LEGISLATIVE COUNCIL

Wednesday 3 April 1985

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

PORTER BAY MARINA

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

Port Lincoln Porter Bay Commercial Marina Construction.

QUESTIONS

SPEAKER'S RIGHTS

The Hon. M.B. CAMERON: I seek leave to make a short explanation before directing a question to you, Mr President, on the subject of the powers of the Speaker in the Legislative Council area.

Leave granted.

The Hon. M.B. CAMERON: Mr President following my question to you yesterday, I was further approached by a person from the press who indicated that the Speaker had justified his actions in entering members' offices by indicating that he was Chairman of the Joint House Committee and that that some how conferred some rights on him. I think it is time, if he believes that, that we had a new Chairman of the Joint House Committee. That, however, is a subject for the Committee to decide. I then looked at the Joint House Committee Act, and found that clause 13 provides:

> The Committee shall have the control and management of the following parts of the buildings and premises of Parliament, namely, the entrances, corridors, lobbies, dining, refreshment and recreation rooms, lounges and garages.

Nowhere does it indicate that members' offices are under any jurisdiction of the Speaker of the House of Assembly or the Chairman of the Joint House Committee, whoever he or she may be.

The Hon. Anne Levy: Or the President.

The Hon. M.B. CAMERON: So be it, yes. I have received a number of memos in recent days, as I am sure all members have, about dirty milkshake containers and the price of coffee going up because of the price of the Australian dollar Frankly, I am getting sick of it but I get really cross when I have an indication that a person from the other House feels he has the right to enter my office or the office of any member of this Chamber, and if he enters my office again he might get quite a shock. I ask whether in fact you have discussed this matter with the Speaker and whether it is correct that he has absolutely no jurisdiction over any member's office on this side of the building.

The PRESIDENT: I was somewhat surprised to see in a press statement this morning that the Speaker was claiming to manage Parliament. Since then I have had discussions with the Speaker and I would suggest that there is no misapprehension in the Speaker's mind at this time as to his rights and powers over members or any of the precincts on this side of Parliament.

TELEPHONE TAPPING

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before directing a question to the Attorney-General on the subject of telephone tapping.

Leave granted.

The Hon. K.T. GRIFFIN: Today's press contains a report that the drug summit, and particularly the Premier, has agreed that the State police should be given authority to intercept telephone calls under much wider powers debated at that drug summit. That was a reference to the wider powers in order to fight illegal narcotics trafficking. The various State Premiers have been reported to support the move but with varying conditions attached to that. Quite obviously, there will need to be Federal legislation or some other Federal action to authorise State police to undertake this activity. I would presume there will also need to be some State legislation to widen the powers of police to intercept telephone calls and to be able to use them in evidence before the courts.

The Listening Devices Act does not really appear to apply to that situation. Members will recollect that only in the past few weeks a comment was made by the Government that, in the opinion of the Crown Solicitor, telephone tapping is not covered by State law and is outside the operation of the Listening Devices Act. Some comment has also been made about the admissibility of information obtained through intercepted telephone calls. In the past week the matter has raised its head specifically in relation to the *Age* tapes and other so-called illegal telephone tapping by New South Wales police. Action has been taken at the Federal level to grant immunities from prosecution to police officers who have been involved in that interception activity. My questions to the Attorney-General are as follows:

1. On what basis and on what guidelines will the State police be given authority to tap telephones?
2. Will South Australian legislation be required and, if it is, when will that be introduced and when will the power be available legally to South Australian police?
3. Does the Attorney-General support this new power being given to State police?

The Hon. C.J. SUMNER: I have not had the opportunity to discuss this matter with the Premier or the Minister of Health who represented South Australia at the drugs summit. However, I understand from a comment that the Minister of Health has just passed to me that this question of the State telephone tapping is to be referred to the Standing Committee of Attorneys-General for discussion of circumstances and limits of any tapping that will be allowed by State police. The honourable member also informed me, again in the Chamber this afternoon, that the tapping could be carried out only in relation to drug offences and after obtaining a warrant from a judge of the Supreme Court.

The Hon. K.T. Griffin: That can't really be limited to drug offences if you get a warrant to intercept.

The Hon. C.J. SUMNER: Presumably, as with all warrants, the police would have to put up an argument to the judicial officer concerned as to why the police felt that tapping a particular phone or conversation would be useful and may lead to evidence with regard to drug offences. They have to establish a case before the judicial officer. The position was one of principle taken at the drug summit, and I will have to obtain details of the decision from the Premier and then consider the form in which that telephone tapping by State police would be allowed in South Australia.

The Minister of Health has said that the matter is apparently to be referred to the Standing Committee of Attorneys-General for the consideration of the precise details and guidelines. If we are to go down this track, there is a case for having it done in a similar way in each State and obviously enabling Federal legislation would be necessary. It looks as though the next step is for me to obtain a report from the Premier on the precise nature of the decision at the drug summit conference, together with details of the discussion that took place at that conference, and then to

pursue the matter through the Standing Committee of Attorneys-General. I have not had the opportunity of discussing the matter with the Premier or the Minister of Health in any detail yet; the only information that I have had was what the Minister of Health was able to convey to me while the honourable member was asking his question.

The Hon. K.T. GRIFFIN: A supplementary question, Mr President. I asked whether the Attorney-General supported this new power to State police; that has not been answered. Secondly, if the matter has to be referred to the Standing Committee of Attorneys-General to consider guidelines, does the Attorney-General agree that the facility to tap telephones by State police will not be available quickly?

The Hon. C.J. SUMNER: I can only imagine that the honourable member is referring to his experience on the Standing Committee. It is true that the Standing Committee took 13 years to consider uniform credit legislation. If we work on that basis, it does not give great hope for early action in this respect. Everyone is aware of the need to tackle criminal activity in the drug area. If this has been now agreed to in principle, I am sure that the Standing Committee of Attorneys-General will give it attention that is perhaps more diligent and speedier than that which it has given some other matters in the past. I imagine that it would be a high priority for the Standing Committee, given that the in principle decision has been taken by the Prime Minister and the Premiers.

I do not wish to express any personal view on the matter. I will await discussion with the Premier on the precise details of the decision made and the discussions that occurred at the drugs summit before making any further comment on the matter.

KING WILLIAM ROAD

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Local Government, a question about King William Road.

Leave granted.

The Hon. ANNE LEVY: King William Road is traversed by a very large number of people every day in both its northward and southward directions. For some time it has been very difficult indeed to traverse the length of King William Road because of a programme being undertaken, I am told, by Unley council to improve the paving of the road. Laudable though this may be, it is causing a great deal of inconvenience to a very large number of people, both those who live in the Unley electorate and those who live in the Mitcham electorate and, indeed, in other electorates that adjoin and the residents of which continually use King William Road.

The Hon. Diana Laidlaw: Would you have no roadworks done at all?

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! There is no place for interjections at this stage.

The Hon. L.H. Davis: Save Unley for the Labor Party!

The PRESIDENT: Order! If the Hon. Mr Davis wants to continue and get himself an early ride home, he may do so. The Hon. Ms Levy.

The Hon. ANNE LEVY: Thank you for your protection, Mr President. For some time two blockages on King William Road have necessitated all traffic taking long detours, the northernmost blockage covering the entire roadway and so causing traffic of both directions to take a long detour through the side streets, and the more southern blockage taking up half the road. However, the remaining half has not been made single lane traffic in each direction but has allowed instead south bound traffic to pass unimpeded while all northbound traffic has had to make a detour, again through side streets, so that people travelling north along King William Road have had within the space of one kilometre to make two extensive detours through side streets.

This, as I say, is causing a good deal of concern, not only to the residents of Unley, despite what the Hon. Mr Davis interjected, but also to those in the electorate of Mitcham, many of whom, like me, use King William Road daily. I understand that section 323 of the Local Government Act gives permission to a local council to close portion only of a road for the purpose of roadworks. It expressly talks of portion only of a road, and it is clear from reading section 323 of the Local Government Act that blockage of the entire roadway is contrary to that Act. Nevertheless, this is what the Unley council is doing at the moment in two areas of King William Road, as I found this morning that the two blockages now both cover the entire roadway of King William Road.

Can the Minister of Local Government investigate this matter, and does he agree with me that the Unley council is acting against section 323 of the Local Government Act?

Can the Minister ensure that arrangements for the redevelopment of King William Road will be so organised that the travelling public will not be inconvenienced to the extent that they are at present during the lengthy period that this redevelopment will take?

The Hon. J.R. CORNWALL: I will refer that question to my colleague in another place and bring back a reply.

INTERNATIONAL ART EXHIBITIONS

The Hon. C.M. HILL: I seek leave to make a brief explanation prior to asking the Attorney-General, representing the Minister for the Arts, a question about international art exhibitions coming to Adelaide.

Leave granted.

The Hon. C.M. HILL: I have been concerned for the past year or two that some international art exhibitions that come to Australia are not coming to Adelaide. Art lovers from this city have mentioned this to me from time to time and some of them travel interstate to view visual art and other art museum works of international fame.

The Hon. Anne Levy interjecting:

The Hon. C.M. HILL: Others who cannot afford the luxury of such interstate travel from Adelaide, which we claim is a major art centre in Australia, do not have an opportunity to view such works. Our reputation built up through the Adelaide Festival of Arts seems a little hollow when this unfortunate situation occurs from time to time.

We all know that we have an excellent Art Gallery here for the exhibition of international works; it was remodelled completely in 1977-78. Not only is it suitable for displays, but also its security measures satisfy the strict requirements in this area. Some time ago I asked the Premier a question about whether or not there had been a change in policy at the Art Gallery with regard to the arrangements for international exhibitions to come to Adelaide. I was told there had not been any change, so I hoped that the situation would improve. At that time I had in my possession a copy of correspondence that indicated that the Premier's reply (although he might have made it in good faith) was highly questionable. However, that is history.

There has been an announcement that the International Cultural Corporation of Australia has arranged for a major Picasso exhibition to come to Australia. It will be shown in the National Gallery of Victoria from 28 July to 23 Septem-

ber and in the Art Gallery of New South Wales from 10 October to 2 December. My questions are:

1. Why is this exhibition of Picasso's works not coming to Adelaide?

2. Were endeavours made to bring the exhibition to Adelaide?

3. Is it too late for the Art Gallery of South Australia to arrange for the displaying of this exhibition here after it has been shown in Victoria and New South Wales?

The Hon. C.J. SUMNER: I will refer the honourable member's question to the Minister for the Arts and bring back a reply.

HOSPITAL INCIDENT

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister of Health a question about security at the Royal Adelaide Hospital.

Leave granted.

The Hon. BARBARA WIESE: Last week the Opposition used the tragic death of a patient at the Royal Adelaide Hospital to engage in unfortunate and blatant scare tactics at the expense of the hospital and its patients by suggesting that there was something amiss with the security at that hospital. I understand that the media reports that followed that attack in the Parliament have deeply offended the administration and other staff of the hospital who object strongly to the exaggeration and hyperbole that was used. Therefore, will the Minister put this matter into perspective by indicating what measures are in force in relation to security at that hospital?

The Hon. J.R. CORNWALL: On 27 March I undertook to obtain further information in response to a request from the Hon. Mr Burdett. Members will recall that Mr Burdett had informed the Council that a patient at the Royal Adelaide Hospital had shot himself fatally. Among other things, he claimed:

> The possibilities are alarming—a demented patient, if he gets firearms into the hospital, can shoot half of the patients and staff in a ward.

That statement was, of course, as I said at the time, grossly irresponsible. However, it produced the headlines that Mr Burdett was apparently seeking in such a callous fashion, including the front page banner headline 'Hospital Gun Death Alarm'.

In the course of my reply I indicated that the matter was clearly one for the police and the Coroner in the first instance and that security was always a potential problem in a large teaching hospital like the Royal Adelaide Hospital, which has in excess of 900 beds. I also said that I would obtain more information about security arrangements at the hospital. The Administrator of the hospital has now advised that the hospital has a security service, but this has never extended to individual patient checks or visitor checks on entry to the hospital. The hospital is essentially an open public area where patients and visitors are free to move with little interference with personal belongings. As a result of this incident the hospital has established an urgent review of security measures, and will be considering whether increased security and of what kind is necessary. However, there is no evidence so far to suggest that the patient and his firearm represented a danger to any person except himself.

It is estimated that more than 10 000 people are on the campus of the Royal Adelaide Hospital daily. In any one day there are about 4 000 staff, 1 000 inpatients, the same number of outpatients, approximately 2 000 visitors, another 2 000 patient visitors and perhaps another 1 000 students, contractors, salesmen and other callers. In other words, to put this matter in its proper perspective, if stringent security checks, including searches, were to be made they would involve from three to four million people at this one hospital each year. Clearly, the prospect is not only undesirable but totally impractical. Although the facts do not in any way fit Mr Burdett's picture of a demented patient getting a gun and shooting half the patients and staff of the ward, he expanded upon that exaggeration in remarks outside the Council. According to the *Advertiser* of 28 March 1985 he said outside the Parliament:

> If a gun was smuggled in to him, it could have been smuggled in to anyone. It may have been smuggled in to a person who was demented and fired off all over the place.

It would not be appropriate for me to pre-empt the inquiries being made by the police and the Coroner. However, I believe I should inform the Council that there was no suspicion by medical or nursing staff that this patient had a firearm in his possession. He was a 44-year-old man with terminal cancer of the lung who was not expected to live more than another seven days or so. The shooting occurred in the ward bathroom/toilet area and, as far as the hospital is aware, involved no other person. There is not the slightest suggestion—not one scintilla of evidence—of a demented person going berserk and shooting staff or patients and there is no excuse for the Hon. Mr Burdett's unfortunate grandstanding.

The hospital employs eight full time security staff who patrol the grounds and the hospital building from 2.30 p.m. to 7.30 a.m. daily. There have always been general concerns over minor theft and damaged personal property within the hospital, but this is now less than it used to be because of the introduction of the security patrol. It is standard practice to ask patients being admitted to the hospital to co-operate in drawing up a list of the belongings they have brought with them. Since the main purpose of this is to protect patients from theft they are advised to lodge valuables in the hospital safe or to arrange for relatives to take them home. Patients who suffer from dementia or some other mental illness in which behavioural problems may occur are, of course, admitted to wards in which security is more stringent than ordinary wards. Without spelling out the details of that additional security, I can say that such patients are under much closer supervision than those in the general wards and that unusual behaviour is much more likely to be detected. The Administrator of Royal Adelaide Hospital in a letter to me of 28 March advised:

> We have discussed this matter with the staff of ward S2 (where the incident occurred) and we are unaware of any complaint about internal ward security from those staff. It is indeed unfortunate that this matter has been raised publicly, because it is our view that this will only encourage disturbed people to bring guns into the hospital, whereas before, this would not have occurred to such people. The Parliamentary process has created a security problem in the hospital.

I might add that the abuse of the Parliamentary process has created a potential security problem in the hospital. The Administrator went on to state:

> I have consulted the Chairman [of the hospital board], and both he and the senior staff of the hospital deplore the way in which this matter has been raised.

Like the Administrator and his staff, I deplore the action of the Hon. Mr Burdett and the distress he has caused to the patient's family.

STATE PROMOTION

The Hon. L.H. DAVIS: Has the Attorney-General a reply to my question of 20 February about State promotion?

The Hon. C.J. SUMNER: Promotional opportunities as outlined by the Hon. Mr Davis have to be examined on their merit. Departments have only limited budgets for

supplement advertising support. Decisions taken to advertise are based on the value perceived in the supplement to ensure that limited budgets are spent in the best possible way.

HOSPICE MOVEMENT

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question about hospice care.

Leave granted.

The Hon. R.I. LUCAS: The hospice care movement is a growing movement concerned with the care and minimisation of the stress and pain of a dying patient. I would like to quote briefly from an excellent book by Margaret Manning *The Hospice Alternative, Living with Dying*, which will add some explanation to hospice type care, as follows:

> The objectives of hospice type of care are:
>
> To relieve distressing symptoms, such as pain, nausea, etc., by effective medication.
>
> To establish relaxed and easy communication with the patient in order to dispel loneliness and to give opportunities for discussing the implications of the patient's condition.
>
> To provide social, emotional, psychological and spiritual support in accordance with the patient's needs.

This book by Margaret Manning goes on to indicate the various types of hospice care, whether it be a specific institution, called a hospice, or perhaps through another institution like a hospital, and also hospice-type care provided by trained workers in the homes of patients who might be dying. I am informed that in South Australia hospice-type care is provided in a number of areas but, principally, at the Mary Potter Home and Kalyra, and I was also told that there were some beds made available at Julia Farr Centre as well.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Modbury, too. The Mary Potter Home informed me this morning that it has about 20 beds available and has two home care sisters operating out of Mary Potter going to the homes of people who might be dying. I am informed that they each have a case-load of about 20 patients, so they are looking after a further 40 persons dying in the comfort and familiar surroundings of their own home.

I was informed last week that the Government and the Minister are planning to build a new hospice in the northern suburbs. My informants also tell me that the location is likely to be at Royal Adelaide Hospital-owned land at Northfield. If that is true, that is good news and I will be asking a question of the Minister on that matter. However, there are also some stories about which I am concerned and which I hope are not true, and that is why I now put them to the Minister. It has been suggested that the Mary Potter Home might be closed as part of the package and that the new institution in the northern suburbs would take over the work of the Mary Potter Home. Equally, there are stories (I can place it no stronger than that concerning the second part, but the first part I am sure about), for example, the nursing sisters at the Mary Potter Home might be involved in the new institution at Northfield. My questions are as follows:

1. Can the Minister confirm that the Government is planning to build a new hospice in the northern suburbs at Northfield and, if so, can he give an indication of the approximate cost to the Government?

2. If that is so, will there be provision for hospice type care to be provided in the homes from such a hospice, such as the work that is being done by the two home care sisters at Mary Potter?

3. Is the Minister aware of any possible changes to the present excellent operations of the Mary Potter Home?

The Hon. J.R. CORNWALL: If there were more time—

The Hon. R.I. Lucas: You have 20 minutes.

The Hon. J.R. CORNWALL: No, I have not. I have an important matter that I wish to address. I know that the Hon. Miss Levy wishes to ask me a question. In fact, we have a growing and very good hospice movement in South Australia, particularly in the metropolitan area. In the southern suburbs it is based on Flinders Medical Centre and Kalyra. We have a full operation involving professionals and volunteers. Recently, I announced additional funding for the pain clinic—for the establishment of a pain unit at Flinders Medical Centre—which is an integral part of this very well co-ordinated operation. In fact, it is indeed the model for South Australia and, in many ways, the model for Australia.

In the central and northern part of the metropolitan area a hospice movement is currently based on Mary Potter at Calvary, conducted by the Sisters of the Little Company of Mary. In the western sector at this moment I have a working party comprising representatives of Queen Elizabeth Hospital, LeFevre Community Hospital, Martin Village and Southern Cross Homes who are actively investigating on my behalf and for the South Australian Health Commission the co-ordination and integration of hospice services in the western suburbs.

The whole hospice movement, of course, principally involves caring for the dying in their own homes and in their own surroundings with their own families. Ultimately, those people may be admitted to an institution for their last days but, wherever possible and wherever palliative care can provide adequate pain control at home, it is highly desirable and it is certainly the policy of the hospice movement in this State that that should occur at home.

There has been some discussion about extending hospice services in the northern suburbs. This would involve a co-operative arrangement between three separate organisations, one of which would be the Sisters of the Little Company of Mary. That is not far enough down the track for me to be able to say at this stage whether the Government or anyone else is planning to build a new hospice. It is certainly not at the stage where anyone has come up even with notional costs. However, based on the principles, policies and philosophies that I have initiated, in the event that such an extended and expanded service can be successfully put into place, in line with the policies and philosophies of those in the hospice movement, the South Australian Health Commission and the Government, certainly great emphasis will be placed on caring for and supporting those patients and their families, and in relation to grieving after the death of the patient in the community.

The Hon. R.I. LUCAS: Supplementary to that, I asked whether the Minister was aware of any possible changes to the present excellent operations of Mary Potter Home. The Minister indicated what is being discussed, but can he say whether it is likely to affect the operations of Mary Potter Home if the new institution at Northfield is to be established?

The Hon. J.R. CORNWALL: Not in specific terms. I made that quite clear. The discussions are at an early stage and I will certainly not prejudice them in any way by talking about them publicly at this time. I respect the confidentiality of the discussions that are currently proceeding. All I can do, of course, is to give an undertaking, as I just did in reply to a question, that if existing services are altered in any significant way they will be expanded and they will certainly be available to more people in the community. That really is as far as I am prepared to go at this stage. The honourable member does no-one any good by specu-

lating on what I hope will ultimately be a very fruitful and ecumenical programme.

ADOLESCENT CENTRE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about the adolescent centre for South Australia.

Leave granted.

The Hon. ANNE LEVY: There has been considerable discussion about the proposal to establish an adolescent centre in South Australia ever since the Minister returned from examining The Door in New York, and this type of service has been welcomed and supported by many of the people who are associated with youth services in South Australia. I understand that at present the planning process involves many of the people who are associated with youth services and many young people themselves. Of course, there have been several rather negative and distorted criticisms from members of the Opposition regarding this project. Can the Minister assure us that the planning for this centre is proceeding satisfactorily and that the tactics of negativism displayed by certain members opposite will not delay this exciting initiative?

The Hon. J.R. CORNWALL: Yes, I certainly can give such an assurance. Of course the people of South Australia have come to recognise this carping and negative Opposition for what it is. It is comprised of knockers who it seems will do anything for a headline. The leading knocker, of course, is the Leader of the Opposition in another place, Mr Olsen, who for more than two years has wilfully and recklessly attacked every Government initiative and reform, regardless of the interests of the people of this State. Not far behind him come the whingers on the Opposition benches in the Legislative Council. In the past two years their performance has been woeful.

The Hon. Mr Davis, in particular, who believes he is a candidate for the Hon. Mr Burdett's shadow portfolio, has distinguished himself by his dedication to distortion and destructive criticism. He has not hesitated to exaggerate and misreport, claiming that there is widespread criticism and concern about the proposal to establish an adolescent health centre in Adelaide. He has tried to whip up anxiety with a completely false claim that there has not been adequate consultation. If one goes through his remarks in the Council, one can see that he has misrepresented the situation and made spurious allegations simply in order to knock another Government initiative.

For example, he claimed to have made inquiries among youth organisations and workers in Adelaide and the general metropolitan area. He purported to have found that the body of opinion is that there has been no attempt to research the merit of establishing a new, all-embracing youth service. He went further (and totally destroyed his credibility in the process) with the silly allegation that 'the Minister is presenting the establishment of an Adelaide Door as a *fait accompli* with little or no consultation with key youth groups'.

The facts are entirely at odds with the knocking Mr Davis. I first outlined my enthusiasm for what I had seen in New York and the potential for developing an adolescent centre in Adelaide when I returned from overseas last June—10 months ago. Far from ignoring local interests and individuals, I have made sure that the process of consultation has been extensive and wide-ranging. As far back as 27 November last year I outlined the preliminary plans at a meeting of the South Australian Association for Adolescent Health at St Corantyn's Clinic, East Terrace. In fact I issued a press release at that time. The first sentence stated:

> The Minister of Health, Dr John Cornwall, tonight appealed for community assistance in setting up an adolescent centre in Adelaide modelled on The Door in New York.

It went on to say that I hoped that the establishment of the centre would be a major contribution by South Australia to International Youth Year in 1985 and that Cabinet had approved the appointment of a working party and consultative committee to conduct a feasibility study of the project. Let me quote directly form page 2 of the press release:

> Appealing for co-operation, Dr Cornwall said: 'A crucial feature of our version of The Door must be the strengthening of existing networks rather than duplication or competition. We must adapt the best features of the New York Door and create a model based on the special needs of South Australians. For this we need to harness the ideas, the energy and the expertise of those already working in the field.'

So much for the Hon. Mr Davis's notion of a *fait accompli* and lack of consultation. The truth is that the working party was established with the full co-operation of the Ministers of Labour, Education and Community Welfare, whose officers have worked co-operatively on the project. The consultative committee was widely representative. The list of organisations, groups and departments is extremely long but should be read into the record to dispose of the Opposition's negative and carping criticism. In fact, the Leader of the Opposition, Mr Olsen, is currently being referred to as the 'Crown Prince of Carpers'. The committee includes representatives—

The Hon. R.I. LUCAS: On a point of order, Mr Acting President, under Standing Order No. 193, I believe that that is an injurious reflection on the Leader of the Opposition. I think the Minister ought not to continue in this fashion. He has been casting injurious reflections on a number of members, and this is the most recent. Up until now we have let the Minister go, but we cannot let him continue in this vein. I ask the Minister to withdraw those remarks under Standing Order No. 193.

The ACTING PRESIDENT (Hon. Peter Dunn): There is no point of order. However, the Minister is provoking the Opposition in a manner that will bring these responses. I suggest that the Minister should refrain.

The Hon. J.R. CORNWALL: I must say that they are very sensitive, Mr Acting President. The consultative committee includes representatives from Service to Youth Council, Youth Affairs Council of South Australia, the Gully Youth Centre, the Education Department, the Family Planning Association, the Aboriginal Health Organisation, Correctional Services, Ethnic Youth Advisory Committee, the Cellar at the Parks Community Centre, Salisbury Adolescent Health Centre, Department of Community Welfare (Youth Consultant), Housing Trust, Youth Bureau, South Australian Association of Adolescent Health, Child Adolescent and Family Health Service, COPE, Department of Recreation and Sport, Royal Australian Nursing Federation, Hindley Street Youth Project, Young Christian Workers, Drug and Alcohol Services Council, Community Information Support Service of South Australia, Local Government Association, Local Government Department, Ethnic Affairs Commission, Department of Employment and Industrial Relations, Adelaide Women's Community Health Centre, Police Department, Prisoner Action Group, Aboriginal Sobriety Group, and the Department of Technical and Further Education. A small number of groups—including one which has since been identified with a petty criticism of the project—did not reply to an invitation to join the consultative committee. I make no further comment of the failure to reply except to insist that there were ample further opportunities to participate, to offer constructive criticism and to raise any outstanding concerns.

I have been informed that when the Hon. Mr Davis was touting for criticisms which he could level at the Govern-

ment, despite its foresight and its commitment to an additional project to assist South Australian youth, he was told in no uncertain terms that there was strong support for the proposal. It was not until his second attack on the project that he grudgingly conceded, 'Quite obviously, there is broad support among youth workers for the concept of The Door.' If he were genuine in his professed interest in youth affairs, he would also have known that there is widespread recognition of the major efforts that have gone into the consultation process.

Reference has also been made, in a very derogatory way, to the visit by three principals of The Door to Adelaide. I have already told the Council of the considerable assistance we have had from those visitors—Mr Charles Terry, Dr Betsy McGregor and Ms Julia Glover. They came here to meet with local groups and to discuss with interested parties the various strategies and methods employed at The Door and the relevance of some of these to South Australia. In response to a question asked by the Hon. Mr Davis, I advise that the costs related to their visit are $6 052 for air travel, $6 000 in consultants' fees and $1 887.20 for accommodation.

On the pretext of seeking information about the decision to bring the three principals to Adelaide, the Hon. Mr Davis gratuitously remarked, 'I understand that, having been here for only a few days, they have been giving expert views on the youth programmes as they operate in Adelaide.' In fact, Mr Terry and his companions were very careful to avoid setting themselves up as instant experts on the local scene. In a press release distributed at a seminar for youth workers on 8 March 1985, Mr Terry and his colleagues made the following comments which the Hon. Mr Davis should study for his edification:

We thank the people of Adelaide and the Government of South Australia for their gracious hospitality. Although here at the invitation of the Bannon Government, we have functioned as independent consultants bringing our experience in services for adolescents. Our observations thus far, based on meetings with numerous people and visits with a broad range of programmes throughout Adelaide, include:

- there is a high level of commitment, caring and experience in the youth field, among service providers working with youth;
- there is a wide range and diversity of services and programmes for young people, many of which are very creative and innovative;
- existing services for young people are not sufficiently co-ordinated or integrated;
- many young people in need are not being reached by existing services; and
- many existing youth programmes are not resourced to treat the underlying issues and causes of problems.

Our preliminary conclusions include:

- it is feasible to establish a comprehensive multi-service centre for adolescents in Adelaide;
- there is a strong need within the youth population for a programme with such an approach.

The Hon. M.B. CAMERON: I rise on a point of order, Mr Acting President. I would have thought that this was not a reply to a question but a Ministerial statement. It really does make a farce of Question Time when the Minister goes on and on with what should be a Ministerial statement. A while ago I was asked to co-operate in relation to Question Time, but this makes a farce of that request.

The ACTING PRESIDENT: The Minister was asked a question. I cannot direct the Minister as to how he answers the question.

The Hon. J.R. CORNWALL: The press release continues:

- we believe there is the professional skill and capacity to support such a programme in Adelaide;
- such a programme would reach youth who otherwise would not receive needed services;
- it would bring an expanded focus on youth needs and concerns, would be a catalyst for co-ordination and collaboration among youth service centres for linking and integration of existing services;
- it would attract attention and resources to the youth field;
- it would attract participation from other professionals in serving adolescents.

It can be seen that the Hon. Mr Davis has been mischievous in his attempt to capitalise on some unwarranted and minor criticisms voiced by persons who I will refrain from naming today. His irresponsibility, however, will not deter me, the Health Commission, or all those associated with the project from striving to ensure it is the great success that it deserves to be.

The climate of co-operation and constructive consultation is more accurately reflected in a letter written to me on 13 March 1985 by Mr Stan Cameron-Fox, who is an academic, youth worker, and course team leader in youth and community work at the Salisbury Campus of the South Australian College of Advanced Education. This is what he wrote:

The staff and students of the Youthworkers Training Course at the Salisbury Campus of the South Australian College of Advanced Education would like to congratulate you and commend your initiative in bringing to Australia representatives of the youth programme 'The Door'.

