Protection Board—Report, 1979-1980.
Criminal Law Consolidation Act, 1935-1980—Regulations—Notification of Abortions.
Environmental Protection Council—Reports, 1979-1980 and 1980-1981.
Health Act, 1935-1980—Regulations—Swimming Pools.
Hospitals Act, 1934-1971—Regulations—Inpatients Hospital Charges.
Industrial Conciliation and Arbitration Act, 1972-1981—Regulations—Sick Leave.
Metropolitan Milk Supply Act, 1946-1980—Regulations—Milk Prices.
Motor Fuel Distribution Act, 1973-1981—Regulations—Marine Motor Spirit Sales.
North Haven Trust—Report, 1980-1981.
Planning and Development Act, 1966-1981—
Metropolitan Development Plan—Corporation of the Town of Hindmarsh Planning Regulations—Zoning.
Murray Mallee Planning Area Development Plan—River Murray Valley Planning Regulations.
Riverland Planning Area Development Plan.
Shop Trading Hours Act, 1977-1980—Regulations—Floor Tiles.
South Australian Health Commission Act, 1975-1981—Regulations—Inpatients Hospital Charges.

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

Pursuant to Statute—

Builders Licensing Board of South Australia—Report, 1980-1981.
Building Societies Act, 1975-1981—
Regulations—
Investment of Funds.
Loan Limits.
Building Societies—Report of Registrar, 1980-1981.
Licensing Act, 1967-1981—Regulations—Licence Fees.
Real Property Act, 1886-1980—Regulations—Solicitors and Land Brokers Charges.
Credit Unions—Report of Registrar, 1980-1981.
Trade Standards Act, 1979—Regulations—
Treatment of Apparel.
Flotation Aid Toys.

MINISTERIAL STATEMENT: POLICE INQUIRY

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

Leave granted.

The Hon. K. T. GRIFFIN: The investigation, which was instituted in the latter part of 1981 into allegations against members of the Police Force, is making good progress. A significant amount of work has been done but no date can yet be given as to the completion of those investigations. The principal difficulty is that certain matters are pending before the courts, and until they have been finalised the investigation cannot be completed. I am not prepared to give any details of those cases, nor is it wise to speculate about them. The advice which I have received is that any public comment or speculation about them carries the potential for argument that the conduct of the matters may be prejudiced by that public comment. That is advice with which I agree. Accordingly, it is presently inappropriate for me to do any more than give an assurance to the Council that I am satisfied that the investigation is being conducted diligently and dispassionately and that when it is concluded a detailed statement will be made to Parliament.

VICTOR HARBOR COUNCIL

The Hon. C. M. HILL (Minister of Local Government): I seek leave, pursuant to section 45b of the Local Government Act, to report regarding the appointment of an administrator to the District Council of Victor Harbor.

Leave granted.

The Hon. C. M. HILL: On 17 December 1981, His Excellency the Governor issued a proclamation declaring the District Council of Victor Harbor to be a defaulting council, pursuant to section 45b of the Local Government Act, 1934-1981, and appointed Mr Russell William Arland to be the administrator of the affairs of the District Council of Victor Harbor. In July 1980, at the local council elections, the sitting mayor was defeated and three new councillors were elected. Subsequently, three sitting councillors resigned because of what they considered to be the nature of the campaign waged by the new mayor and his supporters.

At its simplest, the campaign for the 1980 elections was conducted on the familiar lines that those contesting seats claimed that sitting members were expanding services too much and a platform of reducing expenditure was advanced. However, the campaign was intense between the factions involved and from the start the District Clerk and staff were seen, rightly or wrongly, as being allied with the previous 'expansionist' majority.

The Hon. N. K. Foster: How much money did it take to dismiss the clerk?

The PRESIDENT: Order!

The Hon. N. K. Foster: I would like him to tell the Council that.

The PRESIDENT: Order! If the Hon. Mr Foster wishes to ask a question in relation to the matter, he will be permitted to do so later.

The Hon. N. K. Foster: Thank you, but he is hiding the facts; tell us the truth.

The PRESIDENT: Order!

The Hon. C. M. HILL: At the 1981 elections, the mayor was defeated and the present incumbent elected. His platform was directed at developing some harmony and co-operation between councillors and staff. It appeared that the council in 1981 comprised four 'reductionist' councillors and two others. Since July 1980 the council, staff and community have been divided in opinion and debate beyond anything that might be described as normal or usual within the district.

My officers have been involved in discussions with both recent mayors and councillors from both factions. The local newspaper featured lengthy articles on council divisions and I received petitions and letters for and against the various points of view. The District Clerk instituted and withdrew legal proceedings against a councillor and the local newspaper, while two councillors instituted legal proceedings against the local newspaper and another councillor. Compounding this situation, the council had its interim development control withdrawn partially by the State Planning Authority for consistent breaches of its delegated authority.

In October-November 1981 the matter came to a head. I asked my Deputy Director to assist, but he was unable to make any progress at a meeting with the district council to discuss management issues because of the bitter divisions in the council, and the apparent determination of a majority of the councillors to dismiss the clerk. I received a deputation of the mayor and two councillors who discussed all relevant matters.

Following this, my Director held a meeting with the mayor and District Clerk (accompanied by a representative of the Municipal Officers Association) to attempt to identify all the options available. The Municipal Officers Association threatened to insert a clause into the award preventing the dismissal of the clerk without the approval of the Industrial Commissioner. The District Clerk made it clear that he would not resign. At a subsequent meeting of the district council, no councillor was prepared to move for the dismissal of the clerk. This last meeting of council was the subject of detailed reporting in the next issue of the local newspaper.

There has been almost non-stop charge and counter-charge, and division within the community. All attempts, both within the Department of Local Government and at Victor Harbor, to resolve the situation failed. Certain councillors had completely lost faith in the administration while the clerk and staff for their part were subject to a level of pressure and scrutiny that affected their ability to respond to council and community needs.

Section 45b (1) of the Local Government Act provides:

> Where in the opinion of the Minister,
>
> *(a)* a council has refused or failed to carry out the duties or functions imposed upon . . . the council under this Act—

the Minister may recommend to the Governor that the council be declared a defaulting council. The Governor may make such a declaration which suspends the council and provides for the appointment of an administrator. The administrator is remunerated from the funds of the council at rates set by the Governor. The Act goes on to empower the Governor to vary or revoke the proclamation and sets out requirements for report to Parliament, and places a 12-month limit on the life of a proclamation.

In a separate Part, section 50, the Act provides that the mayor, aldermen and councillors of every municipality and the councillors of every district, shall constitute a council for'. . . the good government of the municipality or district'. The Government felt that the 'good government' of Victor Harbor was not being provided for in the circumstances. The Government believed that the appointment of an administrator, skilled in local government matters and with high community standing was necessary, as a first step, to return 'good government' to the town and district, and to pave the way for the restoration of a balanced approach to local government in Victor Harbor. Mr Russell Arland, former Town Clerk of Adelaide, indicated his willingness to be appointed as administrator. Mr Arland has already demonstrated this capacity and is working hard, and with great community acceptance, to heal the divisions, and to establish the basis for a return to sound local government in the near future. I now table this report pursuant to section 45b of the Act.

QUESTIONS

POLICE INQUIRY

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to asking the Attorney-General a question about the police inquiry.

Leave granted.

The Hon. C. J. SUMNER: It is now over three months since the Attorney-General announced to the public of South Australia that an inquiry would be conducted into allegations about the Police Force and, in particular, about drug related offences within the Police Force. There is no doubt that there is increasing concern in the community about the Attorney-General's handling of this issue.

There was, I believe, an expectation three months ago, when the inquiry was announced, that it would be conducted quickly. Now, three months have elapsed and we now have a Ministerial statement from the Attorney-General that he cannot say when the inquiry will be completed. There is no doubt that at the time the inquiry was announced the Attorney-General gave the public the impression that the inquiry would be able to produce some report within a short time. Only on 9 October 1981 the *Advertiser*, under the byline of David English and Robert Ball, contained a report from the Attorney-General that stated that he expected the report from the investigators in about two weeks. I think that that gave the people the impression that the inquiry would be completed and would give rise to consideration by the Government of whether a further inquiry in the nature of a judicial inquiry or Royal Commission was necessary.

The Attorney said that, until this inquiry was completed, he would not consider enlarging the inquiry to broader scope, but he did contemplate it and said that that would be dependent on the results of this inquiry. That further supports the proposition that I am putting, namely, that the Attorney expected, and advised the people of South Australia at that time, that the inquiry would be completed within a short time. The journalists from the *Advertiser* believed that it would be within about two weeks of the announcement on 8 October 1981.

Did the Attorney-General tell the *Advertiser* reporters English and/or Ball that the report from the investigators would be available in about two weeks, this statement having been made on 8 October and reported in the *Advertiser* of 9 October? Secondly, if the Attorney-General did not make this statement to those journalists or anyone else, how did they get the impression that this was the Government's intention? Thirdly, can the Attorney give the Council any indication of when the inquiry will be completed? Will it be a matter of weeks or months? Will it be completed before the current sittings of the Parliament finish at the end of March? Finally, can the Attorney tell the Council whether, on the basis of information received to date, a further inquiry in the form of an enlarged judicial inquiry or Royal Commission will be established?

