LEGISLATIVE COUNCIL

Wednesday 8 May 1985

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

PETITION: COORONG NATIONAL PARK

A petition signed by 459 residents of South Australia concerning the Coorong National Park and praying that the Council will recognise that the draft management plans of the National Parks and Wildlife officers for closure of all vehicular access tracks and Ocean Beach as vehicular access in the Coorong National Park is an unnecessary restriction upon citizens of Australia enjoying the natural environment was presented by the Hon. M.B. Cameron.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Supreme Court Act, 1935—Report of the Judges of the Supreme Court of South Australia, 1984.

QUESTIONS

SALARY INCREASES

The Hon. M.B. CAMERON: My question on the subject of salary increases is directed to the Attorney-General. Does the Government intend to agree to significant salary rises for senior public servants in line with the rises agreed for the Judiciary?

The Hon. C.J. SUMNER: No.

PATIENT TREATMENT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question in relation to the treatment of a patient at the Modbury Hospital.

Leave granted.

The Hon. J.C. BURDETT: I have been contacted by a Mrs Joan Henderson concerning treatment of her daughter at the Modbury Hospital. In the documentation Mrs Henderson outlines a series of allegations concerning events which took place during the treatment of her daughter at the Modbury Hospital.

Mrs Henderson indicated to me that her daughter was admitted to the hospital on 16 January 1985 with vomitting, headaches, neck ache and double vision. In her written statement Mrs Henderson highlights her dissatisfaction with the treatment received and also with, in my view, the shallow response provided by the Minister of Health. To illustrate the reasons for her concern, I read from Mrs Henderson's statement:

Wednesday 16 January—Admitted to Modbury Hospital with vomiting and headaches, neck ache and double vision. Put on drip for three days until vein rejected it. Intern doctor tried to put drip into the other arm but could not find a vein, so left it out.

Friday 18 January—Base X-rays of stomach done but nothing found.

Saturday 19 January—P.M. Patient in bed next to nurse's station had to be put on cardiac machine. Sister on duty did not know how to use the machine. The lady was still alive the next day.

Sunday 20 January—Still vomitting with severe constant headaches and double vision.

Monday 21 January—Still vomiting with constant severe headaches and double vision. Ward doctor informed me they could not find anything wrong and she would probably go home the next day. I insisted that there must be something wrong and I did not think enough tests had been run. I got quite upset and another intern doctor was sent to talk to me. She wanted to know why I was upset and I told her that nobody had even looked at her head or done anything about the headaches. She said that her eyes would have been checked to see if there was any pressure, but to please me she would examine her again, which she did, and said that there was no sign of pressure. I asked if she would check her ears as she was also having problems with her balance and passing out. The doctor said, 'I'm not really into ears but will have a look.' Negative again.

Tuesday 22 January—Could not even sit up in bed to be sick, so was sick in bed. Sheets and gown were changed but no wash. Because she could not walk to the shower, she did not have a shower or was washed for two days. About noon there was a consultation with doctors and it was decided that she could go home. I was absolutely dumbfounded because every time she even tried to sit up she almost passed out and sometimes did. I made it plain to both doctors that I did not think enough tests had been done and that nothing had been done about the headaches. I was told that the 'base tests had been done and they could not find anything wrong. She could be home getting over this virus or it could be psychological and there are a lot of sick people waiting to get into hospital'. I said that if they thought it was psychological then why not get a psychiatrist to have a look at her? They said that she would be just as well at home.

The statement goes on at some length. Eventually a fortnight after her admission she was diagnosed as having a brain tumour. When Mrs Henderson raised the matter with the Minister of Health she received the following reply:

Dear Mrs Henderson, You will recall that earlier this month you provided me with a copy of a report on the treatment of your daughter [name] at Modbury Hospital. I fully appreciate and reciprocate your anxiety and concern for your daughter and the correct management of her condition.

It is most regrettable that the diagnosis was not established earlier. However, specialist medical staff have advised me that many tumours are elusive, particularly brain tumours in an unexpected age group. I am advised that [name] has made a satisfactory post operative recovery, although her prognosis must be guarded. I understand that the surgeon will be seeing her again in May. Please extend my best wishes to [name] for her continuing satisfactory recovery.

Will the Minister ensure a more thorough investigation of the case referred to by Mrs Henderson in order that similar events, if the claims are proven, do not occur again?

The Hon. J.R. CORNWALL: I am very much aware of the case, as the Hon. Mr Burdett would be aware. The dilemma that confronts me is that to go any further in a written response to the parents of the patient may well be to incur legal liability. I will illustrate quite forcibly the difficulty that I have had in trying to pursue vigorously the question of quality assurance and patient (that is, consumer) protection. As a specific initiative as Minister of Health I established the Patient Information and Advisory Service at about this time last year: it was established at the time that the Adelaide telephone directory was circulated. As a result, the Service is handling a reasonable number of calls, although we are certainly not being overwhelmed by them. However, in cases that required further investigation a senior officer in the Patient Information and Advisory Service began going to hospitals and asking for the medical records of the patients who were complaining. The Commission's insurance underwriters heard about this and immediately let it be known that if that procedure were pursued vigorously our insurance cost was likely to rise by 1 000 per cent.

The fact is that once the Patient Information and Advisory Service takes those medical records they can be subpoenaed by a court, as the Hon. Mr Burdett and the Hon. Mr Griffin would well know. For that reason at this very moment, in

the ongoing evolution of patient protection mechanisms, I have asked that the Ombudsman's office be involved in this matter. The Ombudsman is able to take and read those records without the risk that they would be subpoenaed for any subsequent court action. The unsatisfactory situation that I became aware of immediately I became Minister is that although the number of complaints is relatively small—if one looks at the Royal Adelaide Hospital, for example, where there are around 40 000 inpatients a year and in excess of 300 000 outpatients, the number of complaints that come to my office amount to about two dozen a year—nevertheless, there are *bona fide* complaints that come forward.

Even when it is within my knowledge that there may be (and I am referring to the general question now, rather than the specific case raised by the Hon. Mr Burdett) possible negligence or possible unprofessional conduct I have found myself in a position (as had all the Health Ministers who had come before me, and who had done nothing about it) where to write back in a free and frank manner on the legal advice I was given might well have been to admit liability. Therefore, my dilemma was that, quite clearly, while I wish always to vigorously pursue the case of the patients (and I think I can stand on my record here) all the legal advice is that to do so in certain circumstances could place us in the position of admitting legal liability. In the particular case that the Hon. Mr Burdett has raised, just such a circumstance exists. I cannot comment. It is quite beyond my competence to comment on whether there may be a case involving negligence or unprofessional conduct.

The fact is that the young woman in question had a brain tumour. Also, as related to the Council, she presented with a certain set of symptoms and was misdiagnosed at the Modbury Hospital. The condition was subsequently diagnosed correctly following a CAT scan at the Royal Adelaide Hospital about 10 to 14 days later. Again I am quite unable to say whether that period was crucial as to the eventual successful outcome or otherwise of what was fairly invasive surgery.

I must say that I find the particular case sad and regrettable, but again I am placed in a position where legal constraints do not allow me to express a vigorous opinion as Minister of Health. I can say that, if Mrs Henderson still feels aggrieved, she has two further courses open to her. One is to complain to the Medical Board of South Australia, which is specifically constituted for the purpose of hearing those sorts of complaints, and where the doctors involved in the treatment of Mr Henderson's daughter would be judged by their peers.

The second advice that I would tender to Mrs Henderson is that, if she feels that justice has not been done or has not been seen to be done in this matter, she should certainly seek legal advice. I cannot go beyond that for a variety of reasons. As I explained several times, one reason involves the legal constraints that are upon me in the admission or otherwise of liability, and the other is that it is not within my competence to express a professional opinion on a matter in which I am not qualified.

Certainly, there has been a vigorous internal investigation. I suppose on balance that it is always possible, human nature being what it is, that a misdiagnosis can occur. I am sure that the Hon. Dr Ritson would agree with me that it is impossible to be infallible on 250 000 consecutive occasions. It is a sad case and it is regrettable, but I can only repeat the advice that I gave previously.

Mr A. SAFFRON

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation prior to directing a question to the Attorney-General regarding the National Crime Authority.

Leave granted.

The Hon. K.T. GRIFFIN: I understand that the Attorney-General is the South Australian nominee on the inter-governmental committee which has the responsibility for overseeing the activity of the National Crime Authority. It is on the direction of the inter-governmental committee that certain inquiries may be undertaken by the National Crime Authority. I understand also that several months ago, the inter-governmental committee gave the National Crime Authority a specific reference to investigate Mr Abe Saffron.

The Hon. C.J. Sumner: How do you know that?

The Hon. K.T. GRIFFIN: Well, I am just saying that I understand—

The Hon. C.J. Sumner: How do you know?

The Hon. K.T. GRIFFIN: Well, I understand. Just let me answer.

The Hon. C.J. Sumner: How do you know?

The Hon. K.T. GRIFFIN: Well, you wait and see. I understand that the decision followed a formal submission made to the Commonwealth and the States that outlined the case for an inquiry in relation to Mr Saffron. I understand also that the move for the inquiry was based at least in part on information compiled by the Federal Police showing, among other things, Mr Saffron's links with between 40 and 100 companies, mainly in New South Wales, South Australia and Western Australia.

The name of Mr Saffron has been raised on many occasions. I can remember back in 1978 the former Attorney-General (Hon. Peter Duncan) raising that very issue in this Parliament and alleging that Mr Saffron was a key figure in organised crime in Australia. There was some controversy about that—it reached the headlines obviously—but I do not think the matter was ever resolved.

In raising this matter, I will not seek any specific evidence or basis upon which the inter-governmental committee may have made a reference to the National Crime Authority for an investigation in relation to Mr Saffron, but I do ask the Attorney whether or not he will confirm that he and the South Australian Government have given their approval for a full-scale inquiry by the National Crime Authority into Mr Saffron. If that endorsement and approval has been given, does it involve any alleged activities of Mr Saffron in South Australia?

The Hon. C.J. SUMNER: The irresponsibility of the Opposition knows absolutely no bounds.

The Hon. K.T. Griffin: Rubbish!

The Hon. C.J. SUMNER: Absolutely no bounds. The honourable member has attempted in this Council to expose to the world, including a person who may be under investigation by the National Crime Authority, the name of that person. That is what the honourable member is attempting to do.

The Hon. K.T. Griffin: It has been reported in other States of Australia.

The Hon. C.J. SUMNER: It may well have been reported.

The Hon. K.T. Griffin: It was in the Melbourne *Age*—

The Hon. C.J. SUMNER: It may well have been.

The Hon. K.T. Griffin: I am not disclosing anything that is not known publicly. I am asking whether you will indicate whether you have approved it.

The Hon. C.J. SUMNER: I have no intention of indicating to this Parliament what inquiries, whether into Mr Abe Saffron or otherwise, the National Crime Authority is carrying out. I consider it quite irresponsible for the honourable member to have raised the matter in this Parliament. I

would consider it irresponsible if it has been raised in other forums in Australia because, frankly—

The Hon. K.T. Griffin: It has been raised publicly.

The Hon. C.J. SUMNER: If it has been raised publicly by the media, I say the same thing because, to identify the target of a National Crime Authority investigation is quite irresponsible. That is what the honourable member has sought to do: he has sought to raise in this Parliament and to get me to confirm that there is a National Crime Authority investigation into a particular person. I have no intention of doing that. If the honourable member wishes to get his information elsewhere, if he wishes to approach the Authority, and if it believes that that information should be released, then it should be a matter for the Authority.

If details of some inquiry relating to Mr Saffron have been speculated upon in the media, that is one thing. All I say is that, for the Opposition to raise the matter in Parliament, to identify a person as being the potential target for a National Crime Authority investigation is quite irresponsible. Clearly, if individuals who may be the subject of inquiry and investigation are alerted to that fact, they may be able to take evasive action to cover their tracks, to cease what might be their alleged illegal activity. Apparently, the Hon. Mr Griffin does not seem to mind about that.

The Hon. K.T. Griffin: It's just that it has been made public in the Melbourne *Age* and other newspapers around Australia.

The Hon. C.J. SUMNER: It may well have been made public in the media. I have no intention of confirming or denying that.

The Hon. K.T. Griffin: I asked whether you would.

The Hon. C.J. SUMNER: Yes, but even to raise the matter and identify potentially—

The Hon. K.T. Griffin: Rubbish!

The Hon. C.J. SUMNER: To identify, as the Hon. Mr Griffin has done in this Council and as Mr Olsen has done in another place, is the height of irresponsibility. It now appears to be the case that members opposite will raise questions in this Council about who might or might not be the subject of investigation by the National Crime Authority.

The Hon. L.H. Davis: Didn't Peter Duncan raise it?

The Hon. C.J. SUMNER: There was no question of a National Crime Authority at that stage. Surely the Hon. Mr Griffin should know that, if the National Crime Authority's proceedings are to be effective, some degree of care is required in naming potential targets for National Crime Authority investigation. I believe that the track that the honourable member has gone down, irrespective of media speculation interstate, is not particularly desirable. He continues to espouse and to carry on about the fight against crime, yet he is quite happy to come in here and release the name of a potential—

The Hon. K.T. Griffin: I am not releasing it. It has been done publicly.

The Hon. C.J. SUMNER: Well, the honourable member is attempting to allow allegations about Mr Saffron, another person or people who may be targets of the National Crime Authority to be confirmed or denied in the Parliament, and therefore allowing the particular target to know whether or not they are subject to a National Crime Authority investigation. That is what the honourable member has requested: he has requested the name of a person as a target of investigation by the National Crime Authority.

Make no mistake about that—that is the request that the honourable member has made, and in so far as he has made that request I say that it is the height of irresponsibility, particularly if he has any cause for concern about organised crime in this country. That sort of question will give succour and comfort to organised criminals, because they will know that if the Liberal Party in this State knows or obtains information that might indicate that the National Crime Authority is carrying out an investigation into someone, members of that Party will have no qualms about coming into this Parliament and—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —naming names. If that is the way in which they want to go about fighting organised crime, I will leave it to them. I still believe that it is irresponsible, irrespective of speculation in interstate newspapers, for members opposite to go down that track. If they go down the track of speculating about who might be the target of investigations by the National Crime Authority, I believe that that is the height of irresponsibility, irrespective of what speculation there may be about a particular name.

I think that the public of South Australia should be on notice that this is the sort of behaviour that we expect from this Opposition on the organised crime front. Members opposite will get some indication, whether from the media interstate or from rumour, they will pick up information and bring it into the Parliament and seek information about particular individuals who are the subject of National Crime Authority investigations. I repeat that that is quite irresponsible: it is particularly irresponsible in relation to a former Attorney-General, who should be concerned with upholding law and order in this State and not trying to undermine potential investigations by the National Crime Authority.

The Hon. K.T. Griffin: I am not trying to undermine.

The Hon. C.J. SUMNER: There is no question about it: that is the objective of the exercise.

The Hon. K.T. Griffin: Oh, rubbish!

The Hon. C.J. SUMNER: The Hon. Mr Griffin and Mr Olsen are so irresponsible that they will attempt in this Parliament—

The Hon. C.M. Hill: It's getting worse and worse.

The Hon. C.J. SUMNER: Just a moment—to obtain sensitive information, confirmation or otherwise, about National Crime Authority investigations. That is the tenor of the honourable member's question. Quite frankly, I think it is absolutely out of place. I certainly do not have any intention on my own behalf or on behalf of the intergovernmental committee responsible for the National Crime Authority or on behalf of the National Crime Authority itself of indicating whether or not such a reference has been given. If that information is to be made public, it seems to me that it should be made public by the National Crime Authority itself, and only by that body or possibly by the inter-governmental committee—but probably only by the National Crime Authority, taking into account the operational considerations that it must have with respect to any investigation.

I apply that to any inquiry that the National Crime Authority may be undertaking. I deprecate and will continue to criticise the Opposition if it seeks those names in this Parliament, having heard rumours and having seen press speculation about a particular inquiry. That is what the honourable member is doing: he is seeking the names of the targets of investigation by the National Crime Authority. Absolutely nothing could be more designed and calculated to undermine the authority of the National Crime Authority and the secrecy and effectiveness of its investigations.

TAFE COLLEGE

The Hon. ANNE LEVY: I seek leave to make a statement before asking the Minister of Agriculture, representing the Minister of Education, a question about allegations regarding a TAFE college.

Leave granted.

The Hon. ANNE LEVY: This morning on a radio programme Mr Alan Barron of the Festival of Light cited a case in which he said that 280 individuals applied for a particular course for which there were only 200 places at a technical college in Adelaide. Amongst the 280 applicants there were 30 females who automatically received places, but the 250 males then had to compete through a selection process for the remaining 170 places. When asked for the name of the college at which this occurred he said that he would not name it on air. It seems to me that Mr Barron has a complete misunderstanding of what 'affirmative action' consists of, even presupposing that the unnamed college was applying affirmative action procedures.

The Hon. Diana Laidlaw: Did he name the college off the air?

The Hon. ANNE LEVY: Not to me. Affirmative action does not consist—and it has never been suggested that it would consist—of giving women preference over men regardless of qualifications, experience, pre-requisite, characteristics or results of a selection procedure. Anyone who has read any of the literature on affirmative action would appreciate that. However, that point aside, I suggest that perhaps Mr Barron has not only misunderstood affirmative action but has perhaps embroidered some rumours to turn them into facts.

Can the Minister conduct an investigation to determine at which college (and presumably it is a TAFE college, seeing that we do not have technical colleges under that name any more) the incident could have occurred and which course this incident could have applied to, bearing in mind that it is a course for which there were 200 places and about 280 applicants, of which 30 were female? From these clues I imagine it would not be difficult for the Department (either of Education or of Technical and Further Education) to determine whether indeed such an incident ever occurred.

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

MULTILINGUAL EDUCATION POLICIES

The Hon. C.M. HILL: I seek leave to make a statement before asking the Minister of Ethnic Affairs a question about the Government's multilingual education policies.

Leave granted.

The Hon. C.M. HILL: In this place on 19 March I asked the Minister a question relative to this subject. I indicated that the Government had the Smolicz Report under consideration, that the Government had appointed the Barr committee also to look into the matter, and that Mr Jim Giles from the Education Department had been appointed by that Department as chairman of a committee also to investigate the problems confronting the Government regarding multilingual education. I also indicated that the concerns of the ethnic communities in South Australia were so great that only a day or two before I asked that question a deputation from the ethnic communities had called upon the Premier to express their concerns. From the Minister's reply of 19 March it seemed that that deputation had by-passed the Minister of Ethnic Affairs, because he had no knowledge of that visit. In his reply the Minister indicated basically that the issues had been fed into the system for Budgetary consideration and that that was that for the time being.

The matter has not rested there, and a great deal of unrest continues within the ethnic communities about this subject. That unrest was highlighted by a very long press statement released by the Migrant Womens Lobby Group on 28 April. I do not intend to quote at length from that statement, but it challenges the Government that it is not fulfilling an election promise on multicultural education; it repeats the charge that the Government had established the Smolicz task force in November 1983; it states that the report had been received in May 1984; and it claims that the Government was using delaying tactics rather than adopting its recommendations.

Amongst other things, the release also indicates that a new language information policy had been approved which effectively opposed the task force's recommendations. The release refers to the growing resentment and even aggression in response to the oppression of non-English speaking background students; it refers to community frustration; and it calls upon the Government to take quick and urgent action to meet the situation and to inform the ethnic communities in this State of some real action or policy which would assure the migrant communities that the Government was genuinely concerned about the subject of multilingual education.

In view of that recent press release and other representations that have been made to me by people from ethnic communities during the past week or two, I ask that the Minister inform me of any further decisions which are relevant and which might allay the fears and concerns of those migrant groups who are so vitally interested in this subject, which is very important to them.

The Hon. C.J. SUMNER: The Government has kept its election commitments in this area. As I indicated previously, after the election and following the rundown in language teaching in our schools by the previous Government and the reversal, in effect, from 1979 onwards of the policies of the 1970s with respect to language teaching and multicultural education, the Government acted in 1983 to establish a task force of educationists from the Education Department, chaired by Dr Smolicz of the Adelaide University, and including people from the Ethnic Affairs Commission to investigate multiculturalism and education.

That report was a very wide ranging, comprehensive report. It not only covered matters within the responsibility of the State Government—the Education Department and the Department of Technical and Further Education—but also other areas. The Government then set about assessing, from a budgetary point of view, the recommendations of the report. In retrospect, I think it would have been more desirable had that report also been somewhat more specific in relation to the nature of the funding that would be required and the programming of the introduction of any proposals that it might have. I do not make any particular criticism about that, except to say that perhaps the process could have been speeded up had that occurred, given that the Smolicz Report turned out to be a broad, wide ranging commentary on education in a multicultural society.

It was then a matter for the Government, in conjunction with the Education Department, to assess the recommendations of the report and come up with a concrete plan of action. That is why the so-called Barr steering committee was established. That committee has completed its task. The Minister of Education has announced that a strategy to provide all students with opportunities to learn languages other than English has been set in motion.

The Hon. C.M. Hill: When did he announce that?

The Hon. C.J. SUMNER: He announced that yesterday.

The Hon. C.M. Hill: After the weekend? After the Liberals came out with their policy?

The Hon. C.J. SUMNER: The honourable member is quite confused on that point. In October last year the Minister of Education announced the policy that the Liberal Party apparently discovered last weekend and announced with some fanfare. The Hon. Lynn Arnold, the Minister of Education, was reported in the *News* of 12 December 1984 as saying that 'all schools would offer students at all levels

a second language by the early 1990s'. That was almost five months ago, before the Hon. Mr Hill's stunt or attempt to curry some favour after he and the Hon. Mr Wilson presided over a rundown in multicultural education and language teaching in this State from 1979 to 1982. That is something that is on the record. The Hon. Mr Hill recognises it because he was involved in that attempt to turn the clock back. He knows the effect of the Keeves committee of inquiry set up by his Government from 1979 to 1982.

The Hon. C.M. Hill: That is the only thing you can hang your hat on and they are all laughing at you. They are saying that you are going back into history. That is all you are concerned about, history. They want action now.

The Hon. C.J. SUMNER: I hang my hat on the fact that the figures during those years show a decline in language teaching.

The Hon. C.M. Hill: That is why we almost doubled the funds for ethnic school education. We gave them more than you were giving them, and you know it.

The Hon. C.J. SUMNER: The honourable member also knows that following the last election the amount per capita for ethnic schools was increased by $8 by the present Government.

The Hon. C.M. Hill: Yes, that is unquestionable.

The Hon. C.J. SUMNER: The honourable member sits there and nods his head. I am very pleased to know that he agrees with that. In any event, with respect to the honourable member's championing of his own position last weekend, what he does not realise is that the Hon. Lynn Arnold, the Minister of Education, writing in a South Australian *School Post* magazine, which I think came out last October, said that all South Australian schools would offer students at all levels a second language by the early 1990s. The statement made yesterday by the Minister of Education, if the Hon. Mr Hill would like to know it in detail, was as follows:

A strategy to provide all students with opportunities to learn languages other than English—

The Hon. C.M. Hill: I didn't think the media had taken any notice of it.

The Hon. C.J. SUMNER: The honourable member has not read the papers. I am not sure what his preference is in newspapers, if he has any. My recollection is that had he read the *News* yesterday he would have seen a report of the statement I am now about to advise him of, as follows:

A strategy to provide all students with opportunities to learn languages other than English was set in motion today by the Minister of Education, Lynn Arnold. 'In an article in the *School Post* last October I stated that it was my hope that South Australian schools, by the early 1990s, would be able to offer students at all levels the opportunity to learn another language,' he said.

That was in October last year. The statement continues:

'Now, after necessary consultation with educational and ethnic groups, I can say it will happen.' Mr Arnold said it was pleasing that the Opposition, which announced its policy over the weekend, had endorsed the idea of providing second language opportunities.

Somewhat belatedly, I might add, after having done their best to run down language teaching in our schools. The statement continues:

'But rather than announce a general statement we are prepared to name the time by which our policy will be implemented along with details as to how it will be accomplished,' he said. 'We have set a deadline of 1995 and over the next 10 years multiculturalism will be a major Education Department curriculum activity.'

The Department's languages policy document states that it will do its best to ensure continuity of staffing for language programmes, and this has been strengthened by the Government's statement that it is committed to ensuring teachers are available. Mr Arnold said the policy had both social and educational merits, because a greater understanding of our multicultural society and better communication skills would result. Latest statistics showed that in South Australian primary schools seven languages were being taught to 15 608 primary students, representing under 12 per cent of the total enrolment of 132 600.

Last year at the secondary level 17 languages were being taught in 110 secondary schools, reaching 28 018 students, representing 27.5 per cent of the total of 81 296 high school students. 'This puts us ahead of the national average but still very far from the correct situation for a multicultural society,' Mr Arnold said.

It is interesting to note that the Hon. Lynn Arnold indicated in his previous article that some 40 per cent of South Australian schools taught one or more foreign languages compared to the national average of 27 per cent.

As a result of activities during the 1970s there was an increase in language teaching in South Australian schools that levelled off from 1979 to 1982. The Government is now, following commitments it made during the last election (and following proper inquiry and assessment of the situation), reaffirming its commitments of the 1970s and enhancing them in the manner that I have just outlined.

CHARLES STURT MEMORIAL MUSEUM TRUST

The Hon. K.L. MILNE: I seek leave to make a brief statement before asking the Minister of Health, representing the Minister for Environment and Planning, some questions about the Charles Sturt Memorial Museum Trust.

Leave granted.

The Hon. K.L. MILNE: In November 1983 the Charles Sturt Memorial Museum Trust applied for a CEP grant for a coach-house development. The application was successful and a grant of $250 000 was offered, provided the project was substantially started by 31 May 1985. In January 1984 the Trust was told that the land required was no longer wanted by the STA and that in all probability it would be given to Sturt House gratis. On 27 January the Trust sent a letter to the STA requesting written confirmation of its offer. On 22 February a letter was received from the STA outlining its inability to amend present lease arrangements. That change of heart followed Henley and Grange council intervention. In March, April and May 1984 there were numerous telephone conversations with representatives of the State Transport Authority and officers of the Department of Transport and the Department for the Environment and Planning in relation to this matter. There was no action.

In July a Ministerial meeting was held in relation to this matter (I am told probably a Cabinet meeeting) but no advice was received about the outcome of that meeting. In July or August 1984 the Trust was told that there was a letter from the Department of Transport relating to this matter on the Minister's desk awaiting his signature and in the Trust's favour. That letter never arrived. On 31 August a letter from the STA enclosing forms for a contract for a consideration of $65 000 for transferring the land was received—the same land that was to be gratis before.

In September 1984 further approaches were made directly to the Minister through Mr Don Ferguson, M.P., the local member. On 11 September the Minister of Transport wrote to Mr Ferguson stating that the land was to be transferred without financial consideration. A few days later a letter arrived from the STA confirming the renewed offer of transfer gratis. On 6 September the Trust received a letter from the E&WS Department regarding an easement through the land and offering compensation. On 27 September the Trust received a letter from the STA enclosing a plan of division and a Form 9 to facilitate the transfer.

In October a letter was received from the STA saying that the plan had been registered and was in the hands of the Crown Solicitor's office. Since October 1984 there have been a number of phone calls made to two officers in the Crown Solicitor's office, but no title has arrived. The latest information available is that the land is not being transferred as above, but it will be via the Department for Environment

and Planning. The Trust has had no official communication about this matter, only a verbal assurance that the transfer will take place in another six months from February 1984.

On 4 December 1984 a letter was sent to the E&WS Department by the Trust granting an easement. On 1 February this year a letter was received from the E&WS Department disclaiming responsibility for compensation for the easement over the land to be transferred. There has been no correspondence with any department since 1 February 1985. This is an 18 month saga of a transfer of land that has not yet happened. The Sturt Trust is afraid that the offer of a CEP grant of $250 000, which expires on 31 May 1985 (this month), will be lost through no fault of its own. The Trust acknowledges that the causes for delay may not all be on one side. However, the organisations concerned have included the State Transport Authority, Federal Government, Henley and Grange council, Department of Transport, Department for Environment and Planning, and the Crown Solicitor's office.

My questions are as follows:

1. The transfer of a corridor of land to the Charles Sturt Memorial Museum Trust Incorporated is obviously intended by the Government, so will the Minister for Environment and Planning investigate the cause of delay in this matter?

2. Will the Minister confirm to the Trust that the land will, in fact, be transferred to it, and when?

3. If the time for receiving the CEP grant of $250 000 expires, will the Minister support the Trust in making an application for a further CEP grant?

4. Will the Minister be kind enough to visit the Sturt Cottage Museum in the near future to see the progress that has been made and is being made by the Charles Sturt Memorial Museum Trust with great co-operation and help from the Henley and Grange council?