Student and staff representatives attended each meeting and workshop, all of which proved to be exciting and stimulating. As a group we would like to place on record our support for the Government's initiatives in this area, and our appreciation of your own personal involvement in this challenging development. We would also like to offer our practical support and expertise in any venture which seeks to establish a 'Door' in Adelaide, whether this is in planning, or active involvement.

The students undertaking the associate diploma are mature aged and have community work experience as do the staff. We believe that we could be of use in helping to set up a project and indeed have a number of ideas already. On the other hand, be assured that we would not wish to intrude into something that is working well in its initial stages. We would be happy to undertake any role that you consider desirable whether it is active or not, and simply reiterate that you have our unqualified support. Thanks again. Yours sincerely, Stan Cameron-Fox.

Finally, let me quote from a letter published in the *Advertiser* on 18 March 1985. It was signed by Mr Graham Forbes, Executive Director of Welfare Services at the Adelaide Central Mission, who is also a member of the working party for the establishment of an adolescent centre in Adelaide. The letter points out that the Government should be commended, not criticised, for proposing the establishment of a major adolescent centre in Adelaide as part of its contribution to International Youth Year. It concludes:

It makes perfect sense to take advantage of the experience and expertise of these three dedicated people in the preparations and planning for an Adelaide centre. The process has been one of sensitive and sensible co-operation and consultation and it is quite misleading that it should be portrayed as 'bringing outsiders to tell us how to deal with Adelaide's problems'.

There are no simple answers and neither Charles Terry and his team nor Dr Cornwall pretend to have any. On the other hand, a concept which has worked—and worked well in a number of contexts overseas—may be useful in assisting South Australian youth, particularly those who are, for one reason or another, not reached by existing services.

I can understand the nausea of the people opposite when the facts are presented, but they are indeed the facts.

The Hon. R.C. DeGaris: Question Time should be extended; such very long replies are not fair to the Council.

The Hon. C.J. SUMNER (Attorney-General): I move:

That Question Time be extended to enable the Hon. Mr DeGaris to ask a question.

Motion carried.

POWER GENERATION

The Hon. R.C. DeGARIS: I seek leave to make brief explanation before directing a question to the Attorney-General, representing the Minister of Mines and Energy, about power generation in South Australia.

Leave granted.

The Hon. R.C. DeGARIS: In the past few days considerable publicity has been given to the possibility of the utilisation of hot rocks in the Cooper Basin. This source

has been known for a very long time to exist in the Cooper Basin. Previous work has been done on its utilisation for the production of steam for power generation. Has the Mines and Energy Department made any investigation of the possibility of this particular means for the utilisation of power and, if so, will a report be made to the Council on the possibilities of its use?

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

QUESTIONS ON NOTICE

GOVERNMENT ADVICE

The Hon. DIANA LAIDLAW (on notice) asked the Attorney-General:

1. Is a proposal by the member for Brighton in the House of Assembly, to establish at Westfield Shopping Centre, Marion, a one-stop shop front for Government department and agency advice, to be funded and staffed by the Government and to serve the Marion community, being promoted with the knowledge and concurrence of the Treasurer?
2. What would be the estimated establishment and ongoing costs of such a project?
3. Is there any likelihood that such a project will attract the funding required?
4. If so, has the Treasurer considered that the member's own office, and that of a Senator, are already located at Westfield and, further, that the tasks the member for Brighton envisages for the shop front are ones normally undertaken by a member of Parliament on behalf of his or her constituents?
5. Is the Government considering similar shop front projects in major shopping centres in South Australia and, if so, where?

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

1. The member for Brighton raised the idea at the Marion Community Forum last year and suggested that the forum prepare a proposal that could be put forward for Government funding.
2. Not known.
3. Such a project has not been considered.
4. See 3. above.
5. No.

STATUTES

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General: When will the bound volume of the 1983 Statutes, passed by the Parliament of South Australia together with indices, tables and other data, be available to the public and to members of Parliament?

The Hon. C.J. SUMNER: Copies of the 1983 bound volume of Statutes are now available from the Government Printing Division's Publications Branch located at Netley. Mail and standing orders are currently being filled and should be completed shortly.

SELECT COMMITTEE ON REVIEW OF THE OPERATION OF RANDOM BREATH TESTING IN SOUTH AUSTRALIA

The Hon. G.L. BRUCE brought up the report of the Select Committee together with the minutes of the proceedings and evidence.

Report received. Ordered that report be printed.

NO-CONFIDENCE MOTION: COUNTRY DOCTORS

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

> This Council has no confidence in the Minister of Health on the grounds that he misled the Council concerning the country medical practitioners dispute.

I submit to the Council that the Minister of Health has misled this Council in regard to statements he made in the Council concerning three patients transferred from the Port Augusta Hospital to three different metropolitan hospitals recently. The matter starts with the Minister's Ministerial statement of 27 February 1985. This was a statement which the Minister elected to make purely of his own initiative. It was a statement which he chose to make to further his political ends to try to combat the understandable efforts of country doctors to retain their rights to earn an income and their genuine status as general practitioners and not salaried medical officers under another name. In his Ministerial statement, the Minister said:

> Honourable members will recall that in my Ministerial statement last week I outlined the actions of a doctor who transferred a number of frail, aged patients from Riverton Hospital to Adelaide. I indicated that those actions had been referred to the Medical Board of South Australia for urgent consideration under the provisions of the Act relating to unprofessional conduct.
>
> I regret to say that a number of other cases have come to light in which doctors have transferred acute care patients in circumstances which were prejudicial to their care and which, in some cases, may have potentially involved life-threatening situations.
>
> One case, in particular, caused disquiet because the patient appears to have been subjected to unnecessary risk. This involved an 18-year-old patient in early labour whose diagnosis was pre-clamptic toxaemia and foetal distress and who was transferred from Port Augusta Hospital to the Queen Victoria Hospital by road ambulance. The transfer was made on the authority of a general practitioner, without seeking the opinion of specialist obstetricians available in Whyalla and Port Augusta. This case, along with 15 others, has been referred to the Medical Board by the Health Commission for investigation and appropriate action. The 16 cases involve six Port Augusta general practitioners. They appear to have been related to industrial action being taken at that time at the Port Augusta Hospital.

I refer to the statements made by the Minister in the press as well as in this place. A report in the *Advertiser* of 23 February 1985 states:

> ... Dr Cornwall said the South Australian dispute was brought to a head yesterday morning when he learnt that 16 patients had been transferred to Adelaide in situations which variously posed a threat to their well being and, in a few cases, their lives. Dr Cornwall said a case that was particularly brought to his attention was that of an 18 year old pregnant woman who had toxaemia in advanced pregnancy and whose baby was suffering foetal distress. She had been transferred to Adelaide in a 4½ hour journey without an obstetric opinion, although a resident obstetrician was available in that town. 'It was a situation which I couldn't tolerate as Minister of Health and one which the State President of the AMA believed had to be able to countenance a situation where patients were being endangered.' The Minister had then met Dr Kimber and reached agreement about the moratorium and the need for future discussions to be held federally.

Country doctors became understandably disturbed. They contacted the AMA to obtain particulars of the allegations from the Health Commission. These details were not forthcoming, and I shall comment at a later stage on the unethical nature of information being given to and used by the Health Commission and the Minister in public statements without the practitioners concerned being given any indication of allegations made against them.

The true facts of this first matter are that the 18 year old mother concerned was a patient of Dr Wilson at Port Augusta. In a statutory declaration made on 30 March 1985, he stated:

> 1. I am a Bachelor of Medicine and a Bachelor of Surgery from the University of Punjab.
> 2. I have been the General Practitioner treating Ms X—

I do not want to disclose her name—

> during the greater part of her pregnancy.

3. There was uncertainty as to the expected date of delivery. For this reason I consulted Dr Y, a specialist obstetrician, who in fact has admitting rights at the Queen Victoria Hospital. Before Ms X presented to the Port Augusta Hospital, I rang Dr Y in his rooms and arranged for her to be seen in his rooms on the 13th at 4.45 p.m.

4. In fact, as a result of pains before, Ms X presented to the Port Augusta Hospital on the 13th. She had had some pains. She was seen at the hospital by Dr Bhola, who came to the conclusion that the best procedure was to continue with the arrangements for her to see Dr Y.

5. I saw her on the morning of the 13th. She was not in established labour and this confirmed my assessment that the transfer was appropriate.

6. There was a slightly elevated blood pressure. This gave no cause for concern.

7. My assessment was that it was better to have the baby transferred *in utero* rather than have the possibility of a humid crib transfer, which normally involves calling on a retrieval team.

8. All of my assessments in regard to Ms X were made on a medical basis.

On 13 February the patient presented at the Port Augusta Hospital and was seen by Dr Bhola. His case notes at the time indicated that, at the time of presentation, there was foetal distress. This was on the basis that the foetal heart beat was at that time 115 as against the normal range of 120 to 160. The patient was treated and after the administration of oxygen and other treatment the heart beat changed to 125, that is, at the lower range of the acceptable limit, and it remained at this level. At the time of transfer there was no foetal distress. Dr Bhola's complete notes on the subject are an exhibit to his statutory declaration and they read as follows:

Ms X is an 18 year old female caucasian primigravida, admitted by me on behalf of Dr A. Wilson at 3 p.m. on 13 February 1985 at term, but with uncertain dates. On admission the sister found she had mild contractions and backache every four minutes. The membranes were intact and the CTG showed a baseline bradycardia of 115-120/min. It was regular and the reactivity was depressed according to sister. Her blood pressure was 170/100. Vaginal examination showed a cervix that was 50 per cent effaced and one centimetre opened. I ordered 15 mg of Omnopon 1 m oxygen and that the patient be nursed on her side.

I assessed her soon after and found the FHR to be 125/min and normally reactive. Her blood pressure was 125/80. She had no oedema or albuminuria. Vaginal examination confirmed that she was only in early labour. I commenced a 5 per cent Dextrose drip and cross matched two units of blood. Her contractions were irregular.

Because of the fact that the dates were uncertain and the patient already had an appointment to see Dr Y in Adelaide that day (arranged previously by Dr Wilson), it was decided to have the patient transferred to Queen Victoria Hospital under his care. He was contacted and the Registrar at the Queen Victoria Hospital notified. The patient was not keen to see the resident obstetrician in Port Augusta.

Just before transfer the sisters requested that the patient be reviewed as the heart rate 'was slow and not reactive'. I assessed the patient and found the situation unchanged from my previous assessment; so the transfer was authorised to continue at 10.30 a.m.

There were no problems *en route*, and on her arrival at the Queen Victoria Hospital at 2.30 p.m. Dr Y was notified. She was assessed and found not established in labour. She was reassessed two hours later and was still not established in labour. At about 8 p.m. she was commenced on a syntocinon drip and eventually delivered the following day by forceps for transverse arrest. At no time was there any foetal distress. The baby was perfectly well after delivery.

The Minister of Health stated that this patient was subjected to unnecessary risk. He said that she was in early labour with a diagnosis of pre-eclamptic toxaemia and foetal distress. He also stated that the patient was transferred on the authority of a GP without seeking the opinion of specialist obstetricians in Port Augusta or Whyalla.

These statements are false in that:

1. There was no risk attached to the transfer. The patient was transferred for better care as it was anticipated that there may be problems with her later on as she had uncertain dates, slight foetal bradycardia and mild hypertension which settled with initial treatment.

2. A diagnosis of pre-eclamptic toxaemia was never made by me.

3. A consultant obstetrician in Adelaide was already involved with this case and it was discussed with him. The patient was not keen to have the local obstetrician involved.

4. The GP treating the patient has the D.R., A.C.O.G., with 12 years of active obstetric experience.

In conclusion, the Minister was either misinformed or was exaggerating the facts to smear the doctor concerned.

The specialist obstetrician who was consulted by telephone said in his statutory declaration:

1. I am a Bachelor of Medicine and Bachelor of Surgery (University of Adelaide), a Member of the Royal College of Obstetricians and Gynaecologists, and Fellow of Royal Australian College of Obstetricians and Gynaecologists.

The Hon. J.R. Cornwall: What is his name?

The Hon. J.C. BURDETT: I had decided to respect the names of the patients and of the specialists in Adelaide. The doctors in Port Augusta wanted to be named because they wanted to make clear that they were prepared to stand on their position. I am prepared immediately after I have spoken to make available to the Minister the statutory declarations that I have from all concerned on the basis that he does not in the Council disclose the names of the patients and of the specialists in Adelaide.

The Hon. J.R. Cornwall: It's a confidential statutory declaration—that is the status that you are giving it—which you are not prepared to produce publicly?

The Hon. J.C. BURDETT: The Minister is being ridiculous. The persons concerned have made statutory declarations. When the Minister spoke on these matters earlier he said that he had not disclosed the names of the patients involved. The doctors in Port Augusta want their names disclosed.

The Hon. R.I. Lucas interjecting:

The Hon. J.C. BURDETT: Sure. I do not see why patients' names should be disclosed. I am prepared to give the Minister later (and this is a fairly generous offer) the statutory declarations. If the Minister asks me to table them I will.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: I have read the first part of the specialist obstetrician's statutory declaration.

The Hon. J.R. Cornwall: Would you be prepared to table the obstetrician's statutory declaration with his name intact? I am not asking for it. I am asking whether you would be prepared to do that.

The Hon. J.C. BURDETT: If the Minister asks me to do that, I will. As I understand the situation, these statutory declarations not being of a statistical nature, I cannot table them. If the Minister calls on me to table them, I will table them.

The PRESIDENT: There is a difference between tabling them and having them incorporated in *Hansard*. If they are not statistical they cannot be incorporated in *Hansard*, but there is no reason why they cannot be tabled.

The Hon. J.R. Cornwall: Clearly it is up to the member to decide whether or not he wants to be fair dinkum and table them. I think it is bizarre if we are to have confidential statutory declarations.

The Hon. J.C. BURDETT: As the Minister has made these comments, I seek leave to table the statutory declaration of the obstetrician concerned.

Leave granted.

The Hon. J.C. BURDETT: I will continue to read the statutory declaration:

2. My first contact in regard to an 18 year old mother who transferred from Port Augusta Hospital was on Wednesday 13 February 1985. This was a telephone call from Dr Asirvatham Wilson of Port Augusta. He gave a history of an 18 year old pregnant mother not in established labour. The cardiac tracing indicated a foetal heart beat at the lower range of the normal scale. Dr Wilson was suggesting a transfer so that the condition of the mother and baby could be closely monitored.

3. I was contacted by telephone later on the Wednesday by the Queen Victoria Hospital who informed me of her arrival. Because of her uninsured status she was admitted as a public patient and I was not further involved.

4. I understand that the delivery was a forceps delivery and that the baby was turned from a transverse position to a normal OA position.

5. From the information which I have of the case and a subsequent review of the file and data by me at the Queen Victoria Hospital, I would say that I consider the transfer was appropriate and involved no danger to the mother or baby. From the data which I perused, there was no evidence of foetal distress at the time of arrival of the mother at the Queen Victoria Hospital.

The statutory declaration made by the patient reads:

1. On 12 February 1985 I had been pregnant for about nine months. I had been treated by Dr Wilson in Port Augusta, and he had explained to me that the baby had a slow foetal heart beat and that specialist treatment was desirable. Dr Wilson told me that he had been in touch with a specialist at the Queen Victoria Hospital, Dr Y, and that he had arranged for me to go to Adelaide on Wednesday, 13th.

2. On Tuesday, the 12th, I had what I thought were labour pains and presented to the Port Augusta Hospital, where I was seen by Dr Bhola. The pains then became further apart and Dr Bhola told me that I was not in established labour and that it would be best if the transfer to Queen Victoria Hospital was made as previously arranged on the Wednesday.

3. On Wednesday, 13th, I was transferred to the Queen Victoria Hospital by road ambulance. I transferred comfortably and was admitted to the Queen Victoria Hospital. I was still not in established labour and was seen by Dr Y about two and a half hours after arrival.

4. On Thursday, 14th, I came into labour and gave birth to a baby son.

5. My son is in good health and I am entirely satisfied with the treatment by Dr Wilson, Dr Bhola and Dr Y, including my transfer to Adelaide.

On 19 March, in the course of a question, I called on the Minister to apologise for his incorrect statement, but he refused. At page 3361 of *Hansard* when the Minister had been plied with the inaccuracy of his statements about the 18 year old mother, he is reported as saying:

. . . I will give one or two further examples, however, which will enable members of this Parliament and of the South Australian public, perhaps, to form their own opinions in some of these matters.

This is important, because he was saying that he was giving the examples to enable members of the Parliament and the South Australian public to form their own opinions. Therefore, it was important that what he was saying was accurate. The Minister continued:

One must remember that these are notes [which he had referred to] provided by the Medical Superintendent of the Port Augusta Hospital. On 7 February 1985 a male patient who was a hospital service patient (in other words, a public patient), unemployed (therefore, of course, eligible to be a cardholder, one would have thought), race Caucasian, age 24 years, was transferred to Adelaide with a diagnosis of anterior myocardial infarction. The patient was transferred by air three days after admission and stabilisation. The reason given for transfer was further treatment and investigation. However (and these are the words of the Medical Superintendent), normal practice is to continue treatment of the infarct in Port Augusta and to arrange for investigation at a later date. I believe that this transfer was for industrial reason.

Once again the Minister had not done his homework before quite wrongly defaming country doctors. Dr Bhola's case notes on this issue, which are also an exhibit to his statutory declaration, state:

Mr X is a 24 year old male Caucasian admitted via casualty as an emergency to the Port Augusta Hospital on 4 February 1985. He gave a history that he had had pain in his chest for one week. The pain radiated to his left arm and back and was worse on the day of admission. He had no relevant past history. On examination his pulse was 72 min and regular, blood pressure 155/90. heart sounds normal, no signs of heart failure. His ECG showed marked ST elevation in leads V1-V6 and small Q waves in all leads. The diagnosis of acute anterior myocardial infarction was made.

He was admitted to ICU and placed on a monitor. His cardiac enzymes confirmed myocardial infarction. Other investigations such as FBC, MBA20 and fasting lipids were normal. He was given narcotic analgesics for his pain. His chest X-ray showed minimal cardiac enlargement and there was slightly increased shadowing at both bases. He still had pain on the 5th but his observations were stable and in particular he had no arrhythmias or clinical evidence of CHF. On the 6th his pain was less and still no complications, but his ST segment elevation remained unchanged.

His pain was only slight on 7.2.85 but I became concerned because his ST elevation persisted unchanged, which caused the question of an aneurysm developing. Because of this, and the fact that he is only 24 years of age, the Cardiology Registrar at Royal Adelaide Hospital was contacted and he thought it was reasonable to have this patient transferred, so this was arranged. The patient was admitted under Dr Y.

The patient continued to settle. Investigations showed a small aneurysm, which did not require surgical intervention. The specialist also said he had a very large infarction. He was allowed to settle further and then discharged, with arrangements for coronary arteriography, which was subsequently done. This showed blockage affecting one of his coronary arteries.

Since then he has continued to have severe angina and has had two further admissions to Port Augusta Hospital. He is on continuous medication with Anginine, Isordil and Verapamil. He gets angina on the slightest exertion. Dr Y was contacted and he suggested conservative management is still preferable to surgery at this stage. He is quite prepared to review this patient in the near future in view of the persistent ST elevation on ECG. It is the opinion of Dr Y that there was no risk attached to this transfer as the patient was in a very stable state.

I continue to quote from Dr Bhola's notes:

I object to the Minister's allegations that this patient was transferred for industrial reasons. The question of an aneurysm was a real one, and required urgent clarification.

I seek leave to table the statutory declaration of the Adelaide specialist who saw the patient.

Leave granted.

The Hon. J.C. BURDETT: The specialist in Adelaide states:

1. I am a Fellow of the Royal Adelaide College of Physicians and full Member of the Cardiac Society of Australia and New Zealand. My speciality is cardiology.

2. On 7 February 1985, a 24-year-old male patient who had been transferred from Port Augusta arrived at the Royal Adelaide Hospital. He was admitted under my care. He was accompanied by a letter from Dr R. Bhola from Port Augusta. He was referred for continuing management and investigation of his myocardial infarction. His diagnosis for myocardial infarction was made on the day of his admission to Port Augusta on 4 February 1985.

3. His condition was stable prior to transfer.

4. He subsequently had stress testing and coronary angiography. That procedure revealed an occluded coronary artery, which would have occurred at the time of his acute presentation, on 4 February 1985 at Port Augusta.

5. He has subsequently been discharged on medication.

6. I had no indication that the transfer was for industrial reasons.

7. Having regard to his age and diagnosis, his transfer was appropriate on medical grounds.

The patient in his statutory declaration states:

1. Shortly before 4 February 1985, I suffered severe chest pains, which did not go away. I presented at the Port Augusta Hospital and was seen by Dr Bhola.

2. He admitted me to the Port Augusta Hospital, where I was for three days. While I was in the Port Augusta Hospital I had some injections for the pain and some medication.

3. Dr Bhola explained that it was a serious matter to suffer a heart attack at the age of 24 and that it was appropriate that I should be sent to Adelaide for further investigation.

4. I agreed to that course and by the 7th was well enough to travel. I was transferred by air ambulance and had a comfortable trip.

5. At the Royal Adelaide Hospital I was seen by Dr Y. I subsequently had stress testing and coronary angiography. I was subsequently discharged and put on medication. I am still off work and still on medication.

6. My condition and the treatment and investigations were explained to me by Dr Bhola and Dr Y at all stages and I am quite satisfied that the treatments, including the transfer to Adelaide, were quite appropriate.

We now come to the other case raised by the Minister. The Minister, in response to a question, went on to say (and I quote from *Hansard);*

On 7 February 1985 a two year old female child (a hospital service patient (again, a public patient)), race Caucasian, was transferred to Adelaide Children's Hospital with a diagnosis of mouth ulcers. The child was transferred by air and the transfer was clearly the result of industrial action. Mouth ulcers!

First, I point out his derogatory statement "Mouth ulcers". Dr Khosa's statutory declaration reads:

1. I have a Bachelor of Medicine and a Bachelor of Surgery from the University of Singapore. I have a Diploma in Clinical Pathology from the University of London.

2. On 4 February 1985 I examined [the child] at Port Augusta Hospital. She was a two year old girl who had first been seen by Dr Grewal. She was suffering from febrile illness, together with oral ulcers. These were fairly extensive, covering not only the mucous membrane of the mouth but also extending into the pharynx. She also had blistering ulcers over the cheeks. I recognised this condition as being one of firal aetiology. She was initially treated at the children's ward of Port Augusta Hospital for three days. Her condition steadily worsened in spite of treatment and by 4 February she was unable to eat and even unable to swallow her own saliva. She was also generally irritable, which is quite natural. I decided to refer her for specialist treatment to Adelaide Children's Hospital. The parents were called in and I discussed the child's plight with them, and they agreed with my suggestion that the child be transferred to Adelaide Children's Hospital for further treatment.

3. In my view, transfer to Adelaide for specialist treatment was in the best interests of the patient, and the treatment was satisfactory and the patient has now stabilised.

I might add that I have seen the two year old girl.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: Yes, quite recently.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: Not at all. I am simply stating a fact, that I have seen her. The mother's statutory declaration reads:

1. Early in February 1985 my two year old daughter (named) developed a seriously ulcerated mouth, caused through a herpetic condition. She would drink a little but would not touch any food.

2. I took her to the Port Augusta Hospital, where she was seen firstly by Dr Grewal. Later she was seen by Dr Khosa. She was admitted and stayed in hospital for three or four days. During that time she was unable to eat and Dr Khosa told me that she needed specialist treatment and suggested that she be transferred to Adelaide Children's Hospital.

3. On the 4th she was transferred by air ambulance to Adelaide Children's Hospital. I went with her. She was admitted overnight and treated for her condition. The treatment enabled her to eat and from then on she improved and was brought back home.

4. Her condition is now quite satisfactory.

5. I was quite satisfied with the treatment of Dr Grewal and Dr Khosa and was satisfied that the transfer to the Adelaide Children's Hospital was appropriate.

The most alarming aspect of this procedure is that a complete mockery has been made of the peer review procedure which the Minister has so often espoused. This system requires that the doctors being complained about be informed. This was not done in this case. The first that the doctors had heard about it was when they read the *Advertiser* and when copies of *Hansard* were sent to them. Secondly, the peer review system requires that complaints from within the system be made to clinicians, that is to say, to other medical practitioners within the system. That did not happen. The Minister said that his reports came from the Medical Superintendent of Port Augusta Hospital. The Medical Superintendent was in grave dereliction of his duties in providing evidence derived from case notes to the Minister and in particular he was wrong in not advising the practitioners. Did he advise his board? I do not know. He did not see the patients, to the best of my knowledge. He did not speak to the doctors concerned. The Minister says that he is a specialist anaesthetist. Specialists are of course qualified as specialists in their own area only. They are usually less qualified and experienced than GPs in the area of general medical practice. There is no reason to suppose that he would have any more expertise than a GP in cardiology, obstetrics or the question of serious mouth ulcers which did not permit the two year old girl even to swallow her own saliva.

It is obvious that the Medical Superintendent at the Port Augusta Hospital has 'responded', as the Minister said, by grubbing through the hospital case notes and picking out the notes where he thought there might be evidence of industrial action.

The Hon R.I. Lucas interjecting:

The Hon. J.C. BURDETT: Yes.

The Hon. J.R. Cornwall: Is that the Medical Superintendent you are denigrating?

The Hon. J.C. BURDETT: I am not denigrating him. I am just stating some facts.

The Hon. J.R. Cornwall: You are bad mouthing him in the most disgraceful way.

The PRESIDENT: Order!

The Hon. J.C. BURDETT: The Minister said (at page 3303 of *Hansard*):

The complaint was made expressly by the Secretary of the South Australian Health Commission, not by me. The advice was tendered to me by senior officers of the Health Commission. Mr Burdett says that some doctors were incensed. I assure the Council that no doctors were more incensed than the specialist physicians employed by the South Australian Health Commission when they investigated and were apprised of the conditions under which these patients had been transported.

What investigation? Neither the general practitioners, the specialist nor the patients were spoken to. What sort of investigation was that? The Minister said that 16 cases have been referred to the Medical Board. Because of the Minister's unscrupulous practices, I have no way of identifying the other 13 cases and I can make no comment on them.

The Hon. R.I. Lucas interjecting:

The Hon. J.C. BURDETT: No. He has obviously required the Medical Superintendent to do a job for him, and the job has been done even to the extent of breaking confidentiality and revealing confidential material to the Health Commission and without informing the practitioners concerned, and that has been brought to the attention of this Council and to the press.

The doctors in Port Augusta who are able to identify themselves have contacted the Medical Board and have simply been told that it may be a long time before the complaints can be determined. Is this natural justice? The Minister said (at page 3361 of *Hansard*) that he did not believe that there ought to be trial by Parliament. He was the one who introduced that. When he made his Ministerial statement on 27 February and his subsequent newspaper release, he made the statement that country practitioners were misconducting themselves for industrial reasons and were neglecting the interests of their patients. In the same Ministerial statement he said that 16 cases had been referred to the Medical Board. The Minister raised the whole thing in the first place, defamed medical practitioners and placed others under a cloud, and he talks about the decision of the Medical Board and investigations which have not been carried out.

The Minister talks about patient care. He has done nothing to investigate the opinion of the patients that I am aware of. I did investigate that. The country doctors dispute is based on the Medicare dispute which does absolutely nothing for patient care. It does not enhance patient care in any way whatsoever. I am concerned about patient care. In the only matters that the Minister has identified I have taken the trouble to speak to the patients—and the GPs and the specialists. What the Minister has done is to make a point on his own initiative of damning some country doctors without their being informed and on information which I have shown is wrong. At page 3362 of *Hansard,* in a supplementary question, I asked the Minister:

Will the Minister answer the question that I asked him initially? In case he has forgotten it, I will repeat it; does the Minister acknowledge that he, and he alone, must accept responsibility for Ministerial statements, and does he stand by his Ministerial statement of 27 February and, in particular, the accuracy of his reference to the case of an 18 year old pregnant woman who was transferred from Port Augusta to the Queen Victoria Hospital?

I received the following answer:

Yes and Yes.

The Minister has accepted the responsibility, as he should. It was a question which he and he alone raised. Obviously, the Parliament must be able to inquire into the accuracy of what the Minister has raised in a Ministerial statement. I have shown that what the Minister has recklessly said is wrong and it is for this reason that I move this motion of no-confidence on the classic ground that the Minister has misled this Council. He raised the matter in order to defend the political system of Medicare and has unscrupulously attacked doctors without reference to the patients concerned (and they are my concern) or their GPs or specialists. For those reasons, I have moved this motion.

The Hon. J.R. CORNWALL (Minister of Health): I have lost count of the number of times that the Opposition has moved motions either of urgency or no-confidence in me as Minister of Health. It has been, by and large, an abuse of the Parliamentary system: it certainly does nothing for the credibility of members opposite.

The Hon. R.I. Lucas: You are the first Minister ever to be repudiated.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Let me, with your protection Mr President, go through some of the matters raised by the Hon. Mr Burdett. Indeed, 16 cases involving six doctors in Port Augusta have been referred to the Medical Board of South Australia. That is the appropriate and proper place for them to be considered. The way in which they conduct their affairs is very much for the Medical Board of South Australia. There are statutory powers under the legislation and it would be entirely inappropriate for me to discuss the matter with them or to interfere in any way, as the Hon. Mr Burdett seems to infer I should. He really should know better, because he has been in this Parliament for a long time and he is a member of the legal profession.

However, perhaps the most telling point in this debate to date was when the Hon. Mr Lucas very clearly and audibly interjected, as is his wont, and, referring to the Port Augusta doctors and to me said, 'They want his blood' to which the Hon. Mr Burdett replied 'Yes'. Let us examine the case, if that irresponsible young fellow Lucas on the back bench can contain himself for a moment—

The Hon. R.I. LUCAS: I rise on a point of order. I cannot tolerate this any longer, Mr President. I ask the Minister to refer to members in the appropriate way in the Council.

