LEGISLATIVE COUNCIL

Thursday 28 February 1985

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

PETITION: CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

A petition signed by 118 residents of South Australia praying that the Council either reject the Bill or amend the Bill to ensure that responsibility for consent to the medical and dental treatment of minors lies with the parent or guardian for minors below the age of 16 and jointly with both the minor and the parent or guardian for minors of or above the age of 16 years was presented by the Hon. K.T. Griffin.

Petition received.

QUESTIONS

FINGER POINT

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Agriculture, representing the Minister of Water Resources, a question about Finger Point.

Leave granted.

The Hon. M.B. CAMERON: The Minister's absence creates a difficulty.

The PRESIDENT: It does.

The Hon. M.B. CAMERON: My question will seek information from the Minister in another place. I anticipate that the matter will be taken to another Minister, anyway.

The Hon. C.M. Hill: The Hon. Dr Cornwall may be able to answer it.

The PRESIDENT: Order! The Hon. Mr Cameron.

The Hon. M.B. CAMERON: An article in the *News* concerns Finger Point, a matter that this very responsible newspaper has taken up from time to time recently. It would be appropriate for me to read some information provided in that article. I quote.

> Eighteen months ago Mr and Mrs Trevor Ashby, of Allendale, betwen Mount Gambier and Port MacDonnell, were cooking their dinner when the water began 'smelling like a dead cow'.
>
> 'We had the water analysed and it was found to have the highest reading for bacteria ever in this district,' he said.
>
> Mr Ashby's property is 1.5 km from the underground pipe which takes Mount Gambier's sewage 30 km to the sea at Finger Point, 4 km west of Port MacDonnell.

That area was recently visited by the Minister of Agriculture and the Premier. The only problem with that was that they went out on a ship to the sea and did not visit the beach that was affected. That was a great shame. The report continues:

> A neighbour, Trevor Cain was accidentally alerted to the danger just before the Ashbys' cooking cooking water gave off the repulsive odour. 'I had heard the nitrate content—resulting from cow manure and superphosphate—was increasing in the water, so I had a sample from my bore tested. I had a report back saying it was full of human sewage. We were warned not to use it, even to grow vegetables,' he said. Local authorities said it was virtually impossible to prove the contamination came from the pipe.

There was an attempt to indicate that perhaps this contamination came from the burial of stock after the 1957 bush fire. That seems fairly unlikely. The report continues:

> But subsequent inquiries revealed the animals were buried in Earls Cave, at least 8 km east of the properties, and in another watercourse.

This is a serious situation because, if this is the case, and there is now leakage from the pipe contaminating the underground water in the area, something needs to be done. In any case, something needs to be done. The Minister of Water Resources has indicated that there are occasional leaks in the Finger Point sewerage main since it was built. My questions are:

1. What action is taken to monitor the sewerage main running from Mount Gambier to Finger Point to ensure that there are no leakages?
2. How many leakages have there been since the installation of the Mount Gambier to Finger Point sewerage main?

The Hon. J.R. CORNWALL: I will refer those questions to my colleague in another place and bring down a reply as soon as I reasonably can.

COURT DELAYS

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about court delays.

Leave granted.

The Hon. K.T. GRIFFIN: During the sitting of the Budget Estimates Committee questions were asked, as they generally have been over the past three or four years, about delays in bringing matters to trial whether in the civil or criminal jurisdiction. In the Budget Estimates Committee last year a table was inserted in the record by the Attorney indicating that in 1982-83 delays in the Supreme Court civil jurisdiction from the time of setting down for trial to the actual date of the trial was between 28 and 32 weeks. In 1983-84, it had extended to 54 weeks, which is over a year. In the criminal jurisdiction in the Supreme Court in 1982-83 the delay was 12 weeks to trial, and in 1983-84 it was 16 weeks.

In the District Criminal Court which, as its name indicates, deals only with criminal matters, the delay in 1982-83 in getting matters to trial was eight to 10 weeks, and in 1983-84 it was 12 weeks. In the full jurisdiction of the Adelaide Local Court the time between setting down for trial and actual trial in 1982-83 was 32 weeks, and in 1983-84 it was 38 weeks. In the limited jurisdiction, in 1982-83 it was 44 weeks, and in 1983-84 it was 38 weeks.

In the small claims jurisdiction the delay was 16 weeks in 1982-83 and 14 weeks in 1983-84. There are two other metropolitan jurisdictions that are significant: one is the Adelaide Magistrates Court, which deals with criminal matters including committal proceedings prior to determining whether a person has a case to answer for reference to either the District Criminal Court or the Supreme Court. The delay in the Adelaide Magistrates Court for trials in 1982-83 was from 16 to 18 weeks and for 1983-84 in relation to one day trials the delay was 11 weeks and for two day trials it was 28 weeks.

In the Holden Hill Magistrates Court there has been an improvement since 1982-83, when the delay was 13 weeks; in 1983-84 it was seven weeks. In the Port Adelaide court, in the civil jurisdiction, the limited jurisdiction delay increased from 19 weeks in 1982-83 to 22 weeks in 1983-84; in the small claims jurisdiction the delay was 15 weeks in 1982-83 and 19 weeks in 1983-84; and in the criminal jurisdiction it was 19 weeks in 1982-83 and 22 weeks in 1983-84. Other figures were given during the Budget Estimates Committee that indicated various waiting times in the smaller magistrates courts, including country magistrates courts.

Several weeks ago an article in the *Sunday Mail* suggested that the waiting time for two day trials in the Adelaide Magistrates Court was 26 weeks, and that figure is not much different from the figure given in the Estimates Committee

in October 1984. Concern was expressed that, because of the backlog of cases in the courts, there was even delay in people obtaining bail. The article carried a story about a person who had to wait several weeks to finally get a bail hearing. I am not sure what the facts are: I can only go by what is in the article, but obviously it is a matter of concern. Mr Gordon Barrett of the Criminal Law Association stated that in some instances the delay can be six or seven weeks for bail and that that was inappropriate.

Will the Attorney update the figures by saying what is the current waiting time for trials in the civil and criminal jurisdictions in the Supreme Court, the Adelaide District Criminal Court, the Adelaide Local Court and the magistrates courts at Adelaide, Port Adelaide and Holden Hill? Secondly, will the Attorney say what is the current waiting period for committal proceedings in the magistrates courts at Adelaide, Port Adelaide and Holden Hill? Thirdly, how many cases are involved in the various waiting periods to which I have referred in the first two questions? Fourthly, will the Attorney give reasons for any continuing long delays in bringing matters to trial?

The Hon. C.J. SUMNER: I can update the figures, and I will attempt to obtain the further information that the honourable member has requested. Delays in the courts are always of concern, and they always have been. Obviously, as I said during the Estimates Committee debate, the periods of delay are not completely satisfactory.

I must confess that in my experience I do not know of a time when they have been satisfactory. There is certainly room for some improvement in waiting times in both civil and criminal jurisdictions. I can indicate to the honourable member that the Government has agreed to appoint one extra magistrate who will take up his position in April. That magistrate is additional to the current strength. The Government has also agreed to the Chief Justice's request for an extra Master to be appointed to the Supreme Court. I believe, from information given to me by the Chief Justice, that that should assist in improving the turnover of cases in that court.

The Hon. K.T. Griffin: So that is four Masters.

The Hon. C.J. SUMNER: Yes. The other matter that the Government has turned to involves the Licensing Court judge. The honourable member will probably realise from the introduction of the Bill to enact a liquor licensing Act that the intention is, if it is passed by the Parliament, to appoint a District Court judge who will also be designated a Licensing Court judge. As it is not anticipated under the new scheme that the Licensing Court judge will be involved full time with the Licensing Court because of the rearrangement of licence categories and the reduction in the capacity to prove need, there should be (and one can make a rough guess) about 50 per cent of the Licensing Court judge's time available, once that jurisdiction has settled down, for District Court work, so that will further improve the situation there. With respect to the District Court, until late last year its lists were in reasonable shape. As a result of that, after consultation with the Chief Justice and the senior judge, it was agreed to make some District Court judges available to conduct commissions of the Supreme Court in Mount Gambier and Port Augusta.

The Hon. K.T. Griffin: That has been going on for a little while, now.

The Hon. C.J. SUMNER: Yes, longer than that. When that occurred lists in the District Court were in better shape than those in the Supreme Court. As a result of the illness of some judges, trial lists in the District Court have now lengthened to some extent. As I have said before, that should be partially addressed by the appointment of the Licensing Court judge, when that occurs. The other thing that has happened is that, in order to assist with the lists in the Magistrates Court, some of the industrial magistrates have been appointed to the general jurisdiction. That has happened with respect to one industrial magistrate, Ms Parsons, who spent some three months in the Children's Court.

I understand that there will be another magistrate available from that jurisdiction for the general jurisdiction in April. That has become possible because of the removal from industrial magistrates of their jurisdiction to hear reinstatement cases. Because of that, it was considered that there should be some spare capacity with the industrial magistrates.

The Hon. K.T. Griffin: Did the Chief Justice approve that?

The Hon. C.J. SUMNER: Yes. Each industrial magistrate appointed to the general jurisdiction on that basis will need to be approved by the Chief Justice. That should also provide some further capacity in the Magistrates Court. A Licensing Court magistrate has not been replaced, and there may be some capacity there to—

The Hon. K.T. Griffin: Mr Claessen.

The Hon. C.J. SUMNER: Yes, he retired and will not be necessary under the new licensing arrangements. So, there may be some capacity for rearrangement there. Furthermore—and I do not want to pre-empt the Bill that I intend to introduce when we resume on 12 March—there will be some alteration to the jurisdiction of the District Court. I see that as one of the important trial courts in the State. As I indicated before the swearing in of Judge Moran and Judge Rice, the Government is looking at changing the jurisdictional limits of the District Court to give it greater scope as an important trial court in South Australia.

As part of that proposition there is the suggestion that the Governor, with the concurrence of the Chief Justice and the heads of the courts involved (the Senior Judge and the President of the Industrial Court) should be able to shift judges between jurisdictions to try to alleviate problems that may occur if one court has lists that are up to date and another court has lists that are not so up to date. The Government has in mind a number of measures to continually address the problem of delays in the courts. As I said before, there are problems with delays; there always have been, and there always will be.

The measures that the Government has taken should bring the lists back to a reasonable level during the ensuing year. Concerning the comment about the delay in obtaining bail, I will seek some information on it, but would consider it far from satisfactory if defendants were waiting six or seven weeks before bail applications were heard. I cannot believe that that would be the general situation. It seems most unusual. I can only suggest that the particular example that the Hon. Mr Griffin referred to was an isolated incident. Certainly, I will obtain further information of that and the figures that the honourable member requested.

MEDICAL BOARD REPORT

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question concerning the format of the Medical Board Report.

Leave granted.

The Hon. R.J. RITSON: Last year I asked a question of the Minister concerning his or the Medical Board's apparent breach of statutory duty in failing to bring the report in within the time required by the Act. The Minister came to grips with that problem. From his answer I understand that there was no lack of his diligence in tabling the report, but rather that the Board had somehow not got around to sending it to him. Subsequently, a report was produced which has the status of a rare document. To my knowledge

copies were not distributed to members of Parliament. I was able to discover one copy in the possession of officers of this Parliament and they allowed me to read it. A copy must have been shown to the press because the *Advertiser* commented on one aspect of it.

I was troubled by the report, because it did not tell us what types of matters the Board dealt with. It gave no indication of whether or not there was a problem with doctors' health, determining qualifications of foreign graduates or graduates from other States, the extent of the problem with drug dependent doctors, the number of emotional complaints from patients, or complaints about rude doctors.

It really gave us no idea of what the business of the Board was about. With regard to the question of dealing with doctors who had been deregistered in other States, the Board requested more power; and with regard to its budget, it requested more money. The physical bulk of the report consisted of copies of page after page of the Act itself, which we really did not need to have in this Parliament, because we have the Act: we are familiar with it, and we have debated it. There were also pages dealing with the history leading up to the legislation. I received the impression that the report consists essentially of a financial statement, a couple of comments, and was then fleshed out with easily obtained material, namely, copies of the Act and a summary of the history of the legislation.

Will the Minister have another look at the report and, whether or not he is delighted with its format, does he think that the report should give a better indication of the nature and style of complaints, difficulties and registration problems that come before the Board so we can see what it is doing? Does the Minister consider that, even though the Board is an independent statutory authority, it might respond to requests from the Minister for a particular format of report? If he is not that happy with the format of the report, and the Board is disinclined to respond, will the Minister consider an amendment to the Act to require the report to be brought down in a form prescribed by the Minister?

The Hon. J.R. CORNWALL: I thank the Hon. Dr Ritson for bringing up this matter again. I believe that he would probably recall that, at the time I tabled the report, I expressed considerable dissatisfaction with it. I think it was an awful document. It certainly did not contain any of the sort of information that members of the profession would like to have, nor very much material to which the public of South Australia is entitled. To be fair, it was the first report of the new Board under the new legislation. Incidentally, copies of the report are available. I do not think anyone has gone out of their way to make them available in large quantities because of its quality.

I will see that all of the Hon. Dr Ritson's comments are forwarded to the Registrar of the Medical Board to be drawn to the attention of Board members. I spoke to the Chairman of the Board soon after the report was made available to me which, from memory, was in early October. I certainly let it be known that I found it to be a very disappointing document, to say the least. I specifically referred to the format of the report and the information, or lack of it, as it was set out in the report. I must say that the Chairman agreed with me. The Chairman of the Board is a very intelligent and affable gentleman, and is highly respected in medical circles throughout the State. As I have said, he agreed with me.

There were a number of reasons for the report appearing in that form, but we both agreed that that standard would not be good enough for the next report. Subsequently, I spoke to members of the Board. By the time I spoke to the other Board members it is fair to say that I was more affable than I was when I spoke to the Chairman. I am optimistic that the 1984-85 report, which will be due for tabling on or about 30 September this year, will be a much better document. Certainly, there is a whole range of issues which ought to be tabulated and which, as I said, the members of the medical profession in particular are entitled to know about and to which all members of the South Australian public should have access.

YATALA PRISON INFIRMARY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about the Yatala prison infirmary.

Leave granted.

The Hon. L.H. DAVIS: During the term of the Tonkin Government a commitment was made to build an infirmary adjacent to Yatala prison, with 12 beds catering for male and female prisoners from Yatala and country centres such as Cadell and Port Augusta. This building was completed, I understand, in early 1983 at a cost of about $1 million, but two years later it remains empty and unused because the Health Commission has refused to make funds available.

The aim of the infirmary is to provide a facility to look after prisoners who are too ill to remain in their cells, who may be recuperating from an operation or suffering, for example, from abdominal pains, and who require to be kept under observation. The infirmary would provide 24-hour nursing care. The fact that this infirmary has remained closed for two years has been of serious concern to the Prison Health Advisory Committee. Sick prisoners are often forced to remain in their cells when it is quite inappropriate.

Alternatively, they may be taken to Modbury Hospital, which, I understand, sometimes quite properly, refuses to admit the prisoner because the illness is not sufficiently serious to warrant admission. This means that a prisoner may be required to be returned to the cell. An additional security risk is involved in transporting a prisoner from a prison to a public hospital. My questions of the Minister are as follows:

1. Why has the Health Commission refused to make funds available to commission this $1 million infirmary, which has, quite remarkably, remained unused for two years?

2. When does the Minister anticipate rectifying this grand farce by opening the infirmary?

The Hon. J.R. CORNWALL: The Hon. Mr Davis always manages to colour his questions a little.

The Hon. L.H. Davis interjecting:

The ACTING PRESIDENT (Hon. C.M. Hill): Order!

The Hon. J.R. CORNWALL: If I can just move us back to the real world for a moment, it is perfectly true that the present infirmary was completed, I think from memory, in about February 1983 and that it has not been commissioned. The price tag for commissioning the infirmary and for upgrading prison clinical services at Yatala is estimated at $750 000. The allegation, repeated in the question, that the Health Commission has refused to make funds available is untrue. The Health Commission put the funding for the commissioning of the prison infirmary on our list of initiatives for the 1984-85 Budget. It ranked among something like 20 other priorities. I am sure that honourable members would appreciate the enormous dilemma that faces any Health Commission or Health Department in this country or, indeed, in the Western world at the moment, with burgeoning costs and demands for high tech services.

What does one do, for example, if there is only one lot of $750 000? Does one dedicate it to areas like the anorexia nervosa clinic at Flinders, commissioning an eighth operating theatre at Flinders, or commissioning 16 new beds for community dentistry to help the 250 000 low income adults who

have very little or no access to dental care? That is a dilemma that faces the Health Commission, but particularly the Minister, the Treasury, and Cabinet.

To date, that has not been funded, as I said, not because the Health Commission refuses to fund it, as the Hon. Mr Davis puts it, but because it has not been regarded as having a high enough priority against other competing priorities in the health area and, indeed, in all the other portfolio areas. A further submission for funding for both the commissioning of the infirmary and the upgrading of prison clinical services at Yatala will be officially processed within weeks. It is certainly a matter that will have to be given a high priority for any funding initiatives in 1985-86.

In the meantime, there is no evidence that any prisoner has been disadvantaged in terms of requiring in-patient facilities during that time. Where it is appropriate, they are transferred to whichever hospital is best for their needs. They are treated as in-patients like any other citizen in South Australia. The difficulty and the disadvantage is that they have to have escorts and have to be kept under supervision or guard while they are there. This infirmary was never intended to provide sophisticated medical or surgical services; even when it is commissioned, prisoners requiring that will still be escorted under guard to Modbury, Royal Adelaide Hospital, or whatever other hospital is appropriate. However, it will be very useful for the sick prisoner with the sort of illness for which perhaps other people would normally stay at home and spend a couple of days in bed or for prisoners recuperating from illnesses or surgery, having been attended in acute care hospitals. The short answer is: certainly, it is on the list of initiatives. I hope that it will be funded and can make it amongst some extraordinarily important and competing priorities before this year is out.

GLENSIDE HOSPITAL HOLIDAY HOUSE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about Glenside Hospital premises at Carrickalinga.

Leave granted.

The Hon. ANNE LEVY: I am sure that many members will recall that in January 1983 Glenside Hospital announced its intention to establish a holiday house at Carrickalinga to accommodate patients. At the time a good deal of concern was expressed by some of the residents and landowners in Carrickalinga and a fair amount of publicity was given to this protest. There was also support from many people who owned properties in Carrickalinga, and the press gave publicity to the support from several Supreme Court judges, among others, who I know wrote to the Yankalilla council, expressing their support.

The Hon. Diana Laidlaw: Did you write?

The Hon. ANNE LEVY: I am quite happy to say that I did write, but I do not see that it is relevant. I did not write in my capacity as a member of Parliament, but in my capacity as a landholder in Carrickalinga.

The Hon. Diana Laidlaw: That is what I was asking.

The Hon. ANNE LEVY: I did, but I have never publicised that fact.

The Hon. L.H. Davis interjecting:

The ACTING PRESIDENT: Order!

The Hon. ANNE LEVY: Only because the interjection was made, to which, if I had not responded, assumptions would have been made about my activities. The planning approval was granted for the holiday house to be built, it was constructed last year, and it has been completed for about the past 12 months. It is not the most beautiful of buildings in Carrickalinga, and I am sure that several people would agree with me that it is not what one would regard as a holiday house in design. Be that as it may, I am sure that it is very adequate for the purpose for which it is built.

Now that it has been in operation for 12 months, can the Minister say to what extent the house is being used, whether it has been beneficial to patients, and whether he knows of any reaction by local property owners?

The Hon. J.R. CORNWALL: I thank the Hon. Ms Levy for her question to which I am pleased to respond. Let me say at once that she tends to hide her light under a bushell. I know that the Hon. Ms Levy was actively involved as a property owner at Carrickalinga—

Members interjecting:

The ACTING PRESIDENT (Hon. C.M. Hill): Order!

The Hon. J.R. CORNWALL: —in supporting actively the very positive initiative that was put forward by Glenside Hospital at the beginning of 1983. I am sure members will recall that at that time there was substantial resistance from some of the less enlightened people who owned holiday houses at Carrickalinga. That was most unfortunate.

The Hon. C.J. Sumner: It's a posh area.

The Hon. J.R. CORNWALL: Well, the contention was that the people whom we would have on brief holidays at Carrickalinga, because they were patients from Glenside, would somehow be different. The fact of course as we know, is that mental illness is not an infectious disease and there was never any danger posed to the residents at all. It was a sad business. At the time, I am happy to say, I weighed in very heavily behind the Glenside Board and the administration. It is interesting to return to look at what the position is two years later and just show how proof of a concept can enlighten a community. At the time that the home was opened all local residents were invited to an open day and many of them attended. The home, as it has operated for these past two years, accommodates six patients and two staff. The property, despite the fact that the Hon. Ms Levy says it has some architectural defects in the context of the Carrickalinga area, is well situated at the seafront and gives easy access to the beach. The house has an excellent view of the attractive coastal scenery so, although the view from outside might not be too good, I assure the Council that the view from inside is first class.

Since the house opened it has been occupied almost continuously. Patients go on shopping excursions which include counter meals and on day trips in the area. They also go horse riding from Carrickalinga. An important aspect of its use is to assess patients' ability to adjust in a domestic, rather than in an institutional setting. Patients are therefore encouraged to perform domestic tasks within their ability. Many of these people have been long-stay patients at Glenside Hospital and time spent at Carrickalinga represents an exciting holiday. Staff have assessed that desirable behavioural changes have occurred in the majority of patients over the five days of a holiday. In particular, their social skills have improved owing to their exercising more independence, and having increased social interaction. Letters of appreciation have been received from individual patients. It is interesting to note that a paper on the therapeutic value of the house has been submitted and accepted for publication in the Medical Journal of Australia. The author is Associate Professor Robert Goldney, Director, Dibden Research Unit and Director of Research and Training at Glenside Hospital. That is a happy result indeed after two years.

INTERNATIONAL YOUTH YEAR

The Hon. DIANA LAIDLAW: I seek leave to make a brief statement before asking the Attorney-General, representing the Minister of Labour, a question about the State International Youth Year Co-ordinating Committee.

Leave granted.

The Hon. DIANA LAIDLAW: The State International Youth Year Co-ordinating Committee has compiled a folder described as an action kit that incorporates much information about funding sources, project registration forms, posters, a calendar of events and so forth. It also includes a number of pamphlets about various specific subjects such as local government and young people, trade unions and young people and employers and young people. However, it is the pamphlet 'Employers and Young People' to which I address my concern. The pamphlet was prepared by the Confederation of Australian Industry at the request of the National International Youth Year Co-ordinating Committee.

Inside the pamphlet the South Australian Co-ordinating Committee has taken the liberty of inserting a pamphlet, 'Where Do I Stand: A Guide to Your Rights at Work', produced by the South Australian Department of Labour, Youth Bureau. This pamphlet refers to the fact that some young people are being exploited or ripped off whilst they are working and it goes on in that vein. I do not deny the value of producing a pamphlet advising young people about their rights at work, but I do object to the inclusion of this pamphlet without a balancing pamphlet entitled, perhaps, 'Where Do I Stand: A Guide to Your Responsibilities at Work'. Has the South Australian Department of Labour, Youth Bureau produced a pamphlet 'Where Do I Stand: A Guide to Your Responsibilities at Work'? If it has, why has such a pamphlet not been included within the leaflet 'Employers and Young People', and will the Minister ensure that it is included in future? If a pamphlet on responsibilities has not been produced by the Department, will the Minister ensure that this oversight is addressed as a matter of priority and, in the meantime, will he instruct the South Australian Co-ordinating Committee not to release further issues of this pamphlet until a balancing pamphlet is produced and incorporated in the future?

The Hon. C.J. SUMNER: I will seek a reply for the honourable member.

VALUATION OF LAND ACT AMENDMENT BILL

The Hon. J.R. CORNWALL: Late last year during debate on this matter the Hon. Mr Griffin asked a number of questions to which I did not have an immediate reply. I undertook to bring back a reply and I have had it sitting in my Parliamentary bag these past two weeks waiting for an opportunity. In the temporary absence of the Hon. Mr Griffin, I have his concurrence to seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

Replies to Questions (13 November 1984)

During the debate on the Valuation of Land Act Amendment Bill I undertook to obtain replies from the Minister of Lands on several matters raised by the honourable member. With regard to the interpretation of the words 'proper cause' as contained in the new section 25a *(b)* the Minister of Lands advises that the honourable member's interpretation is correct in so far that it means some form of misconduct or misbehaviour and would be as a result of disciplinary action taken by either sponsoring Institute against the particular valuer.

No attempt has been made to specifically define this term within the Act, as such definition may prove to be too restrictive in its application. The reason for removing a licensed valuer from the panel has therefore been left to the discretion of the Governor.

With regard to the question of interest being paid should a refund in rates and taxes be warranted as a result of a review, the Minister of Lands advises that any such refund of interest payment would be subject to the provision of the relevant rating and taxing statute, namely, the Land Tax Act, Local Government Act, and Waterworks and Sewerage Acts. This is already the case with objections currently made under the Valuation of Land Act.

As to what is proposed in section 25b (4), that is the selection of the licensed valuer to conduct the review, it is intended that the regulations relating to this Act will provide for the selection of a valuer from a panel of valuers to be made by the owner lodging the application for review.

LEGISLATIVE RECORDS

The Hon. R.C. DeGARIS: I did intend addressing a question to the President, but now I will seek leave to ask you, Mr Acting President, a question about legislative records.

Leave granted.

The Hon. R.C. DeGARIS: I have a document here that I will table headed 'Statutes of Canada, Federal Legislative Record'. The Thirty-third Parliament convened on 5 November 1984, and there is a list of all Government Bills introduced into the House of Commons and the Senate. Private members' and public Bills are listed after they receive approval in principle. Bills amended after first reading are noted by an asterisk. Numbers of Bills that have received Royal assent are noted in the Royal assent column.

I have been approached by a gentleman who does much work for various companies in Australia reporting on legislation before Parliament and what happens to it, so that they can understand what is happening. He said that this sort of publication from Parliament was a good idea if provided regularly because it could be posted away to people who wanted it rather than their having to come in and make a long search of Bills before the House. When I table this document I hope that the President will look at it and report to the Council whether having such a record in South Australia would be useful.

The ACTING PRESIDENT (Hon. C.M. Hill): I am sure that the President would welcome the opportunity to peruse the document and also to deal with the question, which I will refer to him. Does the honourable member seek leave to table the document?

The Hon. R.C. DeGARIS: Yes.

Leave granted.

MEMBERS' FACILITIES

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about facilities for members of Parliament.

Leave granted.

The Hon. R.I. LUCAS: There has been much talk in recent weeks in Government circles and certainly within the Parliament about a proposal to provide to members of the House of Assembly personal computers for their electorate offices. One costing estimate that is doing the rounds is that, if the 47 members of the Lower House are provided with a personal computer, the total cost may be about $500 000.

The Hon. B.A. Chatterton: Would it be that much?

The Hon. R.I. LUCAS: I hope it is not that much. The primary argument is that many Lower House members want to go on line to the Electoral Department, and we talked about that last night in relation to the Electoral Act Amendment Bill and particularly regarding electoral roll additions.

As members would know, members of the House of Assembly already have an electorate office that is separate from Parliament House, a range of facilities and equipment in that office and the services of a full time staff member. We as members of the Legislative Council know full well that we have no separate office; many of us share offices with other members and the problems that that causes with respect to confidentiality and privacy on occasions when we are interviewing constituents or making telephone calls would be obvious to everyone. Five Opposition members share one overworked and hard working secretary, who does our stenographic and typing work, but we have no access to research facilities at all.

The Hon. C.J. Sumner: What has changed?

The Hon. R.I. LUCAS: I am not entering that argument. We must look ahead.

The Hon. C.J. Sumner: I will do that.

The Hon. R.I. LUCAS: I am saying that we should look ahead, and not backwards. I hope that we as members of the Legislative Council can get above the Party political aspect and be bipartisan, because it may well be that members on either side could be in Opposition after the next election.

The Hon. Anne Levy: We had one secretary for nine members and you had two secretaries for six members. It was called being bipartisan!

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Thank you, Mr President. I hope that this matter will not be treated in a Party political fashion. This is a genuine question, and I think that we should forget what happened in the past. There are enough new members in this Council who do not come with the preconceived biases of the older members who cannot forget the past and are not prepared—

The Hon. C.M. Hill: We don't live in the past.

The Hon. R.I. LUCAS: That is right; we are prepared to look to the future. It has also been said that, if Lower House members get personal computers, perhaps Upper House members should get them as well. Certainly, if we do not have access to appropriate staffing levels the usefulness of personal computers for each member of the Legislative Council would be hard to justify.

I wonder whether the Attorney, in a spirit of bipartisanship and not in a partisan political way, would be prepared to consider the possibility that, if money is to be expended some time in the future on extra facilities for Lower House members, an appropriate sum might be made available to members of the Legislative Council, who can expend it either on personal computers if they want them or, more importantly, on the provision of part time research or secretarial assistants. If a certain sum was to be expended for House of Assembly members, the appropriate sum could be made available to members of the Legislative Council so that each member could employ part time secretarial or research assistants. I would have thought that that could well help solve the unemployment problem in at least a small way.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Hon. Ms Levy is at it again, Mr President, to coin a phrase. My questions to the Attorney are:

1. Will the Attorney say whether he or members of Cabinet are currently considering or are about to consider a formal proposal for the provision of personal computers or extra facilities such as those for Lower House members in their electorate offices?

2. Will the Attorney-General, hopefully in a bipartisan way, consider the possibility of looking after the interests of members of the Legislative Council with respect to the sort of proposal I have made?

The Hon. C.J. SUMNER: The honourable member should be very careful about listening to rumours because, if he keeps doing that, it will get him into a lot of trouble.

The Hon. R.I. Lucas: Not if I ask you to confirm them.

The Hon. C.J. SUMNER: The honourable member should not take any notice of rumours. That is the first thing I want to say to him. A formal proposal for word processors or personal computers in electorate offices has not been considered by the Government. I understand that there have been discussions about facilities for Lower House members, but certainly at this point in time—

The Hon. R.I. Lucas: The Electoral Commissioner has.