The Hon. K. T. GRIFFIN: Last year I did indicate, in reply to a question by the Leader of the Opposition at that

stage, that the statement in the *Advertiser* report of 8 October 1981 was incorrect. At the earliest opportunity, in reply to a question put to me in this Council, I denied that I had ever said that the report would be available within two weeks. The answer to the first question is 'No'.

With respect to the second question, I do not know how the *Advertiser* reporters would have gained any impression that it would have been a matter of two weeks, because that was never indicated, and I said in this Council last year that I was not prepared to put any time limit on the presentation of the report. I indicated that a substantial number of allegations had been made and a considerable amount of work had to be undertaken and that I was not prepared to put the investigating team under the pressure of a deadline with the possible consequence that the matters would be dealt with superficially rather than in depth.

I adhere to that point of view. It is better for those investigators involved in the investigations to work unimpeded by pressure of a specific deadline and better that they have the opportunity to investigate all allegations made and all leads that come to their attention during the course of the investigations and to present to me a full and adequate report when they have completed the investigations.

At no stage have I given any indication as to when the reports would be available. I want the reports as soon as possible but, as I said earlier, I am not prepared to prejudice the investigation by putting unreasonable time constraints upon the investigating team, particularly with the complexity of the problem.

The Hon. C. J. Sumner: Will it be during this sitting?

The Hon. K. T. GRIFFIN: I will not be bound to any time frame. I would hope that before Parliament rises on 1 April I will be able to make a statement in respect of the report but I can give no unqualified guarantee that the reports will be available to me at that time so that I can make the detailed statement to which I referred in the Ministerial statement. I am not in a position to make any comment on the material which is before me at the present time. Therefore, in respect of the fourth question, I am not prepared to indicate whether or not a further inquiry would at the present stage appear to be justified.

MURRAY RIVER BRIDGE

The Hon. M. B. DAWKINS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Transport, a question on a Murray River bridge.

Leave granted.

The Hon. M. B. DAWKINS: My question refers to the provision of a further bridge on the Murray River. For some time there has been a constantly growing need for an extra bridge on the river, preferably at or near Berri, to provide for the ever increasing traffic between the northern river towns of Berri and Barmera and the town of Loxton and associated Mallee areas. I believe that there are four sites being considered in the Berri-Lyrup area and that considerable raising of the road on the southern side of the river for a distance of approximately two miles is involved. Is the Minister yet in a position to indicate where and when the bridge is expected to be built?

The Hon. K. T. GRIFFIN: I will refer the honourable member's question to my colleague the Minister of Transport and bring back a reply.

STAMP DUTY

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question on stamp duty on matrimonial settlements.

Leave granted.

The Hon. C. J. SUMNER: Much hardship will now be caused to people in South Australia if the results of a High Court decision are not reversed in this State. The Commonwealth Family Law Act passed in 1975 provided that Family Court orders for property transfers pursuant to a settlement in divorce proceedings would not be subject to stamp duty. This provision was found to be invalid in December 1981 in the High Court in Gazzo's case because it was outside Commonwealth Constitutional power. That means that the State Government can now impose stamp duty on these transfers.

It would appear that the South Australian Government is now doing that. It has been put to me that this will cause hardship, particularly in the case of a wife who may not be able to pay stamp duty and accordingly transfers ordered by a court will remain unregistered.

Another case which has been brought to my attention is that of an invalid pensioner, a renal patient, with four children. She is not receiving any maintenance from her former husband because that was included in the property settlement. She has been asked by the Commissioner of Stamps to pay stamp duty on the transfer of the former matrimonial home. She cannot afford it. Therefore, is the South Australian Government now imposing stamp duty in these circumstances? Secondly, will the Government direct the Commissioner of Stamps not to impose stamp duty on transfers by one spouse to another spouse made pursuant to a Family Court order for property settlement? Thirdly, will the Government amend the Stamp Duties Act to exempt such transfers from stamp duty?

The Hon. K. T. GRIFFIN: The decision of the High Court is being given consideration by my officers and those of the Treasury. No formal decision has been made in respect of whether or not matrimonial settlements should be subject to duty in the future. When the officers have considered the matters further and the Government has made some decision, undoubtedly there will be an announcement. Prior to that decision being taken by the Government, there is no intention to give a direction to the Commissioner of Stamps. I am not aware of his present practice since the High Court decision in respect of documents now being lodged for stamping, but I will make some inquiries and advise the honourable member.

The Hon. C. J. SUMNER: By way of supplementary question, while the Government is considering this question, will it give a direction to the Commissioner of Stamps not to impose stamp duty on these transfers (this was the situation up until the decision in December 1981)?

The Hon. K. T. GRIFFIN: My earlier point was that it would be inappropriate to give any direction to the Commissioner in the interim period until a policy decision has been taken.

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to asking the Attorney-General a further question on stamp duty.

Leave granted.

The Hon. C. J. SUMNER: The Attorney-General's response to my question is quite unacceptable. He is now saying that, because technically in law stamp duty ought to be paid on these transfers, he will, representing the Government, enforce such payments. Up until the decision in Gazzo's case in the High Court in December 1981, no stamp duty was imposed on such transfers. Apparently neither he nor the Treasurer is prepared, on behalf of the

Government, to waive the stamp duty for the period 24 December 1981, when the decision was made in the High Court, to the time when the Government gets around to deciding its policy on the issue. That is quite unsatisfactory. It is quite an inhumane position to take. The exemptions to stamp duty were well recognised as being reasonable policy before 24 December 1981. I have given one case to the Attorney-General where considerable hardship will result, yet the Government has within its power the right to waive stamp duty in these situations until a final policy decision is made. I believe that that is what the Attorney-General should do. If that is not done and the Government decides that stamp duty should not be imposed in the future then there will be a group of people who have paid stamp duty in the interim period. The preferable course is to waive stamp duty until a final decision has been made. Will the Attorney-General take that action?

The Hon. K. T. GRIFFIN: It is not within my power to take that action. I have given the honourable member an answer which demonstrates an exceptional position at the present time. The view which I have expressed is reasonable, just as it is reasonable to suggest that, if the Government decides that stamp duty will be imposed as a matter of policy, those who might be exempted between December and the date of that decision would gain a benefit which is not available to those who lodge documents subsequently. I have indicated to the Leader that we are working on the policy question. I expect that an announcement will be made within the near future. Until that decision is made it is not within my province to give a direction to the Commissioner. I will certainly refer that part of the question to the Treasurer.

RIVERLAND CANNERY

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before directing a question to the Attorney-General about Riverland cannery fruit prices.

Leave granted.

The Hon. B. A. CHATTERTON: Canning fruit growers in the Riverland this morning saw a report in the *Advertiser* that the Federal Government has refused to provide funds to asssist growers of peaches and other canning fruit currently suffering the effects of a world marketing slump and the incompetent management of the Riverland cannery. The Minister of Agriculture is quoted as berating the Federal Government as unfeeling. The article intimates that the Tonkin Government will go it alone to help pay growers higher prices for their fruit this season.

I have been contacted by growers who are very disturbed at the sequence of events and the statements issued by the State Government on this matter in the past week, and in particular at the lack of communication with growers on Government decisions made during that time. Growers were originally assured that Cabinet would make a decision concerning their request for parity with last year's fruit prices and that they would be told of that decision last Tuesday. On Wednesday, they were told that the Attorney-General would have to confer with the receiver before any communication was made. On Thursday, they were told that the Minister of Agriculture would have to confer with Agricultural Council before any information could be given to growers concerning payment for their fruit.

In order to keep the growers in the picture, will the Attorney-General tell the Parliament whether the Government intends to provide $1 000 000 to the cannery so that growers may receive parity prices in line with 1981 returns? Also, is what the Minister of Agriculture said true, that the State Government will go it alone on canning fruit prices?

The Hon. K. T. GRIFFIN: The newspaper report this morning has been taken out of context by the honourable member. The first paragraph of that report states that the State Government will consider going it alone with financial help to Riverland peach and pear growers. The fact of the matter is that the Riverland people have been kept well informed of the progress of events over the past fortnight—in fact, over the past two years. The media, which is the best source of information to the growers from the Government, has been kept informed of all stages of decision-making on this and other questions which affect the cannery.

The Government is considering the question whether the growers should be given more than they were guaranteed in June last year. Last year, they were guaranteed payment for 7 100 tonnes of fruit for 1982 and 1983 at the then applicable F.I.S.C.C. prices, the reference being to the prices which were current for each of those seasons. What the growers have been seeking is a further subsidy from the Government to make up to the growers something in addition to the guarantees which the Government gave in June last year. Those guarantees were substantial.