The PRESIDENT: I take the point of order.

The Hon. J.R. CORNWALL: Certainly, and the way in which I referred to Mr Lucas, given his behaviour, is entirely appropriate. The Port Augusta doctors publicly and deliberately embarked upon a course of industrial action. They trumpeted to anyone who would listen, and particularly to the media, the fact that they intended to embark on this action with their colleagues in the Mid North. I will not go over the ground again in relation to the doctor from Riverton who transferred six frail aged patients (in clear defiance of the Hypocratic Oath) to Adelaide. I do not believe that I need to go over that again, except to say that on any objective analysis that behaviour was disgraceful. But the Port Augusta doctors determined on industrial action.

That action had two major purposes: the first was to inconvenience public patients, Medicare patients, in Port Augusta and the Port Augusta district, and as they saw it, quite wrongly, to embarrass the Government and me as Minister of Health. Now that the moment of truth has come, of course, they want to pretend that none of these patients were transferred because of industrial reasons. What a lot of nonsense! The headline of an article in the *News* of 1 February 1985 states, 'SA doctors to trigger hospital crisis'. The article, by Stephen Middleton (who has since gone on to greener pastures and more fertile ground), states, in part:

South Australia's country health services reached crisis point today—

a little bit of journalistic licence, but nevertheless—

when doctors at 11 centres announced they would no longer treat public hospital patients. Public patients in hospitals from Orroroo to Clare may have to come to Adelaide for treatment from 15 February. The dispute is expected to widen throughout the State within a fortnight, according to the SA vice president of the Australian Medical Association . . . At Port Augusta Hospital—the biggest hit by the withdrawal of services—the 12 doctors decided yesterday they no longer would handle public patients.

Nothing can be clearer than that. It is a clear statement and a clear decision by the doctors at Port Augusta that they would take every industrial action they could to inconvenience public patients who, incidentally, comprise well in excess of 80 per cent of all patients at the Port Augusta Hospital. Now that they have been embarrassed by the public revelation of what they are about, the doctors want to rewrite contemporary history. I can understand that, but the reality is that—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —if one decides to take industrial action, one must have the courage to wear the consequences publicly, because one cannot rethink the matter later. I refer to the *Advertiser*—the journal of record—of 4 February, three days later. The Hon. Mr Lucas made a disparaging remark about the afternoon newspaper, and that was most regrettable. I have the greatest respect for the afternoon newspaper, the *News*. I refer now to the *Advertiser*, which is the journal of record, and we all know that. If you saw it in the *Advertiser*, Sir, you can believe it. I refer to an article headed 'Hospital ban's effect "soon",' as follows:

Some Port Augusta hospital public patients are expected to be transferred to Adelaide in the 'reasonably near future'. This is because of a dispute between country doctors and the State Government. The hospital's chief executive officer, Mr Lindsay Cheer, said yesterday no patients had been transferred to Adelaide teaching hospitals as a result of the withdrawal of service on Friday by 17 of the hospital's doctors.

It goes on to say it is expected 'soon'. The article continues:

The Australian Medical Association in SA has been involved in a 12-month row with the SA Health Commission over the level of payment doctors get for attending uninsured patients in country hospitals.

In other words, public patients, Medicare patients—the majority of patients (and they are my words, not the *Advertiser's*). The article continues:

The dispute climaxed when the 37 doctors opted to withdraw their services after AMA country representatives recently rejected a State Government offer to lift the fee paid for treatment of public hospital patients from 85 per cent to 90 per cent.

The doctors themselves have said publicly and have said frequently that they were in dispute, that they were taking industrial action, and that they were withdrawing their services to those public patients in a wide variety of circumstances. I refer to the *Advertiser* of 27 February 1985, as follows:

Doctors from Whyalla, Port Augusta and Port Pirie met in Whyalla last night to plan future industrial action—

this time they were getting a little more cagey—

Details of the meeting were not available late last night.

What is the rewriting of contemporary history all about? The fact is that, of course, the irresponsible actions of a small number of country doctors, including a small number of doctors at Port Augusta, attracted enormous public odium, and so they should, because patients were placed in situations ranging from distress to threat, on the advice given to me by senior medical officers. We come to the report—

The Hon. R.I. Lucas: To what?

The Hon. J.R. CORNWALL: To situations that were potentially life-threatening.

The Hon. R.I. Lucas: Did you say 'threat'?

The Hon. J.R. CORNWALL: Yes, 'from distress to threat': from causing distress to patients and relatives through to the more extreme end of the scale where there were potentially life-threatening situations. You cannot have industrial disputation where you withdraw services in the medical area without that happening. All the evidence in New South Wales during the doctors' dispute indicates that on occasions too numerous to document patients were placed in positions of great distress. There is plenty of evidence to suggest that many life-threatening situations arose in New South Wales as a result of the actions of some doctors.

Exactly the same situation would pertain here, if that industrial action were to proceed. Why else would any member think that Dr Kimber, a very professional and ethical member of his profession, and a specialist, become deeply concerned at the sorts of things that were beginning to happen? It was on Dr Kimber's recommendation, and indeed on Dr Kimber's call, that a moratorium was placed on any further industrial action until 30 April. The Medical Superintendent of the Port Augusta Hospital—the person whom the Hon. Mr Burdett saw fit to denigrate in the worst possible way during his lamentable contribution—sent me a list of 16 patients, with notes. They were not case notes, although he had access to the case notes.

The Hon. R.I. Lucas: Did he copy the case notes?

The Hon. J.R. CORNWALL: No, he certainly did not. I have not seen the case notes: it would have been quite wrong for me to see them. I have seen the memo that he sent to the Health Commission, wherein he detailed 16 cases where patients were transferred, ranging from 'possibly due to industrial action' through to 'clearly due to industrial action'.

The Hon. R.I. Lucas: Who asked him to do it?

The Hon. J.R. CORNWALL: Certainly not me.

The Hon. R.I. Lucas: Who?

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Clearly, the appropriate and senior officers of the Health Commission have a duty to monitor what is going on in the hospitals, whether they are in the city or the country. They are able to inform themselves as to what is occurring. Obviously they asked for a summary of what was going on in the Mid-North and in the Port Augusta Hospital. I refer to the statistics provided to me by the Western Sector of the Health Commission. As I have said, there seems to be a degree of cowardice about this. The Port Augusta doctors publicly announced that they were going to withdraw their services, that they were going to involve themselves in extensive industrial disputation, that they were going to refer all public patients to Adelaide once they had been stabilised, as they put it.

Quite clearly, in some of these cases, despite the fact that that did not happen, the figures indicate that the transfers from Port Augusta to Adelaide for specialist attention amounted to nine in January 1984, and in January 1985 (a comparable period) there were 14. We now come to the position where the doctors refer to industrial action. In February 1984, there were 17 patient transfers to Adelaide; in February 1985 there were 36, which is more than double the number of transfers to Adelaide in the previous period. In March 1984, there were 11 patient transfers; and in March 1985, with the same population (so it is a very comparable practice profile), there were 28 patient transfers to Adelaide. The peak of the transfers occurred during the sabre-rattling, from 1 February 1985 to 13 February 1985 when, during that 13-day period, 31 patients were transferred.

Quite clearly, that is an abnormal number. Looking at the three-month period of January to March 1984, there was a total of 37 patients transferred from Port Augusta to Adelaide; from January to March 1985, 78 patients were transferred, which is more than double. To try and make out this futile and foolish case that none of those transfers was due to industrial disputation is perhaps one of the least intelligent things that I have ever heard put forward in this place.

At that time I received these reports. I said then—and I have said this on many occasions since and I will say again today—that I will never tolerate actions which are prejudicial to patients, whether they are frail aged nursing-home type patients from Riverton, acute care patients from Port Augusta, or chronic or acute patients from anywhere else. As I said at the outset, I referred those cases that were drawn to my attention—16 of 31. Fifteen of them were considered by the Medical Superintendent, having reviewed the case notes, to be appropriate for transfer and that number was about the monthly average one might have expected. The other 16 were referred to the Medical Board of South Australia by the Secretary of the South Australian Health Commission—not by me. The appropriateness of their transfer and whether that was professional or unprofessional in the circumstances is entirely a matter for the Medical Board of South Australia—the Board of the doctors' peers.

If the Hon. Mr Burdett wants to try to make out a case that it was completely normal to send an 18 year old young woman on the point of labour with a foetus with bradycardia to Adelaide without referring her to a local obstetrician for his expert opinion, then of course he forces me to explain the facts of that case as they were accurately related to me.

The Hon. R.J. Ritson: You were misinformed.

The Hon. J.R. CORNWALL: I see, but they were related to Mr Burdett quite accurately, presumably. I will take up that matter immediately and come back to the other matters shortly. I am not going to use the name of the obstetrician either, but I have before me this statutory declaration. I think Mr Burdett read the whole lot into *Hansard* but I will take the Council slowly through the relevant parts. The obstetrician says:

> My first contact in regard to an 18-year-old mother who transferred from Port Augusta Hospital was on Wednesday 13 February 1985.

That is just when this industrial dispute was being revved up in the Mid North and Port Augusta. He continues:

> This was a telephone call from Dr X of Port Augusta. He gave a history of an 18 year old pregnant mother, not in established labour. The cardiac tracing indicated a foetal heart beat at the lower range of the normal scale. Dr X was suggesting a transfer so that the condition of the mother and baby could be closely monitored.

That contact was made by telephone and the only evidence that the obstetrician had before him was the cardiac tracing. He goes on:

> I was contacted by telephone later on Wednesday by the Queen Victoria Hospital which informed me of her arrival.

Please note very carefully the next point. He says:

> Because of her uninsured status she was admitted as a public patient and I was not further involved.

In other words, this obstetrician on whom Mr Burdett pins his whole case never saw the woman or the baby at any time.

The Hon. J.C. Burdett: Go on.

The Hon. J.R. CORNWALL: I will go on by all means. On his own statutory declaration this obstetrician, who has provided allegedly expert opinion, never laid hands on that patient, never saw that patient, or subsequently her baby, at any time.

The Hon. J.C. Burdett: Neither did your informant.

The Hon. J.R. CORNWALL: He says that he understands that the delivery was a forceps delivery and that the baby was turned from a transverse position to a normal OA position. Neither does my informant, the Hon. Mr Burdett says, but I am not standing up moving a no confidence motion. I have done the appropriate thing. I have referred the matter on the recommendation of my officers.

The Hon. J.C. Burdett: And you defamed the doctors.

The Hon. J.R. CORNWALL: I deliberately refrained from naming any doctor in this episode at any time with regard to Port Augusta. I have not moved a no confidence motion. I have simply been appraised by my officers that the Secretary of the Health Commission has appropriately referred these cases, which, on the face of it and on the advice of the Medical Superintendent of Port Augusta, may have involved unprofessional conduct, to the Medical Board.

But Mr Burdett gets up with a statutory declaration in which the specialist obstetrician makes clear that he has never seen the patient, never been near the patient, and never laid hands on the patient. Yet that person is able to say, not that he is prepared to comment generally on these matters, or that he is prepared to say that in particular circumstances and on the evidence that is available the general perception is, etc.; he is prepared to comment. He is prepared to give an expert opinion on a patient whom he has never seen. We will say no more about the credibility of the trumped up statutory declaration on which the Hon. Mr Burdett has mounted his case. What a lot of nonsense!

The incontravertible facts are that the 18 year old, the young woman, was on the point of labour. As the Hon. Mr Burdett has told this Council, she delivered 13½ hours after she was put in an ambulance to be transferred from Port Augusta, so she was on the point of labour. The foetus, as nobody contests, had bradycardia, and for the uninitiated that is a very slow heart rate. So it is a moot point to the lay person such as Mr Burdett or to the average reasonable person in the community. Whether or not that is foetal distress, I am sure that if one of my daughters was pregnant and on the point of labour with a foetus with bradycardia and some doctor put her in an ambulance and transferred her 300 km from somewhere in the bush without referring her for an expert opinion when there was a resident obstetrician, quite frankly I would not be responsible for my actions. It is, I repeat, an irresponsible thing to have done, on the face of it, to say the least.

As I said, I am prepared to wait on the verdict of the doctor's peers, but I would ask every reasonable parent out there in the South Australian community who has a daughter of childbearing age—and I have six of them—to consider what their attitude would be if some damned doctor more interested in money than in his Hypocratic oath, was to put that daughter on the point of labour with a child with bradycardia, with a distinctly clinically slow heart, in a road ambulance and transfer them on a journey to Adelaide for four hours, when there was a specialist obstetrician available in the same city. I will let the people of South Australia make up their minds on that one.

Members go on with the charade. It is said that there was no industrial dispute. None of those patients was transferred, it seems, because of an industrial dispute, but we go back and there it is. At the time, they were trumpeting that they were taking industrial action to force the Government's hand. You cannot have it both ways. The matter has now been raised publicly and at the instigation of one or two of these people in Port Augusta who appear to be Mr Burdett's friends. They are not too fussy, I might say, but they appear to have found a new champion and friend in Mr Burdett. The referral patterns of Port Augusta have been a matter of grave concern to the Hospitals Department, which it then was, and now the South Australian Health Commission for a matter of a decade. The fact is, if you want to look at this outside the context of the immediate industrial dispute, that the general practitioners in Port Augusta have, over that period, actively conspired and have taken action to stop specialist medical practitioners from becoming established in that city.

That is well known: it is a matter not of debate, but of record. In this case, there is one very good reason why this young woman was not referred to the specialist obstetrician: he had too much principle and dedication to his profession to be recklessly irresponsible in the matter of putting patients in distress and potentially putting them in life threatening situations.

I will not mince words and mess about: the referral patterns have been a problem for a decade. Frankly, the whole idea of the Hon. Mr Burdett's conspiring with a handful of GPs in Port Augusta to rewrite contemporary history is absolutely despicable.

I turn now briefly to far more positive matters: enough of the Council's time has been wasted already this afternoon, so I will conclude by talking about the country doctors dispute briefly and Medicare generally, particularly in the light of the very positive information that was announced yesterday. I come direct from the fountain of wisdom because I spent some time yesterday with my friend and colleague Bob Hawke and my friend and colleague Neal Blewett and I was able to get their—

The Hon. C.M. Hill: You told him how to run the nation, did you?

The Hon. J.R. CORNWALL: No, he is doing quite well without me, but he did grasp my hand and greet me as an old friend because I have known Bob for many years.

The Hon. Diana Laidlaw: You have a chip on the shoulder, haven't you?

The Hon. J.R. CORNWALL: Not at all. I do not mind admitting that I am a personal friend of the Prime Minister and, more interestingly perhaps, the Prime Minister does not mind admitting that he is a friend of mine. He did not seek my advice on how to run the nation, that is true, but we were fairly short of time because we were fixing up other matters. I held discussions again with Dr Blewett.

The country doctors dispute in South Australia is very close to settlement. In many ways it is a Clayton's dispute: it should never have occurred. It can certainly be settled within a matter of weeks. We have made the South Australian country doctors the most generous offer that has been made anywhere in Australia. They were seeking what they called 100 per cent, which would have been a very substantial gain *vis-a-vis* the rate and amount of remuneration that they were receiving before 1 February 1984. I was never able to accede to that because it was an ambit claim, which would have been well outside the spirit of the prices and incomes accord.

I will look at what has been offered to the New South Wales doctors and compare that with the generosity of the offers that I have made to the country doctors in South Australia. Before I do that, I must say that the majority of South Australian country doctors, in discussions with me and my officers as we go about the countryside, have made clear that they consider that ours is a generous offer. It is only a minority—and I suspect a rapidly decreasing minority—who are not satisifed with the offer that is being made. What is being offered in New South Wales is 85 per cent of the schedule fee where there are no resident medical

doctors or registrars at a hospital (in other words, the situation in our country hospitals in South Australia—and we are offering 90 per cent); 70 per cent of the schedule fee if a hospital has resident medical officers but not registrars; 60 per cent of the schedule fee where there are registrars in the same discipline at the hospital. So, clearly, our offer is much better. In Western Australia they are paid 80 per cent and are negotiating very vigorously to try to get that up to 85 per cent. Compare that with the equivalent 90 per cent that we are offering. So, it has always been a very generous offer. I have always made very clear that I was anxious to settle the so-called dispute.

I repeat what I said the other day: there is absolutely no political kudos for me in prolongation of the doctors dispute: one cannot run a hospital without doctors. I repeat what I said the other day: the level of clinical services in the South Australian country hospitals is as good as any in the world. I again pay tribute to those very many ethical doctors in rural and provinicial South Australia who have continued most responsibly to provide services to all of their inpatients—patients in the hospital situation—throughout the so-called country doctors dispute.

There is no reason why this matter cannot be settled very quickly. The Commission will propose in the first instance—and I will seek Cabinet ratification for this—a country hospitals medical fee schedule. That will not be 80 per cent, 90 per cent, 105 per cent or anything else but a full payment schedule based on a quantum of money that will be equivalent to around 90 per cent of the schedule fee overall. However, it will have a particular flexibility for South Australian country hospital practice. There are particular difficulties and peculiarities in South Australian country hospital practice, and we wish to acknowledge them through our own country hospital medical fees schedule.

I will give a couple of examples: if a surgeon performs a $200 procedure under current modified fee for service, because of the maximum $5 gap he is paid $195 for that service for public patients. That is a very small differential indeed, but because of the 15 per cent that applies, using the current 85 per cent as the basis for payment, it is a much larger amount relatively for procedures up to $66. It can be relatively an unjust amount, particularly for anaesthetic and obstetric procedures where 85 per cent of $28 can be very poor remuneration for a country GP being called out at 2 o'clock in the morning.

So, in some cases—and we will have these fees reviewed by an independent person—clearly, the amounts may be as high as not only 100 per cent but even 105 per cent of the current Commonwealth medical benefits schedule, but in other cases they may be as low as 85 per cent. In the first instance, they will be based on 90 per cent of the current Commonwealth medical benefits schedule, in other words, a rise across the board of 5 per cent: that will be my recommendation. Ultimately, they will be put on a more equitable base that takes into account the peculiarities and special problems of medical practice in rural and provincial South Australia.

Finally, I turn to the negotiations which have been going on between the Prime Minister, the Federal Minister of Health and the Federal President of the AMA, Dr Lindsay Thompson, and which have now been concluded with the profession at a Federal level. It is appropriate that on this occasion I pay tribute to Dr Thompson. I know how he must feel: he has been reviled on many occasions by his more extreme peers and opponents. He has done a remarkable job in all the circumstances, and he deserves to be publicly acknowledged for that. By now, everybody has read in this morning's paper the details of the package that has been offered to the doctors.

The elements of that package, leaving aside the specifics of payment for New South Wales doctors, will apply nationally, so they will apply equally in South Australia. Under those elements there is a clear acknowledgement that private practice will continue, and there is an acknowledgement of some of the peripheral difficulties that have occurred in the practical operation of Medicare. I have said on many occasions that Medicare would need polishing around the edges, and this does just that. If one looks at the so-called seven-point plan one sees that the Commonwealth is acknowledging that there can and should be modified fee for service in non-teaching public hospitals. That agreement will not affect us in the metropolitan area to any significant extent at all.

The only hospital that may be peripherally affected is the Lyell McEwin Hospital—all the others have teaching hospital status. So it does not affect our metropolitan area. I have always said that we were very well placed for the introduction of Medicare in South Australia and that confirms my observation. In relation to country hospitals, the situation in South Australia, as I have outlined many times, is that we are prepared to offer a total remuneration package based on 90 per cent (the most generous offer in Australia) and the Commonwealth has undertaken to repeal the controversial section 17 of the Health Insurance Act—I applaud and welcome that. It has made, as I am sure all honourable members have read in this morning's paper, an offer of $150 million in capital for renewal programmes over a three-year period. Pro rata, I believe that South Australia should receive $15 million from that package, so those of us who have an interest in the major teaching hospitals should not only be rejoicing but be dancing in the streets. That money, of course, is over and above the State Government's normal capital works programme in the hospitals and health areas.

This money will be spent principally (although not necessarily exclusively) on equipment refurbishing and possibly other new capital works programmes at the Royal Adelaide Hospital, Queen Elizabeth Hospital and Flinders Medical Centre. The fourth point, which is one that has been actively sought by country doctors in South Australia (and I must say that this makes it even easier for us to successfully negotiate a settlement with them), is that all privately insured private patients will automatically be classified as private patients when they present in public hospitals—that is the vast majority of our country hospitals—unless they specifically opt to be Medicare patients. That, I think, goes a long way towards assuaging the fears (ill-founded though they may have been) of the medical profession that Medicare was about nationalisation: nothing could be further from the truth. There has been a reaffirmation of the Federal and State Governments' commitment to private practice.

The fifth point, of course, refers to private insurance arrangements and the Federal Government (which clearly controls the health insurance legislation) has agreed to allow the funds to introduce a comprehensive hospital table to replace the existing basic table. The comprehensive table will cover accommodation charges in both private and public hospitals that currently exist. More importantly perhaps, from the point of view of negotiations, it will also cover the difference between the Medicare benefit and the scheduled fee for private medical services in hospitals, so there will be no gap in practice. Thirdly, and again very importantly for those of us who have an interest in and who actively support the private hospital system (and I have had the good fortune to be actively involved in doing that in recent months), benefits for defined surgically implanted items such as those for joint replacement, cardiac pacemakers and so forth, will be allowed under the comprehensive hospital table. This will greatly assist in reducing hospital waiting

lists for patients requiring procedures that involve these items: for example, hip replacements.

I repeat, as I have often said, the fabled or legendary waiting list is by no means the problem in South Australia that it is in some of the Eastern States. Nevertheless, we welcome this as it means that there will be an increased number of patients able to have procedures such as hip replacement done in the very excellent, non-profit private hospitals in particular in metropolitan Adelaide. The situation is that the introduction of Medicare in South Australia, which has been at times a little traumatic (although nowhere near as bad as it has been in Victoria and New South Wales), is coming to a point where it will be most satisfactorily concluded.

I am happy to say that the country doctors dispute is drawing to a close. South Australian country doctors will be made the most generous offer of any non-metropolitan practitioners in this country. It seems that in desperation and as some sort of last hoorah the Opposition—this critical, carping, negative, backward-looking, reactionary Opposition, which has never said a positive thing in the two years and four months its members have been sitting over there—is launching this desperate attempt to somehow or other cause me some inconvenience or embarrassment. Let me say that I am not embarrassed—that I am not in any way distressed by this foolish motion one whit. The Opposition has again shown its negativism and its irresponsibility in wasting the Parliament's time and the taxpayers' money but, most importantly, for the most crass and dishonest political reasons, for the most dishonourable motives (the stock in trade of Mr Burdett in particular), the Opposition has brought on this foolish motion.

I am pleased that it has given me the opportunity to outline to the South Australian Parliament the details of the Federal offer as it affects us in this State. I am pleased that I have been able again to express my great confidence in and respect for the vast majority of ethical medical practitioners in this State in general and in the country areas in particular. I am further pleased to be able to say that in the very near future the so-called country doctors dispute will be put to rest.

The Hon. R.J. RITSON: It is a very sad thing to find myself standing here supporting this motion because there have been occasions on which the Minister has performed his task well, but today he has entered this Chamber and lied and I will proceed to demonstrate that.

The PRESIDENT: Order! The honourable member cannot used the word 'lied'.

The Hon. R.J. RITSON: I had rather hoped that that might have attracted the Minister's attention. His usual tactic when challenged in this Council is to stand for a long time, speak about something else and then leave the Chamber to make press statements. Given that the Minister is likely to remain to listen to me, I will be more thoughtful and temperate in my further remarks on this matter.

This motion is not about the doctors' dispute, about fees or about someone being transferred to the city to have their toenail removed because they were a public patient: it has nothing to do with any of those things—it is about whether the Minister spoke the truth or spoke gross untruth when he gave those three examples and held them up as the worst kinds of medical irresponsibility.

The Hon. R.I. Lucas: I think it was untruths.

The Hon. R.J. RITSON: It was indeed untrue on many points and, when the Minister replied, he conducted an exercise in wilful blindness that I will proceed to dismantle as I go along. It is obvious from what has happened in the context of this doctors' dispute—I see the Minister has gone again. The absent Minister! In the context of this doctors' dispute it would appear that the Minister or Health Commission officers wishing to defend one side of that dispute went out into the highways and byways and said to their minions, 'Quick, find us a real live example where a patient has been harmed or threatened.'

So, three examples must have been presented to the Hon. Dr Cornwall as worthy of exposition in this place. He brought those three examples in on face value. In fact, they did sound rather horrendous and worrying. He then went to the President of the AMA, Dr Kimber, and presumably gave him the same set of non-facts as he gave this Council, whereupon Dr Kimber made sympathetic noises and said, 'Tut, tut!' But what actually happened? The Minister has given the impression that, in the case of the 18-year-old primigravida, she was seen by a GP only at Port Augusta and then tossed into a vehicle and sloughed off to the city for industrial reasons. When she was in labour (the Minister said 'in labour'), when she was suffering from toxaemia and when there was foetal distress—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.J. RITSON: The Minister's problem is that he has seen only one of the eight statutory declarations that helped put this jigsaw together. Let me talk about the actual condition of that woman. The Minister does not want to know because he was wrong, wrong, wrong!

The Hon. J.R. Cornwall: When did you examine her?

The Hon. R.J. RITSON: I have the case notes here. Will the Minister stay and listen to the facts?

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: On a point of order, Mr President, the Hon. Dr Cornwall is interjecting and is not in his seat.

The Hon. R.J. RITSON: The Hon. Dr Cornwall came to this Parliament and gave certain clinical facts and clinical diagnoses based on reports to him by his advisers. Surely I am entitled to demonstrate the facts from the doctors who saw the patients and listed the position in statutory declarations. The general practitioner who was treating this patient became concerned and referred that patient to another practitioner in Port Augusta, a practitioner with postgraduate qualifications who had been practising obstetrics for 12 years. That practitioner has also made a statutory declaration—

The Hon. M.B. Cameron: In other words, he was qualified.

The Hon. R.J. RITSON: Yes. The allegation that the general practitioner immediately referred the patient to Adelaide is false. That is an untruth that the Hon. Dr Cornwall spoke and it is so close to a wilful untruth because of his wilful blindness that I was moved to use that unparliamentary word at the beginning of my contribution. It is an untruth that he refuses to re-examine.

The PRESIDENT: Which you retract.

The Hon. R.J. RITSON: Yes, Mr President, with a certain amount of chagrin. I do retract it. The consultant who saw the patient in Port Augusta on behalf of the general practitioner has made a statutory declaration—

The Hon. J.R. Cornwall: Another GP?

The Hon. R.J. RITSON: A doctor with a diploma from the college—

Members interjecting:

The Hon. R.J. RITSON: As the Hon. Mr Burdett indicated, the patient had indicated a disinclination to see the other obstetrician. The patient was found not to be toxaemic. I imagine that the Minister was told of the presence of toxaemia because someone on a case note ferreted from Port Augusta Hospital found that initially a doctor suspected toxaemia.

Members interjecting:

The Hon. R.J. RITSON: Mr President, I seek your protection.

Members interjecting:

The PRESIDENT: Order! Members are not helping today's debate.

The Hon. R.J. RITSON: The Hon. Dr Cornwall gave the distinct impression to the public and stated categorically in this Council that the general practitioner in Port Augusta simply sloughed the patient off to the city, toxaemic in labour with foetal distress without consultation. When one looks at the notes as they exist in the declaration from the general practitioner obstetrician with whom he did consult one finds that the patient was not in labour. One finds that the other signs necessary to diagnose toxaemia, namely, oedema, weight gain and—

Members interjecting:

The Hon. R.J. RITSON: Mr President, I seek your protection.

Members interjecting:

The PRESIDENT: Order! I call the Hon. Dr Cornwall to order as well as other interjectors.

The Hon. R.J. RITSON: This motion contends that in those three instances the Minister misled Parliament—and he did—and it will serve him no purpose whatever to talk about the politics of what might have happened in some other cases that apparently were not impressive enough for him to bring to this Council and discuss. He brought three cases in as the worse examples of bad doctoring. He was wrong, he refuses to recant, and he still refuses to listen to the truth. I want to be protected from his interjections about Medicare and everything else while I discuss these three cases. There was no toxaemia. The absence of the other signs of toxaemia is recorded in the statutory declaration of this practitioner with the postgraduate diploma and the 12 years obstetric practical experience. However, she did note that an appointment had been made already for the patient to be seen in the city electively by the person who had signed the statutory declaration now in front of the Minister.

The Hon. J.R. Cornwall: I can hardly hide my contempt—

The Hon. R.J. RITSON: The Minister is not willing to listen to an argument. He knows of his vulnerability.

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: You had a reasonably good go.

The Hon. J.R. Cornwall: I know I did—I did very well, too.

The PRESIDENT: The Minister should listen to the Hon. Dr Ritson.

The Hon. R.J. RITSON: I am willing to hand this statutory declaration to the Minister.

The Hon. J.R. Cornwall: They are flying everywhere—they are like confetti. You have devalued the statutory declaration for all time in the Upper House.

The Hon. R.J. RITSON: The Minister is interfering with my right of free speech in this place.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. Cornwall: They are bodgie—that is what I am saying. On his own admission he never saw the patient.

The PRESIDENT: Order! Honourable members must come to order. We have a long way to go today and the longer we fool around the worse it will be.

The Hon. R.J. RITSON: I refer to a statutory declaration of clinical facts by a doctor who saw the patient, examined the patient, consulted with the referring general practitioner and agreed that under the circumstances the safest course for the baby was for it to be transferred in utero. The patient was not in labour; she was not on the point of labour, as Dr Cornwall claims. If Dr Cornwall had known what a syntocinon drip is, as referred to by the Hon. Mr Burdett, he would know that it is used to induce labour. Labour was induced the following day in the obstetric hospital here. That is just another example of the way in which the Hon. Dr Cornwall has deliberately distorted and confused the facts to cover up what really happened, and what really happened was that his minions, trying to please the Minister, got a superficial description of someone who was said to be toxaemic and had been sent to town without consultation so they said, 'Ha ha, we have something for our Minister. He can take that in.'