The Hon. C.J. SUMNER: Maybe, but certainly at this time nothing formal has come before the Government. I share the honourable member's grave concern about the very substantial cost involved in the provision of such equipment. As the honourable member mentioned, on his estimate the cost would be no less than $500 000, and that is certainly a substantial sum for this sort of equipment. I will certainly convey to the Premier and to members of Cabinet the honourable member's concern about the cost of making this equipment available. I will also relay the honourable member's concern to members of the Lower House. What the honourable member seems to forget is that I have looked after the interests of Legislative Councillors very substantially in the past two years.

The Hon. Anne Levy: Hear, hear!

The Hon. L.H. Davis: We got fridges!

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Members opposite have been treated very well; a full time secretary for their personal use has been appointed, and that situation contrasts with what Labor members in Opposition had—one secretary for nine members during the generous term of office of the Hon. Mr Griffin as Leader of the Government in this Council. Under this generous Government the position has now been improved for members opposite—there are two secretaries for nine Opposition members. In addition—

The Hon. K.T. Griffin: You had two.

The Hon. C.J. SUMNER: We did not. We had one secretary for nine members and one for the Leader of the Opposition. Members opposite have two secretaries plus a staff member for the Leader of the Opposition, and he is a research officer, not a steno-secretary. I was permitted to have a steno-secretary—that is all. There was no research officer for the Leader of the Opposition in the Legislative Council at that time. The Hon. Mr Lucas comes in bright eyed and bushy tailed and says that he wants research facilities—and he is a mere back bencher. For three years as Leader of the Opposition I had a steno-secretary and no research facilities: I did it all myself. I suggest that that is what the honourable member should do: he might become more and more knowledgeable about politics and the topics to be debated in this Council.

The Hon. Mr Cameron has been permitted a research officer, classified under the Ministerial officers scale. A research officer was not available to Labor members when in Opposition. Allow me to say in response to the honourable member's question that substantial improvements have been made. Indeed, I believe that recently honourable members were given collaters for their photocopiers, and that was a most significant advance.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That was a most significant advance.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: Yes, but you got them. As Leader of the Opposition I had an application in for a photocopier for two years while down in the dungeon where

the Hon. Mr Cameron has now been—for two years! About a week before the 1982 election a delivery van arrived, the delivery people knocked on the door and brought in a brand spanking new, number 1, A grade photocopier. They said that the Minister of Industrial Affairs, Mr Dean Brown, had ordered it special delivery. That was not the only thing that happened. The House of Assembly Opposition Leader had an outstanding order from 1979 to 1982 for a photocopier and a whole lot of other equipment.

The Hon. K.T. Griffin: Not a photocopier.

The Hon. C.J. SUMNER: Well, other things such as a dictaphone. About a week before the election another brand, spanking new lot of equipment arrived at the Leader of the Opposition's office in the House of Assembly. At that stage we knew we were about to win the election. It could well be that in some months time things will arrive in the offices of members opposite.

The Hon. C.M. Hill: You gave us all free fridges some time back and we didn't even ask for them.

The Hon. C.J. SUMNER: The honourable member complained about entertaining his guests in the Parliament, now he is able to entertain them in the style he became accustomed to as a Minister. The Government felt that it was outrageous for former Ministers, even though they went on to the back bench, not to have fridges in their rooms, so in a spirit of generosity fridges were provided.

The Hon. C.M. Hill: I think that the Attorney made a bulk purchase from K-Mart.

The Hon. C.J. SUMNER: We were trying to stimulate the white goods industry in South Australia. If there is any consideration given to personal computers or word processors for the Lower House, I am sure that similar consideration will be given to such equipment for members of the Upper House. Of course, the cost is of great concern. I have in the past (as I believe the Government has) given significant increases in staff and facilities available to Legislative Councillors above what had existed previously. I will certainly look after, as I have in the past, the interests of Legislative Councillors in any discussion about facilities or staff that comes up or in relation to any application made by House of Assembly members.

ROXBY DOWNS WATER LICENCE

The Hon. I. GILFILLAN (on notice) asked the Minister of Agriculture: Regarding the Water Licence of Roxby Management Services:

1. How can the South Australian Government justify granting free water to R.M.S. when funds are unavailable to rehabilitate the existing uncapped bores which spill upwards of 190 megalitres of wasted water daily?

2. When the decline in flow is so well proven, how can the Government justify a borefield that takes so much water from a locality where there are springs of Aboriginal and World Heritage significance, supporting pastoral bores and such a uniquely dependent ecology?

3. *(a)* R.M.S. have access to 33 million litres of water daily for the G.A.B.; 9 megalitres per day from Port Augusta and up to 7.6 megalitres per day from the Arcoona Quartzite Aquifer.

(b) Will this water eventually become radioactively contaminated and will R.M.S. allow it to be evaporated into the atmosphere?

(c) As R.M.S. claim responsibility for land management within the lease area only, who will be answerable for the contamination of land outside the lease area?

4. In the Indenture Ratification Act, schedule 12, clause 11, it states that the joint venturers will recycle as much water as possible. What types of recycling methods are they undertaking?

5. The joint venturers are required to monitor effects of wellfield exploration on existing bores and springs on a monthly basis and to submit reports annually. What type of monitoring is the Department of Water Resources undertaking and can you supply reports of monitoring since the joint venturers began exploration, or is the Government going to accept that no monitoring is necessary?

6. How could a special water licence have been granted when the Aboriginal significance of the area has not been completed nor have complete studies of endangered aquatic life been complied with?

7. Who is responsible for acceptance of the 100 per cent reduction in flow at Beatrice Springs which is used as an emergency drinking supply by local inhabitants?

8. Why did the Government not allow public debate on the issue of the granting of the water licence to Roxby Management Services when public interest groups expressed a desire for one?

9. In view of the Australian Ground Water Consultants' previous work with computer models being challenged and rejected both at the Kingston coalfield and at the Beverley uranium project, what steps have been taken to ascertain the accuracy of their work at Olympic Dam?

10. The computer model assumes that fault structures reduce hydrological connections between Borefield A and Hermit Hill mound springs. On what experimental evidence is this assumption based?

11. Is it true that the model also assumes that the fault structures are dormant and ignores seismic activity recorded by the University of Adelaide, Department of Physics seismology records?

12. Does the model ignore that change in water pressures and salinity due to pumping can further increase seismic activity?

13. Are these assumptions the basis for the predicted effects on the mound springs, which are themselves fed by water flowing through faults and fractures?

14. Do these effects discredit this computer model, wellfield A and mound springs studies, just as the original G.A.B./Hyd. model was misapplied and is now discredited?

15. Is the Government relying on this faulty computer model to base its decision for the protection of the valuable heritage of the State?

16. Why was seismic evidence in relation to the borefield development and the dewatering of the mine ignored in the D.E.I.S., the E.I.S., the Government assessment and the supplementary reports on the Wellfield A and the mound springs?

17. What consultations were undertaken with Government authorities on seismology?

18. What is the nature of the hydrological connection between the Arcoona Quartzite Aquifer, the Great Artesian Basin, its sub-basins and the Pirie-Torrens Basin?

19. *(a)* When did the region due west of Roxby cease to be considered as part of the Great Artesian Basin, and who was responsible for this omission?

(b) What is its status now and what is its condition?

20. Has it been taken into consideration that water travels in the Great Artesian Basin at a rate of 5 metres per year and that there have been instances of collapsed aquifers due to excessive extraction of water?

21. *(a)* Though monitoring will indicate the condition of the aquifer through water quality, what guarantee is there of preventing irreversible damage to the aquifer?

(b) Can the rate of recharge be sustained at its current rate, despite the release of pressure due to extensive puncturing by bores throughout the Great Artesian Basin?

22. As the pumping stations are in closer proximity to western recharge areas, what speculation has there been as to the effects upon the mound springs if sulphated waters of western origin replenish the area at a faster rate than carbonated waters of eastern origin?

23. How can the granting of the special water licence for 1 per cent of the total output of the Great Artesian Basin to R.M.S., making them the single biggest industrial user of ground water in Australia, be seen as adhering to State and Federal Government policies?

The Hon. C.J. Sumner, on behalf of the **Hon. FRANK BLEVINS:** I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

Reply to Question

1. There is no charge made against any user of ground water in South Australia, and since the Roxby Downs Indenture specifically prohibits discrimination against the joint venturers, it is wrong to suggest that they should be charged for ground water. The Government is responsible for the management of all water resources throughout the State. There are several areas where ground water is under considerably more stress than that on the Great Artesian Basin. At the proposed maximum discharge rate from all wellfields of 33 Ml/day, the project would consume 12 000 Ml/year. Other areas of major ground water use (free of charge) are:

South-East Irrigation	35 000 Ml/yr
Northern Adelaide Plain Irrigation	19 000 Ml/yr
Metropolitan Adelaide Industrial and Recreation Area Irrigation	7 000 Ml/yr

The Government has an ongoing rehabilitation programme for free flowing bores in the Great Artesian Basin which is proceeding at an acceptable rate within current budgetary constraints.

2. The reports 'Supplementary Environmental Studies—Mound Springs' and 'Wellfield A Investigation' together with the investigations carried out by relevant Government Departments do not support the honourable member's contention that the borefield will have a major impact on the surrounding area.

3. The Environmental Impact Statement for the Olympic Dam project covers in detail the matters raised by the honourable member.

4. There is no schedule 12 in the Indenture Ratification Act.

5. Monitoring data collected by the joint venturers since they began investigating the borefield area was verified by suitably qualified Government officers prior to the issuing of the Special Water Licence and is contained in the 'Wellfield A Investigation' report which has been available to the public for several months.

6. See answer to question 2. In addition the Environmental Impact Statement and Department of Environment and Planning Assessment Report covered these matters.

7. Beatrice Springs lies within the designated area and is covered by the indenture which states that the existing users (of ground water) shall continue to receive water for the proper development or management of their properties. If supplies are restricted the joint venturers must make alternative supplies available. This can be acheived in several ways including the drilling of a well and installation of a pump or provision of a piped supply from the main pipeline or wellfield at the expense of the joint venturers.

8. It is not normal procedure for the E & WS Department to have public debate on the issue of a water licence. The opportunity existed during the Select Committee on the Indenture and the Environmental Impact Statement procedures for interested parties to make comment on the proposed water licence.

9. Government officers, using their own computing facilities have produced essentially the same results as AGC both in reproducing the effects of the current long term flow test and predicting regional drawdown due to increased discharge from the proposed wellfield A.

10. The detailed hydrogeology of the wellfield area including the basement fault blocks was determined from the results of drilling and pump tests (including holes G.A.B. 5 and 5A which are very close to the fault), geological cross sections and seismic refraction surveys.

11. Even a major seismic event produces only small movements along fault lines. The entire Flinders and Mount Lofty Ranges are seismically active and indeed the water supplies extracted from the metropolitan Adelaide and North Adelaide Plains aquifers are taken from the ground very close to major fault zones without any increase in seismic activity.

12. Changing water pressure and salinity as a result of pumping is not expected to induce any seismic activity which usually originates at depths of several kilometres compared with the 100 to 150 metre depths to the aquifer at wellfield A.

13. See answer to question 12.

14, 15 and 16. Neither the Australian Ground Water consultants computer model, nor the Bureau of Mineral Resources Great Artesian Basin Hydrology model have been discredited as claimed.

17. The Groundwater and Engineering Geology Branch of the Department of Mines and Energy is the Government's adviser on earthquakes. Officers of this branch have been involved throughout the entire exercise.

18. Refer to the Olympic Dam Environmental Impact Statement.

19. *(a)* The use of the term Great Artesian Basin for the rocks to the west of Olympic Dam is based on the age and nature of the rocks, not their hydrogeology. Aquifers in the area are confined (but not artesian) or unconfined, contain water of extremely poor quality and are part of a flow regime which is completely unrelated to the GAB artesian water, the southern boundary of which has always been recognised by hydrogeologists as a line roughly coinciding with the Marree-Oodnadatta road.

(b) Refer to Department of Mines and Energy Bulletin 48: R.G. Shepherd 'Underground Water Resources of S.A.'

20. Yes.

21. *(a)* This is one of the reasons for monitoring and why the licence contains a provision to stop extraction should unforeseen problems occur.

(b) Yes.

22. See answer to question 5.

23. The special water licence was not granted for a specific amount of water but is limited by prescribed drawdown limits at the boundaries of the designated area.

ROXBY MINE ROYALTIES

The Hon. I. GILFILLAN (on notice) asked the Minister of Agriculture: Regarding Roxby mine royalties:

1. It is believed that the Department of Mines and Energy estimate the maximum royalties recoverable from Roxby Management Services at $4 million per annum, whilst Government expenditure to Roxby Management Services will be of the order of $17 million per annum.

2. On what basis were these estimates made and when will they be publicly released?

The Hon. C.J. Sumner, for the **Hon. FRANK BLEVINS:** The Department of Mines and Energy does not have on record a calculation showing a royalty of $4 million per

annum against a Government expenditure of $17 million per annum.

UNITED NATIONS CONFERENCE

The Hon. DIANA LAIDLAW (on notice) asked the Attorney-General: In respect of the United Nations Conference marking the end of the Decade for Women to be held in Nairobi later this year:

1. Is the Government sending official representatives, and, if so, whom and at what cost?

2. Is the Government assisting any organisations or individuals to send participants or observers, and, if so, which groups or individuals, at what cost, and how were they selected?

The Hon. C.J. SUMNER: The replies are as follows:

1. At this stage the Government has no plan to send an official representative to the conference in Nairobi.

2. The Government will be making available assistance for two women, either as individuals or representatives of non-government organisations to attend the non-government forum in Nairobi. This assistance will be in the form of two half fares. Applications for this assistance will be called for through an advertisement, and applicants will have to show details as to the contribution to the forum and how the community will benefit from their participation.

FOOD BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to impose standards with respect to food intended for human consumption; to ensure the observance of proper standards of hygiene in relation to the manufacture, distribution and storage of food that is to be sold for human consumption; to repeal the Bread Act, 1954, and the Bakehouses Registration Act, 1945; to amend the Food and Drugs Act, 1908, the Health Act, 1935, and the Local Government Act, 1934; and for other purposes. Read a first time.

The Hon. J.R. CORNWALL: I move:

That this Bill be now read a second time.

I have had an indication from the Hon. Mr Burdett that he is amenable to having the explanation of the Bill inserted in *Hansard*. Therefore, I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The purpose of this Bill is to rewrite South Australia's food laws in a form suitable for the 1980s and beyond. South Australia's existing food legislation had its origins in nineteenth century English law. The first Act for the Prevention of the Adulteration of Food and Drink was passed in the United Kingdom in 1860, following disclosure of widespread adulteration. In 1873, South Australia's Health Act included a provision for the seizure of unwholesome food. Later, in 1878, its provisions were expanded to include a food division dealing with water, meat and milk. The year 1882 saw the enactment of South Australia's first Food and Drugs Act, an Act very similar to its English counterpart.

That Act, however, apparently lacked strength in terms of enforcement and was supeseded by the 1908 Food and Drugs Act. Few would argue with the then Chief Secretary who, when moving the second reading, said that 'the Bill was one of the most important measures to be discussed by the Council that session because, next to the protection of the lives of the people, the health of the people was a close second'.

It is in fact that Act, with minor amendments, which remains in force today. As section 8 puts it, it is an Act to '. . . provide proper securities for the sale of food in a pure and genuine condition . . . '. Its purpose is as relevant today as it was in 1908. Its provisions, however, have become somewhat anachronistic. It was framed at a time when the range of foods was limited, when production was local and distribution was by horse and cart.

Advances in food technology have revolutionised out system of food processing and distribution. No longer is the majority of our food industry catering just for a localised domestic market, but is increasingly catering on an Australia-wide or international scale. Perishable foods are traded long distances as a result of refrigeration. Much packaged food is of complex formulation, involving numbers of ingredients and food additives. Contaminants have become more complex involing metals, pesticide residues, micro-organisms and their metabolites. There is a far greater range of media avenues available for marketing and promotional strategies. Consumer awareness demands improved labelling of packaged foods to enable informed choice.

It was against this changed background that Health Ministers in 1975 mooted the development of model food legislation as a basis for adoption in each jurisdiction. A model bill was developed and endorsed by the 1980 Conference of Ministers for adoption by the States and Territories. By October 1981, model food standards regulations had been prepared to support the model Bill, and drafting of model food hygiene regulations is currently proceeding.

The Bill before honourable members today is based on the model Bill. It is essentially enabling legislation. Following its passage, regulations will be necessary to spell out detailed requirements. It will provide the vehicle for the adoption of model food regulations. It is through such regulations that uniformity between the States can be achieved.

Turning to some of the main features of the Bill, clause 6 vests in the South Australian Health Commission responsibility for the administration of the Act throughout the State. The Commission will be able to draw on the expert advice of a Food Quality Committee to assist it, particularly in the making of regulations. Clause 10 provides for the establishment of the Food Quality Committee, whose 14 members will bring together a wide range of expertise—the Health Commission's responsibility for the legislation is recognised by the appointment of two members, one of whom will chair the committee; the important role of local government is recognised by the appointment of two members; the perspective of the Consumer Affairs and Agriculture portfolios will be brought to the committee by members from each area; scientific and technological expertise will be available on the committee; the particular interests of manufacturers, retailers and employees will be represented; and importantly, the consumer will have a voice through a position set aside specifically for 'a suitable person to represent the interests of consumers'.

Honourable members will be aware that a Food and Drugs Advisory Committee has existed for many years under the Food and Drugs Act. With the splitting up of food and drugs controls into two separate pieces of legislation, the Controlled Substances Act and this Bill, and the creation of an Advisory Committee under each, the Food and Drugs Advisory Committee will be phased out. I take this opportunity to pay a tribute to the work of the committee over many years.

To consider the administration of the Act in more detail, the attention of honourable members is drawn to the overall scheme of the Bill whereby offences are created in three

broad areas: first, food quality, as set out in clauses 17 and 18, covering unfit for human consumption, non-compliance with a prescribed standard, and misrepresentation of the nature or quality; secondly, food labelling, as set out in clause 19; and, thirdly, food hygiene, as set out in clauses 20 and 21, covering premises, equipment and vehicles, and food handlers.

The South Australian Health Commission has overall responsibility for the administration and enforcement of the Act throughout the State. The Health Commission will be the central body responsible for the enforcement of standards of food composition, wholesomeness, packaging and labelling, and advertising.

Local councils, under clause 26, have responsibility for ensuring proper standards of hygiene within their area, and for ensuring that food sold within their areas is fit for human consumption. Where a council does not properly carry out its duty, the Health Commission is empowered to take the necessary action on those matters. The manner in which councils administer these provisions will be a matter for them to decide. Some councils may wish to do so individually. Others may find it more efficient to join together to establish a controlling authority and share officers between them. The Bill provides the flexibility to accommodate either arrangement.

Returning to the central administration of the legislation, honourable members will note that provision is made for the Metropolitan County Board to be disbanded. The Metropolitan County Board had its origins in the early 1900s. It has been the body responsible for policing standards, composition, labelling, sampling, supervising premises preparing food for human consumption, investigating complaints and taking legal action in relation to the twenty-member councils coming within its area.

At the time of the formation of the Metropolitan County Board, the bulk of the State's population lived within its area. However, the growth of population outside its area now means that it no longer directly services the bulk of the population. In addition, some current member councils are anxious to withdraw. Various options for the future of the County Board were considered at length and discussed with the Local Government Association, member councils and the staff of the County Board and the Municipal Officers Association.

The resulting request to the Government was that the Metropolitan County Board be disbanded. Accordingly, the Bill makes the necessary provision. Persons employed by the Board are able to transfer to the Health Commission with their rights preserved. I pay tribute to the Board and its staff for the manner in which it has carried out its role. It is intended to build on to the expertise already existing in the South Australian Health Commission and the specialised knowledge which transferring County Board officers will bring by developing an expanded food surveillance unit within the Health Commission to meet the administrative requirements of the new legislation. The rationalisation of central administration will also be welcomed by industry, particularly in relation to the development and marketing of new products.

Returning to the offences provisions of the legislation, honourable members will note that the Bill provides for substantially increased penalties over the existing legislation. Under existing legislation, penalties are of the order of $200, and up to $1 000 for continuing offences. This Bill upgrades penalties to $2 500 for various offences. The Health Commission and councils may appoint authorised officers to carry out functions under the Act. Authorised officers have powers of entry and inspection. They may stop and detain vehicles, inspect food in premises or vehicles, ask questions of people in the premises or vehicle, take food samples, take photographs and copies of documents and remove any object which may constitute evidence. Anyone hindering an authorised officer or refusing to answer a question to the best of their knowledge is guilty of an offence carrying a penalty of $5 000.

Clause 23 provides the Health Commission with substantial powers with respect to food unfit for human consumption. Where the Commission believes that food is not fit for human consumption, or that food derived from a particular source may not be fit for human consumption, it may prohibit the sale of the food, prohibit or restrict its movement or disposal or require its destruction. If a person does not, within a specified time, comply with a destruction order, the Commission may remove and destroy the food and recover the cost.

Where the Commission believes that a particular area is affected by dangerous contaminants and should not be used for food production, it may prohibit the use of that area for food production. Contravention or non-compliance with an order under clause 23 attracts a penalty, for a first offence, of $5 000 and for a second or subsequent offence, of $10 000. Under clause 24, where the Commission has reasonable grounds to suspect that premises or a vehicle contains food unfit for human consumption, and that destruction of the food is necessary or desirable in the public interest, it may specifically authorise an authorised officer to take the necessary action to remove and destroy the food.

Another important provision is clause 25, which empowers the Commission, where it believes there is substantial risk that food sold to the public is unfit for human consumption, to require a manufacturer, importer or wholesale or retail vendor of the food to publish advertisements in a form acceptable to the Commission, warning against that risk. The Commission itself may publish such warnings and recover the cost from the body to which the advertisements relate.

Turning to clause 26 and the duties of councils in relation to hygiene, honourable members will note that councils may prohibit the use of unsanitary premises, vehicles or equipment until they have been cleaned or repaired to the satisfaction of an authorised officer. I now draw honourable members' attention to the regulation-making powers of clause 32. As I have already indicated, the legislation is essentially enabling legislation and will require extensive supporting regulations. The legislation will be the vehicle for adoption of model food regulations. I would mention that, as far as our existing legislation permits, South Australia has already, and is in the process of, adopting various standards of the Model Food Standards regulations. There is, however, still some way to go.

One area to which particular attention will be given is labelling. Today's consumer has a vast range of processed foods from which to choose. He has a legitimate claim to know what is in that food in order that he may make an informed choice. He may, for instance, seek nutritional information in order to formulate, or comply with, a particular dietary plan. He may seek information as to additives in order to avoid a particular adverse reaction. It is not good enough for a consumer to have to work on a 'hit or miss' basis—he has a right to be informed. Various organisations, such as the Consumers' Association and health professional bodies and organisations, support the call for comprehensive food labelling. It is a call which the Government will heed and accord a high priority.

In summary, the Bill before honourable members today provides a modern legislative framework of controls over food production and distribution. The existing legislation and administrative structure have served us well in the past. However, if the protection of the health of the public is to be maintained, legislation and administrative structures must

keep pace with technological developments and changing patterns in the industry the legislation seeks to cover.

If the general spirit of co-operation and consensus between health professionals, local government and industry which has prevailed in the drafting and consultative process which this Bill has followed is any guide, I have every confidence that the proposed legislation will serve us well in the future.

Clauses 1 and 2 are formal. Clause 3 provides for the definition of expressions used in the measure. Of the definitions, the following are significant:

'area' means the area in relation to which a council is constituted;

'the Commission' means the South Australian Health Commission;

'corresponding law' means a law of another State or of a Territory of the Commonwealth declared by proclamation to be a law that corresponds with the measure;

'food' means any substance (liquid or solid) for or represented to be for human consumption including a gaseous food additive and a substance intended to be introduced into the mouth but not ingested;

'manufacture' in relation to food means process, treat, cook, prepare, pack;

'owner' in relation to any property includes a person entitled to possession of the property;

'prohibited substance or organism' means a substance or organism declared by regulation to be a prohibited substance or organism;

'to sell' includes to offer or expose or possess for sale, to deliver in pursuance of sale, to supply for the purpose of a contract for the performance of a service, to give or offer as a prize in a competition or game of chance or to give away in the course of promotional activities.

Clause 4 provides that the Acts referred to in the first schedule are repealed; the Acts referred to in the second and third schedules are amended as shown in those schedules; and transitional provisions consequent upon the amendment of the Food and Drugs Act, 1908, are set out in the fourth schedule.

Clause 5 provides that the measure binds the Crown. Clause 6 provides that the Commission is responsible, subject to the Act, for the administration and enforcement of the measure throughout the State. The Commission is for that purpose subject to the control and direction of the Minister.

Clause 7 provides that the Commission may by instrument in writing, delegate any of its powers or functions under the measure. The delegation may be absolute or conditional, is revocable at will, and does not derogate from the Commission's power to act. No delegation may be made to a council except with its concurrence.

Clause 8 provides for the appointment by the Commission and councils of authorised officers. A person is not eligible for such appointment unless he holds qualifications approved by the Commission, or was a health surveyor under the Food and Drugs Act, 1908, immediately before the commencement of this Act, and he is an officer of the Commission or of a council (subclause (3)). The Commission shall not appoint an officer of a council unless the council consents (subclause (4)). Authorised officers must carry certificates to be produced on demand (subclause (5)).

Clause 9 provides that the Commission may appoint suitable persons to be analysts. Clause 10 provides for the Food Quality Committee. The committee consists of 14 members including two who are officers or members of the Commission; two members, officers or employees of a council or councils selected by the Minister from a panel of five nominated by the Local Government Association; one nominated by the Minister of Consumer Affairs; one nominated by the Minister of Agriculture; one nutritionist; one toxicologist; one microbiologist; one who has a wide knowledge of and experience in food technology; one to represent the interests of food manufacturers; one to represent the interests of employees of food manufacturers and retailers; one who must represent the interests of consumers; and one analyst (subclause (2)). One of the members of the committee who is an officer or member of the Commission shall be appointed to be Chairman. Subclause (3) provides for the appointment by the Governor of deputies of members of the committee.

Clause 11 provides that members of the committee are appointed for a term not exceeding three years (subclause (1)). A member is eligible for reappointment at the expiration of his term of office. Subclause (2) provides for the removal from office by the Governor of members of the committee on the ground of mental or physical incapacity to carry out satisfactorily the duties of office, dishonourable conduct and neglect of duty. Under subclause (3) a member's office becomes vacant if he dies, his term of office expires, he resigns or he is removed from office by the Governor.

Clause 12 provides that a member of the committee is entitled to such allowances and expenses as the Governor may determine. Clause 13 provides that the Chairman or his deputy presides at any meeting of the committee (subclause (1)). Under subclause (2), in the absence of both the Chairman and his deputy, the members present shall elect one of their number to preside. Seven members constitute a quorum (subclause (3)). A decision carried by a majority of votes is a decision of the committee and, in the event of an equality of votes, the Chairman has a second or casting vote.

Clause 14 provides that an act or proceeding of the committee is not invalid by reason of a vacancy in the membership, or a defect in an appointment. Clause 15 provides that the functions of the committee are to advise the commission on any matter relating to the administration or enforcement of the measure, to consider and report to the commission on proposals for the making of regulations under the measure, and to investigate and report to the commission on any matters referred to the committee for advice.

Clause 16 provides that a person shall not divulge information acquired by reason of his being employed in the administration of the measure except with the consent of the person from whom the information was obtained; in connection with the administration of the measure; to a person employed in the administration of a corresponding law (with the consent of the commission); or for the purpose of legal proceedings.

Clause 17 provides that a person who manufactures food for sale that is unfit for human consumption or that does not comply with a prescribed standard in relation to that food is guilty of an offence. The penalty is $2 500 (subclause (1)). Under subclause (2) a person who sells such food is also guilty of an offence—penalty $2 500.

Clause 18 provides that a person who misrepresents the nature or quality of food offered by him for sale is guilty of an offence punishable by a fine of $2 500. Under subclause (2) a person is taken to misrepresent the quality of food if he represents expressly or by implication that the food is food of a particular description and the regulations provide that food offered for sale under that description must comply with prescribed standards and the food offered for sale does not comply with the prescribed standards.

Clause 19 applies by virtue of subclause (1) to food of a kind required by the regulations to be labelled in accordance with requirements laid down by the regulations. Under subclause (2), a person who sells food to which the clause applies that is not labelled in accordance with the regulations is guilty of an offence punishable by a fine of $2 500.

Clause 20 provides that all premises, equipment and vehicles used for the manufacture, transport or storage of food for sale or the sale of food must be kept clean and sanitary at all times. Under subclause (2), where any premises, equipment or vehicle is not kept clean and sanitory as required by subclause (1), the person in charge of the premises,

equipment or vehicle is guilty of an offence punishable by a fine of $2 500.

Clause 21 provides that a person who handles food in the course of manufacture tranportation or storage for sale, or for the purposes of its sale, and who is suffering from a prescribed disease, contravenes a regulation relating to hygiene or otherwise fails to observe reasonable standards of personal hygiene, is guilty of an offence punishable by a fine of $500 (subclause (1)). Under subclause (2), an employer whose employee commits an offence against subclause (1) in the course of his employment is guilty of an offence punishable by a fine of $2 500.

Clause 22 provides that an authorised officer may, at any reasonable time, enter and inspect premises to which this clause applies (subclause (1)). Under subclause (2), an authorised officer may stop, detain and inspect a vehicle to which this clause applies. Under subclause (3), an authorised officer may, in the course of carrying out an inspection, ask questions of any person in the premises or vehicle, inspect any food found in the premises or vehicle, take any food that he finds in the premises or vehicle, inspect equipment found in the premises or vehicle, remove any object that may constitute evidence of the commission of an offence, and take such photographs or films as he thinks fit.

Under subclause (5), the person in charge of the premises or vehicle the subject of the inspection must provide such labour and equipment and take such steps as are necessary to facilitate the inspection. Under subclause (6), where an authorised officer takes a sample of food for the purpose of analysis he shall, if the sample has not been obtained by purchase, tender an amount representing the retail value of the sample and he shall, subject to the regulations, divide the sample into three approximately equal parts and give one part to the person from whom it was taken, retain one part for examination and analysis, and retain one part for future comparison. Under subclause (7), an object removed by an authorised officer shall, when no longer required for investigation or proceedings in respect of an offence, be returned to the owner.