The final decision on the question of making an additional subsidy available to the Riverland growers has not been finalised. The Minister of Agriculture was correct in saying that the matter was considered yesterday by the Agricultural Council. I would expect Cabinet to make its final decision on this matter on Thursday of this week, or at the normal Cabinet meeting next Monday. It is not just a question of the subsidy—it is also a question of considering the even broader issues which affect the Riverland, all of which have been outlined by me in a number of statements over the past two years since the Government stepped in to prop up the ailing cannery.

I remind honourable members that the subsidy which the Government has given through the receivers to growers directly over the past two years has run into many millions of dollars, close to $10 000 000. That is a substantial sum that the taxpayers of this State are putting into that cannery operation. We want to see that growers and workers in the Riverland are insulated as much as possible from the undoubted prejudice they will suffer if the whole operation fails. If further information is sought it will certainly be made available to the Riverland people. If decisions are yet to be taken, when they are taken public notice will be given of them.

The Hon. B. A. CHATTERTON: In view of the Minister's reply, will he now say whether it is a fact that the State Government, or representatives of the Government, are currently talking with an Adelaide business man, who represents a large Japanese corporation, about the sale of the Riverland cannery? Will the Attorney explain the claim made by that business man, concerning the proposal to increase the prices this year to parity with last year's prices, that any move by the Government to accede to that growers' request would put the proposed sale in jeopardy? Also, will the Attorney say whether Cabinet will consider this opinion when discussing the Minister of Agriculture's proposal for State Government funding of this year's canning fruit production?

The Hon. K. T. GRIFFIN: Some interest has been shown in the cannery on the two occasions that it has been advertised for sale, but nothing has crystallised to the point where a sale has, in fact, been made. I certainly do not imagine that Cabinet will consider any of the sorts of assertions the honourable member has made. If he can give me some information as to who has made them and to whom, then that might help me to ascertain whether the allegations are of substance.

PRIVATE HOSPITALS AND NURSING HOMES

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before directing a question to the Minister of Community Welfare, representing the Minister of Health, concerning doctors' financial interests in private hospitals and nursing homes in South Australia.

Leave granted.

The Hon. J. R. CORNWALL: Some months ago Dr Peter Last, a very respected senior medical officer with the South Australian Health Commission, made public comments about ownership by doctors of nursing homes in South Australia. He pointed out clearly and correctly that there was a conflict of interest in ownership of private-for-profit nursing homes by doctors. He was immediately publicly rebuked by the Federal Minister for Health, Mr McKellar, who happened to be in Adelaide at that time. Dr Last's own Minister, Mrs Adamson, did not see fit to defend him.

Even the A.M.A. believes that patients are entitled to know the names of doctors who own or have financial interests in nursing homes and private hospitals. However, it is virtually impossible to obtain that information. My preliminary investigations at the Companies Office show that there is a complex and tangled web of holding and nominee companies for doctors with these financial interests. It is virtually impossible for me to obtain the information I have been looking for. Given the poor research facilities we are provided with in this Parliament (outside the Ministry), my task is made even more difficult.

The only list that I have been able to complete is as follows: the Winchester Nursing Home, Malvern (the proprietor is Dr J. Tomich); the Holdfast Private Hospital, Glenelg, and the Hutt Street Private Hospital, which are owned by nominee companies for Dr R. Scragg and members of his family; and the Wakefield Street Hospital and the College Park Private Hospital, which are owned by various doctors whose names I have been unable to ascertain.

I believe that it is unethical and incongruous for a doctor to have a financial interest in private-for-profit nursing homes and hospitals. It is as immoral and illogical as it would be for a judge to hold shares in a private-for-profit prison and to have a vested interest in keeping it fully occupied. It is obviously an area in which there is enormous temptation and great incentive for over-utilisation. The patients in these nursing homes and private hospitals which are owned by doctors, or in which doctors have a substantial financial interest, are literally captives for over-servicing. At the very least, the Minister of Health should publish a full list of these doctors for the guidance of patients and for the information of the public.

How many private hospitals or nursing homes in South Australia are owned by registered medical practitioners? How many registered medical practitioners or members of their families have shares or a financial interest, directly or through nominee companies, in private hospitals and nursing homes in South Australia? What are the names of those private hospitals or nursing homes? What are the names of the doctors? Will the Minister take steps to publish in both metropolitan daily newspapers a full list of the doctors and institutions concerned?

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

CAR SALES

The Hon. L. H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about car sales.

Leave granted.

The Hon L. H. DAVIS: The Minister of Consumer Affairs has previously referred to the great expense of establishing and maintaining a system of registering encumbrances in respect of motor vehicles that would ensure that a *bona fide* purchaser for value always received good title. I have noticed with interest that the Victorian Government this year is introducing a registration system, whereby a purchaser can check whether a seller has an unencumbered title by simply making a telephone call, which would be verified by a computer print out. It is intended to charge a fee for this service to cover the cost of its operation.

Under this scheme, finance companies and other credit providers would be required to register their interest in a car. Failure to do so will result in their being unable to enforce their interest against any new owner. Initially, the scheme will cover cars up to a value of $15 000. In due course it is intended to extend the cover to boats, caravans and trailers. While I am aware that South Australians are already well served by existing consumer affairs legislation, is the Minister aware of the current Victorian initiative, and has any further consideration been given to introducing a scheme of registering interest in respect of motor cars in South Australia?

The Hon. J. C. BURDETT: The South Australian Government is well aware of the Victorian initiative. In fact, this Government examined this initiative long before the Victorians ever made it. Quite some time ago a working party was set up comprising representatives of the Department of Public and Consumer Affairs, the Motor Registration Division of the Department of Transport, the Australian Finance Conference, and the South Australian Automobile Chamber of Commerce. That working party operated for some time before we found that the Victorian Government was well advanced in making inquiries of this kind.

There seems to be no point in duplication, so the South Australian working party will no longer operate, until it has a chance to assess the details that have been worked out by the Victorian Government. We will be looking at those details and assessing them to see whether they are applicable in South Australia. I point out that economies of scale will obviously arise very much in an operation of this type. The cost effectiveness of having a system of registered encumbrances available by telephone, as suggested by the honourable member, must be examined in a State which has a much smaller population than has Victoria. The fact that such a system may work well in Victoria is no proof that it will work in South Australia.

To sum up, for some time the South Australian Government has been investigating such a system. We will be looking very closely at the Victorian system to see how it works and examining the possibility of its operating as successfully in South Australia as it appears that it will operate in Victoria.

LOCAL GOVERNMENT

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the increase in tertiary level employment in local government, and other local government matters.

Leave granted.

The Hon. N. K. FOSTER: During the Parliamentary adjournment, I was somewhat astounded to hear on the radio (I do not read the Adelaide *News*) that the Minister of Local Government had seen fit to sack the Victor Harbor council because its members were not able to agree on the dismissal of the Town Clerk. One of the reasons that was given a great deal of publicity was that the council was

unable to dismiss the clerk because he had the council over a barrel: he had taken it on himself, without the knowledge of the ratepayers or indeed many members of the elected council over the past few years, to set a figure on his retirement which was in excess of the amount of money available to the elected council to pay him.

Although the Minister acted in relation to the Victor Harbor council, he did nothing about the scurrilous attitude adopted by members of the Glenelg council when they misled Parliament. He did not see fit to sack that council, which attempted to deceive this Parliament, particularly a Select Committee of this Council. However, the Minister saw fit on this occasion to approach one of his friends, the previous Town Clerk of Adelaide, Mr Arland. As a member of the community of Victor Harbor, Mr Hill has a very close association—

The Hon. Frank Blevins: He was born there.

The Hon. N. K. FOSTER: He was born there and he was bred there—he boasts about it. The Minister probably flogged the house that Arland bought when he moved here from Victoria a few years ago.

The PRESIDENT: Order! That is not relevant to the honourable member's question.

The Hon. N. K. FOSTER: It may not be, Mr President, because certain disclosures have not yet been made by the Minister. I do not have much time, so I will conclude by asking why it was not good enough for the Minister to dismiss a council which is obviously corrupt, and I am referring to the Glenelg council. I note that the Minister has a pronounced frown on his brow, but he knows what I am referring to, because he agreed with me when I said in this Chamber that the actions of the Glenelg council were less than honourable. Yet the Minister travelled 50 or 60 miles south of this city three times in two days to wangle the dismissal of a local council because it could not agree.

Governments do not always agree either, but no-one, apart from the Governor-General, is invested with power to summarily dismiss a government. Such a power should be exercised only when there is corruption, but the Minister did not do that in relation to the Glenelg council. Instead, the Minister exercised that power where there was no clear division to cast a vote either for or against. That is the exact position of this Council today. Does the Minister want to dismiss this Council?

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

The Hon. N. K. FOSTER: This Council, where the Minister and I sit as members, a Council that relies for a decision on the casting vote of one member. The Minister knows that as well as I do. Because of the inability of the council to deal with this matter and the allegations of some councils in respect of a town clerk's duties, will the Minister make available to this Chamber the number of councils embodied within the Local Government Association and disclose how much money is required to be met by those councils before they can dismiss or retire their town clerks and other tertiary staff? To what extent has the Munno Para District Council extended the number of people on its tertiary staff? To what extent is the taxpayer required to fund this, compared with the situation existing some five years ago? The Minister is frowning again, but he toured with the Munno Para District Council last year; I did not. He heard it all.