A set of case notes is not just a front sheet with a provisional diagnosis hastily used by a provincial city hospital to assist the Minister's politics; it is not even the notes residing in that hospital, but it is the notes made by other doctors who consult and notes from other hospitals. When we put the whole picture together we see that it is quite obvious that there was painstaking consultation and that care was taken in this case. One of the reasons which probably escapes Dr Cornwall's notice but which is a very powerful reason for the patient's being transferred in this way is the lack of certainty of dates. The care of premature babies (and of course premature babies can land on us unexpectedly if the patient is uncertain about the dates) is a highly specialised matter. Babies, premature and/or of low Apgar score, who are causing worry in country hospitals are flown in humid cribs to specialised units in the city, and the obstetrician with whom the GP consulted in Port Augusta made the point about uncertainty of dates as one of the several reasons why the pregnancy might have been expected to cause trouble although it had not caused trouble yet. So it was decided to admit the patient to the most specialised unit possible.

I offer to Dr Cornwall in due course the affidavit of the doctor who examined the patient and consulted with the GP in Port Augusta. The Minister said in this Council that the patient was toxaemic, that she was in labour, and that there was foetal distress, but he was wrong, wrong, wrong. When he was offered a chance to recant, he could at least have said, 'Look, perhaps I haven't got the whole story from my officers. Perhaps I will get the whole story from them and perhaps we will consider the matter before I come into Parliament and abuse every bit of dignity out of the doctors concerned in the name of my precious Medicare dispute.' But he did not do that: he was adamant that he was right. Dr Cornwall could never be wrong in his medical assessment.

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: Order!

The Hon. R.J. RITSON: The case of the person who had a myocardial infarct is of interest. I do not know how the Minister can say that that patient should not have been transferred. The clinical facts are, of course, that that man had an infarct some days or up to a week before presenting to the hospital. When one considers the clinical facts contained in the affidavit relating to his case notes one finds that there is a history of one week's chest pain preceding presentation to the hospital, and on admission he had Q waves on his E.C.G. As the Minister will know from treating animal infarcts, Q waves—

The Hon. J.R. Cornwall: I never profess to be an expert in any of these fields—never. I am a terribly good Minister, but I am not a medical practitioner.

The Hon. R.J. RITSON: Surely, Mr President, I should be permitted to develop these arguments. I did not inflict such a barrage of cross-talk on the Minister. That person was admitted with Q waves on his ECG about a week or at least several days after the infarct occurred. According to the history as we have obtained it on oath (and as most people who understand these matters would know), the greatest risk of death from arhythmias, such as fibrilation, occurs in the first four hours after an infarct, so, of course, the patient was very fortunate that he came out of this

incident so well in the acute phase. But obviously the acute phase had passed by the time he got to the hospital.

Again, as the Minister should know, a series of later complications can occur from 10 days to two or three weeks after an infarct, and these include such things as clots forming in the damaged heart and travelling to the brain or rupture of the heart through the weakened area, and indeed the hospital authorities were concerned about the possibility of a condition called an aneurism, where part of the heart wall that is weakened blows out like a bicycle tube. Open heart surgery is available to prevent that lest it rupture and the patient die suddenly.

So that is big stuff. It is not stuff for the Port Augusta Hospital: it is stuff for a top cardiology unit, such as that at the Royal Adelaide Hospital. The doctor at Port Augusta indeed considered the possibility of such an aneurism and, according to the affidavit, that is recorded in the case notes as well. I would say that, if the patient had not been transferred, it would have been negligent and then the Medical Board should have considered the matter. If the Hon. Dr Cornwall wants to lie in bed at Port Augusta with people suspecting a myocardial aneurism and saying, 'We must not transfer this patient'—

The Hon. J.R. Cornwall: Do you mean in the Port Augusta Hospital? I would not mind lying in bed in Port Augusta, but not in the hospital.

The Hon. R.J. RITSON: There are conditions in relation to which one should keep going and come straight down to Adelaide. This is a classic example of an appropriate referral to a cardiology unit. It would have hazarded the patient, it would have been completely inappropriate, if the patient had been kept at that hospital and not transferred under those circumstances. Indeed, a small aneurism was found but surgery has not yet been proposed. Certainly, the findings on transfer justified that action 100 per cent.

The Hon. J.R. Cornwall: It did not justify coronary by-pass surgery, though.

The Hon. R.J. RITSON: Well, at the risk of disclosing a bit more about the patient without naming him, I can say that the condition of the patient was such that he had angina at the slightest effort, and coronary by-pass surgery may yet be justified.

The Hon. K.L. Milne: Angina of what?

The Hon. R.J. RITSON: Angina at the slightest effort. That is a fairly severe degree of disablement. It means that a person who walks across the room must clutch his chest. The man was seriously ill. The question of aneurism can involve the most serious and dramatic and quite specialised surgery on the wall of the heart muscle itself. Indeed, a small aneurism was found. I certainly think that anyone of young age with a myocardial infarct would be foolish to allow himself to be totally managed other than by a city based top class cardiology unit. Likewise, I think it is more out of ignorance than disrespect for his children which causes the Hon. Dr Cornwall to say that he would be furious if one of his daughters was transferred in this way. I differ from him medically. I think not to transfer one of his daughters when there was that concern about prematurity, when there was no sign of labour—

The Hon. J.R. Cornwall: They told me not to have done a section in that situation was grossly irresponsible. They know as much about it as you do. What do you say about that, Dr Ritson, GP?

The PRESIDENT: Order!

The Hon. R.J. RITSON: The Hon. Dr Cornwall had a surgeon tell him—

The Hon. J.R. Cornwall: Two obstetricians told me.

The Hon. R.J. RITSON: The problem we strike is which set of facts we are working on. The Minister has a set of facts from his advisers which differs from the set of facts from the doctors actually at the bedside.

The Hon. J.R. Cornwall: Like the tame obstetrician that the Hon. Mr Burdett put forward who never saw the patient, but was prepared to make a statutory declaration. What sort of performance is that? I don't come in here with bodgy statutory declarations.

The Hon. R.J. RITSON: I now offer to the Minister the statutory declaration of the person with the hands on at Port Augusta who was called by the medical practitioner. The declaration includes medical reasons for the transfer. If this matter is still in dispute, why does not the Minister have it fully investigated instead of going off on a tangent. As far as the people referred to the Medical Board are concerned there has been no investigation. The case notes have not been called for by the Medical Board. They are being judged. The whole thing came to the Council through the Minister, not through me. The Minister came in and made these clinical allegations. I think he was a bit scared even then, because earlier in the sitting he agreed with me that the report of the Medical Board contained very little explanation of the sort of work they were doing. When we asked him whether the result of the Medical Board's investigation (without names) would be tabled in Parliament, he said 'No, Parliament cannot know about it.'

So many funny things have been going on: for instance, Lindsay Cheers, the CEA, has been asking the doctors in the area to sign a statement on the case notes when they transfer a patient to the city to the effect that it is for industrial purposes. I am told that two people did this as a result of intimidation or some sort of foolishness. The fact of the matter is that, whatever may be happening at a lesser level in the Medicare dispute, these three patients were not transferred for those reasons. The Minister picked the worst possible examples to justify his position, because he picked examples in which he was wrong, wrong, wrong. The Minister sits back ridiculing these statements. We have statements from relatives to the effect that the transfers were discussed with them and the fact that they were very happy about the medical need for the transfers. We have plenty more. The Minister ridicules them, but they are made on oath. The Minister says that it is a conspiracy by the doctors as part of the Medicare dispute. They were made on oath and are subject to the Oaths Act.

The Hon. J.R. Cornwall: No, I said that a statutory declaration from a specialist obstetrician who never saw the patient is not worth the paper it is printed on, quite frankly.

The Hon. R.J. RITSON: I agree that that particular affidavit is not the most valuable in terms of describing the clinical situation at Port Augusta. It was the result of a telephone conversation in which the doctor said, 'Okay, send her down to my unit.'

The Hon. J.R. Cornwall: He said, 'Send her down to me, but I will not see her because she is a public patient.'

The Hon. R.J. RITSON: That has been misrepresented. The Minister knows that in his own hospitals there is a hierarchical system of senior and junior medical specialists, registrars and residents. The Minister knows and Dr Blewett knows that when a public patient visits a hospital he sees the person of the day. It is very common for a senior to make arrangements for a patient to be admitted to their clinic, but they are often treated by a registrar.

The Hon. J.R. Cornwall: It is damned uncommon for them to make statutory declarations without having seen the patient.

The Hon. R.J. RITSON: The statutory declaration says no more than it contains. We do not contend that that is the whole story or that it is particularly powerful. I refer to the statutory declaration being held by the Hon. Dr Cornwall. I believe that, if Dr Kimber had known those facts, he

would not have concurred so readily. I do not know which obstetricians the Minister has discussed the matter with and how much of the clinical case notes they had available to them when they gave the Minister the opinion that the person should have been sectioned at Port Augusta. Members of the Minister's Party are always going on about unnecessary sections. Given the concern about the dates and the prematurity, which was one of the possibilities considered as a reason for transfer, the hazard of section is added to the hazards of prematurity in a provincial city. Places like the Queen Victoria Hospital receive perfectly healthy patients who are not in labour—

The Hon. J.R. Cornwall: The case notes state that there were contractions every four minutes, but you say that she was not in labour.

The Hon. R.J. RITSON: The Minister is picking one part of an opinion.

The Hon. J.R. Cornwall: It is the case history; it is not an opinion.

The Hon. R.J. RITSON: It states that she was not in labour—that is in another part of the report. The case notes show all the various conjectures and opinions that lead to the final conclusion. The truth of the matter is that the Hon. Dr Cornwall can say that she was in labour; however, the next day labour was induced.

The Hon. J.R. Cornwall: There were contractions every four minutes. I leave it for people to judge for themselves whether or not she was on the point of labour.

The Hon. R.J. RITSON: That is only part of the stated history. There are other facts in the history which indicate that she was not in labour. In fact, she was induced next day with a syntocinon drip.

The Hon. J.R. Cornwall: Having been placed at risk in an ambulance for four hours.

The Hon. R.J. RITSON: She was not placed at risk in an ambulance for four hours. The Minister is blindly refusing to look at any of these facts. I do not suppose I can take the time to cite any more. It is my belief that the Minister has told an untruth with a certain amount of wilfulness, in that he is not prepared to examine the facts objectively and undo some of the damage that he has done. I am dreadfully disappointed because, as I have said, there have been times when he has been a good Minister. However, the Minister's wilful refusal to face the fact that he has been conned by some of his advisers who tried too hard to please him amounts to a gross dereliction of his Parliamentary responsibilities, and for that reason I support the motion.

The Hon. M.B. CAMERON (Leader of the Opposition): I do not wish to hold up the Council for too long on this matter; I understand the Council wants to get on with other business. I want to say a few words about the actions of the Minister in this whole matter. The problem has arisen, first, because the Minister has brought into this place personal details about patients. He has tried to build a case for himself publicly, to try to use patients, without their permission, to attract attention to his side of an argument. That is a reprehensible action for a start. Secondly, he has failed to go through those matters and make sure that they were correct before he brought them in. That is clear. I have taken the trouble to read what has been acquired by the Hon. Mr Burdett and there is no doubt, absolutely no doubt, in my mind that the Minister has not been correctly advised and has not checked his facts before he came into this Chamber and used those particular people.

That is where his fault lies, and that is inexcusable in a Minister of the Crown. Quite frankly, I think he ought to withdraw all statements that he has made and in future, before he comes into this Chamber, check his facts and not use people's own personal cases to try to back his argument, because that is not correct. He has caused distress to doctors who, in my opinion, have been trying to do a good job for their patients. He has also caused distress to patients and relatives. I think that is disgraceful. I do not believe the Minister is showing any remorse whatsoever. I thought that he would do so today but he has not—not one iota. He has tried to find little bits in the statutory declaration that he has received to try to build his argument back again. He has not got the gumption to stand up and say, 'Yes, I was incorrect' or 'I might have been incorrect.' He just sticks to his guns in saying, 'No, I was correct; of course I was correct; of course I was right.'

I have listened to the remarks he has been throwing across the Chamber. The problem is that he thinks that, provided he sticks to his guns and uses personal abuse at the Opposition, he will get away with it. That may be this time. That does not alter the fact that as Minister of Health he has acted incorrectly. He has acted in a manner in which he should not have acted inside this Chamber, and I ask him in future that, before he comes into this Chamber and uses personal details from patients' records to try to help himself in the dispute he has with the doctors, to check them and before using them decide whether it is proper, because I believe it is improper, I urge the Council to support this motion.

The Hon. K.L. MILNE: I wish that the Hon. Mr Cameron had spoken earlier. We might have been home by now. That is the clearest statement the Opposition has made, namely, that there has been a mistake and there would probably be a case for an apology or something of that kind. The Hon. Mr Burdett has kindly kept me informed of what he was going to say and why, and I have tried to listen carefully to the Hon. Dr Ritson but he talks very largely in medical terms which neither I nor the rest of the Council, except possibly Dr Cornwall, would understand.

The Hon. L.H. Davis: He was replying to them.

The Hon. K.L. MILNE: It does not alter my problem that I cannot understand them. I am in a difficult situation here, and I am not going to be fooled around with; I can tell you that now. It seems to me that in a case like this—and we have had one before—we have laymen trying to make a decision on highly technical and unusual medical cases that are also highly emotional. I might as well say that the Democrats will not make decisions on that basis. I have read the eight statutory declarations that were given to me. All except that of one doctor carefully avoided any accusations. They set out what the circumstances were as they saw it. They were obviously prepared very carefully by somebody, but there were no accusations.

In reading the case history signed by one doctor, it is impossible for a layman, certainly for me, to say who is right or wrong. I think there is a warning, which the Leader of the Opposition has given sensibly and crisply. However, we have to face the fact that Dr Cornwall's answers were just as convincing as the cases of the Hon. Mr Burdett and the Hon. Dr Ritson. I understand that these cases have been referred to the Medical Board of South Australia by the Secretary of the South Australian Health Commission. That is where they are and that is where the criticism will be. When the Board reports, we will know whether Dr Cornwall was right or wrong or whether or not his advisers advised him properly. It might have been wise for the Opposition not to be in a hurry and to wait until they saw what the Medical Board had to say before bringing this unfortunate publicity, whichever way you look at it, on the Port Augusta Hospital (and it has had enough of that already), or the doctors concerned have to say (and they have had enough already), and on the patients who should not have been used by either side.

We will need a great deal more evidence than that made available to us before condemning a Minister, in a difficult and sensitive portfolio, on an accusation such as this. I cannot help feeling that some wrong information may have been received by the Minister and possibly relayed to this Chamber. I also feel that, as the Leader of the Opposition said, the Minister may have been unwise in using individual medical cases, and that is disappointing, but it is not conclusive. We do not feel justified in supporting the motion. If we supported it, the Legislative Council would be criticised by the Medical Board and the South Australian Health Commission for making a decision as laymen, which is better made by them.

The Hon. J.C. BURDETT: In replying in this debate, there is certainly not very much to reply to in what the Minister says. I will reply in more detail to the observations of the Hon. Lance Milne because they had rather more substance in them. The Minister wasted a whole lot of hot air in saying how good he was. He said he had fixed up the country doctor Medicare dispute. Whether or not he has remains to be seen, but that was not the subject of the motion. It was, rather, a no-confidence motion on the basis that the Minister had misled the Council, and indeed he has in regard to these three matters.

The Hon. Lance Milne has, I think, criticised the Opposition to some extent—that means me—for raising this matter when the questions are before the Medical Board. He is quite wrong in that because it was the Minister who brought it into the Chamber, not me. In his Ministerial statement, the Minister, at the same time as he said he had referred the matters to the Medical Board, gave one example and, in answer to a subsequent question, gave two more. He was the one who, at the same time as he was referring things to the Medical Board, brought the matter into this place. That means that the Council was put in a position in which it had to determine whether the Minister was justified in what he said or whether the doctors should suffer from the defamation which was heaped on them under privilege through his making those statements. Of course, one of the statements was outside the Chamber, in regard to the first case, the 18 year old mother referred to in the *Advertiser.* I do not know what the outcome of that may be.

The Hon. Lance Milne was right in implying, as I think he was, that the Minister was incorrect and would have been better advised not to bring these matters forward. He did it of his own initiative: no-one asked him to. It was clearly because of the dispute and in order to advance his political cause that he made these allegations.

He spoke at great length on the industrial dispute and gave the figures, and said that there must have been some transfers for industrial reasons. Whether there were or not, I do not know; that was not the point of what I was saying. The point of what I was saying was that the Minister picked out three cases where he said the patients' health, welfare or even lives may have been in jeopardy. That is not true, and it is not justified.

The Minister made a great deal of play—I might choose to call it horseplay—about the statutory declaration of the specialist obstetrician. I got the evidence that was available: no lies were told. The Minister refers to 'bodgy statutory declarations', indicating, I take it, that the people were not telling the truth although they are subject to the laws of perjury, but there was nothing—

The Hon. J.R. Cornwall: The obstetrician didn't see the patient at any time.

The PRESIDENT: Order!

The Hon. J.C. BURDETT: The persons who informed the Minister did not see the patient at any time, yet, without having seen the patient and without his informants having seen the patient at any time, he was prepared to defame them in this Council: that is the point that I am making. I saw the people concerned—the patients, the general practitioners and the specialists—and got them to say what they could say. The obstetrician in question was correct and accurate and did not try to say anything that he could not properly say.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. BURDETT: I read out what he said and I read all of the statutory declarations. He referred to telephone conversations with the general practitioners and his research of the case notes afterwards. This indicated fairly thoroughly that the Minister was wrong when he alleged that there was any danger to the mother on this occasion. I did not try to elicit anything that anyone could not properly say. But, the Minister has been relying on people who have not seen the patient at all and he simply tried to grub things out of case notes.

The PRESIDENT: Order! I do not know whether the Attorney and the Hon. Mr Gilfillan are having an argument or whether it is just a social chat, but it is far too loud, anyway. I ask them to sit down or go somewhere else to lobby.

The Hon. J.C. BURDETT: The Hon. Lance Milne was correct in saying that the Minister should withdraw from the statements, which he should never have made. There is no doubt about that: he made them on inadequate information, which I have demonstrated is wrong. The first thing that I asked was that he apologise, but he did not do that. Because he would not do that I felt that I had no alternative but to take the matter further. For those reasons, I spoke to the patients, doctors and specialists and obtained the statutory declarations. The Minister brought the matter into the Council of his own initiative and declined to withdraw or apologise.

I certainly appreciate the dilemma of the Hon. Lance Milne: it is difficult for us to judge medical matters; in fact, I guess that it is impossible, but it was the Minister who raised it, not me. He raised it in regard to three cases where he said that these transfers were for industrial reasons and put the health, welfare and even the lives of the patients into jeopardy. That has not been justified: the information that I have discovered and obtained, with some pains, indicates the contrary. That is the reason for my moving this no-confidence motion.

I believe that perhaps the Hon. Lance Milne is incorrect in not supporting it, because the Minister put us in this medical quandary by introducing matters and making allegations that could not be substantiated. He made us in effect the judges and jurors in a medical cause that we are not competent to deal with. Whereas the Minister relied in doing this on some information that was given to him by someone who had not seen the patients and had no information from the patients, I have seen the patients and reported what they had to say. I have seen the general practitioners and reported what they had to say; I have seen the specialists and reported the only things that they could say according to the experience that they had with the patients.

I say to the Council strongly that this is a very justifiable motion of no confidence, one of the most substantiated ones that have been mounted. We have a Minister who has brought the matter into the Council of his own initiative, for political reasons and without any background whatever except something that has been fed from case notes, and on the other hand we have statutory declarations from people who are prepared to put themselves under the pains of the law of perjury and to sign those declarations, and they are saying that what the Minister has said is wrong.

For those reasons, I say that the Minister has misled the Council and I ask the Council to support this motion of no confidence.

The Council divided on the motion:

Ayes (9)—The Hons J.C. Burdett (teller), M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, K.T. Griffin, C.M. Hill, 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. Diana Laidlaw. No—The Hon. Frank Blevins.

Majority of 1 for the Noes.

Motion thus negatived.

PLANNING ACT AMENDMENT BILL (1985)

Adjourned debate on second reading.

(Continued from 27 March. Page 3596.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition opposes this Bill. We have been prepared for many months to co-operate in relation to the planning regulations, which are affecting clearance of native vegetation. I believe that the time has come for some decisions to be reached. I know that I am sitting, along with another Opposition member, on the Select Committee on Native Vegetation Clearance. Unfortunately, that committee was set up in December but did not start sitting until February, so we have suffered from a long delay in sitting terms. We have now got on the job and have already received a large volume of evidence.

The Hon. B.A. Chatterton: Whose fault is that?

The Hon. M.B. CAMERON: We all know whose fault that is. I am in no way reflecting on the Government in this matter, but I believe that we could have got on with the job without everybody being present. We have received a rather large volume of evidence and, as the Chairman of the committee (the Hon. Mr Chatterton) knows, the closing date by which people should indicate that they wish to give evidence has passed. It is my opinion that, if we really sat down to the task now, we could finish the job within this sitting period. If we cannot do that, I believe that there should, if necessary, be a special sitting in the June period in order to finish this matter, because it has been affecting people for too long in this State who are trying to make a living.

This matter has been going on since 1983, and people have been waiting for decisions for up to 14 months. I invite people to read the public evidence that we have already received in relation to this matter. If they have any interest at all in this issue, they will see that it is having very serious effects indeed and that we must find a resolution to this problem.

I am afraid that, if we put this matter off to the date that the Government wants (and I see that the Australian Democrats have an amendment on file for 1 October), we will merely prolong the problem. We are a month away from the date on which this legislation expires, and I know that we are not sitting before that date. I recognise the technical problem here and realise that this Bill should pass in some form at this stage because, if it does not, the legislation will expire before we sit again.

The Hon. Anne Levy: Gee, you're bright!

The Hon. M.B. CAMERON: Yes, I am bright, and if the Hon. Miss Levy looks at the Bill she will see that I have an amendment on file providing for 1 June.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: I believe that that is what should occur: we should support that amendment for 1 June and do the best we can before then. I am sure that we are capable of arriving at a decision within that six week period. The majority of the evidence is now before us. One major group is still to come and give evidence, and we will hear that evidence shortly. Following that, we can, I believe, decide where we are going on this issue. I do not want to go through all the detail that I went through previously in relation to the Planning Act or the various motions that I have moved in relation to this matter. However, it is quite clear that insufficient thought was given to the introduction of these regulations and their effect.

The problem is that, if we prolong this matter during this interim period, we will cause further distress to people who have been waiting very patiently for some resolution of the problems that have been created for them. They are very serious problems indeed, which are leading some people to bankruptcy. People have borrowed money that they cannot pay back, and bankers are now saying to them that they have no assets, that their land is valueless—land that these people bought only a month before the regulations were promulgated. People have freeholded land and now cannot do anything with it. They cannot get back the money that they have paid for that freeholding. This is affecting people in a serious manner, and they are receiving no relief whatsoever. Until this matter is resolved, those people will get no relief; they will be unable to go to their bank manager and tell him what has happened.

On the other side is the matter of the native vegetation, which during the past 18 months has been disappearing at a faster rate than it has ever disappeared in the history of the State. Why is this so? It has happened because people are apprehensive about this legislation. So, we have had applying for clearance permission thousands of people who would not have otherwise applied for it. Therefore, I want this Council to put a restriction on the time of operation of this Bill. I will move an amendment to make 1 June the date by which this issue is to be resolved. It should be resolved in the shortest possible time, and I urge members to support my amendment. It may be that that will not occur, but, if that is the case, I assure the Council that we will do our utmost to see this matter resolved in the shortest possible time.

I would ask, and I am sure that all members of the Select Committee will agree, even if I lose my amendment (and I have yet to hear whether that will be the case), that we still attempt to get the matter resolved in this session. In my opinion that is vital. I urge the Council at least at this initial stage to support the amendment that I will be moving in Committee.

The Hon. ANNE LEVY: I had not intended to speak to this Bill, but one piece of logic in the statements made by the Hon. Mr Cameron I cannot allow to pass. Rather, it is a piece of non logic. The Hon. Mr Cameron said that we cannot possibly have a date in the future because this matter must be resolved as quickly as possible. We could put the date on which the legislation will expire as 1990. It would not in any way prevent us having the matter resolved by the end of June. The date in the legislation does not in any way indicate the date when the Select Committee will report.

The Select Committee will report (and presumably legislation will result from its report) when it has heard all the evidence and when its members are able to meet and consider that evidence. Until all witnesses have given their evidence the Select Committee cannot make its report. It cannot come up with recommendations on which legislation can be based, and whether the date in the legislation is 1986 or 2086 has nothing to do with when the Select Committee

can get its job done. The date in the legislation can be well in the future, and this in no way prevents the Select Committee from meeting and rapidly bringing down its report. It is only sensible to have the legislation set a date well into the future—further into the future than is thought necessary, merely to cover all eventualities—but this in no way suggests that the Select Committee cannot come forward with recommendations on which legislation is based well before the date nominated in the Bill.

The Hon. Peter Dunn: Do you understand what the Bill does?

The Hon. ANNE LEVY: Yes, I understand what the Bill does.

The Hon. Peter Dunn: You have not said so.

The PRESIDENT: Order!

The Hon. ANNE LEVY: I take it that anyone interested in the legislation knows that it is a holding operation to keep the existing situation until the Select Committee can report. It results from the High Court cases—from court cases which started off locally and which finished up in the High Court. The matter has been debated in this Council on several occasions and, to avoid having to repeat this debate in future, should it take the Select Committee a long time to reach finality, it is best to have a date well into the future so that the Select Committee can get on with the job and we do not have to keep having debates about vegetation clearance without having legislation before us resulting from the Select Committee. I support the second reading.

The Hon. K.L. MILNE: There can be no doubt whatever about the seriousness of this matter. Every time we meet we hear of more tragic cases which unfortunately cannot be rectified overnight. There is no question that this matter should have been considered earlier. For some reason it was not, and I am sure that there was a misunderstanding about the gravity of the matter. By some extraordinary quirk of fate the landowners on the whole were unable to demonstrate the seriousness of the position. It is one of those dreadful misunderstandings between the city and the country that is worse in Australia than in any other country of which I know. The Australian Democrats have considered the matter and believe it is impossible and probably improper to try to rush the solution to this problem. The date of 1 June is too soon and I agree with the Hon. Anne Levy—

The Hon. Anne Levy: Otherwise we would have this debate over again.

The Hon. K.L. MILNE: Yes. The time of 1 June is impossible, however hard we work. The Hon. Miss Levy is right. I can assure the Hon. Mr Cameron that fixing another date (we can see what happens to my amendment) has no relationship to how hard we will try to fix this matter as quickly and accurately as possible.

I would like to foreshadow an amendment to clause 2. The Government has suggested that 1 May 1985 should be deleted and 30 June 1986 inserted. What the Hon. Miss Levy says applies. There is no indication that we would take that long, but that date would be misunderstood. I am saying the same as the Hon. Miss Levy. There is no indication that we want to drag the matter out, but the position could be misunderstood by the public and farmers in particular. We are trying to set a date that is possible, and I believe that 31 October 1985 is appropriate.

My reason for that date is that we ought to try hard to get the Select Committee work finished as soon as possible, but then arises the question of visits to various areas, the writing of the report, which will be difficult, and the preparation of the legislation. Undoubtedly, there will be different legislation, and time will be needed for debate on it. For controls to continue until 31 October this year would be reasonable and sensible. It would indicate that we are trying and people like the UF & S would understand what has to be done in that time. The general pattern of the problem is becoming crystal clear, but the answers are not so clear. It would be unwise to rush this matter, and farmers would not expect a Select Committee to do that. The solution is not as easy as it looks, and the Hon. Mr Feleppa would back me up on that.

When we bring in a report this time it has to be correct. We cannot make any mistakes again and upset farmers about loss of income and assets. There is no question about that. We should avoid that. The report has to be right next time and must be supported by farmers, landowners, the Government and the public servants in whatever department will be administering the legislation from then on. All those people must have confidence in what we produce. That cannot be done hurriedly. I support the Hon. Mr Cameron entirely and will do my utmost, as far as I can, to cooperate, and I am sure that the Chairman will do the same, to get the work through as soon as possible. I ask the Council to realise how much has to be done, the number of witnesses that have to be seen and the areas visited. It would be a great mistake to try and do that in a hurry and go wrong again. I will support the Bill, but I ask the Minister to consider the date of 31 October 1985.

The Hon. PETER DUNN: I support the amendment that the Hon. Mr Cameron has on file. The Hon. Mr Milne said that we do not have to rush.

The Hon. K.L. Milne: I didn't say that. I said we shouldn't—

The Hon. R.I. Lucas: You said we shouldn't hurry.

The Hon. PETER DUNN: We are being pedantic. The Hon. Mr Milne said that we do not have to rush along and come to a quick conclusion. This whole episode has been one of crawling along at a snail's pace and, if the problem had been cured some time ago, we would not be facing this fiasco. A number of people have been hurt. We should blame not only the farmers for being upset: I know that a number of people in the city are upset. Section 56 (1) *(b)*, contrary to what the Hon. Ms Levy said (and I do not think that she understands what the Bill is doing), restricts the existing use clause for development in the city. Because of that, people in the urban community as well as in the rural community are affected. The sooner we clean this up and get back to the Planning Act so that it is used as it is meant to be used, the better.

The Hon. M.B. Cameron: It is only causing another problem.

The Hon. PETER DUNN: Yes. If the Bill is delayed for another year, surely there will be a considerable effect on development in this State. From the 70-odd submissions to the Select Committee, one sees that by and large people complain of financial distress. If we can clean up the matter quickly and crisply, we can cure the problem and the situation will not continue at a snail's pace, as it has in the past. If we are to clear or develop country areas, we cannot say that we will do it tomorrow or next week because it is a seasonal job. Every time we delay by two or three months, we create, in effect, a 15-month delay. It is imperative that we clean up this matter as quickly as possible. I think that the Hon. Mr Milne was saying that, but he believes we should not rush into it.