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

REPLIES TO QUESTIONS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about replies to questions.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday there were at least eight or nine Questions on Notice that the Government was unable to provide answers for. I have asked a number of questions, one on 28 February, some 10 weeks ago, relating to International Youth Year. The question was asked of the Minister of Labour, who I appreciate has been ill and has taken leave. However, the people on whose behalf I asked those questions did not anticipate that it would take 10 weeks for them to be answered, or that the Department would stop processing Parliamentary work. I am keen that this answer is supplied expeditiously and ask that the Attorney help in having this request accommodated.

The Hon. C.J. SUMNER: I apologise to the honourable member and other honourable members opposite. Unfortunately, the people responsible for preparing answers to questions got into bad habits from 1979 to 1982 and we have not yet been able to retrain them sufficiently to ensure that all questions are answered as expeditiously as I am sure honourable members would like. However, I will certainly do what I can to satisfy the Hon. Miss Laidlaw in respect to this matter.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

Standing Orders having been suspended, the **Hon. J.R. CORNWALL (Minister of Health)** obtained leave and introduced a Bill for an Act to amend the South Australian Health Commission Act, 1976. Read a first time.

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

That this Bill be now read a second time.

The object of this small Bill is to allay doubts that conciliation committees under the Industrial Conciliation and Arbitration Act have jurisdiction to make awards in relation to Health Commission employees and incorporated hospital and health centre employees. The principal Act makes it quite clear that the Industrial Court and Industrial Commission have jurisdiction in respect of those employees, but no specific mention of conciliation committees is made. The Bill seeks to remedy this perceived problem.

Clause 1 is formal. Clause 2 amends section 60 by inserting references to conciliation committees in all relevant places.

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

QUESTION ON NOTICE

YOUTH POLICY DISCUSSION PAPER

The Hon. DIANA LAIDLAW (on notice) asked the Attorney-General: Recognising the widespread concern that the Government failed to take sufficient steps to inform people of the existence of a Youth Policy Discussion Paper released last year—

1. How many copies were published and to whom were copies forwarded?

2. What steps did the Government take to inform the general public and community groups that it sought feedback on the discussion paper?

3. When is the Government proposing to release the final policy paper?

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

1. 1 000 copies were printed for circulation. The Youth Bureau in the Department of Labour distributed the document to State Government departments, instrumentalities and authorities, local government authorities, and to relevant Commonwealth departments. The Youth Affairs Council of South Australia co-ordinated the distribution of the discussion paper to non-government sector organisations involved in youth affairs, youth workers, and other groups associated with the Youth Affairs Council of South Australia's network. In addition, both organisations responded to additional requests for copies of the document.

2. Community and Government authorities were encouraged to respond to the discussion paper in a letter of transmittal printed at the beginning of the document and in a covering letter sent with each copy of the discussion paper. The period of consultation was extended by six weeks to enable as many groups and individuals as possible to respond.

3. A decision concerning the release of the final policy paper will not be made until Cabinet has had the opportunity to consider the document in its totality.

SELECT COMMITTEE ON KANGAROO ISLAND TRANSPORT

Adjourned debate on motion of Hon. K.L. Milne:

1. That a Select Committee be apponted to inquire into and report upon—

(a) sea transport to and from Kangaroo Island with special consideration regarding the operation of the MV *Troubridge* and any future vessels; and

(b) alternative transport schemes with particular reference to the inequalities of the operational cost recovery policy and its effect on the Island's economy and people.

2. That in the event of a Select Committee being appointed, it consist of six members and that the quorum of members necessary to be present at all meetings of the Committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the Select Committee to have a deliberative vote only.

3. That this Coucnil permits the Select Committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the Committee prior to such evidence being reported to the Council.

(Continued from 27 February. Page 2886.)

The Hon. I. GILFILLAN: The question of transport to Kangaroo Island is a vital issue particularly to those who reside on Kangaroo Island and struggle to make a living in many cases in the rural community. It is vital that they have a reasonable form of transport, particularly for commercial produce. For the vast majority of goods, equipment, fertiliser and livestock, the *Troubridge* or the *Troubridge* replacement is the only means of transporting those materials to the Island, and the vast majority of any saleable produce from the Island must go to its market on the *Troubridge* or the *Troubridge* replacement.

It is so essential that the replacement provisions for the *Troubridge* cannot be left to just the convenience of the occasion, the political pressure of the year or for the whims of certain vested interests who may have an upper hand at any particular time of negotiation. Obviously passenger and car movement is significant for the tourist industry on the Island, that, to a degree, has involved the *Troubridge* in the past. However, with the advent of the *Philanderer III*, there has been a marked transfer of the tourist movement of motor vehicles to that vessel and therefore the demand for the *Troubridge* replacement as a major tourist passenger and passenger car transporter is considerably less.

There are copious competitive air services for tourists to the Island and there are other small craft carrying passengers to Kangaroo Island as well as *Philanderer III*. The decision made on the replacement will affect the viability of the rural sector on Kangaroo Island for generations to come. It is therefore essential that it is assessed by the sort of scrutiny and independent objectivity that Legislative Council Select Committees can give to any question that is referred to them.

I consider that this is a classic case where the to-ing and fro-ing, the if-ing and but-ing and the proposal following proposal has left vague uncertainty in the minds of the unfortunate Kangaroo Island farmers who will depend so dramatically on the result of the decision. This must stop and the motion of my colleague the Hon. Lance Milne for the appointment of a Select Committee is the most appropriate step to take so that the decision, when it is made finally, can be based on the best information, statistics and advice that can be brought forward. I support the motion.

The Hon. PETER DUNN: I oppose the establishment of a Select Committee at this stage. Significant gains were made while the Hon. Mr Milne was away cavorting in Europe: he missed the boat. The Hon. Mr Milne was not here when the negotiations were taking place, and the Government in its wisdom has seen fit to reduce the charges proposed and reduce them to the level applying before December. It has also promised not to increase charges until 30 June and then only at the CPI rate. Effectively, this means that there will not be any increase until September.

The Hon. M.B. Cameron: That is totally different from what was planned.

The Hon. PETER DUNN: Yes, that is true. Significant gains have been made, and that is all to the credit of the Government and, more particularly, to the benefit of those people on Kangaroo Island and Port Lincoln who use this boat. The Government has also promised a Select Committee prior to the launching of the new vessel—and this is the time to do it. The vessel will be changed because the requirements have been changed.

As the Hon. Mr Gilfillan pointed out, Kangaroo Island is well served with aircraft, and there is a reduced requirement for passenger accommodation on the boat. Indeed, I understand that the passenger accommodation requirements incurred a significant cost because of the need for stewards to service passengers. The situation is well in hand and there is not the requirement for a Select Committee at this stage. In fact, a Select Committee will be established further down the line, as I indicated, prior to the launching of the new vessel. I do not believe that a Select Committee is required now, and I therefore oppose the motion.

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

ROAD TRAFFIC ACT AMENDMENT BILL

Orders of the Day: Private Business, No. 13.

The Hon. M.B. CAMERON (Leader of the Opposition): I move:

That this Order of the Day be discharged.

Motion carried.

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

That this Bill be withdrawn.

Motion carried.

ROAD TRAFFIC ACT AMENDMENT BILL (1985)

Standing Orders having been suspended, the **Hon. M.B. CAMERON (Leader of the Opposition)** obtained leave and introduced a Bill for an Act to amend the Road Traffic Act, 1961. Read a first time.

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

That this Bill be now read a second time.

Honourable members will be aware that I have previously given a second reading speech on this issue. However, I am pleased to say that since then the Minister of Transport has indicated his support for this measure.

The Hon. Frank Blevins: Hear, hear!

The Hon. M.B. CAMERON: I know that the Minister of Agriculture and other honourable members are pleased that this issue is finally to be resolved.

The Hon. Frank Blevins: He is a very reasonable man.

The Hon. M.B. CAMERON: Yes, in this matter he has been a very reasonable Minister indeed. I am most impressed that he has given this matter some support. At the time of the introduction of the Bill a couple of matters were unfortunately left out, and I will not now go into detail about how that occurred. The Minister indicated that a couple of issues needed alteration, so there has been some conference and those issues have been resolved. The Bill now is in a form that I anticipate will be acceptable. Although there may still be some minor changes, I doubt it. The issue will

now finally be resolved and people will be required to use the left lane, except when overtaking, on a divided road.

A slight change covers the Main South Road so that only the right hand lane will be affected. In other words, when there are more than two lanes not all traffic will move to the left lane as it will only have to keep clear the extreme right hand lane. I hope that that has resolved some problems that may have arisen. I look forward to the Government's support, and I ask that the matter now be expedited so that by the end of the session this Bill will have been passed by both Houses and completed once and for all.

The Hon. G.L. BRUCE secured the adjournment of the debate.

ENERGY

Adjourned debate on the motion of the Hon. K.L. Milne.

1. That a Select Committee be appointed to inquire into and report upon—
   - *(a)* the current contractual agreements for the pricing of Cooper Basin gas sold to South Australia and New South Wales;
   - *(b)* the desirability of establishing a single price formula giving rise to the same well head price for gas sold ex Moomba to South Australia and New South Wales;
   - *(c)* the role for Government action in the event of large price increases which are relevant to economic stability and growth in the State;
   - *(d)* the determination of a price formula that adequately protects the Electricity Trust of South Australia, the South Australian Gas Company and other major gas consuming industries, present and future;
   - *(e)* the Cooper Basin (Ratification) Act, 1975, which covers the endorsement of the rights of the producers to enter into sales contracts and to report on the continuing obligations of the Government to preserve the agreements for the sale of natural gas endorsed by the Act;
   - *(f)* the impact of Commonwealth powers over gas supplies and sales, natural gas being a petroleum product;
   - *(g)* alternative sources of energy and methods of conserving energy; and
   - *(h)* any other related matters.
2. That in the event of a Select Committee being appointed, it consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the Select Committee to have a deliberative vote only.
3. That this Council permits the Select Committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 14 November. Page 1836.)

The Hon. I. GILFILLAN: I support the motion. It is becoming painfully clear that the wrestling with various Governments for a satisfactory price for gas for South Australian consumers is an agonising process in which, in general terms, South Australian residents come well down the list compared to residents in New South Wales, Victoria and other States. It is not an easy situation to resolve, and many South Australians are nervous that we have got ourselves into a situation where virtually 70 per cent of the raw resource for energy production in South Australia comes from one source. We have a convoluted mix of entities involved in providing that gas supply, including Santos and other producers, South Australian Pipelines Authority, Esso Oil and Gas Corporation, ETSA, SAGASCO and the Government itself.

This matter is far too important to be left to someone just to sift out, to see who comes up top dog. As the representatives of the people of South Australia, we should ensure that their interests are paramount. The fact that we are paying more for our own raw product in comparison with the cost to the New South Wales Gaslight Company is, in any terms, a scandal. It means that South Australia is less than competitive on a base criterion; we are constantly struggling to retain a competitive base with the Eastern States, but we have been manoeuvred into a situation where we are significantly behind. There are conflicts of interest involved. Termination of the contract for gas production is imminent—in 1987—so we must take action now.

It is interesting to note that one of the terms of reference encourages investigation of alternative sources of energy and methods of conserving energy. A Select Committee with this term of reference would be very profitably directed towards considering far wider use of renewable energy sources, such as wind, sun and ponds, as well as means of saving energy (which have been very lightly used until now), such as increased use of insulation and other conserving technologies. Therefore, potentially the Select Committee would be very productive in relation to more than just the issue of settling a fair pattern for consumers and producers of gas in the years ahead in South Australia. Thus, with some enthusiasm I support the motion, recognising as I frequently do the excellent work that Select Committees of the Legislative Council do. I cannot imagine any measure that is more important than this matter for South Australia in the years ahead, so I urge the Council to support the motion.

The Hon. M.B. CAMERON secured the adjournment of the debate.

TRANSPLANTATION AND ANATOMY ACT AMENDMENT BILL (1985)

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Transplantation and Anatomy Act, 1983. Read a first time.

The Hon. J.R CORNWALL: I move:

That this Bill be now read a second time.

The purpose of this short Bill is to make it an offence for persons to knowingly make a false declaration as to their suitability to be donors of blood or semen. The Bill is designed to give effect in South Australia to an agreement by all Health Ministers at a conference in December 1984. Honourable members may recall that two conferences of Health Ministers were held towards the end of 1984—one in November and one in December—to discuss strategies for combating the spread of AIDS (Acquired Immune Deficiency Syndrome). The National AIDS Task Force recommended the adoption by States of a uniform declaration form for blood donors and that the declaration be given legislative backing with the imposition of penalties (to be fixed by the States) for signing declarations which are known by the donor to be false.

The declaration form points out that some members of the community must not donate blood because of the risk of transmission of infection to recipients. The form requires intending donors to certify that, to the best of their knowledge, they do not come within specified categories. It includes statements relating to hepatitis and malaria as well as AIDS. States have implemented, or are in the process of implementing, the December conference agreement. This Bill, which includes semen as well as blood, is South Australia's legislative response. I should mention that it is not intended to enshrine the declaration form in regulations. The Blood Transfusion Service in South Australia expressed a strong preference for the form to be adopted administratively, which provides the flexibility to make changes as any further information comes from the task force. The task force in

fact recommended that the form should be kept under review.

I would like to take this opportunity to acknowledge the excellent co-operation that we have had from Adelaide's male homosexual community. It was recognised at Government level and reinforced at last year's meetings of Health Ministers that the spread of AIDS could not be significantly curtailed without the co-operation of the gay community. Because AIDS is, at this time in Western democracies, overwhelmingly a disease of male homosexuals, no preventive programme can be successful without their co-operation. The gay community was also acutely aware of the need to establish dialogue with Government.

In South Australia, discussions were held with representatives of the homosexual community in developing the AIDS stategy endorsed by Cabinet in February. Mechanisms for ongoing discussion between the South Australian Health Commission and the gay community have now been established and are working effectively. Both the AIDS Action Group and the Gay Counselling Service are actively involved in education and awareness programmes aimed at prevention of the disease. Special focus is given to those most at risk. Both organisations have contact with a significant section of the male homosexual community and intend to provide community based support for those with the disease, their family and friends. Their work is carried out in a responsible and sensitive manner. It is complementary to the work carried out by the South Australian Health Commission in dealing with the disease. This legislation has been endorsed by representatives of Adelaide's gay community.

Clause 1 is formal. Clause 2 amends the principal Act by inserting new section 38a. The new section provides in subsection (1) that it is an offence for a donor to knowingly provide false or misleading information in relation to the donation of blood or semen. Penalty $5 000. Subclause (2) provides that 'donor' means a person who donates blood for any use or purpose contemplated by the principal Act, or donates semen for the purposes of a fertilisation procedure or for medical or scientific purposes; 'fertilisation procedure' means artificial insemination or the procedure of fertilising an ovum outside the body and transferring the fertilised ovum into the uterus.

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

POTATO MARKETING ACT AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Potato Marketing Act, 1948. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

The purpose of this Bill is twofold. First, and most significantly, the Bill proposes the insertion in the principal Act of a sunset clause which would render the legislation inoperative on and from 1 July 1987. In providing for the cessation of the statutory marketing of potatoes on that date, the Government is not convinced of the continuing need to intervene in the marketing of potatoes. The Government in arriving at this decision has taken into consideration a number of factors.

The Government considers the case has not been demonstrated where in the interests of the community as a whole or a significant section of the community it is appropriate for the Government to continue to intervene in the marketing of potatoes. Whilst there were no doubt good reasons to establish the Potato Marketing Board in 1948, the Government does not consider these relevant in the 1980s. The marketing of other vegetable crops in South Australia does not require Government intervention for their efficient marketing. Only in South Australia and Western Australia do we have potato marketing boards, and the Western Australian board is currently under review.

Whilst the Government has difficulty in identifying reasons for the continuation of the statutory marketing of potatoes, it is easier to highlight problems with the current system. The problems with the current policies and operations of the Potato Board have been highlighted in the report of the working party for the review of the Potato Marketing Act. Further, Ministers of Agriculture have, over a considerable period, received numerous complaints about the Board's policies and operations. The Government has taken into consideration the difficulties the working party faced in objectively assessing the Board's performance and the actual extent of grower support for the Board.

The working party, by a narrow margin (5:3), voted for the retention of the present system with the significant proviso that ' . . . it be retained at this stage subject to "fine tuning" of the various critical areas of the present system to the satisfaction of a majority of the working party'. This was followed by a later recommendation, number 9 (4), that unless the introduction of a system of local market quotas in 1986 was considered to be successful after 12 months operation, 'the principle of statutory marketing of potatoes may no longer be found acceptable'. The Government has doubts whether problems with the current marketing system can be resolved by the proposed changes; however, if proposals are made which can satisfy the interests of the industry and of consumers, then it may be that a modified Potato Marketing Act can be retained.

In ceasing to intervene in the marketing of potatoes, the Government believes there will be benefits for both growers and consumers. Overall, the marketing system will be more efficient and able to respond to market forces. There will be greater marketing choices for growers and more competition at the wholesale and retail levels which will be to the benefit of consumers. In giving two years notice for the cessation of the statutory marketing of potatoes, the Government is allowing sufficient time for those involved in the various sections of the industry to make appropriate arrangements to adjust to a free market situation. It will also allow time for the future of staff and the capital assets of the Potato Board to be decided.

Secondly, this Bill proposes the removal of the additional fine represented by the value of the potatoes associated with breaches of the Potato Marketing Act, Section 21 of the Act provides that a person convicted of an offence of contravening a marketing order under the Act may be fined ($400 maximum first offence. $600 maximum subsequent offences) and may receive an additional penalty 'to the value of the potatoes in relation to the sale, purchase or delivery of which he was so convicted'. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 21 of the principal Act. The effect of the amendment to this section is to eliminate from the monetary penalty that may be imposed for certain offences a component representing the value of the potatoes in relation to which the offences were committed.

Clause 3 provides for the insertion in the principal Act of new section 26. The new section provides that the principal Act shall expire on 30 June 1987 and on that expiration all

property rights and liabilities of the Board are vested in the Minister. The Minister shall distribute the remaining assets of the Board (if any) between persons who have been licensed or registered under the Act, in such manner as he thinks fit.

The Hon. M.B. CAMERON secured the adjournment of the debate.

RURAL INDUSTRY ADJUSTMENT AND DEVELOPMENT BILL

The Hon. FRANK BLEVINS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to establish the Rural Industry Adjustment and Development Fund; to amend the Rural Industry Assistance (Special Provisions) Act, 1971, and the Rural Industry Assistance Act, 1977; and for other purposes. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

In introducing this Bill to establish the Rural Industry Adjustment and Development Act the Government is again demonstrating its commitment to agriculture in South Australia. The Bill amends the Rural Industry Assistance (Special Provisions) Act, 1971, and the Rural Industry Adjustment Act, 1977, to allow for the establishment of the Rural Adjustment and Development Fund. These Acts have provided for the administration of Commonwealth and State funds to assist agriculture through loan and grant schemes since 1971 provided through Commonwealth-State rural assistance and adjustment agreements.

Operation of the schemes has resulted in the accumulation of State funds. The use by the State of these funds is severely restricted by conditions determined in Commonwealth-States agreements. The intention of the new Act is to allow State funds to be transferred to a rural adjustment and development fund. The use of this fund will be determined by the South Australian Government and represents the introduction of a State funded assistance scheme for agriculture. Amendments to existing legislation will allow for the transfer of State funds and the necessary amendments are provided for in the First and Second Schedules of the Bill.

It is intended to use the new fund for the following purposes. Loans to primary producers who are in need of Government assistance and who have good prospects for long term viability after being assisted. This general assistance is similar to that provided from the existing Rural Adjustment Scheme but with greater emphasis on assistance for specific industries and regions as the need for structural adjustment and redevelopment becomes necessary. It is anticipated that the need for assistance will persist with a continuing cost/price squeeze, including market pressures, forcing farmers to increase efficiency by the introduction of new technology, equipment and systems. These changes to farm operations often require a level of investment which cannot always be obtained from commercial credit sources. This type of assistance is intended to stimulate redevelopment in particular industries and regions which will both encourage individuals and benefit the South Australian economy. These arrangements will complement provisions of a new Commonwealth-States rural adjustment agreement which will be introduced on 1 July 1985. Funds will be provided under this agreement to assist farmers throughout the State without specific emphasis on industry or regional problems.

It is intended that the Minister of Agriculture allocate funds to assistance schemes from the Rural Industry Adjustment and Development Fund after receiving recommendations from a consultative committee. The committee will include members who encompass a range of rural expertise and will have representation from the United Farmers and Stockowners of South Australia Inc. and from the Department of Agriculture. As well as loans, the new Act will also allow funds to be used to finance projects which have the potential to provide direction for regional industry adjustment and redevelopment. This may include assistance to farmers who wish to develop new crops or farming systems, and projects with potential to assist adjustment and development in an industry or region.

The Rural Assistance Branch will be responsible for administering the new Act and moneys provided through the new Commonwealth/States rural adjustment agreement. It is intended that moneys from the new fund be used to meet annual administration costs for the branch. This provision will provide savings in the State Budget and as a consequence it will be possible to introduce important, State funded, new initiatives in the Department of Agriculture. These new initiatives will increase services to primary producers on Eyre Peninsula and in the Northern Region, increase State efforts in irrigation and salinity research on the Murray River, increase input into water use technology throughout the State, and commit funds to horticultural marketing development. These initiatives have high priority and have been selected according to their ability to increase farm returns significantly, with subsequent benefits to the South Australian economy.

In summary, the Bill recognises that agriculture remains a major influence on the South Australian economy. The main objective is to establish a State scheme which will assist farmers and rural industries in overcoming adjustment and development problems which will continue to arise in the future. Such adjustment and development assistance will facilitate the continuing economic contribution of rural industries to South Australia's economic future. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 provides for consequential amendments to be made to certain legislation. Clause 4 provides for the interpretation of expressions used in the measure.

Clause 5 provides for the establishment of the Rural Industry Adjustment and Development Fund. The fund shall consist of amounts authorised by the Minister under clause 6 and amounts received by the Minister in repayment of loans under the measure. There shall be paid out of the fund any amount authorised by the Minister under clause 7 and any expenses incurred in the administration of the measure.

Clause 6 provides that where the amount standing to the credit of a declared fund exceeds the relevant amount the Minister may authorise payment from the declared fund into the fund of the excess; 'relevant amount' means an amount standing to the credit of a declared fund that is adequate to meet the obligations of the State under the Act under which the declared fund was established.

Clause 7 provides that the Minister may authorise payment out of the fund of any amount for the purposes of making a loan under clause 8 or a grant under clause 9. Clause 8 provides that the Minister may make a loan, on terms and conditions determined by him, to assist a farmer to develop a farm or make adjustments to the farming methods or practices employed by the farmer to improve the efficiency or the management of the farm, or a person to undertake a project or research for the benefit of farmers or any class of farmers. Under subclause (2) the making of such loans

is subject to the following provisions: the Minister must be satisfied:

—that the person would not be able to obtain the loan on reasonable terms except from the Minister;

—that in the case of a loan to a farmer, there are reasonable prospects of the farm being viable;

—the person must give security required by the Minister where the rate of interest charged is less than a commercial rate—the Minister must review it triennially with a view to increasing it to a commercial rate;

—the person must comply with or agree to comply with any other conditions imposed by the Minister.

Clause 9 provides that the Minister may make grants to:

—fund any project or research for the benefit of farmers or any class of farmers;

—assist the development of farming or any class of farming;

—assist the development of any part of the State for farming or any class of farming.

Under subclause (2), a person receiving the grant must comply with or agree to comply with any condition imposed by the Minister.

Clause 10 provides that an application for a loan or grant is to be in writing to the Minister. Under subclause (2) an applicant must furnish the Minister with such information as he requires. Under subclause (3), where a person furnishes the Minister any information knowing it to be false or misleading in a material particular, is guilty of an offence. Penalty $1 000.

Clause 11 provides that no person engaged in the administration of the measure shall disclose information as to a person's affairs furnished by that person in connection with an application unless the disclosure is required in the administration of this Act, is made in pursuance of an obligation imposed by law, or is made with the consent of the person. Penalty $1 000.

The Minister may, under clause 12, delegate to any person any power or function of the Minister under this Act. Under subclause (2), a delegation under this clause may be made conditionally and is revocable at will and does not derogate from the power of the Minister to act in any matter personally.

Clause 13 provides that the offences constituted by the measure are summary offences. Clause 14 provides that the Minister must cause proper accounts to be kept of the fund and that the Auditor-General must audit the accounts once annually. Clause 15 provides for the making of annual reports by the Minister to Parliament. Clause 16 provides for the making of regulations.

The Hon. M.B. CAMERON secured the adjournment of the debate.

CORRECTIONAL SERVICES ACT AMENDMENT BILL (1985)

The Hon. FRANK BLEVINS (Minister of Correctional Services) obtained leave and introduced a Bill for an Act to amend the Correctional Services Act, 1982. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

This Bill makes a number of amendments to the principal Act, the Correctional Services Act, 1982. The first amendment concerns difficulties that can arise when prisoners who are already serving a sentence of imprisonment are sentenced to further terms of imprisonment with additional non-parole periods. In such circumstances the current provisions of the principal Act do not provide a mechanism for determining commencement dates or times. The Bill seeks to remedy that problem by requiring a court, when it imposes a sentence, to specify the date of the commencement of the sentence and the non-parole period.

Another problem addressed by the Bill concerns the need to provide for a means of recovering money from a prisoner who is in breach of his agreement to repay a loan made to him by the Prisoners Loan Fund Committee on behalf of the Permanent Head of the Department of Correctional Services. The Bill makes provision for the secrecy of any postal vote made by a prisoner in a Federal or State election.

Provision is also made enabling prisoners to be discharged, particularly from Adelaide Gaol, out of normal operational hours without all of their personal property having to be made immediately available to them. On the odd occasions where such discharges occur, prisoners so released would be able to return and collect their property when the officer in charge of the prisoners property store is again on duty.

Difficulties sometimes arise out of the requirement in the principal Act that visiting tribunals must ensure that a prisoner hears or views all the evidence produced against him concerning a charge for an alleged breach of regulations. This provision is impractical in circumstances where a prisoner refuses to attend the visiting tribunal hearing. The effect of the amendments are to allow the tribunal to hear charges against prisoners who refuse to attend notwithstanding their absence. Provision is to be made under the notice of the time of the hearing to be served upon the prisoner concerned.

The Department treats prisoners who are alleged to have committed 'serious' offences in the same way as any other person would be treated, that is, the offences are reported to the police, investigated by them, and if charges are laid, they are prosecuted in the various levels of criminal courts. Visiting tribunals no longer have the power to order imprisonment and, as they now deal with minor matters only, the Government feels that the need for legal representation before such tribunals does not exist. Accordingly, provision is made to exclude such representation. The Bill makes a number of other amendments to the principal Act which are of a housekeeping nature. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 makes it mandatory for a sentencing court to specify in its order the day or time at which the sentence of imprisonment is to commence, or is deemed to have commenced. The court must also specify the day or time at which any non-parole period fixed by the court is to commence or is deemed to have commenced.

Clause 4 permits a manager of a correctional institution to deduct from moneys standing to a prisoner's credit any amount outstanding under a loan made to the prisoner by the Department. Such loans are made upon the recommendation of a departmental committee for a purpose such as the purchase by the prisoner of a television set.

Clause 5 makes it clear that postal votes sent by prisoners cannot be opened by authorised officers who have the task of vetting prisoners' mail. Clause 6 allows the release of a prisoner to be effected without necessarily there and then handing over any personal property held on his behalf. This provision will facilitate the release of prisoners 'after hours' at times when the property store rooms are closed. Any

such property will be handed over to him as soon as reasonably practicable.

Clause 7 provides that proceedings against prisoners for breach of prison regulations may be heard and determined in their absence if they refuse to attend the hearing. It is expressly provided that a prisoner is not entitled to be represented by a legal practitioner at any proceedings for a breach of the regulations. A minor statute law revision amendment is also made to this section.

Clause 8 is also in the nature of a statute law revision amendment. Section 80 as it now stands only makes cross-references to two sections in this Act, whereas it should also make reference to the corresponding provisions in the Prisons Act. The redrafted paragraphs *(a)* and *(b)* avoid the necessity to make any cross-references at all. The schedule contains a number of minor statute law revision amendments none of which make any substantive change to the Act.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

AMBULANCE SERVICES BILL

Adjourned debate on second reading.

(Continued from 7 May. Page 3872.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. As the Minister said in his second reading explanation, the Bill largely follows the report of the Select Committee into the St John ambulance services, although there is one glaring exception. Members will recall that I moved for this Select Committee late in 1983. My reason was that a number of volunteers in the St John Ambulance Service felt—and I think correctly—uneasy, that their position was being eroded, that they were being eased out, and considered that they were not receiving proper support from the St John Council.