Subclause (8) provides that a person who hinders an authorised person in the exercise of his powers under the clause or who, having been asked a question by an authorised officer, does not answer the question to the best of his knowledge, information and belief, or who fails to provide assistance as required under this clause, shall be guilty of an offence punishable by a fine of $5 000. Subclause (9) provides that for the purposes of the clause, 'premises to which this section applies' means premises used for the manufacture or storage of food for sale or the sale of food, and 'vehicle to which this section applies' means a vehicle used for the transportation of food for sale.

Clause 23 provides that where the Commission is of the opinion that food is not fit for human consumption it may, by order, prohibit the sale of the food, prohibit or restrict the movement or disposal of the food, or require the destruction of the food (subclause (1)). Under subclause (2) where the Commission is of the opinion that food derived from a particular source may not be fit for human consumption it may, by order, prohibit the sale of food derived from that source, prohibit or restrict the movement or disposal of food derived from that source, or require the destruction of food derived from that source.

Under subclause (3) where the Commission is of the opinion that a particular area is affected by dangerous contaminants so that it should not be used for the production of food, the Commission may, by order, prohibit the use of that area for the production of food. Under subclause (4), an order under the clause may be absolute or conditional. Under subclause (5), a person who contravenes an order under the clause is guilty of an offence punishable by a fine of $5 000. Under subclause (6), where a person fails to comply with an order under subclause (1) *(c)* or (2) *(c)* within the time specified in the order, the Commission may remove and destroy the food the subject of the order, and recover the cost of the removal and destruction from that person.

Clause 24 provides that where the Commission suspects on reasonable grounds that there is in any premises or vehicle food that is unfit for human consumption and the Commission considers that the destruction of food is necessary or desirable in the public interest, the Commission may authorise an authorised officer to destroy the food. Under subclause (2), an authorised officer, acting in pursuance of such an authorisation, may break into the premises or vehicle to which the authorisation relates, using such force as is necessary, and remove and destroy any food in the premises or vehicle that appears to be unfit for human consumption.

Clause 25 provides that where the Commission is of the opinion that there is a substantial risk that food sold to the public is unfit for human consumption, it may require a manufacturer, importer or wholesale or retail vendor of the food to publish advertisements in a manner and form determined by the Commission, warning against the risk that the food is unfit for human consumption, or it may itself publish such advertisements. A person who fails to comply with a requirement to publish an advertisement is liable to a penalty not exceeding $2 500 (subclause (2)). Under subclause (3) the Commission may recover all or part of the cost incurred in publishing an advertisement itself as a debt from the party to whom the advertisement relates.

Clause 26 recognises the division of responsibility for the enforcement of the provisions relating to hygiene as between the Commission and councils. Under subclause (1), it is the duty of each council to take adequate measures to ensure the observance within its area of proper standards of hygiene in relation to the sale of food and the manufacture, transportation, storage and handling of food intended for sale and to ensure that food sold within its area is fit for human consumption. Under subclause (2) it is the duty of the Commission to take adequate measures in relation to those matters within the area of a council that is not properly carrying out its duty under subclause (1), and within that part of the State that is not within a council area.

Subclause (3) provides that before exercising its duty under subclause (2) *(a)*, the Commission must consult the council concerned with a view to establishing the reason for the council's failure to properly carry out its duty. Under subclause (4), a breach of duty under the clause does not give rise to any civil liability. Under subclause (5), in carrying out its duty under the clause a council (or a controlling authority) or the Commission may give such directions as are reasonably necessary to ensure the observance of proper standards of hygiene in relation to the sale of food or the manufacture, transportation, storage or handling of food intended for sale and that food intended for sale is fit for human consumption. Under subclause (6), such a direction may prohibit the use of an unclean or insanitary premises, vehicle or equipment for the manufacture, transportation, storage or handling of food for sale until the premises, vehicle or equipment has been cleared to the satisfaction of an authorised officer nominated in the direction. Under subclause (7) a person who contravenes such a direction is liable to a penalty of $2500. Under subclause (8), a person against whom a direction is made by a council or a controlling authority may appeal against it to the Commission. On hearing an appeal, the Commission may confirm, vary or revoke the direction (subclause (9)).

Clause 27 provides in subclause (1) that the offences constituted by the measure are summary offences. Under

subclause (2), where a body corporate commits an offence, each director is guilty of an offence and liable to the penalty prescribed for the principal offence unless he could not by the exercise of reasonable diligence have prevented its commission.

Clause 28 provides a defence to prosecutions under the measure where the defendant proves that the circumstances alleged to constitute the offence arose in consequence of the act or commission of another (not being an agent or employee of the defendant) and that he could not by the exercise of reasonable diligence have prevented the occurrence of those circumstances.

Clause 29 provides in subclause (1) that in proceedings for an offence, a document apparently signed by an analyst stating that he had carried out, or caused to be carried out, an analysis of specified food and stating the results of the analysis, shall be accepted as evidence of the facts stated in the certificate. Under subclause (2), an allegation in proceedings for an offence that food is or was unfit for human consumption shall be deemed to have been conclusively proved if it is established that the food is or was contaminated by a prohibited substance or organism or contained the flesh of a warm-blooded animal that died otherwise than by slaughter.

Clause 30 provides that the court may order a person convicted of an offence against the measure to pay any costs incurred in relation to the analysis of food to which the proceedings relate. Clause 31 provides that service of a notice, order or other document under the measure may be effected personally or by post. Clause 32 provides for the making of regulations. Regulations may—

(a) impose requirements relating to premises used for manufacture or storage for sale or for the sale of food and with regard to the maintenance and cleansing of such premises;

(b) impose requirements relating to equipment used for the manufacture for storage for sale or for the sale of food and with regard to the maintenance and cleansing of such equipment;

(c) impose requirements relating to vehicles used for manufacture or storage for sale or for the sale of food and with regard to the maintenance and cleansing of such vehicles;

(d) impose requirements relating to people who handle food intended for sale;

(e) prescribe standards with which food must comply;

(f) impose requirements relating to packaging and labelling of food;

(g) require persons selling specified food to provide specified information to purchasers;

(h) regulate, restrict or prohibit the use of specified preservatives, colouring materials and other additives;

(i) provide for the regular analysis, examination or testing of food by manufacturers;

(j) provide for the keeping of records by importers or manufacturers of food and for inspection of such records;

(k) regulate the use of specified methods of treating food;

(l) regulate the form and content of advertisements for food;

(m) regulate automatic food vending machines;

(n) prescribe and provide for payment of fees under the measure;

(o) require any specified class of persons, premises, equipment or vehicles to be licensed for specified purposes;

(p) exempt persons of a specified class, or food of a specified class from the operation of specified provisions of the measure;

(q) impose penalties not exceeding one thousand dollars for breach of a regulation.

Under subclause (3), a regulation may be general or limited in application and may incorporate or operate by reference to a standard or code of practice of any authority or body as in force at a particular time or as in force from time to time and with or without modification to the standard or code.

The first schedule provides for the repeal of the Bakehouses Registration Act, 1945, and the Bread Act, 1954. The second schedule contains consequential amendments to the Food and Drugs Act, 1908. The third schedule contains consequential amendments to the Health Act, 1935. The fourth schedule contains transitional provisions consequent upon the amendments to the Food and Drugs Act, 1908.

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

CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

Consideration in Committee of the House of Assembly's amendment:

Page 1, after line 13—Insert new clause as follows:

1a *Commencement*—(1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation or a day to be fixed by subsequent proclamation.

The Hon. J.R. CORNWALL: I move:

That the House of Assembly's amendment be agreed to.

Motion carried.

CHILDREN'S SERVICES BILL

In Committee.

(Continued from 26 February. Page 2816.)

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. J.R. CORNWALL: I move:

Page 2, lines 36 to 38—Leave out definition of 'pre-school education' and substitute the following definition:

'pre-school education' means programmes for the development and education of children who have not attained the age of six years:.

This is essentially a drafting amendment.

Amendment carried; clause as amended passed.

Clauses 4 to 6 passed.

Clause 7—'Objects of the Minister.'

The Hon. J.R. CORNWALL: I move:

Page 3, line 20—Leave out 'under this Act' and substitute ', any committee established under this Act and any person involved in the administration of this Act,'.

Again, this is essentially a drafting amendment.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 3, line 21—Leave out paragraph *(a)* and substitute the following paragraph:

'*(a)* to ensure the provision of pre-school education and such other children's services as are necessary for the proper care and development of every child;'

We believe that, as this amendment improves the wording and emphasises the priority of interest, it has the support of the Committee.

Amendment carried.

The Hon. J.R. CORNWALL: I move:

Page 3, line 32—Leave out paragraph *(d)* and substitute new paragraph as follows:

(d) to ensure that the multicultural and multilingual nature of the community is reflected—

(i) in the planning, implementation and structure of programmes and services for children and their families;

and

(ii) in the membership of any committee established under this Act and in the staffing of the various bodies, authorities and other agencies involved in the administration of this Act or in the provision of programmes and services for children and their families;.

This amendment is self-explanatory. It is included principally at the urging of the Hon. Mario Feleppa. One will notice that specifically it refers, under the proposed legislation, to ensuring that the multicultural and multilingual nature of the community is reflected in any consultative committee and in the general good conduct of child care services. I commend the Hon. Mr Feleppa for his diligence in being the driving force behind having these amendments prepared on behalf of the Government. I certainly commend them to all members.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 3, after line 37—Insert new subclause as follows:

'(2) In dealing with children under this Act, the Minister shall regard the interests of the children as the paramount consideration.'.

Amendment carried; clause as amended passed.

Clauses 8 to 11 passed.

Clause 12—'Staff.'

The Hon. R.I. LUCAS: I have had some representations on the question of whether, under the Bill (and possibly under this clause) the Government, through the CSO, would be allowed to transfer compulsorily teachers for country service as exists in the Education Department. There has been a controversy in the Education Department over the years in relation to country service. Representations have been made to me as to whether the CSO will have similar powers to possibly compel country service for teachers in certain circumstances.

The Hon. J.R. CORNWALL: My advice is that it has never been intended that there should be any compulsory transfers; it will be an option for staff.

The Hon. R.I. LUCAS: Therefore, there is power within this clause and other clauses to activate compulsory country service, if the need arises. Although, what the Minister is saying is that that is not the current intention.

The Hon. J.R. CORNWALL: That is correct.

The Hon. R.I. LUCAS: If that is the case, I place on record the concern of a number of people about this provision. As I understand it, they do not confront that situation at the moment. They are aware of the problems within the Education Department, involving the South Australian Institute of Teachers, in relation to the whole vexed question of compulsory country service. They have argued to me at least that they do not face that problem at the moment. I can only take it as a fact as they have given it to me. I place on record some concerns about that and I note that, while the Government has that power, the Minister says that the Government does not intend to use it at the moment. I hope that the smooth operation of the office will be such that we will not have to enter into that controversial area where people could be forced to uproot their families and spend a period in country areas serving the CSO.

The Hon. J.R. CORNWALL: I repeat what I said before: on behalf of the Government, I give an undertaking that it is not the current intention that there will be any enforced country transfers.

The Hon. R.I. LUCAS: Is there a possibility for the free flow of staff from the CSO back to other departments?

The Hon. J.R. CORNWALL: Yes.

Clause passed.

Clause 13 passed.

Clause 14—'Transfer of staff from the Public Service or prescribed employment.'

The Hon. DIANA LAIDLAW: I am not sure whether or not my query relates to this clause. I understand that child care workers seek the introduction of Public Service conditions, believing that those conditions will provide them with a proper base of employment. Is it envisaged that this provision will apply to child care workers and, if not, what is the Government's response to child care workers who seek the introduction of Public Service conditions?

The Hon. J.R. CORNWALL: The only firm undertaking at the moment with regard to child care workers who are currently employed by local agency is that the South Australian Government will vigorously pursue the matter with the Commonwealth. There is no firm undertaking at this time that they will become State Public Servants.

The Hon. DIANA LAIDLAW: I note that the clause refers to staffing arrangements. Is it a fact that the Federated Miscellaneous Workers Union of Australia has written to the Chairman of the Public Service Board, located in the Reserve Bank building, seeking a $40 a week pay increase for child care assistants and helpers?

The Hon. J.R. CORNWALL: As far as I am able to ascertain, there has been some indication from the Miscellaneous Workers Union that it will seek an increase. I am unable to quantify the amount sought; at this stage it has not been drawn to the attention of the steering committee.

The Hon. DIANA LAIDLAW: Is it a fact that the Federated Miscellaneous Workers Union sought not only a $40 a week pay increase for child care workers but also a 38-hour week? I have in my possession a letter from the Acting Branch Secretary, Barry Schultz, to that effect. I have been advised that the Government has informed the Public Service Board not to proceed with the claim until after the passage of the Bill. If the claim put to me is not valid, why have the conditions sought by child care workers not been addressed earlier by the Government? I have joined with the Hon. Anne Levy, Marie Coleman, and others in indicating that child care workers are discriminated against in their pay compared to preschool workers.

The Hon. J.R. CORNWALL: I do not know how directly relevant this is to the Bill. I would be amazed if the Miscellaneous Workers Union had not sought a 38-hour week based on a 19-day month. The 19-day month has been introduced progressively as finance has permitted and, of course, has followed very significant work to achieve offsets with the unions in a whole range of Public Service employment. That has been going on for years. Considerable progress was made in relation to a 19-day month during the member for Davenport's term as Minister of Industrial Affairs. It has certainly proceeded at a reasonable pace in the two years and three months that this Government has been in office.

Of course, there is now a 19-day working month in the public sector of the health industry. I might say that that was granted only after long and friendly negotiations. At the outset the Government made certain conditions and stipulations: that it would only be considered when there had been a substantial move in that direction interstate; and it would only be considered after an oversight committee, under the aegis of the Trades and Labor Council, had

negotiated significant offsets to the extent that that was possible. Off the top of my head I cannot recall all of the classes of workers in the public sector who have been granted the 38-hour week based on the 19-day month. However, at this stage it is commonplace and widespread among public sector employees. The child care workers' salaries are or will be principally paid by the Commonwealth; industrial agreements must be reached initially with the Commonwealth, and negotiations are proceeding in that direction.

Any final decisions or any granting of 19-day months in particular, or even salary rises in general in the interim, would be unwise. So, to the exent that we would like a nice neat arrangement, clearly the passage of this Bill has some impact on improving the conditions of those workers for whom the Hon. Miss Laidlaw expresses a genuine concern.

The Hon. DIANA LAIDLAW: The Minister spent some time talking about the 19-day fortnight and the 38-hour week but not the claim for $40 a week increase. I indicated at the start of my earlier question that I had been advised—and I think by a most credible source—that child care workers have been informed through their union and individually that the Government is not prepared to even look at this claim until this Bill is through. Further, it has been argued to me that this may be one reason for the euphoric support of the child care sector for this Bill.

The Hon. R.I. Lucas: Blackmail!

The Hon. DIANA LAIDLAW: Blackmail, the Hon. Mr Lucas suggests. I would like the Minister to remark again on this advice and the Government's attitude to the $40 a week pay rise that has been sought by child care workers, because certainly Marie Coleman saw this course as very important for child care workers in the State.

The Hon. J.R. CORNWALL: First, I am very pleased to see the Hon. Miss Laidlaw going to bat for the workers.

The Hon. Diana Laidlaw: It's not the first time.

The Hon. J.R. CORNWALL: No, indeed, it is not. The honourable member tends to slip into small 'l' liberal principles frequently, and I pay tribute to her for it. I wish that she had more colleagues who would join her. After I have said those nice things about the Hon. Miss Laidlaw, as I like to do from time to time, it is an outrageous allegation that the Government is in some way involved in blackmail. Really, that does the Opposition in general and the Hon. Miss Laidlaw no credit at all. That is not the way we conduct industrial relations and it is not the way that negotiations are conducted in this matter.

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order! The honourable member has asked a question that is doubtfully related to the Bill. At least, she should listen to the answer.

The Hon. J.R. CORNWALL: Clearly, however, it would be much easier to conclude an arrangement with the Commonwealth and with the Miscellaneous Workers Union once we had the certainty of the legislation. I therefore urge members to expedite its passage.

The Hon. R.I. LUCAS: I have had representations from a preschool trained teacher in a kindergarten, asking whether, under the Government proposal, working hours and holidays for people such as himself will remain the same as for Education Department teachers. Can the Minister comment?

The Hon. J.R. CORNWALL: The hours and conditions of employment in that respect will remain exactly as they are at the moment.

Clause passed.

Clause 15—'The Children's Services Consultative Committee.'

The Hon. I. GILFILLAN: I move:

Page 6, lines 15 and 16—Leave out 'appointed by the Governor'.

The first amendment, which relates to new paragraph *(a)*, aims at ensuring that the 12 persons from the regional advisory committees will be truly representative and seeks that they be elected and, further, that they will be parents of children enrolled at, or attending, any establishment that provides children's services. In other words, they will be people who are well into the actual children's services area and, therefore, better equipped to represent on the consultative committee. In moving this first amendment, I ask the Minister whether he would give an assurance in *Hansard* (I have discussed with counsel the question of election and it will be apparently defined in the regulations satisfactorily, but the term of three years is applied in clause 16 as far as appointed members go) that the anticipated term of election will be three years or that there will be triennial elections for these people.

The Hon. J.R. CORNWALL: Yes, I would.

The Hon. R.I. LUCAS: I understand 'parents of children', but one can have parents of what else?

The Hon. I. GILFILLAN: It is 'parents of children attending . . .'.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 6, lines 17 and 18—Leave out paragraph *(a)* and substitute new paragraph as follows:

(a) twelve persons, elected by the regional advisory committee in accordance with the regulations, being parents of children enrolled at, or attending, any establishment that provides children's services;.

Amendment carried.

The Hon. I. GILFILLAN: I missed an amendment that should have applied to lines 15 and 16.

The CHAIRMAN: That was the one that the honourable member had passed in the first place: to leave out 'appointed by the Governor'.

The Hon. R.I. Lucas: He moved the other one.

The CHAIRMAN: Let us go through it again because I read clearly the lines 15 and 16. That was passed. Does the honourable member want me to put it again? Since that time he has moved an amendment to lines 17 and 18, which has also been carried.

The Hon. I. GILFILLAN: I am perfectly happy with what transpired.

The CHAIRMAN: That is the record here. Without some query from the Committee I will accept what we have recorded.

The Hon. R.I. LUCAS: At some stage I would like the honourable member to explain the reasons for the amendment to lines 15 and 16, which is to leave out 'appointed by the Governor'. I do not want to delay the Committee, but he never spoke about that.

The Hon. I. GILFILLAN: I will combine it with moving the amendment to line 19 because the same logic applies. If one has a mixture of elected and appointed members on a consultative committee, one cannot have a heading to clause 15 that will embrace them all as 'appointed by the Governor'. Therefore, it becomes necessary for 'appointed by the Governor' to be applied to those who will be chosen by the Minister. There is a difference between the people who will be elected and those who will be appointed.

The Hon. R.I. LUCAS: I can see what the honourable member is driving at, but after the election would the formal procedure of appointment by the Governor not follow and, therefore, there is no need for the removal of lines 15 and 16? I can see what the honourable member is driving at, but I take it that if under his new paragraph *(a)*, which we have just passed, by which 12 people are elected, would they not be formally appointed by the Governor after the election? Is that not just a procedural thing?

The Hon. J.R. CORNWALL: By the Governor in Executive Council: in other words, it has to go to Cabinet.

The Hon. R.I. LUCAS: Why are we removing 'appointed by the Governor'? The Minister, I take it, is agreeing with the Democrats in this package of amendments to remove 'appointed by the Governor'. I would have thought that it was just a normal thing that it is approved by the Governor in Executive Council and that 'appointed by the Governor' should be left in and not removed.

The Hon. J.R. CORNWALL: A simple explanation exists. There is the word 'democracy'. One could call it the committee that grew, following some of the negotiations that have gone on very positively this week. All those people are nominated by their relevant organisations. Once that has happened, to put the matter under Cabinet scrutiny or for Cabinet to try to fiddle or vet it in any way would be quite undemocratic. Once nominated by their organisations as spelt out in the Bill they automatically go on to the committee.

The Hon. I. GILFILLAN: I would like to add to that. 'The committee shall consist of the following persons' is how it now reads, with 'appointed by the Governor' taken out. In paragraph *(a)* the 12 persons nominated will automatically go on the committee. They do not need approval, vetting or culling by the Government. However, the following members will be—the Government appointees. That is why the words 'appointed by the Governor' are required to be put into the subsequent provisions but not the first provision dealing with elected representatives.

The Hon. R.I. LUCAS: In regard to further clauses, I take it that, once elected, members would automatically be entitled to allowances and expenses under clause 17 from the date of their election and that there is no procedural mechanism such as gazetting? I take it that nothing like that is required. They are elected and automatically start receiving allowances and expenses and there is no recognition by formal procedure by gazetting and by the Governor in Executive Council?

The Hon. J.R. CORNWALL: The position is that any member of the committee will be entitled to receive such allowances and expenses as are approved by the Governor in Executive Council on the recommendation of Cabinet. These determinations are made with respect to many committees. It is a perfectly normal procedure and, once determined, they will apply to all members. If the Governor in Executive Council has decided that the allowance should be X dollars for attendance and Y dollars for travel and that is not changed in the interim during the period of the election, those expenses would continue. If someone says that they are not enough and they are adjusted by Cabinet at some future time, then they would automatically apply. Any of those allowances and expenses would be gazetted automatically, because it has to be done by the Governor in Executive Council.

The Hon. DIANA LAIDLAW: How does the new arrangement work in regard to clause 16, which deals with the term of office of members? That provision states:

A member of the committee shall be appointed for such term, not exceeding three years . . .

Are these 12 parents of children going to be appointed or elected for three years, two years or one year? How will it work?

The Hon. I. GILFILLAN: I have a consequential amendment to clause 16 to embrace both elected and appointed members.

The Hon. J.R. CORNWALL: In terms of the members appointed by the Minister via Cabinet and, in practice, the Governor in Executive Council, it is a perfectly normal practice for their terms to be staggered. It is highly undesirable to appoint a consultative committee (that has now grown to 33 members) and for all their terms to expire on the same day. If a whole new committee came in, one would lose continuity. It is normal practice for those Ministerial appointments to be staggered over a period of one, two or three years. This is done all the time. I do it in regard to hospital boards around the State. The option to reappoint is always there, but the idea of staggering the terms is purely a practical one.

The Hon. DIANA LAIDLAW: I understand that the Hon. Mr Gilfillan's amendment to clause 16 deals with members appointed but, as far as I can see, it does not cover the elected members. Will it be left to the regulations for each regional advisory committee to determine whether its members are elected for one, two or three years?

The Hon. I. GILFILLAN: A little earlier I asked the Minister to answer specifically for *Hansard* that the term of election would be triennially, and he replied 'Yes'. It was a short answer and one could be excused for missing it. It was specifically for that reason that I asked the question. I am happy for it to be dealt with under regulations. The regulations are the right place for it and I assume that we have the assurance from the Minister.

The Hon. J.R. CORNWALL: If ever we pass that amendment to the Acts Interpretation Act we could remove all this uncertainty quickly. It is not entirely in our hands. Yes, I give that firm assurance on behalf of the Government.

The CHAIRMAN: Both the Minister and the Hon. Mr Gilfillan have amendments on file to lines 19 to 23.

The Hon. J.R. CORNWALL: Perhaps I can overcome that problem by moving my amendment in an amended form. I move:

Page 6, lines 19 to 23—Leave out paragraph *(b)* and substitute new paragraph as follows:

(b) six persons appointed by the Governor, being persons selected by the Minister from a panel of persons nominated in accordance with the regulations by each regional advisory committee and by such organisations involved in the field of children's services as may be prescribed;.

The amendment incorporates the Hon. Mr Gilfillan's amendment.

The Hon. I. GILFILLAN: I agree to that. If I had thought of it, I would have included that wording.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 6, line 24—After 'persons' insert 'appointed by the Governor, being persons'.

This is a repetition of the wording required in subclause *(b)*.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 6, line 27—Leave out paragraph *(d)* and substitute new paragraphs as follow:

(d) one person, appointed by the Governor, upon the nomination of the South Australian Commission for Catholic Schools;

(da) one person, appointed by the Governor, upon the nomination of the South Australian Independent Schools Boards Incorporated;

(db) one person, appointed by the Governor, upon the nomination of the South Australian Institute of Teachers, being a person employed in the provision of children's services;

(dc) one person, appointed by the Governor, upon the nomination of the Public Service Association, being a person employed in the provision of children's services;

(dd) one person, appointed by the Governor, upon the nomination of the Federated Miscellaneous Workers Union, being a person employed in the provision of children's services;

(de) one person, appointed by the Governor, upon the nomination of the Association of Junior Primary Parent Clubs, being a suitable person to represent the interest of persons involved with Child Parent Centres;

(df) one person, appointed by the Governor, being a person who, in the opinion of the Minister, is a suitable person to represent the interests of establishments that provide

children's services and that are not assisted by public funding;'.

This is a substantial amendment, and is aimed at widening the scope of the representation on the consultative committee, as far as possible ensuring that members of the committee will truly reflect the area of children's services from within. Therefore, instead of three persons being nominated by the United Trades and Labor Council, there will be three employees in children's services nominated by the three unions that are now recognised in that area. As well, there will be representation from the Catholic schools, the Independent Schools Board, and the non-public funded children's services area, and one person appointed by the Governor upon the nomination of the Association of Junior Primary Parent Clubs (and that should be emphasised) being a suitable person to represent the interests of those involved with child/parent centres.

We have been firmly of the opinion that child/parent centres, whatever the structure may be *pro tem*, should be embraced in the general parameters of concern and interest of the Children's Services Office. It is particularly satisfying that representatives from the child/parent centres were keen to have representation on the consultative committee. That augurs well for co-operation and progress in time to come. The body from which that nomination should come was the subject of some discussion, but certainly at this stage it appears that the Association of Junior Primary Parent Clubs is the most truly representative of the views of parents who are involved in child/parent centres. That is why new paragraph *(de)* so specifies. The amendment is aimed at reflecting the interests and representation of child/parent centres.

The Hon. J.R. CORNWALL: I had intended in the third reading stage to pay a tribute to a large number of people who have been involved in the evolution of this legislation, and more particularly those who have been involved in many lengthy discussions in the past few days. I believe that this amendment is a triumph for conciliation and common sense. There were concerns that, despite the fact that the original committee had a membership of 29, significant groups might not be represented. There was also a concern felt by some members that the union representatives should be employed actively in the child care area while belonging to one of the three major unions that cover those employees.

As a result, we have what I believe is, although lengthy, a very good amendment. None of this will help, of course, if we do not at the end of the day when the Bill is proclaimed come up with an effective Director, efficient management, and the goodwill of all parties concerned, but this is certainly a major step in the right direction and I am very happy to support the amendment.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 6, line 29—After 'persons' insert 'appointed by the Governor, being persons'.

Amendment carried.

The Hon. J.R. CORNWALL: I move:

Page 6, after line 29—Insert new subclause as follows:

(2a) In selecting persons for membership of the committee under subsection (2) *(b)* the Minister shall seek to ensure that the persons selected have an appropriate diversity of experience in the provision of preschool education for children, non-residential care of children, family day care for children, and such other children's services as the Minister thinks fit.

Amendment carried; clause as amended passed.

Clause 16—'Term of office of members.'

The Hon. I. GILFILLAN: I move:

Page 6, line 35—Leave out 'A' and substitute 'An appointed'.
Page 7, line 11—After 'appointed' insert 'or elected'.

I explained these amendments in reply to a question from the Hon. Diana Laidlaw.

Amendments carried; clause as amended passed.

Clause 17 passed.

Clause 18—'Conduct of business.'

The Hon. I. GILFILLAN: I move:

Page 7, line 20—Leave out 'fifteen' and substitute 'seventeen'.

This amendment is consequential on the increased number of members of the consultative committee. The number will be increased, and 17 members instead of 15 will make up a quorum.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, after line 28—Insert new subclause as follows:

(6a) The committee shall meet at least once annually in each country region in the State designated by the Minister under section 21.

The amendment seeks to ensure that the consultative committee will meet at least once annually in each country region of the State designated by the Minister under clause 21. I understand that the Minister intends that six regional areas be designated, two being in country regions. This amendment seeks to ensure that the consultative committee meets in those two country regions at least once a year. This is one of a number of amendments that I will move in an effort to ensure that we maximise the accountability of the consultative committee to people whom the array of children's services is supposed to be serving, that is, the parents and their children. It will also maximise parental involvement in the delivery of services and encourage a two-way flow of information, and not just downwards.

The consultative committee is being promoted as a key element in the Government's restructuring of children's services, and I believe firmly that, if the consultative committee is to win the confidence of all it serves and the users of those services, and if it is to perform its advisory function credibly, it is essential that it remain in touch with the community or the grass roots and those interests that it has been designed to serve. One of the great needs to be addressed by the consultative committee in the provision of children's services is the delivery of services to country areas, particularly areas outside metropolitan Adelaide.

The Commonwealth Schools Commission in at least the past few of its annual reports has highlighted the great disadvantage that country children, particularly pre-school children, are facing in the delivery of service both in quality and quantity. I noticed the Hon. Ian Gilfillan's comments during his second reading speech in which he highlighted the fact that remoteness and distance in the country are factors that disadvantage children in the education that they receive. In highlighting that point Mr Gilfillan suggested that this problem could be redressed by having three rather than two regional advisory areas. I do not recall the Minister responding to that, but I sympathise with the emphasis that Mr Gilfillan placed on that suggestion.

It is true that often the needs of the country and country children are overlooked because of sheer lack of weight of numbers: they do not attract the attention that children in metropolitan areas attract. I believe that the old saying 'Out of sight out of mind' has often applied in the delivery of services in the past and I see an opportunity with this Bill to ensure that the application of the 'Out of sight out of mind' philosophy does not apply with the Consultative Committee in the conduct of its affairs in future.

The Kindergarten Union Act provides under part 4, which deals with the Council of the Union, clause 23 (4), that the Council may from time to time meet in various centres of population in country areas throughout the State. That Act passed 10 years ago saw the need for the council to keep in touch with country areas. I believe that it is wise that we incorporate that sentiment in this Bill. When speaking to Parliamentary Counsel about this amendment it was sug-

gested that to mention just the country areas was discriminatory and that I should perhaps move that the Consultative Committee meet in all regional areas. I was not happy with that approach because I believed that it could be administratively difficult.