The Hon. C. M. Hill: Explain it a little more clearly.

The Hon. N. K. FOSTER: How many additional tertiary staff have been taken on in the past five years? How much will it cost to dismiss the Town Clerk in that council area? I understand that this is a classic example of what is happening in local government and of how little is known by the elected councillors of the schemes that have been worked out and, indeed, by those who foot the bill, namely, the ratepayers. I ask these questions because elected councillors today are prisoners of unscrupulous town clerks and tertiary staff.

The Hon. C. M. HILL: It is difficult to reply to the honourable member, considering the wild accusations he has made, followed by, if I may say so, some befuddled questions. The honourable member started by talking about the situation at Victor Harbor and the sacking of the council there.

The Hon. N. K. Foster: You should have sacked the Town Clerk, but you didn't.

The Hon. C. M. HILL: The fact is that, in this State at the moment, a Government has no power to dismiss a local council. The only power that a Government has, in the event of good local government not being carried out in any area in the opinion of the State Government, is to declare that council a defaulting council and move to suspend it. That action has taken place at Victor Harbor. The sacking of a council is not involved at Victor Harbor at all. The Government has no power to dismiss a council.

The Hon. Mr Foster then moved on to what I think was the hobby-horse he was endeavouring to ride right through his explanation and questions, and that is that he apparently does not like some town clerks.

The Hon. N. K. FOSTER: I object to that, Mr Acting President. Personally, I do not know any more than three town clerks. I am not against town clerks, and I want the Minister to withdraw that statement because it is a reflection on what he purports to be my attitude to town clerks.

The ACTING PRESIDENT (Hon. M. B. Dawkins): Order!

The Hon. N. K. FOSTER: This is a reflection on me; I do not detest town clerks. I am saying that it was a public announcement made in respect of—

The ACTING PRESIDENT: Order!

The Hon. N. K. FOSTER: —dismissing a town clerk of the council, and the Minister well knows that.

The ACTING PRESIDENT: Order! Will the honourable member please resume his seat? He did not rise on a point of order.

The Hon. N. K. FOSTER: I rise and claim to be misrepresented.

The ACTING PRESIDENT: Order! Did you rise on a point of order?

The Hon. N. K. FOSTER: You are in the Chair, not me.

The ACTING PRESIDENT: Order! I am on my feet, and the honourable member will sit down when I am on my feet.

The Hon. N. K. FOSTER: You find the Standing Order; you are in the blasted Chair. I am not pulling the red book out.

The ACTING PRESIDENT: Order! Will the honourable member resume his seat? Does the honourable Minister wish to continue?

The Hon. N. K. FOSTER: I want to rise again. I seek the protection of the Chair in my claim that I have been misrepresented. I apologise humbly, your gracious honour. Mr President, I am glad you have arrived back. The honourable Minister has misrepresented me. He says that I have—

The PRESIDENT: Is this a point of order?

The Hon. N. K. FOSTER: I raise it on the basis that I have been grossly misrepresented by the Minister.

The PRESIDENT: Do you rise on a point of order?

The Hon. N. K. FOSTER: I claim to be misrepresented. It is a point of order in accordance with Standing Orders, the number of which I cannot quote off the top of my head, and involves a misrepresentation by the Minister that I regard all town clerks as being unwanted members of society; that is not true. I claim that is a gross misrepresentation. I do not detest town clerks, as the honourable Minister has

said I do. I am not an enemy of local government, as the honourable Minister said last session. He should get his house in order. I want him to withdraw that sort of rubbish that he continues to go on with. He tries to manipulate the facts, and I do not.

The Hon. C. M. HILL: The honourable member did say in his explanation that the District Clerk of Victor Harbor was involved in some negotiations regarding a pay-out fee.

The Hon. N. K. Foster: No, I did not.

The Hon. C. M. HILL: Yes, you did. I don't think you know what you said.

The Hon. N. K. FOSTER: I rise on a point of explanation. I said that a burden would be imposed on the council to dismiss the Town Clerk because of the cost of the pay-out figure to so dismiss him.

The Hon. C. M. HILL: To the best of my knowledge, there has been no discussion at Victor Harbor regarding any financial arrangement in relation to any possible dismissal of the clerk. I know nothing of that at all. The honourable member then started to talk about corruption at Glenelg. Let him produce the facts involving that corruption.

The Hon. N. K. FOSTER: I rise on a point of order. The facts were produced by a Select Committee of this Council, and you know it.

The PRESIDENT: Order!

The Hon. C. M. HILL: The Select Committee of this Council investigated a matter concerning the Glenelg council, and I was requested to put an investigator into the Glenelg council to have a look at the affairs of that council. To the best of my knowledge, that work has been completed in the past few days. In due course, the honourable member will hear about that. Any statement that the honourable member makes regarding corruption at Glenelg is very reckless at this time.

The honourable member then said, somewhat as an aside, that I had been involved in some way in business associations with Mr Arland. I deny that.

The Hon. N. K. Foster: I asked whether you flogged him his house.

The PRESIDENT: Order! The Hon. Mr Foster has exceeded his normal rights.

The Hon. N. K. Foster: One has to try to get the truth out of the man.

The PRESIDENT: If the honourable member wishes to get at some truth, as he says, he must listen to the Minister's reply.

The Hon. C. M. HILL: The honourable gentleman finally asked a couple of questions, but they were so garbled that I found difficulty in working out what information he was seeking. He wanted me to name the number of councils in the State.

The Hon. N. K. Foster: I wanted to know the cost involved in dismissing various town clerks. What is the pay-out figure?

The PRESIDENT: Order! The Hon. Mr Foster will have to put this question on notice, if the honourable Minister cannot follow what he is trying to ascertain. The Hon. Mr Foster should listen to the Minister's reply. I will not accept any more interjections.

The Hon. C. M. HILL: In regard to the dismissal of town clerks, there is no formula or pattern by which financial arrangements are concluded. Certainly, a council can treat with its town clerk and vice-versa in regard to early retirement, and that happens from time to time. That is an arrangement between the town clerk and the council. In regard to the dismissal procedures regarding town clerks, councils can resolve to dismiss their town clerks. As we know, town clerks are given strong protection through appeal measures in the Local Government Act. It is quite proper that they have strong protection.

If a town clerk is faced with a council resolution seeking his dismissal, he can put appeal procedures in train and then the issue must take its normal course. In situations where a town clerk is successful in his appeal, sometimes discussion takes place in regard to his early retirement. The honourable member then jumped from Glenelg to Munno Para and wanted to know what extra tertiary staff—by that term he probably means senior officers—have been employed at Munno Para within the past five years. I will try to ascertain that information for him.

The Hon. N. K. FOSTER: I desire to ask a supplementary question. Will the Minister provide this Council with the pay-out figure to which the Victor Harbor Town Clerk would be entitled were he dismissed, and will the Minister endeavour to obtain for this Council the pay-out figure in respect of the Munno Para Town Clerk if that council desired to dismiss or remove that officer?

The Hon. C. M. HILL: I will give more thought to the honourable member's explanation today and his past two questions and bring back a reply for him.

PETROL SUPPLIES

The Hon. C. W. CREEDON: Has the Attorney-General a reply to my question of 9 December 1981 about petrol supplies?

The Hon. K. T. GRIFFIN: The matter of delivery charges to service station proprietors in outer metropolitan areas is not, of itself, within the terms of the Department of Mines and Energy's review of the procedures used to administer petrol restrictions. However, the effects which these delivery charges have on the supply of fuel to such areas, and on the maximum price which should be established during periods of petrol restrictions, does come within the ambit of the inquiry. The maximum price has in the past been set at up to 2 cents above the most common metropolitan price to allow, *inter alia,* for the difference in costs between service station proprietors. One cost difference which this was designed to allow for was the question of delivery charges.

As part of the review of procedures, the Department of Mines and Energy is examining the basis on which the maximum price is calculated, including further consideration of the extent to which these should be differential maximum prices to allow for any delivery charge which is incurred by a service station proprietor. There was a provision during previous periods of petrol restrictions whereby a petrol station proprietor could apply for an increase in the allowable maximum price, and such a provision could be used to cater for these delivery charges.

LAND AND BUSINESS AGENTS ACT AMENDMENT BILL

Adjourned debate in Committee.

(Continued from 9 December. Page 2487.)

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. C. J. SUMNER: This clause is opposed by the Opposition. The effect of this clause would be to provide that a person who was acting as a letting officer, that is, involved in obtaining business relating to leaseholds, admin-

istering on behalf of clients the collection of rental and organising the signing of tenancy agreements, would not be covered in any way by the Land and Business Agents Act. In other words, the clause will exclude those people from the operations of the Act. At present, people employed in this capacity have to have a salesman's licence or an agent's licence. The intention of this clause is that such people employed by an agent would not need any qualifications, training, registration or licensing under the Act.