It was for those reasons that I moved for the appointment of a Select Committee, which was appointed. That Committee sat for 14 months. The Bill supports the position that I took then. It strengthens the position of volunteers in the St John Ambulance Service. I will elaborate on this later. The Bill that has been introduced by the Minister, on the recommendations contained in the report of the Select Committee, justifies the action that I took in moving for the appointment of that Select Committee and justifies the action of Opposition members and Australian Democrat members who voted for the appointment of that Committee.

The Select Committee considered correctly that it did not have the expertise to consider the quality of patient care and service delivered by the St John Ambulance Service. However, everyone who has examined the St John organisation in any way, including Professor Opit in his report (and I am sure members of this Committee), has been very impressed by the dedication of officers in that service, particularly those in the 'hands on' situation, both paid staff and volunteers. We have also been impressed by the administrative efficiency of the service.

I believe that this is certainly one of the best ambulance services in Australia. I cannot say that it is the best service simply because no evaluation of other services has been (or could be) made by the Select Committee. That is the only reason why I cannot affirmatively say that it is the best service, but I would not be surprised if it is, because it is certainly an excellent one. Yesterday, in his second reading explanation, the Minister commented on the fact that the service has operated since 1952 on the basis of a gentlemen's agreement simply supported by a minute signed by the late Sir Edward Hayward and directed to the late Sir Thomas Playford. There has never been anything formal by way of an agreement or Act of Parliament until this time.

It is very much to the credit of the late Sir Edward Hayward that he was able to make this evaluation and come up with this concept of a State wide ambulance service, because prior to that happening there was a fragmented ambulance service conducted by various independent organisations in South Australia. It is also very much to the credit of the St John Council, staffed by a succession of people, and to the credit of successive Governments, that from 1952 until 1985 it has been possible for the service to carry on without any kind of formal agreement. However, the time came when this Select Committee needed to be undertaken to give some formality to arrangements between the Government, which deficit funds the organisation, and the organisation itself.

The Bill, as the Minister has said, empowers the Health Commission to issue licences for the operation of ambulance services and provides in clause 4 (3) that on the commencement of the Act a licence shall be granted to the St John Council under subsection (1), subject only to some conditions that follow. The conditions are then set out. The first condition is that the council establish a board entitled the Ambulance Board, which shall consist of certain members and will act as a board of directors, as it were, to the ambulance service.

I think it is worth stating who will be the personnel on the board. It will consist of three persons appointed by the council on the nomination of the Minister (one must be a legal practitioner or an accountant, one a medical practitioner and one a person who is in the opinion of the Minister an appropriate person to represent the interests of the general community); two persons elected by a secret ballot conducted by the Electoral Commissioner from employees in the St John Ambulance Service (and I will comment on this in a moment, because this is the one major departure from the recommendation of the Select Committee); one person elected by secret ballot from the volunteers; one person appointed from the St John Ambulance Association; one person appointed from the St John Ambulance Brigade; and two persons appointed by the council being members of the St John Council.

Perhaps at this stage I should refer to the one major departure from the Select Committee's recommendation which provided for one paid staff member and one volunteer to be appointed to the board. The Bill has departed from that in a major way by providing for two paid staff and one volunteer member to be on the board. I foreshadow that I will move an amendment to change the Bill to make it comply with the recommendation in the report that there be only one paid staff member and one volunteer on the board. I do not propose to canvass at this stage what might have been the motive for the change that appears in the Bill, but simply say that it seems to be sensible to stick with the unanimous (as the Minister said) report of the Select Committee and to provide for one member of the board to be a paid staff member and one a volunteer.

It seems to be common sense to stick with the recommendation of the Committee for the reason that this board is intended to operate as a board of directors and that this is not an appropriate organisation to have anything like proportional representation, not that that would apply with a two and one situation, anyway. The point is simply to have various areas of expertise represented on the board. I have said what the other areas of expertise are. These two areas involve persons who are intended to be in the 'hands on' situation—from the paid staff and the volunteers.

It seems to me that it is not appropriate to try to build that number up to have two members from one of the areas, but rather to have one member from each area,

because we are simply looking at people who can have input and are not looking at a Parliamentary type representation, or anything of that kind. I hope that when both of these persons are appointed to the board (that is one paid staff member and one volunteer) they will not merely represent their interest as such or merely push their own barrow as a paid staff member or volunteer, but will act as effective members of the board. That will be their main motive—to take part as members of what will, in effect, be a board of directors for the ambulance service.

The second major thing that I consider the Bill does in accordance with the report of the Select Committee is establish an industrial consultative committee, which is important. Industrial unrest has occurred in this organisation and it is important that in a major health area such as this that that does not happen. Setting up an industrial consultative committee can do nothing but good.

The third area, and this is one of the areas where I consider that the rights of the volunteers have been established and enhanced by the Bill, is that there will be a Volunteers Advisory Committee which will be elected on an equitable basis from the volunteers and will have the role of advising both the St John Ambulance Brigade Commissioner and also the Board. One of the problems which I found before I moved for the Select Committee and which I think the Committee found is that the volunteers operating in a disciplined organisation—the term 'paramilitary' has been taken exception to—but certainly there is a military-type discipline—were denied the right of association.

Under the regulations of the St John Ambulance Brigade, they could not have any kind of association; they could not meet together and/or discuss things. It was even suggested it was contrary to regulations for volunteers to raise matters pertaining to the St John Ambulance Service to members of Parliament. They could not have any kind of discussion at all. There was only one place they could go—the St John Ambulance Brigade Commissioner—and that was that. That was all they could do. While I believe that certainly the present Commissioner is doing an excellent job and is representing the volunteers to the St John Council and representing their case, obviously that is not enough. All they can do is go to one person. This Bill provides for the volunteers to be able to elect an advisory committee so they will have that right. The advisory committee can meet and discuss matters and make representations and tender advice, not only to the Commissioner but also to the Board. To me, this was a very great step forward, one of the major things which has been achieved by this Bill.

In his second reading explanation, the Minister referred to the fact that there were a number of ambulance services in this State and that some years back they formed together to provide one ambulance service. The Minister pointed out there were nine services which did not come within this umbrella and which did not amalgamate. They elected to remain unto themselves and of course that was their right and they have continued in that way to this day. However, of course the financial and other resources of the ambulance service are limited. They do not go everywhere and the reason why the single service was formed in the first place was to provide for greater efficiency in using the resources which were available.

I think the Minister in his second reading explanation was very generous in undertaking that he would grant a licence to the non-amalgamating services for three years so they would have this period in order to adjust, to hold consultations, and one would hope to be prepared to come within the total State ambulance service. The Minister also said this could be done in such a way as to retain for them such measure of independence as was possible. I think this is a sensible and generous undertaking given by the Minister and certainly, on behalf of the alternative Government. I would say that if it falls on the alternative Government to have any part in this, we would support that undertaking and would undertake that at least for three years the non-amalgamating services will be able to continue and that consultations on terms and conditions of coming within the total ambulance service will be considered.

There are a few other matters in the Bill which I will raise. The recommendation in the report was that there be a chief executive officer of the St John Ambulance Service appointed by the Board in consultation with the Minister, and that he could be dismissed or suspended in the same way. The Bill simply provides for his appointment. It was my view that this was sufficient, because what we have in the Bill (giving the power of appointment) clearly implied a power of dismissal or suspension. In order to satisfy myself about this, I discussed the matter with Parliamentary Counsel, who advised me this is indeed the case. There is no doubt that under the Bill the board plus the Minister has the power of dismissal or suspension of the chief executive officer.

Another matter which concerned me was the position of casual vacancies. It is provided that, where there are casual vacancies, they may be filled and the person filling the position only holds office for the balance of the term of the person replaced. I raised the question with Parliamentary Counsel to assure myself that it was clear the person filling the casual vacancy must have the same qualification— that is, volunteer, paid staff, doctor, lawyer or whatever— as the person replaced, and I am assured by Parliamentary Counsel that that is the case.

I also refer to the question of a breach of the conditions of the licence. It was the recommendation of the Select Committee that, if the St John Council breached the conditions of the licence, the licence could be revoked. The form in which this occurs in the Bill is that, where a contravention of or non-compliance with a condition of a licence occurs, the Supreme Court may on the application of the Minister grant an injunction—*(a)* prohibiting the licensee or a delegate of the licensee from further contravention of the condition, or *(b)* requiring the licensee or a delegate of the licensee to take specified action to remedy the non-compliance. The only point I make here is that that is a fairly heavy handed sort of procedure. I would have thought it might be better, if it is recommended that the Minister have the power of revoking a licence for non-compliance, that there be an appeal to the Supreme Court. What we have here is that the Minister must apply to the Supreme Court for revocation and an injunction may be granted.

The problem is the heavy handed procedure that, if that happens and if the breach continues, the Minister must go back to the court to take action for breach of the injunction. I suppose the justification for this is that it would be horrendous if the State was left without an ambulance service by the licence being revoked. I am not really worried about this because the circumstances of the St John Council not complying with the licence I think are very unlikely to occur. When you have things spelt out like this in a Bill (and I think that is one of the values of the Bill) it is almost unthinkable that there would be any blatant breach. There could be some question, I guess, of interpretation, but I think clause 8 of the Bill is probably a fair draftsman's interpretation of the spirit of what the Select Committee recommended. For these reasons, I support the second reading of the Bill. In Committee I will be moving an amendment in that one area, but I support the second reading and the Bill.

The Hon. ANNE LEVY: I support the second reading which, as other honourable members have said, arises from

the report of the Select Committee. That committee undertook a thorough review of the history and current state of the St John Ambulance Service. It took us a while to sort out the various relationships between the St John Council, the St John Association and the St John Brigade but, once some of these basic preliminaries had been fixed up, the committee proceeded to hear a great deal of evidence and worked with much co-operation and understanding amongst all its members.

The extent of the Select Committee's work is indicated by the fact that it met over a period of 14 months, that it compiled 744 pages of transcript of evidence given orally and that it received two huge folders of written submissions. We visited several units of St John, both in the city and in the country, including a visit to the Air Ambulance Service at Whyalla. I doubt that anyone would suggest that we did not undertake a thorough inquiry. Of course, the result is the report, the recommendation, of which is being implemented by means of the Bill that is now before the Council.

I hasten to add that in the vast amount of evidence that we took there was never the slightest suggestion that the quality of ambulance services provided to the people of South Australia by St John was other than absolutely first class. The whole inquiry was related to the management and administration of an ambulance service. There were no questions whatsoever about the quality of the existing service which, I am sure, will be maintained under the new administrative arrangements.

As both the Minister and the Hon. Mr Burdett have said, the Bill puts into conditioned form many of the recommendations of the report. Numerous conditions are attached to the granting of a licence to St John to run an ambulance service. However, St John will receive its licence as soon as the Bill is proclaimed. It is a permanent licence, which is not subject to renewal. Its conditions are fully spelt out, and the only way in which these conditions could be altered would be to bring amending legislation before Parliament. So, St John can proceed with as high a degree of certainty as any organisation can have regarding the provision of the ambulance service.

Other bodies will be licensed to provide ambulance services, and I presume that this will apply to the nine so far non-amalgamating services throughout the State. However, these licences will be of a temporary nature, with time limits fixed to them and with terms and conditions as set out by the Health Commission. They can be varied by the Health Commission, with the concurrence of the Minister.

It was the clear wish of the Select Committee and St John that consultation should occur so that the nine non-amalgamating services can join with St John to give one integrated ambulance service throughout the State. I hope that during the time of the temporary licence which the non-amalgamating services will receive these consultations can proceed and agreement can be reached prior to the expiration of the licences for the non-amalgamating services.

With regard to the conditions set out in the Bill, other speakers have mentioned some of the important points, including the establishment of the Industrial Relations Consultative Committee, which is an important step forward, where people from the management of St John and from the three unions covering employees in St John can sit down together and thrash out industrial problems as they arise. Certainly, this should do a great deal for industrial relations within the ambulance service.

The Volunteer Ambulance Officers Advisory Committee is another great step forward, as the Hon. Mr Burdett said. Presently, all volunteers are members of the St John Ambulance Brigade and, as such, are subject to the discipline of the St John Ambulance Brigade. Whilst it is true that the brigade did not like being called a paramilitary organisation, it is certainly true that its structure and discipline resembles strongly that of the Army and that individual volunteers have lacked opportunities to contribute in any meaningful way to the running and management of an ambulance service.

By means of the Volunteer Ambulance Officers Advisory Committee they will be able to have direct contact with the Ambulance Board on any matters that affect volunteers as a group. Furthermore, it is clearly laid down that the membership of this committee will be determined by a democratic vote of all volunteers in the State, so that the individual members of the committee can truly represent the wishes and feelings of the volunteers engaged in the ambulance service.

Some matters were brought before the Select Committee that it was decided were inappropriate for us to resolve, but they have been specifically written into the conditions for the new ambulance board as matters to which the new board will need to address its attention. One such matter is the correct balance between employees and volunteers in the provision of the ambulance service. I refer, secondly, to the matter of the qualifications of people undertaking ambulance service, be they volunteers or employees. Certainly, there was a strong feeling that the qualifications should be identical for the two types of officers, that their training should be identical, that their development should likewise be identical, and that distinctions in these matters were not only unwarranted and unfair but also could lead to first and second-class types of ambulance service being provided to the public. Above all, it is the public that one must consider when discussions are taking place on the quality of an ambulance service.

Currently, all volunteers in the St John Ambulance Service come from the St John Ambulance Brigade, as I said a moment ago. In the past few years it has been possible to have open recruitment into St John for employees. In other words, any qualified person could apply for any position that was advertised, and there was no prior requirement that they be members of St John. The suggestion has certainly been made that similar open recruitment could also apply to volunteers. Provided that individuals are trained and have the skills and knowledge required for the positions, there is no real need for them to be members of the St John Ambulance Brigade.

Fears were expressed by some people that, if such an open recruitment occurred, the bridgade might have trouble in keeping its members and that people could perhaps join the brigade for training but then leave when they had been accepted as volunteer ambulance officers. However, a policy of open recruitment seems to be desirable and fair, in that it should be possible for people to offer their services as volunteer ambulance officers—positions of great community trust and responsibility—if they feel so moved to do, without having to submit to the paramilitary discipline and hierarchy of the St John Brigade if they do not find such organisation compatible with their own philosophies. However, the question of open recruitment of volunteers is a matter for the new ambulance board to consider, and I am sure that in the fullness of time the members of the board will turn their minds to this matter, although I am quite prepared to concede that many other matters will have to take higher priority when the new board is first established.

I wish to make two final comments. First, in introducing the legislation the Minister said that until now the relationship between St John Ambulance and the State Government has been the result of a gentlemen's agreement, with nothing on paper. I certainly endorse those remarks and stress very much the words 'gentlemen's agreement'. It is only in very recent times that there have been many women in any way involved in the St John Ambulance Service. I think it was

only two years ago that a couple of women first joined the St John Council, where they are in an even smaller minority than are women in this Parliament. There has still never been a woman on the executive of St John. There are certainly women in the ambulance service, but their representation is still very minor. I certainly hope that the new ambulance board will adopt an equal opportunity policy in its recruitment procedures, for both volunteers and employees, and that the involvement of women in the ambulance service will increase.

It is obviously nonsense to say that women cannot contribute to an ambulance service in terms of lifting patients, and so on: they are in exactly the same situation as are the nurses who deal with the same patients when they arrive at hospital. It is common knowledge that most nurses are women, so I hope that no-one will raise the furphy that women would not be able to become ambulance officers because of their, on average, lesser physical strength. This is very much my hope for the new ambulance board, and I certainly wish it well in the very important role it will have to play attending not only to the matters set out in the Bill before us but also to the entire management and administration of an ambulance service in this State.

Finally, I thank all other members of the Select Committee of which I had the privilege to be a member. It was one of the most productive Select Committees on which I have ever served. I believe that the whole atmosphere and co-operation of the Select Committee was a credit to all its members, and I would particularly like to thank the Minister for his extremely efficient and capable chairing of that committee. To all the other members, I express my thanks. I believe that the report of the Select Committee was very worthwhile, and the Bill resulting from it, which we are now debating, is very much to be commended both to the Parliament and to the public of South Australia. I support the second reading.

The Hon. K.L. MILNE: I support the previous speakers and I will refer very briefly to the Select Committee. We should acknowledge that the Hon. John Burdett pressed very hard for this Select Committee rather against the wishes of the Government and St John Ambulance. However, I believe that his decision to press the matter has been vindicated by the information that we obtained. I congratulate the Government, which, rather against its better judgment, took part in the Select Committee and, of course, was a major force in it. I also congratulate the Chairman, because at the beginning of proceedings it seemed that it would be an extremely difficult job. If honourable members look at the record they will see that the Chairman handled the matter with extreme care and understanding.

I also record our thanks to the interested parties, all of whom felt very deeply about their own point of view, and I refer to the St John organisations, the Ambulance Employees Association, the Miscellaneous Workers Union, and the St John volunteers, who were not organised but, of course, that was one of the reasons for the Select Committee. The volunteers were very fair and circumspect in what they put to us, and I believe that the fears of those who were running the St John Council did not come to pass.

The Bill is very close to the recommendations contained in the Select Committee's report, with one or two refinements. I will be supporting the amendments circulated in the name of the Hon. Mr Burdett. I feel that the committee has been a catalyst amongst various groups, particularly the St John ambulance group, the non-aligned group, the paid workers, and the volunteers. It is always a difficult situation when an organisation has both volunteer workers and paid workers; in this case it was rendered more difficult because of the tension under which these people work when nearly every trip is a life or death case.

I feel that the solutions arrived at by the committee have made it much easier for the volunteers and the paid staff to work together. We feel that we have made it much easier for the volunteers to meet and to have an organisation to speak in their name, similar to a union; and we have made it easier for the St John Council and others to talk to the volunteers. With those few words, again I thank my colleagues on the committee for their work and assistance; and I thank the chairman who I thought successfully brought off a very difficult task. I support the second reading.

The Hon. R.J. RITSON secured the adjournment of the debate.

REAL PROPERTY ACT AMENDMENT BILL (No. 2)

Consideration in Committee of the House of Assembly's disagreement to the Legislative Council's amendments.

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

That the Legislative Council do not further insist on its amendments.

I am sure that some members at least will remember with considerable clarity the spirit of conciliation that was abroad on this matter when the Committee sat prior to Easter. The Hon. Mr Griffin was anxious to ensure at the request and with the full support of the Law Society that certain amendments were inserted in the Bill in relation to planning matters. Further discussion of these points has resulted in a situation arising where the parties believe this can best be achieved by further amendments to a Planning Bill currently before the House of Assembly. I have given a firm assurance—and repeat that firm assurance on behalf of the South Australian Government—that appropriate amendments will be made to that Planning Bill to achieve to the satisfaction of all parties what we all agree is a desirable series of amendments. Therefore, it is unnecessary and undesirable for us to proceed with the amendments to this legislation.

The Hon. K.T. GRIFFIN: I support the motion. What the Minister has indicated is correct. Prior to Easter there were some discussions about amendments to both the Planning Act Amendment Bill then before us and the Real Property Act Amendment Bill, which would seek to clarify a problem in relation to leases and licences of portion of allotments. Where there had been no flexibility under the new planning legislation for those which may not be designed to avoid the consequences of the planning law it could nevertheless not be approved by the Planning Commission.

When we considered this it was felt that that could be achieved by amendments to both the Real Property Act and the Planning Act, but since then there have been some discussions which have resulted in a decision that no further amendment is required to the Real Property Act, that leases and licences and agreements to grant a lease or licence will be exempted from the provisions of the Real Property Act by regulation and that other substantive amendments to the Planning Act will be made by way of amendment in another place, probably today or tomorrow. As a result of the discussions, I support the motion. I have appreciated the willingness of the Government to make its officers available for the purpose of consultation on this issue, and I also appreciate the fact that we have now been able to reach agreement on a highly technical matter which I think will resolve problems which the Law Society and the legal profession have been trying to come to grips with, unsuccessfully because of the inflexibility of the current law. I support the motion.

Motion carried.

[Sitting suspended from 4.58 to 7.45 p.m.]

ELECTORAL BILL

In Committee.
(Continued from 2 April. Page 3746.)

Clause 74— 'Manner of voting.'

The Hon. K.T. GRIFFIN: I have previously moved an amendment in an amended form. That amendment took into account the amendment placed on file by the Hon. Mr Lucas. This clause deals with declaration voting and, when we last considered this matter before Easter, I indicated that there ought to be some identification of the reasons that would allow a person who did not attend at the polling booth on polling day to exercise a declaration vote.

The concern I had was that on the face of it clause 74 allowed an elector who had any reason at all for not going to the polling booth, for example, if going to Football Park or the cricket, whenever the poll was held, or for some other similar sort of reason, to obtain a declaration vote prior to polling day. I made the point that that was not adequate. The emphasis ought to be on voting on polling day, unless there are very good reasons why someone is prevented from attending a polling booth. I included the following reasons in my amendment in regard to a person:

> who—
> will not, throughout the hours of polling on polling day, be within eight kilometres by the nearest practicable route of any polling booth;
> will, throughout the hours of polling on polling day, be travelling under conditions that preclude voting at a polling booth;
> is, by reason of illness, informity or disability, precluded from voting at a polling booth;
> is, by reason of advanced pregnancy, precluded from voting at a polling booth; or
> is, by reason of membership in a religious order, or religious beliefs, precluded from attending at a polling booth or precluded from voting throughout the hours of polling on polling day or the greatest part of those hours;.

There is also the following additional reason, namely, that the person concerned is caring for a person who is ill, infirm or disabled and is, for that reason, precluded from voting at a polling booth.

The first five reasons are already in the present Electoral Act and the sixth reason is one to which the Hon. Mr Lucas drew my attention as being in the Federal Electoral Act. I was willing to accept the amendment that he had on file, because it was a reasonable basis for obtaining a declaration vote.

At the time I raised this, some comment was made about clause 4 (3), which said that for the purposes of this Act a person shall be taken to be precluded from attending at a polling booth if such attendance would occasion substantial difficulty. I do not accept that that is sufficient in clause 4 to provide a satisfactory basis for a person to apply for and be granted a declaration vote. I moved my amendment for those reasons.

The Hon. C.J. SUMNER: The amendment is opposed. As far as the postal vote application is concerned, the sorts of criteria for non attendance can be included on the application form. As regarding other forms of declaration voting—whether it be absent voting or whatever—the reason can be inquired of by the polling clerk who takes the relevant declaration. If that is an absent vote on the day of the election, that can be done by the polling clerk at the place of polling.

If it is a vote prior to the election at a place where persons can register a vote prior to the election, because they may not be in the State on the day of the election or may not be able to vote on the day of the election, that will be done in front of a polling clerk. So, the polling clerk can verify whether or not the ground that is stated as being the ground for not being able to attend is or is not reasonable.

Obviously, if a person says that he is playing tennis and will be in the third set of a crucial game at the time he should go to the polling booth, and the polling booth is 100 metres up the road, that would be unacceptable, because a person in those circumstances clearly would be in the State and would be able to attend the booth.

However, if the person says, 'I am obliged to play in a tennis tournament in Victoria on that day', obviously in those circumstances that reason would be satisfactory and the declaration vote would be admitted. The argument in favour of the Government's proposition is that it tries to simplify the declaration vote procedure, whether it is by way of postal vote, absentee vote or a pre-election vote (for whatever reason). That should all be done in accordance with similar criteria. From an administrative point of view, if one has different criteria for the different sorts of postal votes or declaration voting, the result is the situation that we have at the moment, where there is a hotch-potch of reasons for having a declaration vote. For that reason, the amendment is not acceptable to the Government.

The Hon. R.I. LUCAS: Can the Attorney clarify whether in every application for a declaration vote there will be a written record of the reason for it which will be available for scrutiny by representatives of any candidate who might like to scrutinise the reasons for a declaration vote?

The Hon. C.J. SUMNER: The precise reason would not be recorded. That would be assessed by the polling clerk. The polling clerk would have to be satisfied that the elector had substantial difficulty in attending the polling booth on polling day.

The Hon. R.I. LUCAS: There would be no written record of the request at all?

The Hon. C.J. SUMNER: No.

The Hon. R.I. LUCAS: Is there not a provision which makes it possible for applications to be in writing and, if so, would they be kept administratively and made available, and does the Electoral Commissioner anticipate that there would be only a small number of such requests?

The Hon. C.J. SUMNER: They would be kept and would be available for scrutiny.

The Hon. R.I. LUCAS: I still have concerns about this area, and I support the Hon. Mr Griffin's amendment.

The Hon. C.J. Sumner: We have an amendment on file which clarifies the position.

The Hon. R.I. LUCAS: Is the Attorney referring to the amendment to clause 75 in relation to oral and written applications? Clause 75 obviously relates to what is done in clause 74. What is the exact mechanism for clause 75? Under clause 75 an application for a declaration vote must be made in the prescribed manner and must be supported in the case of an oral application by an oral declaration by the applicant. I understand that oral applications are basically those where an individual presents before a divisional returning officer or to an electoral office and makes an application.

The Hon. C.J. Sumner: Or through an absentee vote on the day.

The Hon. R.I. LUCAS: Yes. The written applications in general are those that we now know as the application for postal vote, where we currently fill in the form and return it to the electoral office (and I imagine they form the vast bulk of what we are talking about). Perhaps the Electoral

Commissioner can correct me if I am wrong; perhaps there are more oral applications.

The Hon. C.J. SUMNER: I take it that honourable members opposite would prefer it if the precise reason for not being able to attend a polling booth was specified in some way.

The Hon. R.I. LUCAS: The Attorney has agreed that the written applications will be kept and will be available for scrutiny. I would have thought that with oral applications there could be some administrative mechanism whereby the reason for request could be scrutinised by the Parties. That should not be too administratively difficult.

The Hon. C.J. SUMNER: I suppose the only problem then is that you would need, as the Hon. Mr Griffin provides in his amendment, more specific details of the sorts of justifiable reasons for non attendance at a polling booth. The problem from what I will term the administrative convenience viewpoint is that the Electoral Commissioner would no doubt prefer, given that there is a multitude of reasons, to be able to say that, provided the returning officer was satisfied about the reason, it was satisfactory.

The difference of opinion seems to be whether the reasons should be listed and whether they are justifiable reasons for non attendance; whether, if they are not listed, they should be recorded; or the current position in the Bill, which is that they are put forward to the satisfaction of the divisional returning officer. They seem to be the three options: the Bill provides for the last one; the position put by the Hon. Mr Lucas is the middle option; and the Hon. Mr Griffin's position is the first option.

The Hon. R.I. LUCAS: Quite clearly, the written applications will be recorded and will be available for scrutiny by the Parties. Obviously my first position is that I support a provision in the Statute of the reasons for a declaration vote, and for that reason I support the Hon. Mr Griffin's amendment, because I think it provides some definiteness in the legislation. Under the Attorney's proposed amendments to clause 75, given that the Attorney does not support the Hon. Mr Griffin's amendment (and if it does not pass), the Parties would be able to scrutinise the written applications because they will be kept and scrutineers for candidates will be able to look at them and see what reasons have been given and, if they have any major complaint, they can pursue it in the public arena if they so desire.

In the case of an oral application, unless they are recorded, there is no mechanism for a candidate to scrutinise that part of the electoral process; whereas with written applications they will have an opportunity to see the reasons given so as to establish some sort of benchmark as to how they are being interpreted by varying officers throughout the State. The other alternative, if the Attorney does not see the wisdom of the Hon. Trevor Griffin's amendment, is that administrative guidelines be developed in the Department and that they be available for public scrutiny; and that all applications, whether they be oral or written, be recorded and maintained so that they are available for public scrutiny.

Under the Attorney's scenario for declaration votes, there is no common standard that might be applied by all Returning Officers or poll clerks. It is basically left to a subjective judgment of each individual poll clerk on the day, or the Returning Officer or electoral official in the days leading up to the election. I think that a situation where a subjective judgment of some hundreds of different electoral officials throughout the State involving many thousands of votes, possibly, is unsatisfactory. I hope that in the first instance the Attorney will accept the laying down in the Statute as has been accepted in State and Commonwealth electoral legislation for many years, as has been suggested by the Hon. Trevor Griffin. If the Attorney does not, I hope in the very least that, administratively, the reasons will be recorded, whether it be oral or written, and be available for scrutiny. I also hope that administrative guidelines to these hundreds of electoral officials and poll clerks are issued by the Electoral Commissioner to provide some guidance.

The Hon. C.J. SUMNER: With respect to absentee votes, as they are presently known, they can be recorded. If I am a resident from the electorate of Adelaide and happen to be in Mawson during election day, I can vote in Mawson without having to establish anything.