The evidence is there, and it has become apparent over 2½ years, ever since the regulation was proclaimed. It is before us and we have to tidy up the matter quickly. We are willing to work through April if necessary to clean up the matter: let us get it out of the road. If the situation continues, it will become more confused. It was created by the Government's not thinking things through in the first instance. The decision was contested and it was shown in

the High Court that the Government was wrong. To stop willy nilly, unheralded or unabated clearing of land, sections 56 (1) *(a)* and *(b)* were maintained. I do not agree with that at all. I believe that the matter must be considered very carefully and that is what the committee is doing. The Government could stop that by withdrawing sections 56 (1) *(a)* and *(b).*

It was not necessary for this matter to be carried on for two years. We should clean it up as quickly as we can. I urge members to support the amendment that is on file in the name of the Hon. Mr Cameron. It refers to June this year instead of June next year. I am a little suspicious, because I know that a Select Committee that considered fire control was affected because the Hon. Mr Milne went away and the committee was unable to get the benefit of his expert knowledge. The matter was delayed. I hope that this committee will not be delayed and I hope the honourable member will not go away in the break.

The Hon. K.L. Milne: I beg your pardon! You had only one meeting after I left.

The Hon. PETER DUNN: That is not correct. We had a number of meetings. I implore members to reject the Bill and support the amendment that is on file.

The Hon. J.R. CORNWALL (Minister of Health): As a Federal politician well known to us all might say, 'This is a very serious matter.' It is most important, as the Hon. Lance Milne would say, that we get it right—to use his favourite expression. I cannot say it with quite the same intonation, but we all know that that is an expresion used by the Hon. Mr Milne frequently and appropriately.

The Hon. I. Gilfillan: He often gets it right, too.

The Hon. J.R. CORNWALL: He often gets it right, and I am optimistic that on this occasion he will get it right again. There are two considerations with regard to the now infamous section 56 (1). One of those, of course, the most important matter of vegetation clearance, is before a Select Committee of the Upper House. In the 10 years during which I have been a member of this place I know that it is unprecedented for legislation to be introduced while a Select Committee is deliberating or still actively taking evidence on the matter. I can imagine the furore that it would create. Therefore, it is important that a little more time be allowed, and I will return to that matter later, because I want to give a very firm and unequivocal assurance on behalf of the Minister and the Government in that regard.

Of course, it is also important that we are aware that section 56 (1) involves more than just vegetation clearance, important though that is: it also involves major extensions of existing use for many other classes of zoning. If members cast their mind back to the debate that took place in this Council at some length last year, I am sure they will all recall that the court decisions with regard to extension of existing use, and indeed unlimited or potentially unlimited extension of existing use in urban and rural situations, make it just as important that when amending legislation is introduced it covers those areas adequately. Therefore, it is important that we have some time, although certainly no more than a reasonable time, for the Select Committee to report and for the Government and the Parliament to be able to consider the report of that Select Committee so that swift and appropriate action can be taken. We also need just a little more time in conjunction with that to ensure that the legislation as it affects the other areas of planning and existing use are written into amending legislation. I am authorised on behalf of the Minister and the Government to give an undertaking that the appropriate legislation will be introduced prior to 31 October 1985.

I am further authorised to say that, provided the Select Committee reports while Parliament is sitting in the two weeks in May (that is, provided the report is ready and can be tabled appropriately for consideration by Parliament and by the Government), the legislation will be available before the end of August. There are two assurances: either way, there is an undertaking that the appropriate legislation will be in Parliament before 31 October; there is a further assurance that, in the event the Select Committee can finalise its deliberations, complete the report and table it in this place during the two weeks we sit in May, the legislation will be back before Parliament early in the Budget session, before the end of August.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Saving provisions.'

The Hon. M.B. CAMERON: I move:

Page 1, line 16—Leave out 'the thirtieth day of June 1986' and insert 'the first day of June 1985'.

I think I have canvassed most of the arguments. I indicate that I will divide on this amendment, but I will consider it a test case. If the Hon. Mr Milne then moves his amendment and the Government indicates support for it, obviously we will not divide. I recognise the hiatus we will get into with the non-sitting period in the interim. I will not canvass the arguments again.

The Hon. J.R. CORNWALL: For the reasons that I have outlined—namely, that we would need to get it right, that we need to be assured that there is adequate time to consider and take into account the recommendations of the Select Committee (which we anticipate without pre-empting things too much should be able to report by the middle of May)—the Government is unable to accept the amendment.

The Hon. K.L. MILNE: I do not want to canvass the arguments again. However, I do not like the remarks that have been made which deliberately let the United Farmers and Stockowners believe that I am either putting off the matter or that I am not taking it seriously. The fact is that the Liberal Party has been grumbling about this legislation for two years but has done nothing about it.

Members interjecting:

The CHAIRMAN: Order!

The Hon. M.B. Cameron: If the Hon. Mr Milne withdraws that statement, I will not conduct an argument.

The Hon. K.L. MILNE: The Leader can conduct an argument because, if he recalls, the Select Committee was proposed by the Democrats. The Liberals could have done that much earlier and we would have supported them, just as they supported us.

The Hon. M.B. Cameron: What are you talking about? I brought in a Bill to find an answer. Obviously you have not been around.

The Hon. K.L. MILNE: The Select Committee is our initiative, and the Opposition kindly supported it. I ask the Leader and his Party to stop trying to put us in bad with the United Farmers and Stockowners, because that is not fair, and the Opposition knows it.

The CHAIRMAN: This is the Hon. Mr Milne's opportunity to move his amendment.

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

Page 1, line 16—Leave out 'the thirtieth day of June 1986' and insert 'the thirty-first day of October 1985'.

Like the Leader, I will not go over the reasons again; I went through them during the second reading debate. I think 1 June is too soon. Given the amount of work to be done, the preparation of the report, and the legislation which will undoubtedly come out of it, I think the correct date is 31 October. I feel that the Government will probably support that date. I give the Leader and the Hon. Peter Dunn an assurance that I am prepared to work just as hard as they

are to see that it is done earlier than that, if that is at all possible.

The Hon. R.I. Lucas: Over Easter?

The Hon. K.L. MILNE: Yes.

The Hon. M.B. CAMERON: I understood that the Minister was going to canvass some suggestion of the Government's attitude to this matter and to any resulting suggestions from the Select Committee. I still believe that it could be done in the time frame I have indicated. If that is not the case, I would like some indication from the Minister as to where we are going.

The Hon. J.R. CORNWALL: I have given a number of cast iron assurances. I do not think I need to repeat them, because they were very firm and very unequivocal: before the end of August, provided the Select Committee reports in the two weeks we sit in May; before the end of October this year in the event the Select Committee's report is held up for some reason; and the absolute deadline is 31 October. I give that assurance on behalf of the Minister and the Government.

The Hon. M.B. Cameron: And no election in the meantime?

The Hon. J.R. CORNWALL: I am not authorised to give that undertaking, but I would say that it is most unlikely.

The Hon. M.B. Cameron's amendment negatived.

The Hon. K.L. Milne's amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

[*Sitting suspended from 6.15 to 7.45 p.m.*]

PUBLIC RECORDS

Adjourned debate on motion of the Hon. L.H. Davis:

That this Council views with concern the current state of the public records system of South Australia and urges the State Government without delay to—

1. Consider the establishment of a Public Records Office and the provision of sufficient offsite bulk storage for public records.
2. Examine ways and means by which public sector records systems can be brought up to date.
3. Establish criteria for the efficiency and effectiveness of such systems with a view to reducing wastage and costs.
4. Examine current methods of records storage and to introduce where appropriate alterations that can give effect to large scale savings over time.
5. Train appropriate existing public sector staff in information systems/records management and ensure adequate education courses exist for such training.
6. Establish the ways in which the information systems of Government can better serve the public sector, the community and the Parliament with particular emphasis on research requirements.
7. Ensure where appropriate the proper arrangement and protection of permanent public historic records of significance to the State of South Australia.

(Continued from 27 February. Page 2887.)

The Hon. L.H. DAVIS: I thank the Hon. Mr Bruce for his contribution, representing as it does the Government's views on the matter of a Public Records Office, record systems and the protection of historic records of significance to the State of South Australia. It was a valuable contribution and in line with the spirit of the motion that I moved some time ago. The Hon. Diana Laidlaw had hoped to speak to this motion, but, unfortunately, she has another engagement and is unable to present her point of view. She wanted it recorded that she supported very strongly the spirit of this motion.

It was not inappropriate that on Monday 1 April a feature article appeared in the *Advertiser* on page 7, headed 'Improved storage facilities on way for State's bulging archives'. In a very factual and responsible piece of journalism, Mr Chris Milne, a reporter for the *Advertiser*, highlighted some of the points that were discussed when I first put this motion. It was interesting to note that he gave prominence to the Friends of the Public Records of South Australia. They are a body of people who believe, as I do, that the public records of South Australia have been neglected for a very long time. Dr Brian Dickey, Reader in History at Flinders University, is on record in this article as saying:

> There is no doubt the present system needs urgent attention . . . The State's historic records are at grave risk. The existing facilities for storing public records are creaking at the seams. There have been some horrible solutions, with records cooking in summer in old warehouses. And the systems of records management need overhauling. There has been no guidance to departments, and the present Archives Office is not meeting the needs because it lacks resources.

That really underlines the argument that I advanced some time ago when I first put this motion. There may not be votes in the issue of a Public Records Office or in management systems. However, there is much at stake: there is the heritage of South Australia, which in libraries on North Terrace—and I include in that the Parliamentary Library—has been literally rotting away.

In talking about that, we are talking about historic documents, books and records. There is not only the loss of heritage, but the administrative burden that has to be borne by the taxpayers in time because of the lack of efficiency and lack of effectiveness in our current records system; that means excess space and excess manpower to cope with a creaking, inefficient nineteenth century records management system instead of a records storage system as the Commonwealth has, which siphons off 80 per cent to 90 per cent of the records that are not required into a modern central storage facility.

In concluding the debate on this motion, again I thank the Hon. Mr Bruce for the positive contribution which he made and which signals that the Council hopefully will vote unanimously in favour of this motion. I hope that the unanimity of support will be followed shortly by action in this very important matter.

Motion carried.

The Hon. C.J. SUMNER: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

TRESPASSING ON LAND ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SHOP TRADING HOURS ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendments:

No. 1. Page 1—After line 14 insert new clause as follows:

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

No. 2. Clause 2, page 1, line 22—Leave out '6 p.m.' and insert '5.30 p.m.'

No. 3. Clause 2, page 1, line 28—Leave out '6 p.m.' and insert '5.30 p.m.'

No. 4. Clause 2, page 2, line 2—Leave out subparagraph *(i)* and insert the following subparagraphs:

(i) 5.30 p.m. on four weekdays in each week;

(ia) 9.00 p.m. on one weekday in each week;.

Consideration in Committee.

The Hon. M.B. CAMERON: I am considering moving an amendment in the following terms:

Leave out 'shall come into operation on a day to be fixed by proclamation' and insert 'shall come into force on the first day of June'.

The Hon. J.R. Cornwall: That is not acceptable.

The Hon. M.B. CAMERON: The Minister has indicated that my amendment is not acceptable. I will not go to the wall over it because I will not lose this opportunity to have these new hours for red meat trading come into force in South Australia. I am apprehensive about there not being a fixed date. Will the Minister indicate that this matter will not disappear and finish up not being proclaimed, because that can happen? I would like an indication from the Minister before we get too far into this debate on this matter when we in South Australia can expect this matter to be finally resolved, because we have waited a long time for this legislation. We have had a bit of fiddling about during this period and a funny situation has existed about which I will not go into long detail because this matter has been debated once or twice before in this Chamber and has gone on and on and on.

I will be disappointed if we now allow this matter to disappear without some indication of what the Government has in mind in relation to it, because it has been some years since this matter was first raised. The Hon. Mr DeGaris was one of the first people to raise this matter. I am pleased that the Government finally decided to support this Bill in the Lower House because early indications were not favourable in relation to that happening, so I am pleased about that. Before pushing this to the limit, can the Minister indicate that the Bill will be proclaimed and when it will be proclaimed?

The CHAIRMAN: Do you intend, if the Minister does not provide that information, to move an amendment to fix a date?

The Hon. M.B. CAMERON: Yes.

The Hon. J.R. CORNWALL: This matter has been around for almost half of my Parliamentary life, and the same could be said for most honourable members. The Government is delighted that at last the matter has been resolved with the agreement of all Parties. Members opposite can scoff as much as they like, but there is a modicum of agreement and some degree of consensus, albeit not fully multi-lateral. This means that it is now possible that we will see in the foreseeable future trading in red meat at hours that are reasonably sensible. I cannot give a precise date. The Minister of Labour, in whose area this matter falls, is away sick. It is public knowledge that he is in Queen Elizabeth Hospital where he has had a procedure.

The Hon. M.B. Cameron: There's an acting Minister.

The Hon. J.R. CORNWALL: True, but there is some work to be done before this legislation can be proclaimed. For me to give a precise date and to be held to it as a Minister representing an acting Minister would be foolish. I do give an undertaking on behalf of the Government that the matter will be processed expeditiously and that we are anxious to see these more flexible trading hours introduced as soon as is reasonably practicable.

The Hon. M.B. CAMERON: I move:

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

To show how reasonable we are, I will accept that assurance from the Minister, who has given a clear indication that the Government intends to proceed with the matter. I understand the problems associated with going through the Bill tonight and his position. I do not want to reach a decision where we do not pass it tonight and perhaps potentially hold up the matter. I will not take the original step indicated. I support the House of Assembly's amendments, although I am not sure of their effect on customers. I hope the amendments do not lead to too great an increase in costs through the additional expense incurred by butchers in changing hours. However, that is part of the agreement reached in order to get the Government's support, and it is certainly not something that we are going to go to the wall about. It will be with great pleasure that I will see this matter finally resolved and out of the hair of all members who have fought desperately for it. I urge the Committee to support the amendments.

The Hon. I. GILFILLAN: Deals, deals and more deals! We have on occasions been the target of accusations. In this case, the deal is certainly a welcome result for those of us who cared about the access of fresh red meat to the public. No-one here or anywhere else has any doubt about the Democrats' support for it. It is unfortunate that there has been some trade-off. The actual gain is by way of a loss on weekdays from 6 p.m. to 5.30 p.m., and we will still have that anachronistic situation of supermarkets clamping the iron bars down on fresh red meat while they go on selling other produce. The Bill that I introduced is the real reform for the sale of red meat. I hope that there is still some fire in the belly of the population that care about this, so we will eventually get to a situation where fresh red meat is not discriminated against at all. It is by way of a farce to be celebrating this as the ultimate victory. It is not, but at least it is a substantial step along the way. Certainly, it offers a significant improvement in fresh meat outlets being able to open on Saturday mornings and a late shopping night. We ungrudgingly support this legislation and congratulate the Leader of the Opposition, the Hon. Mr Cameron, and I gather that he may have had others assisting him.

I realise from my own personal experience that Arthur Tonkin and others in the Government were reluctant to take this extra step. Many words and much time was spent berating us for taking the first original step in emancipating fresh red meat by allowing any sale at all at night. I do not intend to play the carping game of criticising those who make improvements, small though they may be. In indicating our support for the amendments, I hope that there is an undertaking from the Leader of the Opposition and others in his Party that, if they get into power, they will carry on further and completely release these ridiculous restrictions to which fresh red meat still, even with the passing of this Bill, will be subject. Meanwhile, this is a significant step forward and we support it.

Motion carried.

PLANNING ACT AMENDMENT BILL (1985)

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

STATUTES REPEAL (LANDS) BILL

Second reading.

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

That this Bill be now read a second time.

The purpose of this short Bill is to repeal four Acts which have satisfied their original intent and no longer serve any useful purpose. The Acts to be repealed are the Camels Destruction Act, 1925-1973, Eyre Peninsula Land Purchase Act, 1946, Nomenclature Act, 1935, and the Poonindie Exchange Act, 1895. I seek leave to have the remainder of the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Brief comments on the original purpose of each Act and the reasons why they can be repealed are as follows:

Camels Destruction Act: Camels lost favour as a means of commercial transport in the more remote areas of the State as the railway system was extended and motor transport increased after World War I. They bred rapidly to pest proportions after being abandoned by their owners. The Act permitted occupiers to destroy camels found trespassing on their land and gave similar authority to the Minister of Lands in regard to Crown Lands.

Camel populations are now under control through commercial harvesting for pet food and the increasing demand from zoos and circuses particularly from overseas. Those remaining are generally isolated in desert areas. Thus the Act, having served its purpose, is no longer required.

Eyre Peninsula Land Purchase Act: This legislation enabled the Minister of Lands to implement an agreement for the purchase by the Government of approximately 18 000 hectares of land on southern Eyre Peninsula. Special legislation was necessary as the purchase included the township of Tumby Bay and powers of acquisition at the time did not authorise purchase of town lands.

The majority of the land was developed for primary production and allotted under the War Service Land Settlement Scheme. The Act also provided for disposal of land not suitable for primary production and the majority of the town land was sold to existing tenants. Any areas which may remain would not be significant and as their disposal could be adequately dealt with under the War Service Land Settlement Agreement Act or Crown Lands Act, the Act should be repealed.

Nomenclature Act: During World War I three old German place names, namely, Klemzig, Hahndorf and Lobethal were changed to Gaza, Ambleside and Tweedvale. This Act provided for the restoration of the original names to commemorate the efforts of early German settlers in the light that the following year, 1936, was this State's centenary year. All necessary action in terms of the Act has been completed and it is now superfluous.

The Poonindie Exchange Act: This Act was introduced to implement an agreement between the Government and the Trustees of the Poonindie Native Institution for the exchange of land and was necessary to overcome a conveyancing problem. Poonindie is in the hundred of Louth, north of Port Lincoln. The exchange was finalised in 1896 and as the purpose of the Act has long since been fulfilled it is now redundant.

This Bill forms part of the Statutes Repeal Project which was instituted by the previous Liberal Government in August 1980 in accordance with its deregulation programme. It is acknowledged that their various purposes have been well and truly satisfied and their provisions have no further application. Therefore, they should be removed from the Statutes. Finally, it is noted that the original Bill included for repeal the Sandalwood Act, 1930-1975. Sandalwood is to be a protected species and because of inadequacies of other legislation at this time, it is considered advisable to retain the Sandalwood Act, 1930-1975, the administration of which will be committed to the Minister for Environment and Planning.

Clause 1 is formal. Clause 2 provides for the repeal of the Acts set out in the schedule.

The Hon. PETER DUNN secured the adjournment of the debate.

[Sitting suspended from 8.15 to 9.50 p.m.]

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 13 March. Page 3146.)

The Hon. C.J. SUMNER (Attorney-General): In responding to the second reading debate, I thank honourable members for their contributions. As most honourable members mentioned, this is an important Bill, dealing as it does with the South Australian Constitution Act and the Parliamentary structure under which we operate. During the debate a number of important issues were raised by honourable members. I have given my closest attention to the issues raised by honourable members and have, since the time that this Bill was last before the Council, had discussions with some honourable members about resolving some of the issues that were raised during the debate.

I will now run through some of the issues that were raised. First, I shall deal with the order of retirement of Legislative Councillors following a double dissolution. It was argued that the Bill as introduced meant that there is a very remote possibility that, in conducting the recount to determine who should be the long term and short term Councillors, it may be possible to produce a result that includes a candidate whose name does not appear among those of the 22 elected members. My discussions with the Electoral Commissioner confirm the point raised by, I think, the Hon. Mr DeGaris that that is mathematically possible under a proportional representation system.

Some suggestions were put as to how this could be dealt with. In the final analysis, we have opted to provide that in the conduct of the second scrutiny (that is, to determine who should be the long and short term Legislative Councillors) only the names of those candidates elected in the first 22 are considered when determining the order of retirement.

In other words, in those cases where the preferences of an elector are not directed to a candidate already elected, such preferences are ignored and passed on to succeeding candidates. I have placed on file an amendment to give effect to that position.

I now turn to the important issue of the three year minimum terms and four year maximum terms, which provoked much comment. The Hon. Mr Griffin concentrated in his speech primarily on the problem of the resolution of conflict between the two Houses if the Government could not go to the polls before the minimum three years were up but there were situations either in the electorate or in the Parliamentary system that needed to be resolved by an election. The honourable member proposed that there needed to be a criterion written into the Governor's discretion to resolve a crisis of government on matters of grave public concern.

I do not believe that that is a satisfactory formulation: it is too vague, subjective and discretionary, and I would find it difficult to support that proposition. However, it is worth noting (and I have placed an amendment on file to give effect to this) that, when the Victorian Parliament dealt with this issue, it developed a procedure involving Bills of special importance.

The effect of such a provision is that essentially the House of Government—the House of Assembly—is putting the Legislative Council—the House of Review—and the electorate on notice that it might consider that its legislation or policy programme is being frustrated without due reason,

and it does give that Government a trigger mechanism to seek a fresh mandate from the people when its aims are being thwarted by an unreasonable delay or obstruction in the Upper House.

The amendment that I have placed on file picks up in substance the notion of a Bill of special importance, which means a Bill declared by resolution of the House of Assembly passed before or immediately after the third reading of the Bill in the House of Assembly to be a Bill of special importance. The Governor may dissolve the House of Assembly and issue writs for an election before the three year period if a Bill of special importance passed by the House of Assembly is rejected by the Legislative Council.

There is a further provision that the Governor shall not dissolve the House of Assembly under this provision on the ground of the rejection by the Legislative Council of a Bill of special importance passed by the House of Assembly if more than one month has elapsed since the rejection of the Bill by the Legislative Council.

If a Bill of special importance is rejected by the Legislative Council, the Governor must determine to dissolve the House of Assembly and have the election within one month of that rejection, which is a sensible procedure. The Bills of special importance procedure puts a time limit on the resolution of the conflict between the Houses by dissolution. It means that it is not possible to stack up a number of Bills of special importance at the whim of the Government, such that they could be used as a trigger at a later date. If the Bills of special importance procedure is used and is such as to produce that conflict, and, if that involves grounds for an election, and the Government advises the Governor in those circumstances to go to an election, it must be done within a month of the rejection by the Legislative Council.

I believe that the mechanism that I have now incorporated in my amendment regarding Bills of special importance overcomes some of the problems referred to by the Hon. Mr Griffin.

The honourable member also mentioned the problem of toing and froing following a vote of no confidence in the Government in the House of Assembly. The Bill as introduced provided that there may be dissolution of the House of Assembly if there is a vote of no confidence in the Government and if no other Government is constituted within seven days. The honourable member put forward an argument that that could lead to toing and froing for longer than seven days and he said that there could be a crisis and paralysis in government for a period that would not be particularly satisfactory. I think he said that in the worst example the situation would not ever be resolved.

I do not believe that that would be the case, but nevertheless I have placed on file an amendment which deletes the seven day provision and comes back to a similar but not identical provision to that contained in the Victorian legislation such that the Governor may dissolve the House of Assembly if a motion of no confidence in the Government is passed in the House of Assembly or if a motion of confidence in the Government is defeated in the House of Assembly. Therefore, there is no reference to a seven day period. Presumably it would still be within the Governor's discretion to give the Government that time if he felt that the outgoing Government could reconstitute its confidence within a reasonable time. Of course, the normal situation with regard to a no-confidence motion is that the Premier of the day would go to the Governor and recommend a dissolution of the House of Assembly and a general election. That is the general convention, and other conventions with regard to that would not be affected by the Bill or the amendment that I have placed on file. Therefore, I believe that that is a simpler way of resolving the problems of motions of no confidence in the House of Assembly and toing and froing as outlined by the Hon. Mr Griffin.

The amendment I have placed on file also makes clear that the restrictions on dissolution apply only in the three year period following a general election and that during the period from the three years to the maximum of four years the current position pertains. The criteria that must be satisfied for a dissolution before the three year period have no application in the period from the three years to the four years. I think that that clarifies another point raised by the Hon. Mr Griffin.

The amendment I have on file is drafted in such a way as to indicate that the reserve powers of the Governor are not affected except in so far as they are contained or limited by the specific terms of the Bill. However, there is quite a discussion among constitutional lawyers about the extent of the reserve powers of the Governor, the Governor-General or, indeed, the monarch—the Queen acting in the United Kingdom. There is a considerable amount of discussion, controversy and difference of opinion as to what those reserve powers are. Of course, they were put into very sharp focus in Australia in 1975 and the Australian Constitutional Convention has attempted to codify, unsuccessfully so far, those reserve powers of the Governor-General, and they would apply to the Governor.

The Hon. K.T. Griffin: It has gone a long way.

The Hon. C.J. SUMNER: The honourable member interjects, saying it has gone a long way—

The Hon. K.T. Griffin: It hasn't resolved it at all.

The Hon. C.J. SUMNER: —but not all the issues have been resolved. It is not an easy exercise to codify the reserve powers of the Governor-General or the Governor. They are similar but perhaps different in some respects because the Governor-General is dealing with a Federal system, whereas the State Governor would be dealing only with the State system, albeit a bicameral State system. However, I emphasise that whatever those reserve powers are, and they are being debated through the Australian Constitutional Convention, they are not affected by this Bill except in so far as they are specifically referred to in the Bill and in the amendment that I have placed before the Council which provides:

The House of Assembly shall not be dissolved by the Governor before the expiration of three years from the day on which it first met for dispatch of business after a general election unless—

(a) a motion of no confidence in the Government is passed in the House of Assembly;

(b) a motion of confidence in the Government is defeated in the House of Assembly—

and that refers specifically to the criterion of the Government's losing confidence in the Assembly, but does away with, as I said, the seven day period—

(c) a Bill of special importance passed by the House of Assembly is rejected by the Legislative Council or the Governor is acting in pursuance of section 41.

I have explained the first part of paragraph *(c)* and the latter part refers to the double dissolution procedures of the South Australian Constitution Act.

In conclusion, I believe that the basic arguments in favour of the Bill are still there and sustainable. They are: first, the Government of the day, so long as it retains the confidence of the Lower House (the House of Government), would guarantee a minimum term of office of three years and not be forced to an early election in the normal circumstances. Secondly, as a political trade off the Government of the day will largely use its present power to manipulate election dates for narrow political reasons. Thirdly, there are inherent advantages of a more stable electoral cycle from the points of view of Government and economic planning, policy implementation, Opposition policy development, Party campaign funds and present voter dissatisfaction. Fourthly,

it does to some extent limit the Governor's discretionary power. However, as I said before, it does not deal with or affect the current reserve powers of the Governor, whatever they might be, except in so far as those reserve powers are specifically affected by the amendment to which I just referred.

If honourable members have any concern about the Bill, I refer them to the Victorian Parliament where a similar Bill was passed with bipartisan support. In the Victorian debate of 3 May 1984, the Leader of the Opposition in the House of Assembly (Mr Kennett) said (pages 4350 and 4351 of *Hansard)*:

The proposed legislation will lead to better management of Government. It will lead to the Government of the day, regardless of its political colour, having the opportunity of making the hard decisions that are necessary from time to time to allow the Government to introduce its policies in line with its philosophies and to concentrate on the management and execution of those policies before being confronted with another election. The proposed legislation is about common sense. It is about applying to Government and to Parliament some of the commercial principles of management and practice. Any move, by any political organisation in any Parliament, that recognises that commercial practices should be adopted in the lifestyle of Parliament has to be heading along the right track.

In the Upper House also on 3 May 1984 (page 2806) the the Hon. Haddon Storey, the former Attorney-General and a person who I think had some considerable input into the compromise that was negotiated in the Victorian Parliament, said:

The Opposition supports the Bill. As the Leader of the House has indicated, the Bill is the result of discussions that have taken place between the three Parties over the past 18 months. The Bill represents a distillation of the views and ideas of those Parties, designed to bring about a system of terms of Parliament in this State which will be for the benefit of the people of Victoria generally.

For some time, all Parties have agreed that it is desirable to have four-year terms of Parliament rather than three-year terms because it provides an opportunity for Governments to carry out their programme over a reasonable period of time.

It also provides for more stability and less of an election fever which can occupy so much time of Parliament and the people are better served if the Parliament is going about its work.

I put to honourable members that a provision similar to that which we are now debating with the amendment that I have placed on file has been accepted and adopted in the Victorian Parliament, obviously following considerable discussion among the Parties.

In conclusion, I refer once again, because of the constitutional importance of the Bill before us, to the Ministerial statement that I made on 28 February 1985 dealing with the manner and form requirements that may be necessary with respect to this Bill. I will not repeat the Ministerial statement, because it can be found on that date in *Hansard*. At that time I also tabled the opinion of the Solicitor-General for the benefit of honourable members. As access to a tabled document is not always readily available, I think it would probably be desirable if I read the opinion to the Council, as follows:

To the Attorney-General.

Re: Constitution Act Amendment Bill, 1984 (No. 2)

1. You have sought my advice on the constitutional implications regarding the amendments, to the Constitution Act, 1934 sought to be effected by the above Bill.

Proposed sections 13, 14 and 15.

2. The proposed sections deal, successively, with the questions of casual vacancies in the Legislative Council, the term of service of Legislative Councillors and the order of retirement of Legislative Councillors.

3. The provisions of section 41 (2) *(b)* are related to the predecessor of the proposed new sections 14 and 15, which when read together, make provision for the order of retirement in the case of a double dissolution and the subsection effectively provides for a minimum three year term for one half of the members of the Legislative Council in respect of the election held next after a double dissolution. This situation is unaffected by the combined effect of proposed subsections (2) and (3) of section 14.

4. In my opinion, the repeal of existing sections 13, 14 and 15 neither abolishes nor alters the powers of the Legislative Council, within the meaning of those expressions in section 10a.