I was not sure how often the committee was to meet—once a month or once every two months—so I thought it unwise to hold the Government to that Consultative Committee meeting in all regional areas. Therefore, I have confined my amendment to the two country areas that I understand will be established. In confining it to those country areas and insisting that the Consultative Committee meet in those two areas at least once a year, the amendment does not preclude the committee from meeting more than once a year in those country areas, or indeed in all areas. I recognise that these meetings will be costly. It has been suggested that it may cost $10 000 each time that the committee meets in a country regional area.

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: Perhaps they would have a greater appreciation of country problems then. Even if we forget the billeting for a moment and say that the cost is just $10 000, I argue strongly to the Government and the Australian Democrats that $20 000 to allow the committee to meet in both centres is a small cost to pay when compared to the amount of money that is spent on the education of pre-school children and on other pre-school services in this State. It is a small cost to pay to ensure that the Consultative Committee keeps in touch with the community, particularly in country areas, which we have all acknowledged have suffered grave disadvantages previously.

The Hon. I. GILFILLAN: Is the amendment for the committee to meet annually in 'a' country region or in 'each' country region?

The Hon. DIANA LAIDLAW: To meet in each country area once a year.

The Hon. J.R. CORNWALL: The Government does not accept this amendment.

The Hon. DIANA LAIDLAW: We have commented on the Government's handling of this measure to date. One asks one person something and gets advice and then asks another person and gets other advice: this makes matters difficult. What the Minister is talking about at the moment is really central to many of the problems that the Opposition has highlighted throughout the debate on this measure.

The Hon. J.R. CORNWALL: I am in incipient old age and did not have much sleep last night, so perhaps young people like Ms Laidlaw will bear with me. I spoke to Ms Laidlaw about this matter, and it is not very honourable what she has just done. I intimated that as a concession or compromise I would be prepared to accept an amendment that would require the committee to meet in a country region once a year. I thought, as I shuffled through my papers and the numerous amendments that I have been submerged with in the process of conciliation during the past several days, that the amendment on file had been altered accordingly, but that is not so. I am prepared to accept an amendment whereby the committee is required to meet in a country region once a year.

It is very expensive, as the Hon. Ms Laidlaw has pointed out, for the committee to meet in the country. We have done a calculation as to the cost of meeting in cities or towns like Mount Gambier, Port Lincoln and Berri, and for the entire committee and its support staff to meet in one of those areas would cost an estimated $10 000 of taxpayers' money. Some people consider that that would be money better spent in providing children's services in one area or another. I am happy for the committee to go once a year to the country, as I think there is nothing like a walk and talk experience—I encourage my Hospital Boards of Management to do that.

The Hon. Diana Laidlaw: You never listen when you go, that's the trouble.

The Hon. J.R. CORNWALL: I do a good deal of listening and learning. It is foolish for people to preach and teach until such time as they have done their listening and learning. I am happy for the committee to go to the country once a year and am happy to accept an amended amendment so that it would read:

> The committee shall meet once annually in a country region in the State designated by the Minister under section 21.

I would be happy to support such an amendment.

The CHAIRMAN: The Hon. Ms Laidlaw, if she wishes, could amend her amendment.

The Hon. J.R. CORNWALL: I ask the Hon. Ms Laidlaw to revert to her normal pleasant self, and suggest to her that she might move her amendment in that amended form. That would be acceptable to the Government. The honourble member would have to strike out the words 'at least' and instead of 'each' insert the word 'a'.

The Hon. I. GILFILLAN: We seem to have reached a rough patch of the track, which up to now has been smooth. The aims expressed by the Hon. Diana Laidlaw are exemplary and have my full support. However, I do not believe that it is essential to include in the Bill that the committee must meet in each regional area each year. I am not sure whether or not we have fixed for all time how many country regions there will be. The wording I will accept is, 'Shall meet at least once annually in a country region in the State'. This will still give encouragement and opportunity to meet more than once if that appears practical or desirable. For effective representation of country and remote areas it may be better to have extra resources in the field, with more CSO representatives scattered permanently through the area.

The consultative committee will only be in one focus of what are vast geographical areas. It is a good gesture, but not the cure-all. I would support an amendment which reads, 'The committee shall meet at least once annually in a country region in the State designated by the Minister under section 21.' I will move that in due course if no-one else does so.

The CHAIRMAN: Is the Hon. Diana Laidlaw prepared to amend her amendment?

The Hon. DIANA LAIDLAW: No, I am not prepared to amend my amendment. I hark back to last night when first the Hon. Mr Gilfillan, and then the Minister, came to speak to me. On neither occasion did I indicate that I was prepared to change my amendment. I remember speaking to the Minister and saying, 'If I do not change, will you be prepared to accept once a year?' He said, 'Yes.' So, I left it at that. I do not accept the Minister's statement that I have acted other than honourably in this matter.

If the Government is to argue credibly that the consultative committee will be respected by the community and listened to by the Minister, then it has to be seen to be receiving a vast amount of information and be in touch. One way we can ensure the committee is so respected in the community is by acknowledging its difficulties. If one supports the arguments of the Hon. Mr Gilfillan (that it would be better to have an advisory officer or someone else in a region) it confirms the fear of many people in the community that there will be a heavy bureaucratic structure and that the advisory committee has no teeth at all. I find the Hon. Mr Gilfillan's argument extraordinary when he places such emphasis on the country problems. One factor when arguing against a country meeting is cost. His proposals for a possible third region would be extraordinarily more expensive.

I do not propose to amend my amendment. One of my reasons for this is that last night, after speaking to the

Minister, I fortunately spoke with Mary Corich, who all members know is the Manager of the implementation team. She quite candidly volunteered to me—without hesitation—after having had discussions earlier in the evening, that my amendment was reasonable, and it was entirely acceptable. On that basis I felt heartened, because she had been involved in the Bill to date, that the Minister would take notice of her advice. On that basis I continue to insist on this amendment.

The CHAIRMAN: Order! I draw attention to the fact that it is most unusual to place blame or praise on public servants. The Minister is responsible for the Bill, and no-one else.

The Hon. J.R. CORNWALL: To clarify the position, in the discussion I said that I would be happy to accept the amendment in an amended form, if we struck out 'at least' and inserted 'a' instead of 'each'. The Hon. Mr Gilfillan wants to leave in 'at least'. Being the consensus operator that I am, I indicate that I will be perfectly happy to accept an amendment along those lines. I cannot accept the Hon. Diana Laidlaw's amendment. On all the estimates that are available to me—from Treasury and every other reliable source—it would cost about $10 000 for each country meeting.

I never fail to be amazed by this Opposition, led by Mr Olsen in another place. It daily talks about the high cost of alleged big government, particularly in the human services area (health, education, welfare). This area is very much a human services area. The Hon. Diana Laidlaw is quite happy to spend $10 000 of taxpayers' money two or three times a year, or as often as might happen to be the case when the regulations are made. Frankly, one cannot have it both ways: one cannot talk about cutting back public expenditure and, every second time a Bill comes into this place, have no regard for the South Australian taxpayers' money.

The Hon. C.M. Hill: You are one of the biggest spenders in the Government, up there at the Health Commission.

The Hon. J.R. CORNWALL: We are very good in our administration and are very frugal in how we administer our very large budget. Surely, the Hon. Mr Hill—

Members interjecting:

The CHAIRMAN: Order! There are two amendments before the Chair. Is the Hon. Mr Gilfillan prepared to amend the Hon. Miss Laidlaw's amendment?

The Hon. I. GILFILLAN: I move:

That the word 'each' in the amendment be deleted and replaced with 'a'.

The Hon. R.I. LUCAS: I have a question for the Hon. Mr Gilfillan. I would have thought that what he was trying to get at is that with two country regions and, if there were sufficient funds for two meetings, they would meet once in each of the regions—perhaps once at Port Pirie and once at Mount Gambier. Is the effect of the member's amendment that the committee shall meet at least once annually in a country region?

That means it could be the southern region. The Minister is saying that it could meet a couple of times in the Mount Gambier region in one year, but not in the northern region in, say, Port Pirie. I would have thought that the honourable member and the Minister were attempting to provide that flexibility, but it is not in the amendment.

The Hon. I. GILFILLAN: The Hon. Mr Lucas has a point. The intention is that we not be restricted to a particular country region. If the wording is interpreted to make that restriction, perhaps it should be revised. The intention is that there shall be representation of the consultative committee in whatever country regions as best can be provided and that there will be at least one annual meeting. I dearly hope that there will be more than one meeting—there may be three in two years or eventually two in one year. The amendment seeks to make a commitment that there is at least one meeting in one of the country regions. I do not see how I can make it any clearer.

The CHAIRMAN: I interpret 'a' to mean any one area. If the honourable member wishes to designate a particular area, it should be worded that way. The honourable member has used the phrase 'a country region', and I interpret that as meaning any one country region.

The Hon. R.I. LUCAS: You may be right, Mr Chairman. However, neither of us is a lawyer. We have the assistance of some fine legal minds in this Chamber. Mr Chairman, if your interpretation is correct, I am happy that the amendment does what is intended. I am wondering whether the Minister could consult with the fine legal minds in this Chamber and then give us a legal opinion, rather than the Committee relying on the attempts of two non-legally trained minds.

The Hon. J.R. CORNWALL: It has never been my practice to give legal opinions, either gratuitously or for fee. It is most unwise for anyone, unqualified in the law to give legal opinions. It is a perilous course and one on which I do not intend to embark at this time. If one uses a little bit of common sense, which is what I thought we in this place would be about, it is perfectly clear what is meant by saying that the committee shall meet at least once annually in a country region in the State designated by the Minister under section 21.

It is quite stupid to suggest that the committee will go traipsing up and down the line to the South-East and visit Mount Gambier two or three times in any 12-month period to the total neglect of the Iron Triangle, the West Coast, or the Riverland. That is a spurious and stupid argument. That is not the way that things operate in practice, and it is not the way that the committee will operate in practice. The committee will be required to get out into the non-metropolitan area to see how people live in the provincial cities and towns of this State. We are perfectly happy to accept that it ought to do that annually so that committee members do a good deal of listening and learning. Indeed, if it was a committee of seven members, I would be perfectly happy to accept that it should visit all reasonable sized country regions annually. The simple fact is that it costs money.

Frankly, I think that the Hon. Miss Laidlaw's proposal can be achieved quite adequately by the committee travelling to a different region year after year. It must be remembered that people from those regions will be represented on the committee. With the committee meeting at least four times a year, the members nominated by local organisations will be well able to bring to the attention of the committee particular problems as they occur in the South-East, the Riverland, the Iron Triangle, the West Coast or anywhere else in the State. I simply appeal for a good deal more common sense and a good deal less nitpicking.

The Hon. R.I. LUCAS: It is disappointing that the Minister will not consult with the legal advice available. The Minister says that he will not give the Committee a legal opinion, but instead proceeds with personal abuse and bluster, as is his custom. The Minister has given us his own personal legal opinion as to the intent of the clause. I do not wish to delay the Committee. I have asked the Minister and the mover of the amendment a genuine question. The Hon. Mr Gilfillan was honest enough to say that he did not know. I am saying that I am not sure, either. The amendment appears to provide that the Minister will designate a country region, and that the committee will meet at least once annually in a country region. If that is not the case, I will not delay the Committee; I will leave it and it can rest on the head of the Minister.

The Hon. I. GILFILLAN: The Hon. Mr Lucas said he might leave this matter; perhaps that is the shortest course. Perhaps I could amend the amendment to read 'annually in one of the country regions'.

The Hon. J.R. CORNWALL: This is really the lowest grade filibustering and nonsense that I have ever seen in this Chamber. I have spoken to Parliamentary Counsel, so I am not giving a legal opinion. Parliamentary Counsel has confirmed my view that the proposed amendment means exactly what it says. It is plain English. The committee shall meet at least once annually in a country region in the State designated by the Minister under section 21: that means exactly what it says; members do not need learned opinion to understand that, if they have an IQ above 72.

The Hon. DIANA LAIDLAW: I am sorry that both the Government and the Democrats do not see fit to support my amendment, principally on the basis of cost. In passing, I reflect that that argument is interesting. If the Government cannot afford $10 000 for this initiative, it will be interesting to see how it will meet the expectations of the child care workers and others in their claim for a $40 week rise.

Amendment to the amendment carried.

Amendment as amended carried.

The Hon. R.I. LUCAS: Can the Minister give the approximate number of consultative committee meetings per year, irrespective of where it meets in the State?

The Hon. J.R. CORNWALL: I think it is four times a year. I have just been advised that it is not spelt out in the Bill itself; it will be spelt out in the regulations. Clause 18 (6) provides:

> Subject to this Act, the business of the committee shall be conducted in such manner as it determines.

The committee to that extent will be master or mistress of its own destiny. It is anticipated that under the regulations it will be required to meet bi-monthly.

Clause as amended passed.

Clause 19 passed.

Clause 20—'Functions of the Committee.'

The Hon. DIANA LAIDLAW: I move:

> Page 7, after line 41—Insert new paragraph as follows:
> *(ba)* to consider reports made to the committee by regional advisory committees:

This amendment adds to the function of the consultative committee a responsibility to consider reports made to the committee by regional advisory committees. I move it because, as I indicated earlier, I believe very strongly in the importance of ensuring a two-way flow of information in this new structure that the Government is presenting in this Bill.

This amendment will ensure that the consultative committee receives opinion from the local level. I know that the Minister, in addressing the earlier amendment that I moved about the consultative committees moving out to the country, indicated that representatives from each regional area were on those consultative committees. The fact is that they may not always be able to attend each meeting. It is also a fact that with written reports from regional advisory committees all members of the consultative committee are then able to get a good overview picture of what is happening in the State. I simply suggest that this be a further function of the consultative committee, and I certainly believe that it complements the other functions that have been assigned to the consultative committee and, moreover, that the consultative committee will carry out its functions more effectively.

The Hon. I. GILFILLAN: I commend and support the amendment. It is a very effective means of ensuring the aims that the Hon. Diana Laidlaw so lucidly expressed.

Amendment carried; clause as amended passed.

Clause 21 passed.

Clause 22—'Membership of regional advisory committees.'

The Hon. I. GILFILLAN: I move:

> Page 8—
> Line 8—Before 'The' insert 'Subject to subsection (2a),'.
> After line 9—Insert new subsection as follows:
> (2a) Each regional advisory committee shall have more elected members than appointed members.

It is my understanding that the amendment that the Hon. Diana Laidlaw has on file is not in conflict with our intention, and it has our support. Our amendments are to embrace the aim of having a majority of the regional advisory committee as elected members rather than appointed members. It repeats the same aim as we had in the consultative committee, that these advisory committees will be as much as practicable reflective of the people involved. Too often, the tendency is for the tidy, sometimes not officially bureaucratic, but bureaucratic-type structures to take control over committees. This amendment aims to ensure that that will not happen and that there will be a mixture of elected and appointed, no doubt. The appointed members may very well be necessary in the wisdom of the advisory committee or the authority making the appointment to cover certain areas or groups that otherwise are not represented on the committee, and the committee feels that it would be valuable to have them on it. So, in the first instance, line 8 is a preliminary to introducing my major amendment to this clause, which is new subsection (2a).

The CHAIRMAN: Since both amendments are tied to the success of each other, if the Hon. Mr Gilfillan and the Hon. Miss Laidlaw wish to canvass their views on lines 8 and 9 before we vote on line 8, they may do so. If the Hon. Miss Laidlaw wishes to speak to her amendment now, she can do so.

The Hon. J.R. CORNWALL: The Government accepts both of them.

The Hon. DIANA LAIDLAW: I am very pleased to hear from the Minister and also from the Hon. Ian Gilfillan that the Democrats are prepared to support my amendment. The Liberal Opposition is certainly prepared to accept also the Democrat amendment.

The Hon. I. GILFILLAN: The Hon. Rob Lucas picked up before that the wording of the Hon. Diana Laidlaw's amendment should be extended. 'Parents of children' is a tautology, really, but it could read 'parents of children who are enrolled at or attending'. I wonder whether the Hon. Diana Laidlaw is paying attention to this comment or is she too distracted?

The Hon. Diana Laidlaw: He does not distract me that much.

The Hon. I. GILFILLAN: Perhaps to good purpose. To avoid my having to argue the point, I suggest that she considers extending the wording in that clause.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan has made a sensible suggestion. They might be able to come to some agreement to add some words.

The CHAIRMAN: If the Hon. Mr Gilfillan's amendment is accepted, the Hon. Miss Laidlaw's amendment will be to subsection (2a).

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

> Page 8, after line 9—That subclause (2a) read as follows:
> A majority of the members of a regional advisory committee must be parents of children enrolled at or attending any establishment that provides children's services.

I understood from the Minister's earlier comments that he was accepting both amendments.

The Hon. J.R. CORNWALL: No. At that time it simply said, 'parents of children'. That is vastly different from the form in which it has now been moved. I would be willing to accept the amendment if it included words such as 'must be parents of children . . . at the time of their election or

appointment'. The provision is restricted dreadfully if one is to grab every first year parent who appears at a child/parent centre when a 3½-year-old child is enrolled and then goes out of the picture again in 18 months.

The Hon. R.I. Lucas: It's the same amendment as that moved by the Hon. Mr Gilfillan.

The Hon. J.R. CORNWALL: In that case I oppose both amendments.

The Hon. R.I. Lucas: You have passed it.

The Hon. J.R. CORNWALL: I will have it reconsidered. Quite sensibly, we ought to put in words to cover 'at the time of election'.

The Hon. I. GILFILLAN: It does not need to be covered. The wording in my amendment was automatic. It did not say that they were disqualified if their children ceased to be enrolled. They are elected as that.

The Hon. J.R. Cornwall: You are confusing me.

The Hon. I. GILFILLAN: The Minister does not need to get confused. There is probably good reason for the Hon. Miss Laidlaw to consider that point, because otherwise a member of the committee for some unforeseen reason could have an ill child or the child could go elsewhere and would be neither enrolled nor attending and that person would no longer be a member of the committee. The term 'at the time of appointment' is a reasonable condition to include and I suggest that the Hon. Miss Laidlaw considers that change favourably.

The Hon. R.I. LUCAS: Is the Minister suggesting the additional words 'at the time of appointment or election'?

The Hon. J.R. CORNWALL: Yes. The average span of a parent of a preschool child is about 18 months; that is a bit short for a three-year committee.

The Hon. DIANA LAIDLAW: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. DIANA LAIDLAW: I move:

Page 8, after line 9—Insert new subclause as follows:

(2a) A majority of the members of a regional advisory committee must be parents of children enrolled at or attending any establishment that provides children's services at the time of appointment or election.

Amendment carried.

The Hon. R.I. LUCAS: I take it that organisations not currently within the Children's Services Office but for which co-ordination will be required, such as Child, Adolescent and Family Health Service, will be represented on the regional advisory committees?

The Hon. J.R. CORNWALL: I would certainly hope so. It is not something to which I have turned my mind in advance.

The Hon. R.I. Lucas: It would be a good idea.

The Hon. J.R. CORNWALL: It would seem in principle that it would be a splendid idea. South Australian society is characterised by co-operation. I would be surprised if we did not get that sort of co-operation showing up by the appointment or election of appropriate people such as CAFHS and other bodies to the regional advisory committee.

Clause as amended passed.

Clause 23 passed.

Clause 24—'Procedure, etc.'

The Hon. DIANA LAIDLAW: I move:

Page 8, lines 20 to 22—Leave out subclause (3) and insert new subclauses as follows:

(3) The chairman of a regional advisory committee shall—

(a) as soon as is practicable after each meeting of the committee, make a report to the committee on the business transacted at the meeting; and

(b) make such reports to the Director and the committee on the deliberations of and conclusions reached by the committee as the Minister may require.

(3a) A regional advisory committee shall hold at least five meetings in each year.

In respect to new subclause (3), it simply complements an amendment to which the committee agreed earlier in regard to clause 20, which dealt with the functions of the consultative committee. That amendment confirmed that the consultative committee was to consider reports to that committee by regional advisory committees, and this amendment simply confirms that the regional advisory committees provide as soon as practicable after each meeting a report to the consultative committee.

In regard to new subclause (3a), I am moving that a regional advisory committee shall hold at least five meetings in any one year. I accept that so much of the operations of the regional advisory committee are to be left to regulations, but I believe it is most important that the committee requires that these regional advisory committees meet at least five times a year. I see those meetings as being very crucial to the effective working of this proposed structure.

Amendment carried; clause as amended passed.

Clauses 25 and 26 passed.

Clause 27—'Period for which child may be left in child care centre.'

The Hon. R.I. LUCAS: Can the Minister indicate what prescribed number of consecutive hours are referred to in this clause? Is there concern with regard to present practices in child care centres that children under the age of six years are being left in licensed child care centres for too long a period? Is that the reason for introducing this control?

The Hon. J.R. CORNWALL: That is already set out in the existing regulations under the Community Welfare Act. Unfortunately, I cannot give the prescribed number of hours, nor can I say with any certainty whether or not there is concern. One would imagine that in the general sense there would be concern if children were left for longer than was considered reasonable by those who are in the position to know best. I am afraid that I cannot quantify it in terms of the specific number of hours, but I refer the honourable member to the regulations under the existing Community Welfare Act. I would be happy to provide that information to the honourable member in writing in the near future.

Clause passed.

Clauses 28 to 33 passed.

Clause 34—'Revocation of approval.'

The CHAIRMAN: I point out that there is to be a typographical correction to the title of this clause.

Clause passed.

Clauses 35 to 41 passed.

Clause 42—'Registration.'

The Hon. I. GILFILLAN: I move:

Page 12, after line 34—Insert new subclause as follows:

(2a) The registration of a children's services centre under this section does not affect the title of the centre to any of its property.

This is a safeguard amendment to ensure that a children's services centre, perhaps a church-owned centre, feels secure. It would be secure, but the amendment makes doubly sure.

Amendment carried; clause as amended passed.

Clause 43—'Amendment of constitution of registered children's services centres.'

The Hon. R.I. LUCAS: A number of members received correspondence for the Catholic Education Office. I really did not understand the point made by John McDonald; I think he was referring to child/parent centres being covered in the future. His letter states:

Division IV involves the development of centre constitutions for approval by the Children's Services Office. The Bill states that registered children's services centres 'shall be administered by a management committee constituted in accordance with the constitution of the Children's Services Office.

We believe that child/parent centres on school sites should be under the management of the school board or council with appropriate preschool representation. This possibility does not seem to be allowed for in the Bill.

There seems to be a need for an exemption from this provision where a preschool is managed by a school board or council as is the case in Catholic and Education Department centres.

I would have thought that, as Catholic preschools are not covered, he should not be concerned. I seek confirmation of that. If child/parent centres under the Education Department come under the province of the Children's Services Office at some stage in the future, I wonder whether the provisions will be a problem for such a centre.

The Hon. J.R. CORNWALL: I understand that it is quite possible for the constitution to provide that the management committee is the school council, so the provisions under clause 44 overcome the difficulty.

Clause passed.

Clauses 44 to 48 passed.

Clause 49—'Annual report.'

The Hon. R.I. LUCAS: I move:

Page 14, lines 7 to 9—Leave out subclause (2) and substitute new subclause as follows:

(2) The Minister shall cause a copy of a report furnished to him under subsection (1) to be laid before each House of Parliament within 14 sitting days of his receipt of the report if Parliament is then in session, but, if Parliament is not then in session, within 14 days of the commencement of the next session of Parliament.

I seek to remove the uncertain words 'as soon as practicable' in regard to the Children's Service Office tabling a report to the Minister and then from the Minister to the Parliament. My personal preference is for a tighter period of 14 days, but it appears that the best chance of getting the amendment through is to allow a little more flexibility and to provide a period of 14 sitting days, so that there is an upper limit of four or five weeks rather than an open ended limit as provided under the Bill at present.

Amendment carried; clause as amended passed.

Clauses 50 to 56 passed.

Clause 57—'Regulations.'

The Hon. I. GILFILLAN: I move:

Page 15—

Line 13—After 'of members of' insert 'the committee or a'.

Line 14—Leave out 'committees' and substitute 'committee'.

These amendments are necessary so that procedures for election can be incorporated in regulations. They appear to be satisfactory and of a technical nature rather than being substantive in themselves.

The Hon. J.R. CORNWALL: The Government accepts those amendments.

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

Page 15—

Line 19—Leave out 'and'.

After line 21—Insert the following word and subparagraph:

and

(c) the selection, or nomination, of candidates for election;.

These are machinery amendments.

Amendments carried; clause as amended passed.

Schedules and title passed.

Bill reported with amendments.

Bill recommitted.

[*Sitting suspended from 5.22 to 7.45 p.m.*]

Clause 15—'The Children's Services Consultative Committee'—reconsidered.

The Hon. J.R. CORNWALL: I move:

Page 6, lines 17 and 18—Leave out new paragraph *(a)* and insert the following in lieu thereof:

(a) twelve persons, elected by the regional advisory committees in accordance with the regulations, being at the time of their election parents of children enrolled at, or attending, any establishment that provides children's services;

Amendments have been circulated in regard to clauses 15 and 22. The amendments have been drafted in consultation with Parliamentary Counsel and my officers to tidy up any problems that might result from the amended amendments inserted during the course of the Committee stage. I assure honourable members that the amendments retain in every respect the spirit and intent of the earlier amendments but they are necessary to clarify the position absolutely in the legislation that will eventually be proclaimed. This amendment is purely a drafting amendment.

The Hon. I. GILFILLAN: I do not object to the rewording. I am not convinced that it is absolutely essential, but I agree with the Minister that it expresses the intention of the earlier amendment, which was moved by us.

Amendment carried; clause as amended passed.

Clause 22—'Membership of regional advisory committees'—reconsidered.

The Hon. J.R. CORNWALL: I move:

Page 8, after line 9—Leave out new subclause 22 (2b) and insert the following in lieu thereof:

22 (2b) A majority of the members of a regional advisory committee must be, at the time of their election or appointment, parents of children enrolled at, or attending, any establishment that provides children's services;

The same remarks apply to this clause as applied to the earlier clause. This is a drafting amendment.

Amendment carried; clause as amended passed.

Bill reported with further amendments.

Committee's reports adopted.

The Hon. J.R. CORNWALL (Minister of Health): I move:

That this Bill be now read a third time.

The Hon. J.C. BURDETT: I rise to speak to the third reading of this Bill as it comes out of Committee. I found the Committee stage somewhat astonishing and a considerable departure from what normally happens. There were amendments to amendments to amendments. Some were initially oral and have at this late stage, through recommittal, been formalised. They were hacked, chopped and changed as the debate went on. No-one knew what it was about. In my view this completely justifies the approach of the Opposition in seeking to refer this Bill to a Select Committee, as we sought to do unsuccessfully. The chaotic Committee proceedings this afternoon were not worthy of this Chamber and not the way in which Bills ought to be dealt with. This disarray and doubt about what ought to have been done would have and could have been sorted out in fairly short order had the Bill been referred to a Select Committee.

When I spoke on the second reading of this Bill I pointed out the position of some of the major bodies which have an interest in the children's services area. I read the letters from the Primary Principals Association, the Kindergarten Union and from the independents (that is to say, the Catholic preschools and care area supported by the Lutheran organisations), and I suggest, as I have already, that they represent about 70 per cent of the people involved in the area of children's care, whether preschool or child care. They all oppose the Bill. There has been mention that the Kindergarten Union has changed its mind. Many people, including many in this place, change their minds from time to time, and that is their right.

I make the point that the major operators in the area, at least at the top level, opposed the Bill. At the grassroots level submissions were made in the form of letters which went all over the place; it was impossible to sort it out there. In regard to the Kindergarten Union, the Primary Principals Association and the independents (letters which I read and which have not been changed but in some instances have been reinforced), the answer was that they do not want the Bill. They would prefer the Bill to be defeated; if not defeated, we prefer that it should go to a Select Committee (but that has been dealt with and cannot

happen now); failing all of those, we would prefer amendments.

I said I would speak to the Bill as it came out of Committee, and that is the appropriate way to address a Bill at the third reading. My view was that the Bill ought to be defeated because it did not meet with the approval of the majority of people operating in the area. I voted for it at the second reading so it could be referred to a Select Committee or, failing that, it could be dealt with in Committee. The amendments which have been made in my view marginally improve the Bill; I refer particularly to those moved by the Hon. Diana Laidlaw. But they do not go to the nub of the matter: they are on the periphery. The basis of the problem is that the Bill does not address what ought to be addressed. One of the comments made in a letter from the Primary Principals Association was that if you have a house that you do not like and you paint it, you still do not like the house. That is my view about the Bill.

The provisions regarding the consultative committee and a few other aspects have been improved a little. But the Bill was not necessary. It does not address the whole area: for example, it does not address child/parent centres or the independents. It has gone too far in the areas that it has addressed. So the Bill has gone too far and not far enough. It is socialism gone mad and bureaucracy. The Bill sets up an expensive procedure, but with a limited amount of funds. The funds will not increase: if anyone believes that they will increase because of this measure, they can have another think, because everyone knows that that will not happen under this Government or the next Government. There will not be more funds. Some funds will be directed away from child care and into the expensive administrative procedure that the Bill sets up.

The children will suffer. The only people to gain will be those who get a position by reason of this Bill. It is a bureaucratic way of dealing with the matter. The Opposition's proposition was responsible, and we still believe that that is the right way to go about it, that is, to acknowledge that greater co-ordination is required. We have said that all along and we have said it could be achieved, but without this kind of legislation. There could have been amendments to the Kindergarten Union Act, and the various bodies could have been responsible to one Minister. As I said, that one Minister should be the Minister of Education. Co-ordination is required, because there should not be a child/parent centre in one street with a Kindergarten Union kindergarten on the next corner, but that situation could easily be overcome with the Opposition's proposition, namely, to make all bodies concerned responsible to the one Minister. That is what we have said all along and I still adhere to that view.

If this Bill passes the third reading (I do not know whether it will, but I suspect that it might pass), this will be a sad day for South Australia: it will spell the end of the Kindergarten Union as we know it. As everyone, including the Government, has acknowledged, the Kindergarten Union has served South Australia very well for a long time. It has been acknowledged that under the Kindergarten Union preschool services in South Australia have been better than services anywhere else in Australia and possibly in the world. Of course, this Bill repeals the Kindergarten Union Act. However we look at it or talk about continuity, we must realise that the Kindergarten Union as we know it in any way at all will disappear. In one or two years after the Bill has passed the Kindergarten Union will be history.