As I said in my second reading speech, that is something of a retreat from what I thought the Real Estate Institute and the previous Government—and I would have thought the existing Government—were trying to achieve in this area, namely, a greater degree of professionalism and expertise. That professionalism and expertise is overseen by a board, the Land and Business Agents Board, upon which there are representatives of consumers and industry through the Real Estate Institute.

This clause could lead to a situation in which there is an agent employing many people who would, in effect, be clerks with no experience or training in the area and who would be administering, on behalf of clients, arrangements, tenancy agreements and the collecting of rents under the Residential Tenancies Act. I concede that the amendment does not mean that any person could conduct this business; it would have to be a person employed by an agent licensed under the Act. Nevertheless, an agent could set himself up specifically in this business and could employ, for example, 50 unqualified people to engage in arranging these letting contracts and administering them.

As I have said, that is a retreat from the notion that the Bill originally had, which was that there should be some training and professionalism in this area and that that should be supervised by the Land and Business Agents Board. For that reason, I oppose clause 3 to maintain the *status quo* so that people involved in this sort of area as letting agents would still need to be trained and licensed.

The Hon. J. C. BURDETT: I support the clause as it stands. I think we have to be quite clear about the position. Under the existing Act (and there is no intention to change this) a land agent has to be licensed, and that is subject to the jurisdiction of the board. No-one can enter into the business of dealing in land, including the letting of land, unless he is a licensed agent, and that still remains.

At present, a person employed by the agent to engage in the selling of the freehold of land must be either a licensed land salesman or a licensed land agent. We do not intend to change that. The complexities of selling freehold land require knowledge of the law of contract, knowledge of the registration procedures, and so on. These are quite complex matters and there is no intention to change them.

There is a course for licensed land salesmen that deals with the matter of the freehold but deals little with the question of letting. At present, an employee of a licensed land agent, even though he may be engaged solely in the letting of land, usually residential tenancies, must also be a licensed land salesman, and that is quite unnecessary. The majority of the land salesman's course deals with freehold. The bulk of it is wasted on the agent who is concerned only with letting. Therefore, it seems reasonable that the employee of the land agent who is concerned only in letting should not be required to be a licensed land salesman.

The course we propose is to require that an employee of a land agent engaged solely in the business of letting should not be required to be licensed. An alternative would be to require that he be separately licensed, with a separate course and separately subject to the jurisdiction of the board, but we, as a Government, have said that we want to cut out unnecessary red tape and unnecessary licensing. Where it is necessary, we will retain it or impose it where it does not exist, but there does not seem to be any reason why an employee of a land agent involved only in letting should be subject to any occupational licensing. In the matter of proper training, we have had talks with the Real Estate Institute and we are sure that it can deal with that itself, because, in the interests of other land agents, it is in the institute's interests to see that persons—

The Hon. C. J. Sumner: They will be writing contracts and advising on contracts. That's shocking.

The Hon. J. C. BURDETT: It is not shocking. No reason has been demonstrated to me or the department why an employee who is merely an employee of a licensed land agent and subject to him and a person for whom the land agent is responsible, should be required to be licensed when all that he does is attend to the letting of properties, usually residential property.

The final point I make is most important. There is nothing new about the concept of the licensed principal being responsible. I want to make perfectly clear that this Bill does not enable anyone to set up by himself in the business of letting land, residential tenancies or otherwise. The only person who could do that as a principal would be a licensed land agent, and that remains. For any improper or negligent act by the employee, that licensed land agent could be criminally responsible, responsible to the board, and civilly responsible. There is nothing new in this concept.

In regard to solicitors' clerks, it has long been accepted by the legal profession that probate clerks and other clerks not qualified are not subject to the discipline of the Law Society and that of the Legal Practitioners Act, but that the solicitors are responsible. There are many other professions where the principal has to be licensed. He is legally responsible, not only criminally, but in some cases civilly, as in this case.

It seems to the Government that we have to look at each occupation according to its merits but we consider that it is unnecessary to require an employee of a land agent who is engaged only in letting and not in other transactions or sales to be subject to licensing. That is unnecessary red tape, against the background that his principal is responsible criminally and civilly.

The Hon. C. J. SUMNER: Regrettably, the Minister's eloquence has not persuaded me. I still maintain that a person employed by a licensed land agent dealing in tenancy situations will still have some quite complex situations to handle. He will be writing contracts for the letting of residential premises and, presumably, other premises and other land. I think we could get a situation where one licensed land agent set himself up in business as a specialist in this area and could then employ a large number of untrained people to assist in the business and act as clerks advising on tenancy contracts and administering the contracts once they have been entered into. Perhaps if the Minister said that he accepted that the present situation was burdensome but that we could provide for a limit to the number of untrained people who could be employed by an agent, that may be a more acceptable solution.

So, a sole land agent could employ two or three unlicensed people in that area. He could then ensure that there was proper supervision. If there were two licensed land agents, proportionately the number of untrained people would be increased. That would be one way of overcoming the problem which the Minister apparently sees whilst still providing for a degree of supervision. The problem at present is that, if this clause passes, we could end up with a situation where land agents could employ 50 untrained people to carry out this work. In that situation there would be no supervision from the agent, and that would be unsatisfactory. It could lead to difficulties. It is all very well to say that the business

of residential leasing is simple. However, there are complex matters which arise in relation to contracts. There are often special conditions which people want to see placed in contracts. There should be at least some provision in the law which relates to those contracts.

The Hon. J. C. BURDETT: The Leader said that it was intended to exempt from the licensing requirements employees of agents involved only in the letting of residential tenancies and he said presumably 'other land' as well. Clause 3 provides:

but does not include a person who so acts only in relation to a leasehold other than a leasehold in respect of land to be used for the purposes of a business'.

So, land to be used for the purpose of a business is to be excluded. If a person is involved in such a letting then he must be either a licensed land agent or a licensed land salesman. So, for practical purposes, it is intended to relate only to residential tenancies. The Leader raised the question of the agent who may employ 50 such persons involved in the letting of premises. I would suspect that that is unlikely. It is also hypothetical. If that occurs it can be dealt with if and when it does occur and if it brings about disadvantages. I come back to the point that I made before: the agent himself is legally responsible. It is very much in his interests to see that there is supervision and that he has only the number of people working for him that he is able to supervise.

The question of payment has been discussed with the Real Estate Institute. It is in the interests of that institute and its members to see that the persons who are employed are properly trained so that they can operate effectively and so that they will not involve themselves in civil or criminal actions. For these reasons I believe that the provisions of the Bill are adequate to protect the public and that they take away an unnecessary burden which exists at the present time. I support the clause as it stands in the Bill.

Clause passed.

Clauses 4 and 5 passed.

Clause 6—'Quorum.'

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

Page 2, lines 34 to 38—Leave out paragraphs *(b)* and *(c)*.

My amendment seeks to bring the Bill into line with the Planning and Development Act which we passed before Christmas in regard to who, on a board or tribunal, can decide questions of law. Honourable members will recall that, on the Planning Appeal Board, the Government proposed that only the Chairman (who is a legal practitioner) should decide questions of law and any lay members of the board would have no role in deciding questions of law. Under the old Act the Chairman of the board and the lay representatives had an equal say on questions of law. Some examples were given to the Council during that debate where the Supreme Court had upheld the view of law taken by the lay members against a view taken by the legally qualified Chairman of the Planning Appeal Board.

There is no question that, in deciding a question of law by a board or tribunal, the legally qualified person's view or position will have great influence on the views of the lay members. However, we did accept the principle at the conference on the Planning Bill that lay members could have an input into decisions on matters of law in the Planning Appeal Board. The present proposal of the Government under this Bill for the Land and Business Agents Board is that the Chairman shall have absolute authority on questions of law. My amendment would delete the parts of clause 6 relating to that and we therefore leave the *status quo* to apply, which is that all members of the board can express a viewpoint. It is not a position which I feel strongly about but we did take that position in relation to the Planning Appeal Board and for the sake of consistency I believe that we should do the same in this instance.

The Hon. J. C. BURDETT: I join with the Leader in not feeling strongly about this matter. I do not oppose his amendment, although I have some reservations in taking this stand. I acknowledge that there is consistency between the amendment and the provision in the Planning Bill. Personally, I do not support the concept of lay members of the board deciding questions of law but I am sure that the deletions proposed by the Leader will not have very much practical effect because in practice lay members of the board would tend to defer to the legally trained member in regard to questions of law. So, I have reservations and believe that the practical course is that questions of law should be determined only by legally trained members. However, in view of consistency with the Planning Bill, I do not oppose the amendment.

Amendment carried; clause as amended passed.

Clause 7—'Entitlement of Corporation to licence.'

The Hon. J. C. BURDETT: I have amendments to clause 7 standing in my name which are exactly the same as those amendments standing in the Hon. Mr Sumner's name.