5. Section 10a requires that its procedures be followed in respect of a Bill providing for or effecting the repeal or amendment of section 41. Sections 14 and 15 are both referred to in section 41 (2) *(b)*. It seems to me that this ought to be read as a reference to those sections as amended from time to time, provided that any amendment is limited as to subject matter, i.e., as long as any amendments to sections 14 and 15 continue to provide for the order of retirement of members of the Legislative Council. The proposed sections 14 and 15 do so provide.

6. In my opinion the section 10a procedures are not attracted to the amendments proposed to sections 13, 14 and 15.

Proposed sections 28 and 28a.

7. The proposed sections dealing with the term of the House of Assembly and the dissolution of that House by the Governor do not, in my opinion, alter the powers of the Legislative Council within the meaning of section 10a (1) *(c)* or section 10a (2) *(c)*.

8. The retention of a set minimum term for Legislative Councillors is not directly affected by any alteration to the term of the House of Assembly. Although the present minimum six year term is obviously related to the present expected three year House of Assembly term there is no essential correlation between the two.

Section 8 procedure.

9. In my view the procedure prescribed by section 8 of the Constitution Act, 1934 applies to the provisions of this Bill; in particular, proposed section 14 (term of service of the Legislative Councillors) and proposed sections 28 and 28a (term of the House of Assembly and dissolution thereof) both will require an absolute majority of the whole number of the members of the Legislative Council and the House of Assembly respectively.

10. This conclusion is reached because, in my opinion, these amendments seek to alter the constitution of the respective Houses, within the meaning of section 8 *(a)*.

11. I note that on two occasions when the term of the House of Assembly has been altered (see Acts No. 2381 of 1937 and No. 49 of 1939) the Bills were reserved for Royal Assent.

12. Although this is not conclusive in itself, judicial authority, on the meaning of 'constitution' of a House of Parliament lends support to this view. I refer in particular to *Taylor v. Attorney-General of Queensland* (1917) 23 CLR 457 at 468, 477: *Trethowan's Case* (1931) 44 CLR 394 at 429: *Attorney-General for W.A. (ex rel. Burke) v. State of W.A.* [1982] W.A.R. 241 at 246.

13. The respective powers of the President and Speaker, to be found in sections 26 (3) and 37 (4), to indicate their concurrence or non-concurrence, can be invoked in these circumstances.

Conclusions.

14. In my opinion, therefore, the 1984 (Bill No. 2) to amend the Constitution Act, 1934:

(i) does not attract the special referendum procedures laid down in section 10a of that Act;

(ii) does attract the absolute majority procedures laid down in section 8 of that Act.

(Signed) M. F. Gray
Solicitor-General

Finally, I refer to further advice that I have received from the Solicitor-General in the light of the amendments that I now have on file, and this refers particularly to the aspect of those amendments dealing with Bills of special importance. I now table a copy of that advice. Again, I seek the indulgence of the Council to read into *Hansard* this advice from the Solicitor-General, as follows:

Memorandum of Advice

Constitution Act Amendment Bill (No. 2) (No. 68), 1984

1. You have sought my advice on whether a proposed amendment to the above Bill would attract the special provisions as to referendum required by section 10a of the Constitution Act, 1934.

2. In particular, my advice is directed to the proposed amendment which will incorporate in the proposed section 28a an additional group upon which the Governor's powers to dissolve the House of Assembly are founded. That ground is a modified version of the 'Bills of Special Importance' provisions as they occur in section 66 of the Victorian Constitution (Duration of Parliament) Act 1984.

3. In my opinion, this provision attracts the operation of section 10a only if it can be regarded as providing for or effecting the repeal or amendment of section 41 of the Constitution Act, 1934 (which section deals with the settlement of deadlocks).

4. The way that section 10a may apply is if section 41 is characterised as the sole and exclusive method for resolving differences between the two Houses of Parliament and the provisions proposed have the effect of being a *pro tanto* repeal or amendment of section 41 in that respect.

5. I do not think that it is a sound argument that the proposed amendment would by implication repeal or amend section 41 so as to attract the operation of section 10a of the Constitution Act, 1934. In my opinion, section 41 is not an exhaustive code for the resolution of differences between the two Houses of Parliament. It provides a mode for the resolution of deadlocks but it co-exists with the resolution of deadlocks by, for example, Managers Conferences as provided for by Standing Orders.

6. In my opinion, section 41 should not be construed as the only mode by which the Parliament can be dissolved otherwise than on the expiry of that Parliament's term (c.f. section 6 which refers to the Governor's power to dissolve the House of Assembly 'whenever he deems it expedient' and section 28 which refers to the term 'subject nevertheless to be sooner prorogued or dissolved by the Governor').

7. The effect, therefore, of the proposed amendment is to set out the circumstances of dissolution and does not affect either directly or by necessary implication the procedures and effect of section 41.

8. In my opinion, the amendment proposed to the Constitution Act Amendment Bill (No. 2) (No. 68), 1984 does not require the adoption of the special provisions as to referendum set out in section 10a of the Constitution Act, 1934.

9. I have previously advised that the Bill is one to which section 8 of the Constitution Act, 1934 applies.

(Signed) M. F. Gray
Solicitor-General

3 April 1985.

The amendment that the learned Solicitor-General is referring to in that memorandum advice is the amendment that I have placed on file and that I referred to earlier in my contribution. I thank those honourable members who gave their general support to this Bill for their comments, in particular those members who have constructively commented on the Bill as introduced and who have been able to provide further discussion and advice since the matter was last before us. I commend the Bill to honourable members and assume that there will be some further discussion during the Committee stage.

The PRESIDENT: This Bill is of such nature as to require the second reading to be carried by an absolute majority of the whole number of members of the Council. I have counted the Council and, there being present an absolute majority of the members, I put the question, 'That this Bill be now read a second time'. There being no dissentient voice, I declare the second reading carried by an absolute majority.

Bill read a second time.

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

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the entrenchment of clause 28.

Motion carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. I. GILFILLAN: I move:

Page 1—
Line 15—After 'after' insert— '—*(a)*'
Line 16—After 'to' insert—'or *(b)* the 15th day of September, 1985, which is the later.'

This amendment ensures that the effect of the legislation does not impinge on the full terms of the Legislative Councillors. My amendment allows for the fact that this measure could come into operation on the day on which the House of Assembly is next dissolved, provided that that is after 15 September 1985.

The Hon. K.T. GRIFFIN: As I interpret what the Hon. Mr Gilfillan is trying to do, he is ensuring that those Councillors elected on 15 September 1979 will, in fact, serve a six year period before they come up for re-election. That is a basic misunderstanding in respect of section 13 of the Constitution Act, which provides for a minimum term for Legislative Councillors of six years dated back to 1 March of the year of election. Being one of the Legislative Councillors elected on 15 September 1979, my six year period expired on 1 March 1985 and, therefore, I am up for re-election. That is the way that the minimum term provisions have been in the Constitution Act for a long time.

The Hon. Mr Gilfillan's amendment will extend section 13 of the Constitution Act in a way that I would not be prepared to support, because I am anxious at a later stage to ensure that the present provision in the Constitution Act remains: that is, that there is a miminum term of six years for Legislative Councillors dated from 1 March in the year of election.

That 1 March date relates also to the term of the Parliament in another provision of the Constitution Act, but it seems that there is a misunderstanding as to when Legislative Councillors' terms presently expire. According to the Constitution Act, the six year terms of those who were elected in November 1982 date from 1 March 1982, so that they will be able to be brought out to face an election any time after 1 March 1988. That is where the problem is and that is why I indicate from an Opposition point of view, because of my position in respect of the minimum term for Legislative Councillors, that this amendment would not be attractive to me.

The Hon. C.J. SUMNER: I must confess that I do not understand the rationale of the Hon. Mr Gilfillan's amendment. My inclination is to agree entirely with what the Hon. Mr Griffin has said unless the Hon. Mr Gilfillan is able to produce a more substantive rationale than the obvious one that relates to his colleague who sits on the cross benches.

The Hon. I. GILFILLAN: The Attorney-General may be suspiciously close to the truth. It is true that technically the term of six years, as the shadow Attorney outlined clearly, begins on 1 March in the year of election. Although I was not aware of that some time ago, I have been aware of it for some time now. It seemed to be an amendment that did little or no harm but would reassure the people of South Australia that they would not be catapulted into a precipitate election and that Legislative Councillors who may have been looking forward to doing a certain amount of work in the remaining period of their terms would be able to complete them without having their terms unduly and abruptly terminated by an election before time.

I recognise that that is not constitutionally contravening the requirements and that therefore my original argument has lost some of its punch, but I still think that the amendment is worth considering. I am not sure why the shadow Attorney sees it as threatening any legislation dealing with the set terms because this is a once applicable clause that has no relevance at all to the term of a Legislative Councillor.

The Hon. C.J. SUMNER: I thank the honourable member for that explanation, but I am afraid that it did not convince me. I really cannot see the rationale for this. It is out of the blue.

It would prohibit the Government from having an early election and then for the four year term to come into effect, but I am not sure that that is really necessary. If his concern is the Hon. Mr Milne, it would appear that the Hon. Mr Milne—

The Hon. I. Gilfillan: There are other Legislative Councillors here.

The Hon. C.J. SUMNER: The honourable member may be prolonging their misery: it depends how enthusiastic they are about their jobs, but I do not really see that this has any place in the scheme of the Bill.

The Hon. K.T. GRIFFIN: I presume that the date 15 September 1985 was directly related to the date of the 1979 State election six years ago and that it related to the minimum terms for Legislative Councillors. If that is so, the minimum term for Legislative Councillors has already expired under section 13 of the Constitution Act, which is a provision that I want to retain in that Act. If it is related (either directly or indirectly) to the minimum term of Legislative Council-

lors, it is extending the Constitution Act provision on this one off basis, and that would compromise the position that I want to retain, namely, that Legislative Councillors serve a minimum term of six years from 1 March in the year of their election. That is my position, as I understand the reason for putting in 15 September 1985 on a one off basis.

The Hon. I. GILFILLAN: In no way is this amendment intended to threaten that position. I am inclined to support the position that the shadow Attorney had just outlined. This is a measure for a situation that is completely unrelated to the current Constitution Act requirement for set terms.

Amendment negatived.

The Hon. R.C. DeGARIS: Clause 2 should be deleted and substituted with a new clause. As I pointed out in the second reading debate, I believe that this Bill or parts of it should go to a referendum. That point has not been accepted by the Government, but I still hold that view. Some parts of the Bill affect the powers of the Council. Although it does not directly apply to any clauses in relation to the Council, it affects the powers of the Council as stated under section 10a. This question could well be challenged in the courts in any case if the Bill passed and the matter did not go to a referendum.

The Hon. C.J. Sumner: What aspect?

The Hon. R.C. DeGARIS: The question of an election for the Council being called before the Council had completed its term. That affects the powers of the Council.

The Hon. C.J. Sumner: That can happen now.

The Hon. R.C. DeGARIS: No, it cannot, unless there is a special provision in regard to a double dissolution. Under the normal process, there is no way in which this Council can be taken to the people for election until it has completed its term. Under the provisions of the Bill, that can occur. That is my understanding of the position. Does the Attorney agree with that view?

The Hon. C.J. Sumner: No. The Hon. Mr Griffin has an amendment in that regard, anyhow.

The Hon. R.C. DeGARIS: I know, but at this stage no amendment has been carried. I am dealing with the Bill as it stands at present. That is all I can deal with now. It is clear to me that, if the Bill goes through as it was originally drafted, it would affect the powers of the Council, and I believe that that matter should go to a referendum. If there are no other amendments (and I do not say that there will be) there could be a challenge.

The second point I make is that we are extending the life of the Parliament from three years to four years. When the term of office of Parliament is extended, the electors should have a say regarding that extension. It may well be argued that the people want a four year Parliament but, if we do not adopt the principle of referring this matter to the people for their opinion, whether or not they want it, what is to prevent anyone, any Government or any Parliament extending the term from four years to five, six, seven or even 10 years? The principle of extending the life of Parliament and the term of office from three years to 4½ years as provided under this Bill should be referred to referendum. Therefore, clause 2 should be deleted and replaced with another clause.

The Hon. C.J. SUMNER: I do not believe that this matter needs to go to a referendum. I have taken extensive advice from the Solicitor-General. I was careful to obtain that advice, and it is the Solicitor-General's view that the Act does not attract the referendum provisions under section 10a. The question of extension from three years to four years does not affect the powers of either the House of Assembly or the Legislative Council, and therefore I do not believe that that attracts section 10a. I take it that the honourable member is arguing that that matter should go to a referendum on general principle. His argument that the Government of the day can extend Parliament forever is a bit far fetched.

I suppose that if our democratic system has got to have that state of disintegration then clearly we would be in considerable trouble, in any event. I do not see that as an argument for entrenching the provisions relating to terms of the House of Assembly or the Legislative Council. I point out to the honourable member that in the history of South Australia the term of the House of Assembly has been changed on a number of occasions: it has not gone to referendum on any of those occasions. I do not see why it should be different on this occasion.

As to the simultaneous elections provisions that the honourable member puts forward as a possible basis for attracting the referendum provisions of section 10a on the basis that it protects powers of the Legislative Council, I reject that. Certainly, it affects the potential term of the Legislative Council, but I find it very difficult to argue that the term of the Council or the House of Assembly is related to its powers or that an alteration in the term would affect the powers of the Legislative Council.

Regarding the extension of the term of the House of Assembly from three to four years—I understand that the honourable member is saying it does not affect the powers but it affects the life of the House of Assembly—he is arguing that a power that produces simultaneous elections therefore may contract the term of office of the Legislative Council. On the one hand, he is saying an extension from three to four years of the House of Assembly does not affect powers of the House of Assembly, and therefore does not attract section 10a. However, he is saying a provision that contracts the minimum term of six years for Legislative Councillors does affect the powers of the Legislative Council and attract 10a.

I do not understand the consistency between those two arguments. They both deal with the length of term of the respective Houses—one an extension from three to four years and the other a possible reduction in the minimum term that would be served: a reduction in the minimum term of six years that currently applies. The argument, to be consistent, is that that does not really affect the powers of either of those Houses. Both Houses still have identical powers with respect to introduction and passage of Bills, resolution of deadlocks through double dissolution, and so on.

So, I am afraid that I would not accept the honourable member's proposition that this need go to referendum because it is necessary under the terms of the Constitution Act. I do not believe that in any event as a matter of practice it is necessary for this to go to a referendum. There is broad agreement in the community on the provisions in the Bill—a three year basic minimum term and a four year maximum term. That proposition has now been accepted in Victoria and New South Wales. There is broad support for it in the community. I do not believe that a referendum on the topic would achieve anything. Finally, if the honourable member wishes to move an amendment in relation to the simultaneous election part of the Bill, he is premature, because it may be, if that is his main concern—the simultaneous election and reduction in the term of the Legislative Council—that that may not remain in the Bill at the third reading (there is an amendment on file). If that is the honourable member's concern, his bringing this proposition before the Committee at this stage is premature.

The Hon. R.C. DeGARIS: If it is premature, I am quite prepared for the Attorney-General to allow this to be deferred until the other question is decided. At this stage it is rather difficult for me to determine exactly the Committee's view in relation to the other amendment. Therefore, I have moved this amendment along those lines. During the second reading debate I said quite clearly that there was a disagreement of opinion between my view and other legal opinion which

supports my view.

The Hon. C.J. Sumner: Is yours a legal opinion?

The Hon. R.C. DeGARIS: There are people who have passed through university and have a degree behind them who agree with my view. Irrespective of what the Attorney argues in relation to the fact that it does not affect the powers of the Council, once there is a situation where a Government in control of the House of Assembly can force this Council to an election, and we do not complete our term under the Constitution Act, without any confrontation from this Chamber, I believe it reduces the powers of this Chamber. It may not be explicit in the Bill that the powers are reduced, but it implies the very fact that in the operations of Parliament the powers of this Chamber are reduced, with the power being expanded by the House of Assembly to force this Chamber to an election whenever it desires.

That is the point where I believe the argument is valid: that the Bill does reduce the powers of this Chamber. In relation to the question of a referendum on the extension of powers in relation to the term of office, the Attorney said that the term of office has been extended before without a referendum. I point out that for 120 years or more there were no referendums at all applying to the Constitution. However, with a good deal of co-operation between the Labor and Liberal Parties some years ago a decision was taken that referendums were required on certain issues. That has been done. The question we overlooked relates to the extension of the term of office not being referred to the electors.

I think it is perfectly logical that, while we have accepted the question of a referendum in regard to a number of aspects of our Constitution, we have not referred to the electors the aspect of extending the term of office of Parliament. I am not saying that I am opposed to a four year term, but I am certainly opposed to a five year term, and I am certainly opposed to a term longer than four years without the approval of the electors. I think that is a perfectly reasonable request. The only five year term of Parliament in our history occurred in 1933. In 1938, when the Government faced the people again following the previous election result, it reverted to a three year term, because at that stage there was total rejection of a five year term for Parliament. It was the result of the election which forced Parliament back to a three year term.

The Hon. K.T. Griffin: What were the results?

The Hon. R.C. DeGARIS: The result was 15 independents, 13 Liberal and 11 Labor. The interesting thing was that there was a very strong pressure to form an independent Party to take over Government, but they could not achieve anything in that direction. In fact, I believe there were 15 votes for the position of Leader—one each. The position is that we had a five year term at one stage in our history, but that was very strongly rejected by the electorate. I believe that, if there is an extension beyond four years, there must first be reference to the people. At this stage I am prepared to say that we should do that for a four year Parliament. It is all very well for the Attorney to say that it is generally accepted. If it is generally accepted, why is the Government strongly opposed to a referendum? I say it is because, if it was taken to a referendum, it would be defeated.

The Hon. C.J. Sumner: It wasn't defeated in New South Wales.

The Hon. R.C. DeGARIS: It did not go to a referendum there, did it? At this stage I am prepared to say that, if this Bill goes to a referendum, it will not be accepted by the people of South Australia.

I am not opposed to a four year term. I think that a four year Parliamentary term is reasonable, but we should have a constitutional provision that requires the electors to approve any extension of the terms of office. I still favour the deletion of clause 2 and the inclusion of a provision referring this matter to a referendum.

Clause passed.

New clause 2a—'Special provisions as to referendum.'

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

Page 1, after line 16—Insert new clause as follows:

2a. Section 10a of the principal Act is amended—

(a) by inserting in paragraph *(d)* of subsection (1) after the number '8' the number ', 28';

and

(b) by inserting in paragraph *(d)* of subsection (2) after the number '8' the number ', 28'.

This completes the line that I have taken on this issue. I consider that section 10a of the principal Act should be amended to provide that, in relation to an extension of time beyond 4½ years, which is possible under this Bill, that matter must go to a referendum. I shall not debate this matter again, as I have already referred to it previously. An extension of a term of office beyond 4½ years should be a matter decided by electors at a referendum.

The Hon. C.J. SUMNER: The Government opposes the new clause. We have already debated this issue and I will not recanvass it.

The Hon. K.T. Griffin: That is only in relation to an extension.

The Hon. R.C. DeGARIS: It is only in relation to an extension to the present provisions in the Bill. This amendment accepts that the term of office shall be four years or 4½ years at a maximum, but if in future any extension beyond four to 4½ years is sought in a Bill put before Parliament, that question should be put to the electors for their approval.

The Hon. K.T. GRIFFIN: The amendment seeks to include reference to section 28 in paragraph *(d)* of section 10a (1) of the principal Act. Subsection (1) would thus read:

Except as provided in this section—

(d) sections 8, 28 and 41 of this Act shall not be repealed or amended;

I am attracted to the proposition in relation to any further extension beyond the provision that we are now considering concerning four year terms, but I am not sure that I would go so far as to say that I would support such a provision if it involved a reduction of a term. I do not see any problem with there being a reduction without going to a referendum. If there is to be an extension, there are some good arguments in favour of it. I wonder whether some further consideration could be given by the Hon. Mr DeGaris to that point.

The Hon. R.C. DeGARIS: I am quite prepared to consider the matter further. I do not see why, if a Bill is introduced to reduce the term of the life of a Parliament, that should not go to a referendum in any case. If the Government or Parliament of the day wants to reduce the term from four years back to three years—I do not think that it will ever come back to two years—it still has to go to a referendum to decide it. I see no difficulty with that question. We have argued now for long enough about how important this four years is to the future management of the State economy and everything else. If there is an ability to change the amendment so that it does not prevent a Government from reducing the term of four years to something below that, I do not mind looking at that suggestion. I do not see any difficulty, if there is a reduction, if it has to go to a referendum.

The Hon. K.T. GRIFFIN: I am attracted to the proposition that there be a referendum requirement for an extension beyond four or 4½ years, depending on when an election is held, but I would not be happy about a referendum to reduce it. It really means that the people are going to be involved more frequently in expressing their opinion about elections. If the Hon. Mr DeGaris is prepared to postpone

the consideration of this clause for a few minutes, he could look at it further and we could go on with other business.

The Hon. R.C. DeGARIS: I am prepared to have the consideration of this provision deferred, if that is acceptable.

The Hon. C.J. SUMNER: The Government does not accept either proposition. I really do not see the case for entrenching the term of Parliament in the Constitution. It has not been entrenched up to the present time in the history of the State. There have been a number of changes to the length of the term of the Parliament of this State—

The Hon. R.C. DeGaris: Only once.

The Hon. C.J. SUMNER: I am not sure that the honourable member is correct. The honourable member referred to a change in the 1930s. I am thinking of a period earlier than that when there was a change. At any rate, there has been a change to the term previously in our history. I do not think that there has been any mischief caused by having this flexibility. Entrenchment does create problems. There are enough checks and balances in our political system already with regard to our Constitution without writing in more stringent provisions which, let us face it, in some respects solidify the political constitutional system within which one is operating. One can get into a very broad debate about all this—a debate between the United Kingdom system where any Bill can be changed by another Bill just going through the Parliament of the United Kingdom, as opposed to the system in the United States or Australia where referenda are needed in order to change the fundamental law on which the Constitution structure is based.

At a State level (we do not have to worry about the Federal division of powers; usually the criteria for having superior law and changes to that law are governed by referendum) there is no real case in our system to entrench further provisions. The basic provisions—power of the House and the double dissolution procedure—are entrenched. One wonders, in terms of good government, whether in retrospect the entrenchment of section 41 was advisable, because it is the most unwieldly double dissolution procedure that one could ever come across. In order to get the flexibility back into the system we have to go to a referendum, and it is not simple.

The Hon. R.C. DeGaris: It isn't a question of flexibility but of the powers of the Council.

The Hon. C.J. SUMNER: I do not believe with respect to the double dissolution procedure that we are talking substantially about the powers of the Council. In any event, I put that in only as an example of where, if one had to go to a referendum on a whole range of issues in the Constitution Act, the system becomes very inflexible. The Parliament and the Parties at the time accepted that some of the provisions of our Constitution should be entrenched, particularly the power of the existence, the powers of the House of Assembly and the Legislative Council, and the double dissolution procedures in section 41, but it should stop there.

There are considerable dangers in terms of our system of Government if we entrench too much of our Constitution and do not leave it to the Parliament of the day. As I said before, there are checks and balances in our system. Some people would argue that there are probably too many checks and balances in terms of the Government's achieving its programme, whichever Government it is, but there are substantial checks and balances even in our State system.

It is probably true to say that in the foreseeable future no one Party will get a majority in the Legislative Council and that we will always be in a situation where we have the possibility of a Government in the Lower House that does not have a majority in the Upper House, although it may not inevitably be the case. There are not only the Parliamentary checks, but also the public opinion checks. All Governments know that they cannot get out of step with what the public thinks—the ethos of the community in which we live. In this respect, I tend towards the United Kingdom system, which is flexible with a certain amount of retrenchment, and that is fair enough, because it has been agreed to, but I do not believe that we ought to extend it any further. The Government rejects the new clause.

The CHAIRMAN: I suppose that there is no point in trying to tell the Attorney that the discussion on this was supposed to come under clause 4.

The Hon C.J. SUMNER: I would also point out that if the honourable member's new clause were inserted the Bill would have to go to a referendum because under section 10a (1) it would be amending section 10a.

The Hon. R.C. DeGaris: That's right.

The Hon. C.J. SUMNER: I am not sure whether the honourable member was putting us on our mettle to see whether or not he would get his referendum in by the back door. If that was his intention at least we have managed to point that out to the Chamber as a consequence of his amendment.

Consideration of new clause 2a deferred.

Clause 3—'Repeal of ss. 13, 14 and 15 and substitution of new sections.'

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

Page 2, lines 40 to 48—Leave out subsection (5) and insert new subsection as follows:

(5) Where a casual vacancy in the membership of the Legislative Council is to be occupied by a person chosen by an assembly of the members of both Houses of Parliament—

(a) the Electoral Commissioner shall, by notice in writing to the clerk of the assembly, inform the assembly who would have been elected to the Legislative Council at the election at which the member who formerly occupied the vacant seat was elected if:

(i) that member had not been a candidate at the election; and

(ii) ballot papers recording votes in that election were renumbered accordingly; and

(b) the assembly shall choose a person to occupy the vacancy having regard to:

(i) the information supplied by the Electoral Commissioner under paragraph *(b)*; and

(ii) if the member who formerly occupied the vacant seat was at the time of his election publicly recognised by a particular political Party as being an endorsed candidate of that Party—the fact that the member was so endorsed by that particular political Party.

The question arises concerning the replacement of a member where a casual vacancy has occurred. The provision in the Bill is that an assembly of members of Parliament is called and a nomination is made to fill that casual vacancy. This may be all right in relation to the major or minor Parties where a casual vacancy has to be replaced, but it makes it extremely difficult where anyone other than a Party machine person creates the casual vacancy and that has to be replaced.

The usual procedure in proportional representation voting is that we refer back to the previous election and the person who would have been elected if the person who caused the casual vacancy had not been on the card is elected. My amendment insists that the papers be referred to. The assembly is informed that the person who would have been elected had the person who caused the casual vacancy not been on the ticket will be the next member. That does not mean, however, that the assembly will choose that person—not at all—but it informs the assembly who would be next on the list in that election.

The Hon. Mr Griffin's amendment goes along a similar track, but I believe that one of the great difficulties is that, if there is a double dissolution, there is a strong probability that an Independent would be elected. If there is a casual vacancy in relation to that Independent, there will be great

difficulty finding a replacement in this Council. The only real reference we have is the voting pattern at that election. However, not only are there Independents but also people who stand as Independent Labor members or Independent Liberal members; how can they be replaced by an assembly if we do not refer to the voting papers? Either this amendment or the Hon. Trevor Griffin's amendment is quite acceptable.

The Hon. K.T. GRIFFIN: I will not support the Hon. Mr DeGaris's amendment, because it is too restrictive. The Bill follows very largely what has been included in the Federal Constitution, but it leaves some gaps. There is no difficulty with the Bill or with the Federal Constitution in regard to the person whose seat has become vacant being a member of a political Party at the time of the election and if that Party is still in existence, either in its own right or having merged with some other Party, that being a publicly recognises fact, although even then there may be some difficulty in following the precise provisions of the Bill.

As the Hon. Mr DeGaris has said, there are difficulties in relation to an Independent member who has no association with any political Party at the time of the election. There is also a problem relating to a person who was elected as a member of a political Party but whose Party has ceased to exist for one reason or another several years later, when a vacancy occurs. It may be that that will not become such a problem with registered political Parties and affiliations hereafter being shown on ballot papers if the Electoral Bill passes. But it may still be a problem, although perhaps not such a great problem as if there were no political affiliations shown on the ballot paper.

My amendment seeks not to enforce a scheme by which the vacancy caused by the retirement of an Independent member of the Legislative Council is to be filled, but at least to provide additional information which is supplied by the Electoral Commissioner as to who would have been elected if the person whose seat becomes vacant had not been elected.

That is a bit of extra work for the Electoral Commissioner and it will mean that the ballot papers for the Council will have to be kept for some years. However, at least it is relevant information that can be used as a guide to a joint assembly in determining who should fill a vacancy created by the death or retirement of an Independent member. Undoubtedly, if there is no information available, such as who would have been elected in that event, the appointment of a vacancy may well be a controversial one with both major Parties and any other Parties all proposing different persons to fill the vacancy.

I am trying to minimise the potential for that controversy, to provide as much information as possible, yet not bind the joint assembly to filling the vacancy with the person who would have been elected at the election to which the vacancy refers. In Tasmania the Constitution Act provides automatically for the person who would have been next elected under the Hare-Clark system to fill any vacancy caused by the death or retirement of a member.

I do not go that far. There is no suggestion that we are going anywhere near that in this amendment, but it provides some useful information, which is really what my amendment seeks to do. I prefer that to the Hon. Mr DeGaris's and to the Government's, because it tries to come to grips with the unresolved question of what one does with a vacancy caused by the death or retirement of an Independent.

The Hon. C.J. SUMNER: The Government opposes both these amendments. We wish to maintain the Bill as introduced by me. I compliment the Hon. Mr Milne for his role in this provision because the Government has picked up the drafting that he used—that is our proposed section 13 (5), which is the Bill that the honourable member introduced when we were in Opposition and he was on the cross benches. He very wisely agreed that the referendum that had been passed at the Federal level, to include in the Federal Constitution a means or convention in regard to the fulfilling of the casual vacancies in the Senate, was a good proposal.

It was agreed to by the people of Australia and he sought to incorporate it in our law. At the time we agreed with him and supported his amendment, which came in. As I understand it, it went to the House of Assembly but these private members' Bills tend to disappear when they hit the House of Assembly: they get lost or gobbled up by the Government, and disappear for ever, and I understand it did not go any further. We did support the honourable member, and commended him for his initiative. Because we felt that his drafting and his proposition were so appropriate to the circumstances, when we introduced our Bill we picked up the drafting word for word, I am informed, of the honourable member's Bill. I put on record the role of the Hon. Mr Milne in this event. Apart from that, there are some objections to the Hon. Mr DeGaris's amendment and the Hon. Mr Griffin's amendment.