The Hon. R.I. Lucas interjecting:

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

The Hon. K.T. Griffin: But you are not precluded from voting on polling day.

The Hon. C.J. SUMNER: No. If one votes on polling day one just happens to vote at a different polling booth from one in one's own electorate. What the Electoral Commissioner is looking for is consistency in administration between absentee votes, postal votes, and what I might call the pre-poll votes that are conducted at the divisional electoral offices. There is no problem with absentee or postal votes. The only problem is with the final category I mentioned—the oral declaration vote made prior to the election day, over the counter. That can be made at 13 offices for the Federal electorates. The Electoral Commissioner advises me that they are the only places at which an elector will be able to make that sort of declaration vote.

The Hon. K.T. Griffin: And at the office of the Electoral Commissioner.

The Hon. C.J. SUMNER: Yes, presumably. Therefore, there would be 14 places. In any event, it is not a matter of the elector being able to front up at the home of the Returning Officer for the electorate of Bragg one or two weeks before the election to cast his vote at that place. The elector would have to go to one of those offices I mentioned—either the Divisional Returning Officer's office in one of the Federal electorates or the office of the Electoral Commissioner in Adelaide. Therefore, there will be the capacity to give administrative instructions with respect to the reasons that would justify a vote prior to the polling day. The basic philosophy behind the Bill is to try to remove all the distinctions between the sorts of declaration votes that presently exist.

The Hon. K.T. Griffin: What happens over the counter now?

The Hon. C.J. SUMNER: As I understand it, they presently do a postal vote application.

The Hon. R.I. Lucas: What are you saying by that? At the 13 divisions you will agree administratively to record the reasons, or you won't?

The Hon. C.J. SUMNER: No, I understand that the Electoral Commissioner does not presently envisage recording the reasons. However, the polling clerk would have to be satisfied from the declaration made that, whatever the reason, it is satisfactory.

The Hon. R.I. Lucas: Why can't you record the reasons for oral applications when you are going to record written applications?

The Hon. C.J. SUMNER: I suppose that the problem, if one is to record the reasons, is that one needs criteria.

The Hon. R.I. Lucas: But you are recording the written ones.

The Hon. C.J. SUMNER: If one has to record the reasons at these 13 polling places pre-election, then one would have to have criteria by which to judge whether or not those reasons were justifiable. Otherwise, if one just had the poll clerk write down the reasons, one could get into an argument about whether or not that constitutes substantial difficulty in getting to the polling booth.

The Hon. R.I. Lucas: So you will with written applications. If I write to you and say that I want to go to the tennis on Saturday afternoon, you will have the same problem.

The Hon. C.J. SUMNER: Your argument is that there would be a record of that, but no record of the other.

The Hon. R.I. Lucas: Yes.

The Hon. C.J. SUMNER: It seems to me that we are in the position of an argument between administrative bureaucratic convenience, almost, and scrutiny of the electoral process. Certainly, if we decide that you should record the reason, then you should have some criteria by which that reason is judged to be justifiable. The present criteria suggested by the Government in the amendment that the honourable member has referred to is whether or not the attendance at the polling booth would occasion substantial difficulty. I understand that honourable members opposite consider that not to be a sufficiently specific reason. If it ultimately got to a Court of Disputed Returns and all the reasons were notified then the Court of Disputed Returns would have to decide whether the acceptance by the polling clerk of that vote was justifiable within the terms of it being a matter of substantial difficulty for the elector to get to the polling booth.

I can see the arguments put up by members opposite. Perhaps there is some cause for reconsideration of the clause. The argument that would be put is that under the present legislation there is really no way of verifying, in any event, the criteria that were established for an application for a postal vote and that the elector must only declare one of a number, and then they are listed.

The Hon. R.I. Lucas: If I declare that I am approaching maternity and get a postal vote, that is challengeable. There must be a record of it in the Electoral Office. Surely that is challengeable?

The Hon. C.J. SUMNER: The argument is that the present declaration is not of great practical value because it states:

The ground on which I apply to vote by post is one or more of the following:

- I will not be within eight kilometres of the nearest practicable route of any polling booth;
- I will be travelling under conditions which will preclude me from voting at any polling booth;
- I am seriously ill, infirm, disabled;
- By reason of advanced pregnancy I am precluded from attending;
- I am a member of a religious order of such religious beliefs that preclude me from attending;
- I am an inmate of an institution and for any reason precluded from leaving the institution and attending any polling booth.

They are the specific reasons, but one does not have to specify which particular criterion one is satisfying.

The Hon. R.I. Lucas: One has to tick a box.

The Hon. C.J. SUMNER: No, they do not. The declaration says on the application for postal vote certificate and postal ballot paper at present:

1. I declare I am to the best of my knowledge and belief an elector enrolled on the electoral role for the division of . . .
2. The ground on which I apply to vote by post is one or more of the following:

So the person does not have to identify any of the six reasons referred to on the current postal vote application. I am not sure whether the honourable member finds that satisfactory, but I think that the Electoral Commissioner would take the view that that creates a fairly artificial situation and that one is probably just as well off to leave it to the polling clerk concerned to decide whether or not a particular individual voter has substantial difficulty in getting to the poll and, if he does, the clerk gives that person a vote before the election.

I think that the amendments I have on file tidy up the provisions of the Bill as originally introduced and in particular specify that a person would be precluded from attending at the polling booth if such attendance would occasion substantial difficulty. I think that the argument is that that is not that much different from a vague sort of unspecified provision that exists.

The Hon. K.T. GRIFFIN: They are, in fact, still guidelines, but there is nothing to say that the form of application should not be amended to require an identification of the particular reason why the elector seeks a declaration vote. Just because all the reasons are lumped together on the form without anyone having to be identified is no argument, I suggest, for moving to the rather bland basis for a declaration vote, namely, that the person will have substantial difficulty in attending at a polling booth on polling day.

If, in fact, there are these grounds identified in the application and there is a requirement to identify the particular ground, it seems to me that that really does not create administrative difficulties. I can see the Attorney-General's point that, if there is no requirement to identify which reason is relied upon, then that in fact leaves the system open to abuse. Notwithstanding that, there is some constraint upon applications for a declaration vote if the bases upon which such a vote may be sought are set down in these criteria. That is the problem, as I see it, and I take the point that the Hon. Robert Lucas has made that without some sorts of guidelines it is up to the discretion of particular polling officers at 14 locations prior to polling day to determine whether or not there is substantial difficulty involved.

As he has indicated, there will be some reasons in writing and those made over the counter will be oral. I suppose that if there is an oral application one could require a written declaration, which again may set out these particular criteria. It is just a matter of marking which is the ground relied upon. I would not have thought that that would create any administrative problem. I appreciate the desirability of trying to keep things simple, but I think that forms can be designed that would keep things simple but the criteria clear.

The Hon. C.J. SUMNER: Is the honourable member happy with the existing situation where a person has to specify one or more reasons from a list? Does the honourable member wish to have precise reasons specified and for the matter to be judged in accordance with certain guidelines, because that would make a difference to the way things are administered?

The Hon. K.T. GRIFFIN: The present position sets the parameters. I take the point, as I have said, that by merely declaring that an elector is relying upon one or more of the following grounds is not as specific as marking the ground upon which the elector relies. I would be happy with that. I would be happier if we had a form that allowed for the identification of the particular reason upon which the elector relies. I would have thought that that was a matter of design of the form as much as anything else. The form is probably in the regulations, from what I can recollect. Again, I think that that is a matter that can be subject to development in the regulations. That is peripheral to the real issue that I think there ought to be some basis specified under which an elector can apply for a declaration vote. That is the position as I see it.

The Hon. C.J. SUMNER: I do not think that there is a great deal of difference in relation to this matter and it comes down to what we believe can be done administratively and what honourable members opposite seem to want specified in legislation. Perhaps we might be able to draft something that will accommodate the objections raised by honourable members opposite. I am not sure of this and will need to consider the matter.

The arguments they have put forward are now clearly on the record and obviously the advantage of what they are saying is that there will be some greater consistency within the legislation as to how the declaration voting procedure is administered as between the different polling places. I

suppose that the criticism could be made that, if you are relying on the words 'substantial difficulty', that would then have to be defined by individual polling clerks. No doubt the Electoral Commissioner could send certain guidelines to polling clerks as to what might constitute 'substantial difficulty'.

Certainly, it has the advantage of greater flexibility for the elector, because it means that the polling clerk would be able to accept that odd case that is not provided for in the specific cases that are in the legislation. That flexibility is no doubt that advantage in the system on the one hand but, as far as honourable members opposite are concerned, it is a disadvantage on the other hand, because there is the potential for inconsistency in the administration of the declaration of voting procedure, which I take it is the basic point that they are making. I am happy to have another look at that clause in the light of those arguments. I am not saying at this stage that I do not understand what honourable members opposite are saying. However, I would like to check with the Electoral Commissioner to see if this means that we will end up with a form that is ridiculously long or too complicated.

The Hon. L.H. Davis: A common form would do for both.

The Hon. C.J. SUMNER: That is what I would have thought; a common form which has a criteria in it would be a possibility. The Electoral Commissioner would no doubt argue that it does not advance the position very much to list six, seven or eight criteria, where you are only declaring that you comply with one or other of them, or all.

The Hon. K.T. Griffin: My point is that you could, by redrafting the form, require identification of the particular reason.

The Hon. C.J. SUMNER: You would still have reasons, in your view, in the Act, Is that right?

The Hon. K.T. Griffin: Yes, that is right. They are specific. They are clear. No-one can really argue about the breadth of it.

The Hon. C.J. SUMNER: The honourable member is suggesting a series of criteria in the Act from which to judge whether or not a person can attend the polling booth on the day of polling, but the elector specifying which one he or she complies with?

The Hon. K.T. Griffin: Yes.

The Hon. C.J. SUMNER: Alternatively, we could have something similar to what we have at the moment. We will have a look at that. I ask that further consideration of this clause be postponed.

Consideration of clause 74 deferred.

Clause 75—'Issue of voting paper.'

The Hon. R.I. LUCAS: We have talked about an oral application in terms of its being made over the counter. Would there be anything to prohibit an oral application by telephone? Would that be an oral application?

The Hon. C.J. SUMNER: I think the honourable member should refer to the amendments that I have placed on file where we are referring to an application being made in the prescribed manner and then supported by an oral application. So, there would need to be at least some piece of paper prescribed by which the application was made.

The Hon. R.I. LUCAS: But does 'prescribed manner' mean a piece of paper?

The Hon. C.J. SUMNER: That is what is envisaged. I do not think it means by ringing him up.

The Hon. R.I. LUCAS: That is all right.

The Hon. C.J. SUMNER: I suggest that consideration of this clause be postponed.

Consideration of clause 75 deferred.

Clause 76 passed.

Clause 77—'Issue of declaration voting papers by post.'

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

Page 29, line 29—Leave out 'post' and insert 'letter'.

I am not sure whether events have overtaken us. This amendment is related to an amendment which I will move later and which would mean that an elector could fill out a written application but not actually post it to the Electoral Commission: he may take the written application to one of the 14 offices, to a polling booth or something like that. I think from recollection that that was the reason for this amendment, and I think it is possibly related also to clause 94, to which I also have an amendment. It is not a substantive change but really was designed only to accept the principle and say perhaps that the drafting as it exists at the moment might not apply to someone who made a written application but did not actually post it to the electoral office, but actual delivered it.

The Hon. C.J. SUMNER: There does not seem to be any particular magic in the words 'by post' and I am prepared to accede to that amendment at this stage. If there appears when the Bill is finally consolidated to be some inconsistency within that section of the Act, that is, the declaration voting section, I may need to reconsider it. However, at this stage, on the face of it, there does not seem to be any mischief in what the honourable member proposes.

The Hon. L.H. DAVIS: Is a telegram or a telex considered to be 'by post', because, if it is, you are restricting it by using the word 'letter'?

The Hon. C.J. SUMNER: I would not have thought so. I do not think a telex or telegram for that matter has anything to do with it. In any event, presumably by agreeing to the Hon. Mr Lucas's amendment, that problem is resolved, if there was one.

Amendment carried.

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

Page 29, lines 35 to 37—Leave out all words in these lines after 'if' in line 35 and insert 'the application is received by the officer to whom it is made after 6 p.m. on the Thursday preceding polling day'.

My objection to this clause is related to my ealier objection, namely, that it is really very much a subjective judgment of the particular officer concerned at any of the divisional returning offices as to whether it is unlikely, in the words of the Bill, that the papers might reach the applicant. Some areas of rural South Australia, as my good friend and colleague the Hon. Mr Dunn tells me, would only receive a mail once a week. One then has judgments being made by people perhaps sitting in city offices or in offices away from rural South Australia, in provincial cities perhaps like Port Pirie or Whyalla, making judgments perhaps one week prior to polling day that it is unlikely that something will get to pastoral stations or whatever and that, therefore, they will not send off a declaration voting paper.

That is unsatisfactory, and the position should be specified in the Act; my amendment covers it. If an application is received before 6 p.m. on Thursday, the application is sent off. True, in some circumstances the officer will know that it will not get there next day. Although I accept that, the small number of voting papers that will not arrive makes it worth the requirement being specified, as it takes away any subjective judgment to be made by an officer whether the form will arrive. An officer could say even a week beforehand that it was unlikely that a voting paper would arrive and that, therefore, it would not be worth his sending it off.

The Hon. Anne Levy: What if someone is overseas?

The Hon. R.I. LUCAS: Do you allow an officer to say three weeks before polling day that he will not send it off because it will not get to Austria? How does an officer in Port Pirie know whether it will get to Austria in three weeks?

The Hon. Anne Levy: You certainly know it will not get there in two days.

The Hon. R.I. LUCAS: I agree with that.

The Hon. Anne Levy: It is ridiculous. You are asking people to do stupid things.

The Hon. R.I. LUCAS: That is not the case. I hope that the Attorney will accept this. From previous discussions, I believe he will. I accept the Hon. Anne Levy's point that there will be some circumstances where it will not get there in time. The position should be definite.

The Hon. C.J. SUMNER: Can the honourable member envisage any circumstances where the person would be deprived of a vote as a result of the amendment? Could a person be deprived of a postal ballot paper after making an application after 6 p.m. on Thursday? I cannot. I am inclined to accept the amendment even though, as the Hon. Anne Levy says, it may lead to some artificial situations where postal votes are being sent off that clearly will not be delivered in time.

The amendment takes the discretion away from the returning officer in deciding whether a postal ballot paper should be sent out. The present provision leaves a discretion to the returning officer to decide whether or not he thinks it will arrive in time for the elector to vote. On that basis, there is merit in the amendment.

The Hon. I. GILFILLAN: Is there anything in the Bill providing that polling day will always be a Saturday?

The Hon. C.J. SUMNER: I refer the honourable member to clause 50 (5).

The Hon. R.I. LUCAS: To answer the Attorney, 6 p.m. on Thursday was selected after discussion with various officers. At present up until 5 p.m. on the day preceding polling, officers must send out forms. That is clearly nonsensical because even in the city material sent on Friday at 4.30 p.m. cannot get delivered by post in time. It was judged that the last clearance on Thursday is roughly 8.30 p.m. in the metropolitan area, and that should get mail delivered in the metropolitan area and some (not all) rural areas of South Australia. The 6 p.m. provision gives the Electoral Officer 2½ hours leeway, if they are still working at that hour (I am not sure what administrative arrangements apply in the electoral offices two days before an election). They would be able to process and post the papers by 8.30 p.m. on Thursday and some people would receive the mail on the Friday. I do not envisage that it would preclude anyone from receiving a vote who might otherwise be entitled to one.

The Hon. C.J. SUMNER: Would there be any circumstances where an application could be received after 6 p.m. on Thursday and after processing and posting the elector could still receive a postal vote on Friday? That is something of which I am not sure. I agree that it is a sensible amendment. However, is the time specified correct? Should it be midnight on Thursday, which is a question I have raised with the Commissioner?

The Hon. R.I. LUCAS: The Attorney was taking advice during my last answer. The time of 6 p.m. was chosen because I was advised that the last clearance in the metropolitan area is at 8.30 p.m. The Electoral Office might not even be open at 6 p.m. two nights before an election.

The Hon. C.J. Sumner: It closes at 5 p.m.

The Hon. R.I. LUCAS: The 6 p.m. amendment gives officers 2½ hours to meet the last metropolitan clearance, and this would allow metropolitan and some rural area deliveries as well the next day. As the office closes at 5 o'clock, people will not be able to make oral applications.

The Hon. C.J. Sumner: They could make them on Friday.

The Hon. R.I. LUCAS: Yes. Applications by post would probably be received on Thursday morning, and if a written application is deposited by person it would have to be before 5 p.m., when the doors are shut. The 6 o'clock limit covers that and allows officers 2½ hours to post papers so that they can be received on Friday.

The Hon. C.J. SUMNER: From an administrative point of view, 6 p.m. is probably sufficient.

The Hon. Peter Dunn: There will be no more mail on that day after that time.

The Hon. C.J. SUMNER: However, the Electoral Commissioner might get into the spirit of Thursday night shopping. I understand that one would still have to post it in time so that it would reach the electoral office the next day. I do not want to see, as a result of this amendment, anyone deprived of a vote where they have posted the application in time on Thursday night so that they can get their ballot paper in on Friday.

The Hon. R.I. Lucas: Do you want it changed to 9 p.m.?

The Hon. C.J. SUMNER: Yes, I will accept that.

The Hon. PETER DUNN: I object, in a way. What about a rural person whose time limit probably runs out on the Tuesday or Monday before the election? He must have his vote in by that time, if he wants to register a vote. He must receive the ballot paper, mark it and post it, so the time limit is probably Tuesday. The urban area must fall into line with the procedure. They must adhere to a time limit, just the same as there is a time limit on voting day between 8 a.m. and 6 p.m. I support what my colleague has said. I do not think it should be delayed any further than that. There is reliance on the Australia Post deliveries. Australia Post does not deliver that late, so I do not know how the electoral office can receive postal votes after 6 p.m.

The Hon. C.J. SUMNER: I understand what the honourable member is saying. I do not think, just because people who live in the country have a disadvantage, that that should necessarily mean that people in the city should also be disadvantaged. My only query about the amendment is to ensure that the cut-off point will ensure that anyone who has made an application for a postal vote by the last mail on Thursday (which means they will receive it on Friday) is accommodated. As I have said, perhaps in the spirit of Thursday night shopping the Electoral Commissioner instead of closing at 5 p.m., will close at 9 p.m. It may be that Australia Post will substantially increase its services and will take mail later on Thursday and perhaps make five deliveries on the Friday. All that is possible. It is a fairly minor point, but I think 9 o'clock probably ensures that there is no disadvantage to anyone.

The Hon. R.I. LUCAS: I seek leave to amend my amendment by deleting 6 p.m. and inserting 9 p.m.

Leave granted.

Amendment carried; clause as amended passed.

Clause 78 passed.

Clause 79—'Marking of votes on ballot papers.'

The Hon. K.T. GRIFFIN: My first two amendments relate to voting tickets. I lost that provision when we considered clause 62. From memory, that clause related to Legislative Council ballot papers and I sought to remove the requirement for a square at the top of a particular group which had lodged a voting ticket with the returning officer. Having lost that, I do not think it is really appropriate to proceed with my first two amendments to this clause, which really flow on from the voting ticket concept in relation to the Legislative Council. Therefore, I will move on to my third amendment. I move:

Page 30, lines 29 to 31—Leave out subclause (3).

Subclause (3) provides:

For the purposes of this Act, where a voter places a tick or a cross on a ballot paper, the tick or cross shall be deemed equivalent to the number 1.

We are having enshrined in legislation that, regardless of anything else, a tick or a cross and the number 1 are

identical. I just do not accept that. Of course, it may mean that some ticks and crosses which have previously been on ballot papers and have been regarded as informal for that reason, are validated, but I do not believe there is any justification at all in moving from the general concept of figures. During the second reading debate I said that it is very difficult to perceive the intention if a cross is involved. It may mean approval, or it may mean disapproval. Even though crosses have been used—as in the United Kingdom, for example—that does not mean that the use of crosses in Australia, particularly in South Australia, ought to be equated with what happens in the United Kingdom.

The Hon. C.J. Sumner: In local government.

The Hon. K.T. GRIFFIN: I will refer to the question of local government. In the local government elections last Saturday we moved deliberately from a cross signifying approval for a candidate to the figures 1, 2, and so on. We have made a deliberate change—and I think for the better—from crosses to figures. I think that, although on the face of this piece of legislation in relation to information which is to be communicated to electors, we are required to say that full preferential voting for the House of Assembly, for example, is required and that requires figures and that behind the scenes ticks and crosses are going to be validated. That is a bit of legislative deception, of course. However, I certainly do not support ticks and crosses, so I can see that a halfway measure is to at least make it illegal to promote the use of ticks and crosses. I note that the Attorney-General's amendment to clause 129 indicates that perhaps he has even relented on that and that the promotion of ticks and crosses may be permitted.

The Hon. C.J. Sumner: No.

The Hon. K.T. GRIFFIN: That is one possible interpretation of the new amendment.

The Hon. C.J. Sumner: That's not right.

The Hon. K.T. GRIFFIN: Well, we will get to that later. Notwithstanding that, I cannot support on principle moving to ticks or crosses. The system in South Australia for decades has required figures at State and Federal level, and it has not permitted ticks and crosses. I know that there is a suggestion on occasions that, if a voter's intention is clear and there is a tick, it has been admitted.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: That is in relation to a tick where the voter's intention is clear, perhaps where there are only two candidates. I do not believe that one can say the same thing in relation to a cross. The day would have come under the present Act where there was a very close result and where any admission of a cross, for example, by a returning officer as a valid vote and as indicating a voter's intention would have been subject to a dispute before the Court of Disputed Returns. There is no valid argument in favour of a cross unequivocally signifying approval. It can equally signify disapproval. That is the difficulty with a cross. With a tick, it is inconsistent with an established pattern required of electors.

It is all very well to say that in other countries crosses may be allowed, but we are voting in South Australia. I do not believe that it requires very much capability to understand that figures are required and not crosses. If anybody cannot appreciate the difference between a tick, a cross and a '1' and accept the basis on which we require voter intention to be signified, there ought to be some question as to that person's capability to understand anything about an election at all, but that is a different matter. Ticks and crosses cannot be equated and ought not to be equated with the figure 1. Accordingly, I strenuously oppose the provision that is included in subclause (3).

The Hon. I. GILFILLAN: We oppose the amendment moved by the Hon. Trevor Griffin. Precluding on the capability or otherwise of a voter to fill in the ballot paper numerically is an unfair restriction. It is not necessarily the most important criterion of whether a vote should be counted or not as to whether the actual marking of the ballot paper conforms to a specific requirement in the Act. It is more important that the intention be sincere and clear.

The argument that has been most substantially sustained is the question of whether a cross is a positive or negative mark. Under these circumstances, where a cross is to be the only mark it is reasonable to assume that it is a mark of affirmation. Therefore, because of the very strict injunction that there will be no advocacy of voting by these methods, for the time being, while it is obvious that we have an appreciable proportion of our population who for whatever reasons or background have been using these other marks as a means of voting, it is a reasonable and considerate way of dealing with it. Therefore, in brief, it is our intention—

The Hon. K.T. Griffin: Some use a cross to sign their names.

The Hon. I. GILFILLAN: That is certainly a positive gesture, isn't it?

The Hon. R.C. DeGARIS: Along with the Hon. Trevor Griffin, I strenuously oppose clause 79 (3). It is unfair in the system of voting that we have in this State, where one must vote by numbers, for the Returning Officer to be placed in a position by Act of Parliament of determining, where a person puts any other mark than the figures 1, 2, or 3, whether that is a formal vote in regard to that voter's intention. It cannot be agreed that the intention is clear when a person uses a cross. There is no guarantee that putting a cross on a ballot paper shows the clear intention of the voter.

One can say that, because in this Act we cannot allow the advertising that a person can vote with a cross or a tick, a voter may in sincerity vote informally by a cross or a tick. If we have a situation where one cannot advocate for a vote by a cross or a tick, how can anyone say that that voter has not deliberately voted informal? Therefore, to argue that, because there is no advocacy for that sort of vote, we should permit it to be counted may result in the vote being interpreted other than as the voter intended, because many people deliberately vote informal, but go along to avoid the fine for not voting, take a voting paper and put a mark on it but really try to vote informally. We are saying here that, where a person does that as an informal vote, that vote will be counted.

I have told the story before of a gentleman who voted in a district council election. I drove him home because he was drunk in the street. He said to me, 'You're DeGaris, aren't you?' I said, 'Yes.' He said, 'I'm glad that you are driving me home, but that opponent of yours picked me up and took me to the polling booth. I voted and he just left me like a shag on a rock. As a matter of fact, if I had known in that case I would have put a cross against his name instead of yours.' I said, 'How did you vote?' He said, 'I put a great cross against your name because I didn't want you.'

How can a returning officer, when there is no advocacy of voting by a cross or a tick, take the view that that voter has voted formally for the person against whose name the mark is made? As the Hon. Trevor Griffin says, it is ludicrous. In supporting such a thing we are making a complete ass of the Electoral Act.

The Hon. C.J. SUMNER: That is not correct. I accept the arguments put forward so eloquently by the Hon. Mr Gilfillan on this point: where an elector has made a sincere and clear attempt to indicate an intention, that vote should not be rendered invalid. It is interesting to note that under the existing Electoral Act a tick or a cross is a valid vote in some circumstances. That is an opinion of the Crown Sol-

icitor given to former Attorney-General Griffin on 15 December 1981.

Crown Solicitor G.C. Pryor was of the view that a ballot paper in an election for one candidate from two nominees on which one box is marked with a tick or a cross and is not marked in any other way clearly indicates the intention of the voter to vote for the candidate against whose name the mark has been placed. Such a voter has indicated his preference for that candidate, and section 123 (1a) absolves him of responsibility for placing any mark in the other square. That is the result of the operation of section 123 (1a) of the Electoral Act, which states:

> Where a voter has indicated preferences for all candidates except one, it shall be presumed that that candidate is the one least preferred by the voter and that the voter has accordingly indicated his preferences for all candidates.

Subsection (2) states:

> A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as his intention is clear.

At least with respect to a tick or a cross where there are two candidates the Crown Solicitor was of the view that the current Electoral Act validates those votes. All we are saying is that in the spirit of that existing legislation (namely, that where the voter's intention is clear, the vote be validated) we are introducing the provision into this legislation albeit slightly beyond what was asserted by the Crown Solicitor. Nevertheless, the basic point I wish to make—

The Hon. K.T. Griffin: That is yet to be challenged.

The Hon. C.J. SUMNER: I was just pointing out the advice of G.C. Pryor (now Mr Justice Pryor) to the Hon. K.T. Griffin, Attorney-General, on 15 December 1981. I can see no notation here that it was rejected.

The Hon. K.T. Griffin: I didn't agree with it.

The Hon. C.J. SUMNER: You may not have, but it is advice.

The Hon. R.I. Lucas: Did Pryor argue that cross, two, three, blank, was valid?

The Hon. C.J. SUMNER: That is not addressed.

The Hon. R.I. Lucas: But on his logic—

The Hon. C.J. SUMNER: I do not know; that is not addressed in his opinion. I am not saying that that is the end of the argument. All I am saying is that under the existing legislation the Crown Solicitor is of the view—

The Hon. R.C. DeGaris: One Crown Solicitor was.

The Hon. C.J. SUMNER: The Crown Solicitor (now eminent Mr Justice Pryor of the Supreme Court) of the time was of the view that at least in that case where there were two candidates the tick or cross would be sufficient to indicate the preference of the elector, and that effect should be given to that intention.

The Hon. K.T. Griffin: Is there any specific factual information on which that advice was given?

The Hon. C.J. SUMNER: No, it states:

> 'I am asked to advise in respect of an election in a district in which only one candidate is required to be elected and where there are only two nominations; where the ballot paper is marked either with a tick or a cross against the name of one of the two candidates it may be accepted as a formal ballot paper.'

I said it was in the limited circumstance. I do not put it higher than saying that under the existing Act in some circumstances ticks and crosses can, according to the Crown Solicitor of the day, be validated as formal votes, relying on section 123 of the Electoral Act.

The Hon. R.I. Lucas: In 1982 did the Electoral Commissioner rule in that way?

The Hon. C.J. SUMNER: I am not sure whether or not there were any circumstances where that occurred where there were only two candidates. I do not know what view the Electoral Commissioner took of it. Nevertheless, that was the view of the Crown Solicitor. That is not the end of the argument, I agree. All I am saying is that under the existing legislation, which also has a predisposition to the validation of votes, ticks and crosses were rendered formal in certain circumstances. All we say is that under the existing legislation, the new Act, in the words of the Hon. Mr Gilfillan, where the intention of a voter is clear, as I believe it is with a tick or cross, then that should be validated.

