LEGISLATIVE COUNCIL

Thursday 9 May 1985

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 11.30 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

That Standing Orders be so far suspended as to enable Question Time to be postponed to a later time of the day and taken on motion.

Motion carried.

AMBULANCE SERVICES BILL

Adjourned debate on second reading.
(Continued from 8 May. Page 3966.)

The Hon. R.J. RITSON: I support the second reading of this Bill with a certain amount of pleasure and some satisfaction at the success of the Parliamentary process in this instance. I think that all members are aware that several years ago some difficulties within the St John Ambulance Service peaked in a climax, which resulted in an adversary situation developing between different segments of the ambulance service, and perhaps debate in this place reached the stage where it was generating more heat than light.

However, as a result of the Select Committee, I believe that a report has been brought down which has recommended changes that will be all to the good when implemented. The report essentially recognises the legitimate interests of all persons concerned and, in particular, those of patients. The report recognises the long service and traditional community service that has been given by the St John ambulance organisation.

During the course of the sittings of the Select Committee, it became quite obvious that there were, apart from a small number of people with very strongly held views and political positions, a large number of people—both in the unions and amongst the volunteers—who had problems that were not being heard by the organisation. Perhaps they were being filtered out—and I do not mean deliberately—by the hierarchical structure of the Brigade so that, by the time a problem reached the Commissioner, the version that the Commissioner got was not really as it was.

We had evidence from union representatives that they had some difficulty because of the structure of the management in approaching the appropriate people to help solve their members' grievances. I believe that this report and this Bill will create some problem solving mechanisms. The Bill does not, of itself, solve the problems or run the ambulance service. However, it does create structures for policy formation, management and grievance solving which, if used wisely by the people involved and by Governments, both present and future, should lead to a much more satisfactory service to the public.

In support of the Hon. Mr Burdett, I want to say that the part of the Bill that proposes two representatives on the Board from two specified unions deviates markedly from the report of the Select Committee. The whole point of creating an Ambulance Board of this type was to create a board of directors on which a wide variety of skills was represented. The purpose of having one volunteer and one paid person was that the work experience of the two classes of people is different and each would have a slightly different area of experience to contribute to the deliberations of the Board.

It was never intended that the Board be a place for faction fighting between adversaries. Boards are not the appropriate places to have proportional representation of warring factions: boards are there to be bodies of expertise. In fact, we know that, because the volunteer ambulance crew is almost entirely comprised of members of the Brigade, the volunteer member of that Board will almost certainly be a member of the Brigade. However, that would necessarily be so if the matter of open recruitment of volunteers is developed further.

Similarly, the paid ambulance person on the Board is most likely to be a member of the Ambulance Employees Association. These people have two hats and, when they sit on that Board, they must sit to contribute their knowledge of the operation of the ambulance service as they see it to the deliberations of the Board and not to use that position to further any faction fighting.

It is important that there is provision for different groups of people within the ambulance service to have a forum for pursuing their differences. The Bill provides for that elsewhere in providing for the industrial committee that has representatives of both unions involved. It also provides elsewhere for an elected committee of volunteers to provide advice and to be representative of the volunteers. It is in those bodies, rather than at Board level, that the idea of factional representation should lie. Therefore, I will support the Hon. Mr Burdett's amendment to restore Board representation to the status of one paid and one volunteer representative, without specifying their particular union status.

I want to say something about the non-amalgamating ambulance services. As honourable members may be aware, there has been some lobbying by these bodies who have made expressions of concern. That concern has been twofold, the first concern being that, despite the recommendations of the Select Committee, they may be compulsorily amalgamated. However, that does not appear to be so. Certainly, the Bill does not compulsorily amalgamate them. Through the power to give or withhold licences the Minister could do that in a *de facto* way, but he has given an assurance in this Council that for several years at least he will not force the amalgamation of those services against their wishes.

Those services presented to the committee a number of reasons why they did not want to be amalgamated. Essentially, it is a question of local pride—a pride in local achievement in fund raising. These services believed that, if they amalgamated, the efforts of people in country districts to support their own ambulance services would be disincentived due to a loss of identity after amalgamation. A number of other objections to amalgamation were put before us, and our recommendation was that it would be ideal if amalgamation could be overcome by negotations, that is, negotiations that overcame those objections to the extent that those services then wished to amalgamate.

The present position is that those services will not be forced to amalgamate. However, the Parliament hopes that, by negotiation in years to come on those points that were raised by way of objection to the committee, a voluntary amalgamation satisfactory to all will be achieved by negotiation.

The non-amalgamating services also expressed a fear that the use of paid personnel in those services would increase, that it would be selectively paid personnel from the city, and that they would become embroiled in the same sort of industrio political turmoil which prompted this inquiry and this Bill and which seemed to peak in about 1980. There is nothing that this Parliament can do to legislate for people's attitudes. There is certainly nothing that it can do to take away people's rights to reasonable industrial activity. But,

what we have tried to do is create a Board and a set of problem solving mechanisms and, indeed, to entrench the concept of volunteerism in the ambulance service.

What is made of that will depend not on the legislation but on the calibre of the people who fill those positions, the calibre of the people whom the volunteers elect to represent them on their advisory committee and the calibre and responsibility of the people whom the unions elect. It is not possible to draft a Bill that says exactly how many volunteers and paid peope shall exist from time to time in each station or depot. It is not possible to draft a Bill that runs the ambulance service, and I am sure that the Council would realise that. It is possible to draft a Bill that entrenches the notion and concept of volunteerism, which was not entrenched before.

The Bill refers repeatedly to volunteers and to balance: balance of course means the continued existence of volunteers because, to have a balance, one must have something on one side and something on the other. So, I am sure that volunteerism will continue. Similarly, some anxiety was expressed by volunteers to the effect that they might, as it were, be written out of the script by training programmes that were selectively made available to one group and not the other, and those anxieties have been addressed by us in the Bill. One of the guidelines in the Bill that will guide the Board is that equal training opportunities should be made available to all classes of ambulance personnel.

In many ways this Bill is a positive legislative statement as to the rightful existence of volunteers in the service, the rightful existence of responsible industrial representations on the part of the paid personnel and, while it expresses the hope that the non-amalgamating services will eventually join the central service as a result of successful negotiations on their objections, there is no intention for some years at least on the part of the Government to force them to amalgamate.

I commend the Bill to the Council but, as I say, the place of the volunteer and the paid person on the Board as people with experience and knowledge is to help the Board function—they are not there as representatives of factions, that factional representation being provided for elsewhere. I will support the Hon. Mr Burdett's amendment in relation to Board membership. In doing so, I thank my colleagues who served on the committee; this is another example of the usefulness of the committee system in this Council. I support the Bill.

The Hon. J.R. CORNWALL (Minister of Health): All the wise words have been said. I can only reiterate what I said when I introduced the Bill. This has certainly been a substantial triumph for the Parliamentary system and, in particular, the Select Committee system. We have come out of this whole thing with a spirit of tripartisanship, and we have in this Bill the structure to ensure the good conduct of ambulance services in South Australia well beyond the end of this century. I again thank all my fellow members of the Select Committee who worked long and hard over 14 months.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. J.R. CORNWALL: In that ongoing spirit of co-operation that has characterised the St John Select Committee and the subsequent legislation, I understand that one or two final matters of consultation have to be completed before this Bill passes through its remaining stages.

Progress reported; Committee to sit again.

STATE SUPPLY BILL

Adjourned debate on second reading.

(Continued from 7 May. Page 3903.)

The Hon. C.M. HILL: This Bill repeals the existing Public Supply and Tender Act, 1914, under which the general control and acquisition of goods for the Public Service is administered. In repealing that Act, this measure is introduced and will now be debated. This matter goes back a considerable time. The investigation into the Supply and Tender Board, its methods, efficiency and so forth, was started back in the days when Mr Corcoran was Premier and has been continued by successive Governments, all having the objective of improving the system. When I say 'improving the system' I do not imply any criticism of the previous arrangement, but the whole area to provide for the acquisition, distribution, management and disposal of goods for and by the Public Service and also for several larger public authorities is a very large operation indeed.

I was interested in the emphasis that the Minister placed on this aspect when he presented the Bill and disclosed that, for example, in 1983-84 the State Budget and the opportunities for local industry and employment were very much affected by these operations. In that year in excess of $200 million worth of stores, materials and requisites were purchased by State Government authorities. In addition, the Health Commission purchased nearly $200 million worth of stores, materials and requisites, and the Minister estimated that other statutory authorities expended a similar amount. This Department controls in excess of 250 storehouses, which hold inventories valued in excess of $26 million, so it is a very vast operation indeed.

The original investigation to bring about change was placed in the hands of the Richardson Committee, which considered this matter during 1979, and since that time the whole matter has been under review. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

PETITION: SIMS BEQUEST FARM

A petition signed by 218 residents of South Australia praying that the Council support the retention of the Sims Bequest Farm intact to fulfil the wishes of the late Mr Gordon Sims, to improve the existing Cleve Certificate in Agriculture course and to establish residential facilities that will cater for the present and future requirements of country students was presented by the Hon. Peter Dunn.

Petition received.

QUESTIONS

DRUGS

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

Leave granted.

The Hon. K.T. GRIFFIN: In early January of this year I raised questions publicly about the Government's delay in proclaiming the Controlled Substances Bill which was passed in March 1984. The Council will remember that in 1983 I introduced a private member's Bill to give the courts power to confiscate assets of convicted drug dealers and traffickers. The Government opposed that Bill, saying that it was going

to bring in its own Bill, and so therefore my Bill did not pass, although had it passed it could have been in operation in 1983, and for almost two years the courts could have been exercising those powers in the fight against the drug trade. The Government's Controlled Substances Bill included provisions in relation to the powers of confiscation of assets of drug dealers in identical terms to those in my Bill. However, 14 months has now elapsed and that legislation has still not been brought into effect.

The Hon. J.R. Cornwall: You're wrong, you know.

The Hon. K.T. GRIFFIN: Did you do it today?

The Hon. Frank Blevins: You win some, you lose some!

The Hon. K.T. GRIFFIN: I make the point that if it has been proclaimed this morning (and we have not seen the *Gazette*), it was supposed to come into effect in March; that was later extended to April, and—

The Hon. J.R. Cornwall interjecting:

The Hon. K.T. GRIFFIN: I am not worried about the regulations, but I am worried about the power of the courts to confiscate assets of drug traffickers. If the legislation has come into effect now, in May, that is long after the time when it should have been brought into effect. Some weeks ago the drug summit, comprising the Prime Minister and all the State Premiers (including Premier Bannon), agreed to give State police power to tap telephones, subject to certain judicial safeguards, as an important power in the fight against drugs. I asked the Attorney-General whether he agreed with this, and he obtained a quick briefing in the Chamber from the Minister of Health and said that he understood that the matter had been referred to the Standing Committee of Attorneys-General for consideration. That seemed to be a back-down from the agreed course of action taken only a few days before. Even if that was not the case, the view is that we probably would not see the decision made by the drug summit implemented before the end of this year, if at all.

There is another disturbing development: according to reports today, Senator Bolkus is leading a left wing push to stop the Federal Government giving telephone tapping powers to State police. Already there appears to be some back-down by the Federal ALP on this important decision. If that occurs, it will be a very serious retraction in relation to a decision taken by the Prime Minister and all the State Premiers only a few weeks ago at the drug summit.

My questions to the Attorney-General are (and from the interjection earlier I gather that the Attorney may be able to give a ready answer to the first one), first, when is the legislation giving the courts power to confiscate assets of convicted drug dealers coming into effect? Secondly, will the Government resist as strongly as possible the Federal Government reneguing on the drug summit decision to give telephone tapping powers to State police? Thirdly, will the Attorney-General give a public commitment as Leader of the Government in this Council that the State Government continues to support the provision of telephone tapping powers for the State police as part of the fight against drugs?

The Hon. C.J. SUMNER: I am pleased to be able to announce that the Controlled Substances Bill has been proclaimed and will come into operation today, together with the regulations. I thank the honourable member for his question which gave me the opportunity of advising the Council of that fact at the earliest possible opportunity. The Controlled Substances Act is the most comprehensive legislation of its kind in South Australia. It contains very severe penalties in relation to drug trafficking and it has provision for the confiscation of assets.

At this stage South Australia is only the second State in Australia to have such a power. States such as Queensland and Tasmania, which have Governments of a political ilk similar to that of the honourable member's Party, have not yet acted in this area of the confiscation of assets. South Australia has done so; the provision is in place, and as I have said the Act is comprehensive. It is certainly a very tough piece of legislation in relation to penalties applying to drug traffickers.

I am pleased to be able to say that the legislation has been proclaimed, and the regulations have already been made by Executive Council. Obviously, the period of time from the passage of the legislation through Parliament to its proclamation and the promulgation of regulations arose out of the necessity to prepare quite comprehensive and necessary regulations before the Act was brought into effect. So, the legislation has been brought into effect at the earliest opportunity and, as I have said, it is the most comprehensive legislation of its kind in Australia. It is the toughest legislation in Australia to counter drug trafficking, and dealing in drugs.

The question of what requests will be made by State Governments to the Federal Government for the State police to have telephone tapping powers is still to be resolved, and I am not in a position to provide any further information to the honourable member on that matter at this stage. I was not at the drug summit, but I understood that, if telephone tapping by State police were to proceed, the understanding was that it would be subject to some form of judicial warrant. Obviously that legislation—

The Hon. K.T. Griffin: It was a definite decision.

The Hon. C.J. SUMNER: The honourable member keeps saying that. I can certainly provide him with some more information about this. Perhaps I ought to provide the honourable member with the precise details of the resolution of the drug summit: I can certainly do that. Obviously, this matter requires action to be taken by the Federal Government and would require requests to be made from the various State Governments for their State police to be given that power.

So, a prerequisite, obviously, is action by the Federal Government to provide the facility for State police to have those powers. There was a decision dealing with telephone tapping at the drug summit, but the precise action that is to follow is still to be resolved. I am not in a position to advise the honourable member further on that point at this time.

The Hon. K.T. GRIFFIN: I have a supplementary question. My third question, which has not been answered, is: will the Attorney-General give a public commitment, as Leader of the Government in this Council, that the State Government continues to support telephone tapping by State police in the fight against drugs, as indicated by Premier Bannon's concurrence with the decision of the drug summit?

The Hon. C.J. SUMNER: I have answered that question. The honourable member asserts that certain decisions were made at the drug summit.

The Hon. K.T. Griffin: Are you saying that they were not?

The Hon. C.J. SUMNER: I am saying that I will clarify that particular resolution of the drug summit. I do not believe that the decision the honourable member is now claiming as having been made at the drug summit was as he has outlined today. I will ascertain the resolution of the drug summit and advise the honourable member in due course. What I said in the answer to the question, which answered the final question that the honourable member raised, was that the question of telephone tapping, Commonwealth powers and the details of the State Government's role in it, was still to be resolved. That was, as I understand it, the resolution following the drug summit.

The Hon. K.T. Griffin: Your Government does not have a commitment to it?

The Hon. C.J. SUMNER: The position is that certain decisions in principle were taken at the drug summit. I do not believe that those decisions were as outlined in the same definite way as the honourable member has asserted in this Chamber. The Government is looking at the decisions flowing from the drug summit. It has already implemented a substantial number of the recommendations of the drug summit through the proclamation of the Controlled Substances Act. Confiscation of assets, and like things recommended by the drug summit, are already in place in South Australia, which was the second State in Australia to act in that regard, and certainly before the States of Queensland and Tasmania, which are governed by Parties of the honourable member's political persuasion, or near enough to it. Therefore, the answer with respect to decisions of the drug summit on telephone tapping is that that matter is still being considered in the context of the original decision by the Commonwealth and the State Government, and details are yet to be worked out.

IMPORT DUTY

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question in relation to duty on automatic X-ray film processors.

Leave granted.

The Hon. J.C. BURDETT: I recently received a letter from Medecon Australia Limited, and I have no doubt that the Minister has received a similar letter. He may well have taken some action on it. The letter reads:

> Automatic X-ray film processors have entered Australia duty free, or with the 2 per cent revenue duty only, ever since their introduction to Australia some 20 years ago. Recently, a very small company in Victoria, who sell graphic arts processing equipment, began the part assembly (25 per cent is required by IAC) of graphic arts processors here and the wording of the tariff item is such that all X-ray processors are now burdened by a 25 per cent import duty. This is an extra cost on the already overburdened health system and one which is unjustifiable in balance with the small protection afforded the small manufacturer in question. Although it is possible to use automatic X-ray film processors in the graphic arts industry, this is never done.
>
> The Tariff Concession Department of the Department of Industry, Technology and Commerce, in particular reference Mr R. Howland, states, and I quote:
>
> > The only solution possible at this time is for the importing community to find a set of words which describes all X-ray machines in terms which do not also describe paper processors. The responsibility lies with the importers—I am aware that PMIA and some of the larger importers are still working at that end. If no words are found, it is possible that the matter may have to be examined by the IAC.
>
> This situation has now been in existence for some months and all X-ray processors during that period have attracted an import duty of 25 per cent.
>
> As pointed out by Mr Howland it is almost impossible to find suitable wording to differentiate between the two machines and our suggestion that entry under security with direct reference to the end use of the equipment must be considered as an interim solution.
>
> I address this letter to you as shadow Health Minister as I seem unable to obtain a suitable level of interest in the matter from various customs departments. As it is the health system, the hospitals and the private sector which are being unfairly penalised, I feel that as shadow Health Minister, your direct intervention should be seriously considered. This matter is urgent and I suggest some immediate action should be taken.

The matter is perfectly clear—that an important piece of health equipment (namely, X-ray film processors) because of this anomalous situation, is being charged 25 per cent import duty. It is not proper and fair that the health system should be burdened with that. Has the Minister taken any action in conjunction or co-operation with the Federal Minister responsible for customs and, if he has not, will he consider doing so?

The Hon. J.R. CORNWALL: I do not know what date is on the letter but the Hon. Mr Burdett, who was a Minister for three years, would know that not all the correspondence that comes to a Minister's office crosses his desk in the first instance.

The Hon. J.C. Burdett: The letter is dated 22 March.

The Hon. J.R. CORNWALL: If, in fact, I have received a similar or identical letter, then obviously it must still be out there being processed somewhere so that I can make an intelligent and informed response. I hardly need remind the Council that matters of duty are quite clearly Federal concerns. However, if, as suggested, there is some unreasonable cost penalty on the health industry in general and radiology in particular, then I will be pleased to take the matter up with my Federal colleagues.

PEDESTRIAN RAIL CROSSINGS

The Hon. I. GILFILLAN: Has the Minister of Agriculture a reply to a question I asked on 19 February in relation to pedestrian rail crossings?

The Hon. FRANK BLEVINS: The State Transport Authority has approximately 240 authorised pedestrian crossings over its railway lines, including those at the ends of stations and those adjacent to road level crossings. During the past three years authorised crossings have been reconstructed with maze fences to force pedestrians to look in each direction down the line before crossing. It is planned to complete this work over the next 12 months. However, even with this type of fencing it is still possible for people to place their lives in danger; in particular this applies to children.

Approximately 30 years ago, following a number of accidents involving people being hit by trains coming in the opposite direction, a programme was developed by the rail Authority at the time to construct a number of subways or footbridges. No subways have been built for several years because of the anti-social behaviour of some users. This behaviour has included assault causing serious injury and also sexual assault. In addition, most subways suffer from constant defecation or urination and are subject to graffiti. Vandalism, particularly to light fittings, is rife. This behaviour has become such a problem in a number of areas that the Authority has been requested by local residents to provide pedestrian crossings across rail tracks, because they are too scared to walk through a subway.

Because of the additional walking distances involved with the use of footbridges the Authority's experience has been that pedestrians tended to bypass them by trespassing across the rail tracks. It has also been found that children and teenagers drop missiles in front of trains from footbridges, which is a dangerous practice. To overcome this problem one footbridge was covered with a frame and chainwire mesh. Regrettably, children then climbed on top of the mesh covered frame and still threw stones at the trains. They also use the mesh covered frame as a trampoline.

Another alternative examined by the Authority is the provision of warning devices at pedestrian crossings which cost about $50 000 each. Although no pedestrian crossing open to the general public in South Australia has been provided with such a device, experiments have been carried out interstate. Many pedestrian crossings are remote from roads or other scrutiny by the public, making them extremely susceptible to vandalism. A pedestrian crossing provided with automatic protection which is destroyed by vandals is more dangerous than the present system.

At least three of the fatalities that have occurred over the past two years have occurred on pedestrian crossings adjacent to level crossings where warning is provided by flashing

lights and bells. The provision of such facilities, regrettably, does not guarantee that accidents will be prevented.

The Authority has a design in hand which involves construction of a fence between the two tracks with pathways so that pedestrians are forced around the ends of the fence and consequently cannot walk straight across tracks into the path of a second train, as happened at Millswood. This type of crossing will be installed at Millswood shortly. If the experiment proves successful, similar installations will be provided elsewhere.

Drivers of trains and trams are required to sound the warning device at all locations where a whistle warning board is displayed, and they have been reminded of their responsibility in this regard. They are also required to use the warning device whenever they encounter a situation of potential danger, and this includes pedestrians.

RADIOACTIVE CONSIGNMENT

The Hon. I. GILFILLAN: Has the Minister of Agriculture a reply to a question I asked on 27 March in relation to a radioactive consignment?

The Hon. FRANK BLEVINS: The replies are as follows:

1. *(a)* No.

(b) Yes.

2. Yes.

3. The material will be stored underground at Olympic Dam.

4. *(a)* Only the copper ore recovered during the processing tests.

(b) Roxby Management Services (RMS).

(c) RMS.

DRINK DRIVING

The Hon. M.B. CAMERON: I seek leave to make a short statement prior to directing a question to the Attorney-General on the subject of drink driving.

Leave granted.

The Hon. G.L. Bruce: I thought you said it all on the ABC this morning.

The Hon. M.B. CAMERON: Not all of it. Sometimes I think there is not a clear understanding of the problems caused by drink driving in this country. I have obtained some figures which might draw a little more attention to the problem. In the Second World War approximately 37 000 Australian troops were killed, and included in that number were 3 258 South Australian servicemen. Since the war more than 120 000 Australian citizens have been killed on Australian roads, including approximately 9 500 South Australian citizens.

On average, in Australia each year we lose 3 212 citizens from road accidents. In 1984—and I guess the figures would be pretty much the same for each year—44 per cent of drivers and riders killed, 38 per cent of passengers killed, 39 per cent of pedestrians killed and 67 per cent of pillion passengers killed had blood alcohol levels above .08.

I do not believe that people yet realise that driving is a privilege. I think this is something with which we still have to battle in the general community, because there seems to be a belief that driving is a right and not a privilege. Concern has been expressed to me in relation to the penalties of drink driving, and in particular the situation that has arisen regarding a particular case, which I do not want to go into great detail about, because I understand that there has been a request to the Attorney-General for a review of the penalties. However at the moment I understand the situation is that, if a person is responsible when an accident occurs for the death of another person and where drink is involved, there can be up to a 2½ year delay before the case is heard.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: That was the figure given yesterday.

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

The Hon. M.B. CAMERON: Perhaps that is unusual, but I do not think that cuts across the request that I am going to make.

The Hon. J.C. Burdett: It was in yesterday's *Advertiser.*

The Hon. M.B. CAMERON: Yes, but as I said, I do not want to go into the details of that case. At the moment, if a person is charged, that person continues to drive and I understand there is no investigation as to whether or not that should be the case. Where a person causes the death of another person in a vehicular accident and where there is an allegation of drink driving, has the Attorney-General considered whether there should be a preliminary hearing to decide whether that person should, from the time the alleged offence occurs, continue to drive and, after that judgment is made, whether a decision should be made as to an immediate suspension of licence without prejudice to the end result? There are many situations where preliminary hearings are conducted and, even though the person may eventually be found innocent, certain requirements are placed on him. I believe this situation is causing concern in the community and it is one that should be investigated. I ask the Attorney-General whether he has considered that.

The Hon. C.J. SUMNER: The figures given by the honourable member with respect to drink driving are well known. I have drawn attention to those figures myself on numerous occasions. They are obviously unacceptable in a civilised society. The Government has taken action in the road safety area, in particular by its support of the recent findings of a Select Committee of this Parliament dealing with random breath testing, and has done all it possibly can to combat drink driving in our society. Clearly, people who drink should not drive, and that is something that we must convey to the public. The figures mentioned by the honourable member do, as I have pointed out on previous occasions, put into very stark relief the very great problem that excessive drinking and driving causes in our society.

In relation to the particular case mentioned by the honourable member, I have asked the Acting Crown Prosecutor to provide me with a report on the penalty handed down in order to decide whether or not there are grounds for appeal to the Supreme Court.

As to the other matters raised by the honourable member, they are somewhat more difficult. If a case of some kind proceeded prior to the major case being heard, that could cause some difficulty. It could be seen as pre-empting a decision made by a superior court and, ultimately, the accused person has the right to have the case heard before the court and has the right to have his or her defence, if there is one, or their side of the story put to the court for determination.

The Hon. M.B. Cameron: That would not be cut across.

The Hon. C.J. SUMNER: It may be. If one takes the case of causing death by dangerous driving there are a number of alternative verdicts that a court might bring down. There could be difficulty if an inferior court had adjudicated upon a case and, in substance, reached a verdict that was the same as that which might ultimately have been handed down by a superior court. I think that there are difficulties in the proposition put forward by the honourable member. However, I am happy to have them further examined and to provide the honourable member with more information on this topic.

LANGUAGE POLICY

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question about the Government's language policy.

Leave granted.

The Hon. M.S. FELEPPA: I want to make it clear that it is not my intention to be discourteous to the Hon. Mr Blevins, who represents the Minister of Education. However, I noticed this morning that yesterday a question was asked of the Minister about which I will give him a chance to elaborate. On Tuesday 7 May the Minister of Education announced the Government's language policy saying the following:

> . . . that we are working towards the situation where all students will have an opportunity, at the same time in formal education, to learn at least one language other than English.

Such a policy must mean that there will be a big demand for new language teachers, particularly at the primary school level. My questions are:

1. How will the Government ensure that its 10-year plan is implemented?

2. Can the Minister give some idea of the cost involved with this plan?

The Hon. C.J. SUMNER: The Minister of Education has indicated that the policy that he announced two days ago will be implemented. It was a commitment and not simply the espousal of a policy. There is a need for more language teachers, particularly at the primary level. There are presently 43 specialist language teachers at the primary level and the need for 400 more by 1995. The total number of teachers will be kept in check by an anticipated decline in enrolments. There will, of course, be some retraining required. In addition, there are some teachers equipped to teach languages who are not currently working where they can apply their skills in this regard.

A profile of resources is being compiled. The Minister of Education believes that the number of advisory teacher positions must be lifted from nine to 15 and that over the next year at least 20 new language teachers could come on stream. The cost of development of curriculum work will amount to $150 000 and there will be a cost of $700 to $1 000 for each school for resource material and equipment. The Minister of Education can assure the honourable member that the job, although big, will be done. It is a job that will change a situation where only one primary student in five has access to language studies to a situation of full access. This will have both educational and social benefits and reflect more truly the multi-cultural nature of our society.

ELECTRICITY TRUST CHARGES

The Hon. PETER DUNN: Has the Minister of Agriculture a reply to the question I asked on 27 February about Electricity Trust charges?

The Hon. FRANK BLEVINS: The Trust's tariff structure provides for a minimum charge because there are, associated with every customer, certain costs which are incurred whether or not any electricity is consumed. These include administrative costs such as meter reading, billing and account collection and costs directly associated with the provision of the electrical service and meters. A review conducted in 1984 indicated that the minimum charge, then $7.80 per quarter, was well below the level required to achieve the above purpose and it was subsequently increased in November 1984 to $20 per quarter.

ROAD FUNDING

The Hon. PETER DUNN: Has the Minister of Agriculture a reply to the question I asked on 14 March about road funding?

The Hon. FRANK BLEVINS: The South Australian Government is concerned about the adequacy of road funding for all roads in this State. At present the Federal Government is considering replacement legislation for the current five year Road Grants Act which expires on 30 June 1985. In particular, the Federal Government is giving consideration to the funding of the Australian Land Transport Programme by an indexed share of existing fuel excise so as to provide continuity to the road building effort. The above proposal, as well as other aspects of Federal road funding, will be discussed at the next Australian Transport Advisory Council meeting which my colleague, the Minister of Transport, will be attending. His objective at that meeting will be to press for increased total Federal road funding, and to ensure that South Australia receives an equitable share.

POLICE RADIOS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about UHF radios for police.

Leave granted.

The Hon. PETER DUNN: About two years ago it was brought to my attention that there was a problem in some country areas where there is only a single police officer when that officer is attending accidents or other operations, for instance fires. The police vehicles are equipped only with HF radio, which can be used to contact Whyalla or Adelaide, but not from every position, so police often have to seek out high ground to make radio contact. There have been several accidents, one in particular happening recently (about four months ago) requiring the police officer from the Cleve station, having been alerted at 2 a.m. that there was a car overturned on the road between Cleve and Cowell, to attend that accident.

He found the car upturned with a person in it but could not leave the area because the car was in the middle of the road on a bend. He was unable to contact anybody and could not leave the scene of the accident. It happened that a few minutes later another vehicle came past and he was able to get a message through to the hospital. At that stage he was only two miles out of town. I am requesting that these cars be fitted with what is usually called CB radio (or UHF radio), because they would be very useful. Most hospitals have a UHF radio on standby and nearly all of them can be contacted from most areas of South Australia because of the repeater stations that have been built in more remote areas.

The Hon. R.J. Ritson: They are fairly cheap, too.

The Hon. PETER DUNN: They cost of the order of $300 to $400 a set. The police officer involved with the accident that I have just mentioned believes that he could have contacted the local hospital if he had had such a radio and that the St John Ambulance could have been alerted to attend the scene. It was about 40 minutes later that the ambulance arrived. As well, there are cases when police have to direct traffic operations at fires. Most rural producers have CB radios in their utilities and four-wheel drive vehicles and it would be much easier for the police to direct those people and to receive directions from people controlling fires if they have these radios. Can the Minister indicate whether the Police Department will supply CB (UHF) radios to country police officers' vehicles where a need is dem-

onstrated, and, if the Police Department does not have a policy on CB radios, will the Minister investigate the problem and promptly make funds available for that investigation?