The Hon. C. J. SUMNER: The situation is that during the course of discussion on this Bill, and while we were debating it during the dying stages of the sitting before Christmas, a number of issues were raised in relation to clause 7. Parliamentary Counsel, and I think the Minister's departmental advisers, felt that some amendment was necessary from a drafting point of view. An amendment was drafted and appeared as part of the set of amendments which I wish to move later. However, I think that that occurred in error because my problem with clause 7 is broader than merely one of drafting. The Minister provided his officers to make the alterations to the Bill in the fairly rushed period before the previous sitting concluded. It was out of those discussions which I had with them that they saw a particular drafting problem with clause 7. After further discussions I think that the Minister saw some merit in fixing the drafting of the clause, and that is why he has circulated his amendment in the same form as the one appearing in my name. I do not intend to move those amendments, but I understand that the Minister will.

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

Pages 2 and 3—Leave out paragraphs *(a)*, *(b)*, *(c)* and *(d)* and insert after 'amended' in line 41—

by striking out subsection (4) and substituting the following subsections:

(4) If—

(a) a corporation is, in the opinion of the Board, carrying on business as a stock and station agent, or is listed upon a Stock Exchange in Australia or is the subsidiary of a corporation so listed and the person who is, or will be, in control of the business conducted, or to be conducted, in pursuance of the licence, is licensed or registered as a manager under this Act;

(b) the Board is satisfied that the business conducted or to be conducted in pursuance of a licence forms an inconsiderable part of the whole of the business of a corporation and no director or other prescribed officer of the corporation who is not licensed or registered as a manager under this Act will actively participate in the business conducted in pursuance of the licence;

(c) a corporation is a proprietary company with not more than two directors, one of whom is licensed or registered as a manager under this Act, and the Board is satisfied that neither the other director nor any other prescribed officer of the corporation who is not so licensed or registered will actively participate (otherwise than in a clerical or secretarial capacity) in the business conducted in pursuance of the licence;

(d) a corporation held a licence at the commencement of this Act and the directors were then, and are, husband and wife, one of whom is licensed or registered as a manager under this Act;

or

(e) a corporation is entitled, in pursuance of the regulations, to be exempted from the provisions of subsection (2), then, subject to subsection (7), the Board shall, upon application by the corporation, grant an exemption from the provisions of subsection (2).

(5) An exemption under subsection (4) may be unconditional or subject to such conditions as the Board thinks fit.

(6) The Board may revoke an exemption under subsection (4) for breach of a condition or other proper cause.

(7) Where an exemption under subsection (4) is revoked and the corporation reapplies to the Board for an exemption the Board may (but is not obliged to) grant an exemption upon that application.

The amendment covers the situation of the director, usually the wife of the principal, who actively participates in the business but only to the extent of clerical and secretarial work. This amendment makes clear that where a person reapplies after his exemption has been revoked the board then may, but is not obliged to, grant a further exemption.

The Hon. C. J. SUMNER: During the second reading debate I expressed considerable doubt about clause 7. I felt then, and still feel, that any exemption sought to be granted as to entitlement of a corporation or company to a licence ought to go to the Land and Business Agents Board as occurs at present. The rationale behind the legislation was that if you were conducting a business and operating actively as a principal in a land agent's business then you should have the proper training, professionalism and registration.

A problem arose earlier when the Companies Act was amended to require a proprietary company to have at least two directors. Many agents who had been acting on their own as a company were then placed in the difficult position of having to obtain another director for the company who was trained and a registered, licensed land agent. The board saw the difficulties involved and provided for exemptions so that the agent could appoint his wife, or some other person who did not actively participate in the business, as the other director, thereby complying with the requirements of the Companies Act.

To obtain that exemption an agent had to go to the Land and Business Agents Board, which had to actually consider the exemption. Under the present amendment the board will have to grant an exemption in circumstances where there are, say, two directors of a corporation one of whom does not participate actively in the business. If the agent makes an application, then the board is obliged to grant the exemption. I believe that that is a retreat from the general principle of the Bill, and that is what I put during the second reading debate. I am, therefore, still not happy with the principles in the clause. However, I can see that the amendment which has been drafted does clarify the position and does, in one area, overcome a problem. It states that the board must grant an exemption if the criteria set out in the clause are fulfilled initially. However, it is not obliged to do so subsequently, if the licence is revoked for some reason or other. I think the clause we have before us is better than the original one, but still does not overcome the basic problem that it takes away the discretion of the board and enlarges the areas in which an untrained, unregistered, unlicensed person can participate in companies which carry out the business of land agent.

Amendment carried; clause as amended passed.

Clauses 8 to 15 passed.

Clause 16—'Preparation of instruments.'

The Hon. J. C. BURDETT: I oppose this clause. On examining the Bill and the principal Act, together with the Legal Practitioners Act, I find that there is an apparent inconsistency between existing section 61 of the principal Act, which this clause seeks to amend, and section 21 of the Legal Practitioners Act. It may, therefore, be necessary to examine the inconsistency and to amend either one or both of those Acts at a later stage. Because of the apparent inconsistency between section 61 of the principal Act and section 21 of the Legal Practitioners Act, it would be undesirable to amend section 61 further and that is why I oppose the clause.

Clause negatived.

Clauses 17 to 22 passed.

Clause 23—'Information to be supplied to purchaser before date of settlement.'

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

Page 12, lines 32 to 46—Leave out subsection (14).

The purport of the subsection is to remove the requirement that section 90 statements have to be provided to potential purchasers in certain circumstances. If this requirement is removed and the purchaser was a body corporate, or a purchaser had received independent advice from a legal practitioner, or if the sale were by auction, section 90 statements would not have to be provided. In my experience section 90 statements are very useful, no matter what the situation. They provide prospective purchasers with details of the encumbrances on the land they wish to purchase and the amount of rates and taxes that are payable on that land.

I know from personal experience that that type of information provided prior to an auction, for instance, is quite useful to the people who may wish to participate at that auction. If this subsection remains, that information will not have to be provided. Further, it will not have to be provided to a prospective purchaser company or if independent advice has been received. Of course, if independent advice has been received from a legal practitioner, the cooling-off period would not apply. Part of the Government's argument is that there is no need to provide this information where there is no cooling-off period or where a purchaser has received expert advice, because that expert advice should be such that a potential purchaser would have been given that information by his solicitor.

I think the principle is quite good. I do not think that it imposes any great burden on the vendor or the agent. Presumably, they already have this information, because no doubt they receive inquiries from prospective purchasers about the encumbrances on a title and the rates and taxes payable. I believe it is useful background information which ought to be provided to a potential purchaser in all circumstances. The deletion of subsection (14) will enable that practice to continue.

The Hon. J. C. BURDETT: I do not oppose the amendment. However, it does produce one consequential anomaly, because clause 23 also amends section 90 of the principal Act by requiring the statement to include in prescribed form 'the rights of a purchaser under section 88' and not all purchasers will have those rights. Therefore, the prescribed form will have to make this clear. It seems to me that, as a result of the matters raised by the Leader, the policy behind section 90 should be re-examined and that further amendments may be required at a later stage.

It may be necessary to provide two different types of statements: first, one which provides details of encumbrances, rates and taxes, and so on, which should be given to all purchasers; secondly, one giving particulars of any entitlement to a cooling-off period, which should be given only to those who have that entitlement. At this stage I do not oppose the amendment.

Amendment carried; clause as amended passed.

Clause 24—'Sale of small businesses.'

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

Page 13, line 3—Leave out 'forty thousand' and insert 'seventy thousand'.

This clause revolves around the information which has to be provided to the purchaser of a small business. The

definition of 'small business' is a simple argument. The Government felt that $40 000 was appropriate. Therefore, information would not have to be provided on the sale of a small business over $40 000. I believe that figure should be extended to $70 000. Therefore, information would have to be provided on the sale of any business under $70 000. If a business is over $70 000 that information will not have to be provided.

During my second reading speech I pointed out that the Labor Party believes that certain consumer protection laws ought to apply to small businesses and that small businesses should have access to consumer protection legislation. I believe that extending the definition of 'small business' is consistent with that policy. I believe that $70 000 is not excessive in today's circumstances.

The Hon. J. C. BURDETT: I do not oppose the amendment. The amendment is fairly arbitrary anyway. On examination, it appears that the increase in the purchase price of businesses has been less than the rate of inflation might suggest. That is why the figure of $40 000 was chosen. The figure is arbitrary and I do not oppose the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (25 to 27) passed.

Title passed.

Bill recommitted.

Clause 23—'Information to be supplied to purchaser before date of settlement'—reconsidered.

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

Page 12, lines 9 and 10—Leave out paragraph (r).

This amendment is consequential on amendments moved by the Leader of the Opposition.

Amendment carried; clause as amended passed.

The CHAIRMAN: As the Schedule was previously overlooked, I now put it before the Committee.

Schedule passed.

Bill read a third time and passed.

PETROLEUM (SUBMERGED LANDS) BILL

Adjourned debate on second reading.

(Continued from 12 November. Page 1886.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Petroleum (Submerged Lands) Bill is part of a package of legislation agreed to by the Premiers, on behalf of the States, and by the Prime Minister, on behalf of the Commonwealth, at a number of Premiers' Conferences dating back initially to 1977. The effect of this package of legislation was to reverse the results of a decision of the High Court in the Seas and Submerged Lands Act case of 1975, when the Government of New South Wales, supported by various other States, challenged the Seas and Submerged Lands Act passed by the Whitlam Government in 1973. The High Court upheld the validity of the Seas and Submerged Lands Act and held that the Commonwealth Government had title, power and jurisdiction over the territorial sea beyond the low-water mark.