I know the arguments about crosses put by the Hon. Mr Griffin. The fact is that crosses are used in a number of overseas countries and were used in this State for local government elections until recently. This applies to the validation of what would otherwise be informal votes. The legislation makes quite clear that people should express their intention in a full preferential manner. That is the basic thrust of the Bill. It is not an optional preferential system. The Act prohibits advertising or proselytising in favour of ticks, crosses, number 1s or whatever and specifies that people should exercise their obligation to fully expound the preferential system.

I point out that, according to the Electoral Commissioner's analysis in his report, which was made publicly available, 9 413 ballot papers were rendered informal as a result of ticks or crosses instead of numbers being used in the Legislative Council scrutiny in 1982.

The Hon. R.I. LUCAS: I oppose this provision. My first ground is what will quite clearly be confusion in the voters' minds with respect to voting at three levels of government. If this amendment is passed we will have the ludicrous situation in South Australia where voters at a local government election will be able to use only a number 1; at a State election they will be able to use a number 1, a tick or a cross; at a Commonwealth election they must use a number 1 on the House of Representatives ballot paper, a number 1 for the individual preference for the Senate, but they are allowed to use a number 1, a tick or a cross for the group vote in the Senate. That is what the Government and Democrats are asking us to accept.

The Hon. C.J. Sumner: It is not that they are required to do that.

The Hon. R.I. LUCAS: Not required, but it is all possible. We have just been through a situation where significant advertising was carried out by the Local Government Association saying, 'Don't use crosses, use number 1s in your voting paper for local government'. In regard to Commonwealth elections in two cases one is not allowed to use ticks and crosses, but in another case one is allowed to use a tick and a cross; now, the State Government will provide another couple of choices for ticks and crosses. The argument is that we will validate X thousand votes in the State scene. Mark my words, the result of it will be that we will invalidate and make informal many thousands of votes in local government elections.

The Hon. C.J. Sumner: How?

The Hon. R.I. LUCAS: Because people will get used to voting with ticks and crosses under the Attorney's system.

The Hon. C.J. Sumner: How are they going to get used to it?

The Hon. R.I. LUCAS: Quite easily—by word of mouth.

The Hon. C.J. Sumner: There won't be any publicity for it.

The Hon. R.I. LUCAS: The Attorney says that, but what is to preclude the *Advertiser* from covering what goes on in Parliament. What is to preclude the *News*, television and radio from reporting what exists in State legislation. I do not think that the Attorney is suggesting that. So the Attorney is trying to save a few thousand votes in South Australian elections but, mark my words, we will invalidate thousands of votes for local government and House of Representatives elections and Senate individual preference votes, because there is confusion.

The whole argument we are putting tonight is for some consistency. We have done it in relation to the local government legislation. It was accepted by the Democrats and the Government. There was no argument from the Attorney-General or the Hon. Ian Gilfillan in relation to the local government legislation that we should use a tick or a cross. What the Attorney-General and the Hon. Mr Gilfillan are saying with respect to local government is, 'Votes can be informal in local government elections; it is not important whether a person uses a tick or a cross. We are only concerned about the State voting system.' Therefore, we pass a Bill with Democrat and Government support to ensure that only numbers are used for local government elections and now we are saying that voters can use ticks and crosses in the State system. It really will create confusion in the minds of voters in South Australia to have these different systems of ticks and crosses for the Senate, local government and State Parliament.

I think that I indicated before Easter that I conducted a scrutineering school for my Party prior to the last Commonwealth election. It was absolutely ludicrous to stand in front of 30 or 40 well meaning volunteers and try to explain to them the wonders of Mick Young and his legislation under the Commonwealth Electoral Act and the fact that a tick and a cross are allowed at the top of a Senate voting paper but not at the bottom, and that a tick and a cross is not allowed on a House of Assembly ballot paper. The Electoral Commissioner made a good point in his report about the lack of professionalism of scrutineers from the political Parties.

I conceded earlier that there is merit in what the Commissioner argued, but if we want professionalism from or a high standard of scrutineers, how on earth can we get it when the Government and the Democrats coalition say that one cannot use ticks and crosses on ballot papers in a local government election, but can use ticks and crosses on the ballot papers in a State Government election. These two Bills appeared within six months of each other, yet this inconsistency exists.

What the Attorney is saying is, 'We will save a few votes in the State, but do not worry about what will happen at local government elections.' The point made by the Hon. Mr DeGaris and the Hon. Mr Griffin is an important one. There is no dispute with respect to ticks if one wants to take the argument that it is a positive affirmation.

The Hon. K.T. Griffin: Only when there are two candidates.

The Hon. R.I. LUCAS: All right. With respect to crosses, I assure honourable members (I have said it before and I will say it again) that at the Senate election I saw many meticulous voters mark number 1 for either the Labor or the Liberal Party and very neatly block out with crosses the names of the other five or six political Parties because they did not want to vote for any of them. Under the Commonwealth Act those were informal votes: under this Bill they will be informal votes, because the electoral officer will say that there is a number 1 which is a first preference mark but that there are also six first preference marks which are crosses and so the person had not been able to make up his mind and has marked seven first preferences for seven Parties. That is the import of this amendment.

I do not know whether the Hon. Ian Gilfillan did any scrutineering for his Federal colleagues, but if his Party is anything like the Liberal Party he, being a State member of Parliament, would have been rounded up to be a scrutineer at the Federal election. I can assure honourable members that there were very many votes where people meticulously indicated what they wanted and marked number 1 for the Labor Party or the Democrats and crossed out the other candidates' names.

The Hon. C.J. Sumner: Not the Liberal Party?

The Hon. R.I. LUCAS: Or the Liberal Party. But what happened under the Commonwealth Act was that they were treated as informal votes. What the Attorney-General and the Hon. Ian Gilfillan are saying is that that is an informal vote, yet the person involved quite clearly indicated a preference for a Party and blocked out the other candidates. It was a negative preference.

The Hon. K.T. Griffin: What happens if they put one tick and five crosses?

The Hon. C.J. Sumner: That is an informal vote.

The Hon. R.I. LUCAS: That is an informal vote. I hope that the Hon. Ian Gilfillan will think about this matter and change his view. If he does not, I ask that at the very least he think about an amendment that will remove the crosses, because a cross can be a positive or negative mark. The Hon. Mr DeGaris has given a good example of the negative cross.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Let us not get distracted. I hope that the Hon. Ian Gilfillan will think about the new matter that we have raised this evening in respect to this matter and will support this deletion. I hope that, if he will not do that, he will at least think about a compromise whereby the cross is removed from the papers because of the examples given by the Hon. Mr DeGaris and the more recent example of what happened during the Commonwealth election last year when people had their votes ruled informal because they had used number 1s and crosses on their ballot papers. I leave that suggestion with the Hon. Mr Gilfillan and hope he will think about it, change his opinion and support the deletion. If he cannot bring himself to do that, I hope that he will think about a compromise and delete the cross because of the problems involved. He can, in effect, go half way and leave the ticks in.

The Hon. I. GILFILLAN: I am in a quandary having heard that eloquent argument. I believe that there were good reasons for hoping that the Hon. Robert Lucas and other Liberal members would have constructively approached how various methods of filling in ballot papers could be used. The honourable member has identified a case where there was a meticulous attempt to vote. That is the reason why I am prepared to accept this amendment. There may be some misplaced intentions; there always are. The honourable member has presented an argument about invalidation of a whole host of other votes and has said that where the counting is being conducted the serious and genuine attempts to vote are being counted with proper respect for the intention of the voter, but that there is no publicity to inform a public that is becoming better informed and more involved in voting. The Local Government Act should have been amended in that regard. That was an oversight and it is good that this matter is raised now. However, that does not mean that we stall a sensible, considerate clause in this Bill.

The real aim is surely to educate the public so that they vote intelligently and use numbers. However, there are those who are not using numbers, but the vast majority are making a serious attempt to vote properly. There may be an occasional misinterpretation of the use of the cross: I can accept that. However, I think the upshot of this clause will result in a large proportion of votes that have been filled in in this way still being counted and they will be spread right across the electoral spectrum. The suspicion that they will favour one Party more than another is completely unfounded. The Democrats have more than our fair share of informal votes and it may be that we will pick up a few crosses: I do not know. But that is not the issue; the thing is to give a fair deal to voters who have a serious intention and that is why I am prepared to support this clause.

The Hon. R.C. DeGARIS: No one disagrees about education on the way to vote at an election, to which the Hon.

Ian Gilfillan has referred. No one in this Council would disagree with the fact that education is required so that people know how they should vote. The interesting point made by the Hon. Ian Gilfillan was that maybe some mistakes will be made in counting the votes marked with a tick or a cross—maybe some mistakes will be made! How can we have a system whereby we know mistakes will be made with regard to counting how a cross is placed on a ballot paper? Therefore, the issue is what is a formal vote and how that person has recorded his vote.

If we are to say that any mark at all, a tick or a cross, can be counted as a formal vote, then we will find that there will be election results that will be quite different from how voters intended them to be. There is no way that I can support this amendment. I agree with what the Hon. Robert Lucas has said—there is some validity in the argument that a vote by tick is a formal vote, but there is absolutely no argument to say that where a person places a cross on a paper that person is voting for a particular candidate. It could be an absolutely negative vote that is not wanted, or, with regard to the Senate, people may block out with a cross those groups that they do not want. If we are going to count a cross as a formal vote, we will have great difficulty in getting a correct result to an election. I urge the Hon. Ian Gilfillan to rethink this matter of allowing a cross to be counted as a number 1 vote.

The Hon. PETER DUNN: I will be a little bit pragmatic just for the moment and say that I see no reason whatsoever to require that we must interpret the intention of the voter. The Hon. Ian Gilfillan said that perhaps we will educate people to be able to vote 1, 2, 3, 4, 5. We have had 150 years to do that; how long do we have to wait? Secondly, polling booths themselves have a how to vote card in them, and surely people can copy that.

Furthermore, if you are incapacitated to the degree where you require assistance, you are allowed to have assistance in there. If from those two methods you cannot register a 1, 2, 3, then I am lost for words, I really am. If after all that assistance you cannot put 1, 2, 3, 4, 5 or 1 to 12 on a piece of paper—

The Hon. R.C. DeGaris: It could be a deliberately informal vote.

The Hon. PETER DUNN: Indeed, I can recall at the last Federal election that I went north to scrutineer. On two Senate papers I recall distinctly for people voting 1, 2, 3 or up to about 20, and they then put in a couple of crosses because obviously they did not like those people; they then finished off the rest of the card. In another case, they voted for about three for the Senate and put ticks for all the rest. I cannot for any reason see why there is any necessity to have to interpret what a voter has done. If he does not go along there and educate himself to the degree when he has had six weeks of heavy lobbying from all the Parties, what can be done? If a voter has not made up his mind by then and if, at the last moment, he is confused and therefore registers a vote whereby it is not clear what he is after, perhaps we should not be counting that vote in the way in which it has been registered.

The Hon. K.T. GRIFFIN: The only way that you can discern a voter's intention is by what is on the ballot paper. You cannot go behind the ballot paper and say, 'This person may have had this intention.' You do not know who the person is, because it is a secret ballot. So, you have to discern the intention from what is on the ballot paper. To endeavour to impute an intention because there is a tick or cross on it and perhaps no other mark seems to me to be stretching a long bow.

The Hon. C.J. Sumner: That is not the Crown Solicitor's view.

The Hon. K.T. GRIFFIN: It might not be the Crown Solicitor's view in a situation where there are two candidates. However, I do not agree, particularly in relation to the cross, because I do not believe that a cross is the universal symbol of approval. It is not. You go back to primary school and if you get a cross, it means that it is wrong; if you get a tick, it means that it is right. Right from the earliest age of a citizen, a cross means that something is wrong and that it is disapproved, and a tick means that you approve something. Then, of course, the other complication is that the Government is saying, (and regrettably it has already been passed) that, if you have a voting ticket for a particular candidate, it is lodged with the Returning Officer and someone has marked a ballot paper for the House of Assembly with only a tick or a cross, that is to be taken as an intention that that voter desires to record preferences according to the voting ticket of that candidate. That is a ludicrous extension of the argument.

There are many people who merely only want to show approval for one candidate. They do not want to indicate a preference for somebody else. They might support the Labor Party and not want to vote for somebody who is a Liberal, or they might vote for the Liberal Party and not want to express a preference for a Labor candidate. So, they would vote for one only. However, that is informal under our system. There have to be some rules, and those rules are presently that you have to vote by numbers, which clearly indicates intention, and you have to vote fully preferentially.

No-one can dispute what a figure '1' means. It does not mean that you disapprove of that person the most. It means that you support that person first of all. There can be no dispute about that at all. That is what this is all about: getting a clear indication of the voter's intention. My view and that of the Liberal Party, which is strongly held, is that the only way to get that clear intention is to use figures. To try to equate ticks and crosses and even to do it legally by Statute is an abuse of the interpretation of a voter's intention. For those reasons, and for all those reasons indicated by my colleagues on this side, I very strenuously oppose subclause (3).

The Hon. R.C. DeGARIS: Is it the Attorney-General's intention in this legislation to make sure that there is some interpretation of the voter's intention in relation to this clause? Does the clause really ask the returning officer to make a determination on the voter's intention so that that vote becomes a formal vote?

The Hon. C.J. SUMNER: I said before (and this answers a number of questions) that we are not providing for voting by ticks or crosses: we are providing for a full preferential system where people, as a primary obligation under the legislation, should fill in and express their preferences. That is clear. What we are doing is a modification of what exists under the existing Act. Under that Act, where the intention of the voter is clear, as it was in respect of an example I gave from the Crown Solicitor, that vote should be validated.

There are two processes: there is the voting process where there are certain requirements with which the voter must comply, and then there are what I might call scrutiny requirements, which have always existed in legislation. The honourable member knows that, if you leave the last square blank and you fill in every other square in accordance with the Electoral Act, that last square is deemed to be the final number and the vote is valid. There is the provision that I mentioned earlier, namely, section 123 of the Electoral Act in which a scrutineer picks up and validates votes where the intention is clear.

We are trying here to validate those votes where a voter has made, as the Hon. Mr Gilfillan said, a sincere attempt to vote for a particular candidate. I believe that that is a

justifiable position, given the current legislation which already recognises that situation.

The Hon. R.I. LUCAS: I ask the Attorney whether the Electoral Commissioner, when preparing an analysis of the informal votes after the next election (at least I hope he will do so) will do it in relation not only to the Legislative Council but also to the House of Assembly. As part of that analysis, would he be prepared to provide a category of, in effect, double first preference votes—that is, of those people whose vote may be declared informal because under the Attorney's and the Hon. Mr Gilfillan's amendment they have put a figure and then put crosses?

The Hon. C.J. SUMNER: There is no problem with that as far as I am concerned. Of course, I may not be the Minister responsible for the Electoral Act at that stage.

The Hon. R.I. Lucas: On today's poll you won't be.

The Hon. C.J. SUMNER: I was not referring to that. It may be that the new Premier has been so disappointed with my performance in the Legislative Council with respect to the Electoral Act, bearing in mind the time that it has taken for me to get it considered by the Parliament, that he might decide that I am more appropriate in the water resources or tourism portfolio. I must confess that sometimes I think that would be quite attractive.

The Hon. R.I. Lucas: Why is the Attorney allowing in the Bill ticks and crosses in all three separate voting systems for the Assembly, group votes and individual preference votes for the Council when his Commonwealth colleagues chose not to provide the preference for all three categories?

The Hon. C.J. SUMNER: It seemed reasonable to be consistent across the voting methods for the Houses.

The Hon. R.C. DeGARIS: Without advertising an advocacy, how can a returning officer assume that a vote by a cross is a formal vote of a number 1? Unless you advise people that a vote by a cross is a number 1, how can a returning officer interpret that as being a number 1 vote?

The Hon. C.J. SUMNER: I would have thought that that was obvious. Certainly, it is the Crown Solicitor's view that a tick or cross indicates an intention to vote. It is common knowledge and we can take legislative notice of the fact that in a number of countries people vote by crosses.

The Hon K.T. Griffin: That's not Australia.

The Hon. C.J. SUMNER: We can take notice that in this State people voted by crosses in local government on previous occasions.

The Hon. R.I. Lucas: You stopped that.

The Hon. C.J. SUMNER: That is not the point.

The Hon. R.I. Lucas: You stopped it; you disagreed with it.

The Hon. C.J. SUMNER: The point is that the cross in local government elections indicated affirmation for that candidate. It is a common method of voting throughout the world, including South Australia until recently in local government elections. Taking notice of that fact, which we are all entitled to do in this Parliament, is sufficient to indicate that people who have voted with a cross have indicated their intention.

The Hon. K.T. GRIFFIN: The point is that, in other countries where people use crosses, it is first past the post voting, which is not what we have here.

The Hon. C.J. Sumner: That has nothing to do with it.

The Hon. K.T. GRIFFIN: It has everything to do with it. In South Australia we have preferential voting, and it requires figures; it does not require crosses. One cannot say that because someone has come from overseas where they have used a cross to mark their support for one candidate (not preferentially, but first past the post), that means, if they put a cross on a ballot paper in South Australia, it indicates a first preference and subsequent preferences according to the voting ticket. It is ludicrous to extend that situation to a totally different electoral system.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. L.H. Davis. No—The Hon. M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. R.I. LUCAS: Now that one's ticks and crosses have been validated, is it a formal vote if a person meticulously writes the word 'one'?

The Hon. C.J. SUMNER: Previously the written word has been adjudicated to be a formal vote.

The Hon. R.I. Lucas: What about under your Bill?

The Hon. C.J. SUMNER: I believe that it would still be a formal vote.

The Hon. PETER DUNN: If that is so, what is the ruling in regard to the written word 'cross' or 'tick'?

The Hon. C.J. SUMNER: I think that would not be considered to be formal, but obviously that is a matter for—

The Hon. R.C. DeGaris interjecting:

The Hon. C.J. SUMNER: Perhaps ultimately it would be up to the Electoral Commissioner to determine, just as under the existing legislation, as anyone who has done any scrutineering knows—and the honourable member is really nit-picking a bit—there are a whole lot of ballot papers (although perhaps not that many in the overall scheme of things) which one must consider; a number are marked in ways whereby scrutineers and polling officials must determine as being either valid or invalid votes. Anyone who has been in a court of disputed returns will know that there are arguments, which obviously get to court, as to whether or not a vote is valid or invalid and whether it expresses the intention of the elector. To date, without challenge, the writing of the words on the ballot paper has been considered to be a valid vote.

Clause passed.

Clause 80—'Times and places of polling.'

The Hon. K.T. GRIFFIN: I have amendments in relation to mobile polling booths. Perhaps I will speak to all my amendments, because I notice that the Attorney-General has an amendment on file on which I would like to hear some comment before I formally move my amendments. My amendments remove the possibility of a mobile polling booth being established by the Electoral Commissioner within a remote subdivision, that is, a subdivision identified by the Electoral Commissioner as a remote subdivision under clauses 4 and 15. Of course, there are no criteria for the declaration of remote subdivisions.

I indicated that for a period of 12 days prior to polling day the mobile polling booths could be driving around remote subdivisions and that the procedure could be open to some abuse; accordingly, my amendments seek to remove mobile polling booths. Since I raised that question during the second reading debate I have been informed of the way in which those polling booths operate in the Northern Territory under fairly strict controls imposed by the Electoral Commissioner or the particular returning officer. Provided that there can be some further clarification of the way in which mobile polling booths are likely to work, if there is a limitation on the time before polling day during which they can operate, I may be persuaded to relent in my previous opposition to mobile polling booths. I think it is

important for the Attorney-General to at least give us some background to the way in which they operate. The Attorney did not mention it in his second reading explanation and he made no comments relevant to this issue during his reply to the second reading debate. If the Attorney can give us some information about mobile polling booths, it will give us something to think about and it may be that we can be persuaded to relent a little in our previous opposition to this proposition.

The Hon. C.J. SUMNER: Mobile polling booths operated during the last Federal election. At one stage when we were discussing this matter informally I referred to a schedule of places where polling was conducted prior to polling day. As the honourable member knows, I have been able to discuss this matter with some honourable members as a result of objections raised during the second reading debate by the Hon. Mr Griffin and in relation to other doubts expressed to me by honourable members, including you, Mr Chairman. As a result, I have an amendment to reduce the period within which mobile polling may be conducted from 12 days to four days. I would hope that that will accommodate the major objection, which is that 12 days provides a capacity for malpractice and unfair electoral practices and perhaps stacking of votes and the like, given that the polling could occur for such a period prior to polling day.

I think the reduction to four days overcomes that particular difficulty. No doubt, if honourable members want further briefing on how this will work, the Electoral Commissioner is available to provide further information. It will operate in a similar manner to its operation during the last Federal election. Prior to the four-day period the Electoral Commissioner will specify the times at which the mobile booth will be at a particular site. The site will be selected by the Electoral Commissioner. Obviously, in the remote areas it will be a site where for electoral convenience it is easier and cheaper to have a mobile polling booth, rather than having to go through the procedure of establishing in various remote areas a fixed booth which operates all day on polling day for a small number of votes.

As I understand it, a certain number of places will be designated, and the times for which the booth will be at those places will be designated before the four-day period. That will then be advertised in those places and people wishing to vote will be able to attend at those times prior to polling day. It may be that polling officials will spend two hours in one place and two hours in another place. They will arrive by aeroplane and the whole thing will be conducted in accordance with a plan prepared by the Electoral Commissioner. I see no particular danger in this, given that we have reduced the time to four days. It should be a decided advantage to people in remote areas of the State.

The Hon. PETER DUNN: During the second reading debate I indicated that I was concerned about the fact that polling booths had 12 days to roam around the country. I expressed the concern that the cost was extremely high to register a few votes and, in fact, I cited the situation in the North during the last Federal election. I am much happier with the Attorney's proposal to reduce the time to four days. There is a cost factor and, also, scrutineering must be considered. I think most Parties like to scrutineer at a mobile polling booth. It seems to me that four days is a reasonable time. As the Attorney has described it, I have few complaints. In view of the fact that a postal vote is available, in those areas where people are quite isolated, they could quite legitimately apply for and receive a postal vote, and the normal processes of Australia Post would handle that.

That is probably a fairly reasonable way of doing it. However, if the Electoral Department considers that there is a good case for a mobile polling booth, I think that it is fairly reasonable for it to be a four day period, and I could not object to that.

The Hon. K.T. GRIFFIN: I appreciate that mobile polling booths will be subject to the Electoral Commissioner's supervision and be maintained by electoral officials appointed by Returning Officers in relation to remote areas. I can see that, if they are conducted, as they have been in the Northern Territory, on very strict lines consistent with those requirements applying to fixed polling booths, then provided the time for the use of those polling booths is limited to four days, maybe it will be of assistance to people in those remote areas, without there being the possibility of abuse which I feared if we were to have them operating for up to 12 days prior to polling day.

I am still cautious about it. I remain to be convinced that they are worthwhile, economic and provide the service to which the Attorney-General has referred. I remain to be convinced that they are preferable to someone being placed on the declaration voting register or applying for a declaration vote by post. If the Attorney-General moves the limit to four days prior to polling day, I am prepared to accept it on the basis that we will review how it operates at the next election and, if there are reasons why they should not be continued, then we would certainly want to reserve the right to be able to move amendments to the Electoral Act to remove the concept of mobile polling booths. My support at this stage is very much conditional and subject to observing their operation during the course of the next election for the four days prior to the polling day. I will not move my amendments, but will support the reduction in time from 12 days to four days.

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

Page 31, line 8—Leave out '12' and insert '4'.

Amendment carried; clause as amended passed.

Clause 81—'Right of elector to receive ballot paper.'

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

Page 31, lines 15 and 16—Leave out subclause (1) and insert subclause as follows:

(1) Subject to this Act, where an elector who is entitled to vote in an election attends at a polling booth and claims to vote, a ballot paper shall be issued to that elector.

My amendment clarifies the basis on which an elector is entitled to receive a ballot paper. I think that there is some doubt in the Bill about the right to receive a ballot paper. There are other provisions in the Bill which establish entitlement to vote. My amendment will provide that where an elector is entitled to vote, attends at the polling booth and claims to vote, then the ballot paper shall be issued to that elector. The entitlement to vote concept is not included in subclause (1) in the Bill, and that is what I am including in my amendment.

The Hon. C.J. Sumner: Which electors are not entitled to vote?

The Hon. K.T. GRIFFIN: The Bill contains a provision, which I cannot put my finger on, allowing the Returning Officer to ask certain questions of the elector.

The Hon. C.J. SUMNER: I know that we last considered this matter a long time ago. I wonder whether what the honourable member is doing is picking up something that is consequential on his proposition for voluntary voting. He may then have an elector who does not vote. In that case what he is saying is consistent—

The Hon. K.T. GRIFFIN: My amendment has nothing to do with voluntary voting. Clause 76 of the Bill relates to questions to be put to a person claiming to vote. It states:

(1) An authorised officer shall, before issuing voting papers to a person who appears personally before him claiming to vote, put the following questions to that person:

(a) such questions as are necessary to establish the identity and the address of the principal place of residence of the claimant;

and

(b) the following question: Have you voted before in this election? *or* Have you voted before in these elections? (as the case requires),

and may put such further questions as are necessary to establish whether the claimant is entitled to vote.

That is the basis on which someone is entitled to vote. Clause 81 (1) states:

Ballot papers shall, subject to this Act, be issued to electors attending at a polling booth and claiming to vote.

It says nothing about entitlement although I would construe the reference 'subject to this Act' to pick up the concept of entitlement to vote in clause 76.

The Hon. C.J. Sumner: That is right.

The Hon. K.T. GRIFFIN: I want to put it beyond doubt.

The Hon. C.J. Sumner: That is not necessary.

The Hon. K.T. GRIFFIN: I see nothing wrong with that. It just picks up something which is already there: that subject to this Act where an elector who is entitled to vote (under clause 76) attends at a polling booth and claims to vote, then a ballot paper shall be issued to that elector. That is consistent with the Attorney's Bill but states specifically that an elector has to be given a ballot paper where entitlement to vote is established consequent on a claim. I see no problem with the amendment. I think it clarifies the real position in the Bill. If the Attorney-General is disagreeing with it, we will keep talking about it until I have made my point.

The Hon. C.J. SUMNER: That is a fairly unreasonable approach to the matter. I do not understand what the honourable member is on about.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It will not do the honourable member any good. The honourable member's amendment refers to an elector who is someone, presumably, who is entitled to vote.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, I am not sure.

The Hon. K.T. Griffin: You had better go and have a look at another Crown Solicitor's opinion.

The Hon. C.J. SUMNER: I do not need to do that.

The Hon. K.T. Griffin: You do, because there is a Crown Solicitor's opinion on it.

The Hon. C.J. SUMNER: I do not need to do that. The Hon. Mr Griffin has not referred to any Crown Solicitor's opinion. Clause 81 makes quite clear that ballot papers shall be issued subject to the Act. Surely that is a better way of phrasing it than what the honourable member has done; that is, whatever happens with respect to the issue of ballot papers must be subject to the Electoral Act. Now that surely, whatever the Electoral Act says, governs the giving of ballot papers to an elector.

The Hon. K.T. GRIFFIN: Let me just go through it again. Clause 76 establishes whether or not a claimant to vote at the polling booth on polling day is in fact entitled to vote. There is a difference between claiming to vote and being entitled to vote, and, if you look at clause 76, you will see the basis upon which a person claiming to vote is established by the polling officer to be entitled to vote. I am merely saying in clause 81 that a person who is an elector—that is, a person on the roll claiming to vote—and who is entitled to vote in accordance with the provisions of clause 76 shall be given a ballot paper.

I am picking up the conditions precedent to a person receiving a ballot paper. My amendment clarifies and puts beyond any doubt at all the conditions precedent which must to be satisfied before a ballot paper is handed over. The person is an elector claiming to vote and being entitled to vote under clause 76. That is not inconsistent with the Attorney-General's own Bill. However, for those who have to work with the Act it puts beyond doubt what the conditions precedent are to the receipt of a ballot paper. There is a Crown Solicitor's opinion on whether a person who is on the electoral roll can on polling day be refused a ballot paper. Even under the Attorney-General's Bill, a person who is an elector—that is, a person who is enrolled—can be refused a ballot paper if he does not satisfy the criteria for entitlement to vote under clause 76.

The Hon. C.J. Sumner: That is what the clause says.

The Hon. K.T. GRIFFIN: That is what I am saying.

The Hon. C.J. Sumner: Why are you changing? There is no point.

The Hon. K.T. GRIFFIN: There is a point in it.

The Hon. C.J. Sumner: There is none whatsoever.