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

PROPERTY ACQUISITION

The Hon. K.L. MILNE: I seek leave to make a brief statement before asking the Attorney-General, representing the Premier, a question on the acquisition of the two Mount Lofty summit properties of St Michael's and Carminow, both of which were devastated by the fire of 1983.

Leave granted.

The Hon. K.L. MILNE: Honourable members will probably know already that a very large number of people are most anxious that the opportunity should not be lost for the South Australian Government to purchase the two properties of St Michael's House and Carminow on Mount Lofty summit, both of which were devastated by the Ash Wednesday fire. Honourable members will recall that St Michael's, with its wonderful panoramic view across St Vincent's Gulf, is owned by the Anglican Church of Australia which, I understand, intends to sell it. For this beautiful property to revert to private ownership would be an opportunity lost to benefit the community. It would surely be appreciated very much by both the people of South Australia and visitors from interstate and overseas.

By some extraordinary quirk of fate, the refectory was not touched by the fire. I have had a look at this with the President of the Mount Lofty Historical Society and the Chairman of the District Council of Stirling, and we believe that with very little alteration it could be used as a temporary kiosk and dining facility in place of the one destroyed on the summit. We now have no restaurant or cafe on the summit and this could be used soon after purchase. It would certainly cope with a bus load of tourists. This would leave the summit completely free of intrusive buildings, public toilets and so on.

The other property, Carminow, is owned by Mr John Bonython. One can note that the property looks over the Piccadilly Valley and is one of the greatest views in the Hills. The property was built in 1885 by Sir Thomas Elder and is very historic.

The Hon. C.J. Sumner: I have never been there—I have never been invited.

The Hon. K.L. MILNE: It is too late now.

The Hon. C.J. Sumner: You sound like a regular household guest.

The Hon. K.L. MILNE: Please do not make light of this, gentlemen, because this is an opportunity that will not come again.

Members interjecting:

The Hon. K.L. MILNE: I do not know what honourable members are getting at.

The PRESIDENT: Order! The Hon. Mr Milne has leave to make an explanation, and I hope he proceeds with it.

The Hon. K.L. MILNE: I cannot understand why members are making fun, because this opportunity will not come again. There is no immediate need to restore the building, but there is an urgent need to acquire the site. Knowing Mr John Bonython's interest in South Australian history, I feel certain that he would assist with such a plan. I would like honourable members to form a picture in their mind's eye of what would happen if those two properties were purchased. There would be Cleland nature reserve, the Mount Lofty Botanic Garden, the Mount Lofty summit area with St Michael's and Carminow added. That would have to be one of the most valuable and beautiful national parks in Australia, of almost unequalled splendour anywhere.

The PRESIDENT: Order! The Hon. Mr Milne has a question on notice which seems to cover the whole of the question he is now asking.

The Hon. K.L. MILNE: What I am getting at (and I did not stress it last time) is that the total area should be a Flinders National Park.

The Hon. R.J. RITSON: On a point of order, Mr President, I draw your attention to Standing Orders dealing with explanations to questions.

The PRESIDENT: The Hon. Mr Milne has asked leave to explain a question, not to make a personal observation. I hope that, if he is going to ask a question, it does not run in the exact direction of question 2. II. of his Question on Notice. He ought to ask his question.

The Hon. K.L. MILNE: The emphasis I am trying to make is for a national park of the whole area to be called the Flinders National Park.

The PRESIDENT: That is not an explanation of the question, but a personal opinion. The explanation of the question should be to gain information for the member and not to explain the answer as well as the question.

The Hon. K.L. MILNE: I take the point. Will the Premier please discuss the matter with Mr Lloyd Leah, the Chairman of the Stirling District Council, Professor Colin Horne of the Mount Lofty Historical Society, Mr Jack Benlow, the President of the Mount Lofty Ranges Association and myself and will he kindly visit the site for that purpose, meanwhile taking whatever action is necessary to prevent those properties being lost to the community of South Australia and Australia?

The Hon. C.J. SUMNER: I will refer the honourable member's question to the Premier and Minister for Environment and Planning and bring back a reply in due course.

ETHNIC AFFAIRS COMMISSION

The Hon. C.M. HILL: I seek leave to make a statement prior to asking the Minister of Ethnic Affairs a question on recent female appointments to the Ethnic Affairs Commission.

Leave granted.

The Hon. C.M. HILL: On 23 April the Migrant Women's Lobby Group sent a letter to the Minister and copies of that letter to various parties vitally interested in ethnic affairs generally. They expressed in that letter very grave concern on recent appointments to the Ethnic Affairs Commission. I will read three short paragraphs from the letter as follows:

> A fundamental aim of the group is to improve the level of participation of women of non-English speaking background in the social, economic, political and cultural spheres of Australian society.

The letter continues:

> The group therefore views with grave concern the recent series of appointments made by the Ethnic Affairs Commission, following which women of ethnic minority background continued to be excluded from senior positions.

Later, it states:

> The group is aware that several women of ethnic minority background with the recognised competence, experience and credibility, were interviewed for those positions.

It is not only the Migrant Women's Lobby Group that is expressing concern about this matter because several people from the migrant community have raised it with me and they are very critical of the Commission, the Government and the Minister in regard to this matter. My questions to the Minister, therefore, are:

1. Does the Minister agree with the recent decision concerning two female appointments to the Commission staff, which appointments were the basis of complaint from the Migrant Women's Lobby Group?

2. If the Minister has replied to this letter, what was the thrust of that reply?

The Hon. C.J. SUMNER: There is no basis for criticism about those appointments. Staff of the Ethnic Affairs Commission are public servants and Government policy is that they should remain public servants. It would be quite wrong and quite contrary to the interests of ethnic minority groups in this State if the staff of the Ethnic Affairs Commission were to be separated or divided from the Public Service. That may be the honourable member's policy, but it is not the policy of the Government. The whole thrust of the Government's policy in this area has been to try to ensure equal opportunity for people of ethnic minority origin in the mainstream organisations and structures of our society.

It would be quite contrary to that aim for the Ethnic Affairs Commission not to have staff that were part of the Public Service and therefore provide the opportunity to the staff of the Ethnic Affairs Commission, a great majority of whom are of ethnic minority origin, the opportunity to participate in employment in the broad public sector in South Australia. The first point to be made is that the appointments to the Ethnic Affairs Commission were appointments as public servants.

Accordingly, the appointing procedures laid down by the Public Service Act were gone through. (I should say, that is a different approach adopted by comparison to the previous Minister who completely ignored the procedures of the Public Service at one particular time of his reign as Minister.) The Government takes the view, and I believe it is the correct view, that the staff of the Ethnic Affairs Commission should be in the Public Service. The appointments to those positions were called in the normal way.

There were interviewing panels established in the normal way containing people of ethnic minority origin. As a result of those interviewing panels' consideration of the various applicants, in the opinion of those interviewing panels, the best people for the job were recommended. There is no substance in the criticism. If the honourable member is saying that the Minister should appoint the members of the Ethnic Affairs Commission and only be able to appoint people who are of ethnic minority origin, then that is a policy I will reject.

The Hon. C.M. Hill: I am asking your opinion. Don't try to twist things around.

The Hon. C.J. SUMNER: Well, you have raised the question.

The Hon. C.M. Hill: I'm asking your opinion.

The Hon. C.J. SUMNER: I am saying, if that is the honourable member's position, then let him come out and say so. I do not believe a system of patronage should be introduced into the appointments in the Ethnic Affairs Commission, either political patronage or otherwise, and that apparently is the sort of thing the honourable member is suggesting, that the people in the Ethnic Affairs Commission should not be public servants or appointed by the Minister, but that they should be appointed by the Commission, not in accordance—

The Hon. C.M. Hill: I haven't raised that point at all.

The Hon. C.J. SUMNER: Well, that is all right. These are the possibilities if the honourable member is going to criticise.

The Hon. C.M. Hill: I didn't raise the Public Service at all. I'm asking you what is your opinion about the concern of these women?

The PRESIDENT: Order! Let the Minister proceed and the honourable member can ask a supplementary question.

The Hon. C.J. SUMNER: If the honourable member's proposition is that these positions—

The Hon. C.M. Hill: I haven't got any proposition.

The Hon. C.J. SUMNER: Well, what I am just putting to him—

The Hon. C.M. Hill: Answer the question.

The Hon. C.J. SUMNER: I am answering the question.

The Hon. C.M. Hill: You aren't answering the question.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: If the honourable member's proposition is that these should be Ministerial appointments based on whether they are friends of the Minister or whether the Ethnic Affairs Commission should make those appointments not in accordance with the Public Service Act, then let him say that. The fact is that the appointments were made in accordance with the procedures in the Public Service Act. Selection panels were established. Those selection panels contained people of ethnic minority origin and the recommendations for appointment were made in accordance with those procedures and were proceeded with in the normal way in accordance with those procedures.

I do not believe that the Ethnic Affairs Commission should be a ghetto for people of ethnic minority origin and that every appointment to the Ethnic Affairs Commission or the staff of the Ethnic Affairs Commission should necessarily be people of ethnic minority origin. As I said before, that would be quite inimical to the interests of people of minority groups in this State. The important basic philosophy we are trying to promote is to ensure equality of opportunity through the broad public sector and through the institutions of our society, and the notion put forward by the honourable member that somehow or other it should only be people of ethnic minority origin appointed to the—

The Hon. C.M. Hill: Do you remember what you said then, when we were looking for the Chairman?

The Hon. C.J. SUMNER: You said you would not have a Greek or an Italian. That is what you said. I remember what I said.

The Hon. C.M. Hill: I know what you said. You criticised us because you didn't—

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

The Hon. C.M. Hill: That is true.

The Hon. C.J. SUMNER: That, Mr President, is a complete misrepresentation.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It was written by you.

The Hon. C.M. Hill: Yes.

The Hon. C.J. SUMNER: I know what the thing said. You said it would be better to have as Chairman of the Ethnic Affairs Commission someone who was not Greek or Italian.

The Hon. C.M. Hill: No, I didn't say that at all.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That was the effect of it.

The Hon. C.M. Hill: I said perhaps an Anglo-Saxon might be considered. As soon as you saw the word 'Anglo-Saxon'—

The PRESIDENT: Order! The whole thing has got quite out of hand. We are not even dealing with the question that was asked in the first place, and I just ask the Hon. Mr Hill to listen while he has the opportunity.

The Hon. C.M. Hill: Ask him to simply give an answer.

The Hon. C.J. SUMNER: I am giving an answer.

The PRESIDENT: Order! I want to make quite clear that that is not within my jurisdiction. The Minister, according to our Standing Orders, can answer in whatever fashion he likes. That does not mean the rest of the Council need run riot as well.

The Hon. C.J. SUMNER: The honourable member's interjections were quite misleading and quite incorrect. I am quite happy to have that checked by any member of

this Parliament at any stage that they wish to. The point that I raised and that the honourable member has interjected on was that the honourable member put forward a proposition that meant there ought not to be or it would be undesirable for people of the major ethnic minority groups to be appointed as Chairman of the Ethnic Affairs Commission.

The Hon. C.M. Hill: That is even different from what you just said.

The Hon. C.J. SUMNER: That is what you said. In effect, you said that Greeks or Italians should not be appointed.

The Hon. C.M. Hill: I did not say that at all.

The Hon. C.J. SUMNER: Well, Mr President, anyone can examine *Hansard.* Anyone can examine the Hon. Mr Hill's statement—

The Hon. C.M. Hill: I hope they do.

The Hon. C.J. SUMNER: —the paper he prepared for the Liberal Party, and that is what he said. That was not the point I was making at that time. I was making the point that what the honourable member did by way of this particular paper and suggestion was to indicate it was better to have someone from one of the minor ethnic groups as Chairman of the Commission. That was the effect of the paper that the honourable member prepared, and he knows it.

The Hon. C.M. Hill: I didn't say that when you raised it.

The Hon. C.J. SUMNER: Is this going to continue?

The Hon. C.M. Hill: You're continuing.

The Hon. C.J. SUMNER: And I am answering your interjections, which are quite inaccurate.

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order! The Hon. Mr Hill will come to order or I will name him. Now, it would be very foolish at this stage to get himself into that sort of position. I ask the honourable member to desist.

The Hon. C.J. SUMNER: The fact of the matter is I do not believe the positions in the Ethnic Affairs Commission ought as a matter of automatic policy be reserved for people of ethnic minority origin. They ought to be open to competition as part of the broad public sector and to separate out the Commission in some way I believe would be a mistake in our society. The policies we are putting forward are to bring people into the main stream of society so everyone in the community, irrespective of their origin, has equal opportunity for advancement in our community. I should say that in fact the allegation that there is a large number of people who are not of ethnic minority origin appointed in the Ethnic Affairs Commission is quite incorrect. Of over 30 staff, my recollection is there are only four or five who are of what you might call Anglo-Australian origin.

There is a number of women of ethnic minority origin employed in the Ethnic Affairs Commission. There were two appointments which the honourable member has referred to where women of Anglo-Australian origin were appointed, but they were appointed in accordance with the procedures of the Public Service. Those procedures are supported by the Government. I should say (and the Ethnic Affairs Commission is preparing a paper on this at the moment) that some attention does need to be given (and I have advocated this on a number of occasions and stated my support for it) for greater credit to be given in job specifications for those people who speak other languages and, in certain cases, for those people who have a bi-cultural or bi-lingual background.

That clearly ought to be an essential requirement in some cases and a major desirable quality in others. That policy will not just apply to the Ethnic Affairs Commission, but it will apply to the whole of the public sector as currently being developed on that point.

CONSTITUTIONAL CONVENTION

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

Whereas the Parliament of the State of South Australia by joint resolution of the Legislative Council and the House of Assembly passed on 26 September 1972 and 27 September 1972, appointed 12 members of the Parliament as delegates to take part in the deliberations of a Convention to review the nature and contents and operation of the Constitution of the Commonwealth of Australia, and to propose any necessary revision or amendment thereof (hereafter 'the Convention'):

And whereas the Executive Committee of the Convention has now resolved that eight members of the Parliament of the State of South Australia should be appointed to take part in the further deliberations of the Convention:

And whereas the Convention has not concluded its business:

Now it is hereby resolved by the Parliament of the State of South Australia:

(1) That all previous appointments (so far as they remain valid) of delegates to the Convention are revoked.

(2) That for the purposes of the Convention the following eight members of the Parliament of South Australia shall be and are hereby appointed as delegates to take part in the deliberations of the Convention:

The Hon. G.J. Crafter, M.P.
The Hon. T.M. McRae, M.P.
The Hon. K.L. Milne, M.L.C.
The Hon. C.J. Sumner, M.L.C.
Ms S.M. Lenehan, M.P.
and three members of the Liberal Party.

(3) That for the purposes of the Convention the following three members of the Parliament of South Australia shall be and are hereby appointed as substitute delegates to take part in the deliberations of the Convention if required to do so:

The Hon. I. Gilfillan, M.L.C.
Mr J.P. Trainer, M.P.
and one member of the Liberal Party.

(4) That each delegate or substitute delegate shall continue to act as such until the House of which he is a member otherwise determines, notwithstanding the dissolution or prorogation of the Parliament.

(5) That the Attorney-General for the time being, as an appointed delegate (or in his absence an appointed delegate nominated by the Attorney-General) shall be the Leader of the South Australian delegation (hereafter 'the Leader').

(6) That if, because of illness or other cause, a delegate or substitute delegate is unable to attend a meeting of the Convention or any session or part of a session of the Convention, the Leader may appoint any member of the Parliament to attend in place of the delegate or substitute delegate.

(7) That the Leader may from time to time make a report to the Legislative Council and House of Assembly on matters arising out of the Convention, such report to be laid on the table of each House.

(8) That the Leader shall provide such secretarial and other assistance to the delegation as it may require.

(9) That the Leader shall inform the Governments of the Commonwealth and other States of this resolution.

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

[*Sitting suspended from 1.4 to 2.15 p.m.*]

STATE SUPPLY BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page. 4068)

The Hon. C.M. HILL: When I sought leave to conclude my remarks because the Council wanted to deal with Question Time, I had explained the very large size of the operations of the State Supply Department and had indicated that the Bill before us results from many years of investi-

gation by successive Governments, which continued that investigation with a view to improving the existing Act.

At the very heart of the Bill and at the heart of the Department is the independent Board, which is to be known as the State Supply Board and which will really continue the existence of the previous Board. In the legislation, this new Board will consist of five persons. The Chairman of the Board shall be the permanent head of the Department of Services and Supply; two members shall be officers from public or prescribed authorities; one shall be a person who in the opinion of the Minister has gained experience in private industry or commerce; and the fifth member shall be nominated by the United Trades and Labor Council. I have very grave doubts that it is wise to place a nominee of the United Trades and Labor Council on this Board, and I will deal with that matter further in Committee.

There are major authorities that are excluded from the provisions of the Bill—the State Government Insurance Corporation, the State Bank and the Pipelines Authority of South Australia—because their operations are basically commercial. Local government is also excluded, and that is proper. The Minister has indicated that the Government proposes that the work of the Electricity Trust of South Australia, the South Australian Housing Trust and the State Transport Authority shall be brought within the ambit of the Board by regulations. So, the Bill carries on the present practice, but provides opportunities for greater efficiency and, I hope, greater economy to the benefit and enjoyment of the State.

The Bill also proposes to give the new Board an opportunity to encourage innovation and experimentation in the production of items that will be of interest to the Board. The partnership between private enterprise and a board of this kind in those areas, which are in effect areas of change, can be very helpful and beneficial to the State. I support the second reading. I remind honourable members that the Board's annual report will be brought to Parliament and must be tabled on or before 31 October of each year, which will be a means by which Parliament can be kept abreast with the general activities of this new State Supply Board.

The Hon. J.R. CORNWALL (Minister of Health): I thank the Hon. Mr Hill for his contribution. I agree with much of what he had to say. The idea of the State Supply Board and this legislation generally is to streamline the activities of supply and tender in this State which, as the Hon. Mr Hill pointed out, is an area in which literally hundreds of millions of public dollars are spent every year. It is also an area which, by its very operation, can act as a significant stimulator of private sector and commercial activity generally. So, it is appropriate that its activities should be very much streamlined, as proposed by this legislation. The matter of who should comprise the Board is something else, where I cannot agree with the foreshadowed amendment of the Hon. Mr Hill, but we can deal with that when we come to the appropriate clause.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—'Constitution of the Board.'

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

Page 3, lines 33 and 34—Leave out 'nominated by the United Trades and Labor Council' and insert 'with qualifications and experience in accountancy'.

This amendment deals with the appointment of the fifth member of the new Board. As I said a few moments ago, that fifth member in accordance with this Bill shall be nominated by the United Trades and Labor Council. My amendment endeavours to alter that to read:

One shall be a person with qualifications and experience in accountancy.

I acknowledge that it is Government policy that a nominee of the United Trades and Labor Council be appointed to all boards, which is a sort of blanket arrangement that the Government has.

The Hon. J.R. Cornwall: Where it is appropriate.

The Hon. C.M. HILL: We have noticed it coming through in much legislation, where the Government has appointed a nominee of the United Trades and Labor Council to boards. That in itself is not the matter that I propose to debate. I am concerned that Parliament should ensure that there is the least possible conflict of interest with members of this Board.

There must be optimum independence from outside influences for members of the Board. All honourable members would agree with that. Indeed, in the selection of the other four Board members it is obvious that the Government has this in mind. I do not make that proposal to infer that unethical practice would follow, but it is unfair to an appointee if the possibility of outside pressure can place a board member in an embarrassing situation. I acknowledge that there are in the Bill provisions in relation to a conflict of interest, so that a member of the Board can make a disclosure of those interests quite properly.

If one looks deeply at this matter one must acknowledge that the Board will continually be involved with the private sector in relation to the production of goods. Indeed, only a moment ago the Minister said that the new Board will be a great stimulator—those were the words he used—of private enterprise. In other words, the Board will assist production in South Australia, which will be to the benefit of employment in this State, and also to the benefit of Government and the Public Service, by encouraging production of and securing the most suitable goods for Public Service purposes. In the production of those goods and the tendering process to the Board there will be situations in which factory interests doubt whether their product will win the respective tender.

In situations like that, one must accept that those factory interests must include both the employer and employees. It is conceivable for an employer to warn his employees that, if the employer is not successful in obtaining a share of business with the State Supply Board, the employment of staff will be at risk. That does occur, and will undoubtedly occur in the future. If that situation arises, it is not unreasonable to expect employees, through their union, to make some representations to the United Trades and Labor Council along the lines that they are worried about their future because their products may not be acceptable.

That will mean a conflict of interest between the nominee of the United Trades and Labor Council and his position on the Board. I do not think that it is fair to place a person in that situation. I cannot see any benefits that can flow from a specific nominee of that kind being on this Board. It would be wiser and far better judgment if Parliament—accepting that the Government wants a five member board—were to appoint the fifth member with other qualifications or from another source.

It appears from clause 7 that it might be possible for the first four members nominated to the Board to have no experience in accountancy. A qualified accountant would be of great assistance to a Board of this kind, if such a person was one of its members. We should consider this matter seriously. It would be wise for the fifth position to be changed. I have moved the amendment for those reasons.

The Hon. K.L. MILNE: I have not considered this matter for very long, largely due to pressure from other things. The constitution of the Board, if we are to really have a good look at the Act, as the Government is doing, is very important, as the Hon. Murray Hill and the Minister have said,

and the volume of money passing through the hands of the Board will be quite colossal. I wonder whether we have come down to the sort of Board that is necessary to carry out these functions. What the Hon. Murray Hill said has some merit. I understand what he means. On the other hand, it would be useful for the trade union movement to have on the Board at least one person who understood—

The Hon. Diana Laidlaw: Why?

The Hon. K.L. MILNE: If there was trouble in a factory such a person on the Board could talk to the trade unions and facilitate the avoidance of delays, strikes, and so on, in relation to things that the State needed. It would be good for someone from the trade union movement to be able to take part in discussions of this magnitude.

The Hon. Diana Laidlaw: What authority would that representative have to discuss strikes and things with other unions?

The Hon. K.L. MILNE: He would be from the United Trades and Labor Council, so he would report, if necessary, to that council. If one looks at the history of the union movement, one sees case after case where decisions have been made on information that was not possessed and was not going to be given.

The Hon. Diana Laidlaw: Or did not want to hear.

The Hon. K.L. MILNE: That is another matter. I am talking about cases where they did not have the information. In cases to this kind it would be better to have two members from the United Trades and Labor Council.

The Hon. Diana Laidlaw: Why don't you have the whole thing run by them?

The Hon. K.L. MILNE: The honourable member should wait until I finish. The Hon. Murray Hill wants someone with experience in finance and accounting. I think that that is essential and it is missing.

The Hon. R.I. Lucas: It would be a good job for you when you retire, Lance.

The Hon. K.L. MILNE: I had not thought of that. Now you come to mention it, would you mind adjourning this on motion so that I can have an amendment drafted. No, that is not the case. I want to retire. I do not want anything more. It would be a very good job for someone who was conversant with the enormous problems of finance, accounting, credit, and so forth, which arise in these operations today. Therefore, I would like to see an increase in the number of members on the Board.

The Bill provides that one person on the Board shall be somebody who in the opinion of the Minister is able to provide particular assistance to the Board through experience gained in private industry or commerce. I think that that should mention two people, because with high volumes the difference between purchasing from manufacturers and purchasing ready made products are quite different. If we are to have somebody looking after manufacturing in South Australia, it should be a person who is conversant with industry. That person need not necessarily know a great deal about the commercial side of purchasing or operations, or about the purchase of commercial items that are imported or made in other States. Will the Minister report progress to enable us to discuss the constitution of the Board, because I would like to move an amendment increasing the number of members on the Board while at the same time ensuring that industry, commerce and finance are represented on that Board.

The Hon. J.R. CORNWALL: I am not immediately attracted to the proposition put forward by the Hon. Mr Milne, and I will explain why. I do not reject the proposition out of hand, but I think it would be best if I explained why. I will then listen to further countervailing argument from the Hon. Mr Milne, if I have not won him over by sheer force of logic. First, I think that I can say that as Minister of Health I have been particularly attracted to the corporate board of directors approach. It is something that I have pushed very hard, at times incurring a few bruises in the process with regard to boards of hospitals and incorporated health units.

It seems to me that we can and must have the best elements of the private corporate sector, and we can do that within the limits of public administration to a far greater degree than we have done in the past. It is for this reason, for example, that a Bill is currently before the other place with regard to the IMVS forming a private company to give it the many advantages of trading as a private company in some of the more entrepreneurial areas. That, in a sense, is very much my Bill, because the IMVS Act is my Act as Minister of Health. The Bill has been introduced in the House of Assembly because it is a money Bill. That is a consistent approach that I have taken as Minister of Health and that the Bannon Government has taken in this melding together of the public and private sectors to the mutual advantage of both. As the Bannon Government sees it, it is very much a partnership, and there are clear advantages in that partnership for both sectors. We maximise the benefits of the mixed economy in that way. I will come back to the corporate board of directors approach in a moment.

With regard to the suitability or otherwise of a person nominated by the UTLC being on that Board, first, I say with regard to the Hon. Mr Hill's contribution that the UTLC in South Australia, or anywhere else, is not a monolithic organisation representing blue collar workers. It has a very substantial membership from the white collar unions. Many tens of thousands of UTLC members in South Australia are from the white collar unions, so the UTLC has literally affiliated unions with tens of thousands of members who have quite a wide array of qualifications and competence with regard to commercial matters.

In the sense that the Hon. Mr Hill portrays a picture of the UTLC simply imposing some middle aged blue collar trade unionists upon this Board, it is a nonsense. The UTLC, in its own interests, on the many occasions on which it nominates, appoints or elects a member at its properly constituted and democratic meetings to be a member of a whole range of boards, quite clearly takes the trouble to hold discussions in advance so that it comes up with the most appropriate member. It would be very much against its interest simply to use it as some sort of forum or sounding board to try to further sectional interests. Furthermore, once any person goes on to a board it is a well established principle (established in New South Wales in a very important court decision 19 years ago) that, no matter who the nominating body might be, once a person gets on to a board he or she is not there to represent a vested interest at all.

If they do attempt to simply view it in that narrow sense, they must fail as a board member. In terms of boards in the public sector, I think that I can speak with some expertise because I have more of them under the umbrella of the health industry than has any other Minister in Cabinet. I repeat that if the UTLC were to appoint, nominate or elect its representative to any board on the grounds of narrow sectional self-interest then, of course, that would be an enormously short sighted policy and would bring the whole reason for having United Trades and Labor Council nominees on a whole range of boards into disrepute and would be very much against the interests of the trade union movement. That has not happened in the past and it is most unlikely that it will happen in the future.

I repeat my other point that if any person who goes on to a public board of directors, whether from the United Trades and Labor Council, the Confederation of Australian Industry, Chamber of Commerce or any other organisation

believing that they represent a narrow sectional vested interest, will not perform adequately as a board member and should not accept that nomination in the first instance. I believe that the Hon. Mr Hill's argument in that sense falls to the ground. There is the expertise available across the spectrum of blue and white collar workers in the work force. They would not represent narrow vested interests and, if they were to perform competently and contribute to the good conduct of any board of directors, they would have to act in the broad sense.

I take that a step further and refer to industrial relations, in which I have developed a reasonable degree of expertise in the past 2½ years by force of circumstance. One cannot be a Minister in an area comprising 22 000 direct and indirect employees from a very broad spectrum of people in the work force, from cleaners through porters and orderlies to nurses, doctors and all manner of health professionals as well as caterers who provide the hotel services for our hospitals, and so forth, without learning on one's feet pretty quickly.

It seems to me that there would be very good reasons for having somebody on that board who has industrial relations expertise, not just in the hypothetical sense but in the practical sense, from having been involved directly in the work force. The other reason why I believe it is appropriate to have a UTLC nominee on this proposed State Supply Board is that it can play a very vital role in fostering industry and commerce generally. At this time when we are trying to foster emerging high tech industries in South Australia, and I think to this point doing it fairly well—indeed some might say very well—the board itself can actually serve a very useful role in fostering some of those industries in an entirely proper way to ensure their early viability in a way that might otherwise not be possible. That is a further developing role we believe the State Supply Board might ultimately play.

For all those reasons, I think it is important to have somebody from the work force, somebody who is chosen for their particular expertise which may be commercial, who may well be a person with the sort of experience that the Hon. Mr Hill seeks in his amendment, but who in addition would have had substantial experience in industrial relations and in the general work force. For that reason, we most certainly oppose the Hon. Mr Hill's amendment.

As to whether there should be two, on balance at this time I do not believe that that is desirable. I think the best board is a small tightly knit corporate board. I know that in practice very often, if you want to ensure a board is ineffectual and therefore does not interfere too much in the day-to-day running of any of our institutions, the general idea is to have 17 members or more. You can then ensure you have a public meeting every time the board meets and no worthwhile decisions are taken. The old saying is that the best board is a board of one, and that board holds its meetings under the shower at regular intervals and takes all the necessary decisions.

The Hon. L.H. Davis: Under your shower?

The Hon. J.R. CORNWALL: I am not personalising this at all. That may be taking the matter a smidgeon too far, to say the least. I think from the outset that five is probably a good number. The problem you will get into, if you start saying there ought to be two from the UTLC, is that somebody will say you really need two from private industry or commerce because of the huge effect the allocation of tenders and contracts worth many hundreds of millions of dollars has upon the private sector. So, the minute you go for your two UTLC members, I think legitimately industry and commerce through their organisations would look for two, and so it goes on. You may then upset the balance in the view of the public authorities who are major consumers like the Health Commission and other larger statutory authorities which purchase hundreds of millions of dollars worth of material. Once you start to move from a position of two from the UTLC, you would need two from private industry or commerce, and presumably you would then need three or four from public authorities, or prescribed public authorities, and you start to expand the board to the extent where maybe it would not be as close knit or as tight. For that reason, I must say I am not attracted at this point to the Hon. Mr Milne's suggestion, but I would be quite pleased to listen to his response.