That saddens me, because I believe that the Kindergarten Union has given very great care and valuable education to preschool children in South Australia. It is a shame that it is to be rolled over by this kind of legislation, to be absorbed into a bureaucratic and socialistic type of organisation, and that is what will happen if this Bill passes. For those reasons, I oppose the third reading.

The Hon. R.J. RITSON: I have not spoken before in this debate. I have looked around, counted the numbers and listened to some of the arguments and some of the amendments, but, really, the tragedy of this is that the Bill was not permitted to go to a Select Committee. This was because of the Australian Democrats who over the next few weeks will discover as they are increasingly lobbied, harangued and harassed what a terrible decision they have made. We are seeing tonight nothing more nor less than the nationalisation of a segment of the non-Government education sector. I hope that the proprietors of and people with interests in private schools generally take note of this. There is an idealogical component: prior to the last State election I saw some of these people in action defeating the Tonkin Government and spending their union members' money to that end. Of course, they have to be paid back.

I am sure that the Minister of Education does not have his heart in this Bill. At that time he promised a certain group of union activitists with an interest in this matter to produce a one to 10 staff/child relationship ratio in this education sector—a promise that I am sure he has still not fulfilled. But the Minister owes them something and this Bill is the pay back.

We have seen many amendments that are very peripheral to the fundamental principle. However, never, because of the decision of the Australian Democrats to support the Government in resisting a Select Committee, were we going to win the fundamental principle. A segment of the non-Government education sector has been nationalised—a segment with a great tradition and respect in the community—and I refer to the Kindergarten Union. Probably that organisation has not been very much liked by people of left-wing politics because it is community based; it is relatively free of macro-political machinations, and it does teach middle-class values to the children whom it trains.

Of course, pre-school teaching is nothing like the education process of more mature children or university lectures. There is not a mathematical formula drawn up on the blackboard or the audio-visual aids or the audio-lingual laboratory. There are games and social patterns: these exercises in conditioning children to the socialisation that they will need to achieve to go to school is taught by experts. The experts are trained and know how to teach children to cope with rivalries, how to handle aggressions, how to defend themselves, and how to look after and share their possessions. The kindergarten stage is a very important bit of socialisation in the transition from a small nuclear family to a class in a real school.

My advice from educational psychologists is that it is very possible to imprint fundamental social attitudes in one direction or another at this level. I am not saying that as a general rule the new preschool classes will be taken over by a heap of left-wing mindbenders—I do not say that for a moment—but the power is there. For example, a power exists in this Bill for the Government to require a fixed, centrally controlled Government curriculum before a licence is issued. I am sure that many parents are aware of the particular culture, the particular social *milieu* that exists in one kindergarten and perhaps not in another. I am sure, too, that in the past parents have exercised their right of choice.

The Government will take that choice away from them. I have no doubt that we will see a centrally controlled curriculum. So much for the hollow cry 'choice and diversity in education'! That is the nub of this Bill and that is the matter on which the Australian Democrats have sold out—

whether by ideological commitment or by ignorance, I know not.

All the other verbiage with which we have been going on is peripheral; it is like trying to change the performance characteristics of a motor car by changing the colour of the upholstery. It is for that reason that I have remained silent, not wishing to add to the verbiage. However, I did not think that the third reading could pass without something like this being said. All I can say for my colleagues and myself on this side is that we tried; let the public consider their vote at the next election and let them talk to the Hon. Mr Milne and the Hon. Mr Gilfillan. I oppose the third reading.

The Hon. I. GILFILLAN: I regret that there is this hostility to the Bill from the Opposition. It is quite clear that its members were predetermined to sentence the Bill to demise, and I cannot see that the option offered by the Hon. John Burdett, and supported by the Party, for a Select Committee would have had any hope of success, because there is a determined attitude to it from the Liberals which is virtually inflexible.

Members interjecting:

The PRESIDENT: Order! The night will be a long one. Interjections must cease.

The Hon. I. GILFILLAN: I refer to criticisms that have been levelled at the Children's Services Office as being Government controlled. I see those same fears applying, if they are realistic, to the Liberals' alternative, which is to allocate all the services under Ministerial control. As they are, to a very large extent, Government funded, it strikes me that the protests are not of particularly important significance to the eventual provision of pre-school services to children.

It is our conviction that far more important than the exact structure in which the services are organised and provided will be the attitude, co-operation and intention (as is the wording) that prevails; the wellbeing of the children should be the paramount concern for everyone. I believe that it was the case for many people in this Chamber. I congratulate those who participated in the Committee debate in a constructive and industrious way. Some very sincere, well meaning efforts were made by those with all points of view, both from within this Chamber and by others outside who have interests and who still are following the proceedings very closely indeed.

I pay particular credit to you, Mr President. You are in a very invidious position, yet you have shown once again the dignity and significance that you put in your role. Although you, Sir, obviously have misgivings, you have contributed in a constructive way, for which I congratulate you. Also, the Hon. Diana Laidlaw (as the Hon. Mr Burdett acknowledged) has treated this matter in a proper and constructive way.

I am very happy to have been part of the Committee proceedings: the end result is a better Bill. The Democrats wish the Children's Services Office every success, and that success will be measured in the generations of South Australian pre-school children for years and years to come. I very much hope and believe that the passing of this Bill will be a big step towards that.

The Hon. BARBARA WIESE: I have not spoken in this debate before, either, but I am moved to speak by the contribution made by the Hon. Mr Ritson, particularly as a result of the points he made about choice and diversity. I wholeheartedly support the legislation which has been introduced by the Government, and I very much regret the problems that have been caused by people (for their own reasons) during the past few weeks that this legislation has been considered by the Parliament. To some extent, members opposite have been misled, for their own reasons, by people who have been involved in this matter.

I very much regret the contribution made by people such as Dr Ebbeck during the course of this debate, both privately and by way of newsletter to those who have an interest in this matter. I refer particularly to a newsletter dated 4 February 1985 which Dr Ebbeck sent to people and in which he seemed to imply that it was important that the division between the so-called welfare services (that is, child care) and the so-called education service (that is, pre-school) should be maintained. The sentence in this newsletter that highlights that view most clearly states:

> The existing Kindergarten Union pre-school education model seems to be fated to be forced into a welfare oriented child care model, whilst the Education Department's child/parent centres will be preserved as the sole educational model.

He was implying there that it was necessary to preserve that distinction. I know that Dr Ebbeck, who has had a considerable influence on many people both inside and outside this Parliament, has not always held that view. This was brought to my attention yesterday when a letter written by Dr Ebbeck was passed to me. In the letter dated 11 November 1976, Dr Ebbeck stated:

> It is my belief that the dichotomy between child care (welfare) and pre-school (education) is unnecessary and harmful to our society.

He continued later, when referring to the recent decision of the Federal Government to have separate grants for the child care and pre-school areas:

> I think this is the best solution in the short term but it does continue with the dichotomy I spoke of earlier . . . I am a strong advocate for diversification of services and believe the Kindergarten Union centres are quite able to do more than just preschooling.

Again, a little later, Dr Ebbeck said:

> What I am trying to do is to get flexibility and diversification into our work.

The aims which Dr Ebbeck expressed in that letter in 1976 (which one would assume were his aims until the last few weeks) are embodied in the legislation now before the Parliament. I fully support that legislation and am sorry that members opposite seem to have been misled by many of the statements made by individuals involved with the Kindergarten Union who seem to have had one point of view at one time or other and to have changed that point of view for no apparent reason. We can only make assumptions about why those people changed their point of view so suddenly. I support this legislation and hope that it has a hasty passage through this Parliament.

The Hon. ANNE LEVY: I again express my complete support for this legislation. In my view many of the comments made by members opposite can only be described in the most polite way as 'garbage'. This legislation is a milestone for South Australia and for the children of this State. It will enable proper co-ordination of all services for young children and will provide a framework within which we can develop proper services for young children many of which are lacking in this State, as in all States of Australia.

The legislation by itself will not be the panacea for all ills, but it provides the framework within which proper planning, proper co-ordination and adequate services can be framed and begun. We hope that in the not too distant future it will be provided for the benefit of all children in this State. Our current situation, as emphasised so often and as illustrated in the Coleman Report, can only be described as a shambles, with different unco-ordinated services catering for different people. The services are badly scattered around the metropolitan area, and to bring them into one co-ordinated whole is the only way that we will achieve what I am sure every member of this Chamber

would like to see, namely, properly planned and co-ordinated services which will be available to all children of this State. I strongly support the third reading.

The Hon. J.R. CORNWALL (Minister of Health): I take this occasion to briefly thank everyone who has been involved with this legislation from even before its genesis to its eventual passage. The whole matter has gone on for about 18 months. I was one of the three people initially involved in discussions in the early days of the Bannon Government on what we as a Government should do about early childhood services. We had a very clear commitment to the upgrading of early childhood services right across the board and not simply in the area of preschool education, where it was acknowledged that we had done better than anyone else in this country had done in meeting the emerging demands for child care and all other childhood services for the group of children five years and under.

I met with my colleagues the Minister of Education (Lynn Arnold) and the Minister of Community Welfare (Greg Crafter), and we determined that we should get someone to do an external assessment or review and undertake an inquiry to draw up a blueprint for South Australia so that we could have the very best early childhood services in the country. It was decided, after some deliberation at that early stage and after widespread consultation with all interest groups and organisations in this area, that Marie Coleman was the ideal person. Arising out of that, recommendations were made to Cabinet, and Marie Coleman completed her review, which was a very good one, indeed. As a result of that, the review was made a public document. It was the subject of the most extensive consultation programme that we could really devise. In fact, one of the people involved from the outset of the release of the Coleman document made the point to me earlier this week that consultation had taken place almost to the point of exhaustion.

There has been a period of 18 months under which it has been under discussion and a period of nine months during which the legislation has been developed. Every organisation in this State with any genuine interest in the welfare of young children has been involved in that consultation process. We knew at the outset that we had certainly the example of an unsuccessful model—the Early Childhood Services Council of the early 1970s—which was committed in a loose sort of way under the aegis of three Ministers—those responsible for health, education and welfare—and simply did not work. We determined that those mistakes—

The PRESIDENT: Order! I appeal as I must continually do for the audible conversation to be reduced. There are lobbies in this place where, if people wish to discuss matters at such volume, they may leave the Chamber and do so. The honourable Minister.

The Hon. J.R. CORNWALL: We determined that we would not repeat the mistakes of the 1970s and that we would learn from them. We now arrive at the point, after a great deal of discussion, consultation and, regrettably (in the latter weeks of this Bill being before the Parliament), to some extent a period of some confrontation, where very shortly one would hope that the Bill will pass its third reading. The children's services authority will then be under a statutory body. The Hon. Mr Burdett claims that that is socialism gone mad. That is so silly that I do not believe it merits a reply. What it is about is good administration. Most things in State Government are about good administration. One can certainly get nuances to the left or right of centre in terms of the politics of any particular matter, but at the end of the day State Governments are judged on whether or not they have been sound practical administrators.

To that extent, this Bill lays a very firm groundwork for a statutory authority with all the flexibility that a statutory authority will allow us, *vis-a-vis* the department. There is certainly a very clear element in this matter of wanting to have a vehicle by which we can have sound administration. There is also an element of a political declaration. That declaration should not be seen in simple terms of left or right wing politics: it is about a Government declaring its express and very clear intention to do the very best it can in early childhood services and to ensure that those services are significantly expanded into a whole range of areas where there is a proven need.

The Government has consistently given guarantees for the existing preschool services. As I said at the outset, it is widely acknowledged that these are the best services in the country, and there is no intention whatsoever that they or their funding should be diminished. A result of the passage of this Bill will see very substantial increases in child care facilities in this State. We will see, and are already seeing, very substantial increases in both capital and recurrent funding.

The State Government has already committed itself to an additional 22 child care centres. We have reached agreement with the Federal Government that we will provide the capital to establish those child care centres. In return, the Hawke Government has given clear undertakings that it will provide the recurrent funding for the conduct of those child care centres. Therefore, we are on the verge of an exciting new era for childhood services in this State generally, and I look forward to it with great expectation.

The whole business will not be settled by the passage of this Bill: numerous people have made that point, and I accept it. The appointment of a Director will be a very significant key to the good conduct of the service. The administrative arm of the service must quickly develop the necessary administrative and management skills to ensure that there is Statewide co-ordination of early childhood services in the best sense. I am confident that we have people of goodwill and great ability who will be able to ensure that that happens.

Before I sit down and see a little history in the passage of this Bill through its third reading, I would like to thank a number of people. Mr President, you have been involved in long and difficult negotiations. You have talked to a large number of groups who had legitimate claims and cases to put to you. You have had to weigh those up and try to reach a reasonable middle path.

I am confident that you have done that, Sir, and I congratulate you for the stand that you have taken. The Hon. Mr Gilfillan negotiated in this matter for the Democrats. He conducted himself with honour and dignity, despite considerable pressures from time to time. I thank the Hon. Mr Gilfillan. There are others, particularly some of the senior public servants who were charged with the conception and gestation of this Bill through to this very moment when it has just about arrived at the point of parturition. It is not my intention to name them; that is a practice which I think we should not develop in this Chamber or in any Chamber of Parliament. There are a number of people known to all of us who have done a sterling job and who have developed an enormous enthusiasm as they have worked with this legislation, because of the benefits which will ultimately flow from it. I pay a very special tribute to those people.

Finally, I refer to the question of welfare service versus education service. Some arguments have been put forward by the Opposition which suggest that there was an element of both the elitist and the reactionary in the arguments they were putting forward, and in a minority of the submissions which were put to them. At this stage I do not believe that we should canvass those matters any further.

There has been vigorous debate and lobbying. I believe we have reached the point where the great majority of people genuinely concerned with early childhood services right across the board should be very satisfied with the legislation that we are about to pass. Therefore, I urge all people to put behind them any differences which have arisen during the rather vigorous debate and the rather strenuous lobbying of the past weeks. With the guarantees that have been given by the Government and with the certainty that is enshrined in the legislation, we can get on with the business of ensuring that the 100 000 young children in South Australia who will benefit by this legislation are given the very best deal available to them.

The Council divided on the third reading:

Ayes (9)—The Hons G.L. Bruce, J.R. Cornwall (teller), C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner, and Barbara Wiese.

Noes (8)—The Hons J.C. Burdett (teller), M.B. Cameron, Peter Dunn, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons Frank Blevins and B.A. Chatterton. Noes—The Hons L.H. Davis and R.C. DeGaris.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

In Committee.

(Continued from 27 February. Page 2911.)

Clause 14—'Council may determine method of counting at elections.'

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

Page 4, after line 31—Insert new paragraph as follows:

(aa) by striking out subsection (1) and substituting the following subsecton:

(1) Subject to this section, a council may determine that the method of counting votes to apply at elections for the council shall be—

(a) the method set out in section 121 (3) rather than a method set out in section 121 (4) or 121 (4a);

(b) the method set out in section 121 (4) rather than a method set out in section (3) of 121 (4a); or

(c) the method set out in section 121 (4a) rather than a method set out in section 121 (3) or 121 (4).

This amendment is part of the series of amendments which I placed on file initially and which had as their purpose the introduction of the third choice for local government in its voting at election time and in its counting of votes. I move this for the purposes of discussing it and also remind the Committee that it would be possible at a later stage to recommit those earlier parts of this amendment proposal and reintroduce then in totality the majority preferential system that I explained in detail last night. Members will recall that last night the suggestion was made that we have the opportunity while this Bill is before us to put the whole voting system for local government in order.

We have the opportunity to delete the so-called preferential 'bottoms up' system, to take it right out of the Bill and leave within the Bill the choice for local government of either a proportional representation system or a majority preferential system. I am convinced that out there in the field of local government all councils involved with multiple elections of councillors or involved with aldermanic elections would want to see that happen. We have a considerable number of small councils where only a single candidate is needed to serve in a ward and those councils are not so concerned about the voting system.

But, where two councillors are needed for a ward and where there are aldermen needed, all of those councils, despite anything that the Local Government Association says, want to see the last of the 'bottoms up' system. Also, many of them would favour the majority preferential system, but I would not try to force that upon them because, of course, the general approach is that Parliament is giving local government a free choice of whichever system suits each council best.

However, in providing that choice it is extremely bad legislation if one of the two alternative schemes is bad, is acknowledged by councils as being bad—and there was ample evidence of that throughout the latter part of 1984 and earlier this year by councils writing to the paper, by council Mayors writing letters to the editor, by strong representations to the Local Government Association, and in many other ways. Members of Parliament were canvassed, and it was common knowledge that there was a complete revolt by local government against the 'bottoms up' system.

Yet, here we have legislation amending local government passing through this Chamber and we have an opportunity to get rid of that objectionable system, but we do not seem to want to take the chance to do it. I stress this: we have the opportunity to do it and we have a duty to do it. It is a duty in the name of local government. All honourable members of this side of the Chamber—all the Liberal members in the Legislative Council—want to do it, but we are pragmatic and know that we cannot achieve it unless we have the support of the two Australian Democrat members in this Chamber.

The Hon. J.R. Cornwall interjecting:

The Hon. C.M. HILL: The Minister is muttering something; I am not sure what he is saying, but that does not concern me. I am saying that what stands between the Committee's putting this legislation in order or letting it pass into law with this most objectionable 'bottoms up' scheme still in it is the Australian Democrat Party in this Chamber last night—

The Hon. K.L. Milne: That's unfair, and you know it.

The Hon. C.M. HILL: What is unfair about what I am saying? What I just said was that the Democrats stand between the Liberal members on this side of the Chamber putting this legislation in order or having to live with this most objectionable system remaining in the legislation. That is what I said, and it is not unfair, because you two honourable members have the power in your hands tonight to say whether this objectionable system goes out the window or stays in the Bill as an alternative.

The Hon. K.T. Griffin: It is akin to a gerrymander.

The Hon. C.M. HILL: Yes, but I do not want the Hon. Mr Milne telling me that I am making unfair statements, because I am stating facts.

The Hon. Diana Laidlaw: He should not reflect on your integrity in that manner, anyway.

The Hon. C.M. HILL: I am in the profession of politics and I know we have to live with some abuse at times.

The Hon. K.L. Milne: It wasn't abuse. I am saying it is unfair. What is wrong with that?

The Hon. C.M. HILL: I do not want to get into an argument and sidetrack the issue. I am trying to stress the point with clarity because I know there will be a great number of people in local government reading this debate, and I do not want red herrings scudding across the trail. I repeat, for the third time, that this Chamber tonight has within its power to get rid of the 'bottoms up' system in the Local Government Act, and members on this side want to do that and are prepared to do that, but we need the votes of the Australian Democrats.

Honourable members will recall that last night we adjourned and the point was made that it was hoped that the Australian Democrats would think about this matter overnight and, having had some time in which to consider it, could come here today and agree that Parliament should grasp the nettle and clean up the Act so that first, there is a choice for local government in whatever system it wishes to implement for its elections and its counting of votes, and secondly, within that choice the 'bottoms up' system would be removed. Councils could then simply say, 'We will choose proportional representation because that suits us best' or 'We would like to choose the majority preferential system because that approach suits our circumstances best.'

What sort of choice are we giving them when we know they all detest the 'bottoms up' system? We are not giving them a choice in the real sense because we know they do not want one of those alternatives. I am anxious to hear what the Democrats have decided in regard to this matter. It would not be difficult as far as the machinery is concerned: we can recommit my earlier amendments dealing with the introduction of the majority preferential system—we can recommit the Bill and delete the clause dealing with the 'bottoms up' system. That could be done tonight.

I stress the point that people in the field in local government who took a different view to that of their association last year in regard to this 'bottoms up' system (the bigger councils and municipalities where two councillors represent a ward and will face the election in May and councils with four, five, six or even eight aldermen, such as the Adelaide City Council, the people who occupy the chairs in those institutions and senior members in those bodies) want to see the end of that system because they know what a terrible system it can be.

Therefore, before proceeding further with this amendment to clause 14, which could be the first of a series of changes in the legislation which we are considering, I seek the views of the Democrats as to their attitude to this Bill.

The Hon. K.L. MILNE: The Democrats are in a situation where this kind of accusation is likely to be levelled at us and we have to wear it. We should all realise that there are more than two members in this Parliament, but we get the blame one way or the other and we have learnt to take it.

The Hon. C.M. Hill: And all the power.

The Hon. K.L. MILNE: It must be a great irritation for honourable members and I do not blame them for getting cross from time to time. I can understand it. It is not easy to give a balanced judgment when one is being accused like this, but we should forget all that, because it is political nonsense and all in the game. We offered to discuss this matter with the Local Government Association. We had discussions with the Hon. Ren DeGaris, who is most anxious to see the introduction of a different system. There has not even been one election under the system. Whatever its faults, we have not proved that the system is as bad as everyone is making out. The Hon. Murray Hill said that the Council has an opportunity to do something about this matter with the assistance of the Democrats, because that would give the Opposition the numbers. What he is really saying is that if the Democrats go with the Liberal Party, we could do something that local government does not want.

The Hon. K.T. Griffin: Oh!

The Hon. K.L. MILNE: It is all very well for the honourable member to say 'Oh'.

The Hon. K.T. Griffin: I disagree with you.

The Hon. K.L. MILNE: That is better.

The Hon. M.B. Cameron: And I disagree too.

The Hon. K.L. MILNE: I do not think that honourable members have done their homework.

The CHAIRMAN: Order! The Hon. Mr Milne need take no notice of the interjections.

The Hon. K.L. MILNE: I would rather that all this was recorded in *Hansard.* I have a telephone message from the Town Clerk who is speaking for the Lord Mayor of Adelaide. It states that they do not want the Bill to be altered and that they support the two alternatives, that is, the 'bottoms up' system and proportional representation. I have a special message to the Hon. Mr Gilfillan from the Lord Mayor herself saying the same thing. There are two messages from the Mayor of Burnside: they do not want the Act taken further. Mr Des Ross, President of the Local Government Association, is afraid that the Liberals will push this matter and he does not want it.

The Hon. C.M. Hill: Did he give a reason?

The Hon. K.L. MILNE: Yes, they will tell the honourable member the reason.

The Hon. M.B. Cameron: What is the reason?

The Hon. K.L. MILNE: The Hon. Mr Cameron should telephone them and find out the reason. They asked us not to do it. Their reasons are their own business. The honourable member should talk to them: he should have done that before.

The Hon. M.B. Cameron: Is it because they think that the Bill will be lost?

The Hon. K.L. MILNE: It could well be.

The Hon. R.I. Lucas: I hope threats haven't been made to local government.

The Hon. K.L. MILNE: Is the honourable member suggesting that we made threats? Is he? Yes or no?

The Hon. M.B. Cameron: You wouldn't have the numbers.

The CHAIRMAN: Order!

The Hon. K.L. MILNE: The Hon. Mr Hill said that we had the numbers, that we could make up the numbers in this matter and we could easily threaten.

The Hon. M.B. Cameron interjecting:

The CHAIRMAN: Order! The Hon. Mr Cameron must cease interjecting and the Hon. Mr Milne should refer to the Bill.

The Hon. K.L. MILNE: That is thoroughly dishonest. If you have decided to punish the Democrats, that is okay.

The Hon. R.I. Lucas: You have decided to justify the unjustifiable.

The Hon. K.L. MILNE: That is lovely: I hope that when people read that they will understand it. Mr Hullick, the Secretary-General of the Local Government Association, and the Mayors of Tea Tree Gully and Hindmarsh also take the same attitude. I do not know whether there are any more messages, but, to me that is enough to indicate that either they do not want this change at all or they do not want to rock the boat, but that is their business and not mine.

The Hon. C.M. Hill interjecting:

The Hon. K.L. MILNE: The Hon. Mr Hill should be representing these people's interests; he has had as much to do with those gentlemen as I have; he knows the problems of local government and knows how it works, but now the honourable member is trying to put something into operation at the wrong time. They do not want it now. If the local government election is a farce or something goes wrong with it, the time to correct it would be following that and after the State election, and the Government of the day would have the opportunity to rectify the matter at that time.

The Hon. C.M. Hill: It can certainly be corrected after the next State election; there is no doubt about that.

The Hon. K.L. MILNE: That is an old sort of a joke. So, that is what the Democrats believe. We have talked over the matter ourselves and with them, twice.

The Hon. M.B. Cameron: In a telephone box!

The Hon. K.L. MILNE: I would not trust you in a telephone box! I am quite sure that local government as a whole does not want this change right now, although whether it wants it to occur later is another matter. Therefore, I think it is quite wrong to blame the Democrats and try to make us misuse the power that has been given to us by accident, and we will not do that.

The Hon. C.M. HILL: I want to reply to one or two points made by the honourable member. Before doing so, so that there is absolutely no doubt in anyone's mind or the mind of anyone who reads *Hansard*, I point out that here we have a situation tonight—

The CHAIRMAN: Order! Before the Hon. Mr Hill continues any further, let me say that last night honourable members spent some hours developing their second reading speech themes, and because it has been indicated that an amendment will be moved tonight I have allowed members to develop the same stories again. However, if every member goes through the process that occurred last night to emphasise the points that they have already made, I will have to rule that we have got to the point where the debate is too repetitive. I make that point because we spent a number of hours saying the same things over and over again last night, and I believe that the same thing is beginning to occur tonight.

The Hon. C.M. HILL: Thank you, Mr Chairman. I will do my very best to respect your opinion. I do not want to waste any of the Parliament's time in regard to this matter. However, the issue that we are debating is extremely important. In deference to what you have said, Sir, I will not repeat the points that I made earlier about the two Democrats having the power here tonight to support members on this side of the Council to correct the Local Government Act, if they have the fortitude to do it, so that this 'bottoms up' system is removed from the Act for all time. The reason why some people from outside have contacted members of this Council on this issue today and have expressed some forebodings as to whether the system of 'bottoms up' should be thrown out is that there has been a fear abroad that the Bill will be lost.

That is why some person, either trying to be mischievous or acting in ignorance, has spread abroad the suggestion that unless this Bill passes tonight and 'bottoms up' is left in there the Bill will be lost. I was told this today.

The Hon. K.L. MILNE: I rise on a point of order. Mr Chairman, would you ask the honourable member to address the Chair and not me?

The Hon. C.M. HILL: If the honourable member's conscience pricks him to that extent, I will turn the other cheek, so to speak. Some of these people who have been in touch with me today—some of the most senior people in local government in this State—have surprised me by being hoodwinked by this apparent rumour that the Bill may be lost and the suggestion that, therefore, the 'bottoms up' system should not be touched.

The Hon. R.C. DeGaris: They all oppose absolutely the 'bottoms up' system.

The Hon. C.M. HILL: Of course they do. Frankly, they should perhaps attend to their own level of administration a little more and not assume that they know the workings of Parliament to the degree that they do assume that. The same applies to the Local Government Association, which over the past 12 months has got too deeply involved with the wheeling and dealing of politics at State level. If one gets too deeply involved with that wheeling and dealing, one gets tied into commitments and one does not have the flexibility that that Association should always retain on behalf of its membership.

The Hon. K.L. Milne: That's a disgraceful thing to say—they have been wheeling and dealing. They have been putting their case; that's all.

The Hon. C.M. HILL: I am using the expression 'wheeling and dealing' in regard to discussions, arrangements and agreements with the Government of the day. I do not care whether it is a Government of one Party's persuasion or another Party's persuasion. I always want to see the Local Government Association standing rock firm on behalf of its membership, making strong representations to State and Federal Governments and putting its case with all the force that it can.

However, there is a limit to where it can then go in discussions and arrangements with Governments, because the Association finds itself tied into situations that cause it some embarrassment. In the latter part of 1984, the Local Government Association in this State has been in one of the most embarrassing situations in its history. The vast majority of councils interested in this system of 'bottoms up' was opposed to their Association's view on this subject in such an extreme way that those people all jumped out of the team and wrote individually to the press expressing their objections, and so forth. That is not the sort of situation that I like to see: I like to see the councils rock firm behind their Association and talking about their differences down in their headquarters and in their boardroom.

The Hon. J.R. Cornwall: This is an amazing attack on the LGA.

The Hon. C.M. HILL: It is not an amazing attack. Of course, the Minister would interpret it as that, because he is a mischief maker, and I am being honest about it. The Lord Mayor, Town Clerk, members of the LGA and some very senior mayors have been in touch with members of Parliament today because somehow or other they have in mind this point that if we start playing around with the 'bottoms up' system, the Bill will be lost. That is absolute rubbish!

This Council wants to help local government. Members on this side of the Chamber want to remove from the Local Government Act tonight this objectionable 'bottoms up' system. No matter what the Hon. Mr Milne says or does, he cannot deny that if he and his colleague vote with members on this side to abolish it tonight it will be out.

The argument that we are almost upon a council election and that we should therefore keep the ship on a steady course until then bears no fruit because the deed can be done tonight. However, I cannot get that point home to either the Hon. Mr Milne or the Hon. Mr Gilfillan. This is very disappointing to me, because I give a great deal of consideration to issues affecting local government. I have not heard from either of those honourable gentlemen a logical and sound reason why they are acting as they are. The Hon. Mr Milne indicated that a Liberal Government might be able to do something with this Bill at some future time. The first action that a new Liberal Government will take in relation to local government in this State will be to abolish this 'bottoms up' system of voting from the Act. We will give local government the kind of Act which it deserves and which has the full support of all councils.

The Hon. I. Gilfillan: Why didn't you support my amendment to do that originally?

The Hon. C.M. HILL: Because the honourable member wanted originally to impose one system on local government—proportional representation—he was not a man for choice but wanted one system only. However, members on this side said that local government deserved a choice in such decisions. I said last night in relation to many issues, 'Give local government as much choice as possible. Let it show its own enterprise and initiative, all within the umbrella of a proper, up-to-date Local Government Act.' That is my

answer to the Hon. Mr Gilfillan—that he was favouring just the one system.

I stress that a Liberal Government will remove that provision from the Act as soon as possible after election. It is a great shame, and a great pity from the local government point of view, that that cannot be done tonight. For this to be done, the two Australian Democrats in this Council need merely to give such a move their support. They stand condemned for their attitude, and I am sure that local government members out in the field (not the few people who keep chasing old Mr Milne on the assumption that he wields the power in this Council), men of great experience in local government, will condemn the Australian Democrats for their stubbornness and refusal to act on this most important issue.