Up until that time, it was generally considered in Australia that the States had jurisdiction and authority over the territorial sea from the low-water mark to the three-mile limit. The package to which I have referred was designed to reverse that decision of the High Court and to try to return to what was considered before 1973 as being the *status quo,* whereby the States had jurisdiction in the territorial sea to the three-mile limit.

Previously in this Chamber we have debated part of the package. In November 1979, we considered the Constitutional Powers (Coastal Waters) Act, which made a request to the Commonwealth Parliament, under section 51.38 of the Federal Constitution, for the Commonwealth Parliament to enact legislation giving the State Parliaments power to legislate in relation to coastal water from the low-water mark to the three-mile limit.

In 1980, we dealt with the Crimes (Offences at Sea) Act, which related to the jurisdiction of a State in relation to offences at sea within the three-mile limit, and provided that the State law would apply beyond the three-mile limit and uphold the complementary Commonwealth legislation that was passed. There is little point in rehashing the arguments.

I have some queries whether the whole exercise is desirable from a national point of view. I do not know, when we are dealing with national development and resources as we are in dealing with the three-mile limit, whether or not these are better dealt with by attempting to adopt national solutions to them, perhaps by way of national legislation, with the States participating in the administration and by providing that certain general State laws should apply within the three-mile limit.

I query whether this package is the most satisfactory way of dealing with that question of resources, whether they be mineral or other. Despite that, the reality is that over a period of some years the South Australian Government has co-operated in this scheme. The Federal Fraser Government believes in this proposal, as part of its policy of new federalism, and the Labor Government in this State did agree to the package through a series of Premiers' Conferences during 1977, 1978 and 1979. There is little point at this stage, being some four or five years down the track, in opposing parts of this package in this Parliament.

I wish to raise some queries with the Attorney-General in relation to this particular Bill and the package generally. In his second reading explanation, the Attorney says that the Constitutional Powers (Coastal Waters) Act, 1980—the South Australian Act to which I referred—and the Coastal Waters (State Powers) Act, 1980 and the Coastal Waters (State Title) Act, 1980—both Commonwealth Acts—have yet to be proclaimed. When will these Acts be proclaimed, and what is the position in relation to the package that was agreed to initially over five years ago and finally agreed to in July 1979, when final agreements were reached? The final understandings were reached 2½ years ago, but what has happened to the rest of the general package regarding fishing and marine pollution—

The Hon. K. T. Griffin: Fishing is being dealt with in another place now.

The Hon. C. J. SUMNER: Well, that is some information. What about marine pollution, marine parks, historic shipwrecks and shipping and navigation? There were some other areas that had to be dealt with in this package. When is it intended to proclaim these Acts to which I have referred? What is the position in relation to the remainder of the package? I have indicated some of the areas that were under discussion between the States and the Commonwealth. However, I believe the information which is given to the Council and State Parliament generally in regard to State and Federal relationships is unsatisfactory.

I know that today the Minister of Community Welfare tabled in this Council a copy of the resolutions made at Agricultural Council. It is a desirable step that decisions taken at such council meetings, which are meetings of all the State Ministers with the Federal Minister for Primary Industry, be made available and tabled in Parliament. In just about every area of Commonwealth and State negotiations Parliament is told absolutely nothing. It is told nothing particularly by the Attorney-General. I have put this question to him on several occasions and have said that he should provide Parliament with details of the issues that are being

considered by the Standing Committee of Attorneys-General, that he should provide us with reports on what is happening under the Seas and Submerged Lands Act package. There should be more reports on what is happening with the national package in relation to the coastal areas. We hear nothing until a Bill comes before Parliament, and in that Bill we get a very sketchy outline of the current position. No overall view is given to the Parliament, and we try to make the best of the situation as we go along.

Therefore, I ask the Attorney-General for a report on the package, including the matters which I specifically mentioned. I lament the fact that the Government apparently cannot or will not supply to Parliament regular reports on what is happening in the Federal-State sphere. Other questions that I have concern what will be the position in relation to the limit of the territorial seas if, by international agreement, the three miles is extended to 12-miles.

I understand that at the Law of the Sea Conference under the auspices of the United Nations this issue is under active consideration at present. In Australia we have traditionally accepted the three-mile limit but, if the 12-mile limit is agreed to internationally and accepted by Australia, does that mean that this legislation will be amended to apply to give the State power, jurisdiction and title to the territorial sea up to the 12-mile limit, or will the three-mile limit still apply? I would like the Attorney to provide an answer to that question. In his second reading explanation details were given concerning the base-line, the determination of what the territorial sea limit is, and the Attorney-General stated:

> 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.

The Hon. B. A. Chatterton: It includes Investigator Strait.

The Hon. C. J. SUMNER: Yes. The effect of that, if agreement is reached, would be that the gulf waters, Investigator Strait and Backstairs Passage would all be internal waters from the State's point of view.

The Hon. B. A. Chatterton: In spite of the High Court decision?

The Hon. C. J. SUMNER: Yes, and then the territorial sea, the three-mile limit, would be three miles beyond that baseline. My question there is quite simple. The Attorney referred to a tentative agreement. Can he provide the Council with an indication that that agreement has now been finalised and, if not, when is it expected that the matter will be resolved?

I think that the position in relation to petroleum legislation will be that, once this legislation is passed and the whole package is put into effect, that land or territory in the gulfs within the baseline that I have mentioned will be subject to South Australian legislation, and it will be the Petroleum Act, 1940-1981. In the three-mile limit—from the low-water mark or the baseline for three miles—the Petroleum (Submerged Lands) Act, 1982 will apply, that is, the Bill we are now debating. That will apply and will replace the existing South Australian legislation which is the Petroleum (Submerged Lands) Act, 1967-1974. Within the three-mile limit, as I have said, this Act will apply and will be administered by the South Australian Government.

The third category is outside the three-mile limit, where Commonwealth legislation will apply, that is, the Commonwealth Petroleum (Submerged Lands) Act, 1967, as amended by the Petroleum (Submerged Lands) Act, 1980. Outside the three-mile limit there would be a joint authority comprising the State Minister and the Commonwealth Minister, with the Commonwealth Minister's having the ultimate policy control, but with the State Minister being responsible for the administration.

By way of this Act, the State Petroleum (Submerged Lands) Act, and the Commonwealth Act, both inside and outside the three-mile limit there will be a common code. It seems to me to be an enormously complicated way of arriving at common legislation for the area within the three-mile limit and outside. We have three sets of legislation dealing with petroleum. On South Australian territory, on land within the gulfs, there is the South Australian Act. Outside that and up to the three-mile limit, there is a different South Australian Act, and outside the three-mile limit there is a Commonwealth Act, which is the same as the South Australian Act up to the three-mile limit.

Apparently, co-operative federalism is about providing the Standing Committee of Attorneys-General, Mines and Energy Ministers, and all the States with a lot to do over about five years to arrive at a package such as this. I queried at the beginning of my speech whether this was the most satisfactory way to resolve matters of national importance. The package has still not been brought into effect after all those years.

We could say that the issue was provoked in 1973 by the Whitlam legislation or in 1967 by legislation introduced by Liberal Prime Minister Gorton, but we are in the curious position of having three sets of legislation governing petroleum in the area adjacent to South Australia. I merely raise the query whether that is the most efficient way to go about running our country but, having said that, I do not intend to oppose the Bill. It is part of a package. Policy decisions on that package were taken many years ago, and we have no option but to go along with them.

The Hon. K. T. GRIFFIN (Attorney-General): I am surprised that the Leader of the Opposition should at this stage query whether the whole package of agreed legislation on offshore waters is desirable so far as national development is concerned, particularly from the point of view of the State of South Australia. I have no doubt that the long process of negotiation to achieve an agreed settlement of the constitutional questions arising in respect of all offshore waters is the desirable course in a federal system such as ours.

There is no doubt in my mind that, from South Australia's point of view, there are distinct advantages that would not flow if all decisions and all responsibilities rested in Canberra and if all decisions were taken in the context of development of Australia on the eastern seaboard, as they would have a tendency to be made if decisions were to be taken at the national level. I unhesitatingly support the concept of co-operative federalism as evidenced in this package.

It is correct to say that it has taken a long time to reach the present position. I think one has to recognise that significant policy questions are involved, not only in the basic concept but in each area, such as mines and energy, fishing, marine, and pollution, which are covered by this package, and there are different policy Ministers and committees involved throughout Australia in each of these areas of attention.

Because of the complexity and, in some respects, the delicacy of these negotiations, it is perhaps not unexpected that the matter took so long to resolve, but I have no doubt that, when it is completed, it will be effective and will provide, particularly for this State, an effective input into decision making affecting the interests of South Australia in the offshore waters.

The Hon. C. J. Sumner: I hope you're right.