The Hon. C.M. HILL: I thank the Hon. Mr Milne for his response to my comments, but I must say I would not support the proposal that he put forward to have two nominees of the Trades and Labor Council on this board. I shall reply briefly to the Minister, because I think he tended to miss the point in my argument. I was not concerned with the point of the narrowness or the breadth of vision of this particular nominee or whether he came from blue collar interests or white collar interests. My argument was simply this, and I highlight it by an example: if the nominee of the Trades and Labor Council votes for a tender, for example, from factory A for the purchase of let us say 2 000 desks for the Public Service, and he then gets back to his office at the Trades and Labor Council and finds a union organiser from factory B which also tendered and which produces desks, and that organiser stated to his superior, 'Unless factory B gets some of this work with the State Supply Board, factory B will close.' Now the situation in which that nominee on the Board finds himself is one of grave conflict of interest and of very grave personal concern to that person. I am saying we should not put a person in such a situation. The way to avoid putting a person in such a situation is to remove from this Bill the need for one of these board members to be a nominee of the Trades and Labor Council. That was the basis of my argument.

The Hon. J.R. CORNWALL: I do not want to prolong this and I intend to put the amendment to the vote very shortly, unless the Hon. Mr Milne persuades me otherwise. That is a silly argument and I could not or would not bother to put it any higher than that. I could be just as foolish and say, 'What happens to that person who has been put there because he has got his particular interests in private industry or commerce and he gets back to his office and receives a telephone call from his mate who says: 'look Joe, if you don't award this particular contract to us, then we are going to go to the wall.' He would have to be either stupid or crook to be influenced by that sort of lobbying, and I would not think the nominee of the Trades and Labor Council would be any more amenable to that sort of arm-bending than somebody from the Chamber of Commerce and Industry. I would certainly hope not. I do not think that moral fortitude and rectitude is the sole province of the persons from private industry or commerce. Quite frankly, I think that is rather a foolish and silly argument, to put it mildly, and I do not accept it.

The Hon. K.L. MILNE: If the Minister is not prepared to discuss it now any further, I think I will not press the matter; nor did I actually recommend two people from the Trades and Labor Council, but I simply floated the idea that it might be appropriate because you have these two distinct areas both in the private sector and therefore reflected in the trade union sector. Whoever the members are on this board, they will be subjected to, and in fact the public servants in the past have no doubt been subjected to, pressure from people who wish to obtain contracts, and that is how it should be and that is how it will continue to be, I dare say. A member of the Trades and Labor Council, a member of the trade union movement, being present all the time would have an effect just the same of spreading the work

among the work force as the member of the Chamber of Commerce and Industry would have in spreading the work amongst the factories and businesses that he would understand.

Therefore, I am not going to support the Hon. Murray Hill's amendment, but would ask the Minister to keep in mind that the board may not be sufficiently representative and I would like to feel he was monitoring that situation when the Board is established.

The Hon. J.R. CORNWALL: I can give an undertaking on behalf of the Government that the operations of the proposed State Supply Board will be monitored carefully and that there will certainly be a post implementation assessment of how it is functioning. If there needs to be a member or any reasonable number of members added to it, the legislation can come back to Parliament, which is the appropriate place for it.

Amendment negatived; clause passed.

Clauses 8 to 21 passed.

Clause 22—'Annual report.'

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

Page 7, lines 27 and 28—Leave out subclause (3) and insert subclause as follows:

(3) The Minister shall cause a copy of the report to be laid before each House of Parliament within 14 sitting days of that House after his receipt of the report.

We have debated this amendment frequently. It provides a fairly loose prescription that requires the Minister to table an annual report within 14 sitting days after receiving it.

The Hon. J.R. CORNWALL: As I have indicated on innumerable occasions, when identical amendments have come up, I have no difficulty with it and I accept this amendment and the one about to be moved.

Amendment carried; clause as amended passed.

Clause 23—'Report on operation and effectiveness of Act after three years.'

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

Page 7, lines 34 and 35—Leave out subclause (3) and insert subclause as follows:

(3) The Minister shall cause a copy of the report to be laid before each House of Parliament within 14 sitting days of that House after his receipt of the report.

Amendment carried; clause as amended passed.

Clause 24 and title passed.

Bill read a third time and passed.

ELECTORAL BILL

In Committee.

(Continued from 8 May. Page 3990.)

Clause 98—'Scrutiny of votes in Legislative Council election.'

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

Page 44, lines 19 to 21—Leave out 'and if those candidates have an equal number of votes the returning officer shall have a casting vote, but he shall not otherwise vote at the election' and insert 'but if those candidates have an equal number of votes—

(a) there shall be a fresh election to fill the remaining vacancy; and

(b) in any such election the method of counting votes prescribed for a House of Assembly election shall be adopted.'

My amendment does not need much explanation. I have experienced a narrow escape from such an event as contemplated here, and we have noticed the recent situation in Victoria in the Upper House election, which operates on the basis of preferential voting, where the end result depended on a draw from a hat. What is happening in Victoria is what worries me, because it will obviously result in another election.

Indeed, without any doubt I predict that the result will be overturned because, when an election is so close, as we found in Millicent and in Norwood at one time in this State, there are always sufficient numbers of errors made by citizens voting or by returning officers or for other reasons so that any Court of Disputed Returns will inevitably declare the election invalid or not fulfilled and have it go back to the drawing board. What is occurring now is that a person has been elected, as described by one section of the press, by way of a chook raffle result. I find that situation objectionable.

That is not the sort of thing that should occur in our electoral system and there ought to be a procedure, if there are equal numbers of votes, for the matter to go back to the drawing board forthwith. True, it can be argued that the Court of Disputed Returns could find various votes not properly counted, but even in that situation there will be sufficient mistakes that it will be overruled. As I said, I have had some personal experience, and it is difficult for an election to be conducted absolutely perfectly. I am not reflecting on anyone in the electoral system, but that is a fact of life: it is so easy to have error.

I do not want us to have what could be called a chook raffle member coming into a House in this State, as is now the case in Victoria, and making decisions on behalf of the electorate, when the result of the election really could have gone either way. I hope it is not correct, but I am advised that the Victorian Premier indicates that he will be getting through as much legislation of a controversial nature as he can while he has the balance of power in that Chamber. That does not help the democratic system to function properly.

In my opinion it would be quite wrong for a person who has been elected by a draw from a hat to be able to change the whole system applying within an Australian State in regard to voting for the Upper House, electoral boundaries, or almost anything else within that State. I want to make certain that the electoral system is regarded highly by the electorate, that it continues to be regarded highly, and that people continue to have faith in the system and do not see an election being treated like a lottery and decided by a draw from a hat. Where it is a close result people should have the opportunity to make another choice.

The Hon. C.J. SUMNER: I have no objection in principle to what the honourable member says. I suppose the only concern relates to the Legislative Council.

The Hon. M.B. Cameron: That's a separate amendment.

The Hon. C.J. SUMNER: That is under clause 98, with which we are now dealing. Theoretically, I think what the honourable member says is quite justifiable. It seems to me somewhat odd that the result should be determined by either lot or by the casting vote of a returning officer, particularly as the returning officer may not live in the district. My only concern relates to the Legislative Council: if there is a tied vote, the whole State would have to be ballotted again.

The Hon. M.B. Cameron: That might well occur, anyway.

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

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Yes, that is the effect of the amendment.

The Hon. K.T. Griffin: You can't do that under the quota system.

The Hon. C.J. SUMNER: Everyone else has secured their position. The only thing in doubt is between one Party or another Party.

The Hon. R.C. DeGaris: It could be an Independent Labor member or a Democrat.

The Hon. C.J. SUMNER: It could be.

The Hon. K.T. Griffin: It could be that the Liberal Party gets 50 per cent plus one.

The Hon. C.J. SUMNER: I have some sympathy for the honourable member's amendment, but I have raised a practical difficulty with respect to the Legislative Council.

The Hon. R.C. DeGARIS: I believe the position is reasonably clear: where there is an equality of votes in a single member electorate, it is not correct that it should be decided by drawing a name from a hat. I do not think that has ever happened in South Australia. The only correct procedure is to have another election.

The Hon. M.B. Cameron: You have no objection in relation to the House of Assembly?

The Hon. R.C. DeGARIS: No, none at all. In recent elections it has been fairly clear that, if the result is as close as 20 votes, the possibility of another election being held is certainly there.

The Hon. M.B. Cameron: That has been done on the basis of one statement or one advertisement.

The Hon. R.C. DeGARIS: That is right. In a single member district the correct procedure is that, where there is an equality of votes, there must be another election. That is the only way it can be done. However, there is another problem in relation to the Legislative Council. I do not think that the problem will ever arise in this Chamber but, as I pointed out before in relation to the Constitution Act, it is necessary to ensure that any possibility is covered. In regard to the Legislative Council vote in this State, the chances of the last two candidates having an equality of votes is so highly unlikely that I do not think we should worry about it. If there is to be another election, the only course of action is to have a completely new election for the whole State.

The Hon. R.I. Lucas: Why?

The Hon. R.C. DeGARIS: How else can it be decided?

The Hon. R.I. Lucas: The suggestion is that the last two candidates contest a House of Assembly type election for the whole State.

The Hon. R.C. DeGARIS: That cannot occur with proportional representation.

The Hon. R.I. Lucas: I know, and that is why I am saying that it must be a House of Assembly election for the whole State. Proportional representation is not suggested; it is suggested that it be a single member electorate comprising South Australia conducted as a House of Assembly election.

The Hon. R.C. DeGARIS: The two candidates who draw in the election may have been a Democrat and a Labor Party member. There is absolutely no way that the Democrat could win in an overall State election.

The Hon. R.I. Lucas: He could, because the Liberal Party might support him.

The Hon. R.C. DeGARIS: But the Liberal Party may not support him. It is not possible to conduct a single election for the whole State for the Legislative Council in the case of a tied vote, just as that cannot be done for the House of Assembly. The voting procedure is entirely different.

The Hon. R.J. Ritson: It would be undemocratic.

The Hon. R.C. DeGARIS: Yes, and there is no question about that at all. It could be an extremely difficult situation. I do not think there is anything to worry about in relation to the Legislative Council because the chances of a tied vote for the final position occurring are so remote that it is not worth worrying about.

The Hon. C.J. SUMNER: I think the problems are insuperable as far as the Legislative Council is concerned because in the event of a tied vote I think a new election for the whole Council would have to be held, and that would be terribly unfair to the successful candidates in the first election. I am saying that in those circumstances it is unfair to those candidates who had conducted a successful campaign if they were forced to contest another election because of a tied vote for the last position. The problem with having an election for the last position is that the first election could have produced six Liberal candidates, five Labor and one Democrat, with the final position tied between Labor and Democrat. If there is another election and the Liberals again poll over 50 per cent, the Liberals end up with seven members.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: If there is a ballot for only the last position, the Liberals already have six members, Labor has four and the Democrats none. There is a ballot for the last position, but everyone votes. If the second election mirrored the first and the Liberal Party polled more than 50 per cent, they would get the last position. The final position then would be seven Liberal, four Labor, with no Democrat member.

The Hon. R.I. Lucas: In that situation, if there is a tie between Labor and Democrat, how can the Liberal Party gain a seventh member?

The Hon. C.J. SUMNER: Well, there is also the problem that the Hon. Mr Gilfillan is about to raise: a run-off between the Labor Party and the Democrats would be futile, with due respect to the honourable member.

The Hon. R.I. Lucas: Labor wouldn't have it.

The Hon. C.J. SUMNER: We might as well not have an election, assuming that is the situation.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Then we would have to write in a preferential procedure to deal with the last position, to which we are referring.

The Hon. R.I. LUCAS: The suggestion of Counsel is that it be treated as a House of Assembly electorate. There would be two candidates in the House of Assembly electorate called 'South Australia' if there was a tie between two candidates. Obviously, from the drafting that is the suggestion of Counsel. There would be a single House of Assembly electorate called 'South Australia' and a Democrat and a Labor candidate—that is it; no-one else is allowed in. People would vote number 1, 2, or whatever.

The Hon. K.T. GRIFFIN: The amendment does not envisage only a run off between the two candidates who are tied: it provides that there should be a fresh election to fill the remaining vacancy. Let me make another point in relation to the Legislative Council: I think we are overlooking the fact that the Court of Disputed Returns investigates allegations of impropriety and that it has a wide range of powers. It can make an order that a person who is found by the court not to have been duly elected ceases to be a member of the Legislative Council or the House of Assembly (as the case may require). It may order that a person found by the court to have been duly elected (but not returned as elected) takes his seat as a member of the Legislative Council or the House of Assembly (as the case may require). Further, the court may make an order declaring an election void and requiring a new election to be held. In the two instances in recent history where there has been a Court of Disputed Returns, there has been a fresh election, but that was not laid down in the Act.

If there is impropriety on the part of one candidate that has made such a blatant difference to the result, the court may declare someone else to be elected. If there is a tie (as the Hon. Martin Cameron said) it seems to me that there will be some irregularity, and it is a question of whether the court is able to discern from those irregularities whether there is sufficient evidence to indicate malpractice as to justify the appointment of someone as an elected member. We must keep in mind that, before a fresh election is held (and let us consider the Legislative Council first), evidence must be presented about the way in which the election has

been conducted and in regard to any irregularities. If bribery, in particular, or undue influence was involved, the person who is guilty of such action would be disqualified for two years in any case. It may well be quite proper in those circumstances for the court to say that the alternative candidate is elected. We must not forget that that procedure is available: it should be bypassed only in exceptional circumstances, and obviously that would be a fairly important step if there is a tie in a Legislative Council ballot.

The Hon. R.I. LUCAS: I share the Attorney's view about the principle behind this amendment. It is an important principle. It really is a disgrace that the Government of a State can be decided by lot, as will possibly occur in Victoria. The chances of that are slight, and I agree with the Hon. Mr DeGaris in that regard, but as with many of the actions we have taken in respect of the Electoral Act we say that we cannot just look at today: we must consider what might happen in the future. I do not think that anyone can debate the principle that this is an unfair way of deciding the control of the Legislative Council and possibly the control of all Bills that go through both Houses of Parliament by what the Hon. Mr Cameron refers to as a chook raffle. It is patently unfair that government and control of the State can be decided for four years on that basis. Therefore, I share the concerns expressed by the Hon. Mr Cameron and also the Attorney's understanding of this matter.

The Hon. C.J. Sumner: Democrats all, with a small 'd'.

The Hon. R.I. LUCAS: Democrats all! I note the argument in relation to the House of Assembly, and I share the concerns. My argument relates more to the cost of the procedure. We will have to turn out 800 polling booths again, and we are probably talking about $2 million.

The Hon. M.B. Cameron: What price democracy?

The Hon. R.I. LUCAS: Yes, but looking at it from a partisan viewpoint, it will be money well spent if it prevents Labor control of South Australia for another four years. It is a small price to pay for democracy. I suspect that the Attorney and perhaps some of his colleagues may well think the same about Liberal control decided by a chook raffle in South Australia. I accept the point made by the Hon. Trevor Griffin, who said that the measure provides for a fresh election.

The Hon. C.J. Sumner: Do you have an idea? Tell me.

The Hon. R.I. LUCAS: Yes, but we must forget the cost factor for a moment. If six Liberal candidates and four Labor candidates are elected and if there is a tie for the last position between Labor and Democrat candidates, in principle there is nothing wrong with an argument that says, 'We have gone through the proportional representation process, we have done everything according to Hoyle and the electoral process, and we will have a run off between the Labor and Democrat candidates who, according to the principles of the Act, are equal for the last position.' The Act provides that we toss a coin or have a chook raffle. The Hon. Trevor Griffin said that there was a problem in that the Labor and the Democrat candidates should have a run off and that the Liberals should not have a chance to pick up another position: the run off should be between the Labor and Democrat candidates. As I understand the amendment, and taking the Hon. Trevor Griffin's point, in effect there would be a House of Assembly election over the whole State in relation to only two candidates, Labor and Democrat, and people would have to turn up at 800 polling booths to vote number 1 or perhaps number 1 and number 2 for either the Labor or Democrat candidates. There would not be a foregone conclusion one way or another.

The Hon. R.C. DeGaris: There would be a lot of informal votes.

The Hon. R.I. LUCAS: Maybe, but people would still have a chance to vote. There would not be a foregone conclusion: the Liberal vote is perhaps not as well disciplined as is the Labor vote on occasions.

The Hon. R.C. DeGaris: It is the same thing as far as the House of Assembly is concerned.

The Hon. R.I. LUCAS: We have a certain independence, and that is the strength of the Liberal Party and its supporters. If there was a run off between Labor and Democrat candidates over the whole State, the respective merits of those candidates would be somewhat better advertised than they are under the existing system, where the number 5 or the number 6 candidates on a Party ticket may not be known by too many people apart from their relatives or friends. I think there would certainly be some discussion about the relative merits of the two candidates. There would not necessarily be a foregone conclusion one way or the other. The major bugbear, as I see it, is not the principle or the fact that there is a contest between two tied candidates but it is basically the cost factor, because possibly $1 million or $2 million would be involved.

I do not know whether the Attorney through the Electoral Commissioner has any ideas on whether such a contest could be run more cheaply or whether it would cost as much as a full flung election. I do not know; we have not thought about this before. It is a price, and I guess that the ultimate question is whether it is a price in the unlikely event—

The Hon. C.J. Sumner: It is an economy event.

The Hon. R.I. LUCAS: A Budget election. Perhaps, once in a century we may have to spend an extra $1 million or $1.5 million to decide the fate of Government in the State for four years.

The Hon. C.J. Sumner: You don't determine the fate of Governments in the Upper House.

The Hon. R.I. LUCAS: I am sorry: the fate of Government legislation. The chances of having to spend the $1.5 million or whatever it is are so slight that on balance, unless there is a major problem that slips my mind, on principle I support it. If the $1.5 million had to be spent, that is fair enough in the context of ensuring a genuine say by everyone in what they want in the Legislative Council.

The Hon. R.J. RITSON: I raise the question of the purpose of proportional representation. It does several things, one of which is to ensure that minority Parties and Independents have a voice. It sometimes bothers me that they have control, but they should at least have an expressive voice in the Parliament if one is looking towards a proportional representation system. In a single member electorate system, if there were completely balanced electorates of one vote one value, the Party with 51 per cent of the vote would get 100 per cent of the seats and there would be no Opposition, whereas in a proportional representation system a Party with 10 per cent of the votes at least gets a tenth of the say and, regrettably, at times all the say.

The proposal to run off a minor Party candidate against the bottom member of a major Party ticket goes completely against that principle. I agree with the Hon. Mr Sumner that he may as well not have that election: it would be a foregone conclusion.

The Hon. C.J. Sumner: It might not be in that circumstance.

The Hon. R.J. RITSON: Perhaps if the other major Party came out in full force with very large posters. The odds are stacked disproportionately against the candidate who got the equal number of votes in a proportional representation system. Maybe there is not a way around it, and it will occur only rarely, but it does seem that PR disappears at that point.

The Hon. M.B. CAMERON: Briefly referring to what the Hon. Mr Griffin raised—the question of whether the

Court of Disputed Returns may award the election to another candidate, etc.—I frankly do not think that that would occur. I do not think that we would ever find a judge who would be prepared to put a candidate in. I predict that the end result of a Court of Disputed Returns would be a fresh election. Then it would occur for the whole of the election. One would do it not just for one but for the whole lot. At that stage, people might be thankful that this provision was looked at now and that some resolution was found. There is a way around this. I would like the opportunity of looking at it perhaps in some sort of conference situation.

The Hon. C.J. Sumner: Postpone it.

The Hon. M.B. CAMERON: I would like to postpone this. The Attorney perhaps could move that consideration be postponed.

The Hon. I. GILFILLAN: I am not attracted by the amendment. The clause in the Bill is reasonable. Perhaps one other option is that the estimate of the cost of the re-election of $1 million or $1.5 million could be offered to the candidate who chooses to step out of the contest! It might be a little difficult to frame that, but the fact that the returning officer does not have a deliberative vote in this issue means that it is a democratic matter where a voter has a chance to made a decision. To feel that the enormous significance of chance at this stage of the decision making process is any more important than any of the other factors in the election puts a disproportionate emphasis on this one possibility that might crop up. The clause in the Bill is satisfactory, and I oppose the amendment.

The Hon. M.B. CAMERON: That was a bit of an unnecessary injection into the debate at this stage. I said that I would go and look at this amendment again, but the honourable member has indicated that he thinks that the Bill is perfectly all right and that the returning officer having his vote is all right. He is saying that he agrees with the chook raffle. I have seen this happen with a returning officer. It is not a position that the returning officer will take: they will not cast their vote and be the responsible person.

An honourable member interjecting:

The Hon. M.B. CAMERON: That is right. It would be no longer a secret ballot. Does the honourable member not believe in the secret ballot? It will always be out of a hat, and I am surprised that he agrees with that.

The Hon. K.T. GRIFFIN: If the majority of the Council go down the track of a re-election, very careful consideration should be given to the status of the Court of Disputed Returns and to whether or not that court should be able to make the final decision as to whether or not there should be a re-election. The problem is that irregular votes may have been taken into consideration in determining that there is a tie. If we do not make that tie subject to the jurisdiction of the Court of Disputed Returns, we are really saying that the person who has benefited from the irregular votes to the point where it is a tie gets a second chance to be elected.

I do not mind some further consideration being given to this. It is an important question, but honourable members should not overlook the responsibilities of a Court of Disputed Returns and the need to ensure that any tie is still subject to resolution by a Court of Disputed Returns if there have been irregularities in the ballot.

The Hon. C.J. Sumner: In practical terms that would probably be resolved, anyhow, by someone challenging the election.

The Hon. K.T. GRIFFIN: It may be, but that has to be taken into consideration before we get to the point of resolving a tie for the eleventh position.

The Hon. R.C. DeGARIS: The interesting point being made now is that if there is a Court of Disputed Returns and there have been irregularities, wrong advertising or wrong pamphleteering, it is not fair to have the last position decided on that issue. One must have a full election again: that is the only way out of that problem. So, the Court of Disputed Returns has to deal in this case only with the counting of the votes. If any other factors arise, one cannot have an election of two people: it must be a full re-election. I agree with the Hon. Ian Gilfillan on this question. It is best to leave it alone because the possibilities of its ever happening on my figures are one in 40 000 years.

The Hon. M.B. Cameron: You have already had the one in 40 000 years.

The Hon. R.C. DeGARIS: No, we have not, not with PR.

The Hon. C.J. SUMNER: I must admit that I have some conceptual difficulties with either a lot to determine the final result or with the returning officer. Neither of those options is satisfactory. The returning officer may decide not to cast his vote.

The Hon. R.C. DeGARIS: The other interesting point is that when one has that extra vote it may not alter the quota. If one looks at PR one can see what I mean.

The Hon. C.J. Sumner: The extra vote from the returning officer?

The Hon. R.C. DeGARIS: Yes.

The Hon. C.J. SUMNER: Therefore, that lessens the force for having what is in the Bill remain. Perhaps we should look at some other way of resolving it. My view is that further consideration of this clause be postponed and be taken into consideration after clause 141.

Consideration of clause 98 deferred.

Clause 99—'Scrutiny of votes in House of Assembly election.'

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

Page 47, lines 33 to 35—Leave out subclause (6).

This subclause does not make sense in the context of the procedures laid down in the section.

Amendment carried.

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

Page 47, lines 38 to 41—Leave out 'and if in the final count two candidates have an equal number of votes, the district returning officer shall decide by his casting vote which shall be elected, but except as provided in this section, he shall not vote at the election' and insert 'but if in the final count two candidates have an equal number of votes, the election shall be deemed to have failed and a fresh election shall be held'.

This is a similar issue on a simpler basis because it does not have the complicating factor of PR. As the Hon. Mr DeGaris pointed out, if an elector polls more than 20 votes it is almost inevitable that there will be a preselection. I just want to ensure that that happens.

The Hon. C.J. SUMNER: I have no objection in this case.

The Hon. K.T. GRIFFIN: I am not disputing the principle of it, but I suggest that the Attorney-General look at the drafting to ensure again that the question of whether or not there is equality in the number of votes is still subject to the decision of a Court of Disputed Returns. I am not sure that it is. I think that it should be put beyond doubt that before the fresh election is held any disputes before a Court of Disputed Returns are resolved.

The Hon. C.J. SUMNER: I understand the point that the honourable member is making. I think that that can be checked out. I would have thought that the whole thing was still subject to a Court of Disputed Returns. If there is a problem, having examined it, we can recommit the clause.

The CHAIRMAN: I draw attention to the fact that further consideration of this clause cannot be deferred as it has already been amended.

Amendment carried.

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

Pages 47 and 48—Leave out subclause (9).

This amendment relates back to subclause (6), which we have agreed to delete.

Amendment carried.

The CHAIRMAN: It has been drawn to my attention that subclause (8) is subject to subclause (9), which we are about to delete. This can be adjusted when the clause is recommitted. There are some more clerical errors. On page 48, line 6, 'rejected' should read 'unrejected'; and in line 9 'the' should read 'its', and 'thereof' should be deleted.

The Hon. K.T. GRIFFIN: I did not refer to subclause (4), although I wonder whether its drafting is correct. Subclauses (4) and (5) provide as follows:

(4) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.

(5) If no candidate has received an absolute majority of first preference votes, the district returning officer—

(a) shall open the sealed parcels . . .

It seems to me that, whether or not a candidate has received an absolute majority, the District Returning Officer should still follow the procedure laid down in subclause (5) and it appears to have been pre-empted by the first few words in line 4. It may be that I have misunderstood the implication of that, but I wonder whether some consideration could be given to its drafting.

The Hon. C.J. SUMNER: Yes, that should be looked at. As we may have to reconsider the clause, I can give further information on it later.

Clause as amended passed.

Clauses 100 to 102 passed.

Clause 103—'Reviewable decisions.'

The Hon. K.T. GRIFFIN: I have a question relating to subclauses (1) and (2). Subclause (1) *(d)* refers to 'a decision of a prescribed class' and subclause (2) *(d)* refers to 'a person of a prescribed class'. Can the Attorney-General give an indication of what decisions are likely to be included in that prescribed class mentioned in subclause (1) *(d)* and, secondly, what sorts of persons are to be in the prescribed class under subclause (2) *(d)*?

The Hon. C.J. SUMNER: There is nothing specifically contemplated by those subclauses. It is a catch-all provision to ensure that if there is a need to broaden what is in the Act then it can be done.

Clause passed.

Clauses 104 to 106 passed.

Clause 107—'Requisites of petition.'

The Hon. K.T. GRIFFIN: Before I move my amendment, will the Attorney-General give some indication of what is to be the prescribed sum as security for costs where a person petitions the Court of Disputed Returns for the review of an election? The present Act provides specifically for a sum, I think of $100. My concern is that, if the amount to be prescribed is a large one, that may discourage legitimate petitioners from going to the Court of Disputed Returns. Will the Attorney give an indication of what sum is envisaged here?

The Hon. C.J. SUMNER: It is $100 under the present Act and I do not think that it is envisaged that we will change that.

The Hon. K.T. Griffin: Can we put it in this Bill?

The Hon. C.J. SUMNER: We might as well take the whole lot out.

The Hon. K.T. GRIFFIN: The issue is an important one. It is a very basic right of a candidate who is alleging an irregularity in the conduct of an election to be able to take that matter to the Court of Disputed Returns. I have a concern that unless the Parliament fixes this figure it is open to variation by regulation, which is only subject to disallowance, and that is not always easy to do, particularly if it is part of a whole bundle of regulations applying to the Electoral Act. If the sum is pitched too high it seems to me that that may well act as a discouragement to any candidate from going to the Court of Disputed Returns. If the sum is $100 I am happy to put that in the Act and come back to the Parliament for any increase. It is different from the normal sorts of fees that are paid for licensing or for a particular action under regulations in the sense that it is very basic to the electoral process. I think, therefore, that the amount ought to be in the Bill. Therefore, I move:

Page 51, line 9—Leave out 'the prescribed sum' and insert '$100'.

This amendment maintains the *status quo*. If there is to be a change in the amount to be deposited as security for costs, an amending Bill can be brought before the Parliament. In that way, at least the Parliament makes that very important decision as to what amount will be required of any person who disputes an election as a condition precedent to being able to be heard by the court. If the Attorney wants to increase that amount to $200 or $300 I do not mind. What I want to guard against is a large amount being fixed by way of regulation, which is subject to very little real opportunity for disallowance. I am open to persuasion about the amount.

The Hon. C.J. SUMNER: I will agree to $200.

The Hon. K.T. GRIFFIN: I therefore seek leave to amend my amendment by deleting '$100' and inserting '$200'.

Leave granted.

Amendment carried; clause as amended passed.

Clauses 108 and 109 passed.

Clause 110—'Orders that the Court is empowered to make.'

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

Page 51, lines 35 to 37—Leave out all words in these lines.

This amendment is one which to some extent has been overtaken by an amendment placed on file by the Attorney-General in relation to clause 135, which seeks to give the Electoral Commissioner and any candidate a right to seek an injunction from the Supreme Court for any action that is in breach of the Electoral Act. The point that I made during my second reading speech was that during the rough and tumble of an election statements are made the accuracy of which may well be disputed. It seems to me to be inappropriate for the Supreme Court to be involved in determining matters during that rough and tumble period about the niceties of whether or not a particular claim in an advertisement is true, false or misleading in a material respect. I was anxious to remove the injunctive power of the Supreme Court.

My alternative was to bring the responsibility for determining the accuracy and the consequences of inaccurate and misleading advertising before the Court of Disputed Returns after the event. However, the Attorney-General has foreshadowed an amendment to clause 135. So, provided he still intends moving and supporting the amendment, which I think is satisfactory, I will not proceed with the part of my amendment in relation to subclause (5). However, the other area of the amendment here relates to the question of defamation in lines 35 to 37. The point I make in relation to this matter is that if there is defamation during the course of an election then it would be impossible to rely upon defamation in the Court of Disputed Returns as required by paragraph *(a)* in subclause (4).

Everyone knows how long it will take for a decision of the sort in subclause (4) *(a)* to be taken by any of the courts of competent jurisdiction, so in effect it is worthless. What I am moving is to delete paragraph *(a)* as well as the word 'and' and that is the only amendment I move now on this clause.

The Hon. C.J. SUMNER: I believe that that has merit and I accept that.

Amendment carried; clause as amended passed.