I do not believe that what the Hon. Mr DeGaris puts up is satisfactory: he proposes to move an amendment to clarify the procedure to be observed should a sitting member of the Upper House resign or die during his term of office. As the Bill presently stands, it is intended that an assembly of both Houses of Parliament shall decide on his replacement. There is no doubt that a problem will arise in the event that a deceased or retired person has no particular Party affiliation. The Hon. Mr DeGaris's proposition is designed to overcome that dilemma.

The Hon. Mr DeGaris says that it should be the obligation of the Electoral Commissioner in all cases to conduct a recount of the ballot papers to determine who would have been elected had the deceased or retired member not nominated in the first instance. I appreciate that that system is used in Tasmania in respect of its Lower House. However, I believe, and the Electoral Commissioner agrees, that the situation in South Australia is somewhat different. In the Tasmanian Lower House there are five seven member electorates comprising about 60 000 electors each. In the event of a death or retirement of one of the seven elected members, a recount is not a relatively difficult task.

However, with the South Australian Upper House being a single electorate, the number of electors is in the order of 900 000. To conduct a recount would possibly take three of four weeks and involve at present some $150 000. Even then, it could not be guaranteed, as the honourable member has observed, that the next preferred candidate would still be willing or able to take the place of the deceased or retired Legislative Councillor. It should also be borne in mind that arrangements would necessarily have to be made to store some 900 000 ballot papers for a period of up to six years, if other intentions in the legislation were brought into effect.

The Hon. R.C. DeGaris: There is only one election.

The Hon. C.J. SUMNER: That is not true. Of course, it gets worse. If the Hon. Mr Griffin's amendment is passed with respect to the minimum six year term—and this will be subject to debate later—I have worked out that it is possible that a Legislative Councillor will not have to face the electors in some circumstances for between 9½ and 10 years. I am prepared to argue that later.

With respect to the Hon. Mr DeGaris's amendment, admittedly it is an unlikely situation, but it definitely could occur: we could end up with a person dying after 9½ years in office and then a replacement would have to be found. Under the Hon. Mr DeGaris's scheme, 900 000 ballot papers would have to be kept for 9½ years in those circumstances. There would then have to be a recount to try to determine

the next in line. Heaven knows what may have happened to the next person 9½ years after an election. They may not be interested in politics anymore and, even if they are, they may be irrelevant.

The Hon. C.M. Hill: They may have joined another Party.

The Hon. C.J. SUMNER: Yes, a whole host of things could have occurred.

The Hon. R.C. DeGaris: My amendment does not elect that person at all. It is an advice to the—

The Hon. C.J. SUMNER: It may not elect a person. I really do not think it is of any great significance to anyone. The following situation could also occur: we could have five elected Labor members, four Liberal and one Independent. If the Independent resigns or dies, the casual vacancy relates to that seat. In a recount a Liberal or Labor candidate may be next in line. Therefore, the balance at the time of the election would be distorted.

I think there would be as many problems in relation to the honourable member's proposal as there are at the moment. At the moment there is a provision for an assembly. My amendment merely gives some direction in the great majority of cases to that assembly. There will be circumstances where an Independent may be involved, for example, or there may be some change in the Party, and those matters will have to be resolved. However, that must be done at the moment by a joint assembly. So, we are really not making the situation any more complex, but are making it simpler.

In effect, we are accepting as part of our Constitution the convention that has grown up with respect to two joint assemblies and the filling of casual vacancies. This applied with respect to the Hons Jim Dunford, Frank Potter, and Jessie Cooper, recent cases of casual vacancies, in which cases a convention applied on both sides of the Chamber, and that was done by a joint assembly. We are giving guidance with this provision but we are not covering every eventuality. The joint assembly does not work in a political vacuum, and obviously there would have to be some negotiations and discussions between the Parties if an Independent was the cause of a casual vacancy. I oppose the honourable member's amendment. I do not think it is necessary and I think it has some very difficult practical problems associated with it.

The Hon. K.L. MILNE: Following that persuasive argument of the Attorney-General, I indicate that the Democrats will support the Government on this matter. It seems that if one tries to cover every circumstance one ends up with something more complicated which is not a better answer. There will always be some situations that cannot be covered, and it seems to us that this is the simpler way. This was adopted in the Federal sphere, and the present Government when it was in Opposition supported it, following discussions that were held, I dare say, as I cannot remember exactly what occurred. This seems to be a simple definition which can be regularly interpreted, and if the assembly does the right thing in normal circumstances any matter will be resolved as people intend it to be. The Democrats propose to support the Government on this.

The Hon. R.C. DeGARIS: I just want to argue one or two points. First, I refer to the question of storage of voting papers. I point out that, although the Attorney-General says that there are only 60 000 voters in a seat in Tasmania, there is more than one seat. They store those papers in Tasmania, which has had a longer association with proportional representational voting than any other State in Australia. I think it would be reasonable to assume that what Tasmania is doing in this regard is correct in regard to the replacement following a casual vacancy.

While the Hon. Mr Milne talks about the Federal scene, it should be remembered that the Senate has quite a large quota requirement in relation to electing a Senator; it is now something like 14 per cent or 15 per cent. In a double dissolution in South Australia, the quota is about 4 per cent. In this regard it is extremely difficult when a casual vacancy occurs, particularly if it involves an Independent Labor, Independent Liberal, or a wholly Independent member (which even a single Democrat might be by that time). In those cases it is extremely difficult for an assembly to make any determination as to who replaces that person. Take, for example, my friend Norm Foster: had he been elected to this Council and then subsequently created a casual vacancy by resigning, how would an assembly have replaced the Hon. Norm Foster?

The Hon. C.J. Sumner: He had a running mate.

The Hon. R.C. DeGARIS: Let us just assume that he did not have a running mate; that also would apply to the Hon. Norm Foster.

The Hon. C.J. Sumner: I can't argue if you change the rules!

The Hon. R.C. DeGARIS: No, but the assembly could be placed in certain difficulty in replacing such a person. It would be an extreme difficulty to replace an Independent or Independent Labor unless there were running mates in that particular list. I see no difficulty with it. I do not say that the amendment I have—

The Hon. C.J. Sumner: Surely, if that occurs, it could occur eight or nine years later if an Independent resigned and the next one on the ticket was Labor and that thereby gave Labor a majority in the Council nine years after the election that you are talking about. You are not suggesting that that is fair?

The Hon. R.C. DeGARIS: I am suggesting that that should happen because that person would have been elected and would have been in the Chamber if that person had not been elected. I support either the amendment I have on file or the Hon. Mr Griffin's, where the group system applies. Where an Independent is there, you must refer to the voting ticket. That is logical, and is the correct way to do it. That is the system used in most proportional representation voting systems in the world.

The Hon. K.T. GRIFFIN: I do not want to prolong the debate on this, but merely indicate that, in light of the indication by the Hon. Mr Milne that the Democrats will be supporting the Government, and, in view of the hour, I do not propose to call for a division if I lose on my opportunity to put my amendment.

Amendment negatived.

The Hon. R.C. DeGARIS: I will not deal with my amendments to page 3, lines 4, 5, 6, and 10 to 15 until such time as there is a decision on the Hon. Mr Griffin's amendment, when I will seek to recommit if his amendment is defeated.

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

Page 3, lines 10 to 15—Leave out subsection (3) and insert new subsection as follows:

(3) A member of the Legislative Council is not required to retire under subsection (2) unless—

(a) in the case of a member elected at an election held upon dissolution of the Legislative Council under section 41—three years have elapsed from the first day of March in the year in which that election was held;

(b) in any other case—six years have elapsed from the first day of March in the year in which the member was last elected.

My amendment retains subsection (3) in the Government's Bill but adds a provision that Legislative Councillors should have a minimum term. It picks up the present provision in section 13 of the Constitution Act, a provision that the Attorney-General's Bill repeals. I want to retain the *status quo* in respect of the minimum term of office of Legislative Councillors so that they serve, as at present, a minimum of

six years from 1 March in the year of their election. That is the position now; that is the position that I want to retain with my amendment.

It is important to have a minimum term for Legislative Councillors, particularly in the light of the Attorney-General's amendment relating to elections earlier than three years under the 'Bills of special importance' provisions. Under the provisions for a Bill of special importance it is possible for a Government to present to the Legislative Council a dilemma whether to amend a Bill because it is regarded as unacceptable in the form in which it is received by the Legislative Council and for those amendments not to be accepted by the Government, in which event there is a potential for an election earlier than three years.

While I do not want to spend any time debating that area of Bills of special importance on this clause it is nevertheless relevant to refer to it because of the greater potential for earlier elections, with the consequence that a Government, intent on either reducing the powers of the Legislative Council or in some other way influencing the electorate to the point where a Government may at least have a better chance of obtaining a majority in the Legislative Council, places the Legislative Council under threat of manipulation. I do not say that it will happen, but it may.

If a Government is intent on having earlier elections for the Legislative Council with a view to changing its political complexion—Labor, Liberal, Democrat or whatever—with a view to being able to force through more of its perhaps more controversial legislation, that is to be resisted. The minimum term provides a safeguard against that happening, and that is why it is important to retain it in the Constitution Act, that is, to retain the *status quo*. I urge the Committee to support my amendment.

The Hon. C.J. SUMNER: A central part of the Government's proposition was that there ought to be simultaneous elections for the House of Assembly and the Legislative Council on each occasion that the House of Assembly went to the polls. Presently there are simultaneous elections, but Legislative Councillors do not go to the polls unless they have had a minimum period of six years. Under the present system Councillors can in some circumstances have between 8½ years and nine years. I had seven years and four months—more than the minimum term of six years because of early elections in 1977 and 1979. The Government believes that when the House of Assembly goes to an election there should be an election for the Legislative Council. There is no real case for having a set term for the Legislative Council.

One of the problems under the current proposal is that although the Government's proposition does mean that if the House of Assembly goes through a full term on both occasions—four years and four years—the Legislative Council will have eight years. If there is an early election for any reason, as I pointed out earlier, depending on when it is, it is possible for Legislative Councillors to have 10 years in office without facing the electors. That is undesirable and it is too long to go without facing an election. There has been some criticism of Legislative Councillors having a potential of eight years, but I do not know how else that can be resolved given the extension of the House of Assembly's term to four years, unless we completely revamp the method of election for the Legislative Council by going into electoral districts or some other system.

The Government does not believe we should affect the State-wide proportional representation system, which has some advantage when there is a single member constituency system in the Lower House, It enables minor Parties to have a better chance of a voice in Parliament through a State-wide system and a lower quota than you would have if the State was split into a number of electorates for the Legislative Council as applied previously. The Government took the view that we should retain the State-wide system. The corollary of that is that unless we had all Legislative Councillors coming out at once simultaneously with the House of Assembly—

The Hon. R.C. DeGaris: You have that now.

The Hon. C.J. SUMNER: No, only half. With the State-wide system the Government recognised that if it accepted the present electoral structure there would be the corollary that Legislative Councillors could have terms of up to eight years. That could be subject to some criticism. It is really carrying things too far where there is a possibility for terms of up to 10 years without Legislative Councillors having to face the electors.

The Hon. R.C. DeGaris interjecting:

The Hon. C.J. SUMNER: Yes, an election after four years, and an early election in 1¾ years into the second Parliament. There would be four years for the first Parliament, 1¾ years in the second Parliament and, if there was an early election, no councillors would have served six years, and so no councillor would go to the polls at that time. The following Parliament could run its full four year term. There would be two full terms of four years plus 1½ years.

The Hon. L.H. Davis: In fact, it could be more than four years; the Parliament could go for four years five months.

The Hon. C.J. SUMNER: That is right. It is an important argument. I was being jocular from the point of view of uncharacteristic self interest, but this is a serious issue. It is not and should not be acceptable in our system to have the potential for such a length of service for Legislative Councillors before they have to face the electors. There is a more fundamental point involved: under the Hon. Mr Griffin's amendment if the six year minimum term is retained the Legislative Council can continually frustrate a Government in the House of Assembly but not have to face the polls. Quite clearly, that could happen. It may be that no member of the Council has served six years; the House of Assembly may direct Bills to the Council; but the Council may reject those Bills so that the Government is in a situation where it is virtually powerless.

Of course, that is why we decided to introduce the Bills of special importance procedure. The Government may declare a Bill of special importance and put it up to the Legislative Council. If the Legislative Council rejects that Bill, only the House of Assembly goes to election despite the fact that in the previous few months it was the Legislative Council that continually rejected Bills and obstructed the more recently elected House of Assembly programme. I believe that for those two reasons, because the potential length of the term is unacceptable and, secondly, because it is quite wrong where there is an election as a result of a Bill of special importance procedure for the Government in the Lower House to be forced to the polls while the Legislative Council sits pat and does not have to account for its actions in any way, the proposition should be rejected.

The Hon. K.L. MILNE: It seems to me that the Bill ensures that the House of Assembly is given additional power over the Legislative Council by threatening that the Council will go to an election with the House of Assembly. This would drastically affect the independence and the attitude of the Council. It would drastically change the power that one House has over the other. The Council has very little power over the House of Assembly and I do not see why the House of Assembly should have additional powers over this Council.

The Hon. C.J. Sumner: It's not getting additional power.

The Hon. K.L. MILNE: That is not intended, but that would be the effect. That is the way in which the Council would take it. One House would spoil a great deal of the basic principles that can apply only under a bicameral system.

We should look carefully at the performance of the Legislative Council over the years. For example, the Dunstan Government governed for a long time with what appears on paper to be a very hostile Upper House, yet it did not behave in that manner. There were negotiations and some legislation was discarded, of course, but the bulk of it went through and the Government was able to govern quite successfully. Oddly enough, the person who had the most trouble was Sir Thomas Playford—a Liberal Government with a hostile Liberal Upper House.

The Hon. C.J. Sumner: Don't you believe it.

The Hon. K.L. MILNE: A couple of knighthoods did help here and there, I only regret that I was born too late. At present, the House of Assembly can go to an early election but it cannot necessarily take the Council with it unless there is a double dissolution issue and then one would expect the Council to go out with the Government, although I understand that that has never happened in this State. This Bill, inasmuch as it reduces the powers of the Council, should go to a referendum.

The Government is arguing that it does not reduce the powers of the Council, but it certainly goes very close to it, and some legal opinion would say 'Yes' and some 'No'. We have to face the fact that there could well be a challenge to this Bill by people in the community if they believed that the powers of the Council were being interfered with. I believe in the bicameral system. Many Governments in the world with a much more mixed economy, mixed left and right Governments or social democracies have retained their two Houses. The trend in Brisbane indicates that people in that State may be wishing that they had not done away with their second House, which would act as a brake on what is happening now. For those and a number of other reasons, we will support the Hon. Mr Griffin's amendment.

The Hon. K.T. GRIFFIN: First, I want to speak about the length of the term: extended term only occurred in the 1970s, because the Government chose to have early elections, and that was no fault of the Legislative Council. If Governments choose to go early they have to face the consequences. If under the Government's new proposals for relatively fixed three year terms there are early elections, it could happen for a number of reasons. But, in the ordinary scheme of the Government's Bill, there should be few, if any, early elections. Provided that there is a minimum of three years served by successive Governments, it will certainly not run foul of the minimum term provisions, which have been in the Constitution Act for quite some time: section 13 of the Constitution Act has been there since 1908.

In fact, it was amended in 1973 but I understand that it only dealt with casual vacancies under the new proportional representation system. If the minimum term has been there for nearly 80 years and has not created any constitutional problems, why change it now? I think it is important. If it has served the State well and there is no persuasive argument in favour of removing it (and I do not believe there is), let us adhere to what is good and not change it for the sake of change or because of some perceived potential problem which has so far not been experienced in this State.

The Hon. R.I. LUCAS: I have mixed feelings about the provision with respect to minimum terms for Legislative Councillors, and I have an amendment on file also. However, I have decided that I will support the Hon. Mr Griffin's amendment. If we had been discussing a true fixed term for Parliament, I would have been inclined to support the deletion of minimum terms for Legislative Councillors. If we had a true fixed term, as the Attorney originally aspired to and others like myself and the Hon. Mr Gilfillan also argued for, we would not have what has evidently been accepted as the compromise with respect to Bills of special importance.

With the compromise position in relation to Bills of special importance, it virtually means that a Government can deem any Bill a Bill of special importance: a Commissioner for the Ageing Bill, a Children's Services Bill or virtually any Bill can be deemed by the Government of the day to be a Bill of special importance. If there was no minimum term for the Legislative Council, the Government could pull out in quick succession, with two Bills of special importance, the whole membership of the Legislative Council within the six year provision, as it is at the moment. That was my position. If we had a true fixed term and not this hybrid or semi-fixed term proposal, I would have been inclined to support the deletion of the minimum term. However, now that we have this compromise with respect to Bills of special importance, I will support the Hon. Mr Griffin's amendment.

Finally, I refer to the fact that under this provision we may see Legislative Councillors serving for a decade. During the second reading debate I indicated that I opposed the prospect or the thought of Legislative Councillors serving for eight years. I believe that eight years is too long for Legislative Councillors before they must test the feeling of the electorate towards them. I indicated that my personal view was support for a three year term and not a four year term: one reason being that a four year term means in effect an eight year term for Councillors. As the Attorney has indicated quite correctly, the amendment could well mean a decade in office between elections for a Legislative Councillor. I think that a democratic system of government should not really allow members of Parliament to avoid facing the electorate for up to a decade. Nevertheless, I believe the reason we have that problem is that the majority of members, including the Government, support the extension of Parliament from three years to four years. If we had remained with a three year fixed term, we would not find ourselves in that situation.

[Midnight]

While it is a debating point of the Attorney, I believe that the solution rests with the Attorney and that the cause of the problem of a 10 year or a decade term of Legislative Councillors is as a result of an initiative of his own with respect to extending the term of Parliament to four years. In relation to my amendment to this clause, I move:

Page 3, lines 10 to 15—Leave out subsection (3) and insert new subsection as follows:

(3) A member of the Legislative Council is not required to retire under subsection (2) unless—

(a) the House of Assembly is dissolved by the Governor following a failure by the Government to obtain necessary parliamentary authority for the appropriation of revenue or other public money for the purpose of maintaining the ordinary annual services of Government;

(b) an obligation to retire arises under section 41 (2) *(b)*;

or

(c) six years have elapsed—

(i) since the first day of March in the year in which the member was elected;

or

(ii) if the member was chosen to occupy a casual vacancy by an assembly of the members of both Houses of Parliament—since the first day of March in the year in which a person was last elected to occupy the seat.

In effect, this is an acceptance of the Hon. Mr Griffin's amendment, and that is that there will be a minimum term for Legislative Councillors, with one exception. The exception would involve the extraordinary circumstance, which has not yet occurred on the South Australian political scene but which has occurred federally and in relation to other States, where a Legislative Council, in effect, knocks out a Budget or refuses Supply.

The Hon. R.C. DeGaris: It does not actually refer to knocking out a Budget, though, does it?

The Hon. R.I. LUCAS: No; there has been a lot of discussion with Parliamentary Counsel, and the amendment reflects the advice of Parliamentary Counsel that best meets my intentions. in relation to the Legislative Council taking what would be the unprecedented step of refusing Supply or knocking out a Budget. In those circumstances the minimum term for Legislative Councillors would not operate: that is, in those circumstances, and only in those circumstances, half of the Legislative Council would have to face the people for their actions. I believe that view ought to be shared by many members in this Chamber.

As members know, I take a personal view that the Council and an Upper House ought not to have the power to refuse Supply, but the Attorney and the Government have chosen not to tackle that matter in this or another Bill. So, given that the Council retains the power to refuse Supply, I believe that half the Council must front up to the electorate for their actions (and once again my personal view would be that the whole Council should be involved, but in the interests of seeking a majority support in the Council I have moved the amendment in this form). It would be only in that particular circumstance that the provision for a minimum term of six years, as envisaged by the Hon. Trevor Griffin, would be breached. In every other circumstance the amendment would be in line with the Hon. Trevor Griffin's amendment. For example, if other Bills of special importance were knocked out and if a six year term was not up, then half of the Legislative Council could not be taken out to an election. This is consistent with the views of the Hon. Trevor Griffin with that one exception *apropos* the circumstances of Supply being refused. That is the only difference between the two amendments.

The Hon. R.C. DeGARIS: I have a good deal of sympathy for the view put by the Hon. Robert Lucas in regard to this matter, although I am not happy with the way in which his amendment is drafted. The amendment provides that:

> A member of the Legislative Council is not required to retire under subsection (2) unless—
>
> *(a)* the House of Assembly is dissolved by the Governor following a failure by the Government to obtain necessary Parliamentary authority for the appropriation of revenue or other public money for the purpose of maintaining the ordinary annual services of Government.

There are two points there. First, there is the constitutional provision which allows the Legislative Council to amend the Budget. If the Legislative Council, by its constitutional powers, amends the Budget—

The Hon. C.J. Sumner: You can't amend the Budget.

The Hon. R.C. DeGARIS: You can in regard to a previously authorised purpose. That was done in 1910.

The Hon. C.J. Sumner: You can suggest amendments.

The Hon. R.C. DeGARIS: It is stated in the Constitution Act that you can suggest an amendment to the Budget.

The Hon. R.I. Lucas: It was 1911.

The Hon. R.C. DeGARIS: All right, 1911. One gets to the stage where, if that Budget is amended with the constitutional powers that the Council has to suggest amendments to a Budget on those particular purposes, it goes to the House of Assembly and that House refuses to accept the amendment, then the House of Assembly is dissolved by the Governor because it would not accept that suggested amendment. What I am suggesting in relation to Supply is a different question. When one comes to the Budget it is also provided for in the Constitution, where the Council has some specific reference to its powers in regard to particular amendments to that Budget.

The other question I want to ask the Hon. Robert Lucas concerns the matter of whether the Upper House does nothing in relation to a Budget, the appropriation of any revenue or Supply, or whether the House of Assembly can still be dissolved by the Governor if there is nothing done as far as the Upper House is concerned. That puzzles me. Supposing the Upper House has done nothing, but the Assembly decides to stop Supply. As I read the amendment on file, that could happen.

The Hon. K.T. Griffin: An Independent.

The Hon. R.C. DeGARIS: That is right. Therefore, it has nothing to do with this Council at all. Yet, because of what can happen in the Lower House, this Council is forced to an election. I have sympathy with what the Hon. Robert Lucas is saying, that where this Council produces a situation where there is a stoppage of Supply, I believe that it should face an election for that stoppage. On the other hand, if it comes to the question of an amendment to a Budget related to the question of a previously authorised purpose and the Lower House does not accept that, I do not see that the Upper House should be forced to an election when it is fulfilling its constitutional role.

The Hon. C.J. SUMNER: I oppose the Hon. Mr Griffin's amendment. I am also not prepared to accept the Hon. Mr Lucas's amendment at this stage. I can see some merit in what the Hon. Mr Lucas is saying, but there is a problem with it, as I see it. I do not want to go into it in any great detail, but I suppose the primary problem is that the Upper House does not have the power to reject Supply, which is an argument that is available, I believe, on some of the authorities. I think that it is preferable to leave the question of Supply to the existing legislation, whatever that happens to be. If we get to the point where Supply is rejected, then the people who contest it may wish to exercise certain options.

If, of course, the Legislative Council does not have the power to block Supply, then any insertion in the Constitution of a power to block Supply would be an alteration of the powers of the Legislative Council and would thereby mean that the Bill would attract the referendum provision. It is argued that the form in which the Hon. Mr Lucas has moved his amendment does not refer specifically to the Legislative Council. Therefore, it would still perhaps be open to argument that the Legislative Council does not have the power to block Supply, and this refers only to the non-obtaining of Supply by some other means, for instance, by defeat in the House of Assembly.

I understand the point made by the Hon. Mr Lucas and the Hon. Mr DeGaris and may give further consideration to it as it appears that this Bill will be the subject of some further to-ing and fro-ing between the two Houses. In the light of section 10a and the potential difficulties of mentioning Supply and Appropriation Bills in an amending Bill in any way because of the the effect that that may have on the powers of the Legislative Council, my present position is to leave the matter silent and let the existing situation, whatever that happens to be—the power to reject Supply or not—be resolved if that situation ever arises.

The Hon. R. C. DeGARIS: The important point is that the Council at this stage has never even attempted to stop Supply. I hope that it never will, but the point that I made in my second reading speech is that there may come a time when both Labor and Liberal Parties in this Council find it necessary to handle the question of Supply. That is a distinct possibility: one does not know. That is why the powers of the Council are there and why this Council is elected with its minimum three year term, so that if anything really serious happens in an election we have a continuation in this Council for three years of half the result of an election. Now that the Hon. Mr Lucas is back in his seat, he may like to comment on the statements made on his amendment.

The Hon. R.I. LUCAS: It appears that with the current drafting, which refers to the failure by the Government to obtain necessary Parliamentary authority for the appropriation of revenue, etc., the circumstance to which the Hon. Mr DeGaris refers (that is, an Appropriation Bill being knocked out in the House of Assembly) would be caught by the current drafting. As I indicated earlier, I have had considerable discussions with respect to the appropriate phraseology to use because of the attitude expressed by the Attorney-General in his reply a few moments ago, that is, that the Council does not have power to—

The Hon. C.J. Sumner: I didn't say that.

The Hon. R.I. LUCAS: He says that it is possible to argue.

The Hon. C.J. Sumner: I said that there is an argument that the Legislative Council does not have the power.

The Hon. R.I. LUCAS: The Attorney indicates that there is an argument that the Council does not have the power to refuse Supply. My original intention was that that would be the simple drafting and that is basically what I, as a non-lawyer, was after. The wording has been used in that way to try to enable the Attorney-General, with his views on the matter, to support the amendment. At this stage the Attorney has indicated that he will not—

The Hon. C.J. Sumner: At this stage.

The Hon. R.I. LUCAS: That is right—support this amendment. I am very keen to see that the principle behind the amendment is further considered by this Council and, in particular, by the Attorney-General. I will certainly continue with it. It appears at this stage that there are not the numbers to get the amendment through, but, as the Attorney indicated, we are at the early stages of negotiations between the Houses.

I repeat my belief in the basic principle of the amendment. I can see the question of the Hon. Mr DeGaris and, if there is some way of meeting the point that he has raised and drawing the Attorney's slant on the matter into an appropriate form of words, I would be pleased to support such an amendment as well.

The Committee divided on subclause (3):

Ayes (11)—The Hons M.B. Cameron, L.H. Davis, R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (8)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. Frank Blevins.

Majority of 3 for the Ayes.

Subclause (3) thus negatived.

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

Page 3, lines 10 to 15—Leave out subsection (3) and insert new subsection as follows:

(3) A member of the Legislative Council is not required to retire under subsection (2) unless—

(a) in the case of a member elected at an election held upon dissolution of the Legislative Council under section 41—three years have elapsed from the first day of March in the year in which that election was held;

(b) in any other case—six years have elapsed from the first day of March in the year in which the member was last elected.

The Hon. C.J. SUMNER: Obviously, I oppose this. I called for a division on the last amendment and I will treat that as a test case, so I will not call for a further division.

The Hon. R.C. DeGARIS: A lot of the amendments I have on file are not related to but depend on the passage of this amendment. As far as I am concerned, this is one of the most important parts of the Constitution in relation to this Council. If the present situation was allowed to stand, it would be subject to challenge because of the fact that the matter was not referred to a referendum. The Bill as it stands affects the powers of this Council. This matter was covered by the Hon. Lance Milne in his contribution. I strongly support the amendment.

Amendment carried.

The Hon. R.I. LUCAS: I intended to move an amendment to insert a new subclause.

The CHAIRMAN: The honourable member cannot insert a new subclause (3). Had the Hon. Mr Griffin failed with his amendment, the honourable member could have moved such an amendment.

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

Page 3, Line 43—After 'if' insert—

—

(i).

After line 44—Insert new word and subparagraph as follows:

and

(ii) the only names of candidates appearing on the ballot-papers at that election were the names of the members elected at the election and the numbers indicating preferences had been altered accordingly;.

This amends proposed new section 15, ensuring that, in deciding the order of retirement of Legislative Councillors that will apply following a double dissolution, the Electoral Commissioner will have regard only to those candidates who are elected in the first 22.

In the conduct of the second scrutiny, only those candidates actually elected at the election shall be considered for the purposes of determining Councillors who will be respectively short term and long term. This will overcome the problems which were alluded to by the Hon. Mr DeGaris and which I explained in my second reading reply.

The Hon. R.C. DeGARIS: I do not oppose the amendment. It is the first time tonight that officially on the record the Attorney-General and I have agreed on any matter, although there may be agreement between us on matters that neither of us has talked about at this stage. It is highly improbable that this situation would arise with long and short term Legislative Councillors and a double dissolution. First, the chance of a double dissolution is rather remote anyway and there is the highly improbable position that in the first 11 taken on an 8.33 per cent quota the person who makes the grade there does not make it on a 4.35 per cent quota. The whole thing is highly improbable but mathematically it can occur. Therefore, it is necessary to have this amendment to make sure that, if that highly improbable situation does occur, it is properly handled in regard to the long and short term Legislative Councillors. Therefore, I support the Attorney-General's amendment.

Amendment carried; clause as amended passed.

Clause 4—'Term of House of Assembly.'

The Hon. I. GILFILLAN:

Page 4—

Lines 3 to 14—Leave out section 28 and insert new section as follows:

28. (1) A House of Assembly shall, subject to earlier dissolution under this Act, continue until the next ensuing expiry date and shall then expire.

(2) Subject to subsection (3), a general election of members of the House of Assembly shall be held on the second Saturday of March next ensuing after the expiry of the House of Assembly.

(3) If an election for the Parliament of the Commonwealth is to be held on a day prescribed by subsection (2) for a general election of members of the House of Assembly, the Governor may, by proclamation, direct that the general election be held instead on either the first Saturday of March or the third Saturday of March of the year in which the general election is due to be held, and that direction shall have effect according to its terms.