The Hon. J.R. CORNWALL: We went through most of these spurious arguments last night. I suggest that to rake over those old coals or to get into those ashes is somewhat less than productive. However, it may be well worth while to prod the memories of people like the Hon. Mr Hill, who seems to suffer from a degree of memory loss. It is only a few short months ago that I was in charge in this Chamber of a comprehensive Bill that was virtually a rewrite of the Local Government Act. I recall it very well, because I had to learn a great deal about local government comprehensively and quickly, and often I had to learn on my feet.

That Bill was before this Council for debate for about nine hours. Eventually it went to a conference of managers of both Houses, and that conference, to my recollection, sat through the day and into the evening for about 10 hours. So all these matters were debated by the Council and considered by the conference of managers at great length.

It was agreed by that conference, and ultimately agreed by both Chambers of Parliament, that this would be proportional representation as a form of voting only in those council areas where there were no wards. Subsequently it became a matter of some public controversy and debate amongst some councils, and a request was made—indeed, one might even put it as high as being a demand—for proportional representation to be made available to all councils in the forthcoming elections in May of this year. It happened that, at that time, the Government had a Local Government Act Amendment Bill before the Parliament, and the Minister of Local Government, in discussion with councils and the Local Government Association, decided that he should recommend that we grant the request expeditiously. That was done.

The matter came to Cabinet, and it was agreed very quickly that what local government was asking of us was entirely reasonable and that we should move to this position by amending the Bill whilst the Act was open and in the Parliament. I do not think I need repeat at any length that the 'top down' voting which Mr Hill is espousing, so vigorously—indeed, vehemently—would introduce machine politics into local government elections. It is 'a winner take all' system and I take my advice from people who have been around for a long time and who take a far greater interest in playing the numbers game than I do. I realise that my position is one of provincial politician, and I try to be very good at it. I do not see myself as a statesman and never have done. I have never involved myself in playing numbers games. I have neither the time nor the inclination for it.

When I talk to all those people who are more expert in these matters than I—and, indeed, far more expert than anyone on the opposite side of the House—they tell me that it is about 'winner take all' and have no doubt that it would introduce machine politics, and therefore Party politics, into local government, and that is highly undesirable. The Hon. Mr Hill says that he has been almost overwhelmed by people sending him cards and letters, ringing him up and contacting him personally and apparently making his life quite miserable with their demands that at this very moment, or at the earliest opportunity whilst the Bill is before the House, he move to ensure that 'top down' voting be put into the proposed legislation.

The reality is that there has been no such overwhelming lobbying at all. There has been a response from some of the much larger councils. There has been a minimal response from the district councils and, in all, I am told that 15 out of 125 councils throughout the State have been in touch with the Minister or his Department to request that some consideration be given to another form of voting. On my arithmetic, 15 out of 125 councils is between 12 to 13 per cent. Whilst I may not be a numbers man, I am not bad at mental arithmetic.

The Hon. Mr Hill also said—and I cannot let it pass without comment—that the Local Government Association in the last 12 months or thereabouts has been involving itself in what he called 'wheeling and dealing in State politics'. That is a very strong allegation and does the former Minister of Local Government no credit at all. I am not angered by it because one expects foolish remarks to be made sometimes by a vigorous Opposition in heated debate. However, I am greatly saddened by it. The Hon. Mr Hill would know—or certainly should know—that Mr Des Ross, the current President of the Local Government Association, has a tremendous reputation in local government circles.

He has been actively involved in local government for more years than most of us can remember. He has a reputation for being a man of great common sense and, even more importantly, he is known as a great negotiator and conciliator. I would like it on public record that I have had dealings with Mr Ross during his period as President of the Local Government Association. He inherited a position where relations between the South Australian Health Commission and the LGA, as a result of some of the actions of my predecessor, were less than satisfactory, to say the least. There is no question that during the past 12 months or thereabouts we have come further down the track in working out potential differences and finding points of common interest more than, I think, has been achieved in the public health area in the previous 20 years.

The Hon. M.B. CAMERON: I rise on a point of order. I think that the Minister is running into difficulty with this subject.

The CHAIRMAN: I ask the Minister to come back to the matter before the Chair.

The Hon. J.R. CORNWALL: Indeed, Mr Chairman. In conclusion, I make the point that Mr Ross was not on the floor of the Chamber to defend himself. The Hon. Mr Hill and other members opposite should be very careful before they launch cowardly attacks on the President of the LGA, its office bearers, or anyone else.

The Hon. R.C. DeGARIS: I express my bitter disappointment about the way in which the Government has not accepted all the accurate, good and logical arguments that have been put forward about this voting system. The Government has not even listened to the arguments. It will stay exactly where it is now and force on local government this the most infamous (as quoted by the Hon. Mr Gilfillan), atrocious (I think I used), and disgraceful (I think the Hon. Mr Hill used) voting system. This Council agrees with the terms regarding this voting system, yet the Government has taken no action to do anything about that question. The argument put forward by the Minister that the majority preferential system would intoduce Party politics into local government is nonsense. If one is going to introduce Party politics into local government the proportional representation system will do it more so than any other system.

The Democrats' position in this mater is also disappointing. The reason why people in local government spoke as they did to the Hon. Mr Milne is that they thought the whole Bill would be lost and they would be saddled only with that infamous, iniquitous and disgraceful system—the 'bottoms up' system. That is the reason why local government requested it. This Council has the opportunity to do something reasonable, and it is not going to do it. There is an argument for proportional representation, but there is also an argument against it. For example, where six aldermen are to be elected, a person who polls only 14 per cent of the vote will be elected, although the voting paper may show that 86 per cent of electors have no time for that person. I am not arguing against proportional representation, although those who think that proportion representation is the only system that gives total democracy should think again, because there are bugs in that system, too.

If one wants the most accurate voting system, it is majority preferential voting. The second best system—and I appeal to the Minister even to accept this—is to go back in a multi purpose election to first past the post by a cross. That is more accurate than the 'bottoms up' system by a long way. For a long time the Labor Party wanted vote by a cross. Will the Minister accept that position? He wants to go back to the nineteenth century philosophy in relation to voting systems. I am extremely disappointed with the Democrats on this issue. I am sorry to express this to the Hon. Mr Gilfillan and the Hon. Mr Milne, but they have power in this Chamber on this issue without responsibility; that is the historical prerogative of the harlot.

The Hon. M.B. CAMERON: I will not hold up the Committee for long. I make the point that there is absolutely no doubt in my mind that the reason that there has been no consideration of a change from the 'bottoms up' system is that people have been told—who by, I do not know—that the Bill will be lost if any move is made towards that change. I will not go into the private conversation that I had this morning—not with people referred to by the Minister, but with other people—when it was made absolutely clear to me that the implication for these people was that, if they made any move to support a change, the Bill would be lost. We are actually operating tonight under threat—not to people in this Chamber, but to people outside the Chamber—in relation to what will happen to the Bill.

What has happened is that the whole atmosphere has circled its way back to the Hon. Mr Milne, and he has reacted to it on behalf of some of those people. I have had no contact with the people referred to by the Minister, but I know exactly what has happened. I heard it from a person this morning who is directly associated with the Government (once again, I will not mention any names because I do not think that is fair). I will not bring private conversations into this Chamber. What I have described is exactly what has happened. I think that is a terrible situation for the Committee to be in. We are a House of Review; we could make changes, but we will not because of the situation that has arisen from outside the Chamber. Quite frankly, as a member of a House of Review, I find that very disturbing. I am very disappointed with the Australian Democrats in this place. I urge the Democrats to think again about this situation.

The Hon. C.M. HILL: I rise to make one point as a result of statements made by the Minister a few moments ago, because it could be construed from what he said that I had attacked or criticised personally the President of the Local Government Association, Mr Des Ross. I did not make any personal criticism, nor did I attack him personally at all. I know Mr Des Ross very well indeed. I have an extremely high regard for him, both as a member of local government and as a citizen.

The Hon. J.R. Cornwall interjecting:

The Hon. C.M. HILL: The wheeling and dealing, if that is worrying the Minister—and I assume that he is raising a genuine query—arose in May last year when the previous Bill went through this Chamber. The honourable member who was Chairman of the conference of managers for that Bill knows full well that wheeling and dealing was going on. As a matter of fact, the Minister himself was in it up to the hilt, because halfway through the conference he took the Hon. Mr Milne by the elbow and wheeled him out of the conference and into the corridor. That was completely contrary to Standing Orders. The Minister should not talk about wheeling and dealing.

The CHAIRMAN: Order! The Hon. Mr Hill has taken advantage of his time to make an explanation. I do not think that he should develop that any further.

The Hon. C.M. HILL: The Minister should not interject and provoke me. I stress the point—

The Hon. K.L. Milne: You may have forgotten, but after that you said that you'd like to take me out into the corridor, as well.

The CHAIRMAN: Order! There is an amendment before the Chair.

The Hon. C.M. HILL: The only point I make is that I did not (nor would I ever dream of doing so) criticise or attack Mr Des Ross personally. I have an extremely high regard for that gentleman.

The Committee divided on the amendment:

Ayes (9)—The Hon. J.C. Burdett, M.B. Cameron, R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. L.H. Davis. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 15—'Register of interests.'

The Hon. K.L. MILNE: I move:

Page 5—Line 2—Leave out 'subsection' and insert 'subsections'.
Line 5—After 'notify' insert 'the member,'.
After line 6—Insert the following subsection:

(4) A notification to be given to a member of the council pursuant to subsection (3) shall be given by letter sent to the member by registered mail.

The object of the third of my amendments is that when the Town Clerk or the chief executive notifies the council and the Minister that a councillor has not filled in his necessary form, he notifies the member and gives him a warning. That is all done at once. I am simply saying that it should be by registered mail to ensure that he gets it, because someone could be in hospital or elsewhere, and it is important that he gets that information.

The Hon. J.R. CORNWALL: The Government opposes the amendments in principle just as we opposed the amendment to clause 5 last evening concerning the additional impost of having to personally serve notices on those candidates who breach the requirements of the Act with regard to disclosure of pecuniary interests. However, while I am not a numbers man, I do know the difference between nine and 10 and, in the circumstances, it is not our intention to divide.

Amendments carried; clause as amended passed.

Clause 16—'Offences.'

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

Page 5—
Lines 12—Leave out 'section' and insert 'sections'.
Lines 13 to 18—Leave out subsection (2) and insert new subsections as follows:

(2) Where a member of a council—

(a) fails to submit a return to the chief executive officer within the time allowed under this Part; or

(b) submits a return that is false or misleading in a material particular (whether by reason of information included in or omitted from the return),

the member shall be guilty of an offence and liable to a penalty not exceeding five thousand dollars.

(3) Where a member of a council is convicted of an offence against subsection (2) *(a)* and at the time of the conviction he has still failed to submit a return required by this Part to the chief executive officer, the court by which he is convicted shall order him to submit a return to the chief executive officer within a period, not exceeding twenty-eight days, determined by the court.

(4) If a member of a council fails to submit a return in compliance with an order of a court under subsection (3), his office as such shall forthwith become vacant.

These amendments deal with the question of a false or misleading return and the question of its being an offence and a penalty of $5 000 being involved. This relates not to the omission to lodge a return.

The Hon. J.R. CORNWALL: Yes, it does. On a point of order, Mr Chairman, if one looks at the proposed amendment, subsection (2) *(a)*, it specifically refers to 'fails to submit a return to the Chief Executive Officer within the time allowed under this Part'. It relates to the Democrat amendment.

The Hon. C.M. HILL: I think the Democrat amendment that Opposition members supported last night provided for a further month—for an offender having not put in his return being given that extra time over the 60 days that he already has in regard to not a preliminary return but a regular return. I will not proceed with this amendment because the matter was covered when we dealt with the question last night through the Hon. Mr Milne's amendment.

Amendment withdrawn; clause passed.

Clauses 17 to 44 passed.

Clause 45—'Passing of by-laws.'

The Hon. J.R. CORNWALL: I move:

Page 9, lines 14 to 33—Leave out this clause and substitute new clause as follows:

45. Section 668 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) A proposal for the making of a by-law with respect to—

(i) suspending or prohibiting traffic upon certain streets or roads;

or

(ii) the temporary closure of streets or roads, should be referred by the council to the Road Traffic Board of South Australia for consultation and advice at least two months before a by-law to give effect to the proposal is made by the council.

For some time there has been concern that councils could effect the closure of roads without considering the effect of that closure on traffic management in adjoining areas, particularly in the metropolitan area. The amendment as originally drafted would have given the Road Traffic Board absolute control over all closures: that is the original clause as presented in the Bill. This amendment caused considerable concern because of the extent to which it placed absolute power in the hands of the Board.

As a consequence, the amendment has been redrafted to provide that, prior to effecting a road closure, the council shall consult with the Board which will then have the opportunity to make representations to the council before the closure is effected; in other words, it is virtually a compulsory conference situation that protects the interests of the people, the interests of the council and the interests of the Road Traffic Board and, to the extent that it is possible to do so in any legislation, it ensures that common sense will prevail in almost all circumstances.

The Hon. K.L. MILNE: I move:

Leave out from subsection (3) 'at least two months'.

I am asking the Government to accept an amendment to this clause. Everybody is pleased that the requirement of the Local Government Act has been changed to provide that they 'should' consult, as opposed to 'shall' consult, and obtain written approval, which would have led to a great deal of delay and misunderstanding. Both organisations have enough experience, expertise and maturity to get along together, and I do not think the requirement of two months overcomes the problem because there are occasions when a council wants to close a street quickly, although temporarily.

In any case, it may take a month or two to amend a by-law. So that does not arise. The two month provision should be deleted so that there is greater flexibility. The council and the Road Traffic Board could work out the time involved in each case.

The Hon. J.R. CORNWALL: The Government accepts the Hon. Mr Milne's amendment. I am a little concerned that these matters could become interminable if the two month limitation or any time limitation at all was deleted, but I have an abiding faith in the good sense and conduct of local government affairs, in the Road Traffic Board and in almost everyone else. So at this stage we will accept the amendment and see how it works in practice.

The Hon. C.M. HILL: My approach to the matter of the Road Traffic Board suddenly being given almighty power over local government would be to delete this clause and the following clause to show by a very firm decision that Parliament does not want local government subjected to this outside power in the extreme, as the Government proposed when it introduced the Bill—and let local government not forget that. The Government brought in this Bill to give the Road Traffic Board total power over local government on the question of the preparation of by-laws affecting suspension or prohibition of traffic on streets or roads or the temporary closure of streets or roads. That was shocking.

I have received correspondence from a member of the Road Traffic Board that was written a few days ago; he states that he did not know that this was going on. This is quite a serious matter. In view of the fact that the Hon. Mr Milne has clasped hands with the Government in the general alternative approach, and as it certainly results in a better conclusion to the issue than that provided in the Bill, I would not have the numbers to delete the clauses and so I will not proceed in that direction, nor will I oppose the Government's amendment or the Hon. Mr Milne's amendment to the amendment.

The Hon. K.L. Milne's amendment carried.

Existing clause struck out; new clause as amended inserted.

Clause 46—'Application of by-laws.'

The Hon. J.R. CORNWALL: I move:

Page 10, lines 2 and 3—Leave out 'have any force or effect unless it has been approved in writing by' and insert 'be brought into effect until the council has consulted with'.

This amendment is consequential on the amendment to clause 45.

Amendment carried.

The Hon. K.L. MILNE: I move:

Page 10, line 5—After *'Gazette'* insert 'and in a newspaper circulating in the area'.

This amendment brings this provision into line with other matters published in the *Gazette* dealing with liquidations, bankruptcies or other matters. It is a frequent requirement that details of various matters must be published in the *Gazette* (which very few people read) and newspapers circulating in the relevant area, which would be a local newspaper, the *Advertiser* or the *News*. This provision will assist suburban councils as well as country councils.

Amendment carried; clause as amended passed.

Remaining clauses (47 to 49) and title passed.

Bill read a third time and passed.

POLICE OFFENCES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 February. Page 2893.)

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their contributions and general support for the Bill, which is an important measure containing significant changes to the law in South Australia in two areas of police powers, particularly in the area of so-called victimless crimes. It deals on the one hand with clarifying police powers and expansion in some areas, while on the other, the removal of certain outdated offences, such as the offence of vagrancy and having insufficient means of support, as well as some other offences including the offence under section 18 (1) relating to loitering, stipulating that, if a person was loitering in a public place and failed to give sufficient reason for doing so that was satisfactory to a police officer, that person could be arrested.

The Hon. Mr Griffin, in his contribution, indicated that the Bill I have now introduced was similar in virtually all respects to the Bill that he had prepared while he was Attorney-General. That is not completely correct. The Liberal Bill did not repeal some of the offences that our Bill did—in particular the outmoded offence, and I suppose in this day and age the fairly iniquitous one, of having insufficient means of support, the so-called vagrancy offences.

That is abolished by our Bill, but was not touched by the proposed Liberal Bill. While talking about so-called victimless crimes, it is worth recording that public drunkenness was decriminalised earlier in the term of office of this Government.

The Hon. K.T. Griffin: It was actually done in 1976.

The Hon. C.J. SUMNER: As the honourable member rightly points out, it was actually done in 1976, but it was not proclaimed or put into effect until last year. As I said before, the Bill also removed the offence in section 18 (1) of loitering without giving a satisfactory reason. I am now pleased to see that the Hon. Mr Griffin does not contest that. Also, I am pleased that there is some agreement in the House that that offence was also unnecessary and perhaps carrying the reach of the criminal law too far.

The honourable member has moved an amendment with respect to the penalty for failure to comply with reasonable directions relating to fingerprints, handwriting samples and the like. I must confess that the points the honourable member made were reasonable, although in my perusal of his original proposition the Bill that he proposed contained the same penalty that was introduced in our Bill, namely $200.

The question of loitering seems to have arisen as the major point of contention between the Parties in this Bill. It is worth while pointing out that my researches indicate that a provision as wide as section 18 (2) finds no parallel in other States. It is quite a wide power which encompasses not only people who may be committing an offence or whom the police may reasonably suspect of being about to commit an offence but also people in the vicinity. So, the power to move someone on under section 18 (2) applies not only to the individual who may be producing the potential for trouble but also to innocent bystanders. As I said, my researches indicate that this power is probably wider than any other power that exists in Australia to move people on.

It has been argued that the section is not adequate because people can return to the place. The argument is that section 18 (3) is not adequate. I contest that. One of the problems here is that there is a paucity of case law on just exactly what section 18 (3) means. It provides that a person must cease loitering and leave the place in which he was loitering and the area in the vicinity thereof. I would have thought that, on a common sense reading of those words, that was broad enough to overcome the difficulties that people such as the Hindley Street Traders perceive to exist.

The Hon. K.T. Griffin: There is no definition of 'vicinity'.

The Hon. C.J. SUMNER: I agree that there is no such definition. Again, it appears that this has never been tested and I do not know why this is the case. If the problem is as grave as has been put to us, one would have expected there to be some cases where the police had arrested a person after that person returned to the place from which he were told to cease loitering and that that would have been contested.

The Hon. K.T. Griffin: I understand the problem is the lack of definition and that, therefore, the police, because of the doubt, do not arrest in those circumstances.

The Hon. C.J. SUMNER: That may be, but I should have thought that if there was concern about it they would arrest and take the matter to the court for decision. However, there is a complete paucity of authorities on that topic. There is one to which I will refer in Committee, but it does not relate to people's so-called potential for causing trouble—that was a demonstration situation. Admittedly, the principles were similar, but, apart from that case, there do not seem to be many other authorities on the meaning of section 18 (3).

As I have already said, on a common sense reading I would have thought that it was broad enough to overcome the difficulties that people say they have. For instance, I should have thought that, if someone left Jules Bar and moved 30 yards down the road, that could not be considered to mean that they had ceased loitering. If a person left the area outside Jules Bar, went out of Hindley Street and came back within 15 minutes, I doubt whether that would be regarded as ceasing loitering. At this stage, I think the powers are broad enough. I am certainly prepared to give further consideration to the matter if it appears on further reflection that they are not wide enough, but at this stage that is my position.

The Hon. Mr Griffin also suggests that there should be a central location where the whereabouts of a person under a four hour detention can be filed so that solicitors and relatives can ascertain the whereabouts of the detainee. It is really a matter of police administration, and it is certainly a matter that I am happy to take up with the Police Commissioner.

The honourable member also suggested that the four hour period should include a reasonable travelling time. In fact, the prescribed period is determined by subtracting from the time that has actually elapsed since apprehension the time that would reasonably have been required to convey the person from the place of apprehension to the nearest police station, assuming that he had been taken forthwith to that police station.

The Hon. K.T. Griffin: Subtracted from the four hours?

The Hon. C.J. SUMNER: Added on, as I understand it. If the person apprehended requests that a solicitor be present and the solicitor takes an hour to arrive, the police still have four hours from the time that the solicitor arrives, or if there is some other delay.

The Hon. K.T. Griffin: I recognise that.

The Hon. C.J. SUMNER: I think that the same thing applies to any travelling time involved. If the honourable member has a different view of that we can explore it during the Committee stages.

I thank members for their support of the second reading. I said in my second reading speech that it is a significant piece of legislation as it seeks to obtain a balance between adequate police powers and the right of the individual. After some considerable discussion on the Bill, we have arrived at an appropriate balance of those competing principles.

Bill read a second time.

In Committee.

Clauses 1 to 11 passed.

Clause 12—'Trespassers on premises.'

The Hon. K.T. GRIFFIN: Clause 12 deals with section 17a of the principal Act. In this morning's *Advertiser* a report appears of a case involving a magistrate who dismissed a charge of trespass under section 17a laid against a demonstrator at Roxby Downs. The report, which is all I have to go on, states:

A decision by a magistrate in Adelaide yesterday to dismiss a case of trespass proved the public had the right to distribute anti-uranium leaflets at the Roxby Downs mining village, the Campaign Against Nuclear Energy (CANE) said yesterday.

In the Woomera Local Court sitting in Adelaide, and anti-uranium demonstrator arrested last year in the Roxby Downs mining village had a trespass charge against him dismissed and police were ordered to pay $200 costs.

The article then refers to the name of the defendant who pleaded 'Not guilty' to having trespassed on premises so as to interfere with the enjoyment of the premises by the occupier. The article continues:

The charge further stated that when asked to leave by Dennis George Edmonds, an authorised person, he failed to do so. Mr G.B. Harris, SM, said he concluded Parliament had intended the relevant section of the Police Offences Act should apply to those trespassers that gave the effect of interfering with premises or amenities used by the occupier.

There was no direct evidence before him to infer that the amenity or use of premises was affected by the defendant's presence, particularly in regard to the location and size of premises, the size and duration of the trespass, and the nature of conduct of the defendant on the premises. He found there was no case to answer.

Outside the court yesterday [the defendant], who described himself as a peace worker and former journalist, said the decision was 'an important decision for the anti-uranium movement which is resisting the nuclear arms race'.

A spokeperson for CANE, Mr Nevin Greenwood, said the decision showed the public had a right of access through the Roxby Downs 'no-go' zone (the area owned by the company) if they had a legitimate reason such as handing out leaflets, monitoring the environment or checking for radioactivity. 'Most trespassers in the past pleaded guilty because they assumed they were guilty, but now they may not all have been guilty,' he said.

That decision, if correct, is a matter of some concern. Section 17a was used quite extensively during the most recent Roxby Downs blockade and, I think, used very effectively in keeping trespassers out of the 'no go' zone, that is, the area of a lease which had been specially granted to the joint venturers and which included the township.

When we discussed the enactment of section 17a last year it seemed to me that the sort of situation that is now being determined by the Woomera court was certainly not foreseen and may well require amendment to that section. The critical precondition to an offence under section 17a is for the prosecution to establish that the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier. With squatters that is generally quite obvious, but the decision to which I have just referred involving the Roxby Downs blockade should cause a certain amount of concern about the application of that section.

Does the Attorney-General propose to appeal against that decision of the Woomera court? Whether or not he intends to appeal, does the Attorney-General think it appropriate, in the light of the way in which the magistrate has interpreted section 17a (1) *(b)*, that paragraph *(b)* be repealed? This is a good opportunity to do that, if we can agree that it is important to remove it, because it is a frustration to protection of property holders against trespassing. It also impinges on the question of magic mushroomers in the Adelaide Hills, where recently there has been some debate between the Hon. Mr Goldsworthy and the Hon. Mr Blevins about the power to remove trespassers who may be on property searching for magic mushrooms. If section 17a is to be relied on and is now, because of paragraph *(b)*, to be rendered largely ineffective, it seems on the face of it to be a good opportunity to remove that paragraph.

The Hon. C.J. SUMNER: The Government would oppose that move at this stage. I have not studied the decision of the magistrate, Mr Harris. Obviously, the matter will now be referred to the Crown Solicitor, and we will examine the decision and determine whether or not there are any grounds or justification for an appeal to the Supreme Court. When the legislation was introduced subsection (1) *(b)* was inserted to ensure that mere trespass was not a criminal offence. The reason for that was, I think, obvious to all members of the Council: that is, that under the common law that we have inherited—British law—pure trespass has not been a criminal offence. 'Trespassers will be prosecuted' has always been a quite inaccurate statement of the law, because trespassers may be sued and action taken in trespass to redress a civil wrong.

Apart from some exceptions, one of which was introduced in this State in 1951 by the Trespassing on Land Act, the general principle in common law in the British system that we have inherited has been that pure trespass was not a criminal offence. Of course, there have been very good reasons, particularly in the United Kingdom, where many people apparently traverse private land without any undue difficulties as far as landholders are concerned.

The other reason is that, if trespass is made an offence as such, the mere entry on to my premises by someone else doorknocking or coming to see me would constitute a criminal offence. I do not believe that criminal law has ever been meant to play a role in reaching that far, although I know that in certain rural areas the Trespass on Land Act has applied and has made pure trespass a criminal offence. If we are to go down that track—and I point out that the Mitchell Committee recommended against it—I think we need to do it after more consideration than we are able to give the matter now. I would certainly wish to study the judgment.

As I have said, the amendment that we passed was not designed to pick up pure trespass; it was designed to pick up the situation in which landholders' or occupiers' quiet enjoyment of their premises was disturbed. Squatters are an example, and magic mushroom hunters are another. Unfortunately, it is not possible to determine the effects of section 17a in those rural areas where there have been problems with magic mushroom hunters. I think part of the problem relates to policing and ensuring, when the magic mushroom season occurs, that there are adequate police in the area. Clearly, it does not matter what the law is: if there are insufficient police to administer the law, the problems with magic mushroomers will continue.

The Government believes that, on the basis of the report of what magic mushroomers get up to on the land, section 17a should be sufficient in most cases to obtain a conviction. From most of the reports and complaints about magic mushroomers, one can see that, if the reports are true, there is quite substantial interference with the quiet enjoyment of landholders' property. That amendment was passed last year. At this stage I think it would be premature to interfere with it, given that it may mean a substantial extension of the criminal law. I suggest to members that they bide their time, that they await an assessment of this case by the Crown Solicitor, and that we await further decisions on section 17a to see whether it overcomes the problems that some people are having. At this stage I would not be amenable to dealing with that matter purely on the basis of one decision by a magistrate.

The Hon. K.T. GRIFFIN: I certainly do not intend to persist with an amendment. I simply wanted to raise the matter, and this was an appropriate time to do that. I note

that the Attorney-General will take advice whether an appeal should be instituted and, generally, whether that case suggests further amendments to the law to overcome the difficulty which was highlighted in that case. I would certainly appreciate it if the Attorney could provide the Committee with the results of those inquiries in due course.

Clause passed.

Clause 13 passed.

Clause 14—'Loitering in a public place.'

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

Page 3, line 23—After 'amended' insert—

'—

(a)'

after line 24—Insert new word and paragraph as follows:

'and

(b) by inserting after subsection (3) the following subsections:

(4) A member of the police force who pursuant to subsection (2) requests a person to cease loitering may direct the person to keep away from the place in which he was loitering for a period, specified by the member of the police force, of up to four hours.

(5) Where a person against whom a direction is made under subsection (4) returns, within the period specified in the direction, to the place in which he was loitering or the vicinity of that place, that person shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or imprisonment for three months.

(6) For the purposes of this section, a person is in the vicinity of a particular place if he is within five hundred metres of that place or such lesser distance as may be specified by a member of the police force who makes a request or gives a direction in relation to him pursuant to this section.'

This amendment relates to section 18, dealing with loitering. It seeks to include in the legislation some further clarity with respect to the vicinity from which a person may be requested to cease loitering. One of the complaints that has been made to me by various police officers, not just about Hindley Street but about Glenelg and other places, is that there is a policing difficulty with section 18 (2) and (3), that because of the difficulty it has not been felt appropriate to test the law, and that it is not adequate merely to request a person to cease loitering in the vicinity of a particular place because 'vicinity' is so ill-defined.

The proposition that I put is reasonable: it enables the police officer to make the request, having been satisfied that there are reasonable grounds for believing that one or more of the paragraphs *(a)*, *(b)*, *(c)*, or *(d)* have been satisfied and, when making that request, to direct that the person cease loitering and not return to a specified area, not exceeding half a kilometre from the place where the direction was given, within a period up to four hours after the time of giving that direction. It is discretionary, but it would be an effective way of ensuring that the police are able to prove the facts rather than rely on the very vague concept of what is in the 'vicinity' of the place where the request has been made.

The other difficulty is that, if under the present section a request is made to cease loitering, and if the person so requested returns in half an hour, all the advice that I have received is that that is a new event and is not sufficient to base a prosecution for a breach of section 18 (2) and (3). It is important to have greater certainty. It will afford an opportunity to police to act reasonably, responsibly and with certainty, and will achieve what all of the Hindley Street traders, the Glenelg traders and community, and the people at Elizabeth are seeking to do, that is, to have reasonable order within the streets.

During my second reading speech I acknowledged that in some instances there may be offences sufficient to warrant arrest or at least a charge, but other parts of section 18 (2) do not relate to offences that have occurred. To that extent, it is important to have some greater certainty to allow a better opportunity for keeping order within streets and public areas. Because this all links together, I suggest that we take the series of amendments together.