Clause 111 passed.

Clause 112—'Bribery.'

The Hon. K.T. GRIFFIN: The definition of electoral bribe has always been a matter of some debate. Presumably it is intended to mean some money or other valuable consideration being held out, but can the Attorney-General give some clearer indication as to what an electoral bribe really is? What does the Minister envisage is covered by 'electoral bribe'? Subclause (i) provides:

> A person who offers or solicits an electoral bribe shall be guilty of an indictable offence.

Is it intended that the offering of food and drink and refreshments, for example, would be covered by the concept of an electoral bribe? The Attorney-General will know that that has been a very contentious matter over a long period of time, even where lunches or dinners are held and those attending make some payment towards the refreshments or food and drink that is made available. I want some idea of what the Attorney-General has in mind as permissible and not permissible under this clause.

The Hon. C.J. SUMNER: There are two aspects. It must be a bribe to start with. That is not defined in any specific manner. What a bribe means in terms of the generally accepted understanding of it in law is what would be picked up by this Bill. It must be a bribe, but it must be a bribe also for the purpose of influencing the vote of an elector, etc. If you have a reception for some electors, I suppose the purpose of it is to influence the vote of the elector. It would be a matter of fact to be determined whether the actual provision of the food and drink constituted the means by which the vote of the elector was being influenced or whether, as a matter of fact, the provision of food and drink was merely an incidental part of electioneering. It might sound vague to the honourable member, but I suppose, if you put on a reception for 100 of your electors in a critical marginal seat at $200 a plate, provided by the candidate with caviar, lobster and whatever other exotic food and wine you might provide, and at that reception or dinner the candidate gave a speech, I think it is probable that that would constitute a bribe.

On the other hand, if you invited those same electors to a function where you provided them with some bottled beer at the conclusion of the candidate's stirring speech and some Jatz cracker biscuits and Mount Gambier cheese, I do not really think that could be seen as a bribe. The question is where between those two extremes you end up.

The Hon. K.T. Griffin: It is always the problem.

The Hon. C.J. SUMNER: That is right, but I do not know how you overcome that difficulty. There is a common law definition of bribe which encompasses receiving some advantage or benefit or reward or recompense which can be said to have some monetary value in return for your vote. I really do not know that the matter can be resolved with any greater precision. It would be left to a court to determine what bribery was, but obviously the person being bribed would have to get some advantage, some benefit out of it. I suppose, as I have said, it would be a matter for determination as to whether or not the $200 a plate dinner that the person allegedly bribed received was of some benefit to that person that had some monetary value. I suppose he could be seen as receiving some benefit but, with that sort of dinner, as I say, it is a matter of trying to draw the line. I would think a candidate that had such a lavish function would need to be very careful.

I do not think that a candidate having the other sort of function I have outlined would be at any great risk, nor should he be. If a candidate has a meeting followed by some liquid refreshment offered by the candidate or someone else, that should not be a ground for challenge of the election—it would be unfair.

The Hon. R.I. LUCAS: The provisions in respect to offences and penalties in section 146 and subsequent sections have been the bone of much contention over the years. The Attorney has referred to both extremes of the argument in respect to food and drink and indicated that the $200 dinner possibly involves bribery but the $1.50 of beer does not. The Hon. Mr Griffin indicated that that is the easy part. How does one advise candidates about the middle ground? I refer to instances of candidates and Parties conducting free barbecques for electors to meet a particular candidate. Whether it is a marginal district is immaterial because the provisions of the Bill are not limited in respect of marginal seats, although it is more likely to occur in marginal seats.

I refer to the situation, say, in Unley where candidates will advertise throughout the electorate a free barbeque and drinks for all who attend and free balloons for kids and so forth in order to meet the candidate. It is such circumstances that Parties and the Commissioner will be confronted with, rather than $200 a head dinners. Parties might be willing to spend $5 or $10 a head to woo electors to attend a function to meet a candidate. It is extraordinarily difficult to advise candidates about this matter and I speak from a background of having worked in a Party organisation because Parties must advise candidates on the correct procedure. Much advice is taken from the Electoral Commissioner and his staff in ascertaining what is allowed. After 10 or 20 years we have rough guidelines on which to base advice to our candidates. If a dinner were to be held in an election campaign there was much concern about the price charged, and our advice was that it should be fair and reasonable and that there was no subsidy of the cost in any way so that it would be unlikely that the candidate would be caught under that provision.

If the function involved a profit it would not present a problem. Sometimes candidates cancelled fundraising dinners because of their concern with these provisions, especially in the mid 70s. In the late 70s and early 80s guidelines were established so that as long as we were not subsidising people in any way no problem would be encountered if a fair and reasonable charge was applied. True, we still experience problems at the middle end of the scale if candidates wanted to give balloons or stickers to kids or coasters to adults. Although they might have cost only five cents or 10 cents, candidates wanted to know whether they were permitted. It was considered that something at the lower end of the scale was unlikely to come under the provisions, but in the case of T-shirts involving a cost of $3 or $5 it was not so clear whether giving them away during an election period constituted bribery.

Although we did not believe that that was the case, it was safer not to do that, and we decided that we should charge a fair and reasonable price during an election period. Who knows what a Court of Disputed Returns would have decided? The Liberal Party advised candidates with its experience built up over 10 or 20 years. I can see the difficulties with the old guidelines and the need to move to something different, but I see problems with starting again from scratch, especially concerning free barbeques as an inducement to meet candidates when it is at the candidate's expense. If this Bill passes in its present form, that activity is likely to increase. It is not inexpensive. Candidates face much expenditure in regard to leaflets and advertising and, to see one's political opponent advertise through the district a free barbeque and get-together, as the opposing candidate one would have to question whether one would have to do the same and offer free barbeques to electors in that district, which would involve a considerable cost. I am concerned

about this provision, but I also have concerns about the old ones. That was the devil we knew, but now we are moving to the devil we do not know.

The Hon. C.J. Sumner: The conduct that would be caught will be less restrictive than in the current situation.

The Hon. R.I. LUCAS: The Attorney might be right. I am speaking from the practical aspect of how Parties advise candidates who want to offer free meat and drink to electors. Section 147 of the Act relates to transporting voters to polling booths and provides:

> Without limiting the effect of the general words in the next preceding section 'bribery' particulary includes the supply of meat, drink, or entertainment after the nominations have been declared, or conveyance or horse or carriage hire for any voter whilst going to or returning from the poll, with the view of influencing the vote of an elector.

That appears to rule out Parties and candidates transporting little old ladies or men from their homes to the polling booth on election day with the view of influencing the vote of the elector, and I suppose that that is the questionable point. The Liberal Party has certainly tried to steer its candidates well clear of that, but in the late 1970s and early 1980s it appeared that some of our political opponents were into that in a big way. There is no secret that in the late 1970s and early 1980s, and perhaps before that, all candidates transported people to polling booths. The question is whether or not that was done with a view of influencing the vote of the elector.

If a person transports his sick old aunty, there is probably no problem, but there were organised transport systems. People were told, 'If you want to be taken to the polling booth, contact the relevant Party campaign office.' I have seen leaflets in that regard. I am sure that was done in a good natured way, but also with the view of influencing electors.

There is a provision in that regard in the Act, but there is nothing like that in the Bill. Once again, the question remains, having removed that provision and replaced it with the shortened version of electoral bribery, does the Government envisage that electoral bribery includes the transport of people from their homes to the polling booth in an organised fashion? The cost of a taxi may be $1.50, which is equivalent to a bottle of beer, and the Attorney has said that that is all right, but a taxi from Karoonda to Meningie may cost $40 and that may well constitute electoral bribery under the scenario envisaged in the Bill because it might have been done with a view to influencing an elector. There are practical problems.

I refer now to entertainment, because there have been problems in that regard. In the razzmatazz of the 1970s, policy launchers looked to providing some sort of musical entertainment at policy launches. It appears that we have matured away from that to the dignity of television launches, but perhaps we will return to the razzmatazz.

There was also concern in the 1970s about whether, say, the Rolling Stones could provide entertainment at the policy launch of, for example, David Tonkin. Free entertainment would have been provided to anyone who was prepared to listen to the policy launch. The rough rule of thumb that we devised was that it was all right for a nonentity to provide entertainment because people would not be prepared to pay cash to listen to that person but if, say, the Rolling Stones or today's equivalent entertained, with the going price for a ticket at $14 or $20, we might have been in hot water. Therefore, we did not take up the offer of the Rolling Stones to launch David Tonkin or Bruce Eastick. We looked for nonentities to provide musical entertainment. It would appear from what the Attorney has said that, if Don Hopgood and his jazz band provided entertainment, tickets on the market perhaps commanding $1.50 (which is the equivalent of a free beer), that would not constitute an electoral bribe as it did not involve a significant sum.

The Hon. K.T. Griffin: It doesn't say which way it would influence the vote.

The Hon. R.I. LUCAS: That is right: there might be a positive or a negative influence. However, if we provided in the Festival Centre or in the new Liberal entertainment centre at Memorial Drive a free concert by Bruce Springsteen as a warm up to John Olsen's policy speech, a ticket perhaps being worth $25 to $50, the Attorney says that once we reach that high level there might be a problem in relation to electoral bribery. That is a practical problem from the point of view of a Party or a candidate. How do we advise candidates in relation to what they can do about entertainment? I instance Denis Sheridan, who is an entertainer: he might provide musical entertainment for a candidate in the District of Unley. In the normal course of events he might charge for his entertainment but, if he provided his services free at an election venue of some sort, it could be caught up under the new provisions.

There are other examples to which I could refer, but I have cited three examples of the sorts of things that have occurred. Parties have discussed these matters over the years and we have developed guidelines or understanding, but we now move off into the wide unknown. If the Bill passes as it is, Parties will have to start from square one and obviously err on the side of being conservative. Once again, there will be a problem. If, say, INXS or Cold Chisel entertained at a function for an endorsed candidate at some cost to a Party, and if free barbies were provided perhaps at some cost so that entertainment was provided for the young voters of Unley, there could be problems. I would be interested to hear the Attorney's response.

The Hon. C.J. SUMNER: This clause would permit conduct that would not be permitted under section 146 of the Act dealing with bribery. In other words, clause 112 narrows the net of the electoral criminal law. It is very difficult to determine what would constitute bribery *in vacuo* without having something concrete or some particular case to put to us, but the existing Act (sections 146 and 147) gives a more specific definition of 'bribery', which catches activities that should not be the subject of the electoral criminal law, such as conveyance, etc. That is probably carrying the electoral law too far.

The Hon. R.I. Lucas: You think that that would be allowed under this Bill: Parties offering to transport people to polling booths?

The Hon. C.J. SUMNER: It depends on the context in which they do it. There might still be some doubt about it. If a candidate says, 'If you vote for me I will drive you to the polling booth, take you shopping and then to the pub for a counter lunch,' I think that that would constitute bribery, but, on the other hand if people say, 'Can you arrange for me to be taken to the polling booth'—

The Hon. R.I. Lucas: 'If you require assistance or transport, please contact the campaign office.'

The Hon. C.J. SUMNER: Yes. I do not think that that would constitute bribery. There has to be some corrupt motive. Whether the offence is constituted depends to some extent on the mental state of the person who is allegedly doing the bribing. I should have thought that that sort of thing would be innocent as far as the criminal law is concerned. It may even be that saying, 'If you vote for me I will drive you to the polling booth,' is not bribery either. I am not prepared to express a definite opinion on that. If one says, 'I will take you to the polling booth and take you for a guided tour of the city, a counter lunch, or whatever'—

The Hon. R.I. Lucas: Regines tonight!

The Hon. C.J. SUMNER: Yes, Regines: that would probably constitute bribery. Again, with respect to entertainment,

it depends whether what one is doing is designed to influence the vote of an elector and whether the elector gets some kind of benefit out of it. It really is not possible to express an absolutely firm opinion.

The Hon. R.I. Lucas: It is whether it is a significant benefit, too. Your example about the beer at the end of your meeting, which might be a couple of bucks worth, may be at one extreme and a $200 dinner at the other is surely the same kind of criteria for entertainment. If the value of the entertainment is worth only $2, that is the equivalent of your beer example, but, if you have someone who is worth $50 or $100 a head on the open market for a ticket, it is getting close to your $200 dinner example. It is where you draw the line in between.

The Hon. C.J. SUMNER: Yes, it is a problem that cannot be solved while there is in the law an offence of bribery. It seems to be intractable: one can only tell candidates to exercise caution. There would be circumstances where the provision of entertainment, food, drink, etc., could constitute bribery. I doubt whether there would be many cases where an offer of transport to the polls would constitute bribery, but, again, I am not really in a position to express a firm opinion on that.

I suppose that if it were done *en bloc*, one might envisage people living in a street and the candidate saying to someone, 'If you can get all these people in this street to vote for me I will make sure we will get them all to the polls.' If, on the other hand, someone rings up the Liberal Party office and says, 'I would like to have a ride to the polling booth,' and someone takes them there, that would be innocent behaviour that I do not think would be caught. I doubt whether having a rock star at Mr Olsen's campaign opening would be caught. The prime purpose would be to see Mr Olsen and not the rock star.

The Hon. R.I. Lucas: Even if he could command $50 a seat in the Festival Centre in his own right? That is my basic question. Take Bruce Springsteen: if we could organise Springsteen to launch John Olsen—

The Hon. C.J. SUMNER: Is he a Liberal?

The Hon. R.I. Lucas: He would have to be: he is a working-class rocker. If he could command $50 and people quite happily pay $50 in the open market for a ticket to see him—

The Hon. C.J. SUMNER: Do they?

The Hon. R.I. Lucas: Quite happily. If a candidate provides that at no charge, do you still think that that possibly might not be caught as electoral bribery?

The Hon. C.J. SUMNER: No. If you say that the Liberal Party or Mr Sheridan as candidate for Unley will put on a performance in the Centennial Hall with Bruce Springsteen, and that is put on but not related in any way and not in conjunction with a launch or anything of that kind, and people are just invited to come along, that might get close to constituting bribery. But, just thinking on my feet, I would have thought that if one had a rock star or a person of that kind at a campaign launch that would not constitute bribery. One would probably have to pay them to come to John Olsen. They would probably think that their evening was spoilt by having all those politics mixed up with their entertainment. It is not possible to answer the question with any precision.

If one has an offence of bribery in the legislation one has to cop that there are some grey areas, in factual situations, that one cannot envisage or precisely specify. But obviously there has to be some corrupt motive involved in it, which goes beyond ordinary electioneering. I would have thought that a campaign opening with a rock star would be seen as normal electioneering.

Perhaps a $200 a plate dinner provided by the candidate to certain key people in his electorate might not be seen as normal electioneering but would be getting close to the sort of corrupt motive and not a *bona fide* intention on the part of the person putting that function on for the electors. If the honourable member has any ideas and wants to talk to the Hon. Mr Griffin about it, I am happy to examine the matter again. Whatever we come up with in this area, it will always be difficult to say with absolute precision what conduct comes within it and what does not.

The Hon. R.I. LUCAS: I take up two other matters. It is common for someone to try to talk a prospective candidate into being a candidate and say to Chris Sumner, 'Chris, if you stand for Briggs or wherever I will promise to fund or assist funding your particular campaign.' Chris Sumner might say, 'Look, I cannot stand for Briggs because my political opponents are going to spend $5 000 or $10 000 on a campaign, and I do not have the money to do that,' and the fellow might say, 'Don't worry, I will help fund your campaign if you decide to stand.' Would that constitute electoral bribery under paragraph *(b)*?

The Hon. C.J. SUMNER: I do not believe it would. It might not be a particularly desirable practice, but I suppose if a person wants to encourage someone to stand by saying, 'I will cover your expenses,' I do not believe that would be bribery. If a person says to a potential candidate, 'I will cover your expenses and give you an all expenses paid holiday on the Riviera for two months,' then I think that would.

The Hon. R.I. LUCAS: The other matter I take up is the question of the conduct of a candidate on polling day. Section 151 of the parent Act states:

> Bribery and undue influence and the following shall be illegal practices:
>
> *(a)* any personal solicitation by a candidate of the vote of any elector within eight hours before the opening of the poll on polling day, or at any time during polling day before the close of the polling;
>
> *(b)* any attendance by a candidate at any meeting of electors held for electoral purposes at any time during polling day before the close of the polling:

Various political Parties have a different interpretation of this clause. The Liberal Party has tended to tell its candidates to go fishing or to the football—anywhere other than the polling booth—on polling day. If one is seen talking at a polling booth to any group of voters that may well come under paragraph *(a)* or paragraph *(b)*, although I admit that paragraph *(b)* is a little more tenuous. I believe that the normal course for the Labor Party has been that many of its candidates and members attend personally at their polling booths all day from 8 a.m. to 6 p.m. and bring around drinks and food for their polling booth workers. On the day they are seen at the polling booth by electors intending to vote and, of course, they talk with electors outside those polling booths.

That is a quite different interpretation of the Act. I instance the circumstance in the Elizabeth by-election, where exactly that occurred. Section 151 has been, on my reading, completely removed and, so far as I can see, the only provision which now covers this is the shortened version of clause 112. Why has the offence of personal solicitation by a candidate during polling hours been removed? I understand that under the new Act there would be nothing wrong with a candidate attending a polling booth, being seen with voters, having discussions with them and, in effect, influencing them.

The Hon. I. Gilfillan: Handing out how to vote cards.

The Hon. R.I. LUCAS: How to vote cards are another question. Under the new Act it will be quite legal for a candidate to work all day handing out how to vote cards. Will the Attorney-General respond to my query?

The Hon. C.J. SUMNER: Under the existing Act the activity of a candidate on the day had to involve personal

solicitation. I know that most Parties advise their candidates to stay in bed. That is certainly what I do, for a while at any rate. I do not think the attendance of a candidate at a polling booth to talk to his Party workers would contravene the law as it presently stands.

The Hon. R.I. Lucas: Or groups of electors?

The Hon. C.J. SUMNER: It depends on what he did.

The Hon. R.I. Lucas: Talking to them?

The Hon. C.J. SUMNER: No. It would depend on the factual situation. If the candidates started to talk to them about the football and the elector said, 'I have had you; I am not going to vote for you this year,' and the candidate then said, 'Oh, come on,' and started talking about why the person should vote for him, I think that that would be personal solicitation.

The Hon. R.I. Lucas: Under the new Act personal solicitation would be allowed, though.

The Hon. C.J. SUMNER: I think there may be some argument that it would be.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: No, that refers only to candidates canvassing within six metres of a polling booth. I suppose that someone who is not a candidate on that day can solicit for votes. I do not think there has been any prohibition on that.

The Hon. I. Gilfillan: I understand that federally a candidate can hand out how to vote cards.

The Hon. C.J. SUMNER: I think that has happened in the past.

The Hon. I. Gilfillan: Are we not attempting to have the same conditions here?

The Hon. C.J. SUMNER: My personal view is that it is better for the candidate to be out of the place on polling day.

The Hon. R.I. Lucas: But your Act will allow candidates to personally solicit votes on polling day.

The Hon. C.J. SUMNER: It may do so. It is a possibility.

The Hon. R.I. Lucas: Is that desirable?

The Hon. C.J. SUMNER: That is what I am saying: I am not sure that it is. My position would probably be that it would be better to have candidates out of the place on the Saturday.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I know that they are an important part. I sometimes think that, as the candidate has had his go up until Saturday, on that day it is the electors' turn and that the candidate is probably better off staying out of the proceedings. Let us face it: on polling day there can be incidents which may be exacerbated by the presence of the candidate at a polling booth, or if the candidate is still personally soliciting votes. What is the honourable member's personal view on the matter? If he is concerned about it, I am happy to look at it. If he would prefer to have something similar to existing legislation, then I am prepared to look at it.

The Hon. I. GILFILLAN: I understood that the Bill did not prevent candidates handing out how to vote cards, and I was of the opinion that this clause mirrored the Federal legislation. That is what we were prepared to accept, but I do not pretend to have exhaustively examined it.

The Hon. R.I. LUCAS: While the Attorney is thinking, can I put a view about personal solicitation on polling day? I can see the argument put forward by the Hon. Mr Gilfillan about someone handing out a how to vote card, but personal solicitation covers more than that. If one allows personal solicitation on polling day, I take it one allows candidates to stand six metres from a polling booth with a megaphone yelling out, 'Vote 1 Ian Gilfillan today in Briggs', or whatever it is. 'You must vote for me. My policies are . . .' and the candidate runs around doing that at the polling booth. Or the Hon. Chris Sumner from Briggs says, 'Vote for me. Here is my how to vote card in Briggs. I am a good fellow. My policies are that I will give free beer and bickies to everyone. These are my policies.' He is saying that as the voters are going into the polling booth, so you have the candidate still haranguing or personally soliciting voters for their vote. I am concerned about that.

I do not think that removal of clause 151 and its replacement by new clause 112 is satisfactory. It has left out an important aspect that we need to control. I have no objection to a candidate, if he wants to go around talking to his polling booth people, doing so.

The Hon. C.J. Sumner: That is not prohibited now.

The Hon. R.I. LUCAS: Right. If a person wanted to help his polling booth people by providing food and drink, I have no objection to that, if it can be delineated, but I am concerned about people still conducting the electoral process.

The Hon. C.J. SUMNER: We will have a look at that.

The Hon. I. Gilfillan: Was I right in my assumption?

The Hon. C.J. SUMNER: Yes, as far as I can ascertain.

Consideration of clause 112 deferred.

Clause 113—'Undue influence.'

The Hon. K.T. GRIFFIN: Clause 113 deals with violence or intimidation being used to influence or attempt to influence the role of an elector, candidate or any person in an election, or the course or result of the election. Has the Attorney-General given consideration to the possibility of including the area of attendance or non-attendance at the polling booth on polling day?

The Hon. C.J. SUMNER: I think that clause 114 probably picks that up, does it not?

The Hon. K.T. GRIFFIN: It probably does, except that it is not by violence or intimidation. I am not too worried about this matter because I think that there is probably adequate common law and other—

The Hon. C.J. Sumner: 'Hindering' or 'interference' would include hindering or interfering by violence.

The Hon. K.T. GRIFFIN: I think that is correct, but there is a distinction between the penalties. I am only raising this matter for clarification purposes and do not propose any amendment to this clause. There may be other common law offences that can be used to adequately deal with this problem, anyway.

Clause passed.

Clause 114 passed.

Clause 115—'Printing and publication of electoral advertisements, notices, etc.'

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

Page 52, lines 30 and 31—Leave out 'the person who authorised the advertisement' and insert 'the author of the advertisement, or the person who authorised its publication'.

It seems to me that as clause 115 relates to electoral advertisements there ought at least to be an opportunity for the author of an advertisement to be identified rather than the person who necessarily authorises the publication. It seems to me that either person would be satisfactory. I hope that this is not a matter of any great contention.

Amendment carried.

The Hon. R.I. LUCAS: Clause 115 (1) *(a)* requires the name and address, not being a post office box, of the person who authorises an advertisement, or the author. Are there persons in South Australia, particularly in country areas, who are only identified by a post office box number and who really do not have a street name or number?

The Hon. C.J. Sumner: They must live somewhere.

The Hon. R.I. LUCAS: So they just put down 'Back of Bourke' or 'No fixed abode' if they are itinerant workers? If an itinerant worker wants to submit an electoral advertisement and authorise it and is not allowed to use a post office box as his address, what does he use for his address?

The Hon. I. Gilfillan: He is care of a post office.

The Hon. R.I. LUCAS: That would be a post office box. If I live on a pastoral station up North and have a post office box or bag number and want to authorise an advertisement, will that create problems because of the way 115 (1) *(a)* is drafted?

The Hon. C.J. SUMNER: I would not think so. If people have an address they can presumably identify it other than by a post office box number. I do not see any difficulty with this clause for people living in remote areas. Their address may be given as 'So and So station' or 'Broken Hill Road' or 'Main Adelaide Road via Peterborough'.

The Hon. R.I. LUCAS: Clause 115 (1) *(b)* states that in the case of an electoral advertisement printed otherwise than in the newspaper the name and place of business of the printer should appear at the end. It has been the tradition with political leaflets and pamphlets to have the authorisation and the printer's name and address shown on the pamphlet. I see that section 151 *(d)* of the present Act requires the author's name and address, but I cannot find a demand for the printer's name and address to be shown. My impression is that this is required under another Act such as the Imprint Act.

The Hon. C.J. SUMNER: It is covered under section 155 *(d)* .

The Hon. R.I. Lucas: Then this mirrors what is in the present Act?

The Hon. C.J. SUMNER: Yes, in substance.

Clause as amended passed.

New clause 115a—'Size of electoral advertisements.'

The Hon. I. GILFILLAN: I move:

After clause 115—Insert new clause as follows:

115a. (1) A person shall not exhibit an electoral advertisement if the advertisement occupies an area in excess of 2 square metres.

Penalty: One thousand dollars.

(2) This section applies to the exhibition of an electoral advertisement whether or not the exhibition occurs during an election period.

(3) For the purposes of subsection (1), electoral advertisements—

(a) that are apparently exhibited by or on behalf of the same candidate or political Party;

and

(b) that are at their nearest points within 1 metre of each other,

shall be deemed to form a single advertisement.

(4) This section does not apply to the exhibition of an advertisement in a theatre by means of a cinematograph.

New clause 115a is an amendment to secure in this Bill the same or virtually the same measure which was included in the old Act. I will seek leave to alter the '2' which appears on line 4 of my amendment to 1 square metre. It was a misunderstanding in the drafting. Would you advise me whether it is appropriate to do it now or leave it until after I have spoken to it?

The CHAIRMAN: Is leave granted for that alteration to the amendment?

Leave granted.

The Hon. I. GILFILLAN: It is important that the conduct of elections is a fair and reasonable exercise in which all parties who have a right to participate have a reasonable opportunity to communicate to the public and the electors. This control in the current Act is designed to prevent extravagant impact through fixed advertisements which, incidentally, are unavoidable in their locality. They are not like advertisements in an electronic media-type context. As the actual ability for those competing to communicate with the public is quite often a reflection of the amount of money spent or capable of being spent by the various Parties, it is reasonable in an Act such as this to bear that in mind when applying some limit to the extent of electoral advertisements. The provision restricting the size of electoral advertisements is controlled by what is the definition of an electoral advertisement. An electoral advertisement is an advertisement containing electoral matter and you will find in the definition of the Bill that it means matter calculated to affect the result of an election. It is my advice that the effect of this amendment will apply whether there has been a writ issued for an election or not, and I am moving it with that full understanding that it will apply at any time, provided the advertisement can be properly defined as an electoral advertisement.

Subclause (3) prevents the possible evasion of this restriction by having several advertisements in close proximity to each other, thereby having the same effect and defeating the purpose of the amendment. Subclause (4) exempts the display of the advertisement in a theatre where, as I have implied, the actual impact is both avoidable and of a brief time duration.

The Hon. K.T. GRIFFIN: Mr Chairman, the Liberal Party is prepared to support the Bill as it stands in so far as it relates to electoral advertising, that is, no limit on size. As I understand it, it has been largely removed at Commonwealth and other State levels and, in any event, in this day and age, we think it is unnecessary to impose any limit on it. We were pleased to see when the Bill came in that that was something we could agree with, among the many things we could not agree with. The difficulty I think with the amendment is that everybody is going to have to wear glasses or use binoculars to be able to see any electoral advertising, and I think that is the object of the Hon. Mr Gilfillan—to make it so small that it is inconspicuous. To ensure the public is properly informed, some substantial electoral advertising has to be permitted, whether during an election period or outside an election period. What the amendment will do is prevent, I would suggest, the name of the member being displayed, in the case of the House of Assembly, on the front of the electoral offices in a size which is any greater than 1 square metre, and I think that is ridiculous, with respect.

The Hon. M.S. Feleppa: That's not electoral advertising.

The Hon. K.T. GRIFFIN: Well, it is. It advertises he is the member for so and so.

The Hon. M.S. Feleppa interjecting:

The Hon. K.T. GRIFFIN: Well, it is. The whole reason for having an electoral office is partly to service the electorate but also partly to influence the electors in that electorate. I would suggest it is electoral matter.

The Hon. I. Gilfillan: You would say Benson and Hedges is advertising cigarettes. If the name is an advertisement in one place, it is an advertisement in another.

The Hon. K.T. GRIFFIN: I do. I do not disagree with that. Benson and Hedges advertises cigarettes. That is not the argument here. We are not talking about cigarette advertising, although some people may want to put electoral advertising in the same category as cigarette advertising. We are talking about informing the public and raising issues, and personally I see no objection at all to political Parties and candidates raising issues in any way they see fit, provided it accords with the law and, in the case of advertising, meets any local council by-laws which may relate to advertising and to the prominence of signs. That is where it ought to be.

Electioneering ought to be no different from any other form of advertising. After all, electioneering is really the essence of our democratic system. We are entitled to put points of view. We are entitled to answer points of view. We are entitled to advertise or not advertise as the case may be. If we cannot advertise freely the policies of Parties, the issues, challenges, challenging other candidates, other Parties and making claims of our own, then I think that is going to very much stifle the free communication which

ought to be available in relation to politics and to government.

The more the people are informed the better. The more that those who dispute a particular claim can dispute it publicly, the safer is our basic democratic right of free speech. One can advertise motor cars and all sorts of other products in any way that accords generally with the law relating to advertising. I do not see any reason why politics, elections for Parliament, ought to be restrained and put in a category that is more restrictive than motor car advertising and advertising for other products that really have no such significant impact upon community life and well-being and the rights of citizens as does electioneering for political office. I strenuously resist the amendment of the Hon. Mr Gilfillan because it is a severe restriction on the communication of information in what is the most important area of decision-making in which the community can be involved.

The Hon. R.J. RITSON: I also resist the amendment. I would seek a response from the Hon. Mr Griffin and in due course the Attorney to my remarks. In deciding whether someone was the author of such a notice designed to affect the results of an election, would there be a subjective test as to the intention of the author or would the question be determined objectively by deciding whether the design of the sign was such that it would, could or was likely to influence, regardless of the author's intention?

Many signs are relevant to people's political opinion that are not necessarily signs of political Parties. I refer to Government signs, union signs (building sites often contain large signs proclaiming the existence of 100 per cent union labour on the site), signs proclaiming that a newly surfaced road has been provided through the benevolence of the existing Government, and from time to time we have the use of announcements by Executive Government as electoral material.