The Hon. K.T. GRIFFIN: It puts it beyond doubt and clarifies the matter for the polling clerk who is confronted with a difficulty on polling day. He could be asked 'What are my rights in relation to the handing out of a ballot paper?' My amendment merely says that, where an elector who is entitled to vote in an election attends at a polling booth and claims to vote, a ballot paper shall be issued to that elector. That puts it beyond doubt and makes it perfectly clear on the face of that particular section.

The Hon. C.J. SUMNER: There is absolutely no point in this amendment. It is irrelevant. It has nothing to do with anything. It does not give one additional bit of clarification to anything in the Act. It is attempting in a sense, I believe, almost to further confuse the position. However, if it makes the honourable member happy and if he wants to confuse electors, it does not worry me.

The Hon. I. GILFILLAN: I cheerfully join the fray and say that I think that the Hon. Trevor Griffin's amendment has made it plainer to me. The definition of 'elector' does not mean that an elector automatically has the right to vote or get ballot papers at the booth at which he may claim to vote.

The Hon. C.J. Sumner: The elector does have the right to vote.

The Hon. I. GILFILLAN: Not by the definition in the front. It just claims that an elector is a person whose name appears on a roll as an elector.

The Hon. C.J. Sumner: Therefore he has got a right to vote.

The Hon. I. GILFILLAN: Not necessarily. He might present himself in the wrong district and might not be able to answer the questions properly.

The Hon. C.J. Sumner: Section 72 says that an elector does have the right to vote.

The Hon I. GILFILLAN: I have not seen section 72.

The Hon. C.J. SUMNER: We are in the height of absurdity if an elector does not have the right to vote—if that is what the Hon. Mr Griffin or the Hon. Mr Gilfillan is starting to suggest.

The Hon. I. Gilfillan: At that particular polling booth.

The Hon. C.J. SUMNER: It is of little consequence; the amendment is utterly unnecessary. It adds nothing to the Bill and it explains nothing to anyone. However, if it keeps the honourable member happy and means that we can get home a bit earlier, I will accept it.

The Hon. K.T. GRIFFIN: There is something in it. It is all very well for the Attorney-General to refer to clause 72, but if he looks at clause 72 (2) he will see that a person is not entitled to vote at an election—

The Hon. C.J. Sumner: It's a person, not an elector.

The Hon. K.T. GRIFFIN: I am sorry; I should have referred to subclause (3), which provides, subject to subsection (4), a person is not entitled to vote at an election unless his principal place of residence was at some time within the period of three months immediately preceding polling day at the address for wh he is enrolled.

The Hon. C.J. Sumner: He's not an elector.

The Hon. K.T. GRIFFIN: He is an elector: he is on the roll.

The Hon. C.J. Sumner: He is a person.

The Hon. K.T. GRIFFIN: The Hon. Ian Gilfillan is correct. An elector is a person who is on the roll. But, that does not give him an unqualified right to vote, and that is the point that I am making.

The Hon. I. Gilfillan: We've got the numbers.

The Hon. K.T. GRIFFIN: I know that. I really just wanted to clarify the matter because the Attorney-General said there was nothing in it, and I dispute that.

Amendment carried; clause as amended passed.

Clauses 82 and 83 passed.

Clause 84—'Voting, by elector to whom declaration voting papers have been issued.'

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate in relation to subIcause (2) how this is to be checked during the counting? Would the Attorney-General indicate the mechanics of dealing with this and identifying it?

The Hon. C.J. SUMNER: The declaration votes are checked off against the electoral roll prior to their being opened and counted.

The Hon. K.T. Griffin: That is, the electoral roll that has been marked by the polling officers?

The Hon. C.J. SUMNER: Yes, so each returning officer would check the declaration votes against the roll that has been marked by the polling clerks to ensure that there is no doubling up, and, if a person is marked as having voted on polling day and has also applied for a declaration vote and has the declaration vote in the envelope, that declaration vote would be discarded.

Clause passed.

Clause 85—'Declaration vote, how made.'

The CHAIRMAN: There is a clerical error in this clause. In subclause (3) at line 7, the word 'vote' is missing after the words 'an elector who satisfies the person before whom he is to make a declaration'. We think that the addition of that word will improve the clause, so that will be attended to.

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

Page 32, line 43—After 'or forthwith transmitted' insert 'or caused to be transmitted by the officer before whom the vote was taken'.

This is a technical amendment to tidy up the matter of who should deal with the envelope that contains a declaration vote. It is to be deposited in the ballot box by the officer before whom the vote is taken, or transmitted forthwith to the appropriate returning officer by the officer before whom the vote is taken. The responsibility rests on the officer who has taken the vote to deal with it by putting it in the ballot box or by transmitting it to another returning officer.

Amendment carried.

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

Page 33, line 3—After 'the appropriate district' insert 'before the close of poll on polling day'.

Clause 85 (2) *(d)* (ii), referring to a declaration vote, states:

. . . if the vote is taken before an authorised witness who is not an officer—the envelope shall be lodged with the returning officer for the appropriate district, or sent by post so as to reach that returning officer, before the expiration of seven days from the close of poll.

This clause envisages, on my reading of it, that a person has up to seven days after the close of the poll to, in certain circumstances, personally lodge some declaration votes with the returning officer. Therefore, one may well complete an authorised declaration vote before an authorised witness at home and one can then lodge that vote with the returning officer up to seven days after polling day. I believe that that is completely unsatisfactory. It raises possibilities for abuse where votes may well be completed six days after the poll. Admittedly, offences would have to be committed for this to happen, but it could still be done and not be able to be checked. Such votes could be influenced by the published results of the election. The intent of my amendment is to insert the words 'before the close of poll on polling day' in that subclause to make clear that those votes that can be lodged with returning officers for the appropriate district must be lodged prior to the close of poll, and that the words 'expiration of seven days from the close of poll' refer only to matters being sent by post. This has applied with respect to postal votes under the current provisions in the existing legislation. If there is any disagreement about this matter, I will develop my argument further.

The Hon. C.J. SUMNER: I understand the honourable member to be saying that, if a person intends to lodge an envelope containing a declaration vote personally, he must do it before the close of poll. Is that right?

The Hon. R.I. Lucas: Yes.

The Hon. C. J. SUMNER: If it is sent by post, it must be sent so that it reaches its destination before the expiration of seven days after the close of the poll. On the face of it, that seems quite reasonable. However, the argument against this proposal is that there is no fundamental difference between post and hand delivery. Consider the position if a person hand delivers a declaration vote to the returning officer on the Tuesday after the poll. The returning officer could tell the person that the vote would not be counted; that the person could then walk out of the returning officer's office and place the declaration vote in the post box to be delivered on Wednesday or Thursday, and it would be accepted in the scrutiny.

The Hon. K. T. GRIFFIN: It would not be accepted if my later amendment to clause 94 was accepted because that requires the envelope bearing the postal vote to bear a post mark showing that it was posted before the close of poll on polling day. As I understand what is being discussed, it is essentially to deal with the declaration ballot papers delivered to a returning officer on or before the close of poll on polling day or, if posted, then to bear a post mark on or before polling day.

I know that that is an argument that we must develop in relation to clause 94, but the two clauses do work together. The problem with posting is overcome by my proposed amendment to clause 94. I think that to remove any possibility of abuse in respect of posted declaration votes there must be a post mark on the declaration vote, because it is quite possible for a vote to be recorded by a declaration on the Sunday and, if it is dropped into the pillar box, it is not cleared until, at the earliest, 6.30 on that Sunday night. So, it would be quite possible to declare a declaration vote, albeit by committing an offence (although that is not necessarily obvious on the face of it) and to not have it post marked until at least the Monday after the poll. My argument in relation to post marking is designed to avoid any question of when the declaration vote was made and particularly where it was posted.

The Hon. R. I. LUCAS: The Hon. Mr Griffin is correct. My amendment is, in effect, a precursor to the amendment that he will move later. One of the fundamental arguments that we have developed throughout this long debate on the Electoral Bill is that all aspects of the electoral process ought to be subjected to scrutiny wherever possible. What is provided for by the Government Bill in clauses 85 and 94 is the possibility for electoral abuse which cannot be scrutinised or even checked, I suspect, by representatives of candidates.

The Hon. K.T. Griffin: Or independent electoral officers.

The Hon. R.I. LUCAS: Or independent electoral officers. You can have the situation under clause 85 (2) *(d)* (ii) where in the comfort of my own home, together with an authorised

officer, I can happily commit an offence and lodge a vote after election day.

The Hon. C.J. Sumner: Subject to this declaration.

The Hon. R.I. LUCAS: Yes, but if I want to get on a winner, I can be influenced by the vote of the polling day and, say we have an election on the Saturday, I may at any time up to Thursday of that week, together with my conspirator, the authorised witness, complete a declaration vote and then stroll down to the Electoral Office and lodge it. Sure, the argument is you have to commit an offence, but at least with most other offences, there is either an independent electoral officer there with a chance of catching you out or an independent Party scrutineer or candidate scrutineer to possibly catch you out as well.

I think we would all agree with some basic principles about the scrutiny of the electoral process as much as possible and the reduction of the possibilty of electoral abuse as much as possible. I think they are some pretty basic principles that ought to be fundamental to our debate on this provision and through the whole Electoral Act. I would argue that under clause 85 (2) *(d)* (ii) there is the provision for electoral abuse and that part of the process is not going to be properly scrutinised either by a candidate scrutineer or independent electoral officers, and I would hope the Attorney and the Democrats would see the sense of the amendment that I move in this provision and also the arm-in-arm amendment being moved by the Hon. Trevor Griffin in clause 94. We will get to the debate on clause 94 later, and I know there are some arguments for and against, but I think both amendments ought to be supported to reduce the possibility of electoral abuse and to maximise the scrutiny of the electoral process.

The Hon. C.J. SUMNER: There are two main problems with having the validity of a postal vote determined by the date stamp. One is that they are very difficult to read and often quite illegible and therefore have to be rejected, and that does not seem to be fair, particularly if the vote has been completed prior to the conclusion of the election polling day. That is, I suppose, the major problem. The other problem is a practical one: there is these days not very much post marking done on a Saturday.

The Hon. R.I. Lucas: You were talking about postal deliveries on Thursday nights.

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

The Hon. R.I. Lucas: There may be an improvement in the services.

The Hon. C.J. SUMNER: That was in my ideal world, a few hours ago. They are the practical problems. The Electoral Commissioner in his report that was made public indicated that at least 80 per cent of 3 000 postal ballot papers rejected during the 1982 election were rejected and excluded from the count on the basis that the certificate was not postmarked with a time and date stamp indicating it was posted prior to the close of polling. While I understand what honourable members opposite are saying, the philosophy behind the Government's Bill is simply this: provided you had completed your ballot paper prior to the close of polling and provided it was, for practical purposes, in the hands of the Electoral Commissioner within seven days of the completion of polling, then that vote should be counted. That is the philosophy behind it. I think that is not unreasonable, given the difficulties that exist with postal voting at the moment and in particular the quite difficult situation of determining at what point in time a postal vote is actually placed at post. There are many people who would vote on Saturday with their postal vote and be excluded from the count. That seems unfair on the other side of the coin.

I understand what honourable members are concerned about—that people may have their vote during the following week, knowing the result of the election, but of course they would have to have had a ballot paper in any event in order to do that. Presumably the number of people in that category would not be very great. The Commonwealth, as I understand it provides for the system that the Government has put forward in this Bill. If there is some other way out of it, I am happy to look at it, but I put to honourable members that there is a degree of unfairness in the current system.

The CHAIRMAN: Unless people fully understood the permanent postal vote provisions, they would be denied a vote in many instances.

The Hon. C.J. SUMNER: Now, under the existing system.

The Hon. R.I. LUCAS: We have entered this debate about the follow-on amendment in clause 94, so perhaps I can express some brief views on that. As I indicated earlier, having scrutineered many an election, I accept that problems exist with respect to postal votes, and in particular the postmark on the envelope. I agree it is a problem and I can see the intent of what the Attorney-General and the Electoral Commissioner. However, my argument still remains that, in doing that, I believe they have raised the possibility of a new form of electoral abuse, quite different from anything that has existed before.

I still believe that, in this balancing off, we really need to place the principle of the reduction of electoral abuse and the scrutiny of the electoral process pretty highly in our judgments, and the possibility in the Government Bill is such that there is no way you can scrutinise any number of groups of two people who might like to abuse the Electoral Act in the way that would be permitted.

The Hon. C.J. Sumner: They have already received it.

The Hon. R.I. LUCAS: Sure, they must have received it but, having done that, they might like to abuse the provisions of the Act in the privacy of their own home. There is no way you can check that. The Electoral Commission cannot and the representatives of the candidates cannot. The Attorney says, if there is another way, he would be happy to discuss it. To be honest, I cannot see how you can do it any other way other than accepting the sort of amendment envisaged by the Hon. Trevor Griffin to clause 94, and that is some sort of objective decision as to whether it has actually been lodged or posted.

Of course, there is the option of depositing the ballot paper with a polling booth or postal clerk on election day. That is an alternative for a number of those people who wish to vote by post, but then all of a sudden at the end realise that, if they lodge it in their postbox overnight on Friday, it is unlikely to be postmarked before the close of the poll on Saturday.

They have the option of lodging that vote with the nearest polling booth or electoral office on the Saturday. However, that still does not solve the problem of indistinct postmarking. Perhaps it can be taken up with Australia Post in the hope that new technology may be developed so that indistinct postmarking will be a thing of the past. Perhaps we might see some improvement in services from Australia Post on Thursday night and perhaps the Commissioner can take up the question of more distinct postmarking with Australia Post, at least in the three weeks of an election campaign. I am not aware of any other suggestions.

The Hon. K.T. GRIFFIN: I agree with the Hon. Mr Lucas that there has to be some certainty in the administration of the electoral law. If there is any opportunity of abuse then steps should be taken to reduce it, if not totally, at least as far as possible. Even if it is just a handful of votes, they could be relevant in a close contest. The only way to do that is to adopt the amendment of the Hon. Mr Lucas in respect of declaration votes that may be delivered to a polling place—to require them to be delivered before the close of polling, or where they are to be posted before polling day and bear a postmark on or before that date.

It might create problems for a handful, but that is preferable to opening up the opportunity for wider abuse of the electoral system. That is why I am willing to support my colleague as well as moving the amendment to clause 94.

The Hon. C.J. SUMNER: I am willing to accept the amendment. The Hon. Mr Lucas can give further consideration to the Hon. Mr Griffin's amendment later.

Amendment carried; clause as amended passed.

Clause 86—'Taking of declaration votes by electoral visitors.'

The Hon. R.I. LUCAS: Can the Attorney indicate whether the words 'or a specified part of an institution' are part of the current Act? Has a specific problem required this wording?

The Hon. C.J. SUMNER: One might not want to include the whole of a place in regard to attendance by an electoral visitor. It could be a hostel with accommodation for residents who are ambulant and able to get around, but there could also be an infirmary where people are bedridden. Clearly, the electoral visitor system imposes some obligations on the Commissioner in terms of resources. The declared institutions should be part of those institutions where it is necessary for there to be visits by the electoral visitor rather than those parts where people are still able to get to a polling booth.

The Hon. R.I. LUCAS: Has there been a problem that has created the need for a change?

The Hon. C.J. SUMNER: That is not covered in the existing legislation. We now have a proclamation of a specified part of a declared institution.

The Hon. R.I. LUCAS: Under the existing Act you had to declare the whole institution and were not able to distinguish between the hostel and nursing home?

The Hon. C.J. SUMNER: I am advised that the whole institution was declared but the visiting occurred only in that area where people were clearly not able to attend polling booths. It was necessary to clarify the position and ensure that the Commissioner had the power to designate those areas that ought to be visited by electoral visitors.

The Hon. R.I. LUCAS: The Attorney is saying that this legitimises the current practice?

The Hon. C.J. Sumner: Yes.

The Hon. R.I. LUCAS: Does the Attorney or the Commissioner have any indication whether the range of institutions declared under this provision will differ substantially from the 203 institutions declared in 1982, given that he has got that additional provision in respect of a specified part of an institution?

The Hon. C.J. SUMNER: The number declared will not really relate to the passage of this clause. In fact, the number will be greater because there is a greater ageing population, more infirmaries are opening up and more institutions have been established that would apply to the electoral visitor provisions and, in fact, the current estimate is some 250 institutions.

The Hon. R.I. LUCAS: Can the Electoral Commissioner provide Parties with a list of the institutions to be declared and, if not, when under the legislation are the institutions to be declared? Will that be left until the election period, or can they be declared prior to it and then notified to the political Parties?

The Hon. C.J. SUMNER: There is a complication. The institutions declared by proclamation remain so declared. However, the problem relates to by-elections, as occurred on this occasion, whereby because some 203 institutions were declared they all had to be visited. The Electoral Commissioner took the view that that was not justified for the one by-election, so the proclamation was revoked. Apart from those in the Elizabeth district, there are no institutions declared by proclamation. When the Bill is passed all other institutions will have to be reproclaimed. If there was a by-election before the next general election, presumably they would all have to be unproclaimed again in order to facilitate the conduct of the by-election. That is the situation: those that were proclaimed, presumably for the last general election, will be reproclaimed, and there will also be the additional institutions that I have mentioned. There is no objection to the Electoral Commissioner making the list available to the Parties as soon as that is possible, but I am not sure when that will occur.

The Hon. R.I. Lucas: It doesn't have to be until an election is called; it can be when the legislation goes through.

The Hon. C.J. SUMNER: He can do it at any time, but I think he would prefer to proclaim them later in the process so that he can provide an up-to-date list, thereby eliminating the risk of having to withdraw them if there is a by-election. I imagine that they would be proclaimed a month or so at least before an election.

The Hon. K.T. Griffin: We would know then when the election is to be held.

The Hon. C.J. SUMNER: Well, I withdraw that. I imagine they would be proclaimed at some stage before the election.

The Hon. R.I. LUCAS: I am not clear about the provision for candidate scrutineers to accompany electoral visitors. First, the Parties will be advised in the period prior to polling day of the 250 declared institutions that are to be visited by electoral visitors. Is there provision for scrutineers to accompany electoral visitors and, if so, how are the candidates advised? What is the administrative mechanism for that by the Electoral Commission?

The Hon. C.J. SUMNER: There are some practical problems with scrutineers in relation to electoral visitors. Theoretically, I suppose, if one was visiting a declared institution such as the Royal Adelaide Hospital, one could attend with a bevy of scrutineers. I think the problem envisaged by the Electoral Commissioner from a practical point of view is notifying scrutineers on every occasion that the electoral visitor goes to an institution. I do not think that there would be any prohibition on scrutineers attending at declared institutions with an electoral visitor. From a practical point of view, the Electoral Commissioner advises me that the scrutineers should take the initiative and find out when the electoral visitor is doing the rounds.

The Hon. R.I. LUCAS: Therefore, if a candidate or his representative contacted the returning officer and asked to be advised when electoral visitors would be visiting a declared institution in a district, the returning officer would provide that information and would allow scrutineers to scrutinise the completion of electoral visitor votes.

The Hon. C.J. SUMNER: There is a practical problem: for example, there might be patients from 40 different electorates at the Queen Elizabeth Hospital. Each candidate might be entitled to appoint a scrutineer, which means that theoretically the electoral visitor would have to arrive with three Greyhound buses to accommodate all the scrutineers.

The Hon. R.I. Lucas: You can't prevent that, although it is unlikely to happen.

The Hon. C.J. SUMNER: The electoral visitor could make a number of visits, if he goes out, does not complete the job and has to go out again. I think that the Electoral Commissioner is only concerned about his obligation to continually notify scrutineers when the officials are going out to visit the institutions. I do not see anything in the clause which prohibits a scrutineer, but I will have it checked and will inform the honourable member before the Bill passes.

It may be that the Parties can get around it by having one of their Councillors appoint a scrutineer (although presumably he would not be able to legally scrutinise for the House of Assembly—only for the Legislative Council).

However, if there is some concern at least there is some check on the activities of the electoral visitor. It is really a practical problem as I understand it. From my reading of it I do not believe there is anything to preclude a scrutineer, but I will have that point checked for the honourable member.

The Hon. R. I. LUCAS: I thank the Attorney for that explanation. I would not envisage that the Parties would be looking at big institutions like the Royal Adelaide Hospital. For example, let us take the marginal seat of Unley: if there was a declared institution in that electorate I imagine that candidates would be interested, if they are doing their job correctly, in inquiring of the Returning Officer when the declared institution will be visited and, if they want to, they can accompany him. Anyway, I will await the reply of the Attorney on that before the Bill's passage.

Another question I have concerns the ability of candidates or representatives of candidates to distribute material of a campaign nature to patients at a declared institution. Bearing in mind that I am not talking about subsection (6), which talks about making applications by post, but the normal literature that is distributed (leaflets, posters, etc.), is there anything that prevents Parties from distributing this material to patients in declared institutions either before the calling of an election or during an election period?

The Hon. C. J. SUMNER: No.

The Hon. R. I. LUCAS: Is there anything to preclude candidates personally calling on patients at declared institutions, not when an electoral officer is there, but before an election is called or during the election period?

The Hon. C. J. SUMNER: I do not believe so. It might be counter productive.

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

Page 34, line 19—After 'procure' insert 'two or more'.

The current electoral Act (I think section 87 k, but stand to be corrected) prevents a person soliciting two or more inmates to make application for a postal vote. Basically, my amendment provides for a person, who may have a sick mother, father or friend in a declared institution, to assist that individual to apply for the issue of declaration voting papers. I understand that the intention of subclause (6) is to stop Parties or candidates going into large scale exercises in declared institutions. I would have thought that the intention was not to stop an individual helping a friend or relative. I can develop the argument, but will leave it to see whether or not the Attorney-General is receptive to it.

The Hon. C. J. SUMNER: It is a good idea.

Amendment carried; clause as amended passed.

Clause 87 passed.

Clause 88—'Compulsory voting.'

The Hon. I GILFILLAN: I move:

Page 34—

Line 26—Leave out 'It' and insert 'Subject to subsection (1a), it'.

After line 27 insert subclause as follows:

(1a) An elector who leaves the ballot paper unmarked but who otherwise observes the formalities of voting is not in breach of the duty imposed by subsection (1).

This amendment seeks to legalise leaving a ballot paper unmarked. I have previously argued this matter quite extensively, and hope that I do not need to again. I gather that there is little objection to it. Presently the Act and Bill, as it is currently drafted, puts a legal obligation on every elector to actually mark a ballot paper even if they do not have any intention of or purpose for doing so. The advantages are several, as far as I am concerned. One in particular which may be relevant to the discussion tonight is to reduce the number of informally marked ballot papers—those which would have been confusing in regard to the intention of marking with crosses, ticks, or any other marks.

Amendments carried.

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

Page 35, line 28—After the word 'grounds' insert 'or personal conviction'.

During my second reading speech I mentioned the fact that I am the advocate for the local Democrats of the South-East. I only hope that the Democrats in the Council also support the nice colleagues they have in some parts of the State. Mr Tom Prowse did not vote at an election, was taken to court, but won the case on the basis that he did not wish to vote for any candidates in that election. That case went on for some time. I think that the prosecutor did not have much to do with it: it came to a long discussion between the judge and the accused. The final outcome was that the judge said that it was rather difficult for him to find the accused not guilty, but found the charge not proven.

The grounds on which Mr Prowse defended himself were that he did not wish to vote because there was no one in the election that he could vote for. When asked why he did not go along and have his name struck off the roll, he said that he had a personal conviction and if he went along to vote it would be against his beliefs. I suggest that rather than having people like that—and a very strong Democrat he is—placed in the position of having to defend themselves in a court of law because of a personal conviction against voting in an election—

The Hon. R. I. Lucas: Does that mean he is a criminal?

The Hon. R. C. DeGARIS: No, the charge was found not proven. That person had a personal conviction in relation to voting at that election. I feel that it would be reasonable to say that an elector has a valid and sufficient reason for failing to vote at an election if he was ineligible to vote, was absent from the State on polling day, had a conscientious objection based on religious grounds or a personal conviction against voting at that election. That is reasonable and should be included in this Bill.

The Hon. C.J. SUMNER: I cannot accept this amendment. The conscientious objection provision that we have now inserted in this Bill is an expansion of the right of a person not to vote beyond that which exists in the current legislation. The clause that we have introduced brings it into line with provisions in other States. The notion of conscientious objection is well known.

The Hon. R.C. DeGaris interjecting:

The Hon. C.J. SUMNER: That is true, and I think that is probably broad enough. But, to bring in personal conviction is opening up, as the Hon. Mr De Garis I am sure realises, quite unchartered waters and potential for unnecessary litigation about whether or not a person had a conscientious objection to voting.

What is in the Bill is an extension of present provisions, in relation to the right of people not to vote if they have a conscientious objection to it on religious grounds. But, given that we do have in the legislation the notion of compulsory attendance at a polling booth, I believe that the addition of these words is leaving open quite unchartered waters and is carrying the provisions relating to conscientious objection too far.

The Hon. K.T. GRIFFIN: I have not yet entered the fray and I intend to do that when we have resolved all amendments, because I want to oppose the whole clause. If one looks at the section 118 a of the Electoral Act, where an elector has failed to vote, one sees that, provided the elector had a valid and sufficient reason for his failure to vote at the election, that is a sufficient excuse. Subclause (7) defines a valid and sufficient reason, and in my view is limiting it quite considerably.

Under the present Act there is a whole range of things which could be valid and sufficient reasons for failing to vote at an election, and they would, I suggest, include

conscientious objection on the basis of personal conviction and not be as limited as the Attorney-General has sought to limit it under clause 7 of this Bill. The same applies in relation to the other amendments which the honourable Mr DeGaris is going to move. Why should they not be valid and sufficient reasons? I would suggest that they are under the present Act, but they are certainly excluded under the proposal in the Bill. So, I will certainly support the Hon. Mr DeGaris's amendment on this as well as the other two amendments.

The Hon. I. GILFILLAN: I think the intention of the amendment is reasonable, and it has been covered by my earlier amendment to clause 88 (1), in which a conscientious objection on any ground, or the dissatisfaction with any candidate, can now quite legally be expressed by non-marking of the ballot paper in any way. Because I feel that it is still important that the obligation to attend a polling booth is part of the responsibility of being a citizen, even if you do not wish to express a preference for a candidate, it seems inappropriate to add the amendment that the honourable Ren De Garis wishes to add to clause 7. I will therefore oppose the amendment.

The Hon. R.C. DeGARIS: The argument of the Hon. Ian Gilfillan does not cover the case that has been made at all. I refer him once again to the President of the Democrat branch in Millicent, who was involved in this case.

The Hon. I Gilfillan: He hasn't got a branch.

The Hon. R.C. DeGARIS: He did have one, but he is changing his mind. The point is that it was offensive to Mr Prowse as a person to go into the polling booth, get a voting paper and put it in the box completely blank. He had a personal conviction that that was against his principles, and quite rightly so. This clause, as pointed out by the Hon. Trevor Griffin, restricts the valid and sufficient reasons that are in the present Act in regard to a person not voting at an election. Where a person such as Mr Prowse, a man of very deep conviction, had to say on a personal conviction that he did not wish to go to that election or into a polling booth, that, would be a valid reason not to cast a vote.

To have that person just poked into the court because he had a personal conviction not to go into the polling booth is quite offensive. The present position is that an elector does not have to vote if he has a conscientious objection based on religious grounds. Why should we restrict that to religious grounds only?

A person who has a personal conviction may have no religious basis whatsoever, but he has the same personal conviction about it as has a person who has religious beliefs. I cannot see how one can stand in this House and say that it is quite all right if you have a conscientious objection, provided you have a religious basis or religious grounds for it, but, if one has no religious grounds, one is forced to go and vote and commit an offence if one does not do so.

The insertion of those words is quite reasonable and takes it back to almost the position that exists in the present Act that we have in South Australia.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris (teller), Peter Dunn, C.M. Hill, Diana Laidlaw, and R.J. Ritson.

Noes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), C.W. Creedon, I. Gilfillan, Anne Levy, K.L. Milne, and Barbara Wiese.

Pairs—Ayes—The Hons K.T. Griffin and R.I. Lucas. Noes—The Hons M.S. Feleppa and C.J. Sumner.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 35, after line 28—Insert paragraph as follows:

(ca) the elector, after careful consideration of the policies of the various candidates in the election, came conscientiously to the conclusion that there was no reasonable basis for expressing a preference for any one candidate above any other;

This amendment takes a slightly different tack to the same question and inserts a new paragraph (ca). It is along the same lines as the personal conviction but takes a slightly different approach.

The Hon. C.J. SUMNER: I oppose this amendment for similar reasons.

Amendment negatived.