The Hon. K. T. GRIFFIN: Time will tell whether my view is right. I believe it to be right and the Government

has every intention of doing all that it can to ensure that this package does work, because we have no doubt that it is in our interests and that centralised control is against the interests of South Australia.

The Leader has raised a number of questions. First, he has asked when the package will be proclaimed. I do not have that information readily available but I will have inquiries made as to the current position in regard to the various parts of the package and let him have the reply, although I would be surprised if I could have that information by the time the Committee stage was reached. The other information sought is something on which I will, again, have to have inquiries made.

I interjected to say that, in regard to fisheries, legislation was introduced in the House of Assembly late last November or early in December. As far as marine pollution, marine parks, and other parts of the package are concerned, I will have inquiries made and let the Leader have the information. I will do likewise with respect to the limit of the territorial sea and whether the present three-mile limit is extended internationally to twelve miles.

Regarding the baseline, my understanding is that progress is well advanced but that no final agreement has been reached. Again, I will obtain the detailed information and make sure that the Leader gets it, although it is unlikely that I will have that information by the time we reach the Committee stage. I suggest that, while the Leader has raised these matters in the context of this legislation, they apply more generally to the whole package, not to individual parts of it selectively.

The answers I will seek and the information that I will bring back will be directed more to the package as a whole than to this specific Bill. I thank the Leader for his indication of his support for this part of the offshore package legislation.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Repeals, amendments and transitional provisions.'

The Hon. K. T. GRIFFIN: A number of amendments have been circulated only today. They are relatively insignificant, but I think it would be inappropriate to proceed with them until the Council has at least had an opportunity to consider them overnight. The amendments arise out of some last minute proposals which have been received in one or two of the other States that have passed similar legislation.

Progress reported; Committee to sit again.

SEEDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 2596.)

The Hon. B. A. CHATTERTON: I support the second reading of this Bill. It makes a series of minor amendments to the principal Act which was passed in the early part of 1979 but which was never proclaimed, because of a need to draft regulations which flowed from the Act. The Act itself could not be brought into force until those regulations had been drafted. Now the Government has decided to amend the Act. The amendment is not based on any ideological principle. The Government has completely accepted the philosophy of the 1979 Act, which was quite different from previous Seeds Acts. So much has the Minister accepted that philosophy that the second reading explanation of the Bill recycles large parts of the second reading explanation that I gave in 1979.

The long delays in producing these amendments and in getting the new Seeds Act into operation reflect the generally low priority that the seeds industry has in the eyes of the Minister of Agriculture. The very low priority was recently confirmed during the Budget debate when the Minister of Agriculture placed before Parliament the performance budget for his department. It was interesting to note from that performance budget that the objectives of the Overseas Projects Division included the development of spin-off trade. It was also interesting to note that the spin-off trade referred to was farm machinery, fencing, etc., but the seed industry was not mentioned.

The export of seed from South Australia has given a great boost to the seed industry in this State. It has been a great success story, but it is evident that the Government is not really very interested. I am surprised that the Government has shown so little interest in the seed industry and in seed export. We have so many rural industries, such as the canning fruit industry and the wine and grape industry, which are suffering from acute hardship and depression, and it is refreshing that one rural industry is booming.

To take one example, the South Australian Seed Growers Co-operative, which is the major marketer of seed in this State, has increased its sales over the past five years by a staggering 300 per cent. Export sales have gone up by the same proportion. In fact, in a number of export markets demand presently exceeds supply. I would have thought, in that situation, that the Government would give its wholehearted support to the industry. However, it is evident from the long delays in introducing these amendments and in bringing this new Act into force that the Minister is not really interested.

As I have mentioned, the amendments are not major matters of principle, but there has been watering down of some of the provisions contained in the principal Act. This watering down has been due to the recommendations made to the Minister by the industry which objected to some of the controls placed on the sale of seeds from farmer to farmer. What is disappointing is that the Minister has accepted this view without considering the other side of the question. Control over sale of seed from farmer to farmer is not introduced in the principal Act just to exercise authority. It was introduced for a very specific reason, namely, to control the spread of pests and diseases at present contained in seeds that have not been properly cleaned or treated. That is a very real danger and it is believed to have caused the spread of such diseases as rye grass toxicity in this State.

A number of people within the department have evidence that the sale of cereal seed contaminated with annual rye grass seed has been one of the major causes of spreading this serious disease within the State. It has been disappointing that the views put forward by these departmental officers who have done a great deal of work in this area were never considered by the Minister of Agriculture when these amendments were decided upon. I do not suggest that the Government should have accepted the views of departmental officers but it should certainly have had a look at what they had to say to give it a more reasonable basis for making the decision on the amendments. As they are not amendments which alter the principle of the original Act, I therefore support the Bill.

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

JUSTICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 2590.)

The Hon. C. J. SUMNER (Leader of the Opposition): This Bill contains a number of miscellaneous amendments (really, a ragbag of amendments) to the Justices Act which are not of world-shattering significance and could, I suppose, characterise this Government's approach to law reform. We get little before this Parliament any more of any great significance in the area of law reform. The Attorney-General is good at one thing—that is, collecting together a lot of minor administrative amendments, bundling them into a Bill and presenting them to this Council in an attempt to give us and the public of South Australia some impression that he is actually doing something.

I think that all honourable members realise that it is really an incredible smoke screen, because generally what he comes up with are technical amendments and amendments of an administrative kind which may well be useful but which hardly do anything about substantive issues of law reform in this State. That is what this Government and this Attorney-General are becoming renowned for in this area—tinkering but doing little of any real substance. Frankly, I am at a loss to know what to say about this Bill.

I suspect that this Bill can be satisfactorily considered during the Committee stage. I am not sure whether the Attorney wants to deal with the Committee stage today. I have some queries I want him to answer and perhaps if I outline them now he will decide whether he wants to proceed. My first question relates to clause 3. I would like some indication from the Attorney why it is necessary for a clerk to be appointed temporarily by a magistrate. I assume that this is so that the Chief Stipendiary Magistrate or a magistrate in a country court can appoint a Clerk of the Court if he needs one because the permanent clerk is on leave or absent for some other reason. The explanation given provides no enlightenment on that point.

I support clause 4. This clause provides that justices of the peace will not, in future, be able to impose a sentence of imprisonment. If they hear a case which requires, by law, a sentence of imprisonment, or which they feel requires a sentence of imprisonment, then they will have to remand the person to be sentenced by a special magistrate. There is no question that justices of the peace play a significant role at the lower end of the judicial hierarchy, but I think that there has been considerable disquiet over the years about the imposition of gaol sentences by them. I think that this is a sensible reform.

On the face of it, clause 5 appears to be satisfactory, although I raise my next point in relation to subclause 3 where it states that a court may require a summons or notice which is served by post to be re-served if there is a reasonable cause to believe that the summons or notice has not come to the notice of the person to be served. I am not quite sure how that clause will operate in practice. How will a magistrate have grounds for thinking that a summons or notice served by post has not come to the notice of the person so served? I suppose that a situation of disruption to the postal services might be an obvious reason, but there is no guarantee that a summons or notice served by post will be received by a person.

I am not sure how this clause is intended to operate. The Bill also provides that a notice of previous convictions can now be served by post whereas previously it had to be served personally. When one gets to the point of serving notice of previous convictions, I think, in general, a magistrate is then thinking of more serious penalties. I query whether or not the magistrate ought to be assured, for instance, if he is going to gaol a person on the basis of previous convictions, that the defendant did, in fact, receive notice of those convictions. I would like the Attorney to clarify the situation, if a court is contemplating a gaol sentence, as to what steps will be taken to ensure that a defendant is notified.

In most cases a gaol sentence would not be involved—either the person would be before the court if a gaol sentence was involved because he had been arrested and had been remanded, or he would be notified in some way that a gaol sentence had been intended. Where the notice can be served by post and there is potentially a gaol sentence involved, and that may be a limited area, I would like the Attorney to advise what safeguards there are, given that the service of notices by post is now going to be expanded to include notices of previous convictions.

Clause 9 provides that a person who wishes to plead not guilty may not have to attend court to advise the clerk that he will be entering a not guilty plea, but can simply advise the clerk of that intention over the telephone. The clerk will then advise the accused of the date on which the case will be heard. How will the hearing date given to an accused person be checked by the court? How will an accused person be notified that another date has been set? Will the defendant merely telephone the clerk of the court? Will an accused person have to give the court any notice that he intends to plead not guilty?

Clause 14 deals with the question of appeals by the Crown against an order dismissing charges in the Magistrates Court. I take it that the intention of clause 14 is to provide that all acquittals by a jury would not be subject to a challenge by the Crown, but that all acquittals in a Magistrates Court, whether for a simple offence or a minor indictable offence, could be subject to an appeal by the Crown. In other words, if a person elects to be tried before a jury on a minor indictable offence before the District Court and is acquitted, then that is the end of the matter. I take it that that is the intention behind this Bill. I support the second reading of the Bill.

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

ADJOURNMENT

At 5.8 p.m. the Council adjourned until Wednesday 10 February at 2.15 p.m.