The former Premier, Don Dunstan, made clever electoral use of executive resources and money in producing high quality five minute film clips for use on television, theoretically designed to tell the public what its Government was doing as an information service but, in practice, they had a profound electoral effect. If this amendment is passed, will we have disputes over the size of, say, bicentennial road project signs, the size of building site signs proclaiming a union closed shop and all sorts of other signs? I seek comment on the far-reaching consequences of the acceptance of the amendment.

The Hon. R.I. LUCAS: I agree with the points raised by the Hon. Mr Griffin, especially about campaign and electorate offices. Section 155b (3) specifically provides:

> Nothing in this section shall prohibit—
>
> *(a)* the posting up, exhibiting, writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political Party indicating only that the office or room is the office or committee room of the candidate or Party and specifying the name of the candidate or the names of the candidates or the name of the Party . . .

The Hon. Mr Gilfillan can refresh my memory because I am not a frequent visitor to the office of Senator Haines, but if her office is similar to other electorate offices she probably has a glass pane on the front of her office saying, 'Senator Janine Haines', or 'Australian Democrat Senator', or the like. If that glass pane exceeds one square metre, under the Hon. Mr Gilfillan's amendment it is to be declared illegal despite her being his own colleague. I point out the absurdity of the amendment with a couple of examples. The Hon. Mr Gilfillan made great play in recent weeks and gained much media coverage for himself and the Liberal Party for which we are grateful about an advertisement 'Less taxes, Olsen for action' located in the western suburbs.

Again, I refer the Hon. Mr Gilfillan to recent Palm Sunday peace marches in which he has openly participated and marched under the Australian Democrats' banner, which I cannot recall exactly but which I think identified the Australian Democrats and perhaps their stance on uranium mining, peace, disarmament and the like. The honourable member and his colleagues have used electoral banners or advertisements larger than the present restrictions in the existing provisions in metropolitan Adelaide at least twice and also in regard to policy launches when the Australian Democrat banner has been openly used in front of television. That banner was greater in size than that allowed under the same provision on which the Hon. Mr Gilfillan has made great play in respect of a Liberal Party advertisement.

It has been clear under precedent established over the past decade that a banner worded 'Liberal Party' constitutes an electoral advertisement. We have sought guidance from Electoral Commissioners for a decade and the response received, in addition to other advice, is that even the words 'Liberal Party' constitute advertising the Liberal Party.

Obviously we are advertising the Liberal Party because we want people to know we are about, and we want people to support us. There can be no argument that a banner with only the words 'Australian Democrats' on it is not an advertisement. The precedent has been established under a number of Electoral Commissioners. As I have said, for some weeks now the Hon. Mr Gilfillan has criticised a particular advertisement. We are grateful for the publicity that he has generated for that advertisement through the media—we could not have paid for it with many thousands of dollars. The Hon. Mr Gilfillan has criticised that advertisement, but on a number of occasions he and his colleagues have quite openly used Australian Democrat banners which contravene the very section that he says the Liberal Party is contravening.

The Hon. I. Gilfillan: They don't.

The Hon. R.I. LUCAS: Yes they do. It is not a fixture; it is an electoral advertisement and it is exhibited. The Hon. Mr Gilfillan seeks to introduce an amendment to restrict such advertisements, but he is quite happy to walk along King William Road and down North Terrace in front of a banner which contravenes the Electoral Act on his definition and understanding (with which I do not agree). I think it is quite hypocritical of the Hon. Mr Gilfillan happily to accept Australian Democrat advertisements that contravene the limit and then criticise a Liberal Party electoral advertisement.

Following the recent Palm Sunday march did the Hon. Mr Gilfillan lay any complaint with the Electoral Commissioner about the size of his own electoral advertisement that he was marching under? The Hon. Mr Gilfillan would be well aware that there were many other electoral advertisements in that march displayed by other bodies. Did the Hon. Mr Gilfillan raise any objections with the Electoral Commissioner with respect to those other electoral banners or advertisements? I refer to the absurdity of the situation that would be created by accepting the Australian Democrats' amendment. I have a lovely photograph taken from the *Advertiser* of 2 May 1983 of the May Day march, and I now move to the Labor Party and some of the Attorney-General's colleagues.

The CHAIRMAN: Order! The honourable member is not entitled to use this forum for exhibits.

The Hon. R.I. LUCAS: In that case, Mr Chairman, I will describe it. The *Advertiser* of 2 May 1983 includes a photograph of the May Day march showing the Premier (Hon. J.C. Bannon), with the Deputy Premier (Hon. J.D. Wright), and the Federal Minister for State (Hon. M.J. Young).

An honourable member: Is the Attorney-General there?

The Hon. R.I. LUCAS: No, I cannot find him. I will apologise if I have misrepresented the Minister of Agriculture, but the photograph certainly shows someone who looks similar to the Hon. Frank Blevins. This is a very important point. All of these gentlemen were marching as bold as brass in front of a banner stating, 'Workers of the world unite. May Day march. Peace, democracy, higher living standards, socialism.' If a supposed advertisement in the western suburbs, which reads, 'Less taxes. Olsen for action', merits complaints under the current Electoral Act and the Electoral Commissioner orders its removal by 17 May, I want to know whether complaints were made about the enormous banner being held up by two people while marching in the May Day parade down King William Street in Adelaide. Does the Attorney-General agree that, under the current provisions in the Electoral Act and in the Hon. Mr Gilfillan's provision, all the banners associated with the Attorney's colleagues in the May Day march and the banners in the recent gathering on the steps of Parliament House in relation to Queensland were illegal (and I point out that those banners were larger than the 8 000 square centimetres provided in the current Act or the one square metre under the proposed amendment)?

I have a number of other examples of other May Day marches and other lovely photos, but I feel that I have made my point, so I will not describe them. I believe that the Hon. Mr Gilfillan has been hypocritical on this occasion and, if the Liberal Party has contravened the Act, I believe he has contravened the same provision himself on behalf of his Party. However, we certainly dispute the assertion that there has been any contravention. Equally, there are other problems with the banners used by both the ALP and the Liberal Party at election launches, because they may be larger than 8 000 square centimetres. I ask the Attorney to measure the John Bannon banner used during the last election campaign, because I am sure he will find that it was larger than 8 000 square centimetres, thereby contravening the present Electoral Act.

If the Attorney-General accepts the Hon. Mr Gilfillan's amendment, he is saying that the banners used at election launches will not be permitted in the future, and I suppose the Electoral Commissioner will write to the Attorney-General and to the Premier advising them to remove their 'We want South Australia to win' poster in front of Government press conferences. The provisions are absurd and have no place at all in modern electoral legislation, which is why they have been removed by the Federal Labor Party, supported by the Liberal Party, and that is why they should be left out of this Bill.

The Hon. I. GILFILLAN: The provisions of this Bill were not known to me before, and I make no apology for that. I became aware of the situation as a result of information brought to me. People were prompted to look into this situation after seeing the large Liberal Party sign that has been erected. It may certainly be a drafting error in the amendment, but I understand that section 155 *(b)* only applies to stationary exhibits on the items listed. In other words, the current Act is restricted to posters going on buildings, vehicles, vessels, hoardings or structures, and it does not apply to mobile displays, which is the same point that I was trying to make in relation to theatres. The point is that a fixed hoarding creates a fixed visual impact—visual pollution perhaps. The flashing across the screen in a theatre of visual images are of short duration and can be avoided. The comparison made by the Hon. Mr Lucas certainly does not apply in relation to my intention. There may be an error in the drafting in relation to an electoral advertisement, and I would like to ensure that that is defined, because the Act—

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: I do not mind whether it applies to an office. The Hon. Mr Lucas referred to information displayed on an office. That is an absolutely ludicrous interpretation: such information could not be described as electoral advertising. I do not see that as a criticism. If this is such an obnoxious provision, why was the Act not amended in 1981 when the penalty was increased? This is hypocrisy. I understand that the Liberal Government increased the penalty from $400 to $1 000, and this provision should have been considered then. I am surprised that this obnoxious clause was not analysed. It seems to me that the word 'hypocrisy' is used far too loosely. I do not pretend to be an expert on all details of the Electoral Act, and I say openly that I was not aware of this restriction until it was brought to my notice in relation to this very large electoral—

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: As a matter of fact, it was. I get a considerable amount of advice from him.

The CHAIRMAN: Order!

The Hon. I. GILFILLAN: I apologise, Mr Chairman—I digressed to answer the interjection. The value of information does not necessarily depend on where it came from, as I am sure the Hon. Robert Lucas would acknowledge. The current Act provides that a large hoarding is illegal, and members of the Opposition must also believe that, otherwise they would not be getting so excited about it. My intention (and if it is not expressed in the amendment, I will review it) is to cover the terms that apply in the Act, that is, that such advertisements are fixed. Therefore, quite obviously the provision would not be of concern to people who carry banners at marches.

If there is a legal requirement that the electoral poster be of a restricted size, a political Party is obliged to comply. However, that is not the reason for the amendment. I do not see this as a tenet of religious faith. This provision has been in the Act for a long time and it has been regarded as effective and useful, I presume, because if it had not been so regarded it would have been removed by previous Governments. I raised this issue so that we could discuss the matter, but the only contribution to the debate to date has been a personal vilification of me. I do not find that particularly constructive.

The Hon. K.T. Griffin: That is not correct. I addressed the question of principle.

The Hon. I. GILFILLAN: That is true. The Hon. Trevor Griffin made some constructive debating points, but the Hon. Robert Lucas referred to me at length. My memory is not long enough to remember the honourable member's speeches from beginning to end—they are quite long. I believe that the amendment is worth considering: it should not be treated lightly and flippantly. Whether the size of fixed electoral advertisements is to be limited is an important point for the people of South Australia. The cost factor is the only deterrent at present. I believe that the public would accept that there should be a limit on the size of electoral posters. I have checked with Parliamentary Counsel: this amendment covers only a fixed electoral advertisement.

The CHAIRMAN: The question is that new clause 115a be agreed to. For the question, say 'Aye'; against 'No.' The Noes have it.

The Hon. I. GILFILLAN: Divide!

The CHAIRMAN: There being only one dissentient voice, I declare the new clause lost.

New clause negatived.

Clause 116—'Misleading advertising.'

The Hon. K.T. GRIFFIN: This clause relates to misleading advertising. In the light of the Attorney's foreshadowed amendment to clause 135, which relates to injunctive proceedings and the fact that injunctive proceedings are not to apply to Division II of Part XIII, I do not propose to oppose

this clause. Is there a problem with State law purporting to bind radio and television subject to Federal law under subclause (3)? Is subclause (3) a valid exercise of State power?

The Hon. C.J. SUMNER: There may be inconsistencies, but until an inconsistency is apparent it does not mean that it cannot be included in State legislation.

Clause passed.

Clause 117—'Heading to electoral advertisements.'

The Hon. K.T. GRIFFIN: This clause relates essentially to paid advertisements and requires the word 'advertisement' to be printed as a headline in letters not smaller than 10 point or long primer to each article or paragraph containing the electoral matter. That is a bit ambiguous. I would have thought that the word 'advertisement' really should be printed at the head of each item for which payment has been made. Is this likely to be construed in a highly technical fashion so that that word must appear in respect of each paragraph in an advertisement?

It is meant to require only the word 'advertisement' at the top of each paid section, but it could be construed to apply to each paragraph. I wonder whether, without holding up proceedings, the Attorney-General might consider that when he is reviewing other clauses which have passed and on which questions have been raised.

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 118—'Authors of reports, etc., to be identified.'

The CHAIRMAN: At the bottom of page 53 the word 'or' has been inserted after the word 'report'.

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

Page 54, lines 2 and 3—Leave out 'the name and address of the author' and insert 'the name and address (not being a post-office box) of the author of the article, letter, report or other matter, or the person who authorised its publication,'.

It is probably appropriate to address a few general comments to this clause. There are a number of amendments: by me, the Attorney-General and the Hon. Mr Gilfillan. This matter has created some concern among newspaper interests because of the difficulty of putting it into practice. Clause 118 requires the name and address of the author to appear at the end of an article, letter, report or other matter.

The Hon. C.J. Sumner: Have you seen my amendment on this?

The Hon. K.T. GRIFFIN: I have: I just want to make a comment on it and set the scene. I do not think that the Minister's amendment deals adequately with the problem, but I acknowledge that it picks up part of the point that I wanted to make. When the clause exempts a leading article one has to ask, 'What is a leading article?' Apart from the exempted items, every article or report that contains electoral matter has to have the name and address of the author on it. As I understand it, from the newspapers particularly, that will be an almost impossible task. At present all the newspapers are required to do in relation to paid advertising is to have the name and address of the person authorising it in that advertisement or, in respect of letters to the editor, the name and address of the author of those letters, and at some place in the newspaper to have two lines saying, 'Responsibility for all electoral material in this newspaper is accepted by' (and then follows the name and address of that person, who is generally the publisher).

My amendment seeks to do that. The Attorney's amendment does not seem to cover that point of exempting the publication of an article, letter, report or other matter if the newspaper contains a statement as to responsibility for electoral matter. Surely, if we can maintain the *status quo,* where the name and address of the person accepting responsibility for electoral comment is somewhere in the newspaper, that ought to be sufficient. I do not think that the Attorney-General's amendment deals adequately with that. When his amendment talks of material containing a statement of the name and address of the person responsible, I interpret that as being 'specific material'. I want to ensure that there is a bit more flexibility for newspapers, radio and television, and that is why I prefer my amendment to that of the Attorney-General. We are not so far apart on the principle: it is a question of coming to grips with the drafting.

The Hon. I. GILFILLAN: I move:

Page 54, line 2—Leave out 'and address'.

It is probably just a matter of sorting out the understanding of the Hon. Trevor Griffin's amendment. I intend to relieve from newspapers and publishers of journals and magazines the onerous and unacceptable obligation that authors of articles would have to have their names and addresses, which probably would be their residential addresses. This is being done for several reasons. First, it is cumbersome. Also, it is unfair to impose on authors of articles the responsibility to give their personal addresses. It is an intrusion of privacy, to which they are entitled in the normal course of their duty. From my reading of the Hon. Trevor Griffin's amendment, I am not clear whether he means in the last line by 'or the person who authorises publication' that that should be the name of the person authorising and his or her address not being a post office box.

The Hon. K.T. GRIFFIN: Yes, and it has to be related to the newspaper exemptions in new subclause (2), which I will move later.

The Hon. I. GILFILLAN: I am not clear of the implications of new subclause (2).

The Hon. K.T. GRIFFIN: It is the *status quo.* The newspaper puts in a two or three line statement, 'The responsibility for electoral material is accepted by the publisher whose name and address are supplied'.

The Hon. I. GILFILLAN: That seems to be reasonable in its appropriate place. My amendment simply relieves an unfair imposition on the authors from having their addresses published in each case. In many cases, the author is pleased to be identified by name in these circumstances. It is an extra identification of responsibility in the time of the election that that be done.

The subsequent part of my amendment is to delete subclause (3), which would mean that the address used, one assumes by the newspaper, could not be a post office box. It is a satisfactory assurance of identification and responsibility for the name of the author to be prominent, and tracing the identification of the author, if for any reason it is required, would be easily available through the paper or publication printing the material. I see no reason why my amendment is not adequate. It provides an adequate assurance that the author of the material will be answerable for it and identifiable with it, yet retains the protection of not having a personal private address published.

The Hon. C.J. SUMNER: We accept the principle, basically, that has been raised by the Hon. Mr Griffin's amendment. It does come down to a matter of drafting. Possibly the Hon. Mr Griffin's amendment will still impose a greater obligation on newspapers than they currently have because it talks about the name and address appearing at the end of the article, letter or report, whereas our amendment refers to material—and does not specify where—that contains a statement of the name and address of a person who takes responsibility for the publication of the material; that is less specific than the honourable member's amendment.

The Hon. K.T. GRIFFIN: I was debating whether or not, in my amendment to subclause (2), I would include paragraph *(a).* If we accept the amendment to lines 2 and 3, which is consistent with what we have previously accepted, and identify the author or the person who authorised the publication, and then in subclause (2) say that this section

does not apply to the publication in a newspaper of an article, letter, report or other matter, if the newspaper contains a statement to the effect that the person whose name and address, not being a post office box, appears in the statement takes responsibility for the publication or electoral matter published in the newspaper, I think that that is sufficient, I included paragraph *(a)* because it was in the Government Bill. I thought that the Government might have a special reason for having it in there and that I might have a better chance of having paragraph *(b)* accepted if I at least picked up some of the Government's present drafting. If the Attorney-General is happy to leave it with a blanket exception, as in my paragraph *(b)*, I am also happy.

[Sitting suspended from 5.51 to 7.45 p.m.]

The Hon. C.J. SUMNER: I think that the amendment I have on file in relation to this clause is the preferable one and that we should proceed with it. I am not sure what extra the Hon. Mr Griffin's amendment does.

The Hon. K.T. Griffin: I will tell you in a minute.

The Hon. C.J. SUMNER: All we are saying in relation to radio, television and newspaper advertising is that whatever is put out some identified person takes responsibility for. That is all my amendment says. It does not say how, where or when it has to be done, but says that somebody has to be identified as taking responsibility for the advertising. From the point of view of the daily press—the *News* and the *Advertiser*—and television stations, it is probably no problem, because the person who takes responsibility, whether named in the paper or not, can easily be determined—the editor, the publisher or whoever.

The problem might well occur with some organisation that is not as well known as the daily press. From the point of view of the daily press all clause 118 does is identify who shall take responsibility. I think that the amendment I have on file covers the situation. The original purpose of clause 118 is, I suspect, to actually identify the person making comment, on the general principle that, if people are going to comment on elections, whether journalists, politicians or whoever, they should have their name attached to that comment on an election.

I think that in theory that is probably a supportable proposition. The fact of the matter is that clause 118 as it stands was picked up from the Commonwealth legislation. As I read it, it was not enforced in any way during the last Federal election. I am sure that there was comment during that election and articles were written in newspapers to which the name of the journalist was not attached. That was ignored, so I do not believe that we should have a clause that is unworkable and, therefore, although I see the theoretical justification for the original clause 118, which I believe was to identify people who made political comment in an election context, which I think as a principle is a desirable objective, I can see the difficulties with it.

All I am doing with clause 119 is suggesting that there ought to be one person identified as taking responsibility for the comment. That is all that clause 118 does and it does that with respect to the print media and the electronic media.

The Hon. K.T. GRIFFIN: I do not think that is precisely what clause 118 does. The Attorney and I are not far apart; what we want to do is identify the person who will take responsibility for electoral comment. As I see his new clause 118, which replaces clauses 118 and 119, if one works through it it says that a person shall not during an election period publish material consisting of or containing a commentary on any candidate or political Party or the issues being submitted to electors in written form or by radio or television unless the material contains a statement of the name and address—not being a post office box—of the person who takes responsibility for publication of the material. I still say that that can be construed as requiring the particular material to contain the identification of the person and the name and address of the person who takes responsibility for publication of the material.

I do not think that it is as broad as to allow, for example, the present practice of the *Advertiser* or the *News* of putting somewhere in the paper three lines saying that responsibility for electoral comment in that newspaper is to be taken by so and so of such and such an address. Subclause (2) of the Attorney-General's amendment appears to support the proposition that I am putting because it says that it does not apply to the publication in a newspaper of a leading article or the publication of a report of a meeting that does not contain any comment other than comment made by a speaker at the meeting on any candidate, political Party on the issues being submitted to electors. That qualifies subclause (1).

If one looks at my amendments I agree that they may appear to be too specific in some respects in requiring the identification of the author, but I have endeavoured to cover the newspaper situation by my paragraph *(b)* in new subclause (2), which allows the statement in the newspaper somewhere saying that responsibility for electoral comment is taken by a particular person and in clause 119 to provide an exception that it does not apply in respect of a news service or a current affairs programme. All that I want to do is somewhere to be able to identify somebody who takes responsibility for all the electoral material—not each identifiable subject or article in a news programme on television or radio, or a commentary, or in the newspaper for each article. That is the problem that I see with the Attorney-General's amendment. I go along with the spirit of it.

The Hon. C.J. Sumner: It does not matter where it has to be; material contained in the newspaper, wherever that statement appears, should be sufficient.

The Hon. K.T. GRIFFIN: I do not think it is clear and that is the problem I see with the amendment—recognising the position that we are trying to get to, that we make it clear that the statement can be made anywhere in the newspaper and that news and current affairs programmes on radio and television are not covered by this. Maybe even if there is a provision for anybody publishing electoral comment to lodge a statement with the Electoral Commissioner identifying the name and address of a person who will accept responsibility for all electoral comment during the course of an election period, that would be sufficient.

I do not want to hold up consideration of the Bill, but I think for the purposes of the working media, there needs to be a very clear indication of what is allowed and what is not allowed. With respect, I think there is still confusion with the amendment which the Attorney-General has moved. That is the position. I am not trying to be difficult about it. I just want to see that it is clear and beyond question. It is all very well to say that the same provision is in the Commonwealth, but that it was not policed during the last election.

The Hon. C.J. Sumner: No, it is not that.

The Hon. K.T. GRIFFIN: No, it may not have been, but the fact is, if it is there, it can always be enforced at some time in the future even if it is not enforced from time to time. I think for that reason we ought to try and clarify exactly what is allowed and what is required of all the media agencies.

The Hon. I. GILFILLAN: One question needs to be clarified and that is whether both the amendments of the Attorney and the shadow Attorney intend either within or at the bottom of every article— let us assume the newspapers at this stage—there is the name and address of an author.

It appears to me that the amendment of the Hon. Trevor Griffin is quite specific in my interpretation, that is, unless the name and address of the author appear at the end of the article, letter, report or other matter. It would appear to me the wording at least obliges the newspaper to make sure—

The Hon. K.T. Griffin: There are exceptions in the category of leading article.

The Hon. I. GILFILLAN: There are exceptions in the category of leading article and an article which deals principally with fact and gives no comment.

The Hon. K.T. Griffin: And paragraph *(b)*.

The Hon. I. GILFILLAN: Yes, no comment, but where an article does reflect an opinion, which I think is the attempt of this clause, in other words, to be able to sheet home responsibility for an electoral comment. My interpretation of everything we have before us, including my amendment, will oblige the printer to make sure there is a responsible name appearing at the base of every article which has political comment, and then there are exclusions which I think are reasonable because they are basically observing a fact or a leading article. If I am right in that, I think we are imposing an unnecessary and burdensome load on the print media and possibly others as well. There seems little point in burdening the detail of an address. What constitutes an address in these circumstances? If it is printed in a newspaper, surely the question of an address is not a critical factor, particularly if the paper has its staff who are named as being responsible for these articles and the letters which are printed are only done so with the proper acknowledgement.

What I believe ought to be addressed here is either that we continue to demand that all articles with political comment must continue to be identified specifically one by one, or you give a generic recognition in a newspaper in which scales or whoever happens—

The Hon. C.J. Sumner: That is what mine does.

The Hon. I. GILFILLAN: I do not understand that the meaning of your amendment does that. That might be your intention, but I do not think it is going to do it.

The Hon. C.J. Sumner: It is very clear that it does.

The Hon. I. GILFILLAN: It is certainly not clear to me. I do not know whether the Hon. Trevor Griffin sees it as I do. If that is the aim, let us get it in a way which even my limited understanding of English can understand it.

The Hon. C.J. Sumner: What do you think mine does?

The Hon. I. GILFILLAN: Your clause does not mean the whole paper can have it printed on the bottom or the top of the page. It is actually in each article. That is going to mean a multitude, perhaps 10 or 12 different identifications in each paper. I have no objection to an author or reporter being acknowledged by name in the paper and it may be a reasonable requirement that they are. I think it is quite unreasonable for their address, but I believe it is also acceptable in certainly the print media that a responsible person in the paper itself can take the overall responsibility. My amendment was attempting to achieve that. If we are all of the same intention, I think it is a matter of getting some simplified English so we understand it.

The Hon. K.T. GRIFFIN: In the absence of Parliamentary Counsel, could I just make a suggestion for drafting it. I know we are doing it a bit on the run.

The Hon. I. Gilfillan: Is the Hon. Mr Griffin's intention the same as mine?

The Hon. K.T. Griffin: Yes.

The Hon. I. Gilfillan: Is the Attorney's intention the same as mine?

The Hon. C.J. Sumner: Yes, that is what I have done.

The Hon. K.T. GRIFFIN: Without moving anything at the moment, if we take the Attorney-General's proposal, could I suggest that it read:

A person shall not during an election period publish material consisting of or containing a commentary on any candidate or political Party or the issues being submitted to electors in written form or by radio or television unless the material—

and then insert:

or the programme in which the material is presented contains a statement of the name and address, not being a post office box, of a person who takes responsibility for the publication of the material.

Then if we go to the Attorney's subclause (2) and leave it as it is but add two further paragraphs. Paragraph *(c)* would be what is in fact paragraph *(b)* on mine, and that is:

a publication in a newspaper of an article, letter, report or other matter in the newspaper contains a statement to the effect that a person whose name and address, not being a post office box, appears in the statement takes responsibility for the publication of all electoral matter published in the newspaper.

Then a further paragraph, *(d)*, in respect of a news service or current affairs programme on radio or television. It will need, of course, a bit of tidying up, but what it seeks to do is identify some exceptions in addition to those two which the Attorney-General has referred to in his subclause (2). If that were generally acceptable, at least on the run, could I make a suggestion that rather than holding up proceedings, we pass something like this and then the Attorney-General can look at it when it goes down to the House of Assembly and refine the drafting. Is that all right?

The Hon. C.J. Sumner: All right, I agree.

The Hon. I. GILFILLAN: No, it is not. Do you insist that there be an address with an author in the context? They all have to have an address?

The Hon. K.T. Griffin: Yes.

The Hon. I. GILFILLAN: How do you define an address?

The Hon. K.T. Griffin: The place where you can find the person.

The Hon. I. GILFILLAN: It can be the address of the newspaper or the TV channel?

The Hon. K.T. Griffin: Yes. You have to have some place to serve your writ.

The Hon. I. GILFILLAN: I hope they do not use my address. As far as the Act goes, they could use my address.

The CHAIRMAN: Does the Attorney accept that proposal?

The Hon. C.J. Sumner: With the changes proposed by Mr Griffin.

The Hon. K.T. GRIFFIN: I seek leave to withdraw my amendment, if that will help, in favour of the Attorney-General moving his amendment with the alterations which I have indicated.

The CHAIRMAN: The Hon. Mr Gilfillan, are you prepared to withdraw your amendment?

The Hon. I. Gilfillan: Gladly.

The CHAIRMAN: Leave is granted for the withdrawal of those two amendments.

Leave granted.

Clause negatived.

The Hon. C.J. SUMNER: We will wait until we get the amended clause from the Hon. Mr Griffin. The new clause will be mine, plus the words added by the Hon. Mr Griffin.

New clause 118—'Published material to identify person responsible for political content.'

The CHAIRMAN: The new clause 118 is worded as the Hon. Mr Griffin has explained.

The Hon. C.J. SUMNER: I move to insert the following new clause:

118. (1) A person shall not, during an election period, publish material consisting of, or containing a commentary on any candidate or political party, or the issues being submitted to electors, in written form, or by radio or television, unless the material or

the programme in which the material is presented contains a statement of the name and address (not being a post-office box) of a person who takes responsibility for the publication of the material.

Penalty:

(a) if the offender is a natural person—$500;

(b) if the offender is a body corporate—$2 500.

(2) This section does not apply to—

(a) the publication in a newspaper of a leading article;

(b) the publication of a report of a meeting;

(c) the publication in a newspaper of an article, letter, report or other matter if the newspaper contains a statement to the effect that a person whose name and address (not being a post-office box) appears in the statement takes responsibility for the publication of all electoral matter published in the newspaper.

(d) in respect of a news service or a current affairs programme on radio or television.

New clause inserted.

Clause 119 negatived.

Clause 120—'Candidates not to take part in elections.'

The Hon. K.T. GRIFFIN: I have a question of the Attorney-General. What does the clause mean? Is it limited in his view to the participation in a capacity such as a returning officer or polling clerk or something like that, or is it wider?

The Hon. C.J. SUMNER: It is intended to cover conduct of an election, which is the physical process of conducting the election, returning officers, polling clerks and the other people that are involved. That is probably to some extent related to that other amendment that we had to reconsider in favour of personal canvassing by a candidate on election day.

Clause passed.

Clauses 121 and 122 passed.

Clause 123—'Secrecy of vote.'

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

Page 55, line 141—Leave out 'Five hundred dollars' and insert 'One thousand dollars or imprisonment for three months'.

That is the ratio between fine and imprisonment which recently the Attorney incorporated in the renamed Police Offences Act. It seems to me that $500 for clandestine or dishonest attempts to discover how you voted ought to be rewarded with a much higher penalty, and I move the amendment accordingly.

The Hon. C.J. Sumner: Should the penalty not also apply to subclause (2)? In subclause (2) *(b)* you are attempting to discover how someone votes.

The Hon. I. GILFILLAN: That is not necessarily so. It could be done just by a mistake, and, if it were, the person concerned would incur the penalty under subclause (1). I think that the penalty under subclause (2) is consistent with that under subclause (1).

The Hon. K.T. GRIFFIN: Yes, I think there is a valid distinction.

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

Amendment carried; clause as amended passed.

Clauses 124 to 126 passed.

Clause 127—'Other offences relating to ballot papers, etc.'

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

Page 56—

Line 12—

Leave out 'by dishonest means'.

Line 14—

Leave out 'wilfully'.

After line 19—

Insert subclause as follows:

(1a) It is a defence to a charge of an offence against subsection (1) *(a)* or *(b)* to prove that acts alleged to constitute the offence arose from an honest misunderstanding or mistake on the part of the defendant.

My amendment seeks to strengthen the clause which relates to certain offences involving ballot papers. The clause states that a person shall not by dishonest means exercise or attempt to exercise a vote to which he is not entitled, wilfully vote more than once at the same election or make a statement in any claim, application, return or declaration or in answer to a question under this Act, that is, to his knowledge false or misleading in a material respect. The penalty is $2 000 or imprisonment for six months. Quite obviously, one is very rarely going to get a conviction where there may have been dishonesty or someone may have wilfully voted more than once at the same election, because the intention, generally speaking, can only be discerned from the person who has in fact committed those acts, and I think that we ought, as much as possible, to actively discourage any dishonest attempt to exercise a vote to which someone is not entitled.