(4) In this section—

'expiry date' means—

(a) the thirty-first day of January, 1990; or

(b) a quadrennial anniversary of that date.

Lines 17 to 19—Leave out paragraph *(a)*.

This amendment is aimed at implementing what we hope will be the real intention of the Bill—genuine fixed term Parliament. My earlier argument I am sure was listened to intently by members of this Chamber and I will not go through it again. It is unfortunate that we have been perplexed with the complications of not being able to bite the bullet of a genuine fixed term, which would have enabled the extraordinary circumstances that could occur to have a mid-term election, but only with the remainder of the fixed term to run before the normal four year cycle of an election would occur.

This would act as a particular disincentive to any aim of manipulating elections. One of the major reasons that I am prepared to accept the fixed term for Legislative Councillors is that it is one of the few measures that really provides a genuine incentive for making it a fixed three year period. It is unfortunate that (predicting the response—and I hope I am pessimistic about it—from either the Government or the Opposition) this amendment will fail. However, it is brought forward as what we believe is the most desirable way for a fixed term Parliament to be established, still allowing the flexibility for the extraordinary circumstance, but with the predictable election recurring every fourth year on a set date. According to my amendment, that would be the second Saturday in March on every fourth year.

The Hon. C.J. SUMNER: The Government opposes this amendment. The honourable member said that it imported some flexibility of approach. It simply does not: it is absolutist in its requirements. It does not present any flexibility in terms of when an election can be held. It imports a four year fixed term, including virtually the date of the election.

The Hon. I. Gilfillan: What about new section 28 (1), 'A House of Assembly shall, subject to earlier dissolution under this Act . . .'

The Hon. C.J. SUMNER: I do not know what that means.

The Hon. I. Gilfillan: It doesn't deny any of the other clauses in the Bill for the extraordinary reasons why a Government may call an election. The House of Assembly shall continue until the next expiry date.

The Hon. C.J. SUMNER: That may well mean that the amendment does not mean anything.

The Hon. I. Gilfillan: It may not to you, but it does to me.

The Hon. C.J. SUMNER: It may mean that the House can dissolve earlier than the four years in any event, so the amendment does not do anything.

The Hon. I. Gilfillan: If that is the case, the Bill does not do anything, either, because it applies to what is already the case.

The Hon. C.J. SUMNER: We are providing circumstances where there may be an earlier dissolution of the House of Assembly. The Hon. Mr Gilfillan's argument is that there should be no circumstances for an earlier dissolution of the House of Assembly. As I understand the honourable member's argument, it is for an actual fixed term proposition that cannot be shifted.

The Hon. I. Gilfillan: No, that's not correct.

The Hon. C.J. SUMNER: The honourable member has not explained his amendment very well then. In which circumstances does the honourable member see there being an early dissolution of the House of Assembly?

The Hon. I. Gilfillan: On the conditions that the Government expects to introduce in the Bill. The amendment doesn't deny or oppose those measures. If in the conditions included in the Bill there is a mid-term election, it proceeds as determined by the Bill. It expires at the next recurring expiry date.

The Hon. R.I. LUCAS: I support the principle behind the amendment. I think the Hon. Mr Gilfillan just explained the Attorney's misunderstanding of the amendment. As I understand it, the Hon. Mr Gilfillan is basically saying that a compromise has been worked out on the fixed three-year component of the Attorney's four years to cater for all the problems that the Hon. Mr Griffin and others saw in any proposal for fixed terms, that is, what happens to Supply, what happens if the Government's legislative programme is held up, and so on. The compromise response is that we will have Bills of special importance.

The problem with the Government's proposition of what is not really a fixed term, but is a hybrid or semi-fixed term, is that the Government of the day still retains an undoubted advantage over the Opposition Parties in that it has the opportunity to select the date of an election over a period of some 17 months. It is not, as the Attorney might argue, taking away all the power of the Government of the day with respect to the setting of an election date. Sure, there is a three-year fixed component, but that can now be manipulated by Bills of special importance, so an election can be engineered earlier than the three years. After the three years there is a 17-month period in which the Government of the day can choose the right economic and political climate in which to go to an election when it believes it has the best opportunity to win and the Opposition Parties have the least chance of winning.

There is no doubt at all that Governments, whether Liberal or Labor, will use what the Attorney sees as the flexibility in that 17 month period. All the compromises that have been worked out, which are evidentally acceptable to the previous opponents in this Chamber with respect to the problems of Government legislation and Supply (therefore making the concept of a fixed three year term acceptable to a majority of members), can be equally applied to the concept of a fixed four year term.

For a fixed four year term, which is proposed by the Hon. Mr Gilfillan and which I support, all the compromises that the Attorney and others have worked out for the fixed three year component can be used for the fixed four year term. Previously there was some argument, although it was not proferred by many members during the second reading debate, about what would happen if there was an earthquake on the final day of the fixed four year term. However, I do not think that that is a very extraordinarily powerful argument at all: that problem has never arisen in the 100 years in which elections have been held. Nevertheless, to provide some flexibility a week or a two week period could be provided at the end of a four year term. That would take away from the Government of the day the powerful political advantage that it now has under the Bill as proposed where there is provision for that selection within a 17 month period.

I believe that the compromise that has been worked out with regard to the three year fixed component in the Bill can be equally applied to the four year term proposal. No-one can really oppose the concept of a fixed four year term, because the compromise that has been worked out on the fixed three year term can be equally applied to the fixed four year term. So, the concept of Bills of special importance, covering Supply and all those possible aspects referred to in the second reading debate, can be catered for by the compromise that was worked out by the Attorney and the former opponents of this provision. I support the Hon. Mr Gilfillan's amendment. However, I recognise that the numbers in the Chamber are such that it will not be implemented in the Bill. That is a pity but, nevertheless, I place on record my support for it.

The Hon. C.J. SUMNER: The original proposition which was put forward by the Hon. Mr Gilfillan, and to which I addressed by attention, did have certain vices of inflexibility that his amendment would correct, by making the fixed

term proposal subject to whatever other powers of dissolution are placed in the Constitution Act, such as matters relating to Bills of special importance, loss of confidence in the House of Assembly, etc. However, I think that the major problem with the honourable member's amendment is that a Government elected would serve out only the balance of the four year period.

The Hon. K.T. Griffin: Which would result in more elections rather than fewer.

The Hon. C.J. SUMNER: That's right; potentially there could be more elections rather than fewer. An election having been called for whatever reason, I think that it is reasonable for a Government elected as a result of that election to then be able to govern for a full term and not have to govern for the balance of the fixed term left by the previous Government.

The Hon. K.T. GRIFFIN: I do not support the amendment. As I indicated during the second reading debate, on behalf of the Opposition I am prepared to support the concept of four year terms with three years relatively fixed. I shall address some comments in relation to the final resolution of that in proposed new section 28a when we discuss that matter. I do not believe that it is acceptable to fix the whole term.

The exclusions in proposed section 28 *(a)* would probably not even be extensive enough if one is going to fix the whole term. As we have debated on previous occasions, the concept of a fully fixed term only rests comfortably in a system such as that in America where there are other checks and balances on the executive arm of Government. I am not prepared to accept the proposal of the Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: I feel that this Bill has been misrepresented as a fixed term Bill. I have been suspicious of it from the start and have had increasing grounds to be more suspicious. It really is a measure to extend the term from three years to four years: that is all it offers. There is a mild pretence of putting some pressure on the Government in power to hang on for the first three years but, as we progress, more loopholes are opened up, and we can look forward to a short term if it is in the mind of Government to have one. There is no protection for that except, mercifully, for the fixed term for Legislative Councillors, and thank God we can hang on to that. To pretend that this is a fixed term Bill is a farce. Both major Parties have misrepresented the Bill to the public, and it is reasonable to view my amendment as the only meaningful way of putting genuine fixed terms in the Bill. It shows how seriously the Attorney is considering it when he did not even understand the amendment. It is unfortunate that it will be beaten, but it will be there. It has now been drafted—

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: By arguing that I have changed, the Attorney indicates that he did not understand what I was saying right from the start when we had a relatively productive debate on Phillip Satchel. The Attorney made it quite plain then that he was not interested in genuine fixed terms, and I do not think he has given it much thought since. But at least it is a chance to signal that members of the public have had their appetite whetted for a fixed term, and let us hope in the years ahead that there will be a proper amendment to provide for fixed term Parliaments.

The Hon. K.T. GRIFFIN: I indicated that the Opposition goes along with the Government's proposals, but there has been no pretence, so far as I am concerned, on the question of whether or not terms should be fixed. During my second reading speech I endeavoured to identify the real problems in our system with either a fully fixed or partially fixed term. I indicated that we were prepared to go along with what the Government was proposing. We were not promoting it but were prepared to go along with it. The position of the Liberal Party needs to be clearly spelt out on this issue.

Amendment negatived.

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

Page 4, after line 14—Insert new subsection as follows:
(2) A Bill providing for or effecting—
(a) an extension of the term of the House of Assembly; or
(b) the repeal or amendment of this subsection,
shall not be submitted to the Governor for Her Majesty's assent unless it has been approved at a referendum of electors by a majority of the electors voting at the referendum.

I am certain that the Attorney-General will support this amendment. He indicated that the amendment I first moved would have caused the Bill to go to a referendum. It took him a long time to wake up to that, but he finally made the grade. However, I propose by this amendment to amend section 28 of the Act to read that an extension of the term of the House of Assembly, or the repeal or amendment of this subsection, shall not be submitted to the Governor for assent unless it has been approved at a referendum of the electorate by a majority of electors voting at that referendum. This amendment to clause 4 does not force the Bill to a referendum but insists that if any future Parliament extends the term beyond four years to 4½ years—under the Bill it may be 4½ years—it must take that question to the electors for approval.

The amendment overcomes the objection raised by the Hon. Mr Griffin that a Government could not reduce the term below four years. Under this provision, it can reduce the term if it so desires, but it cannot extend the term beyond the four years in this Bill.

The Hon. C.J. SUMNER: We canvassed this issue earlier. I am opposed to this amendment. I put the provision previously with respect to the United Kingdom system and—

The Hon. R.C. DeGaris: You wouldn't have brought the Bill in at all if you agreed with that.

The Hon. C.J. SUMNER: That is not entirely true. I was talking about the United Kingdom system with respect to amendments to the constitutional structure of the country. If we over-entrench the provisions in the Constitution we are asking for trouble: the system becomes gummed up. As I said before, we have section 41 of the Constitution Act. We should rely on the natural checks and balances that exist in the Parliamentary system and in the general political process.

The Hon. M.B. Cameron: Brought about by the Upper House.

The Hon. C.J. SUMNER: The honourable member says 'brought about by the Upper House', and that is correct.

The Hon. M.B. Cameron: They don't operate in Queensland.

The Hon. C.J. SUMNER: That is true. I do not believe that we should require a referendum to extend the term of the House of Assembly: that should be left to the Parliament. If a Government of the day wants to refer a matter to a referendum I am sure that that could still be done, and it may be advisable, but let us not entrench in the Constitution Act a referendum for the extension of a term for the House of Assembly.

The Hon. K.T. GRIFFIN: I indicated earlier that, provided that it dealt only with the extension beyond the four years, give or take a few months and provided that it did not relate to reductions in terms, I was reasonably attracted to what the Hon. Mr DeGaris had to say. His amendment now seeks to deal only with extensions beyond the four year terms that we are talking about, and that seems reasonable.

I do not think that this entrenches anything. Under section 10a, which is the entrenching provision, one cannot amend sections 8 and 41, any provision of section 10a or the powers of the Legislative Council, or seek to abolish the Legislative

Council or the House of Assembly, unless there is a referendum. This Bill, in new section 28, provides that there should be a referendum, but, as I understand it, that can be repealed by a simple amendment to the Constitution Act, passed with a constitutional majority. So, it is not entrenching it in the sense that it cannot be repealed without a referendum. It merely provides that if one seeks to extend the term one goes to a referendum. But, if a Government decides that it wants to extend the term without going to a referendum, it merely brings up a Bill that will repeal that section. That is my understanding of it.

The amendment itself does not have to go to a referendum. The Opposition is not proposing that the Bill as a whole goes to a referendum. If there is advice indicating that I am wrong and that the inclusion of this amendment would mean that the Bill has to go to a referendum, we would not support it, but that is not the position as I understand it.

The Hon. C.J. SUMNER: I do not believe that if the amendment is in the Bill it means that the Bill would have to go to a referendum. However, I do believe that this subsection is being entrenched into the Constitution.

The Hon. R.C. DeGaris: It's not.

The Hon. C.J. SUMNER: That is not correct. It provides specifically that this subsection cannot be repealed or amended unless submitted to the Governor for Her Majesty's assent, and unless it has been approved by a majority of electors voting at a referendum. That is entrenchment of this provision. It would not be permissible for a simple amending Bill to be introduced to delete subsection (2).

The Hon. R.C. DeGaris interjecting:

The Hon. C.J. SUMNER: I do not believe the honourable member is correct. We could amend section 10a of the Constitution Act on that basis. Perhaps, that is what we ought to do.

The Hon. R.C. DeGaris: The Minister should read the rest of section 10a first.

The Hon. C.J. SUMNER: Section 10a provides that there cannot be any amendment or alteration of the powers of the assembly or any amendment to section 10a itself unless there is a referendum. The amendment says that there cannot be any alteration to the subsection unless there is a referendum. Section 10a and this proposed subsection are in the same terms in regard to entrenchment. If section 10a is entrenched, as we have assumed, then so would be this subsection. The honourable member may have some argument about it and there may always be argument about the manner and form requirements which impose a referendum requirement to change our Constitution Acts but Trethowan's case was that one could entrench provisions that required a referendum to be amended. The honourable member is effectively entrenching the proposed subsection that he has moved to insert.

The Hon. R.C. DeGARIS: The argument does not matter much in regard to entrenchment. That does not worry me much. I am concerned that, if the term of Parliament is extended beyond the 4½ years that we have granted in this change, then that should be referred to the electors for their approval. It is justified and reasonable that one should request that, if there is an extension of the term beyond that, it should go to the people for approval. The objection raised originally by the Hon. Mr Griffin was that it could not be reduced. It can be reduced. It is only the extension of term for which a referendum would be required. I do not want to argue the question about whether it is as entrenched as the provisions in section 10a, because they are much more deeply entrenched than is this provision. I still hold to the point that, if the Parliament wants to extend the term beyond 4½ years, the matter should be referred to the electors for their approval.

The Hon. K.T. GRIFFIN: The hour is late, but this is a particularly complex question. I have sought further advice and I am informed that the provisions of this subsection in fact entrench it in the Constitution Act because the technique that is used is at least similar to that in section 10a. Therefore, I have some reservation about that. I am attracted to the principle of requiring a referendum for the extension of the term of the House of Assembly, but that is really as far as I can take it at this stage.

The Hon. I. GILFILLAN: We will support the Government in this matter.

Amendment negatived.

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

Page 4, lines 15 to 25—Leave out section 28a and insert new section as follows:

28a. (1) The House of Assembly shall not be dissolved by the Governor before the expiration of three years from the day on which it first met for the dispatch of business after a general election unless—

(a) a motion of no confidence in the Government is passed in the House of Assembly;

(b) a motion of confidence in the Government is defeated in the House of Assembly;

(c) a Bill of special importance passed by the House of Assembly is rejected by the Legislative Council; or

(d) the Governor is acting in pursuance of section 41.

(2) The Governor shall not dissolve the House of Assembly under subsection (1) *(c)* on the ground of the rejection by the Legislative Council of a Bill of special importance passed by the House of Assembly if more than one month has elapsed since the rejection of the Bill by the Legislative Council.

(3) Where a Bill of special importance is passed by the House of Assembly, the Speaker shall certify in the message transmitting the Bill to the Legislative Council that the Bill is such a Bill and that certification shall be conclusive for all purposes and may not be questioned.

(4) For the purposes of this section, a Bill of special importance shall be deemed to have been rejected by the Legislative Council if—

(a) the Bill is deafeated on a vote taken in the Legislative Council;

(b) the Bill has not been passed by the Legislative Council at the expiration of two months from the date of the transmission of the Bill to the Legislative Council;

(c) the Bill is passed by the Legislative Council with an amendment or suggested amendment to which the House of Assembly disagrees and the differences between the Houses are not resolved within one month after the passing of the Bill by the Legislative Council.

(5) In this section—'Bill of special importance' means a Bill declared by resolution of the House of Assembly, passed before, or immediately after, the third reading of the Bill in the House of Assembly, to be a Bill of special importance.

I outlined in some detail in the second reading stage the reasons for this amendment, and I will briefly summarise them. First, the amendment sets out the only grounds for dissolution in the first three years of the Parliament. It includes the fact that a motion of confidence in the Government may be lost and therefore give cause to the Premier to advise an election. It overcomes the toing and froing difficulties alluded to by the Hon. Mr Griffin. There is no mention of failure to form an alternative Government, and in that respect this amendment is similar to the provision that applies in Victoria. It also overcomes the problems, which were again alluded to by the Hon. Mr Griffin, regarding possible conflicts between the Houses.

The 'Bill of special importance' procedure will enable the House of the Government to put the House of Review on notice that a measure of importance cannot be dealt with with impunity and that rejection of a Bill of this type may be attended by political consequences. The Government has only one month to determine its position and to advise the Governor on dissolution. This limitation period would ensure proper decision making one way or another. Generally, the amendment improves the drafting of this important measure and clarifies the grounds for dissolution in the first three years of a Parliament by referring to a motion of no con-

fidence in the Government being passed in the House of Assembly, a motion of confidence in the Government being defeated in the House of Assembly, and a Bill of special importance passed by the House of Assembly being rejected by the Legislative Council and the Governor's acting in pursuance of section 41 (that is, the double dissolution provision).

In the fourth year, especially reading this in conjunction with section 16 of the Constitution Act, the present largely unrestricted powers to advise a dissolution apply. I indicate again that there is nothing in these amendments and nothing in the Bill as first introduced that is calculated to affect the Governor's reserve powers, whatever they might be, except in so far as those reserve powers are referred to in new section 28a.

I will not labour the point, which I canvassed in my second reading reply, that this new proposition coming forward from the Government does overcome the problems that the Hon. Mr Griffin foreshadowed. It picks up what is happening in Victoria and makes our Bill more in line with that State's Bill. It is a reasonable compromise on the different points of view about this Bill. I reject the Hon. Mr Gilfillan's outburst in which he indicated that this was not a proposal for fixed terms. It is not a proposal for absolute fixed terms. That was not in the Government's Bill when it was introduced.

An honourable member: Flexible.

The Hon. C.J. SUMNER: Yes, but it is a fixed term proposition, in that it places very severe constraints on a Government going to an election prior to the expiration of a three year period. Those constraints will now be set out in the Constitution Act. It is not true to say that it does nothing or that it is not a modified or flexible fixed term proposition: it is.

The Hon. I. GILFILLAN: The Democrats will support the Government in these amendments because, as I said, the Bill is only a pretence at fixed terms. It is the wish of the Government to have these details in it. While we have this clause relating to a Bill of special importance, it is so flagrantly open to manipulation by a Government that wants to have an election that it has no substance in relation to fixed terms. The only attempt at a fixed term is to put in some words and some palaver so that there is some moral obligation on a Government to resist the temptation of going to an election within the first three year period. However, even if the Government had control of this House, it would be so easy for a Government which decided that it wanted to go to an early election to arrange for this so-called Bill of special importance to go through the farce of being defeated and away we would go.

The Hon. Diana Laidlaw interjecting:

The Hon. I. GILFILLAN: They may not understand it because it is not always easy to get people to listen intently to these things. We intend to support the Attorney-General's amendment to clause 28a.

The Hon. K.T. GRIFFIN: As the Attorney-General indicated in his reply, during my second reading speech I pointed out what I regarded as a number of deficiencies with the proposal that he introduced. One related to drafting: it could have been interpreted that not only could a Government not go before the expiration of three years but also that it was bound by that three year term and the various exceptions to that three years were limiting the options in the fourth year, because, as the Government originally proposed, it was to fix the first three years, provide exceptions to the three years, and leave the fourth year to be treated as it is now, with a wide discretion in the Premier of the day to seek an early election from the Governor.

The drafting has been very much tidied up in the new section before us. My next difficulty was with the proposition that an exception to the three year fixed period was the loss of a vote of confidence in the House of Assembly and no alternative Government being formed within seven days.

I think that that could have created quite severe constitutional difficulties and could have limited the capacity of the Governor to resolve the loss of confidence in the House of Assembly by referring the matter to the people. I need not canvass in detail all of the possibilities which could occur in that event. The Government amendment proposes that the mere loss of a motion of confidence or the passage of a motion of no confidence in the Government in the House of Assembly, without any reference to the formation of an alternative Government within seven days, certainly overcomes the problem to which I have referred. So, there are two areas of improvement on the Government's original Bill.

The next improvement is the procedure for Bills of special importance, which are Bills declared by the House of Assembly before or immediately after the third reading of any Bill has passed in the House of Assembly and the Bill is then rejected in the Legislative Council or amended and remains unresolved for a period of time or is delayed in the Legislative Council for a period of more than two months. It is correct that any Bill can be declared a Bill of special importance. I suggest that in ordinary practice there would not be extensive use of Bills of special importance. In times of crisis perhaps a Government would use Bills of special importance to place added pressure on a Legislative Council, whether or not it had control of the Legislative Council, and thereby obtain an earlier election.

The Bills of special importance procedure is different from that which is in the Victorian Constitution Act, which really has two stages: the first rejection and then a subsequent rejection not less than four months nor more than eight months after the first rejection. However, I am happy to go along with the Government's proposition because I think that it provides a better level of flexibility which should be recognised. Of course, there is then the double dissolution under section 41 of the Constitution Act, and that is retained. While this proposed section is a significant improvement, I do not think it deals with several issues: one is the instance where perhaps there is an Independent member who holds the balance of power in the House of Assembly and who does not support the Government's legislative programme but will not support a vote of no confidence or will not contribute to the defeat of a confidence vote in the House of Assembly. In those circumstances it is difficult for a Government which may in ordinary circumstances then seek an early election from a Governor on the basis that an election is necessary to resolve a problem of that sort in the House of Assembly. That does not in any way involve the Legislative Council. It may be also that there is a coalition Government which is breaking up but the Government itself cannot successfully obtain a vote of no confidence in itself in the House of Assembly.

Although a Government may be able to engineer the loss of a confidence motion or the carriage of a no-confidence motion, it would be a fairly drastic step for a Government to take although, as I pointed out during the second reading debate, that occurred on two occasions in the 1980s in West Germany where a Chancellor was able to engineer the loss of a confidence vote in the Lower House of the Federal Republic of West Germany.

Of course, this still does not address the question of Supply, but I accept that the Attorney-General is anxious to avoid any debate on that matter, and the use of a 'Bills of special importance' mechanism is probably the appropriate way for the Attorney to avoid a debate on the substantive question of whether or not the Council has the power to reject Supply. I say categorically that it does, and, although

it has never been used in the past, and most likely will not be used in the future, the Council does have that power.

I would have preferred my alternative wording, which would have allowed a Government to seek from the Governor an early election where, in the opinion of the Governor, it was necessary in the public interest to call such an election in order to resolve a crisis of Government or matters of grave public concern. I think that would encompass all possible constitutional difficulties. I can accept that the provision is broad, but, as I have said, I prefer it. However, recognising that the Government will have the support of the majority of those in the Council for its amendment, I indicate that for that reason the Opposition supports that amendment.

The Hon. R.I. LUCAS: As the Hon. Mr Sumner has indicated, the amendment is a result of a compromise that was reached, and as is often the case with compromises evidently there has been a significant change in approach of both opposing views, as outlined during the second reading stage. Previously I referred to what I see as problems with the compromise in that virtually any Bill can be deemed to be a Bill of special importance and can simply be called that by the Government of the day.

For instance, had the Electoral Bill that we are currently debating been introduced into the Assembly it could well have been deemed to be a Bill of special importance by the Government, and, if it was knocked out at the third reading quite soon after the defeat of the Electoral Bill, the Government could go to an election about two months later on the basis of the defeat of that Bill. Therefore, it would be a relatively simple procedure for the Government of the day to precipitate an election if it wished to do so.

I also indicate that I had some concerns with the phraseology of the Hon. Mr Griffin's amendment, in particular in relation to the breadth of it, with such phrases as 'necessary in the public interest', and 'matters of grave public concern'—those being 'in the opinion of the Governor'. It was argued that that could take into account matters such as a Government sacking a Police Commissioner and assorted other things which in the opinion of the Governor of the day might constitute matters of grave public concern, on which basis an election could be held. I certainly was concerned at the breadth of that proposal.

Those sorts of concern would not, under this particular compromise, bring about an early election because basically we are talking in terms of something happening in the Parliament with respect to a Bill of special importance. Therefore, those sorts of non-Parliamentary possibilities are not covered by the particular compromise and that is one good reason for supporting the compromise that is there. During my second reading speech I looked at the provisions accepted in Victoria and suggested them as a possible compromise. I certainly would have preferred the Victorian provisions because I believe they place a slightly greater brake on the Government of the day in trying to bring about an early election.

The Hon. C.J. Sumner: How?

The Hon. R.I. LUCAS: Let us say that the Electoral Bill was introduced. Under the Victorian system before the Government could gets its election on the Electoral Bill it would have to go for a considerably longer period. I do not know whether the Attorney-General challenges that interpretation. Under the Victorian legislation it has to be introduced in the Assembly, go to the Council, get knocked back, then go back to the Assembly and at that second stage the Assembly then deems it to be a Bill of special importance. Therefore, one is, in effect, talking about a double passage through the Parliament whereas we are talking, with the Government's version of the Victorian proposals, about just one passage. Under the Government's proposal you just deem the Electoral Bill to be a Bill of special importance, it is shunted through the Assembly and that can be done in the space of a day or two.

It is then moved to the Council and the Council has up to two months, in effect, to do something with it. Then, if nothing has occurred, the Government is in a position after some two months to bring on an election. The compromise worked out in this area is not as good as the Victorian provision because it gives the Government of the day a greater advantage under the terms of this compromise. I have some concern about aspects of the compromise that has been worked out, but the numbers in the Council are there to ensure its passage through this Chamber.

The Hon. R.C. DeGARIS: I would have preferred to support the amendment filed by the Hon. Trevor Griffin. Nevertheless, I would like to ask a question or two of the Attorney-General. In relation to the drafting of section 28 *(a)*, I notice that it says, 'a motion of no confidence in the Government is passed by the House of Assembly' and 'a motion of confidence in the Government is defeated in the House of Assembly'. The word 'Government' is mentioned twice. I do not know whether that word appears in the Constitution Act, but I do not think it does. In fact, I do not think it appears in the Federal Constitution, either. I wonder what the word 'Government' really means and whether we are right in drafting a constitutional amendment referring to 'Government' in relation to our State Constitution Act. I am still opposed to the Bill as it stands, mainly because no-one knows what the dashed thing means, anyway.

The Hon. C.J. SUMNER: The point raised by the honourable member is not valid. It may have been possible to formulate in some alternative way, but the legislation, surprisingly enough, occasionally imports notions of common sense. I would have thought that people would know what the Government is. I certainly know what the Government is; I am sure that the Hon. Mr DeGaris knows; the Hon. Mr Lucas, being a keen student of these matters, would know. I do not believe that anyone would be under any misapprehension as to what the Government was. The Government is the Premier and Ministers, sworn in to be the executive arm of the constitutional system.

In any event, to put the honourable member out of his misery, quick research has been done by the officers. Parliamentary Counsel have drawn to my attention section 51 of the Constitution Act where the Government is referred to on many occasions. That deals with the exemptions to disqualification of persons holding contracts for the Public Service. It is not that the Government is not mentioned in the Constitution Act. In any event, 'Government' is a word that is commonly understood in the Parliamentary system that we have. I do not believe that there will be any ambiguity about what is meant.

The Hon. R.I. LUCAS: How does a Bill become a Bill of special importance when it is introduced in the Council? I take it that it cannot?

The Hon. C.J. Sumner: No. It does not.

The Hon. R.I. LUCAS: It does not at all. The Minister's Electoral Bill, for example, would have to be introduced in the House of Assembly by the Premier and debated down there by the non-experts before it came up here.

The Hon. C.J. SUMNER: I do not think that there is any doubt about that.

The Hon. R.I. Lucas: You introduce more than half the legislation up here, anyway.

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

The Hon. Diana Laidlaw: And they are all important.

The Hon. C.J. SUMNER: They are all important.

Members interjecting:

The CHAIRMAN: I would prefer someone to say something about this amendment now.

The Hon. C.J. SUMNER: I am responding to the Hon. Mr Lucas's question. What he says is correct: a Bill of special importance would have to originate in the House of Assembly and be declared as such.

The CHAIRMAN: Does the Hon. Mr Griffin wish to proceed with his amendment?

The Hon. K.T. GRIFFIN: No, Mr President. I would prefer it, but I am prepared to give way to the Attorney-General.

Amendment carried; clause as amended passed.

New clause 2a—'Special provisions as to referendum'—further considered.

The Hon. R.C. DeGARIS: There is now no need to proceed with this new clause.

Title passed.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a third time.

The PRESIDENT: This Bill is of such nature as to require the third reading to be carried by an absolute majority of the whole number of members of the Council. I have counted the Council and there being present an absolute majority of the members I put the question, 'That the Bill be now read a third time.' There being one dissentient voice, there must be a division.

The Council divided on the third reading:

Ayes (17)—The Hons G.L. Bruce, M.B. Cameron, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, L.H. Davis, Peter Dunn, M.S. Feleppa, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, Anne Levy, R.I. Lucas, R.J. Ritson, C.J. Sumner (teller), and Barbara Wiese.

No (1)—The Hon. R.C. DeGaris (teller).

Majority of 16 for the Ayes.

The PRESIDENT: I declare the third reading carried by an absolute majority of the whole number of members of the Council.

Bill passed.

ADJOURNMENT

At 1.33 a.m. the Council adjourned until Tuesday 7 May at 2.15 p.m.