The Hon. K.T. GRIFFIN: This is an important clause. I indicated earlier that I was prepared to allow the consideration of amendments before I spoke against this whole clause, which deals with compulsory voting. We have such a provision in the present Act, but for some time there has been community concern about the compulsion on electors to go to a polling booth, have their names marked off the roll, obtain a voting paper and to do with it what they wish.

It is true to say that, although there is no obligation to mark the ballot paper, the concept is generally regarded as compulsory voting. During the second reading debate I indicated that the Liberal Party supported, and would move for, voluntary voting giving a citizen the right to determine whether or not he or she went to a polling booth and exercised the right to vote. It is a right, and, while some would say that it was an obligation, that would depend on one's attitude towards a democratic institution.

I say that all citizens who are concerned for the future of their State or country ought to vote, but that is a matter on which they ought to be able to decide. If they decide that for some reason or another they do not want to go to the polling booth, then they ought not be compelled under threat of prosecution and imposition of a fine to do so. That involves prosecution in a court as though it were a criminal offence and is subject to the imposition of a penalty. It does not matter what that penalty is, the fact is that if an elector does not presently go to a polling booth and have his or her name marked off the roll, unless there is a valid and sufficient reason as defined by subclause (7) for not so doing, a prosecution may well follow with all that that entails.

South Australia has had compulsory voting since 1942. It was the last of the Australian States in the Federation to go to compulsory voting. Prior to that there had been voluntary voting, but there was concern at that time by a majority in the Parliament that perhaps members of the community ought to be compelled to vote in order to lift the voting performance of the electorate at large.

I remind honourable members that Australia is in a minority among Western democracies, which have compulsory voting. I identify those Western democracies as Austria, Australia, Belgium, Greece, Lichtenstein, Luxembourg and Switzerland. On the other hand, the major democracies in the Western world, the United States of America, United Kingdom, France, West Germany and Canada all have voluntary voting, as has New Zealand.

Although one may say that voluntary voting means that political Parties have to get up off their behinds and do something to attract electors, and will have an opportunity to take voters to the polling booth, I see nothing objectionable in that. I believe that that is an essential aspect of a democracy. If there is a lot of ballyhoo and a more conscientious effort to inform the electorate as a result of a voluntary voting system, then I think that that is a good thing. In fact, it may mean that members of Parliament do, in fact, more effectively service their electorates and promote their policies and principles to the electorate.

I suppose that this may also mean that in the solid Labor or Liberal seats which could be regarded as safe for one Party or the other the sitting members will have more effectively to service their electorates in order to get the voters out. No-one could disagree that that is a good thing. I believe strongly, as does the Liberal Party, that we ought to move to a voluntary voting system in South Australia, giving electors the freedom to choose whether or not they go to the polling booth, take a ballot paper and exercise a vote, and that that ought to be a part of a fully voluntary system where enrolment is also voluntary—not as provided in the Bill, compulsory enrolment again under threat of prosecution and pain of a fine. That is the basic issue of principle, which we support very strongly. I indicate that we oppose this clause on that basis so that voluntary voting becomes an established principle of our democratic system in South Australia.

The Hon. C.J. SUMNER: I indicated in my reply to the second reading debate on this Bill that I am opposed to this suggestion. I will not recanvass all the arguments that we raised at that time, as that would seem to be unnecessary. We are talking not about the Committee aspect of the Bill at the moment but about the basic, principal difference between the Opposition and the Government in relation to this matter. I say that compulsory voting is supported by the Liberal Party throughout Australia, as far as I can ascertain, and has been consistently supported by the Liberal Party throughout Australia over very many years.

It is very much an entrenched part of our democratic system in Australia. There are some very desirable features in compulsory voting in practical terms, and I gave examples of those during the second reading debate and of the undesirable practices that can develop with voluntary voting. Basically we say that in a democracy it is not unreasonable to impose a duty on citizens to attend a polling booth. That has been seen as quite consistent with our democratic institutions in Australia over very many years, in fact going back to 1915 in Queensland, 1925 in the Federal Parliament and 1942 in South Australia, when it was introduced during the period of a Liberal Government in this State.

There has been no case made out on any philosophical grounds, I believe, for the introduction of voluntary voting. As I said before, I believe it has undesirable features and I think, in a democracy, it is not unreasonable to impose the obligation of attendance at a booth on the citizens of this country. As all honourable members know, compulsory voting exists in a number of democratic countries, just as voluntary voting does, and really no conclusion can be drawn to say one country is more democratic than another. Without reiterating at any great length the arguments that have been put in the debate earlier during the passage of this Bill before the Parliament, I ask the Council to support the retention of clause 88 which deals with compulsory voting.

The Hon. M.B. CAMERON: I find it a great disappointment that the Attorney has taken this attitude and has not been prepared to consider this matter, which really gets to the basis of whether a citizen has a right or not. For him to indicate that because we have compulsory voting in Australia we have a democracy in the true sense is really a reflection on a lot of countries in the Western world, not the least of which is the mother country supposedly of this country, that is, the United Kingdom, which has voluntary voting. America has voluntary voting, and to indicate because we have compulsory voting we are in some way superior is absolute nonsense. I say to the Attorney-General and to anybody else who supports compulsory voting that they are really reflecting on the rights of citizens to decide one way or the other. To think because you force a person to go to a polling booth in some way you are upholding democracy is absolute nonsense. I must say I am extremely disappointed that the Attorney is going to continue down that line. I do not think that voluntary voting leads to undesirable practices. I have always supported voluntary voting. I believe it is part of democracy. What it reflects is the fundamental difference between the Government, the Labor Party and unfortunately I understand the Australian Democrats, on the one hand, and ourselves, on the other hand. The problem is that within the Labor Party you have no choice, and that is really where the fundamental difference arises between the Government and the Opposition. The moment you join the Labor Party, you are compelled to do things. You sign a document and say, 'I will do this; I will support every decision of the Party.' That is where you always have a problem because, as members of the Labor Party, you have to sign a pledge saying, 'We will do it'. You have no choice. You never have a choice apart from occasionally when given some message that this is a conscience issue.

The Hon. L.H. Davis: It is usually fairly unimportant.

The Hon. M.B. CAMERON: Yes, they are issues that are not really fundamental to the democratic process. It is sad you have this problem. I know you are all bound by the decisions of your Party. You are used to compulsion; it is the only thing you understand, so you will never change. You will never change because you are not allowed to. That is the fundamental difference, whereas people on this side have that right. The Hon. Ms Levy looks at me with humour on her face, but tell me the one occasion when a member of the Labor Party has crossed the floor in this Chamber. Only one person has done it, and where is he? They will not let him back into the Party.

Members interjecting:

The CHAIRMAN: Order!

The Hon. M.B. CAMERON: That is where compulsion comes into the Labor Party, so you are always going to believe in it.

The CHAIRMAN: We are really not discussing the Labor Party.

The Hon. M.B. CAMERON: I accept we are not discussing the Labor Party. We are discussing their attitude to compulsion and they really understand compulsion because it is a fundamental philosophy of their Party. They cannot do anything about it. They are not allowed to. I think it is sad that that is the case. I hope one day they will grow up as a Party and allow a little bit of freedom to their members and to the Hon. Mr Foster, whom we all remember. We all remember what happened to him, because he did not accept compulsion.

The Hon. C.J. SUMNER: Mr Chairman, a point of order. I appreciate some latitude, but this is really utterly irrelevant to anything before the Committee at this stage.

The CHAIRMAN: The Hon. Mr Cameron must get back to the Bill.

The Hon. M.B. CAMERON: I am on the Bill, because it deals with compulsion.

The CHAIRMAN: Mr Foster has nothing to do with the Bill.

The Hon. M.B. CAMERON: Maybe not, but he suffered from compulsion. I urge the Leader of the Government in this place to give this matter a little more thought and to consider whether or not in a true democracy it is democratic to force people to vote. Fancy forcing people to go along to a polling booth and make the sort of excuses that they have to make. I would be interested to know how many tyres go flat on the night of an election because the person either did not want to vote or had forgotten to, but in particular those people who did not want to vote. I would like to go through the reasons that people give to the Electoral Commissioner for failing to vote.

The Hon. R.I. Lucas: He could write a book about it.

The Hon. M.B. CAMERON: I bet the Electoral Department could write a book about the excuses, and they all follow the one pattern. We force people to tell lies. We actually force them to, because they do not want to vote and so they give an excuse. The excuse is not the true excuse as we all know. We force them to go to the polling booth and we force them to go through a procedure. We know that they do not want to vote, but within this democracy so-called of ours, that is the system, and you will do it; if not, you will be fined for not doing it.

The Hon. R.I. Lucas: We will send the Electoral Commissioner after them.

The Hon. M.B. CAMERON: What is democratic about that? How on earth can you consider that a democracy? The true democracies of this world do not have that. People say about safe electorates at an election time, 'We don't have to worry about those electorates because this is safe Labor and this is safe Liberal.' I would like to see a situation where there is a little more doubt, where people have to get out and work for their electorates and where members of the Labor Party who live down at Port Adelaide feel they have a member because that member is actually interested in them as he has to get their vote. He has to persuade them that he is worth supporting.

The Hon. R.I. Lucas: Or Whyalla.

The Hon. M.B. CAMERON: Yes. Where is the Minister of Agriculture? He seems to be shifting around a lot lately. I would like to see a situation where people actually have to consider their electors and consider whether or not they will gain support and work for every citizen and not just work in districts that are considered marginal and doubtful. As members of Parties we all know what happens at election time: we look at the doubtful seats. We know because of the compulsory requirements that a 1 per cent or 2 per cent swing can make a seat doubtful. I once stood for the seat of Millicent when it was considered doubtful and one could get anything done in Millicent until it became a more secure seat. The same situation applies in Mount Gambier.

Everyone rushes down to that seat because it is considered doubtful. However, in a voluntary voting system much more doubt would exist in many districts and we would get a fair spread of attention from all the Parties, and that is what it is all about. The Attorney and the Australian Democrats will not agree, but I trust that one day we will grow up and bring democracy to this State and country. Perhaps it will be brought in by this Liberal Party in South Australia that does believe in democracy.

The Hon. R.I. LUCAS: I do not want to add much to those two excellent speeches because my reasons for supporting voluntary voting were explained in the second reading debate. However, someone must look after the interests of the Electoral Commissioner, because he cannot raise them in this Committee. Under the present system of compulsory voting, thousands of people do not vote and the Commissioner has to spend much time, effort and resources chasing all these naughty persons across the State ascertaining why they did not vote and listening and adjudicating on their excuses, perhaps even pursuing them through the courts.

The Hon. Diana Laidlaw: It's a bit like a witch-hunt.

The Hon. R.I. LUCAS: Yes. It is a waste of the resources of an important officer in South Australia who could be involved in more important activities in respect to electoral matters and research. I recall reading or hearing that the Electoral Commissioner publicly commented that one advantage of voluntary voting would be the reduction in resources involved in checking on people who did not vote. It is a credit to the Commissioner for making that comment, which is clearly a factual statement and which is clearly supported by members on this side of the Committee. It is up to honourable members here to support the views of the Electoral Commissioner. I do not suggest that he is either pro or against voluntary voting, but he did comment about that one advantage with regard to voluntary voting. It is a waste of time, effort and resources to be chasing people and wasting taxpayer's money. I support voluntary voting.

The Hon. R.C. DeGARIS: Would the Hon. Mr Griffin consider enlarging his amendment to provide that no-one must advocate or advertise that it is voluntary voting? Perhaps that would overcome the Government's problem. Already in the Bill we vote preferentially by numbers and one can do something else, but one must not say so. Would the Government accept such an amendment that there must be no advertising that we have moved to voluntary voting?

The Committee divided on the clause as amended:

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

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

Pair—Aye—The Hon. M.S. Feleppa. No—The Hon. L.H. Davis.

Majority of 1 for the Ayes.

Clause as amended thus passed.

Clauses 89 and 90 passed.

Clause 91— 'Adjournment of polling.'

The Hon. R.I. LUCAS: What is the practical effect of subclause (1), which provides that, if it is not practical to proceed with polling at a polling place on polling day, the Electoral Commissioner may adjourn polling at that polling place for a period not exceeding 21 days? Does that mean that in a particular district the Commissioner could adjourn polling at that polling place, or would the practical effect be that he would adjourn the election for that electorate for 21 days?

The Hon. C.J. SUMNER: This provision is embodied in section 114 of the present Act; it is not in precisely the same words (the Bill contains more modern drafting), but I think that it has the same intent. It provides—

The Hon. R.I. Lucas: At polling places generally?

The Hon. C.J. SUMNER: Yes, or at any particular polling place or places.

The Hon. R.I. LUCAS: It might be practical to proceed with polling at 15 of the polling booths in, say, Murray Mallee, but not at one of them because of a localised problem.

The Hon. C.J. SUMNER: You could certainly declare all of them. You could declare that it was not practicable to proceed and not proceed with any of them, or you could proceed with some of them.

The Hon. R.I. LUCAS: What if a bushfire rips through, say, Karoonda and it is not practicable to proceed with the election there, but it is practicable to proceed in the other 15 polling places?

The Hon. C.J. SUMNER: You would then not proceed with the polling at Karoonda.

The Hon. R.I. LUCAS: Under section 114 (1) *(a)* of the existing legislation the election in Murray Mallee could be adjourned in relation to polling places generally.

The Hon. C.J. SUMNER: Yes, but even under the existing Act it depends on whether or not it is practicable to proceed, just as it does under the Bill before us. I do not think there is any difference in substance between section 114 of the existing Act and what is in the Bill before us. It is possible under the existing Act, where it is not practicable to proceed, to adjourn polling at polling places generally or at any specified polling place or polling places. It must still relate to whether or not it is practicable to proceed.

The Hon. R.I. LUCAS: In the example that I have just given, the Attorney is saying that under the current Act you could only adjourn the election at Karoonda, not at the other polling places where it would be practicable to proceed. Is that the Attorney's interpretation of the current Act?

The Hon. C.J. SUMNER: I should have thought that the adjournment of polling generally or at any specified polling place would relate back to the non-practicality of proceeding: just because it is not practicable to proceed with the election at, say, the Cook polling booth, the Electoral Commissioner could therefore adjourn polling throughout the State. I do not believe that that is so.

An honourable member interjecting:

The Hon. C.J. SUMNER: No, but if you take the honourable member's interpretation or the construction that he is attempting to put on it, that would be possible under the existing Act. I do not believe it is. If the honourable member wants me to check, I can obtain a Queen's Counsel opinion. However, if he is happy to accept my view of the matter, I would say that the adjournment must relate to the practicality of proceeding; otherwise you are just giving a broad power to the Electoral Commissioner to say, 'It is not practicable to proceed at the Cook booth, so I will cancel the whole election for three weeks.' I think what it means—and what the Bill provides—is that where it is not practicable to proceed polling can be adjourned. If there is a problem at Karoonda, the polling there is adjourned for a week because it is not practicable to proceed. When it is practicable to proceed, the polling at Karoonda proceeds and the votes are counted.

The Hon. R.I. LUCAS: Assuming that is the interpretation and there was an adjournment at Karoonda, for example, in the Murray Mallee electorate, and voting proceeded at all other booths, what would happen to the counting of the votes in all the other booths? Is it held up at that stage and nothing occurs, nothing is publicised and nothing is done until the vote at Karoonda is finalised? With respect to the provision that we have just discussed in relation to declaration votes coming in after seven days, I take it that that would be after Karoonda was closed rather than when the other 16 polling places in Murray Mallee, for example, were closed.

The Hon. C.J. SUMNER: The discretion would rest with the Electoral Commissioner. I would imagine that, if the Electoral Commissioner had to adjourn the polling in Karoonda for, say, seven days because of a bushfire or something, none of the votes for that electorate would be counted until polling in that electorate had been concluded. If a number of electorates were affected, it may be that none of the votes for the whole of the election would be counted until the polling had been completed throughout the State. There are no guidelines under the existing Act or under the Bill to deal with that situation.

The Hon. R.I. LUCAS: What about the second part of my question with resepect to the validity of postal ballot papers being lodged seven days after the close of polling, and especially in relation to Legislative Council polling. If, say, Karoonda is adjourned for 14 days, would the seven day provision of postal votes be delayed for seven days after Karoonda had closed, or would it be after all other booths had closed on the actual election day?

The Hon. C.J. SUMNER: I would need to check the wording of the declaration vote section, and I can certainly do that for the honourable member. It is no different in practice from what exists under the present Act.

The Hon. R.I. LUCAS: I am happy to accept that. I will be interested in a response from the Attorney at some stage on the practical effect of section 91(1) and in respect of declaration voting.

Clause passed.

New clause 91a—'Correction of errors, etc.'

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

Page 36—Insert the following new clause after clause 91:

91a. (1)Where—

(a) an error or omission occurs in the conduct of an election, in the proceedings preliminary to an election, or in the preparation of a roll for an election;

(b) in consequence of the error or omission electors who were entitled to vote at the election were prevented from exercising that vote,

the Governor may, by proclamation, provide for the taking of the votes of those electors.

(2) Where votes are taken in accordance with a proclamation under subsection (1), they shall be deemed to have been validly taken at the election and shall be admitted to scrutiny accordingly.

My amendment picks up problems that were outlined in relation to clause 52, which was debated previously and on which the Hon. Mr Griffin commented and argued that there was really no limitation on the sort of error or omission that might occur in the conduct of an election which might provide grounds for the Governor to prescribe a course to be followed in order to rectify the error or omission.

The Hon. Mr Griffin argued that clause 52 was too broad, as it was, because it enabled the Governor to rectify virtually any error or omission with respect to the conduct of an election and that that may be quite unjust in some circumstances where the election had been conducted on the basis of the error or omission and then, after the election (more likely during the election), that could be corrected and not constitute a ground for invalidating the election, despite the fact that the error or omission might have been something of considerable substance that might conceivably have affected the result of the election.

The amendment that we are proposing narrows it down in accordance with the point that the honourable member was putting: the circumstances in which the Governor may prescribe a course to be followed to rectify an error. That now refers to an error or omission in the proceedings preliminary to an election, the preparation of a roll for an election, and where people who are entitled to vote were prevented from exercising that vote. Therefore, there are two legs to the correction of a mistake now. It relates to people entitled to vote who were prevented from exercising that vote as a result of an error in the conduct of the election, and the Governor can then provide for the taking of the votes of those electors. I believe that it really overcomes the problems that the honourable member had.

The Hon. K.T. GRIFFIN: I take it that proposed new clause 91a is really to replace clause 52, which has been deferred.

The Hon. C.J. Sumner: We will delete clause 52.

The Hon. K.T. GRIFFIN: I raise this problem with proposed new clause 91a: it seems to me that it can be interpreted as allowing votes to be taken after an election. I have a concern about that. There is no time limit on it. It may be that after seven days there is a discovery that a pocket of electors should have been enrolled in one electorate but were in fact enrolled in another. What happens then? They were entitled to vote at the election for a particular seat but were prevented from exercising that vote because they were in the wrong electorate. I am not happy about them being given the right to vote after the election in the seat in which they should have been placed; they might even have voted incorrectly in another seat.

Take the situation where there is a pocket of electors who are not on the roll. Presumably that can be handled on polling day because those who turn up and claim a right to vote are entitled to a declaration vote. Therefore, that is not a particular problem. I really have some concerns about the possibility, after an election, of a roll being corrected and of those who were not on the roll and perhaps should have been at the time of the election, then being given an

opportunity to vote after the result in that electorate may well have been known.

I have no problems with the correction of the roll by proclamation prior to polling day, but subclause (1) *(b)* clearly deals with the situation where, in consequence of the error or omission, electors who were entitled to vote at the election were prevented from exercising that vote. That clearly means that someone who was entitled to vote did not vote and, by proclamation, will now be given the right to vote after the election. I have some grave difficulties with that because of the effect that it could have on an election. If it can be limited to the correction of errors or omissions in the roll prior to the poll being conducted, I have no problems with that. However, I have problems with the breadth of this amendment.

The Hon. C.J. SUMNER: That may be able to be looked at. Does the honourable member accept that what we have tried to do here meets his objection substantially?

The Hon. K.T. GRIFFIN: No, because the point I have been making is that it appears to give a right—

The Hon. C.J. Sumner: Apart from that.

The Hon. K.T. GRIFFIN: Apart from that, in the proceedings preliminary to an election or in the preparation of a roll for an election if there has been an error or omission, then in those areas, yes, no difficulties. There is still a problem, I think, in the definition of what is the conduct of an election but generally I am not unhappy with the specific reference to the error or omission in the proceedings preliminary to an election or in the preparation of a roll for an election, but I have got concern about the other aspects.

Consideration of new clause 91a postponed.

Clauses 92 and 93 passed.

Clause 94—'Preliminary scrutiny of declaration ballot papers.'

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

Page 37, line 1—Leave out 'received by post' and insert 'of voters whose votes were not taken before an officer'.

That relates back to clause 85, and in particular to subclause (2) *(d)* (ii), relating to a person who has got a declaration vote perhaps at home and completes a declaration vote before an authorised witness. My recollection was that there was not too much of a problem with the Attorney-General on this matter, so I am not going to go into too much detail unless there is now some objection.

The Hon. C.J. SUMNER: There does not seem to be any objection.

The Hon. K.T. GRIFFIN: I have an amendment to paragraph (B), and I think in terms of drafting there is a problem. I have got no difficulty with the principle but where the voting papers are received by post (and that is what paragraph (ii) deals with) then paragraphs (A) and (B) apply. I will be seeking to move an amendment to paragraph (B) to deal specifically with that question of the postmark to which I referred earlier when we were considering clause 85.

If we are seeking to deal with both the position where a declaration vote is taken otherwise than before an officer as well as those posted, it seems to me there may well be some inconsistency which we will have to solve in the drafting. I am not sure that the amendment moved by the Hon. Robert Lucas, which I accept is compatible with the amendment moved in clause 85, is in fact also compatible with my amended paragraph (B) in relation to postmarks. It may be that I have missed something that would identify them as being compatible. On the face of it, it seems that they are incompatible, although the principles in respect of each are those that I support.

The Hon. C.J. SUMNER: We can fix that after the amendment on the post mark is passed.

The Hon. K.T. Griffin: Pass them both and sort the drafting out later.

The CHAIRMAN: Is the honourable member's objection tied in with the amendment moved by the Hon. Mr Lucas?

The Hon. C.J. SUMNER: The Hon. Mr Griffin says that if his amendment on post marking is passed there will be an inconsistency with the amendment now being put forward by the Hon. Mr Lucas. We do not know whether or not the Hon. Mr Lucas's amendment will pass. Assuming there is no disagreement in principle with that amendment, I suggest we accept it and see what is the fate of the Hon. Mr Griffin's amendment on post marking. We can then correct the drafting by recommital, if necessary.

Amendment carried.

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

Page 37, lines 5 and 6—Leave out subsubparagraph (B) and insert subsubparagraph as follows:

(B) that the envelope in which the voting papers were posted bears a postmark showing that it was posted before the close of poll on polling day,.

My amendment seeks to ensure that where a declaration voting paper has been posted there is some clearer identification than the mere declaration by the authorised witness that it was in fact recorded on or before polling day. That is why I am moving this amendment, which reverts to the post mark being evidence of completion of the declaration ballot paper on or before polling day. I recognise that there are problems because of lack of clarity in post marks and the fact that many post offices do not open on Saturdays. However, what I am aiming to do is ensure as much as possible that the opportunity for abuse of the declaration voting system where papers are forwarded by post to the Returning Officer is minimised.

The Hon. R.I. LUCAS: I support the amendment. I spoke in part earlier about this matter and indicated that I accept the problems that exist at the moment with respect to postal votes and the fact that a person may well complete a ballot paper on the Thursday and put it in the post box on the Thursday or Friday thinking that they have done everything right (and they have) but the envelope containing the vote might not be post marked until the Monday after the election. In such a situation, although the voter did everything he could other than know the postal procedures in his area, his vote would not be accepted.

As I indicated earlier, I accept that that is a problem about which there has been some discussion with the Attorney-General. Equally, it needs to be looked at with respect to the problem that, if the Government Bill is successful in this part, there is a possibility of electoral abuse. For instance, a person making a declaration vote could back date a declaration vote on the Tuesday or Wednesday after an election, admittedly committing an offence along with the authorised witness, but in the privacy of his own home.

Therefore, it would be an offence with a negligible chance of detection by anyone as there would be no independent electoral officer or Party scrutineer in that elector's home. Therefore, that person could back date his ballot paper and as long as it arrives within seven days after the close of a poll (and that is another provision arrived at earlier) then it would be accepted as a valid vote and part of the process. This is a similar example to the one I indicated earlier in relation to people being able to vote after the election and drop in their declaration vote to an officer within seven days after the election.

I think that it is inappropriate that a person should be able to abuse this system in that way without being subjected to proper scrutiny. I opposed the provision earlier regarding the lodging of declaration votes, so to be consistent I oppose the Government's proposal because somebody may well be

able to abuse the system in this way with respect to a declaration vote that is to be posted to a returning officer.

The Hon. C.J. SUMNER: My concern about this matter is that it has the potential to disfranchise voters who may for one reason or another have to use the postal system. I think that posting a vote before the close of poll on polling day and showing the postmark of the day it was posted could potentially disfranchise a number of voters. It has been pointed out that there are problems with deciphering the date and time franked on envelopes. There is a further practical problem that I outlined previously—that Saturday is not a day when letters are generally postmarked. They may be postmarked in the city but it is most unlikely that they are in rural areas.

I suppose that, as our supporters generally do not come from rural areas, I should not be unduly concerned about this matter. However, I would have thought that the Hon. Mr Dunn should be most angry about the proposition put forward by his colleague. If there is some other way of resolving this difficulty I am happy to look at it. What the honourable member has to realise is that people have to apply, qualify for and get a postal vote before polling day. We have already placed a restriction on the posting out of postal votes of 9 o'clock on the Thursday before the election. I think that this amendment, given that our general position is to attempt to franchise as many people as possible, could be denying the franchise to a number of electors, particularly country electors. That is my concern. If honourable members can come up with some other proposition, I would be prepared to consider it. Unless they can, on balance I would oppose this amendment.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. C.M. Hill. No—The Hon. M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 95—'Interpretation of ballot papers in Legislative Council elections.'

The Hon. K.T. GRIFFIN: I want to put it on record that we oppose this clause, but we have dealt with the system of voting for the Legislative Council and there has been a division on clause 62(3), so I do not intend to divide on this because I know the battle has been lost. It is unfortunate, because we have put the point of view that there is no reason at all to tamper with the Legislative Council voting system, that the system which was in effect in 1982 ought to remain in effect. It is consistent with the New South Wales system which was introduced by a Labor Premier, Neville Wran, and constant changes of the voting system can only confuse rather than enlighten electors. We do not support the clause for all the reasons I have previously put both in the second reading stage and in relation to consideration of clause 62 (3).

The Hon. C.J. SUMNER: I understand the honourable member making his point, but I take it the Council has determined the substance of the issue.

Clause passed.

Clause 96—'Interpretation of ballot papers in House of Assembly elections.'

The Hon. K.T. GRIFFIN: The same argument applies in relation to the House of Assembly. This clause develops a new system for the House of Assembly. We have debated it at length today and before Easter. What it seeks is to establish a system which we have opposed strenuously and will continue to oppose where, although on the face of it electors may not be persuaded to vote other than fully preferentially, in fact when votes are counted after the close of polling, a tick, a cross and a number 1 against the name of a candidate who has lodged a voting ticket with the Returning Officer will be valid and will be interpreted according to the voting ticket lodged with the Returning Officer. I have made the point today about ticks, crosses and number 1s, and I do not intend to reiterate the arguments for our opposition to that equation. We do not support that, nor do we support a movement away from the long established fully preferential system which has served the people of South Australia well over at least the last 40 years.

There are perhaps other points which one could repeat in relation to that, but as the Committee has already decided to support this new system against our opposition, while I continue to oppose the clause, the principle and the new system, I indicate I do not intend to divide.

The Hon. R.I. LUCAS: I just have a couple of clarifying questions to put to the Attorney-General. Is the intent of subclause (4) to validate a ballot paper which might have been marked 1, 2, 3, for example, where there might well have been five candidates listed on the registered voting ticket, 1, 2, 3, 4, 5 in some particular order? Is my interpretation correct? If the voter has voted in accordance with the registered voting ticket (1, 2, 3) will the rest of the vote be allocated according to the ticket?

The Hon. C.J. SUMNER: If one votes 1, 2, and 3 in line with the registered card and leaves out the rest, it is a formal vote.

The Hon. R.I. Lucas: The rest is allocated?

The Hon. C.J. SUMNER: Yes, that is right.