For example, a person may have died and the name has not been removed from the roll; somebody goes along and votes purporting or claiming to be that person—and that has happened—or has deliberately gone to more than one polling booth and voted more than once—and I know that has happened—and it has been detected, fortunately. What I want to do is remove in paragraph *(a)* the words 'by dishonest means'; in paragraph *(b)* I want to remove the word 'wilfully'; and then I want to provide a defence for those who inadvertently or innocently do the acts referred to in paragraphs *(a)* or *(b)* by saying that it is a defence to a charge of an offence against paragraphs *(a)* or *(b)* of subclause (1) to prove that the act alleged to constitute the offence arose from an honest misunderstanding or mistake on the part of the defendant. I think that does protect adequately the inadvertent or mistaken act.

The Hon. C.J. SUMNER: The amendment is accepted.

Amendment carried; clause as amended passed.

Clause 128—'Prohibition of canvassing near polling booths.'

The Hon. I. GILFILLAN: I move:

Page 56, line 34—Leave out paragraph *(d)*.

This amendment is partly consequential on my earlier successful efforts to make legal not marking a ballot paper. Paragraph *(d)* will put in jeopardy anyone who suggests that. I seek clarification from the Attorney about that and whether it conflicts with clause 88, which we have already passed.

The Hon. C.J. SUMNER: I do not believe it does. We have compulsory voting, and it ought to remain a prohibition to induce an elector not to attend a polling booth.

The Hon. I. Gilfillan: If that is what constitutes a vote, yes. I am not sure that it does.

The Hon. C.J. SUMNER: Attending a polling booth, getting and marking one's paper and putting it in the ballot box is part of it.

The Hon. I. Gilfillan: Does the Hon. Mr Griffin agree?

The Hon. K.T. Griffin: Yes.

The Hon. I. GILFILLAN: I seek leave to withdraw my amendment.

Leave granted.

The Hon. I. GILFILLAN: I move:

Page 56, line 39—Leave out 'six' and insert '500'.

My amendment increases the distance within which it is an offence to do certain things. There are advantages in removing to well beyond arm's length the harassers of poor innocent voters and it is with their comfort and wellbeing in mind that I move the amendment, on the assumption that at 500 metres radius the average voter will be able to penetrate the circle on foot or by car with a sporting chance of not being harassed with a how to vote card.

The Hon. C.J. SUMNER: The Government opposes the amendment, which verges on the absurd.

The Hon. I. Gilfillan: If you like how to vote cards, you should come out and say it. Do you think handing out how to vote cards is a great part of the electoral process?

The Hon. C.J. SUMNER: Yes, I have no trouble with how to vote cards.

The Hon. K.T. Griffin: I don't, either.

The Hon. I. Gilfillan: Have you asked the South Australian voters?

The Hon. C.J. SUMNER: I do not think voters mind being given how to vote cards at the poll. My own impression is that most voters would welcome it. I do not have an ANOP poll. I accept that how to vote cards are an important part of the process of informing voters, and I have no strong resistance to their being available in polling booths. Most people welcome them.

The Hon. I. GILFILLAN: The amendment concerns not just voters but people canvassing, soliciting and inducing—it is a physical activity. The availability of how to vote cards can be made comfortably under this clause. It does not preclude that at all.

The Hon. K.T. Griffin: Canvassing for votes must include handing out how to vote cards.

The Hon. R.I. LUCAS: I want to introduce some facts on the amendment, and I refer to the *Australian Electoral Commission Research Report on Informal Voting, 1984 House of Representatives Report*, pages 68 and 69, which quotes the results of a post election survey conducted by the Roy Morgan Research Centre, which asked the question, 'Did you use "how to vote" cards of any political Party, to help fill in your ballot papers at the election?' If the answer was affirmative, the respondent was then asked which ballot papers so assisted. The report states:

> Less than a third (30.8 per cent) said that they had not used a card, while 1 per cent could not remember whether they had or not. Of those who had used a card (66.7 per cent), more than half had used it for all three ballot-papers. [Senate, House of Representatives and the referendum]. ALP and Coalition voters, 68 per cent and 72 per cent respectively, were more likely to use cards than Australian Democrat voters (45 per cent) which may be primarily a consequence of the difficulties a smaller Party has in staffing the polling booths.

I do not know whether that is correct.

The Hon. I. Gilfillan: Did they distinguish between how to vote cards in the booth and those dispersed by hand?

The Hon. R.I. LUCAS: No distinction was made.

The Hon. I. Gilfillan: They could have used those in the booth.

The Hon. R.I. LUCAS: Only 45 per cent of Democrat voters did. The report continues:

> Differences in usage were negligible when demographic variables were checked. It seems certain that the how to vote card remains an important component in the electoral process and for all sorts of electors.

The last sentence is important. That report from the Australian Electoral Commission is not from any Party political representative—it is the independent Electoral Commission making that comment. The absurdity of the amendment is that, in saying that one should not exhibit a notice or sign other than an official notice relating to the election within 500 metres of an entrance to a booth, whether one is on public or private property, it would mean that if the Hon. Mr Gilfillan had a house 400 metres from a polling booth the honourable member would be unable to have inside that house a sign or poster saying that he was a great bloke, he would be banning that. The effect of the amendment is to say that on any public or private place one cannot exhibit a notice or sign relating to the election.

The Hon. I. Gilfillan: That's on only one day, when the polling booths are open. That is no hardship.

The Hon. R.I. LUCAS: It is not a hardship, but the amendment creates an offence. It would catch a person exhibiting a sign inside his house. The view of the Hon. Mr Griffin and the evidence from the Australian Electoral Commission are sufficient justification for me to oppose the amendment.

The Hon. I. GILFILLAN: I do not have any objection to how to vote cards being available for electors to use. They are very helpful for people, particularly with complicated ballot sheets. We object to the pushing of how to vote cards on electors. That is the point of the amendment.

Amendment negatived; clause passed.

Clause 129—'Special provision in relation to how to vote cards, etc., for House of Assembly elections.'

The Hon. C.J. SUMNER: My new clause 129 is a revamp of the clause now before the Committee but is more comprehensive. It recognises that we have a system of compulsory voting whereby there are certain requirements on an elector to vote in a certain way and to attend the booth. This is designed to prohibit advocacy of forms of voting that are inconsistent with the Act.

The Hon. I. GILFILLAN: I am not happy with subclause (1) *(c)* of the Minister's proposed new clause 129. I realise that there may be some complications in the way in which this Bill attempts to express its intention. However, as members of this Council would know full well, I have attempted to offer the public of South Australia, compelled to go to a booth, a reasonable alternative to reluctantly scribbling or filling in a paper or feeling that they are breaking the law. This is another restriction on it that makes it a covert alternative. I can understand that there is some misgiving on the part of those who feel nervous about the results of people exercising their option to leave the paper unmarked lest they lose some electoral advantage, but I remain firmly convinced that in the cause of electoral justice and some expression of the freedom of the elector, once having been compelled to go to the polling booth, this is an unnecessary and bothersome restriction. The 'publicly advocate' could possibly easily be identified as someone discussing it in the hotel bar. It is a risky clause to have in this Bill.

The Hon. K.T. GRIFFIN: I have no problems with new subclause (1), but I do with subclause (2). A valid vote can be a '1', a tick or a cross: that is advocated by the Act. This does not do what I would like to see it do, that is, to require how to vote cards for the House of Assembly to have full preferential voting on them.

The Hon. I. Gilfillan: That is the intention.

The Hon. K.T. GRIFFIN: It is the intention, but that is not what it achieves.

The CHAIRMAN: The honourable member is really advocating that the original clause is preferable to the new one?

The Hon. K.T. GRIFFIN: It is in relation to the House of Assembly, and I think probably the Legislative Council, too, because with the Legislative Council one can mark a '1' at the top of a group or one has to mark fully preferentially.

The Hon. C.J. Sumner: I understand.

The Hon. R.I. LUCAS: I can see the point that the Hon. Mr Griffin makes with respect to new subclause (2), but I disagree slightly with him in his accepting paragraph *(b)* of new clause 129 (1). I would have thought, following his logic with respect to new subclause (2), with which I agree, that the Premier of the day could publicly advocate on the television, radio or whatever that voters should mark with ticks and crosses. The intention of subclause (2) in the printed Bill is to prevent, for example, the Premier of the day from indicating either ticks or crosses but also from advocating voting just '1' in the House of Assembly. I raise

that with the Hon. Trevor Griffin as to whether paragraph *(b)* of new clause 129 (1) also has problems of a similar nature to new clause 129 (2).

The Hon. K.T. GRIFFIN: I looked at that and then had second thoughts about my original doubt, because it refers to the manner required by this Act; it does not refer to the question of the valid vote. I can accept that there is some doubt about it. If the honourable member can find a form of words that would put it beyond doubt, I would be happy with that. The Act requires marking a ballot paper in a particular way. It does not relate to what happens after the ballot paper has been marked.

The CHAIRMAN: So does clause 129 of the Bill.

The Hon. R.I. LUCAS: Under paragraph *(b)* of new clause 129 (1), someone (the Premier, for example) could advocate just putting '1' in the box for the Assembly, because that is in a manner required by the Act.

The Hon. K.T. GRIFFIN: No, the Act requires full preferential, but allows the vote to be counted if it has a '1' in it.

The Hon. I. Gilfillan: The Act allows only one type of public advocacy.

The Hon. C.J. SUMNER: I have a proposition to put with respect to new subclauses (1) *(b)* and (2). It would become:

A person shall not distribute how to vote cards in relation to an election unless each card is marked so as to indicate a valid vote in the manner provided for in section 79 (1) and (2).

The CHAIRMAN: The draftsman has suggested, 'A voter should mark a ballot paper otherwise than in the manner provided for in section 79 (1) or section 79 (2).'

The Hon. K.T. GRIFFIN: I am satisfied with that.

The Hon. I. GILFILLAN: I have not had a chance to consider the recent amendment. I am happy with these restrictions. Maybe the Attorney-General can explain how it is justified, particularly paragraph *(c)*, which deals with illegal activity. What does 'public advocacy' imply? Under paragraph *(a)* maybe a person can say that a person shall not publicly advocate a person who is entitled to vote at an election should abstain from voting at the election on the grounds that he is inciting him to perform an illegal act. That may be a grounds for it, although I am not sure it is. The same would apply under paragraph *(c)*. I see the other parts of the amendment as sensible, and thoroughly support them. However, these other two aspects seem to be petty infringements, and I am unhappy with them.

The Hon. K.T. Griffin: Which ones are petty infringements?

The Hon. I. GILFILLAN: Paragraph *(c)* particularly and to a lesser extent paragraph *(a)*.

The Hon. C.J. SUMNER: The reply would be the same that I gave when introducing the proposed clause, namely, that the Bill provides for a compulsory vote with respect to how one votes and provides in the Bill for a method of filling out the ballot paper, that is, filling out the House of Assembly ballot paper by 1, 2, 3, 4, 5, and the Legislative Council ballot paper by the block system above the line or by individual votes below the line. Given that general scheme of the Act, this section is designed to reinforce that aspect of the voting procedure.

The Hon. R.I. LUCAS: I do not have many problems with paragraph *(a)*, but I can see what the Hon. Mr Gilfillan is driving at with respect to paragraph *(c)*. Let us consider a political commentator like Dean Jaensch on the 5DN talk back show discussing what one can and cannot do under the provisions of the Electoral Act. On my understanding it is not illegal to not mark a ballot paper. Dean Jaensch may say on a talk back show—whatever radio or television station was interviewing him—'You only have to attend a polling booth; it is not compulsory for you to complete a ballot paper.' I think that I have heard him say that on a fair few occasions over previous elections. I attended a political science seminar he gave in the mid 1970s and he was the first person to tell me that that was the case.

The Hon. K.T. Griffin: He said it earlier this year when we raised the question of voluntary voting.

The Hon. R.I. LUCAS: The Hon. Mr Griffin said that he publicly said it earlier this year when we raised the question of voluntary voting. If the effect of the provision is to say to Dean Jaensch that he is performing an illegal act not only would he be unhappy but I think the Hon. Mr Gilfillan and I would be unhappy, too. I do not know whether or not it comes within the terms of public advocacy but, if it does and if there is some argument that it would cause Dean Jaensch to be commiting an illegal act, I ask that the Attorney-General think about it and see whether it really is what is intended.

The Hon. C.J. SUMNER: I do not think that Dean Jaensch explaining that one has to attend the polling booth but need not fill out the ballot paper would be public advocacy that voters should refrain from it by merely explaining the law. However, it would prohibit a 'vote informal' campaign. I do not see that Dean Jaensch or any one else explaining the law would be public advocacy for refraining from marking a ballot paper.

The Hon. R.I. Lucas: I take it that all those stickers saying 'Don't vote: it only encourages them' are illegal.

The Hon. C.J. SUMNER: They are illegal now.

Clause negatived.

New clause 129—'Prohibition of advocacy of forms of voting inconsistent with the Act.'

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

129. (1) A person shall not publicly advocate—

(a) that a person who is entitled to vote at an election should abstain from voting at the election;

(b) that a voter should mark a ballot paper otherwise than in the manner required by this Act;

or

(c) that a voter should refrain from marking a ballot paper issued to the voter for the purpose of voting.

Penalty: $2 000.

(2) A person shall not distribute how-to-vote cards in relation to an election unless each card is marked so as to indicate a valid vote in the manner required by this Act.

Penalty: $2 000.'

The Hon. I. GILFILLAN: I move:

That new subclause *(c)* be deleted from new clause 129 (1).

I think that everyone understands my reason for moving for this deletion.

The Hon. R.I. LUCAS: I have sympathy with the Hon. Mr Gilfillan's view, but if the Attorney's interpretation of 'public advocacy' is that there would not be any action taken against Dean Jaensch, for instance, for indicating what is legally entitled to happen under the Act (that is, explaining by way of public comment that a person does not have to mark a ballot paper and no action will be taken against him; however, if one takes the next step and mounts an active campaign to encourage people not to vote that is different) then I support it. If the practise is that people like Dean Jaensch cannot explain to someone that they do not really have to fill out a ballot paper if they do not want to without getting into trouble, then I would some time in the future support a change to this provision. At this stage I will not support the deletion of clause 129 (1) *(c)*. However, I place on notice my support for the Hon. Mr Gilfillan's comments, in principle. However, I am comforted by the Attorney's explanation about how the clause will operate and by his saying that no action will be taken against Dean Jaensch or others who might explain what one is legally entitled to do under the Act, but who do not organise a massive campaign promoting informal voting. I am therefore persuaded by the Attorney's argument.

The Hon. K.T. GRIFFIN: Public advocacy really requires some positive promotion, so I am satisfied that the clause is satisfactory. The only thought that comes to my mind is that I wonder what happens if there are only two candidates in an election for a particular seat and somebody says that neither of them is worth voting for. I suppose that a person can make that comment and that that is not public advocacy of refraining from marking a ballot paper. Therefore, I am prepared to support paragraphs *(a), (b)* and *(c)* of subclause (1).

The Hon. I. GILFILLAN: I am disappointed with a bunch of nervous nellies. I think we have come to a sorry state. What sort of a risk is it to a democracy that someone must risk a penalty of $2 000 for being so reckless and reprehensible as to suggest that perhaps somebody who is entitled to vote should abstain from voting and, more so, someone is not able to encourage someone to exercise a legal way of fulfilling his obligation. I think this is a ridiculously petty restriction and I am sorry to hear that we are so frightened of the consequences of allowing this to happen that we are treating it as a criminal act. I think it is an insult to the intelligence of the population.

Amendment negatived.

The Hon. R.I. LUCAS: Under the new clause, will someone who says at a rally 'Vote 1 Sumner' and leaves it at that, or carries a placard that says, 'Vote 1 Sumner', be caught by this provision?

The Hon. C.J. SUMNER: Under the new clause I do not think that they are caught at all, because it deals with marking a ballot paper or refraining from marking a ballot paper.

The Hon. R.I. LUCAS: Does not clause 129 (1) and (2) tell people to mark all the preferences?

The Hon. C.J. SUMNER: That relates to distribution of how to vote cards.

The Hon. R.I. LUCAS: New clause 129 (1) *(b)* states:

that a voter should mark a ballot paper otherwise than in the manner required by this Act;.

Clause 79 (1) says that a person has to fill in everything; it does not say that a person can just fill in one. Clause 79 (2) says that a voter shall mark his vote on the ballot paper by placing a number 1 in the square opposite, etc.

The Hon. C.J. SUMNER: I think that that relates to the ballot paper. If one had a big ballot paper stating 'Vote Hurford is the one' and you put the 1 in and left the rest blank, that would be contrary to the provision, but if one just had a sign that said 'Hurford is the one for Adelaide'—

The Hon. R.I. Lucas: If there were Labor posters stating 'Vote 1 Hurford Adelaide' all the way around the town and at a meeting Hurford says, 'On Saturday I want you to vote 1 Hurford in Adelaide,' what would be the situation?

The Hon. C.J. SUMNER: It has to be with respect to a ballot paper. If all you are showing are signs 'Vote 1 Hurford' I do not see how that can be construed as advocacy in relation to a ballot paper because it does not relate to the ballot paper but to the election and the vote for Hurford.

New clause inserted.

Clause 130 passed.

Clause 131—'Forging or uttering electoral papers.'

The Hon. I. GILFILLAN: I move:

Page 57, line 28—Leave out 'Five thousand dollars or imprisonement for six months, or both' and insert 'Ten thousand dollars or imprisonment for twelve months, or both'.

As I mentioned during the second reading debate, the actual forging of an electoral paper appears to be a substantial infringement of the Act and the only way that that can be reflected is to impose a penalty that is a little more appropriate for so doing.

There can be no other reason for the forging of an electoral paper unless the forger or that person who may have engaged the forger intends to assume power, and I cannot see that there could be anything much more serious as an infringement of this Act than some people deliberately attempting to distort the result of a democratic election. As this clause is spelt out, it is not open to any chance or casual off-the-cuff decision. It is a calculated, deliberate offence and therefore we believe the penalty should be raised to $10 000 or imprisonment for 12 months or both.

The Hon. C.J. SUMNER: I do not accept the amendment. I think the penalty is adequate. I further consider that, if more than one electoral paper were forged, the offence would be repeated.

The Hon. I. Gilfillan: One offence for each forged paper? For 100 papers you would have 50 years in gaol.

The Hon. C.J. SUMNER: Potentially, but obviously that would not occur. That sort of thing happens in a lot of offences. There are a lot of offences in the Statute Books that occur on one day, and if you do not correct the situation the next day, you repeat the offence. In any event, I still think the penalty is adequate. It is quite a severe penalty.

The Hon. K.T. GRIFFIN: I am of two minds. I do not necessarily agree that if one forges 100 electoral papers one is likely to be prosecuted 100 times and face this maximum penalty on each of 100 occasions. I do not think that is the way it operates. If one forges 100, one will be charged with one offence. I think it is largely academic, but I am inclined to support the Hon. Mr Gilfillan. For forging and uttering cheques, for example, I think the penalty under the Criminal Law Consolidation Act is very much more than this, and forging and uttering any electoral paper is just as serious as forging and uttering cheques. I suppose it is a question of what price one puts on the ballot paper.

It is a deliberate act, a dishonest act, and at the present time I am inclined to support the Hon. Mr Gilfillan on this. Perhaps if the Attorney-General wants to give it more thought when it is in the House of Assembly, we will certainly consider it more. At the moment, to enable it to be kept alive, we will support his amendment.

The Hon. C.J. Sumner: I cannot support it. I think $1 000 or six months is a common penalty.

The Hon. I. Gilfillan: Don't you think it is a serious offence?

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

Amendment carried; clause as amended passed.

Clauses 132 to 134 passed.

Clause 135—'Injunctions.'

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

Page 58, lines 35 to 38—Leave out all words in these lines and insert 'the Electoral Commissioner'.

Page 59—

Lines 4 to 7—Leave out all words in these lines and insert 'the Electoral Commissioner'.

After line 8—Insert subclause as follows:

(2a) An injunction shall not be granted under this section in respect of a contravention of, or non-compliance with, a provision of Division II of Part XIII.

There was an objection raised to the injunction procedure by the Hon. Mr Griffin, in particular whether a candidate should be able to take out an injunction in the case of a contravention or an offence against the Act or other law of the State. The Hon. Mr Griffin felt that giving that power to a candidate would be potentially unduly disruptive of an election—I am not sure whether that was his view—but my compromise is that that power should be left with the Electoral Commissioner who could no doubt assess whether the breach was such as to be serious enough to warrant the injunction being taken out. He would obviously not act in a capricious, frivolous or vexatious manner. I think that is the gravamen of the honourable member's objection to the procedure which involved the candidate. My amendment

would enable the injunction procedure to be used by the Electoral Commissioner only.

The Hon. K.T. GRIFFIN: That is essentially the position as I put it. I am therefore prepared to accept and support the amendment moved by the Attorney-General so that any injunctive proceedings are to be taken only by the Electoral Commissioner. I think that, in the hurly-burly of the election campaign, it is inappropriate for a candidate with an obvious ulterior motive to take proceedings with a view to frustrating a campaign and, if the responsibility is that of the Electoral Commissioner alone, it will not be a course of action which he will pursue without some very serious consideration and some evidence of substance to justify the application for such an injunction.

The other aspect to this is that it is not going to apply to electoral advertising, and I think that that is appropriate. That is why, although I have indicated on my amendments on file that I will oppose this clause, in light of the Attorney-General's amendment, which I am prepared to support, I will not ultimately oppose the clause.

The Hon. C.J. SUMNER: The other factor—I was really only speaking to the first part of my amendment but the Hon. Mr Griffin mentioned the other aspect of it—means that the injunctive procedure would not apply to misleading advertisements. Any redress with respect to misleading advertisements would have to be taken to the Court of Disputed Returns and the aggrieved party would have to establish to the satisfaction of the Court of Disputed Returns that the misleading advertisement affected the result of the election.

Amendments carried; clause as amended passed.

Clauses 136 and 137 passed.

Clause 138—'Preservation of ballot papers.'

The Hon. K.T. GRIFFIN: I do not propose to move the amendment I have on file. It was put on file at a time when we were still considering the Constitution Act Amendment Bill when I had proposed information being made available by the Electoral Commissioner in the event of a casual vacancy in the Legislative Council. In light of the fact that that amendment which I moved in respect of that Bill was not carried, there is no good purpose served in moving the amendment which I have on file in relation to this clause.

Clause passed.

New clause 138a—'Offences committed with connivance of person other than offender.'

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

After clause 138 insert new clause as follows:

138a. Where a person commits an offence against this Act on behalf, and with the connivance, of another, that other person is also guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

This comes from an excess of caution to deal with those who may commit an offence with the connivance of another person. It makes the other person also guilty of an offence.

New clause inserted.

Clauses 139 and 140 passed.

Clause 141—'Regulations.'

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

Page 59, line 38—After 'the use' insert ', on an experimental basis,'.

I seek to provide what is already in the present Act, where regulations are made authorising the use of machines or devices of a kind specified in regulations for the purpose of recording votes, then the use can be prescribed on an experimental basis. During the second reading debate I made the point that, if machines or devices are to be used in an election other than on an experimental basis, the scheme within which the machines or devices are used to count votes ought to come back to the Parliament and not be left to regulation. In the current stage of development of voting machines it seemed to me not to create any hardship for the Government of the day or the Electoral Commission if we had provision for regulations for the use of voting machines only on an experimental basis in the same context as the provision in the present Act.

The Hon. C.J. SUMNER: I oppose the amendment. I think that, if the regulations were made on a permanent basis and an Electoral Commissioner was silly enough to do that without providing for some experimental period, they would come before Parliament and would be subject to debate and discussion and possibly disallowance. I think there is no need to restrict the regulation making power in this respect.

The Electoral Commissioner has advised me that, if he was going to introduce machines or devices in respect of the recording of votes, it would be done initially on an experimental basis and regulations would be promulgated to enable that to happen. I believe that the power to do that does not need to be written down.

Amendment negatived; clause passed.

Clause 4—'Interpretation'—further considered.

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

Page 3, lines 5 to 13—Leave out definition of 'non-resident elector'.

This is consequential upon the fact that we are removing non-resident electors from the Bill, which was one of the objections raised by honourable members opposite.

The Hon. K.T. GRIFFIN: I support the amendment. It is something we advocated because of the very real potential for abuse in the application of the Commonwealth provisions relating to elegible overseas electors, to the spouse or child of an elegible overseas elector and to itinerant electors. We took the view that the inclusion of those categories of electors in our State legislation would be open to abuse and legal roll-stacking. I am very pleased that the Attorney-General has now agreed that that is a possibility and is now moving for the complete deletion of those categories of electors. I support the amendment.

Amendment carried.

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

Page 3, after line 28—Insert definition as follows:

'"registered name" in relation to a registered political party means the name of the party, or an abbreviation of the name of the party, entered in the Register of Political Parties under Part VI:'

The Hon. C.J. SUMNER: The Bill uses the expression 'registered name' in clauses 65 (1) and 65 (2) *(c)* (ii) and my amendment provides a definition of 'registered name'.

Amendment carried.

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

Page 4, lines 26 to 28—Leave out subclause (3).

This relates to the declaration voting procedure which I had in the Bill originally and to which the Opposition objected. Now there is an amendment on file to accommodate their objections. If the amendment that I have placed on file is acceptable to them, clause 4 (3) is unnecessary.

Amendment carried; clause as amended passed.

Clause 29—'Entitlement to enrolment'—further considered.

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

Page 12, lines 6 to 12—leave out subclause (3).

This is consequential on the removal of non-resident voters and itinerent voters.

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

Amendment carried.

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

Page 12, lines 15 to 26—Leave out subclause (5) and insert subclause as follows:

(5) Where a person is imprisoned, it shall be presumed, for the purposes of this Act, that the prisoner's principal place of residence is—

(a) the place that constituted the prisoner's principal place of residence immediately before the commencement of the imprisonment;

(b) if there is a place of residence in the State—

(i) owned wholly or in part by the prisoner, or at which a parent, spouse or child of the prisoner resides;

(ii) at which the prisoner intends to reside on release from prison;

and

(iii) in respect of which the prisoner elects to be enrolled—

that place;

(c) if—

(i) there is no place of residence in the State in respect of which the prisoner may be enrolled under paragraph *(a)* or *(b)*;

and

(ii) the prisoner has been sentenced to imprisonment for two years or more—

the place at which the prisoner is imprisoned.

(6) A prisoner shall, for the purposes of the provisions of this Act relating to enrolment, be deemed to reside at the place that constitutes the prisoner's principal place of residence under subsection (5).

The Hon. R.I. LUCAS: Although I can understand paragraphs *(a)* and *(c)* of new subclause (5), will the Attorney explain paragraph *(b)*?

The Hon. C.J. SUMNER: It deals with the situation where a prisoner is part of the family unit or owns premises that were his principal place of residence immediately before the commencement of imprisonment. The prisoner can choose under paragraph *(a)* of subclause (5) to be enrolled, if he has a sentence of less than two years, at the place of residence used immediately before the commencement of imprisonment. Paragraph *(b)* deals with the situation where a prisoner's family moves and the prisoner intends to reside at the new place upon release. That is more logical. The prisoner cannot just nominate anywhere where his parents, spouse or child have gone to. He must nominate that place provided that the parent, spouse or child was living at that residence of the prisoner when he was imprisoned. So, it restricts the choice that the prisoner has when the family moves.

The Hon. R.I. LUCAS: If he is living with his mother before he goes to gaol and she moves after he has gone into gaol, he is entitled to enrol where his mother then is. But, if he was not living with her before he went to gaol and she moved, he would not be entitled to enrolment at her address.

The Hon. C.J. SUMNER: Yes.

The Hon. I. GILFILLAN: Does he have to have equity in the house?

The Hon. C.J. SUMNER: No.

The Hon. I. Gilfillan: From my casual reading of it, it seems as though it was owned wholly or in part by the prisoner.

The Hon. C.J. SUMNER: If it is owned wholly or in part by the prisoner—

The Hon. K.T. Griffin: And if he intends to reside there and elects to be enrolled there—

The Hon. C.J. SUMNER: Yes, he can move to the family. It overcomes the situation of a prisoner and his family living at Cook before the imprisonment. If three months later the family moves to Windsor Gardens, it seems artificial for the prisoner to be enrolled in Cook when his family and his real place of residence and the place to which he intends to go is Windsor Gardens.

The Hon. R.I. LUCAS: Under subparagraph (iii) of paragraph *(b)* the prisoner can elect in respect of the new place at Windsor Gardens. That infers that he does not have to enrol at Windsor Gardens. Can he therefore maintain his enrolment at Cook?

The Hon. C.J. SUMNER: Yes.

The Hon. R.I. LUCAS: Even though someone else is living in his place at Cook, he is enrolled as 'Fred Smith of 14 Smith Street, Cook', but other people can be enrolled at that address also. Is that right?

The Hon. C.J. SUMNER: Yes. That is one consequence of it.

The Hon. R.I. Lucas: Is it an intended consequence?

The Hon. C.J. SUMNER: That is the situation that occurs now on the Electoral Commission.

The Hon. R.I. LUCAS: A prisoner may still be on the roll in a place which he no longer owns and which is inhabited and owned by someone else.

The Hon. C.J. SUMNER: It relates back to the original place of residence of the family: if a prisoner was with the family at the time of his imprisonment and the family shifted, he would be entitled to shift his enrolment with the family, but, if he was not living with mum at the time of his imprisonment, he would not be entitled to enrol with mum subsequently.

The Hon. K.T. GRIFFIN: This is a considerable improvement on what was in the Bill previously, and for that reason I will not object to it. There are a couple of grey areas, but I do not see that they are of great significance.

The Hon. C.J. SUMNER: I appreciate that indication.

Amendment carried.

The Hon. K.T. GRIFFIN: My proposed amendment to lines 15 to 26 on page 12 has now been superseded because it was to delete the whole of subclause (5). It has now been replaced, and I do not intend to move my amendment.

Clause as amended passed.