The Hon. C.J. SUMNER: The Government opposes the amendment. I have given considerable thought to it and received the representations that the honourable member has received. After considering those representations the Government believed that it would not accept the full recommendations of the Mitchell Committee to abolish the full offence of loitering completely. We have retained in the law section 18 (2) and, as I said before, that section is as broad a section, as I understand it, as any law in Australia with respect to so-called street offences or moving people on.

I reiterate what I said in the second reading explanation, that section 18 (2) is so broad as to apply to purely innocent parties. Section 18 (2) provides:

> Where a person is loitering in a public place and a member of the Police Force believes or apprehends on reasonable grounds that an offence has been or is about to be committed by that person or by others in the vicinity, that member of the Police Force may request that person to cease loitering.

That person who is so-called loitering may be perfectly innocent and may not in any way be involved in the commission of an offence but, because people in the vicinity of that person may be committing an offence, the innocent bystander is also caught up by the 'move on' provisions.

The other point that needs to be made is that the honourable member's amendment will not apply just to Hindley Street, or his stamping ground of Colley Reserve, and it will not apply just to certain public areas: it will apply to the whole of the State. I believe that that is not a justifiable amendment to the law at present. As I said before, having given careful consideration to this situation, I believe that, in order to establish an extension of the police powers in the area, a very firm case must be made out. I am not convinced at this stage that such a case has been made out.

I refer to the paucity of case law on the topic. Certainly, there is some case law, but not very much in relation to the point of the effect of section 18 (3). As I said before, that subsection indicates that, where a request is made to a person who is in the vicinity of an area where an offence may be committed, that person shall cease loitering and leave the place where he was loitering and the area in the vicinity thereof.

I would have thought that that was broad enough to give the police the power they need. The only case in direct point is *Stokes v. Samuels* where the then Chief Justice Bray, in relation to a demonstration offence, said:

> As for the point about the request, I agree that, even if the appellant was loitering when Whyatt addressed her, he exceeded his authority in telling her to cease loitering in Hyde Street until 4.30 p.m. His power under the section was to request her to cease loitering simpliciter, not to banish her from the area for any fixed period of time. If she had left and returned after a sufficient interval effectively to break the continuity of her presence in Hyde Street, I think that a fresh loitering and a fresh request with the necessary mental state and the necessary reasonable grounds and a fresh disobedience would have been necessary to constitute an offence. If she had left and returned at, say 3.30 and at that time the street was clear, there were no offences being committed or about to be committed and no obstruction of traffic actual or imminent, no request could have been addressed to her under s. 18 (2) and she would have committed no offence against s. 18 (3) by remaining.

That gives some support to the honourable member's case, but not complete support. *Stokes v Samuels* went to the High Court and the High Court did not even address that point.

There seem to be very few cases where section 18 (3) has been addressed. It is clear that people cannot return to a place after being told to cease loitering if the potential for an offence being committed is still existing. I am surprised that section 18 (3) has not been tested more often. I would have thought that, if the problem is as great as has been outlined in representations, more cases would have been taken under section 18 (3).

I cannot support the amendment at this stage but I am prepared to monitor the situation and discuss with the police the question of why more prosecutions have not been taken under section 18 (3) if the problem is as great as has been made out in the representations to us, and to see whether there is any need for amendment in future. However, at this stage I find it an unacceptable amendment. I believe that while it makes the direction to leave more specific it has the potential to catch many innocent people going about their lawful business. As I said, in order to justify this sort of extension of police powers, a much firmer case than has been made out today needs to be put.

Therefore, my position is that I will monitor section 18 (3) and see what difficulties arise with prosecutions, particularly in the light of the fact that there do not seem to have been many, and certainly there is a paucity of case law on it.

The Hon. K.L. MILNE: I realise that this is a very difficult and serious question and I have done my best to ascertain what we think should be done. After an interview with the Hindley Street traders, representing the retail traders of Arndale, Elizabeth and many other areas, as well as many other people I must say that I can see their point of view that there is little use moving people on if they can return with immunity. I am assured that that is not the case, that if they do return they would be committing an offence under the Bill as it stands. I have spoken to the Police Commissioner and I am sure he will not mind if I say that he is not seeking an extension of police powers to prevent a person returning after having been moved on.

He is not seeking that Parliament should support the Liberals' amendment, nor does he oppose it. He told me quite clearly that he does not believe it is necessary or perhaps quite the right answer but that if it was introduced he would not complain. Apparently even now the provisions of the Bill regarding loitering are the most powerful provisions of those in any State of Australia. Therefore, I see no sense in going back to section 63 of the old Lottery and Gaming Act. Having spoken to the Police Commissioner, I gained the impression that the Opposition's proposal would not work and that groups of people or individuals would make a point of being difficult so that the police would have a great deal of additional work and perhaps more appearances in court, plus a lot of paper work. They would seldom win.

I listened to what the Hon. Trevor Griffin had to say. The Liberals' proposition has considerable merit in theory. Like all of us, they are trying to help the police, but I doubt whether it would turn out that way. That is what the administration of the Police Force believes. The Housewives Association and the Nurses Federation telephoned me at the instigation of Mr Brophy, Secretary of the Police Association (and I am glad that they contacted me) to say that their members want additional protection. However, they are talking about a problem that is different from the problem we are discussing. That problem has been raised by Mr Sebastian, who represents those interests. The nurses say that sometimes they have trouble when going off duty at night, walking to their car in the car park, riding home on a bicycle or walking, and I can understand that. That position must be considered and I will ask the Attorney to consider it.

However, that is not what the Hindley Street traders are talking about. Mr Dan Brophy, Secretary of the Police Association, telephoned me twice; we had had discussions with him previously. He believes that he is representing the interests of the 3 000 or so members of the Police Association, and he asked that we support the Liberal amendment just as the Hindley Street traders and others have done. But with the utmost respect to the coppers on the beat or in mobile patrol cars or whatever, I genuinely believe that it would not help them if the law was strengthened further. It would start an outcry about human rights, democratic freedom and so on, and people would start testing it. There is no equivalent provision elsewhere in Australia to that contained under section 18 (2), which provides:

> Where a person is loitering in a public place and a member of the police force believes or apprehends on reasonable grounds—
> *(a)* that an offence has been or is about to be committed by that person or by others in the vicinity;

That is really quite powerful: it is very strong legislation. Section 18 (2) *(b)* refers to a member of the Police Force requesting a person to cease loitering where it is believed that:

> . . . a breach of the peace has occurred, is occurring or is about to occur in the vicinity of that person.

Again, I point out that the power in relation to believing that an offence is about to occur is a fairly strong one, and it is very difficult for a policeman to decide whether or not something is about to occur. One can predict that an argument in court could be that a person could say that they were not loitering but were only playing, or having a joke, or something. The provision as it stands at the moment is already enough worry for a policeman in relation to deciding about this. Paragraphs *(c)* and *(d)* of subsection (2) refer to instances where:

> . . . the movement of pedestrians or vehicular traffic is obstructed, or is about to be obstructed, by the presence of that person or of others in the vicinity; or that the safety of that person or of others in the vicinity is in danger.

An enormous amount of judgment must be exercised by the people who call the police, by the people standing around, and by the police themselves. I think that what the Commissioner of Police is really trying to say is, 'Don't make it more complicated; let's try it as it is.'

The Hon. C.J. Sumner: Do you think we should repeal section 18 (2)?

The Hon. K.L. MILNE: No. I am saying that this is a big enough decision for the police to have to make and that a situation should not be created where over a large area the police have to tell people to move on and not come back, because after, say, three or four policemen had done that to two or three different groups, things would get out of hand. I place special emphasis on subsection (3) which provides that:

> A person of whom a request is made under subsection (2) of this section shall cease loitering and shall leave the place in which he was loitering and the area in the vicinity thereof.

The Attorney referred to this matter this evening. This provision has no parallel in the rest of Australia. I have received advice from a lawyer that no case has ever defined what 'the vicinity' refers to. However, one would assume that a person moving out of the vicinity would mean that a person would be moving out of harm's way, that is, relating to the people who were likely to be attacked or the people who were likely to do the attacking. Having heard the Attorney's comments on this matter and having taken advice, I believe that the powers as they are at the moment are sufficient. Admittedly, that is a layman's view and, therefore, I make quite clear that, if it is proved that these powers are not sufficient and the matter is raised again either by the police or the people affected, I would certainly consider the matter again. I do not want to be a party (nor

would any member in this Council want to be a party) to asking the police to look after our safety with one hand tied behind their back. In dealing with this loitering provision I think that there has been too much emphasis on Hindley Street and Glenelg. The legislation must cover many incidents, many circumstances which are not the same and which may involve loitering of a different kind. I am quite sure that the Liberals are sincere about their amendment, but I think the amendment would give the police an enormous responsibility and a dilemma.

A decision on what was reasonable in the circumstances (and that is how it would be decided in the court—were they reasonable or not?) would be extremely difficult, just as a decision on what 'the vicinity' really means in any set of circumstances. I am not sure that their actual formula is right. This matter could be discussed further and we could be ready with something that was perhaps a little better if the matter arose again. I foresee endless argument both on sites where loitering is alleged and subsequently in the courts, and enormous police frustration. On balance, I feel that we should support the Government and hope that, if this part of the Act is found to be inadequate, the Attorney-General will review it as he promised.

The Hon. K.T. GRIFFIN: I am surprised that after section 18 (2) has been in operation for 13 years we still do not know whether or not it is adequate. All the information that has come to me suggests quite strongly that it is not adequate. It was inserted in 1972 by the Dunstan Administration and, although there may not have been many cases, if any, there is no doubt at all that the police officer on the beat (who bears the brunt of police work in these areas) has experienced significant difficulties in using this section to keep order in the streets..

The Hon. Lance Milne has said that this applies in places other than Hindley Street and Glenelg. I know that, and I am satisfied that it needs to apply to many other parts of South Australia. If we do not take the opportunity now to amend it, we will lose a very valuable chance to strengthen it and make it workable. I can understand why the Commissioner of Police is ambivalent about it. He says on the one hand that he is not seeking it, but that, on the other hand, if he gets it he will work with it.

The fact is that the Commissioner already has got a significant number of changes to this legislation and he does not want to run the risk that there will be some sort of debate which results in the widening of police powers in later sections of the Act being lost. So, I understand his concern, and I understand it also in the context of the controversy over the Police (Complaints and Disciplinary Proceedings) Bill. However, it is the police officer on the beat who has to work with it. I have no doubt at all that, if it were amended in the way that I am suggesting, it would prove to be a much clearer proposition than it is at present.

Although police officers may have to go to court to give evidence, they accept as part of their responsibility and as part of the administration of justice being required to give evidence as witnesses for the prosecution. I do not believe that it will deter them from using the provision if it is strengthened; nor do I believe that it is a major reason why the Commissioner of Police, for example, would not want to say clearly one way or the other what he thinks about the amendments that we propose.

There is a need to clarify the provision in the principal Act, and I am disappointed that we are not taking this opportunity to do so. Although the Democrats and the Attorney-General say that they will keep it under review, they have had 13 years to do it now, and nothing we do tonight (bearing in mind the voting indication that we have been given) will make any difference to the way in which it operates. So, I cannot see what additional information that we do not already have at our fingertips will be gained by keeping it under review.

The Hon. R.I. LUCAS: I had intended canvassing a possible minor amendment to the Hon. Mr Griffin's amendment, but I would like to confirm that the Hon. Mr Milne's views reflect those of his colleague.

The Hon. K.L. Milne: They do.

The Committee divided on the amendment:

Ayes (9)—The Hons. J.C. Burdett, M.B. Cameron, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson

Noes (10)—The Hons. G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Felleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. L.H. Davis. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. R.I. LUCAS: I have a question in respect of this clause as it relates to clause 31, the power to require a statement of name and address. It is clear to me, if one looks at clause 18 (2) *(a)*, that where an offence has been or is about to be committed by a person a member of the Police Force could under clause 31 require a statement of name and address.

My question relates to section 18 (2) *(b)*, where a breach of the peace is occurring or is about to occur in the vicinity of the person, or to paragraph *(c)* involving the obstruction of pedestrian or vehicular traffic. Does clause 31 or some other clause give police the power to require a statement, name and address? On a lay reading of clause 31, I do not see how the police could request a name and address. If I am correct in that, and the police cannot, because of section 18 (2) *(b)* and *(c)*, request the name and address of someone loitering, what does the police officer do about remembering whom he has told to cease loitering? Under section 18 (3), how does he identify someone whom he has told to cease loitering—who may well have gone off 100 metres away and come back 15 minutes later—if he has not been able to require a name and address?

The Hon. C.J. SUMNER: The honourable member is correct when he says that a police officer is not empowered to require a name and address when the only conditions that exist are included under section 18 (2). I am not sure that that is clear cut with respect to all of section 18 (2) *(a)*, which talks about an offence about to be committed. Clearly, that is covered by proposed section 75a and would catch the obligation to provide a name. That would also probably be the case if a breach of the peace has occurred, is occurring or is about to occur.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I do not know. The proposed new section 75a (1) *(a)* also refers to 'about to commit an offence'. In respect to section 18 (2) *(c)*, which refers to the movement of pedestrians or vehicular traffic being obstructed or about to be obstructed by the presence of that person or others in the vicinity, such obstruction of vehicular traffic, if not pedestrian traffic, is already covered under the Road Traffic Act. There may be some hiatus in section 18 (2) *(c)* or *(d)*, although it may be argued that, if the safety of persons in the vicinity is endangered, that would also imply that an offence is about to be committed, although that may not necessarily be so.

The only hiatus would possibly be with paragraphs *(c)* and *(d)* of section 18 (2). The honourable member has to realise that, under the loitering provision, the offence is not actually committed until the person, having been told to move on, either refuses to move on or, having moved on, comes back to the vicinity in such circumstances that he has not really ceased loitering. The method used by the

police is simple visual identification or recognition. I do not believe that it has created any problem in the past.

The Hon. R.I. LUCAS: Has the normal practice been that, when the police warn someone about loitering under section 18 (2), in particular paragraphs *(c)* and *(d)*, a name and address is taken, or is it normal police practice for that not to occur?

The Hon. C.J. SUMNER: I do not believe that normal police practice would be to take the name and address when a person is told to move on under section 18 (2), but those details would be taken if a person refused and committed an offence.

Clause passed.

Clauses 15 to 30 passed.

Clause 31—'Power to require statement of name and address.'

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

Page 6, line 1—After 'fails' insert 'without reasonable excuse'.

Under this clause the failure to provide identification in circumstances where the person may not be carrying it will not attract a charge—only if the person fails without reasonable excuse to produce such identification.

Amendment carried.

The Hon. K.T. GRIFFIN: I notice that the penalty in this clause is $1 000 or imprisonment for six months. I notice also from the schedule that there are, not necessarily, correlations between the present penalties and increased penalties, but that wherever there is a period of imprisonment and a substantial fine it is $1 000 and three months, $2 000 and six months or $8 000 and two years. Why is there a difference?

The Hon. C.J. SUMNER: The honourable member, ever vigilant, seems to have caught us out. I think that it was copied from the Bill he had prepared. The scheme that the Government is trying to introduce is some kind of consistency in sentences of imprisonment matching up with fines. Indeed, at some stage we hope to introduce a procedure of having categories of fines so that they can be updated from time to time without the necessity of going through every single Act. What the honourable member says is correct. To be consistent with the rest of the Act it would need to be three months. I move:

Page 6, line 9—Delete the word 'six' and insert the word 'three'.

Amendment carried.

The Hon. R.I. LUCAS: I have a question in relation to the power to require the name and address. During my university days, if I missed the bus I would walk home to North Adelaide in the early hours of the morning, and I have had personal experience of a police car pulling me up and its occupant requesting my name and address, to which I took some exception—

The Hon. C.J. Sumner: Were you arrested?

The Hon. R.I. LUCAS: No, I was not foolhardy on that occasion; I gave in. I take it that the police only have to say that they believe that a person in that situation may be able to assist in, say, the course of some investigation and do not have to give any explanation to that individual of the detail of an offence they may be investigating?

The Hon. C.J. SUMNER: I suppose not. If they were harassing you without any reasonable cause, they do not have the right to require you to state your full name and address. Obviously that is a subjective matter, but if it were ever tested, after you had refused to give your name and address and you were then prosecuted, the police would then have to produce evidence. In order to sustain that prosecution, the police would have to show that at the time they made the request they had reasonable cause to suspect that you may be able to assist in the investigation of an offence or a suspected offence. If they came to court and said that they did not like the way you were walking along Kermode Street or Prospect Road, that would obviously not be sufficient. The mental state of the police must be such that at the time they request your name and address they had in their minds reasonable cause to suspect that an offence had been committed or that you might be able to assist in the investigation of an offence.

The Hon. R.I. Lucas: They don't have to explain the nature of the offence they might be investigating?

The Hon. C.J. SUMNER: No. However, if you refuse and say that you will not give your name and address because you are walking along the street and not doing anything, they could say, perhaps to try to establish the reasonableness of their belief, 'We believe you passed a shop 100 yards back and saw people leaving and you may be able to give evidence about it, therefore you should state your name and address'. However, there is no obligation on the police to do that. If you refused and they said that they would prosecute you, the matter would then be tested in court; in order to get a case to answer they would have to establish that they had reasonable cause to suspect that you had evidence to give about the commission of an offence.

The Hon. R.I. LUCAS: Having asked for name and address, and having been given that information, could they then proceed to ask a series of further questions as to the reason why I was walking down Prospect Road? Are they legally entitled to require that information from an individual who is walking down, say, Prospect Road?

The Hon. C.J. SUMNER: No.

The Hon. R.I. LUCAS: An individual could refuse to answer further questions without getting into any trouble?

The Hon. C.J. SUMNER: I am not sure whether the honourable member is seeking free legal advice; perhaps he envisages getting into trouble later this evening. There would be no obligation on the Hon. Mr Lucas to answer any questions of that or any other kind. There are only the specific obligations imposed by the legislation, one of which is to give your name and address, pursuant to section 75a.

Clause as amended passed.

Clauses 32 to 34 passed.

Clause 35—'Power to search, examine and take particulars of persons.'

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

Page 10, line 23—Leave out "two hundred dollars" and insert "one thousand dollars or imprisonment for three months".

I have already explained the reason for increasing the penalty: $200 is quite insignificant for someone suspected of a serious crime. The mere risk of paying a $200 fine may not be a sufficient deterrent to a person who decides that he or she will not co-operate and submit to the taking of fingerprints, and so on.

The Hon. C.J. SUMNER: Having listened to the honourable member's argument, I am prepared to accept the amendment although, again, this is a direct take from the honourable member's Bill.

Amendment carried; clause as amended passed.

Clauses 36 and 37 passed.

Schedule.

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

Page 13—Leave out the item: 'Section 75 (3). By striking out "Forty dollars or imprisonment for three months" and substituting "Two thousand dollars or imprisonment for six months".'

Section 75 (3) no longer appears in the Bill.

Amendment carried; schedule passed.

Title passed.

Bill read a third time and passed.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 27 February. Page 2899.)

The Hon. R.C. DeGARIS: I do not believe that fixed terms are compatible with the Parliamentary system in which the Executive is directly responsible to the Legislature. Among the elements that are essential to the Parliamentary system that we have in Australia I emphasise the following: first, the flexibility that enable appeal to the people to be made at any time when it appears that the Government no longer enjoys the confidence of the Lower House; secondly, the right of the Government to determine the circumstances in which a defeat in the House of Parliament is a defeat on the issue of confidence; thirdly, the right of a Government to request a dissolution following defeat in the House or at a time of its own choosing when Parliament has run a reasonable course.

Fixed terms work satisfactorily in a country like the United States where the executive arm of Government is separate from the legislative arm. The Executive in that system is not dependent on the confidence of the Legislature, and is therefore in a position to carry on Government whatever the Legislature may do. One could give a number of examples from systems in which Government is responsible to Parliament and Parliament has a fixed term.

During the French Fourth Republic Governments were being brought down by no confidence votes every few months but the Constitution did not provide for the dissolution of Parliament before it had run its term. Therefore, there was no way for a Government to appeal to the people and France went through a period of one uneasy coalition following another, none of them having any hope of forming a stable Government. It was power without responsibility, which we have already seen exhibited in this Council today.

The Hon. R.J. Ritson: Italy was worse.

The Hon. R.C. DeGARIS: Italy was worse, yes. When the Parliament knows its vote will not only bring down the Government but also force an election, the Parliament is less likely to act irresponsibly. Fixed terms do not fit the system of Parliament that we have inherited. If we are to move to fixed terms we need to move also to the position where the Executive is separated from Parliament. We cannot move to a half way mark, because we would be combining the disadvantages of both systems.

Indeed, there is an argument to move our system to the US system as the Executive is gradually undermining the Parliamentary system that we have inherited. I have drawn attention to this in previous speeches, a point made so clearly by Lord Hailsham in his *Theory of the Elected Dictatorship.* But fixed terms in our system would only add to that decline. By comparison the fixed term system requires a means whereby the Executive can be challeneged, and the American system uses the complicated, complex and difficult process of Presidential impeachment, while the system operating here is with the Parliament and finally the view of the electors.

The Hon. R.J. Ritson: Particularly without bringing the Government down.

The Hon. R.C. DeGARIS: That is correct. Coming back to South Australia and its Constitution Act, section 28 provides:

> Every House of Assembly shall continue for three years from the day on which it first meets for dispatch of business subject nevertheless to be sooner prorogued or dissolved by the Governor.

It can be understood that the House of Assembly is expected to continue with about three years between elections. Since the turn of the century we have had five early elections in South Australia: 1912, 1970, 1975, 1977, and 1979. We have had one five year term, 1933 to 1938. Since the Constitution Act first began in 1856 we have had 44 elections in South Australia. If an absolute fixed term had been the procedure, we would have had 43 elections—one extra election in South Australia over a period of 129 years. With a five year Parliament there could possibly have been two extra elections, but actually it works out at one, which is hardly a case for arguing fixed terms, so, there would be no great increase in elections. It is possible or even probable that those early elections would have occurred even with a fixed term of three years. There is no guarantee that the full three year term will be fulfilled.

There is still the ability of a Government to force an early election, even with a fixed term of Parliament. This process has been used on two occasions under the West German Constitution, which has a constitutional fixed term. In our existing system it is difficult to establish any serious problems. Indeed, it can be said that the electors will solve the problem for us, and surely that is the most dramatic means. For example, it is clear that, if any Government in South Australia calls an early election purely for political purposes, that Government will lose support for taking that course.

Many a constitutional authority both in the American and British systems, has stated that one of the most important strengths of the British system compared with the American system is the fact that in the British system the Lower House can be dissolved at any time and the Executive can appeal to the electorate. Woodrow Wilson was one American who made one statement along that line. It is not practical to graft a little of one system onto another: such grafting would require further constitutional changes if it is to work satisfactorily.

I refer to a peculiar comment in the second reading explanation, as follows:

> The present constitutional rules virtually allow the Premier of the day to call an election for the House of Assembly at his whim.

As far as the Bill is concerned that remains. The explanation continues (and for the purpose of clarity I have added the years of the various Parliaments):

> This observation is borne out by the figures related to the duration of the past 10 Parliaments in South Australia, those figures being as follows:

Year	Parliament	Duration		
		Years	Months	Days
1956-59	35th	2	9	20
1959-62	36th	2	8	19
1962-65	37th	2	10	16
1965-68	38th	2	9	16
1968-70	39th	2	0	25
1970-73	40th	2	7	14
1973-75	41st	2	0	1
1975-77	42nd	2	0	12
1977-79	43rd	1	10	14
1979-82	44th	3	0	3

The peculiarity in that statement in the second reading speech is that the 35th, 36th, 37th, 38th, 40th and 44th Parliaments went their full distance yet, according to the table I have given, only one Parliament went a full three-year span—from 1979 to 1982. Why did the Attorney-General in his explanation use figures that are misleading? If this Government goes to its fully allotted term (that is, to March 1986), the average term of office over the past 11 elections will have been 2¾ years, yet the second reading explanation claims 2½ years.

Apart from the 1912 election, the period of early elections is restricted to the 1970s. As I have said, the electors' influence on how they vote at an early election will force Governments to relinquish this process unless there is a strong case for calling an early election. The *Advertiser* editorial of last Tuesday states, in part:

Under the State Constitution, the 47 members of the House of Representatives—

and the editorial in the leading newspaper in South Australia refers to the House of Assembly as the House of Representatives—

where the Government is formed, are elected to sit for three years from the first business day of the Parliament. Allowances are made for elections to be called earlier when there are deadlocks between the Upper and Lower Houses or when a Government loses the confidence of the Assembly or is defeated on a money Bill (which is, in effect, the same thing). In practice, however, a Premier can degrade the political process by calling an election pretty well any time the odds seem right. Over the last 10 Parliaments, the average life span of the Assembly has been 2½ years.

Those comments came from the second reading explanation, and they are plainly misleading. It is further stated:

Allowing for settling in and then suffering election speculation, this gives about a year of real governing each time. When we castigate politicians for rarely looking to the long-term welfare of the State, we might reflect that this comes partly from the brevity of their elected term.

One can see that the *Advertiser* has quoted from the second reading explanation which, as I have pointed out to the Council, is quite misleading. The remainder of the article has a naivety that should not be found in an editorial of a newspaper with the standing of the *Advertiser*. The point I am making is that, unless there is a strong case for calling an early election, there will not be early elections in South Australia to any great extent in the future.

Let me examine the results of the early elections. In 1912, John Verran called an early election, and was defeated; Steele Hall called an early election in 1970 and was defeated; and Don Dunstan called an early election in 1975 and won by one seat but was defeated in the total vote of the State. He secured 49.2 per cent of the total vote while the Liberals secured 50.8 per cent, the margin being 1.6 per cent. Don Dunstan won the early election of 1977, but in 1979 Des Corcoran was defeated at an early election. So, four of the five early elections reflected against the Government for its taking that action. There is no historical political advantage in a Government's calling an early election and I am sure that Governments understand that point.

Rather than move to a foreign system, why do we not rely on the good sense of the electors? I have already referred to the broken back coalitions of the French Fourth Republic. There is no guarantee under the fixed term provisions of this Bill that the same thing cannot happen in our democratic process. Let me suggest the following format that may eventuate. There could be 20 ALP members, 21 Liberals, three Independent Labor members (and that is a great possibility), one Democrat, one NCP member, and one Independent Liberal member. A series of coalitions could continue for three years with no way for members of the public to express their views. There would be a repetition of the French Fourth Republic situation.

Very strange things happen in this situation. A Government could change in the Lower House because of a no-confidence motion, another Government could form, the House could sit for one day and then adjourn for six months, as it is known full well that the next no-confidence vote is on the way. One can consider these things one after the other. Very strange circumstances can occur, even though we say that they might not happen. One thing I can say is that Murphy's law applies to politics probably more than to any other profession. What is the position if a serious conflict occurs between the two Houses? Will procedures that are similar to those adopted in West Germany be adopted here whereby a Government must create a no-confidence motion in itself to achieve a dissolution? One of the arguments advanced for constitutionally fixed terms is that a public opinion poll supports the idea that Governments should fulfil their full period.

If knowledge of the impact of these provisions before us was known to those expressing public opinion, I am sure that they would not agree with the fixed term system. One thing is certain, though; the public opinion poll is saying that if Governments call an early election purely for political gain then the public will express its objection in the polling booth. That is a more effective means than any other that I know of to ensure that Governments go for their allotted term.

In the second reading explanation the Attorney-General quoted a recent Australasian Study of Parliament Group Workshop in which reasons were identified as favouring a fixed term for Lower Houses. The Attorney-General quoted eight reasons, the first of which being that, 'it protects the existence of a Government which continues to enjoy the confidence of the Lower House'. My question to the Attorney-General is: against what does it protect the Government which continues to enjoy the confidence of the Lower House? I would ask the Council to consider that question. Here we have a Government which enjoys the confidence of the Lower House; and the claim is that the fixed term protects such a Government. I would like to know what it is protected against by a fixed term. It cannot protect the Parliament against a contrived no-confidence motion. Can it protect the Government enjoying the confidence of the Lower House against any conflict that may eventuate between the two Houses? I find it extremely difficult to understand why this reason is there at all.

The Hon. R.I. Lucas: It protects against an Upper House that runs rampant, rejecting Supply.

The Hon. R.C. DeGARIS: This Council has never stopped Supply in the 129 years of its history, but there may well be a time when not only Liberal or Labor stops Supply but when Liberal and Labor combine to do it. That could occur. Therefore, let us not talk about the question of Supply because it is an entirely different matter. If that is what this provision is there for, it is a spurious point to raise in relation to this matter.

The second reason given for favouring a fixed term for Lower Houses was that, 'it ensures tenure of a Government and during that tenure ensures that a Government is capable of governing effectively'. A fixed term does not ensure tenure of Government for a fixed term. I have already mentioned the contrived no-confidence motion. What happens in our system if a by-election is necessary due to the death or resignation of a member? If we wish to ensure that an elected Government continues in office for a fixed term, we need to look at a new system of replacement of a member by way of someone filling a casual vacancy. This casual vacancy question does not in all cases ensure tenure of government granted at the most recent election. As I have pointed out, over the past 129 years how could a fixed term have made any of those Governments more effective? The third reason given was that:

For Parliamentary committees, greater refinement and development of the present systems would occur, allowing greater deliberations, more depth of inquiry and analysis of complex and extensive issues.

As the Council knows, I strongly support the refinement and development of Parliamentary committees, particularly of this Council, but what I cannot understand is how a fixed term for the Lower House has any influence on that development. To me it appears to have no influence at all. The fourth reason given was that 'there would be more systematic and purposeful servicing of electorates by members'. Once again, I cannot understand why fixed terms for the House of Assembly have any influence on the servicing of electorates.

As I pointed out, in the 129 years of our history we have had one extra election in South Australia. There is no guarantee that if we operated under a fixed term in the last 129 years there would not have been the same number of elections—44—in that period. So, perhaps it can be explained to me how the servicing of electorates in that period would be more systematic and purposeful if a fixed term applied. There is no answer to that question.

The fifth point is that there would be a reduction in opportunities and incentives for Parliamentary procedural manoeuvres. I find it extraordinarily difficult to accept that a fixed term concept would reduce opportunities and incentives for Parliamentary procedural manoeuvres. Perhaps it can be explained to me which Parliamentary procedural menoeuvres will be used less under a fixed term provision. We all know that the manoeuvring of politicians will continue whether or not constitutional provisions are applied. With fixed terms there will probably be new areas for maneouvring that we cannot recognise at present.