The Hon. R.I. LUCAS: So, if there is a first preference vote for the Liberal Party, for example, following the registered Liberal Party card 1, 2 and 3, and then 4 and 5 go elsewhere, if there are still three or four candidates for whom preferences can be marked (so there are blank spaces), what is the import of clause 96 (4)?

The Hon. C.J. SUMNER: It will be informal.

The Hon. R.I. LUCAS: Is that because it is not completely in accord or consistent with that registered ticket?

The Hon. C.J. SUMNER: Yes.

The Hon. R.I. LUCAS: Clause 96 (5) refers to preferences indicated by the voter being consistent with one or both of the voting tickets. For example, the Democrats might have indicated preferences on two voting tickets where the first three preferences on each ticket are the same and where the remainder go in two directions. What happens if the last two positions are left vacant if a person votes 1, 2 and 3 for the Democrats?

The Hon. C.J. SUMNER: It would be split 50/50 if it is in accordance with both tickets.

Clause passed.

Clause 97—'Informal ballot papers.'

The Hon. K.T. GRIFFIN: I had an amendment on file concerning lines one to three, but it is dependent upon my earlier amendments regarding the voting systems of both Houses. Those contests have been resolved against my position and that of the Liberal Party: we wanted to revert to the present voting system for the Legislative Council, that is, to vote preferentially for not less than the number of candidates being sought at a particular Council election, and fully preferentially in the House of Assembly for all candidates. It is now inappropriate for me to proceed with my amendment, although I will want to proceed with other amendments on file to this clause.

The Hon. I. GILFILLAN: I move:

Page 40, line 1—Leave out 'it has no vote indicated on it, or'.

The significance of the amendment is that it is a consequence of my amendment to clause 88, which validated the option of not marking a ballot paper, making it a legal and formal method of complying with the Act. My amendment recognises that, if a ballot paper has no vote indicated on it, it is not an informal vote as such: it is a formal compliance with the Act.

The Hon. C.J. Sumner: It is still informal.

The Hon. I. GILFILLAN: It complies with the requirements of the Act.

The Hon. C.J. SUMNER: I am not arguing about the principle that we accepted in clause 88, but the vote is informal in that it cannot be counted or allocated to any candidate. There is a difference between informality and illegality. We have said in clause 88 that it is not illegal to leave a ballot paper blank. However, in terms of the Act it is still an informal vote.

The Hon. I. Gilfillan: On what basis?

The Hon. C.J. SUMNER: On the basis that it is not counted. It is set aside and cannot be counted for anything.

The Hon. I. Gilfillan: It is either a vote or it is not a vote. If it is not a vote, it cannot be counted as an informal vote; if it is a vote it is a formal vote.

The Hon. C.J. SUMNER: I do not think the honourable member should be unduly concerned.

The Hon. I. GILFILLAN: The point is that ballot papers left unmarked are assessed and recorded separately from those papers which have been either improperly marked or deliberately defaced. That is why I am moving to delete this part from a clause which identifies a ballot paper as informal. As I understand it, it is formal compliance with the requirements of this Act.

The Hon. C.J. SUMNER: No-one is suggesting that it is not in compliance with the Act in the sense that you do not have to fill out the ballot paper, as a result of amendments passed to clause 88. However, there is a difference between saying that someone has not done anything illegal and saying that what they have done makes their vote a formal vote to be counted. I do not see that the honourable member should be concerned. An elector can do what the honourable member is indicating, that is, leave the ballot paper blank, if he so wishes. I still think that that is an informal vote in the sense that it is not counted and ascribed to a candidate, but that does not mean that it is illegal.

The Hon. I. GILFILLAN: I suppose it is an academic argument, and I do not intend to debate it exhaustively. There seems to be no definition of an informal vote in any other philosophical way. If the intention of the amendment is that, if the non marking of a ballot paper is a definite recognition of the intention of a voter—it is not a casual, informal action or a mistake—it seems to me that it would be logical that it be removed from a clause which deals specifically with informal votes. It appears that those who are assessing this on both sides of the Commitee are not persuaded by my argument, so obviously I can look forward to defeat.

Amendment negatived.

The Hon. K.T. GRIFFIN: Before I move formally to delete subclause (4), could the Attorney tell me what it means, because I do not understand it? On the one hand, under subclause (1), a ballot paper is informal if certain things are not done. However, on the other hand, subclause (4) provides that, notwithstanding paragraphs *(b)* and *(c)* in particular, it can be formal. It seems to me to be a rather curious contradiction, and I seek some clarification.

The Hon. C.J. SUMNER: No, it is not a contradiction; it is consequential upon the provisions and the scheme of the Act which lays down certain formal requirements under the legislation as the basic obligations of a voter under the Act and then picks up in the scrutiny and renders formal certain votes that might otherwise be informal if it were not for registered voting tickets. Subclause (4) is necessary to indicate that, although a vote might not comply with the basic requirements of the Act, but does comply with the requirements taken in conjunction with a registered voting card, it validates and renders formal those particular votes. It is consequential upon the voting ticket system.

The Hon. K.T. GRIFFIN: Perhaps that is so in relation to subclause (1)*(b)*, but certainly it is not in relation to paragraph *(c)*, which provides that a ballot paper is informal if it has any mark or writing by which the voter can be identified. That has nothing to do with voting tickets, as I understand it.

The Hon. R.I. LUCAS: I have an amendment which deletes paragraph *(c)*. I can see the argument for subclause (4)(1)*(b)* remaining, so I will not oppose the whole clause. However, when my turn comes I will move to delete, 'or *(c)*'. As the Hon. Mr Griffin has pointed out, *(c)* provides that it is an informal vote if the voter can be recognised. That aspect of our voting system has been in our legislation for years. If I write on a ballot paper, 'Rob Lucas' the vote is informal because it is not a secret ballot. Therefore, paragraph *(c)* should be deleted.

The Hon. C.J. Sumner: Quite right.

The Hon. K.T. GRIFFIN: I will not move my amendment but will allow my colleague, the Hon. Mr Lucas, to move his.

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

Page 40, line 25—Leave out 'or *(c)*'.

Amendment carried.

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

Page 40, lines 25 to 33—Leave out subclause (5).

Subclause (5) appears to validate a Legislative Council ballot paper where it has been filled out with an order of preference for candidates by a series of numbers commencing with the number 1. If the series is not consecutive by reason of the omission from it of one or more numbers, the ballot paper is not informal. During the second reading debate I made the point—and we could have a situation under this—that we could have 1, 3, 5, 7 and 9 or 1, 10, 30, 50, 80, and 100, and it could still be valid. If that is the intention of the subclause it seems to me to be unusual. Where preferences are to be indicated, they should be indicated sequentially by an unbroken series of numbers. That is why I prefer to see subclause (5) out of it.

The Hon. I. GILFILLAN: During my second reading speech I raised concern about this subclause, which seems very confusing. Unless there is a clear interpretation from the Attorney which settles my misgivings, although I do not want to see the whole clause out (because I think there may be room for some tolerance), as it is currently drafted I think the provision would create chaos.

The Hon. C.J. SUMNER: It is picked up from Commonwealth legislation.

The Hon. K.T. Griffin: That doesn't make it any good.

The Hon. C.J. SUMNER: I understand what the honourable member is saying. I do not think that it is as bad as he makes out. It can only be renumbered if there are, in effect, blank spaces in between numbers because numbers have been omitted.

The Hon. I. Gilfillan: What do you understand as a series of numbers? In mathematics it is almost infinite.

The Hon. R.I. Lucas: Under Commonwealth legislation one can go 1, 97, 146, 2 042, 1 000 067, and one is right: one is valid for 1.

The Hon. C.J. SUMNER: Sounds like a good idea. It is not dissimilar to the current Legislative Council voting system, of which the honourable member is aware. I think that one can probably get some odd results under the current

system which applies to the Legislative Council. I guess that the argument that members opposite have, because we are simplifying the system, is that there is no need for this subclause as well.

In the light of the Hon. Mr Gilfillan's apparent concerns about it, I will not create a fuss. As we obviously have to recommit a number of the clauses, when we finish the first run I will not oppose it at that stage. However, I indicate that, if I think it needs to be reargued, I will bring it back.

Amendment carried.

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

Page 40, lines 34 to 43—leave out subclause (6).

I do not see, where there is a system where one either marks a number 1 at the top of a list or one votes fully preferentially, why any optional preferential system should be included. While it may not be a true optional preferential system, that is what it amounts to, because one may vote 1, 2, 3, 4, and then 5, 5, 6, and 7. Therefore, it is counted up to 4.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Is it? I should have thought that it was still a problem.

The Hon. C.J. Sumner: It was your Bill.

The Hon. K.T. GRIFFIN: I guess that when the optional preferential system was adopted for the Legislative Council, that is, 1 to 11 or 1 to 22 in a double dissolution, we translated a lot of the New South Wales position. I confess that I was not aware of this being in the current Act, but I have been corrected. Notwithstanding that, I do not see any need for it, and I would persist with my amendment.

The Hon. R.I. LUCAS: I support this amendment. It is correct that this provision exists in the current Act, but I think that there is a difference, which is that we are providing in the Bill for a simplified voting system to be used by 90 per cent of the population when voting for Legislative Councillors. The reason for this provision in the existing Act, I guess, went along the lines of 'You are going to have to fill in a lot of numbers (although it was reduced to 11 I understand it in the end); if you make an error we should seek to validate your vote.' It is not an argument to which I am attracted, but I concede that that would have been the logic at the time.

However, we are meeting the needs of the inadvertent error by saying to those persons, 'If you think you are going to make an error, just put number 1 in your box for your Party; then you will not make an error. If you want to take the risk of filling out 20 or 30 individual numbers, that is up to you. You may well make some errors such as envisaged in subclause (5) or subclause (6).' As I said, we provided a simple system for those people and therefore subclause (5) and subclause (6) really should not be required.

The problem with those subclauses is that one runs into the question of exhausting votes. That makes things more difficult down through the counting procedure because one has votes dying through the count. They might live to 1, 2, 3, 4, or 5; then one has a double 5 and the votes start dying at that stage. Under subclause (5) we have the same problem. During the counting procedure there is the problem of exhausting votes. It is a complicating problem that we do not really need, given that we have a new simple system for the Council.

The Hon. I. GILFILLAN: In this case if the voter has marked the square above the line as well as attempted to fill in the numbers underneath, and has then repeated a number, according to subclause (6) the vote underneath the line would still remain formal. Is that correct?

The Hon. K.T. Griffin: The mark is in the top box, so what is beneath the line is largely irrelevant, is it not?

The Hon. I. GILFILLAN: In the Senate, if one makes a mistake underneath the line, the square above counts. So, it is like an insurance. This appears to be arguing that one can make a mistake under the line and that it will still remain as a formal vote.

The Hon. C.J. Sumner: They may not have voted above the line.

The Hon. I. GILFILLAN: That is a different matter. I am curious whether, if a voter has voted both ways, subclause (6) will apply if there is a mark in the box above the line.

The Hon. C.J. SUMNER: I think that 'below the line' marks will take precedence in that circumstance. If you can validate a vote below the line it takes precedence over one above the line. If an elector has had two goes (one above and one below the line) and mucked up the one below the line, then the one above it counts. This procedure would validate votes in certain circumstances below the line.

The Hon. I. GILFILLAN: The question of what is a series of numbers ought to be defined. I am not as concerned about (6) as I am about (5), where there is a repetition of one number. It says 'one or more', which concerns me. It could stutter all the way through.

The Hon. R.I. Lucas: You could have a 1 and two 2s.

The Hon. I. GILFILLAN: With the honourable member's imagination, one could.

The Hon. R.I. Lucas: If we knock (5) out we may as well knock (6) out, to be consistent.

The Hon. C.J. SUMNER: You might as well. I will examine that. With a simplified system of above and below the line voting, the sorts of things that we did with the Legislative Council on the last occasion are probably not necessary. I think that that is basically the argument that honourable members opposite are putting. I understand that this has to be a reasonably convoluted way of trying to validate votes. On the basis that we now have a simplified system, perhaps those who choose to go below the line should get it right.

Amendment carried.

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

Page 41, lines 13 to 15—Leave out subclause (8) and insert subclauses as follows:

(8) Where—

(a) a ballot paper has not been marked by a voter in the manner required by this Act; but

(b) notwithstanding that fact, the voter's intention is clear,

the ballot paper is not informal and shall be counted as if the voter's intention had been properly expressed in the manner required by this Act.

(9) A ballot paper shall not be informal except for a reason specified in this section.

This is a redraft of subclause (8), which deals with and makes clearer the circumstances in which effect shall be given according to a voter's intention when that intention is clear.

The Hon. R.I. LUCAS: Does the Attorney-General's amendment in any substantive way change what already exists or is it principally a drafting and technical amendment?

The Hon. C.J. SUMNER: I do not believe that it alters the substance of subclause (8).

Amendment carried; clause as amended passed.

Progress reported; Committee to sit again.

DAM SAFETY BILL

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

The Hon. FRANK BLEVINS (Minister of Agriculture): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill is designed to protect life and property by making provision for the structural safety and surveillance of dams. For many years now the Australian National Committee of the International Commission on Large Dams (known as ANCOLD) has been concerned with the definite risk of serious dam failure occurring in Australia. This concern that the community is not adequately protected against possible dam failures is shared by dam engineers of the Engineering and Water Supply Department and by many local councils and their officers, especially in those councils whose areas include the Mount Lofty Ranges.

In 1972 ANCOLD wrote to the Prime Minister and all State Premiers stressing the need for the establishment of legislation to provide adequate control of the design, construction, operation, maintenance and surveillance of dams. Further concern was expressed in 1978 and reiterated in 1982. Once again ANCOLD requested State Premiers to endorse the need for adequate controls to ensure the safety of dams. As a result of these approaches, New South Wales and Queensland have implemented legislation whilst Tasmania, Victoria and Western Australia have done preliminary work on draft legislation, but enactment has not proceeded for a variety of reasons.

Here, in South Australia, on 19 February 1979 and again on 19 June 1980, the then Cabinet gave approval for Parliamentary Counsel to prepare a draft Bill incorporating the principal recommendations of ANCOLD with the Engineering and Water Supply Department as controlling authority. However, the drafting of the Bill was not proceeded with due to lack of sufficient resources within the Engineering and Water Supply Department for administration of the Act. Overseas experience has demonstrated that there are owners, both private and public, who are, either knowingly or through ignorance, constructing and maintaining dams that represent an unnecessry risk to the community. Occasionally, some of these dams fail causing hardship and economic loss to the community. Australia has, to date, been fortunate in that no major dam has failed with loss of life since 1929 when a mining dam in Tasmania was washed away with the loss of 14 lives. However, Australia's recent good fortune is no cause for complacency.

Worldwide statistics indicate that about 5 per cent of all major dams will experience an incident of some sort. Of these 'incidents' about 25 per cent will be failures. On average each failure claims about 50 lives. My concern for the safety of dams in this State stems from the fact that there are a number of dams being built each year for non-government bodies without adequate professional design and supervision. Under existing legislation nothing can be done to avert the danger posed by unsafe dams until they fail. At present, councils and Government departments have only very limited control over the siting and construction of dams with the result that some are considered unsafe or have been placed in hazardous locations.

In the Adelaide Hills, for example, expanding urban development may well result in a dam, built 40 years ago in a rural setting, now being located directly above a housing development. The hazard to life and property posed by possible dam failure in such developing areas is increasing. Concern from both local government bodies and residents is being expressed, along with the many inquiries directed to the Engineering and Water Supply Department's Dam Inspections Unit. Historically, development has been such that dams already built have generally been located in the best possible places. Future dam sites will have less favourable foundations and this problem is compounded by the tendency to use people with little or no dam design experience. In addition there is an increasing number of old dams. Owners tend to be under the impression that, if a dam has stood up for many years, then it can be considered safe. This is not always so. A good example was a large dam near Lara in Victoria which failed in 1973 after giving 70 years of successful performance.

The Bill establishes a statutory authority know as the Dam Safety Authority, which will be a corporate body subject to direction and control of the Minister. This Bill does not bind the Crown and therefore the new Authority will not be able to control Government owned dams as a matter of law. However, the Government will issue a direction to the relevant departments requiring them to ensure that their dams comply with the requirements of the Dam Safety Authority. The Authority will comprise four members appointed by the Governor. Three shall be nominated by the Minister and one shall be nominated by the Local Government Association. The primary emphasis for the selection of members of the Dam Safety Authority is to be on technical expertise, preferably combining extensive dam experience with senior managerial skills.

In addition, there will be a staff of about three people whose task will be to provide professional and administrative support to the Authority. Because of the downturn in capital works, the Engineering and Water Supply Department now has experienced staff available to provide professional and technical support. The Authority's function will be to ensure that all dams prescribed under the Dam Safety Act are designed, constructed, operated and maintained to appropriate standards acceptable to the Authority, and that proper monitoring and surveillance is carried out on dams to ensure that the structures and their impounded storages do not impose a threat to life and property. These dams, referred to as 'prescribed' dams, are all those which fit the following categories: over 10 metres in height and over 20 megalitres in capacity; or over 5 metres in height and over 50 megalitres in capacity; or any smaller dam which is considered to be of danger to life or property and has been prescribed by regulation.

As you can imagine, these dams are larger than the average farm dam. It is not the intention of this legislation to control small dams (other than small dams in high risk areas) but rather to safeguard against failure of large dams (or smaller high risk dams) and thereby benefit the whole community. Owners of prescribed dams will be required to adopt acceptable standards and procedures in relation to their dams at all stages during the lives of the structures and will be responsible for their dam's safety. If in the opinion of the Authority a dam is hazardous it may order the owner to rectify the hazard. Where the owner fails or refuses to render the dam safe, then the Authority will engage a contractor or public authority to enter that property and carry out such work or repairs as are necessary. The cost of such work shall then be recovered from the owner. Besides requiring regular maintenance, the legislation will prevent an owner from constructing or altering a prescribed dam without prior approval of the Dam Safety Authority. All work on a prescribed dam, including the design, is to be under the direction and control of a suitably qualified professional engineer unless that dam by reason of its location poses no threat to life or property.

There are a number of farm dams throughout the State that, because of their remote location, do not pose any threat to life or property downstream should a failure occur. The purpose of the legislation is not to assist on low risk

dams of this type being constructed and designed by professionals. Therefore, the Authority will allow the owner to construct the dam to his own standards. However, if future development occurs downstream of such a dam, then its status would have to be reassessed according to the risk presented. It is anticipated that reassessment of these low risk dams would be made every five years but should a major development, such as a mining operation, occur downstream of such a dam, it would be necessary to make a reappraisal of that dam's status. A provision in this Bill gives the Authority delegative powers to seek assistance from any district or municipal council, should that council so desire. It is only intended to give councils powers to allow them to act as forwarding agents for applications.

The Authority will make recommendations to the Governor as to the small dams that should be prescribed and will keep records of all prescribed dams together with information supplied by the owner or obtained by the Authority under the requirements of the Act. Though the duties of the Dam Safety Authority involve inspection, monitoring, giving of advice on the requirements of the Act and issuing approvals to construct or alter dams, it is to be understood that no authorised officer or member of the Authority will incur any personal liability whilst carrying out those duties. We in South Australia have been fortunate in being free of major failures of large dams to date. Other countries with much longer experience and no less skill in dam building have been less fortunate. The failure of a major dam can have tragic consequences in the loss of human life as well as property. This Bill is commended as an important step in ensuring that our State will never need to suffer the tragedy of these consequences.

Clauses 1 and 2 are formal. Clause 3 provides definitions of terms used in the Bill. Clause 4 establishes the Dam Safety Authority. Clause 5 provides for membership of the Authority. Clause 6 makes the Authority subject to written directions from the Minister. Clause 7 provides for the appointment of a Chairman of the Authority. Clause 8 sets out procedures at meetings of the Authority. Clause 9 validates acts and proceedings of the Authority and provides immunity for members of the Authority.

Clause 10 provides for remuneration of members of the Authority. Clause 11 sets out the functions and powers of the Authority. Clause 12 sets out powers of delegation. Clause 13 will enable the Authority to use the services of public servants. Clauses 14 and 15 are financial provisions. Clause 16 sets out reporting requirements. Clause 17 requires that the construction and alteration of prescribed dams must comply with the regulations and must have the approval of the Authority. Clause 18 empowers the Authority to appoint authorised officers. Clause 19 sets out the powers of authorised officers. Clause 20 enables the Authority, by notice served on a dam owner, to require him to take action to remedy hazardous conditions or to maintain and repair the dam.

Clause 21 enables an authorised officer to act in an emergency involving a dam. Clause 22 provides penalties for hindering an authorised officer or failing to comply with his requirements. Clause 23 gives the Authority and authorised officers power to enter and occupy land in order to carry out their functions and exercise their powers under the Act. Clause 24 prevents mining or quarrying operations near prescribed dams. Clause 25 requires the owner of a prescribed dam to report any failure of the dam to the Authority. Clause 26 requires the Authority to give its reasons to decisions made under the Act. Clause 27 requires the Authority to publish a list of prescribed dams annually. Clause 28 provides immunity from liability for any person acting in pursuance of the Act. Clause 29 provides for services of notices. Clause 30 requires the owner of a prescribed dam to notify the Authority of the dam within three months of commencement of the new Act. Clause 31 makes the directors of a company which has committed an offence under the Act liable to a similar penalty. Clause 32 provides that offences under the Act will be summary offences. Clause 33 provides for the making of regulations.

The Hon. M.B. CAMERON secured the adjournment of the debate.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the lateness of the hour I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

On 14 May 1984 major amendments to the Industrial Conciliation and Arbitration Act, 1972, came into operation. These were a result of the detailed investigation of the Act by Industrial Magistrate (as he then was) Frank Cawthorne, and his subsequent final report. Extensive consultations were held with employer and union groups and with the Industrial Relations Advisory Council, before that Bill was finally introduced in Parliament. As a result of practical experience with these new amendments it has been found that limited amendments of a machinery nature are necessary to clarify certain provisions of the Act and to avoid unnecessary litigation that might otherwise arise in relation to the 1984 amendments. This latest Bill contains these necessary changes and, in addition, certain other amendments which will further the objects of the Act. The desirability of making these amendments has been raised primarily by employer interests represented on IRAC and members of IRAC have agreed unanimously to these provisions with the exception of the amendment concerning lorry owner/drivers to which I will refer later.

I will briefly explain some of the more significant provisions in this Bill. One of the major items in the 1984 amendments was the reform of the unfair dismissal provisions to:

(a) transfer the jurisdiction from the Industrial Court to the Industrial Commission;

(b) introduce the additional remedies of employment in another position or compensation, and

(c) require a pre-hearing conference to attempt to resolve the matter by conciliation.

From the information available since the amendments came into operation, it appears that the new unfair dismissal provisions of section 31 have been working extremely well. Indeed, it has been estimated that cases have an 80 per cent settlement rate at the pre-hearing conference which points to the success of the conciliation process in this jurisdiction.

However, it has become apparent that when the new provisions were originally drafted, one or two matters were inadvertently excluded. In particular, doubt has arisen as to the right of the party to proceedings under section 31 to appeal against a decision of the Commission.

Whilst section 97 allows for appeals to be made by various groups of employees or employers, and in some limited cases individual employees and employers, it does not contemplate a general appeal by an individual employee—a situation which is quite likely to arise in the unfair dismissal jurisdiction. This Bill therefore provides for specific appeals in regard to section 31 matters. A further matter requiring clarification is the time period in which a section 31 appeal must be lodged. It would appear that as a result of the operation of section 98 (1) *(b)* of the Act an appeal can be lodged up to 42 days after the handing down of the decision. When the jurisdiction was vested in the Industrial Court the time allowed for appeal was 14 days, which permitted both parties to be aware of their positions within a reasonable time. To restore this protection, it is necessary to amend the Act to re-introduce the 14 day time limit for section 31 appeals.

A provision has also been included which clarifies the jurisdictional base for the unfair dismissal provisions by including a specific reference to such matters in the definition of 'industrial matter'. One further matter concerns the relationships between the unfair dismissal jurisdiction and the Long Service Leave Act. Section 5 (1) *(g)* of that Act provides for continuity of service for the purposes of long service leave where an employee is re-employed within two months of the termination of his service. However, where an order for re-employment is made by the Industrial Commission outside the two month's period, the Long Service Leave Act does not operate so as to provide for continuity of service. Accordingly, it is necessary to amend section 31 to expressly empower the Industrial Commission to make an order that the period between the date of termination and the date of re-employment in the former or another position be counted as continuous service, if it is considered appropriate to do so by the Commission.

The ability of the Full Commission on an appeal to stay the operation of an order under section 31 is also to be restricted. It is thought appropriate to stay the operation of orders for the payment of monetary compensation but not orders for re-employment. The 1984 amendments inadvertently removed the power of the President of the Industrial Court and Commission to appoint a Commissioner as Chairman of a Conciliation Committee. This has now been rectified in the attached Bill. As a result of discussions with the Transport Workers Union, the Government intends to amend the definition of 'employee' in the Act to include certain lorry owner/drivers (not being common carriers) who are presently enrolled as members of the TWU. These owner/drivers are people who are very similar for industrial purposes to employees.

A provision in the Commonwealth Conciliation and Arbitration Act allows federally registered unions to include in their constitution members who are defined as 'employees' under respective State legislation. By including such lorry owner/drivers under the definition of 'employee' in our State Act the Federal Transport Workers Union would then be able to amend their rules to officially enrol such owner/drivers in South Australia. This would enable formal recognition of what is now a *de facto* membership of the union. There are already similar clauses in the State Act which define taxi-drivers and contract-cleaners as being 'employees'. It should be noted that the New South Wales Industrial Arbitration Act has had a similar provision for some time now.

Specific reference was made to the problems of the lorry owner/drivers in the Cawthorne Discussion Paper. In the Final Report, Cawthorne recommended:

> 3 *(b)* That the Act enable the regulation of contract labour on an industry by industry basis.
>
> 3 *(c)* That, on referral by the Minister, the Commission be empowered to examine any proposal to extend the Act to cover contract labour, in a particular industry.

There are certain other amendments to section 31 which are concerned with clarifying that new provision and which do not change the concepts in the existing legislation but have been amended to make the legislative intention clear beyond doubt.

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 amends section 6 of the principal Act in two respects. The first is to amend the definitions of 'employee' and 'employer' respectively so that a person engaged to transport goods or materials by road and who is not a common carrier and who does not employ or engage another person to help him is to be an 'employee' for the purposes of the Act. Provision is also to be made for the Governor to declare that the Act, or specified provisions of the Act, shall not apply to such employees, or specified classes of employees. The second aspect to the amendments to section 6 is to define 'industrial matter' as including the dismissal of an employee by an employer. This amendment has been included on the basis of a submission to the Government that when Parliament by Act No. 19 of 1984 conferred power on the Commission to act on application by an employee who has been harshly, unjustly or unreasonably dismissed, the Parliament failed to confer the necessary jurisdiction to act.

It is difficult to see how it could be maintained that the Commission could not act on an application although it had been given powers to act on the determination of the application, but it has been decided to put the matter beyond all doubt. Accordingly, by amending the definition of 'industrial matter' to include the dismissal of an employee by an employer, the Commission will clearly derive jurisdiction to act on an application under section 31 by virtue of the general jurisdiction of the Commission to 'hear and determine any matter or thing arising from or relating to any industrial matter' (section 25 (1) *(a)*).

Clause 4 effects various amendments to section 31 of the principal Act that are intended to enhance further the operation of the section. The first set of amendments provide that the dismissal of an employee will found an application, and not an employer's decision to dismiss. The section presently operates in relation to the decision to dismiss an employee, as this is what lies at the heart of the matter. However, some practitioners have expressed an uneasiness with this approach.

It has been submitted that it would be more appropriate to revert to the wording that was employed in section 15 (1) *(e)*. The Government is willing to accede to this submission. Another amendment relates to the sequential nature of the remedies provided by section 31 (3). The amendment is intended to stymie any argument that the compensation remedy may be awarded without reference to the remedy of re-employment. A further amendment recasts section 31 (4) so that if an order for re-employment is made the continuity of service of the employee will be preserved.

Clauses 5 and 6 clarify certain powers of the President to appoint Commissioners as chairmen of Conciliation Committees. Clauses 7, 8 and 9 effect amendments relating to appeals from decisions and orders made under section 31. The amendments are intended to assist in the operation of the appeal mechanisms. Clause 10 amends section 99 so that the Full Commission cannot make a stay order relating to re-employment on an appeal against a decision or order under section 31. Clause 11 strikes out an incorrect cross-reference in section 111. Clause 12 amends section 133 so that it will be able to operate both retrospectively and prospectively. I commend the Bill to the Council.

The Hon. M.B. CAMERON secured the adjournment of the debate.

ADJOURNMENT

At 1.08 a.m. the Council adjourned until Thursday 9 May at 11.30 a.m.