Clause 52—'Correction of errors or omissions'—further considered.

The Hon. K.T. GRIFFIN: This amendment relates to clause 91a, which we debated earlier in the day. I presume that on the basis that we will try to come to some agreement on a new clause 91a the Attorney-General would be happy for me to indicate my opposition to clause 52.

The Hon. C.J. Sumner: I will postpone it.

The Hon. K.T. GRIFFIN: If the Attorney wants to postpone it, I am happy to keep my amendment on the slow burner.

Consideration of clause deferred.

Clause 72—'Entitlement to vote'—further considered.

The Hon. K.T. GRIFFIN: The first amendment was to leave out subclause (2) but, as I lost the substantive question on provisional enrolment, I therefore do not intend to move that amendment. There are two amendments to subsection (4). I move:

Page 28—

Line 3—Leave out 'Subject to subsection (4),'.

Line 7—Leave out subclause (4).

These amendments are consequential on the deletion of the definition of 'non-resident elector' in clause 4, which has just been passed.

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

Amendments carried; clause as amended passed.

Clause 74—'Manner of voting'—further considered.

The Hon. K.T. GRIFFIN: I seek leave to withdraw the amendment that I moved in favour of the revised amendment that I presume the Attorney-General will move as a result of our considerable debate on that clause.

Leave granted.

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

Page 28, lines 26 and 27—Leave out paragraph *(b)* and insert paragraph as follows:

'(b) who—

(i) will not, throughout the hours of polling on polling day, be within eight kilometres by the nearest practicable route of any polling booth;

(ii) will, throughout the hours of polling on polling day, be travelling under conditions that preclude voting at a polling booth;
(iii) is, by reason of illness, infirmity or disability, precluded from voting at a polling booth;
(iv) is, by reason of caring for a person who is ill, infirm or disabled, precluded from voting at a polling booth;
(v) is, by reason of advanced pregnancy, precluded from voting at a polling booth;
(vi) 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 greater part of those hours; or
(vii) is, for a reason of a prescribed nature, precluded from voting at a polling booth;.

This amendment deals with the problems that were raised by honourable members opposite, particularly the Hon. Mr Griffin and the Hon. Mr Lucas, with respect to the declaration of votes, where they wish to have specified more particularly in the legislation the reasons for which a person may seek a declaration vote on the basis that they are precluded from attending a polling booth on the polling day. My amendment specifies the sorts of reasons that are justified, such as to preclude the person from such attendance. They are the same as the criteria in the existing Act.

The Electoral Commissioner has considered the administrative implications of this and, when an application is made at a place designated as the place where the respective pre-polled declaration votes are concerned he will insert the reason on the application form that the elector gives for seeking to vote before the election day. In fact, in some respects it will be more adequate than what presently exists with postal votes where an elector only has to indicate a number 1 or any of a whole list.

The Hon. K.T. GRIFFIN: I support the amendment. I think it is in line with what I and my colleague, the Hon. Robert Lucas, have been asking for. I am pleased that a reasonable compromise has now been reached.

The Hon. R.I. LUCAS: I point out that there is a slight change in the recommendation of the Attorney with respect to subclause (7), as I read it, from the existing provision, that is, the Attorney has provided for an additional power—we go through all the normal reasons why one might want a declaration vote such as advanced state of pregnancy, illness, etc., then the amendment provides an all-encompassing clause which says, 'Is for reason of a prescribed nature precluded from voting at a polling booth.' That is, on my reading anyway, different from the current State Electoral Act and, I think, also the Commonwealth Electoral Act.

The Hon. C.J. Sumner: The reason for inserting it is in case there are other reasons.

The Hon. R.I. LUCAS: But is it different from the Commonwealth Electoral Act?

The Hon. C.J. Sumner: Yes.

The Hon. R.I. LUCAS: I accept that and am not opposing it, but just point out that it is different from the current State Electoral Act and the Commonwealth Electoral Act, and the Attorney confirmed that. There may be other reasons developed through the years that might need to be defined as reasons for a declaration vote, and they can be prescribed. As the Attorney indicated, there will be a record available for scrutiny by the candidates or their representatives of the number of persons applying for declaration votes under the usual categories or a new category that perhaps might have been prescribed. In one of the earlier schedules of amendments the Attorney had an amendment to clause 74. We deleted a provision from clause 4. Do we do it now, does it come in later, or has it been left off?

The Hon. C.J. Sumner: It is superfluous.

The Hon. R.I. LUCAS: Therefore, when we discussed transferring it to a later stage—

The Hon. C.J. Sumner: I did not say we were transferring it.

The Hon. R.I. LUCAS: That was my understanding. We were just deleting it from clause 4 because this amendment will supersede it.

Amendment carried; clause as amended passed.

Clause 75—'Issue of voting papers'—further considered.

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

Page 28, lines 39 and 40—Leave out subclause (2) and insert subclause as follows:

(2) Declaration voting papers shall not be issued to an elector (not being a registered declaration voter) except on an application made in the prescribed manner and such an application must be supported by a written declaration of the ground of the applicant's entitlement to make a declaration vote, which—

(a) if the application is made orally—must be made before the officer to whom the application is made; or

(b) if the application is made in writing—must be made in the application.

This amendment is part of the package relating to declaration voting and I believe it has been agreed to. It means that an application must be made for a declaration vote and must be supported by a written declaration on the ground of the applicant's entitlement to make the declaration vote, whether or not the application is oral or in writing.

The Hon. K.T. GRIFFIN: I support the amendment. Again, it is consistent with the difficulties we were raising with the application for declaration votes. I am pleased that there is now something which is consistent with what we have been suggesting.

Amendment carried; clause as amended passed.

Clause 52—'Correction of errors or omissions'—further considered.

The Hon. K.T. GRIFFIN: I am happy for the clause to be formally approved but when it is recommitted there will be substantive debate on it.

Clause passed.

[Sitting suspended from 9.45 to 10.50 p.m.]

Clause 98—'Scrutiny of votes in Legislative Council election'—further considered.

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

Page 45, lines 40 and 41—Leave out subclause (24).

As a result of some constructive discussion yesterday or last night we removed the provisions that provided for the possibility of exhausting votes in clause 97 subclause (5) and subclause (6) and, therefore, as we do not have the possibility for exhausting, this section is superfluous, and I therefore move its deletion.

The Hon. I. GILFILLAN: I would like to ask the Hon. Mr Lucas what his understanding is that we have dispensed with the ability for a ballot paper to be exhausted. Could I ask him to consider that exhaustion can occur if there has been an error made further through the paper, which I understand would leave it as a valid vote but of no further significance past the, say, double numbers? Has that gone?

The Hon. R.I. LUCAS: To answer the Hon. Mr Gilfillan's question, we removed those provisions in clause 97 (5) and clause 97 (6) yesterday. Therefore, there is no provision for exhaustion and subclause (24) is superfluous.

Amendment carried; clause as amended passed.

Clause 112 passed.

Bill recommitted.

Clause 5—'The Electoral Commissioner and the Deputy Electoral Commissioner'—reconsidered.

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

Page 4, after line 40—Insert subclause as follows:

(4) Neither the Electoral Commissioner nor the Deputy Electoral Commissioner shall, without the consent of the Minister, engage in any remunerative employment outside the functions and duties of their respective offices.

Amendment carried; clause as amended passed.

Clause 7—'Terms and conditions of office'—reconsidered.

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

Page 5, after line 18—Insert subclauses as follow:

(2a) A rate of salary determined to be payable to the Electoral Commissioner or the Deputy Electoral Commissioner shall not be reduced during his term of office.

(2b) The terms and conditions on which a person is appointed to act in the office of the Electoral Commissioner or the Deputy Electoral Commissioner shall be as determined by the Governor.

The amendment deals with the salaries of the Electoral Commissioner and the Deputy Electoral Commissioner and picks up the wording of the existing Act, indicating that the salaries of those officers should not be reduced. This indicates the independence of the Electoral Commissioner and removes any prospect of the use of a threat of reduction in salary.

Amendment carried; clause as amended passed.

Clause 31—'Registration of claims'—reconsidered.

The Hon. K.T. GRIFFIN: It is no longer necessary for me to move my amendment to this clause because we no longer have the concept of non-resident electors.

Clause passed.

Clause 32—'Duty to enrol'—reconsidered.

The Hon. C.J. SUMNER: I oppose the clause. Clauses 32, 33 and 34 relate to compulsory enrolment and, as a result of earlier discussions, we have agreed not to proceed with those clauses.

The Hon. K.T. GRIFFIN: I am pleased that the Government is no longer proceeding with compulsory enrolment. Voluntary enrolment is, as I have indicated, a principle that has existed in the present Electoral Act for a long period, and I see no reason why citizens who satisfy the criteria should be compelled to enrol if they do not wish to do so. I am pleased to oppose this clause. I had intended to move a new clause merely stating what I suppose is the obvious, namely, that enrolment is not compulsory. I would still like to move that at the appropriate time.

Clause negatived.

New clause 32—'Notifications to be given by an elector.'

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

Page 13, line 15—Insert the following new heading and clauses:

DIVISION III—TRANSFER OF ENROLMENT, ETC.

32. (1) An elector whose principal place of residence changes from one subdivision to another shall, within 21 days of becoming entitled to be enrolled for that other subdivision, notify the electoral registrar for the subdivision in which the principal place of residence is currently situated of the address of the principal place of residence.

(2) An elector whose principal place of residence changes from one address to another within the same subdivision shall, within 21 days of the change, notify the appropriate electoral registrar of the address of the elector's current principal place of residence.

(3) An elector who fails, without proper excuse, to give a notification under this section shall be guilty of an offence and liable to a penalty not exceeding $50.

(4) Proceedings for an offence against subsection (3) shall not be commenced after an appropriate notification has been given.

This new clause picks up the provisions relating to the transfer of enrolment for those who are enrolled. These were incorporated in the compulsory enrolment provisions and, as they are to be deleted, there is a need to pick up that aspect of the original clauses.

New clause inserted.

Clauses 33 and 34 negatived.

Clause 120—'Candidates not to take part in elections'—reconsidered.

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

Page 54, after line 36—Insert subclause as follows:

(2) A candidate shall not personally solicit the vote of any elector on polling day. Penalty: One thousand dollars.

This amendment results from previous discussions dealing with what a candidate may do on election day. It was generally agreed that a candidate should not be soliciting votes on election day and should not participate in the election in any way. That indicates that there shall be no personal solicitation of votes by a candidate on election day.

The Hon. R.I. LUCAS: I welcome the amendment, and I take it that the interpretation given by the Attorney earlier does not preclude the candidate's attending at a booth and chatting with his polling booth workers and electors as long as he is not soliciting votes.

The Hon. C.J. SUMNER: That would be my understanding.

Amendment carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 52—'Correction of errors or omissions'—reconsidered.

The Hon. K.T. GRIFFIN: This clause is not in the present Act, but in the Commonwealth Act. The principle has been translated from the Commonwealth Act to ours. It has some difficulties, because the nature of the error or omission is not defined. Because we have been able to get away without having to use this sort of provision in the past, I see no reason for us to worry about it now. If there is a major problem in the conduct of an election that affects the result of the election, obviously there has to be something more substantial than the Governor's proclamation. It will have to be dealt with more independently than by the Governor's proclamation. So, I see no need to have the provision in the Bill, and I oppose the clause.

Clause negatived.

Clause 64—'Form of ballot papers'—reconsidered.

The Hon. I. GILFILLAN: I move:

Page 24—

Lines 20 and 21—Leave out 'a form prescribed by the Electoral Commissioner' and insert 'a prescribed form'.

After line 21—Insert subclause as follows:

'(2) The following statement must be included on each ballot paper at or near the top of the ballot paper and in clearly legible print—"You are not legally obliged to mark the ballot paper."'

The alteration in the first instance is to determine the nature of the ballot papers which, in the original, was determined by the Electoral Commissioner. That will be deleted and replaced by 'a prescribed form', so that the definition and design of the acceptable ballot papers will be determined by regulation. However, in the second part of the same clause my addition of subclause (2) is to make it clear on the ballot paper that there is the legal option of leaving the ballot paper unmarked. It is aimed at ensuring that it is reasonably conspicuous so that a voter reading a ballot paper will have the information that is marked in inverted commas, namely, 'You are not legally obliged to mark the ballot paper' brought to his notice.

The Hon. C.J. SUMNER: This is acceptable to the Government. The Hon. Mr Gilfillan has had a particular interest in it. After some brief discussions, we have been prepared to accept the proposition put forward by the honourable member. The intention, of which I believe the Hon. Mr Gilfillan is aware, is to include the statement in the instructions that are given to the elector on the ballot paper. Obviously, when the ballot paper is prescribed there will need to be some instructions or directions indicating the manner in which the elector should mark the ballot paper for the purposes of a formal vote, and it is intended that this statement, which the honourable member is now moving be included on the ballot paper, would be contained in those instructions.

I am prepared to accommodate the honourable member on this point, although my preferred position was that it was not necessary. It would be true to say that my preferred position on every clause of the Bill has not been achieved in every case.

The Hon. I. Gilfillan: So say all of us.

The Hon. C.J. SUMNER: So say all of everyone. There have been a number of areas where discussions have given rise to alterations to the Bill. In that spirit (although, as I say, it was not my preferred position to have this included) I am prepared to accept the honourable member's amendment, with the indication that it is to be part of the instructions to the elector.

The Hon. K.T. GRIFFIN: We debated at length clause 64, particularly the form of the ballot paper being prescribed by the Electoral Commissioner. At the time we were debating it before Easter we agreed that it could be in a form prescribed by regulation, for the very important reason that it is not really possible for us to draft a ballot paper in Committee: it would probably look as if it had been drafted by a committee when we had finished considering it.

I wanted to ensure that in the prescribed form there was an express instruction to vote by numbers and in consecutive order preferentially. The amendment I have on file did that. I understand that the position is that the Government gives an undertaking that in the regulations there will be an instruction included on the ballot paper requiring the marking in order of preference by consecutive numbers and, if that is an undertaking by the Government, then I will accept it rather than seek to have any specific statement included in the Act as a direction to the Government in the preparation of regulations.

The Hon. C.J. SUMNER: I am prepared to give that undertaking without being prepared to commit the Governor in Council to the precise form of words that the honourable member has just used in seeking that undertaking. Certainly, the principle instructions, along with the Hon. Mr Gilfillan's statement, to be inserted by his amendment, will include instructions to vote by numbers. That is certainly with respect to the House of Assembly; or with respect to the Legislative Council below the line and above the line by voting with the number 1.

The Hon. PETER DUNN: The second part of this amendment appears to me to be unusual, and I know that it has been previously debated. This provision is akin to the adage 'one can lead a horse to water but one cannot make it drink'. This clause makes it compulsory for a person to go to a polling booth, but not compulsory for a person to vote. It will create confusion in the minds of older people when they read on the bottom of the ballot paper 'You are not legally obliged to mark the ballot paper.' Why should one be compelled to attend a polling booth—I thought it was intended to make one vote. This amendment holds no logic for me.

Amendments carried; clause as amended passed.

Clause 66 passed.

Clause 67—'Photographs of candidates'—reconsidered.

The Hon. K.T. GRIFFIN: Subclause (1) of the amendment that the Attorney-General has on file seems to suggest that all candidates in an election—not just in an electorate—may be required by the Electoral Commissioner to supply photographs prior to the nomination date. What I was proposing when we were debating this clause was that if photographs were required for a particular electorate then all the candidates were required to have photographs—that is, all candidates in that electorate. Therefore, one could do it electorate by electorate. 'All candidates at an election' means all 36 candidates for the Legislative Council. I am happy for there to be flexibility but if, in an electorate, photographs are required, they should be required of all candidates. If photographs are required for the Legislative Council, then it should be photographs of all candidates. However, the rest of the draft amendment is satisfactory.

The Hon. C.J. SUMNER: Greater minds than mine have asked me to convey to the Council that the Parliamentary Counsel's view is that there are separate elections for each electorate and also for the Legislative Council. Therefore, it does in fact cater for the situation that is envisaged. I suppose it could be overcome if an undertaking were given. It is only intended to be there if there is a need to use it because of confusion or something of that kind.

The Hon. K.T. GRIFFIN: Under clause 50 (6), in the case of a general election there is a writ issued for all elections. I suppose to that extent, although there is one writ, it is possible to say that there is an election in each electorate. If it achieves what I am after, on the advice of others, it is probably satisfactory.

Clause negatived.

New clause 67—'Photographs of candidates.'

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

Pages 25 and 26—Insert the following new clause in place of clause 67:

67. (1) If the Electoral Commissioner so decides, photographs of all candidates in an election shall be printed on the ballot paper for that election.

(2) Notice of a decision under subsection (1) shall be published in a newspaper circulating generally throughout the State at least 10 days before the date fixed for the nomination.

(3) A candidate whose photograph is to be printed on a ballot paper in pursuance of subsection (1) shall, before the hour of nomination, submit to the returning officer a photograph—

(a) that was taken of the candidate within 12 months before the submission of the photograph; and

(b) that complies with the requirements of the regulations.

(4) If a candidate fails to comply with subsection (3), the nomination of that candidate is void.

(5) A photograph of a candidate printed on a ballot paper must appear opposite the name of the candidate.

The Hon. R.I. LUCAS: Clause 67 (2) says that notice of a decision under subsection (1) to publish photographs shall be published in a newspaper circulated generally throughout the State at least 10 days before the date fixed for the nomination. If one refers back to clause 50 one sees that the minimum period allowed between issue of a writ and nomination day can be 10 days. I would have thought that, under clause 67 (2), the requirement for at least 10 days would, in certain circumstances, be impossible to meet because in that minimum period of 10 days the Electoral Commissioner would have to advertise prior to knowing that there was to be an election and prior to the writs being issued.

If my understanding is correct, that period of 10 days would have to be amended to a figure of less than 10 days, perhaps eight days, because it would take a day or two to prepare the advertisement, lodge it with the *Advertiser* or the *News* and get it in; otherwise, we will have to return and amend clause 50 by providing a longer minimum period between issue of the writ and nomination day. Is my interpretation of clauses 67 (2) and 50 correct and, if so, should we be amending clause 67 (2)?

The Hon. C.J. SUMNER: I must confess that the course that they took in the Northern Territory was quite reasonable. As I understand, the original rationale for having this requirement in the Bill was in case there was some confusion—the same name, for instance. We felt that in the interests of having a fair election there should be some identification of who the candidates were. Because of the way the clause is drafted I do not see how that can be accommodated because the Commissioner has to give notice that he is going to have photographs on ballot papers 10 days before the date fixed for nomination.

The Hon. R.I. LUCAS: That may be before he issues the writs. How can he issue notices if he has not issued the writs?

The Hon. C.J. SUMNER: It is really a matter of what is the intention. If the intention is that it can be at large and the Electoral Commissioner can decide that there should be photographs on the ballot paper, then I think that clause 67 is satisfactory.

The Hon. R.I. Lucas: How?

The Hon. C.J. SUMNER: It may be that it is too long a time.

The Hon. R.I. Lucas: That is the point I am making.

The Hon. C.J. SUMNER: If the intention is merely to allow photographs to be used to overcome confusion I do not think clause 67 can cope with that situation.

Consideration of new clause deferred.

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

The Hon. C.J. SUMNER: This is a consequential amendment relating to the new revamped declaration voting system that we have now incorporated in the Bill.

Amendment carried; clause as amended passed.

Clause 98—'Scrutiny of votes in Legislative Council elections'—reconsidered.

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

Page 44, lines 19 to 21—Leave out 'and if those candidates have an equal number of votes the returning officer shall have a casting vote, but he shall not otherwise vote at the election' and insert 'but if those candidates have an equal number of votes—

(a) the matter shall be referred, on the application of the Electoral Commissioner, to the Court of Disputed Returns;

(b) the Court shall determine the validity of any disputed ballot papers;

(c) if it then appears that the deadlock has been resolved, the Court shall declare the appropriate candidate elected, but if not, the Court shall order a fresh election; and

(d) a fresh election held by order of the Court under paragraph *(c)* shall be held in accordance with any directions of the Court and the two candidates referred to above shall be the sole candidates in that election.'

After line 21—Insert subclause as follows:

(15a) Subsection (15) does not limit the jurisdiction of the Court of Disputed Returns under Division II Part XII in relation to an election.

I believe, on advice given to me, that my amendment copes with the problem raised by the Hon. Mr Griffin and others. It leads to a situation where any equality of votes is first referred to the Court of Disputed Returns to confirm the validity of any disputed ballot papers. If the deadlock is resolved as a result of that examination and decision of the Court of Disputed Returns then a candidate can be declared elected. If not, the court can order a fresh election.

However, that fresh election will only be held in accordance with the directions of the court and the two candidates referred to (and this is the two candidates between whom there is an equality of votes) shall be the sole candidates in that election. I believe that that resolves this problem. While it is unlikely to happen, it might well save the potential for everybody having to go back to a fresh election, which could be the decision of the Court of Disputed Returns unless the Parliament gives some direction to it. In my opinion, it is preferable to have the situation resolved in this way rather than to have the potential for the court to decide to hold a full election. I do not believe that a court would make a decision other than one for a full election unless it had some direction.

The Hon. K.T. GRIFFIN: I raised some questions about the first draft. I think a reference to the Court of Disputed Returns in the event of a deadlock between two candidates in the Legislative Council is an appropriate way to resolve it so that the Court can determine the validity of any disputed ballot papers. If having made that determination the court can resolve the deadlock, all well and good. If not, there can be a fresh election. In addition to that, there is a safeguard that if for any other reason any candidate for a Legislative Council election wishes to take the whole election to a Court of Disputed Returns, the reference to the Court of Disputed Returns of the deadlock does not override the wider jurisdiction of a Court of Disputed Returns. So, the amendment now accommodates the problem I saw with the first draft, and I am happy to support it.

The Hon. C.J. SUMNER: I understand what the Hon. Mr Cameron is attempting to do, and I supported it in principle when we considered it previously. I still do. I think this is a reasonable way to resolve it, so I will not oppose the amendment. It has only been placed on file and if, after giving it further consideration, I think there may be some problems with it, I will look at it before it gets to the House of Assembly and perhaps they might be able to consider it if they thought this was not quite satisfactory. For the moment, I will support it.

Amendment carried.

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

Page 44, after line 21—Insert subclause as follows:

'(15a) Subsection (15) does not limit the jurisdiction of the Court of Disputed Returns under Division II Part XII in relation to an election.'

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 99—'Scrutiny of votes in House of Assembly elections'—reconsidered.

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

Page 47—

Lines 38 to 41—Leave out 'and if in the final count two candidates have an equal number of votes, the district returning officer shall decide by his casting vote which shall be elected, but except as provided in this section, he shall not vote at the election' and insert 'but if in the final count two candidates have an equal number of votes—

(a) the matter shall be referred, on the application of the Electoral Commissioner, to the Court of Disputed Returns;

(b) the Court shall determine the validity of any disputed ballot papers;

(c) if it then appears that the deadlock has been resolved, the Court shall declare the appropriate candidate elected, but if not, the Court shall order a fresh election.'

After line 41—Insert subclause as follows:

'(7a) Subsection (7) does not limit the jurisdiction of the Court of Disputed Returns under Division II of Part XII in relation to an election.'

This is similar to the last amendment. It covers the situation that was raised by the Hon. Mr Griffin and allows for a reference to a Court of Disputed Returns. Again, it does not limit the jurisdiction of the Court of Disputed Returns if a candidate feels that there are other problems with the election. I ask the Committee to support this amendment for the House of Assembly.

The Hon. C.J. SUMNER: I agree with that on the same basis.

Amendments carried.

The Hon. R.I. LUCAS: The Hon. Trevor Griffin raised some questions yesterday, I believe, with respect to clause 99 (4) and (5), and my last recollection was that there was to be some discussion. Have there been discussions; is he now satisfied that the questions that he raised have been resolved satisfactorily; and, if not, what are we going to do about it?

The Hon. K.T. GRIFFIN: My questions have been resolved satisfactorily. The procedure as I understand it is that the Assistant Returning Officers, under subclause (2) will open ballot boxes, reject informal ballot papers, count

first preference votes and then transmit parcels of ballot papers to the District Returning Officer, who will, by that time, also have received the declaration votes.

The District Returning Officer counts the declaration votes, and under subclause (4), the primary votes having been counted by the Assistant Returning Officers and by the District Returning Officer, where there is an absolute majority of first preference votes for one candidate, the candidate is elected. If there is not, the District Returning Officer opens the various sealed parcels of ballot papers to count the preferences. That is how it has been explained to me. On rereading the clause, that is now my understanding of it, so my questions have been resolved.

Clause as amended passed.

Clause 67—'Photographs of candidates'—reconsidered.

The Hon. C.J. SUMNER: Perhaps I can indicate to the Committee what my proposed new clause 67 provides. The Electoral Commissioner may decide that photographs can be printed on the ballot papers. The suggestion is notice of a decision to do that must be given to the candidates in the election on or before the day that nominations close. So, if the Electoral Commissioner gets two in and he knows that there is going to be a problem, he can immediately set it in motion. If he does not get them until the final nomination time, he has the rest of that day to make a decision to do it. He must send immediately virtually, or on that same day, notice to the candidates that he is going to require photographs.

Then the candidate will have to submit a photograph within a certain period of time. It will have to be a photograph taken within 12 months, and comply with the regulations, and, if he does not comply, the nomination is void. The photograph of the candidate printed on the ballot paper must appear opposite the name of the candidate. That is a rough wording of what we intend. I undertake that, if clause 67 is passed as is, I will discuss this matter.

The CHAIRMAN: Clause 67 has been withdrawn. You have to insert that one and deal with that, or recommit and put clause 67 back in the Bill.

The Hon. C.J. SUMNER: We will put the old one back in. I will negotiate with honourable members opposite with a view to getting an agreed formula to put in the House of Assembly. I seek leave to withdraw my clause 67.

Leave granted.

Bill recommitted.

Clause 67—'Photographs of candidates'—reconsidered.

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

That clause 67 as originally set out in the Bill be reinserted.

Original clause reinserted.

Bill reported with amendments; Committee's report adopted.

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

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: From my calculations we have spent more than 25 sitting hours and certainly much longer in the precincts of the Chamber during adjournments to enable the Government to consider its position and undertake certain negotiations, particularly with the Australian Democrats, on the Bill. I would not like to estimate how long in total we have all been involved in dealing with this important piece of legislation.

Let me say that, although at the second reading stage I drew attention to a whole range of problems which the Liberal Party saw with the Bill and about which it has moved a significant number of amendments, it is pleasing to see that the Government has accepted a number of the propositions that we advanced and has backed away from the rather strong position that was initially portrayed in the Bill. Notwithstanding that, the Bill still contains certain provisions which I would regard as offensive and which still would not represent a fair electoral system in South Australia.

We have rid the Bill of the proposed compulsory enrolment provisions, but regrettably we could not get voluntary voting. Supreme Court injunctions can no longer be obtained during the hurly-burly of the election period to frustrate legitimate advertising. The press, television and radio will now have a much simpler provision to consider in reporting and commenting on electoral matters, and will not suffer the severe constraints that were placed upon the media, not in respect of what could be reported but in respect of the information which would have to accompany the material that it sought either to broadcast or include in the print media.

We have also been successful in eliminating the itinerant voting provisions, the provision for overseas residents and their spouses and families which, as I indicated in the second reading debate and in Committee, would in effect allow legal roll-stacking. The opportunity for prisoners to influence, for example, marginal seats by electing to be added to a roll for the address where they intended to reside on release has been reduced, and the use of mobile polling booths by the Electoral Commission will be reduced from 12 days to four days before the election date, which also reduces significantly the potential for abuse.

It accommodates the concern of the Electoral Commission about permanent polling booths in some areas of remote subdivisions. They are but a few of the issues that have now been resolved during the long Committee stage, but there are others, some technical, some procedural, but some of considerable substance, including that which was originally proposed by the Hon. Mr Cameron relating to the resolution of deadlocks but now being resolved in a way which ensures that all Parties have their rights recognised and protected.

There are a number of matters which in my view are significant and which still create much concern. We still have the problem of the registration of political Parties. There are mixed views on whether or not political Parties should be registered, but the point I made in debate on that issue was that the registration of political Parties opens the way at some future time to greater involvement by statutory or State officials and may of course be a forerunner to public funding of political Parties, a concept that the Liberal Party does not support in South Australia.

We have more particularly the offensive provision which allow ticks and crosses and which equates them with a number 1. That provision is still in the Bill. We find that quite inconsistent with a long established system requiring numbers to indicate intention and for preferences to be indicated fully, particularly in the House of Assembly. The voting system for the House of Assembly, which has required full preferential voting by numbers, has been in effect for decades and has been changed radically, although there have been some statutory provisions included that forbid certain forms of advocacy as to voting otherwise than preferentially.

Notwithstanding that, in effect, the House of Assembly system has been changed dramatically. The voting system for the Council has been changed from what I regarded as a relatively simple and fair system generally in operation in New South Wales and in operation in the 1982 State election, to the system now adopted by the Federal Government for the Senate.

They are but a few of the significant matters that remain in the Bill. I make it clear that the Liberal Party wants a fair and reasonable system which is relatively easy to understand but which on the face of it can enable the accurate

interpretation of voters' intentions without imputing intentions, as some provisions of the Bill still do.

[Midnight]

The system in South Australia in respect of the House of Assembly has been well and truly tried and I do not believe that there are any significant complaints with that. It is rather curious that, having gone to an election in 1982 on that basis, we are now in a position where the present Government seeks to make significant changes to it which will not enhance the integrity of the political system in this State. I have spoken at some length on various aspects of the Bill at the second reading stage and in Committee. I do not intend to repeat the arguments for and against various provisions: suffice it to say that there are still a number of significant issues that are not resolved in the Bill. For that reason, I oppose the third reading.

The Hon. R.I. LUCAS: I agree with much of what the Hon. Trevor Griffin has said and do not intend repeating it. I believe that much improvement has been achieved by the long and laborious Committee system that we have just endured in the Council. I congratulate the shadow Attorney and the Attorney for their attention to the detail in Committee. As the Hon. Mr Griffin knows, through the course of the debate I have taken a slightly different stance on a number of significant issues from that which he has indicated. I have indicated previously, and I still do, that I support the provisional enrolment of 17 year olds, the registration of political Parties and the subsequent placing of the political Parties' names on ballot papers, the simplified voting system of '1' in the box in the Legislative Council, and the simplified system in part that has been introduced for the House of Assembly.