The sixth point made is that it would largely remove the partisan political advantage presently enjoyed by the Premier in his choice of a date for an election. Even under the fixed term regime proposed in the Bill the Premier will still have a choice of dates for an election over a period of almost one and a half years.

The Hon. M.B. Cameron: He will manipulate matters to suit himself for that.

The Hon. R.C. DeGARIS: That is quite so. But, even then, as I pointed out, there can be a concocted no-confidence motion that can take it back the other three years as well.

The Hon. M.B. Cameron: In the middle of the Grand Prix!

The Hon. R.C. DeGARIS: Probably. As I pointed out also, in South Australia's history the political advantage of an early election is an illusion. In the five early elections called in South Australia, what was the political advantage to the Government from calling that election?

The seventh point made is that it would be more likely to result in a reduction of the number of elections. I have already dealt with that question. There is no guarantee that this can be achieved. Even if it is achieved, there would be one less election in the next 129 years. The eighth point states that it would enable the Government to plan its Parliamentary timetable in a more rational, methodical and purposeful manner. Why?

The Hon. B.A. Chatterton: That is what we need.

The Hon. R.C. DeGARIS: Why? Can anyone tell me why the four year fixed term might be applied? On the points I have made previously, the Government can plan its Parliamentary timetable in a more rational, methodical and purposeful manner still by completing its term of office. Simply having a fixed term will not assist any Government in its rationality, methodology or purposefulness. It has that ability now. None of those reasons given is impressive. Indeed, it can be argued that many of the points given for those reasons may be adversely affected by the fixed term provisions in this Bill.

The next question that needs to be examined is the possibility of a minority group assuming Government in the House of Assembly with the two major Parties not prepared to unseat that minority group in office. This position has operated in Australian politics in recent years and can lead to a number of unsatisfactory situations.

The two major Parties in the Assembly will not vote with each other in a vote of no-confidence, and the Upper House is left with the problem of trying to solve the difficulties of a small minority group governing it in conflict with the Upper House, which may well occur in such a situation, and which can leave the democratic process in tatters. When this situation has occurred in the democratic process in Australia, nothing very serious has eventuated, but it could under a fixed term system for the House of Assembly.

The ability of the House of Assembly to call an election in some way or another to force an election on the Legislative Council when the Council has done nothing to force another election is the most offensive part of the provisions in this Bill. We have a fixed term for the House of Assembly, evidently, but not for the Legislative Council. One of the most important constitutional restrictions on the assumption of constitutional powers is that there must be a three year period between elections in the Legislative Council.

This constitutional provision is one of the most important issues that we have. I do not object to an election in the Legislative Council if the Council has, by its actions, forced a new election. But, to be pushed to an election at the whim of the House of Assembly does undermine the constitutional protection that we possess. Strange as it may seem, the House of Assembly cannot undertake that process if such an early election is engineered following a double dissolution. The question here, of course, is that to require that power the matter must be endorsed by referendum.

I do not wish to go back in history to relate to the Council how those referendum provisions were achieved. However, it was accepted by the Labor Party unanimously in the House of Assembly. If the Labor Party had not supported it in the House of Assembly, those referendum proposals would not have passed. So, we will now have a half-baked procedure where not in all circumstances will the Upper House be forced to an election at the whim of the House of Assembly. Why then does the Government not completely remove this constitutional protection that we have and take it to the electors of South Australia for approval? Perhaps the last of the Federal referendum results is the answer to that question.

I assure the Government that if it takes this proposal to the people of South Australia it will not be accepted. It is, however, going to try to get through a half baked change without any reference to the people. Although I have tried to point out to the Council some of the problems that the use of a fixed term can generate, probably the most dramatic lies in the conflicts that may occur between the two houses.

The record that this Council has as a House of Review over a period of history is excellent—no State in Australia has a better record. In relation to any conflicts, under the fixed term system, what will be the position in the future? There may be a time when both major parties in the Upper House agree with the defeat of a budget. That is a distinct possibility. What happens in that case in relation to a fixed term of Government in the House of Assembly?

So far in our history that has never occurred, but that does not mean that it will not occur. Supply, of course, is a different thing. What is the position if a Budget is amended by the Legislative Council quite constitutionally, as occurred in 1910, the Government refuses to accept that amendment, and is unable to force a vote of no confidence? These conflicts are only a few of many which one can conjure and in regard to which no one in this Parliament can say exactly what will occur. We understand our present Constitution and know how it operates. We have had one extra election in the 1970s, yet we intend tossing over that system for one which is foreign to our Parliamentary heritage and, if passed, no-one in this Council can predict its ramifications.

I believe that the Bill has an effect on the powers of this Council. That point may be argued by some members, but I hold the view that it could be argued convincingly that it needs referendum approval. I refer to section 10a of the Constitution Act. The point is that when the Council can be forced to an election at the whim of the House of Assembly it does affect the powers of this Council and,

therefore, in my opinion, this Bill needs to go to a referendum.

In all political parties, ALP, Liberal and Democrats, there are members who are unsure of their views. I hope that all who will be voting for these provisions will give attention to the disadvantages of fixing a term constitutionally for a Parliament's life. I go back to the beginning: fixed terms are not compatible with a Parliamentary system in which the Executive is directly responsible to the Legislature.

I turn now to the repealing of sections 13, 14 and 15. These sections of the principal Act were amended in 1973 to cater for the change in voting for the Legislative Council and the change in numbers of the Council from 20 to 21 and subsequently to 22. It appears reasonable now that some of those provisions should be changed. Since 1973, further changes have been made to the voting procedures for the Legislative Council, and the particular provisions in the Bill to fill casual vacancies should take into account those changes.

The system used in many countries that use voting for individuals in a PR system appears to be the most satisfactory system. In the Australian system it is used in the Tasmanian Hare-Clark system. The position is determined by referring to the voting papers when the member, whose death, resignation or otherwise creates the casual vacancy, was elected and the person who would have been elected if that person was not on the paper is the replacement. However, a provision would still be needed for the calling of an assembly if the vacancy by such a method could not fill that position of a person from a stated political group. For example, supposing an ALP Legislative Councillor resigns and that person was No. 5 on the ALP list: it is clear that No. 6 would have been elected if No. 5 had not stood.

However, there is the possibility that all remaining members on the ALP list are not available—through death, or moving to another State. In such a position, an assembly should be called to made that determination. But, if the voting papers are not used to make the determination, serious problems could eventuate. The example to give the Council is the election of an Independent who has no attachment to a political grouping. How can an assembly make its decision satisfactorily in that situation?

The only way to find out who would have been elected if that particular Independent did not stand is to refer to the determined voting papers. Supposing Martyn Evans or Norman Peterson had stood for the Legislative Council and achieved success—and through accident a casual vacancy occurs? How can the assembly make a decision, without reference to the voting expressions at that election? I will be moving an amendment that the assembly be called, but that the Electoral Commissioner must refer back to the papers and make a recommendation to the Parliament or that assembly as to who would be elected upon the death or resignation of a member in his place. That is the only way it can be done.

The birth of new Parties, the amalgamation of Parties and the disappearance of political Parties all create extreme difficulties unless we use the accepted principle of using the system of reference to the voters' intention. To overcome this difficulty, I suggest to the Council that the step used in referring to the voting papers should be used.

The question of long term and short term Legislative Councillors in the event of a double dissolution is also an interesting question that deserves debate. A means of deciding the long term and short term Councillors need be combined in the Constitution Act in a fair and just manner. The present procedure of deciding by lot is unsatisfactory—a sortilegeous procedure. There are two ways of carry out this determination.

The proposal in the Bill is to assess the first 11 elected for a six-year period as those elected if only 11 were to be elected; that is, as if there was quota of 8.33 per cent. Those 11 will be the long term Councillors. The second 11, the short term Councillors, will be elected by electing 22, with a quota of 4.35 per cent.

The question the House needs to decide is whether the 8.33 per cent is fair, when at the 4.35 per cent a different first 11 will probably be chosen. For example, a person polling 4.5 per cent of the votes is certain to be elected in the first 11, using 4.35 per cent as a quota, but will not be elected in the first 11, using the 8.33 per cent quota. The 8.33 per cent quota gives an advantage to certain groups on the voting paper.

It is a disadvantage to all minor Parties and independents. There is an argument, of course, that in electing the first 11 the 8.33 per cent quota should be used, but I do not know of a PR voting system where the determining of the long and short term members uses a different quota for that determination.

I have been informed that it is possible for a person who would not be elected in the first 22 to be elected in the first 11. What is the position in a double dissolution of determining the long and short term members? One has a situation where the first 11 are computed and one finds the person elected but he is not elected in the first 22. That interesting question needs to be examined.

Finally, I come to the point of an extension of the Parliamentary term to four years. I do not believe we should extend the term to four years without the approval of the electors of South Australia. I do not believe that an extension from three years to four years will produce stronger or more effective Governments. If those arguments are valid, why not make it five years or seven years, to give still stronger and more effective Government? Parliament did extend its term to five years in 1933, and the result in the 1938 election was rather dramatic. Parliament then returned to a three year term very quickly.

I believe that the electors of South Australia want Governments to fulfil their constitutional period—if they do not, the electors will express their displeasure. But, if Parliamentarians are going to extend their office, the electors should be consulted. Another peculiarity is that the term of Parliament runs from the time that Parliament first meets. That is presently in the Constitution Act but is covered by other provisions. This is the way the term has been computed in the Attorney-General's second reading explanation, and those last 10 elections that the Attorney cited are inaccurate because the computation comes from the time that the Parliament first met until the next election. That is not a short term Parliament: it is a full term Parliament.

Some of the proposals I can support, but the real crux of the Bill is that we are tossing out principles that have been important in the British system, and adopting proposals that are foreign to that system. The proposal is not compatible to a system in which the Executive is directly responsible to the Legislature.

The Hon. M.B. CAMERON (Leader of the Opposition): There is a lot in what the Hon. Mr DeGaris has said that is attractive. I know that the Party of which I am Leader on this side of the Chamber has indicated its support for the Bill with an indication of some amendments. This Bill is totally unnecessary and an absolute waste of time. All that is needed is for the Leaders of both Parties in the other House to say that they will carry out their full term unless very unusual circumstances exist. That is all the Bill says. Why has this Bill been introduced? It could probably be called 'Save Sumner from his mate's Bill', because that is really what it is all about. What happened is that in 1979—

The Hon. Anne Levy interjecting:

The Hon. M.B. CAMERON: The Hon. Ms Levy does, but the Hon. Mr Sumner had an experience in 1979 that soured him off rather badly. I can well understand it. He was the only person who tried to bring the Party to its senses by not supporting, in Cabinet, an early election.

He has a real hang-up about it now, and that is why the Bill is in the Council. It is his hang-up that has brought it forward. He wants the Bill in because he does not trust his Party not to do it to him again. He wants to fix it up so his Party does not do it to him again. That is not a good reason for changing the Constitution. We really should sit back and think about what we are doing to the Constitution. If that is the reason behind this Bill—and I believe it is (because the honourable member does not trust his friends in the Government not to take that action again)—we should not go ahead. I think that is the real basis for this Bill.

I think the reason we are doing it is that we are saying to the public, 'We want to make it a fixed term because we cannot trust ourselves not to try to take advantage of the systems'. We are really trying to cope with our own inability to be fair dinkum with the people and serve our full terms. As the Hon. Mr DeGaris said, the Attorney was not really honest when he put forward the proposition about that period when there have been short-term Parliaments. The Attorney-General tried to imply that the Liberal Party was responsible for this in some way and that he was fixing it up because we were the bad guys. We all know from the Hon. Mr DeGaris's figures that that is not the case. In the 1970s the then Premier (Hon. D.A. Dunstan) kept a close eye on the Gallup polls and the subjects being discussed, and whenever he felt it was a good time to have an election he would have one.

The Hon. R.I. Lucas interjecting:

The Hon. M.B. CAMERON: Yes, one could pick it. They would get excited in the corridors and start tramping up and down and, sure enough, a motion would be moved to adjourn the House, away we would go and there would be another election. Part of the reason for that was because the then Premier wanted to gain control of the Council—that was part of the plot. However, the double dissolution procedures fixed that. At one stage the then Premier was working himself up to a double dissolution, but he found that there was a bit of a problem because of the long-term and short-term requirements. I know that that has now been fixed up in this place, but it certainly stopped the Hon. Mr Dunstan from calling a double dissolution. He was trying to manipulate the system. He caused the problem and then the Hon. Mr Corcoran, who was a bit naive in these matters, saw a Gallup poll showing that his popularity was 60 per cent or 70 per cent, so he thought he would have another election. However, it did not turn out the way he expected, and that election is why we are debating this Bill tonight.

The term of the House of Assembly is discussed in section 28 of the Constitution Act, the provisions of which have been quoted. What the provisions mean in relation to terms served by a Government is that, even without the action of a Government going to the polls early, or some other factor which might precipitate an early election, a Government's term could extend for up to three years and six months. In fact, the present Government is in that situation: it does not have to stop after three years in November 1985 (which will be its term), it could go further.

The Hon. C.J. Sumner: Just like the Tonkin Government could have.

The Hon. M.B. CAMERON: Yes, we could have, but our three years was up, and that was the recognised term of Parliament. However, the reality is that few Governments in the 1970s reached the end of the third year of their term, let alone reached three years and five months. Certainly, the Corcoran Government did not, and we are quite grateful for that. In fact, I must give some thanks to the less sensible people in the Labor Party who ignored the very good thoughts of the Hon. Mr Sumner and brought on the early election. The Hon. Mr DeGaris said that people in the community want full term Governments and, if Governments go early, they will receive their answer from the people. The people are not stupid. They will not have things put over them, as occurred in the 1970s. In his second reading explanation the Attorney-General said:

> The problem addressed by the Bill is the lack of predictability and stability of the electoral cycle within this State.

These issues, namely, those of predictability and stability, are important and must be more adequately addressed.

He said that rational planning by the Government must be severely hampered when Governments always have half an eye on the prevailing electoral climate to see whether the chances of re-election are better perhaps than they will be in six months. That is probably going on now within the Government. I bet that it wishes that it could have an election at this stage, because I assure it that the way it is going it will be much worse in six months. Its popularity is at its height now, and that is not too high.

The problems are just as great for businesses which have no guarantee as far as guarantees can be given of continuity of policy and which must face the inconsistency of a Government always responsive to immediate electoral circumstances rather than being content to get on with the job. The interesting thing to note about this Bill is that it has been introduced by a State Labor Government. This has been because an assessment of the terms served by recent Governments show, as I have said, that it has been State Labor Governments that have called early elections. The Hon. Mr Sumner knows that. I do not know why he tried to hide from it. He would have been better off to admit it, but he did not say that: he tried to imply that somehow or other Liberal Governments have been responsible for this.

I have said this before, and I will keep repeating it until the Hon. Mr Sumner is prepared to stand up and admit that the Labor Party has been responsible for the early elections. I know that the Hall Government had an early election. I know that the Hon. Mr Sumner will raise that matter, but there was a specific issue on that. I do not want to go too far into that, but we all know what it was and we all know that the Labor Party at the time did not tell the truth in that matter because it went to the people on the promise, 'We will build Chowilla,' but it had absolutely no intention whatsoever of doing it.

The Hon. R.C. DeGaris: It is fair to say that in the two other short terms there was a conflict: in two there was not.

The Hon. M.B. CAMERON: Yes, that is correct. One of those cases was in the 1970s with the Railways Bill, in which there was a conflict. I accept that. As indicated by previous speakers, it is not correct to imply, as the Attorney attempted to do in his second reading explanation, that all but one of the past 10 elections have been early. The Attorney used words like 'cynicism', 'opportunism' and 'short term *ad hoc* political advantages'. I agree that that is exactly what was happening, but he must apply it to the actions of consecutive Labor Governments.

The Hon. C.J. Sumner: And Fraser.

The Hon. M.B. CAMERON: No, we will not worry about Mr Fraser. This is the State Parliament of South Australia. That is what we are worried about. People have given an answer on that in the Federal sphere. In a sense, it is regrettable that legislation to fix the terms of Parliament is at all necessary in this State. This Bill and this debate would be unnecessary, as I have said, if the leaders of each major political Party were prepared to stand up and say, 'My Party will not call an early election. We will go the full term.'

That is all that is needed. We do not need all this nonsense. It could be done just on that basis, but one problem is that the Minister does not trust his leader in the other House.

The Hon. C.J. Sumner: Didn't David Tonkin promise in 1979 to introduce measures to prevent early elections?

The Hon. M.B. CAMERON: We decided that it was not necessary, because we knew that we would go our full term, but the Minister does not trust his leader in the other House. He can trust us.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: The Minister should not talk about broken promises to me after this Childhood Services Bill. Does he want me to start quoting that, because I am happy to?

The Hon. C.J. Sumner: How is that a broken promise?

The ACTING PRESIDENT (Hon. C.W. Creedon): The honourable member should keep to the subject.

The Hon. M.B. CAMERON: I will, but the Minister has provoked me very severely. Before the last election he referred to the present options for choice and diversity within preschool education offered by facilities managed by different service providers—Kindergarten Unions, Education Departments, churches, etc.—that were considered appropriate to fund for the children. So, that is a direct broken promise, but I do not want to get on to that. I will give the Minister a copy of it afterwards so that he can read it.

The Attorney is not prepared to trust his own Party. Because of this mistrust, he has introduced this Bill. We all know, as I have said, that the Attorney was the only one in the Corcoran Government prepared to speak out against the cynical and politically disastrous decision to go to the polls 18 months early. It was not a year but 18 months early in 19879

The Hon. C.J. Sumner: Who was that?

The Hon. M.B. CAMERON: Corcoran. It must have broken your heart. It sure broke the Minister of Health's heart, and his pocket. He had to go through a refresher course to get back to the mice, the dogs and the cats. Indeed, the Attorney had his Ministerial ambitions severely thwarted by that exercise, and he wants to stop future Labor Leaders in another place making the same costly mistake again—costly to himself, costly to the Minister of Health, and I know how much it affected the Minister of Health. I do not want to go into personal details, but I understand the severe difficulties that were caused.

The Hon. J.R. Cornwall: I was only a shadow of my former self.

The Hon. M.B. CAMERON: I could tell that the next day. There is no doubt in my mind that largely as a result—

The Hon. C.J. Sumner: You were not half as shocked as was Dr Tonkin.

The Hon. M.B. CAMERON: There was no shock about that—we knew we would win. Largely as a result of the manipulations of the Attorney's own Party in the 1970s the majority of South Australians are sick and tired of what they consider to be unjustified and premature State elections. That dissatisfaction has to be answered by this Parliament, but it is no good the Labor Party's coming into this place with a holier than thou attitude about it. It should be admitting that they are the people who have caused the problem in the mind of the South Australian people. It is the Labor Party that has brought on the desire of people for fixed terms. It is those people who have caused the problem in this Parliament: not the Liberal Party; not the Opposition.

Whilst recognising that a fixed term is one way of attempting to reconcile the early election question, it is worth noting that the people, as the Hon. Mr DeGaris has said, still have the ultimate power in their hands. It was the people who gave such a savage rebuff, through the ballot-box, to the Corcoran Government for its precipitous election. Now political Parties have been clearly warned by the public and would have to think twice before going to an early poll. In addition to moves for a so-called fixed term, this Bill establishes an average four year term for the House of Assembly. The situation under this Bill, if it is passed, would be that, except in two specific and restricted circumstances, the first three years of any Government could be fixed and I well understand what the Hon. Mr DeGaris was saying, that is, that votes of no confidence can be easily manipulated within a Chamber if that is the desire of the Government of the day. It is not difficult to do that. The term of the Government could in fact range from three years and five months to four years and five months.

The two exceptions which the Attorney would be prepared to accept relate to section 41 and its double dissolution provisions and also to the passing of a motion of no confidence by the House of Assembly and where no alternative Government has formed within seven days. There is no doubt that we need to act to restore the loss of confidence in our Parliamentary system which has resulted from the politically motivated early elections called by the ALP in the 1970s. I recognise again the very valiant attempt by the Attorney-General, when he was in the 1979 Government, to stop that early election. He must have understood that it was improper and wrong and that the people did not want it.

The Hon. R.C. DeGaris: Tell me how Malcolm Fraser—

The Hon. M.B. CAMERON: I do not know. You would have to ask the Attorney, who seems to understand that. Our action must, however, not result in overkill—there must be some flexibility in our system and we do not have a system, as the Hon. Mr DeGaris has pointed out, such as that in the US, where an election on a fixed day in a designated year operates as a suitable election time table. The Government of our State is based on a bicameral system and does not rest on a Premier elected separately from both the elected Houses. As such, our conditions are different.

For that reason, I believe amendments flagged by the Hon. Mr Gilfillan would be misplaced and inappropriate to the South Australian circumstance. The Bill also addresses the question of casual vacancies and the terms of councillors in the unlikely event of a double dissolution. These changes, in contrast with the matter of fixed terms and the extension from three years to four years, are relatively minor.

I repeat that I believe that, if we had a reasonable attitude towards the Constitution, towards the people, towards the Parliament and towards the terms of Parliament, this Bill would be unnecessary. It has been brought in because of problems created by the Attorney-General's own Governments, because he does not trust his Governments to do the right thing in the future. It is a Bill brought in because of his experiences as an Attorney-General in a previous Government when he was placed in a position of losing a Ministerial portfolio for no real reason other than that the Premier of the day believed he could win the election because he was so popular.

I guess the Bill will pass. We will look at amendments. The Opposition supports the Bill, but I believe it is unfortunate that it has been found necessary to bring it in and perhaps we could have cured the problem by discussion between the Parties concerned, indicating to the public of South Australia that Governments from both sides of the Lower House would, wherever possible (and it is understood that, if a Government reaches a situation where it cannot govern, it must go to the people) fill their full terms.

The Hon. R.I. LUCAS secured the adjournment of the debate.

OMBUDSMAN ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This short Bill proposes amendments to the Ombudsman Act, 1972, that are designed to clarify the relationship between that Act and the provisions of another Bill presently before Parliament, the Police (Complaints and Disciplinary Proceedings) Bill, 1984.

The Police (Complaints and Disciplinary Proceedings) Bill provides for a scheme under which complaints relating to the police, including administrative acts of the Police Department, may be investigated by the proposed Police Complaints Authority or under the supervision of that Authority. That could in odd cases lead to some overlap with the investigative powers of the Ombudsman which, although presently not applying in relation to acts of a police officer in his capacity as such, may according to the terms of the Ombudsman Act apply to some administrative acts of the Police Department.

Accordingly, this Bill proposes an amendment under which the Ombudsman Act would be expressed not to apply in relation to any complaint to which the provisions of the other measure apply or to a matter to which the provisions of the other measure would apply if the matter were the subject of a complaint under that measure.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on the day on which the Police (Complaints and Disciplinary Proceedings) Act, 1984, comes into operation. Clause 3 amends section 5 of the principal Act. Subsection (2) of that section presently provides that the Ombudsman Act does not apply to or in relation to any member of the Police Force in his capacity as such a member. The clause substitutes for subsection (2) a new subsection that provides that the Ombudsman Act does not apply to or in relation to any complaint to which the Police (Complaints and Disciplinary Proceedings) Act, 1984, applies or any matter to which that Act would apply if the matter were the subject of a complaint under that Act.

The Hon. R.I. LUCAS secured the adjournment of the debate.

POLICE REGULATION ACT AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It proposes amendments to the Police Regulation Act, 1952, that are consequential to provisions relating to the discipline of members of the Police Force contained in another Bill before Parliament, the Police (Complaints and Disciplinary Proceedings) Bill, 1984.

The Police (Complaints and Disciplinary Proceedings) Bill provides for the establishment of a Police Disciplinary Tribunal to be constituted of a magistrate appointed by the Governor. That Tribunal is to hear and determine any charge laid by the Commissioner of Police against a member of the police force alleging that the member has committed some breach of the regulations under the Police Regulation Act. Under that Bill, there is also to be a right of appeal to the Supreme Court against any decision of the Tribunal in proceedings before the Tribunal or any order of the Commissioner of Police imposing punishment on a member of the police force for a breach of the regulations under the Police Regulation Act. The provisions of that measure are to apply in relation to any breach of the regulations under the Police Regulation Act whether or not a complaint has been made under that measure relating to the breach.

This system is to replace the present system under the Police Regulation Act. At present the Police Regulation Act provides for proceedings to determine whether a police officer has contravened the regulations to be heard and determined by a committee of inquiry which is constituted of a magistrate, a justice of the peace and a commissioned officer of the police. Appeals in respect of discipline presently lie to the Police Appeal Board which is constituted of a District Court Judge, a nominee of the Commissioner and a member of the police force elected by the police force.

The amendments proposed do not effect the present arrangement under which it is the Commissioner of Police who is responsible for determining (subject to appeal) the appropriate punishment for any breach of discipline by a member of his force.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on the day on which the Police (Complaints and Disciplinary Proceedings) Act, 1984, comes into operation. Clause 3 amends section 22 of the principal Act which provides, at paragraph (7), for the making of regulations with respect to the establishment, practice, procedure and powers of committees of inquiry to investigate charges of breaches of regulations by members of the Police Force, and, at paragraph (8a), for regulations empowering the Commissioner to punish any member of the police force guilty of an offence against this or any other Act or a breach of the regulations. The clause substitutes for paragraph (7) a new paragraph (7) providing for regulations empowering the Commissioner to institute proceedings for breach of the regulations by laying charges against members of the force and a new paragraph (7a) providing for regulations with respect to the procedure for laying such charges and for requiring members so charged to make an admission or denial of guilt to the Commissioner. The clause provides for a new paragraph (8a) providing for regulations empowering the Commissioner to make an order punishing a member of the police force guilty of a breach of the regulations (whether his guilt is established by an admission made to the Commissioner or by a finding of the Police Disciplinary Tribunal).

Clauses 4 and 5 amend sections 44 and 47 respectively which make provision for an appeal to the Police Appeal Board in respect of punishment imposed by the Commissioner for a breach of the regulations. The clause amends these sections by removing references to the imposition of punishment by the Commissioner, a matter which it is proposed will be a subject of appeal to the Supreme Court under the provisions of the proposed Police (Complaints and Disciplinary Proceedings) Act.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ELECTORAL ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

MINISTERIAL STATEMENT: CONSTITUTION ACT AMENDMENT BILL (No. 2)

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: I wish to make a Ministerial statement regarding certain aspects of the Bill for the Constitution Act Amendment Act (No. 2), 1984, which is presently before this Council.

I seek leave to have the remainder of the Ministerial statement inserted in *Hansard* without my reading it. In doing so, I emphasise the comments made in the final paragraph.

Leave granted.

Remainder of Statement

Clause 3 of the Bill deals, successively, with the questions of casual vacancies in the Legislative Council, the term of service of Legislative Councillors incorporating the concept of simultaneous elections and the determination of the order of retirement of Legislative Councillors for the purposes of elections. Clause 4 deals, successively, with the questions of the term of the House of Assembly and the Governor's powers to dissolve the House of Assembly. Therefore, clauses 3 and 4 of the Bill respectively seek (among other things) to make changes that will affect the terms of the Legislative Council and the House of Assembly.

The Bill does not seek in any way to alter the powers of either House of Parliament. Nor does it seek in any way to repeal or amend section 41 of the Constitution Act, that is the section which deals with the procedure for the settlement of deadlocks arising between the two Houses of Parliament. This means, as I indicated in my second reading explanation, that the special provisions relating to a referendum do not apply to this Bill. However, the Constitution Act itself does prescribe a special procedure in respect of a Bill of this nature. That procedure is contained in section 8 of the Constitution Act, which provides as follows:

> The Parliament may, from time to time, by any Act, repeal, alter or vary all or any of the provisions of this Act, and substitute others in lieu thereof: Provided that—
>
> *(a)* it shall not be lawful to present to the Governor, for [Her] Majesty's assent, any Bill by which an alteration in the constitution of the Legislative Council or House of Assembly is made, unless the second and third readings of that Bill have been passed with the concurrence of an absolute majority of the whole number of the members of the Legislative Council and of the House of Assembly respectively:
>
> *(b)* every such Bill which has been so passed shall be reserved for the signification of [Her] Majesty's pleasure thereon.

The question that arises under this Bill is whether it alters the "constitution" of the Legislative Council or House of Assembly within the meaning of section 8, placitum *(a)*.

The High Court of Australia has considered that the expression "constitution" of a Legislature as it appears in the Colonial Laws Validity Act 1865 is synomymous with its "composition form or nature" (see *Taylor v. Attorney-General of Queensland* (1917) 23 CLR 457 at 468, 477).

It is my view, the view of the Government and the Solicitor-General that a provision affecting the term of either House is one that affects its constitution.

The term of either House, that is as presently regulated by section 13 for the Legislative Council and section 28 for the House of Assembly, goes to the very roots of its form and nature of the House and therefore to its constitution. It is reflected in our language. We speak of the 43rd, the 44th and 45th Parliaments, for example. They are discrete entities: the 45th Parliament (that is, the present Parliament) is not and cannot in any way be regarded as the same as the 44th Parliament.

We also talk of the 'life' of a Parliament: a discriminating factor that sets apart one Parliament from another, is its duration, its distinctive and discrete life-span, its term or period of existence. These considerations lead to the conclusion that section 8 of the Constitution Act is attracted to the Amendment Bill (No. 2).

In particular, an absolute majority of the whole number of members of the Legislative Council and House of Assembly is required to concur in the second and third readings of the Bill. This also entails that both the President of the Council and the Speaker in another place may, respectively, indicate their concurrence or non-concurrence in the passing of the second or third reading, pursuant to their express powers under sections 26 (3) and 37 (4) of the Constitution Act.

In light of the extreme constitutional importance of the measures proposed in this Bill, as well as various observations made on it, both within and outside this Council, I am taking the step (which I foreshadowed earlier) of tabling the advice of the Solicitor-General. That advice canvasses the constitutional implications of the amendments sought to be effected by the Bill.

The Hon. C.J. SUMNER: I seek leave to table the opinion of the Solicitor-General.

Leave granted.

ADJOURNMENT

At 12.10 a.m. the Council adjourned until Tuesday 12 March at 2.15 p.m.