However, I still have one major objection to the Bill. The Attorney and the Hon. Ian Gilfillan are well aware of my strong objection to the provision for ticks and crosses to still be allowed within the terms of the Bill. I have indicated in Committee that, amongst other things, it will introduce an unnecessary state of confusion in electors' minds as between voting in local government, where ticks are no longer allowed, and only recently the Government and the Democrats supported the removal of crosses in voting for local government.

So, as I indicated, I see some major problems resulting from allowing ticks and crosses to be used in the State voting system when they are not allowed at all in the local government system, the voting system for the House of Representatives or in the individual preference system for the Senate. For that reason, and that reason only, on this occasion I will vote against the third reading. However, I place on notice that if for any reason when the Bill came back to us from another place the ticks and crosses were removed from the Bill I would take a different attitude in any vote on the Bill and would support it, but, as that provision remains in the Bill at this stage, I find myself voting against the third reading.

The Hon. C.J. SUMNER (Attorney-General): Briefly to reply, I am disappointed in the Liberal Party's attitude to the third reading. The Government has engaged in extensive negotiations with the Australian Democrats and other members of this Council with a view to getting a Bill that was acceptable to it. A number of important concessions were made by the Government. In the light of that, it is disappointing to see that honourable members opposite intend to vote against the Bill.

The Bill constitutes a significant reform of the electoral laws in this State, a modernising of the Act that has been in existence now for over 50 years, and a rewrite, modernisation, and update in a manner that is desirable. The Bill as it has come out of Committee is fair, and enhances and improves the electoral system. Indeed, as the Hon. Mr Lucas has acknowledged except with respect to one point, the Legislative Council voting system is a significant improvement on the one that we have at the moment, increasing as it does the options of the voter to choose how he shall cast his vote in an election.

The Government has made a concerted attempt to accommodate the objections that were raised by honourable members in this Parliament, and we have in a great number of areas done just that. Obviously, the question of voluntary voting is a question of principle on which the Government now takes a different view from the majority of the Opposition. On that, clearly there could be no compromise. There could be no compromise on a number of other issues. However, given the number of matters that were raised by the Opposition, the Government in these extensive and lengthy Committee stages has done what it could to accommodate legitimate concerns. I ask honourable members to support the third reading.

The Council divided on the third reading:

Ayes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatteron, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, C.J. Sumner (teller), and Barbara Wiese.

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

Pairs—Ayes—The Hons Anne Levy and K.L. Milne. Noes—The Hons R.C. DeGaris and M.B. Cameron.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

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

The purpose of this Bill is to strengthen the drink driving provisions of the Road Traffic Act by implementing a series of recommendations of the Random Breath Testing Select Committee, which reported on 3 April 1985. The question of the most appropriate method to counteract alcohol related driving offences has been under consideration for some time.

A number of investigations have taken place and the aforementioned Select Committee's report contained some 32 recommendations which the Government has been considering with some urgency. The Government has accepted the general thrust of the report and is now working for the speedy implementation of its various recommendations. The Bill before the House now gives effect to a number of recommendations requiring legislative change and another Bill that will shortly be considered by the House, the Motor Vehicles Act Amendment Bill (No. 2), 1985, will give effect to a further series of recommendations. Both Bills together form a package of legislation that will substantially strengthen drink driving provisions and penalties, and will provide for permanent random breath testing.

First, this Bill removes the sunset provisions for random breath testing in this Act which currently will expire at the end of June 1985. Restrictions that relate to the siting of RBT stations have been removed to allow greater flexibility to the police to effectively carry out random breath testing programmes. There is also a provision removing the requirement for all police involved in random breath testing operations to be in uniform.

The Minister will now have to provide to Parliament a report on the effectiveness of the random breath testing programme no later than four months after the end of each financial year. Motorists detected with a blood alcohol content (BAC) level exceeding .15 will be referred to the Drug and Alcohol Services Council for assessment. All the preceding were recommendations from the Select Committee and have been fully argued in the committee's report. In addition, this Bill contains a series of amendments that strengthen immediate penalties for first offenders of driving under the influence, exceeding the prescribed content of alcohol and for failing to undergo breath and blood tests. These amendments will ensure greater consistency in penalties between different classes of offences and drivers.

As an example, the offence of exceeding .08 BAC has been chosen as a benchmark for other offences in this class and proposals in this Bill would mean that a licensed first offender would be penalised by a six month disqualification of licence. This is considered an appropriate and publicly acceptable penalty for the nature of the offence involved. In fact, it represents a doubling of the existing penalty. On this basis, penalties in a number of other areas have been readjusted. The variations can be seen simply from the table provided.

In addition to maintaining consistency, there has been an attempt to make penalties operate as a more effective deterrent. As a result, all first offenders for any drink driving breach will now be placed under probationary conditions for at least 12 months following any period of suspension of licence. That period of probationary conditions may be extended further by the courts in some circumstances. Probationary conditions will be a substantial restriction on offending drivers and should serve as a major deterrent.

These penalties under this Bill have been drafted to maintain full consistency with new provisions under the Motor Vehicles Act that affect probationary and learner drivers (that is, P and L plate drivers). These provisions are contained in the Motor Vehicle Act Amendment Bill (No. 2), 1985, and represent a substantial tightening of conditions relating to L and P plate drivers. The Motor Vehicles Act Amendment Bill provides for a set of conditions for L and P plate drivers which include zero BAC level, a maximum speed of 80 kph, compulsory display of L and P plates, and a maximum of four demerit points. A breach of any of these conditions will involve a penalty of the loss of licence for six months.

These provisions, as has been said, form a substantial package of legislative reform that goes beyond the bare recommendations of the Random Breath Testing Select Committee. There are a number of recommendations that are currently under consideration by the Government that do not require legislative change, but involve the provision of substantial resources. Assessment and implementation of these recommendations is proceeding as quickly as possible.

One recommendation, the legislative change that involves a zero BAC level for drivers of passenger carrying vehicles, is still under consideration and has not been included at this stage because of ramifications in the whole field of professional drivers. When the matter has been fully assessed, such legislation as is necessary and appropriate will be brought forward. A summary of changes to the Road Traffic Act effected by this Bill is listed in the table attached to this report.

Summary of Changes to Penalties under the Road Traffic Act and the Motor Vehicles Act

Motor Vehicles Act		
	Existing Cancellation of Licence and disqualification	Proposed Cancellation Licence and disqualification
L Plate Drivers Licence	P.C.A. 0.05	P.C.A. 0.0.0
	Minimum 3 months cancellation 4 Demerit Points or more	Minimum 6 months cancellation
	Minimum 3 months cancellation Speeding more than 80 kph	Minimum 6 months cancellation
	Minimum 3 months cancellation Fail to Display L Plates	Minimum 6 months cancellation
	Minimum 3 months cancellation	Minimum 6 months cancellation
P Plate Drivers Licence	P.C.A. 0.05	P.C.A. 0.00
	Minimum 3 months cancellation 4 Demerit Points or more	Minimum 6 months cancellation
	Minimum 3 months cancellation Speeding: more than 80 kph	Minimum 6 months cancellation
	Minimum 3 months extension of licence restriction Fail to Display 'P' Plates	Minimum 6 months cancellation
	Minimum 3 months extension of licence restriction	Minimum 6 months cancellation
Road Traffic Act		
Offence	Existing disqualification	1st offence:
Driving under influence (Section 47 (3) *(a)*)	1st offence: Minimum 6 months disqualification	Minimum 12 months disqualification
Refuse or fail to give breath test (Section 47e *(b) (a)*)	1st offence: Minimum 6 months disqualification	1st offence: Minimum 12 months disqualification
Refuse blood test (Section 47i (14a) *(a)*)	1st offence: Minimum 6 months disqualification	1st offence: Minimum 12 months disqualification
Prescribed Content of Alcohol (0.08 B.A.C.) (Section 47b (3) *(a)*	1st offence 0.15 and over (greater) Minimum 6 months disqualification	1st offence: Minimum 12 months disqualification and referral to Drug and Alcohol Services Council
	1st offence less than 0.15 (lesser) Minimum 3 months disqualification	1st offence Minimum 6 months disqualification and 2nd and subsequent offences referral to Drug and Alcohol Services Council

Clause 1 is formal. Clause 2 provides that the measure shall come into operation on a day to be fixed by proclamation. The clause provides that the commencement of any of the provisions may be suspended until a subsequent day or a day to be fixed by subsequent proclamation.

Clause 3 amends section 47 of the principal Act which provides for the offence of driving a vehicle when so under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle. Subsection (3) of this section presently provides that a court shall, upon convicting a person of that offence, order that the person be disqualified from holding or obtaining a driver's licence for six months or more in the case of a first offence, or three years or more in the case of a subsequent offence. The clause amends this subsection so that—

(a) the minimum period of disqualification for a first offence is doubled, that is, increased to 12 months;

(b) any driver's licence (which term includes, for the purpose of the principal Act, a learner's permit) held by the person is cancelled on the commencement of the disqualification;

and

(c) the court may, if it thinks fit, order that probationary conditions shall apply pursuant to section 81 a of the Motor Vehicles Act to the next licence issued to the person for a greater period than the 12 month period fixed under that section.

The amendments proposed by this clause should be read together with the amendments proposed to sections 81 a and 81 b of the Motor Vehicles Act by the Motor Vehicles Act Amendment Bill presently before the Parliament. Under the amendment to section 81 a of that Act, any new licence issued to a person whose licence has been cancelled as a result of a drink driving offence (that is, an offence against section 47 (1), 47 b (1), 47 e (3) or 47 i (14) of the Road Traffic Act) will be endorsed with the same probationary conditions as apply to new drivers. Under the amendments proposed to section 81 b, any driver with a learner's permit or licence endorsed with probationary conditions who drives with any concentration of alcohol in his blood will have his permit or licence cancelled and be subject to disqualification for a six month period (that is, double the present disqualification period).

Clause 4 amends section 47 a by deleting the definition of 'breath tests'. This definition (which comprehends both alcotests and breath analyses) will no longer be required in view of the amendments proposed to be made to section 47 da. Clause 5 amends section 47b, which provides for the offence of driving a motor vehicle while having a blood alcohol concentration of .08 grams or more in 100 millilitres of blood. Subsection (3) of this section presently provides that a court shall, upon convicting a person of that offence, order that the person be disqualified from holding or obtaining a driver's licence—

(a) in the case of a first offence—

(i) where the blood alcohol concentration is between .08 and .15 grams—for three months or more;

(ii) where the blood alcohol concentration is .15 grams or more—for six months or more;

(b) in the case of a second offence—

(i) where the blood alcohol concentration is between .08 and .15 grams—for 12 months or more;

(ii) where the blood alcohol concentration is .15 grams or more—for three years or more;

(c) in the case of a subsequent offence—

(i) where the blood alcohol concentration is between .08 and .15 grams—for two years or more;

(ii) where the blood alcohol concentration is .15 grams or more—for three years or more.

The clause amends this subsection so that—

(a) the minimum periods of disqualification fixed for first offences are doubled, that is, for a first offence, where the blood alcohol concentration is between .08 and .15 grams, the minimum period of disqualification is to be six months; while for a first offence where the blood alcohol concentration is .15 grams or more, the minimum period of disqualification is to be 12 months;

(b) any licence held by the offender is cancelled on the commencement of the disqualification;

and

(c) the court may, if it thinks fit, order that probationary conditions shall apply pursuant to section 81 a of the Motor Vehicles Act to the next licence issued to the person for a period greater than the 12 month period fixed by that section.

Clause 6 amends section 47 da of the principal Act which provides for the establishment and operation of random breath testing stations. The clause amends this section so that the formal procedure under which the Police Commissioner must determine the time and place at which each breath testing station is operated is replaced by a power of members of the Police Force to establish such stations subject, at an administrative level only, to the control of the Commissioner. The clause removes the present references to breath tests which imply that breath analysis instruments must form part of the facilities available at each breath testing station. The section, as amended by the clause, is intended to make it clear that breath analyses may in the future either be conducted at the breath testing stations or at other suitable locations.

The clause rewords the requirement as to the wearing of uniforms by police officers performing duties at breath testing stations so that the requirement only applies to the officers who stop vehicles or require drivers to submit to alcotests. The clause inserts a new provision, in place of the present subsection (4), requiring the Commissioner to establish procedures to be followed by the officers performing duties at or in connection with a breath testing station, being procedures designed to prevent as far as practicable any undue delay or inconvenience to the members of the public stopped at breath testing stations. The requirement for an annual report is altered so that the report must be submitted to the Minister within three months after the end of each calendar year and so that the report must deal with the operation and effectiveness of section 47 da and other related sections during that preceding calendar year. Finally, the provision for expiry of the section on 30 June 1985 is deleted.

Clause 7 amends section 47 e of the principal Act which, *inter alia*, provides for members of the Police Force to require drivers stopped at a breath testing station to submit to an alcotest and, if that test indicates that the prescribed concentration of alcohol may be present in the blood of the driver, to submit to a breath analysis. The clause replaces subsection (2 a) with a new subsection that is consistent with the amendments to section 47 da made by clause 6. The clause also amends subsection (6), which deals with the disqualification of a driver who is convicted of the offence under subsection (3) of refusing or failing to comply with any requirement to submit to an alcotest or breath analysis. The clause doubles the minimum period of disqualification for a first offence against subsection (3), that is, increases the period to 12 months. The clause also provides that any licence held by the offender is cancelled on the commencement of the disqualification and that the court convicting the person may, if it thinks fit, order that probationary conditions shall apply pursuant to section 81 a of the Motor Vehicles Act to the next licence issued to the

person for a period greater than the 12 month period fixed by that section.

Clause 8 amends section 47 g of the principal Act which contains provisions providing evidentiary assistance in relation to prosecutions for 'drink driving offences'. The clause replaces the present subsection (3 c), which relates to proof of the issuing of an authorisation by the Commissioner of Police under the present provisions of section 47 da with a new evidentiary provision which instead provides assistance in proving the time and place at which a breath testing station is operated under the proposed new provisions of section 47 da.

Clause 9 amends section 47 i of the principal Act which provides at subsection (14) for the offence of failing to submit to a compulsory blood test under the section. The clause amends subsection (14 a) so that—

(a) the minimum period of licence disqualification for a person convicted of a first offence against subsection (14) is increased from six months to 12 months;

and

(b) the court may, if it thinks fit, order that probationary conditions shall apply pursuant to section 81 a of the Motor Vehicles Act to the next licence issued to the person for a period greater that the 12 month period fixed by that section.

Clause 10 amends section 47 j of the principal Act which provides that a person convicted of a second 'drink driving offence' committed within the prescribed area and within three years after his previous such offence may be required to attend at an assessment clinic and submit to an examination so that it may be determined whether the person suffers from alcoholism or drug addiction. The clause amends the section so that such a requirement may be made in relation to a person convicted—

(a) of an offence against section 47 b of driving while having a blood alcohol concentration of .15 grams or more or of an offence against section 47, 47 e or 47 i;

or

(b) of any second 'drink driving offence' committed within five years of a previous such offence.

The present requirement that such an offence be committed within the prescribed area is omitted under the amendments.

The Hon. C.M. HILL secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT 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

The purpose of this Bill is to enable the Government to re-issue historic and distinctive numbers under the Motor Vehicles Act, 1959, to issue numbers and number plates to commemorate events of special significance to South Australia, and to expand the range of personalised numbers presently available under the principal Act.

A consumer study recently conducted on behalf of the Government by private consultants confirmed that a demand exists in South Australia for number plates of historical significance, and an expanded series of personalised number plates and commemorative number plates.

Auctions of numbers and number plates conducted recently in New South Wales (the Great Plate Auction) and Victoria (the Heritage Plate Auction) yielded proceeds in excess of one million dollars in each case and follow-up auctions are being considered in those States. There is little doubt that a similar auction in South Australia would raise considerable funds, which will be used solely for road safety initiatives.

The registration of motor vehicles commenced on 1 September 1906. From that date until 31 December 1966, numbers from two series (1 to 599 999) and (01 to 09 999) were allotted to motor vehicles registered in South Australia. Today only 26 162 of those numbers remain active on registered motor vehicles.

The re-issue of historic and distinctive registration numbers would be welcomed by motoring enthusiasts, collectors of number plates, and restorers of vintage, veteran and classic motor vehicles. The Government intends to enable the use of five or six letters of the alphabet in the case of personalised number plates. Persons who obtain personalised numbers will be given the opportunity to choose coloured number plates from a pre-determined series of colours.

Under this proposal, South Australia will have a selection of personalised number plates equal to or better than that of any other State or Territory of Australia. The Bill will enable the Government to issue numbers and number plates to commemorate events of special significance to South Australia.

It is envisaged that events such as the Australian Bicentenary celebrations, the Adelaide Grand Prix, and the World Equestrian Championships may be commemorated by the issue of a limited series of number plates. The issue of commemorative number plates will assist the organisers of special events to promote those events, and will be of great appeal to collectors of number plates and motoring enthusiasts.

The Government plans to appoint a firm of auctioneers to conduct a public auction of certain historic and distinctive numbers and number paltes, certain commemorative numbers and number plates celebrating the State's Jubilee and certain personalized numbers and number plates. It is intended that the auction will be publicised by a campaign designed to attract maximum public interest.

It is proposed that the successful bidders at the auction will have the right to transfer the number and number plates purchased by them from one vehicle to another, and, if they wish, to sell the number and number plates to other persons.

Clauses 1 and 2 are formal. Clause 3 makes an amendment to section 5 of the principal Act (the interpretation section). The definition of 'number' is struck out, and a new definition substituted, being as follows—number means a figure or combination of figures, a combination of letters, or a combination of figures and letters. Clause 4 makes a consequential amendment to section 24 of the principal Act.

Clause 5 repeals sections 46, 46a and 47 of the principal Act and substitutes new sections. New section 46 provides that on registering a vehicle the Registrar must allot a number to the vehicle. Under subclause (2), the Registrar may vary or amend the number.

New section 47 provides that a person shall not drive a vehicle on a road unless a number plate that conforms with the specifications and design of a class of number plates designated under section 47a, and bears the number allotted to the vehicle, is attached to the vehicle in accordance with the regulations, or, the number allotted to the vehicle is marked on the vehicle in accordance with the regulations. Penalty for contravention—Two hundred dollars. Under

subsection (2), the section does not apply to vehicles exempted from registration, vehicles which may be driven without registration under a permit, or a person who fails to comply with the section by reason of damage caused in accident which he has had no reasonable opportunity to repair.

New section 47a provides in subsection (1) that the Registrar may, by notice in the *Gazette*, establish different classes of number plates and prescribe the specifications and design of each designated class. Under subsection (3), the Registrar may vary or revoke such a notice. Under subsection (4), the Registrar may enter into an agreement with a person providing for any of the following matters:

(a) the right to be allotted a particular number in respect of a vehicle registered or to be registered in the person's name;

(b) the right to attach number plates of a particular class to a vehicle registered or to be registered in the person's name;

(c) the assignment of rights conferred under the agreement;

(d) such other matters as the Registrar thinks fit.

Under subsection (5), an agreement may be made under subsection (4)—

(a) on payment to the Registrar of such fee as he may require;

or

(b) by the sale by public auction of rights of the kind referred to in that subsection.

Subsection (6) provides that this section does not affect the duty of the Registrar, in the absence of any agreement under subsection (4), to allot a number to a vehicle upon registering the vehicle.

Subsection (7) provides that a person shall not drive on a road a vehicle, being a vehicle to which a number plate or plates of a class in respect of which a declaration has been made under subsection (2) are attached, unless the registered owner of the vehicle acquired the right to attach the plate or plates to the vehicle pursuant to an agreement under subsection (4).

Penalty: Two hundred dollars.

New section 47b provides that the owner of a motor vehicle to which a number has been allotted may obtain a number plate bearing that number:

- upon payment of the prescribed fee, from the Registrar;
- from a person approved by the Minister to sell or supply number plates.

Under subsection (2), no person other than a person approved by the Minister shall sell or supply number plates. Penalty—Two hundred dollars.

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

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

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

The purpose of this Bill is to enact a series of provisions relating to L and P plate drivers that flow from the recommendations of the Random Breath Testing Select Committee. Prior to the report of the above committee, the Government was already committed to the introduction of zero blood alcohol content level for novice drivers.

Following on this recommendation, a reassessment of other conditions applying to novice drivers has been made and a package of conditions and penalties is now recommended that will substantially increase restrictions during the learning process for drivers. The Bill provides for the following conditions to apply to L and P plate licences:

- zero BAC
- 80 kph maximum speed
- compulsory display of appropriate plates
- four demerit points maximum
- learners to be accompanied by appropriate licensed driver

Penalties for the breach of these conditions will be a six month cancellation of licence and disqualification. The major variation to the recommendations of the report of the Select Committee relating to a loss of licence for a 12 month period is this reduction from that recommendation to a six month loss of licence and disqualification. The primary reason for this reduction relates to the severity of penalties associated with a fully licensed driver who has exceeded .08 BAC under the Road Traffic Act. It would be inconsistent if L and P plate drivers with very low BAC levels were to suffer greater penalties than a fully licensed driver with a BAC in excess of .08.

This series of penalties for breach of L and P licence conditions is effectively a doubling of the existing penalty and is considered an appropriate and publicly acceptable penalty for the nature of the breaches involved.

Although controversy surrounds the measurement of the zero blood alcohol measurement, the present proposals reflect the current legislation in Victoria. It is believed that the zero BAC should be the required limit as it was recommended by the Select Committee and is justified as it will discourage young drivers from consuming any alcohol before driving.

Clause 1 is formal. Clause 2 provides that the measure shall come into operation on a day to be fixed by proclamation, but that the commencement of any of its provisions may be suspended.

Clause 3 amends section 75a, which provides for the issue of learner's permits and the conditions that apply to learner's permits. The clause provides for the repeal of subsections (2), (3), (3a), (4) and (5) and inserts new subsections (2), (3), (3a), (3b), (3c), (4), (4a), (5) and (5aa). Proposed new subsection (2) is in substantially the same form as the present subsection (2), but, by referring to conditions endorsed upon a permit rather than conditions or restrictions specified in a permit, makes the wording more consistent with the wording of section 81a.

Proposed new subsection (3) sets out all the conditions that are to apply to learner's permits whereas the present subsection (3) only specifies the condition relating to driving with the prescribed blood alcohol concentration. The conditions proposed are as follows:

(a) a condition that the holder of the permit shall not drive a motor vehicle, or attempt to put a motor vehicle in motion, on a road while there is present in his blood the prescribed concentration of alcohol;

(b) a condition that the holder of the permit shall not drive a motor vehicle on a road in any part of

the State at a speed exceeding 80 kilometres per hour;

(c) a condition that the holder of the permit shall not drive a motor vehicle on a road unless one plate bearing the letter 'L' is affixed to the vehicle, in accordance with the regulations;

(d) a condition that the holder of the permit shall not drive a motor vehicle on a road—

(i) being a motor vehicle other than a motor cycle—unless another person who holds a driver's licence authorising the person to drive that motor vehicle (not being a licence endorsed with conditions pursuant to or section 81a) occupies a seat in the vehicle next to the holder of the permit; or

(ii) being a motor cycle—unless any person who is carried by the holder of the permit as a passenger on the motor cycle or in a sidecar attached to the motor cycle is the holder of a driver's licence authorising the person to drive that motor cycle (not being a licence endorsed with conditions pursuant to section 81a);

and

(e) any other condition—

(i) limiting the kind of vehicle that may be driven pursuant to the permit;

(ii) limiting the hours during which or the locality within which a vehicle may be driven pursuant to the permit;

or

(iii) imposing any other restriction,

that the Registrar thinks necessary.

Proposed new subsection (3a) provides that the prescribed concentration of alcohol is now to be any concentration of alcohol in the blood rather than, as at present, .05 grams or more in 100 millimetres of blood. Proposed new subsection (3b) provides that the conditions under subsection (3) do not apply to the holder of a permit when driving any vehicle that the person is authorised to drive pursuant to a driver's licence. Proposed new subsection (3c) provides that the condition requiring an appropriately licensed passenger does not apply to the holder of a permit when driving a vehicle during the course of a practical driving test conducted pursuant to the Act. Proposed new subsection (4) is, apart from minor drafting changes, substantially the same as present subsection (4). Proposed new subsection (4a) applies the new conditions to learner's permits issued before the amendments come into force. Proposed new subsection (5) is also, apart from minor drafting changes, substantially the same as present subsection (5). Proposed new subsection (5aa) creates an offence (separate from the offence of breaching a condition) where a motor vehicle other than a motor cycle is driven without there being two 'L' plates attached to it. A maximum fine of $100 is fixed for this offence.

Clause 4 amends section 81a of the principal Act which provides at subsection (1) for the endorsement of conditions upon any licence issued—

(a) to a person who has not held a driver's licence within the three years preceding his application;

(b) to a person who holds a licence under the law of a place other than South Australia subject to probationary conditions similar to those referred to in subsection (1) *(d)* and *(e)*;

(c) to a person who is applying for his first licence after having had a licence cancelled under section 81b (that is, for breach of a probationary condition or as a result of incurring a total of four or more demerit points).

The clause makes amendments designed to make it clear that probationary conditions will be applied in relation to a person who has not held an unconditional licence within the three year period. The clause amends subsection (1) so that the probationary conditions will be endorsed upon a licence issued to a person who has been disqualified from holding or obtaining a licence pursuant to section 81b or by order of a court made pursuant to sections 47, 47b, 47e or 47i of the Road Traffic Act (that is, the 'drink driving offences') where the person has not held an unconditional licence under the Act since the end of the period of disqualification.

The clause amends subsection (1a) so that the prescribed concentration of alcohol will be any concentration of alcohol in the blood rather than, as at present, .05 grams or more in 100 millilitres of blood. The clause inserts a definition of 'unconditional licence'. Subsection (3) is recast so that the probationary conditions may be effective for more than 12 months in the case where a person is disqualified under sections 47, 47b, 47e or 47i of the Road Traffic Act and the court ordering the disqualification also orders that the conditions be effective for a greater period than 12 months. Finally, the clause inserts a new subsection (4a) designed to apply the new conditions to any licence endorsed with probationary conditions immediately before the commencement of the amendments.

Clause 5 amends section 81b of the principal Act which sets out the consequences of a learner or probationary driver contravening a probationary condition or incurring four or more demerit points. The clause redefines the term 'probationary conditions' so that it includes all the conditions applying to a learner's permit under section 75a or a licence under section 81a. The clause removes subsection (1a), which provides for extension of the period of operation of probationary conditions endorsed upon a licence in any case where the holder of the licence contravenes the probationary condition requiring that the person drive at speeds less than 80 kilometres per hour or requiring that 'P' plates be attached to any vehicle driven by the person. Instead, breach of these conditions will, under the amendments, have the same consequence as breach of the condition relating to blood alcohol concentration. Under the amendments, where a person contravenes any probationary condition or commits an offence so that the total demerit points incurred by him while holding a permit or a licence endorsed with probationary conditions equals or exceeds four demerit points, the Registrar will be required (without reference to the consultative committee) to give notice—

(a) that the person is disqualified from obtaining a permit or licence for a period of six months (being double the present period of disqualification for the same period of disqualification as that fixed by the Road Traffic Act Amendment Bill for the offence against section 47b of driving with a blood alcohol concentration between .08 and .15 grams in 100 millilitres of blood); and

(b) that any permit or licence held by the person at the commencement of the disqualification is cancelled.

The clause makes it clear, however, that any such disqualification and cancellation does not affect any unconditional licence held or sought by a person who was unconditionally licensed when the offence giving rise to the disqualification was committed. Unconditional licence is defined by the clause to mean a licence not subject to probationary conditions. The clause also makes amendments of a consequential nature to the subsections providing for an appeal to a local court against cancellation of a licence.

Clause 6 amends section 92, which provides that the holder of a licence who is disqualified from holding or obtaining a licence must produce the licence to such person as the court ordering the disqualification directs. The clause inserts a new subsection which provides that where a licence is deemed to be cancelled under the Road Traffic Act (that is, under the new provisions proposed by the Road Traffic Act Amendment Bill presently before the Parliament), then the person to whom the licence is produced pursuant to subsection (1) may retain the licence or endorse particulars of the cancellation upon the licence.

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

UNLEADED PETROL BILL

Received from the House of Assembly and read a first time.

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

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill is designed to ensure the availability of unleaded petrol throughout the State and to prevent the misfuelling of new motor vehicles with leaded petrol. It is anticipated that the new Act will be administered by the Minister of Consumer Affairs. This piece of legislation supports the Australian Design Rule 37 which requires that from 1 January 1986 all new passenger cars and derivatives will be designed to use only unleaded petrol.

To understand the significance of this legislation it is important that the background to ADR-37 be clearly understood. As you will recall, in 1976 a previous design rule for the control of motor vehicle emissions was introduced. Known as ADR-27A the rule demanded a considerable reduction in emissions of air pollution below the standards then existing. In achieving these reductions the motor manufacturers used a technology which increased petrol consumption and decreased performance. The public rejected these measures and many paid to have the emission controls nullified.

In 1979 the Australian Transport Advisory Council commissioned a report on the development of a long term emissions strategy. The report clearly indicated that without further action to prevent the increasing level of motor vehicle emissions they would rise to unacceptable levels. Consideration of the available technology to control emissions led to the conclusion that only by adopting the use of catalytic converter technology could the emission levels be achieved without an energy penalty. Put very simply, industry and Government officials agreed that the energy benefits in vehicle fuel economy that are obtained from using a catalytic converter more than offset the energy penalty at the refinery through the additional processing necessary to produce unleaded petrol. Unleaded petrol is absolutely necessary for use with a catalytic converter as lead poisons the catalyst and results in emissions increasing to those of an uncontrolled pre-1972 vehicle. The importance of preventing misfuelling and hence catalyst poisoning is the basis for this Bill. The use of leaded petrol in post 1986 vehicles will result in a gross increase in vehicle emissions, is likely to void manufacturers warranties and cause damage to vehicle engines.

The benefit to the motorist of misfuelling is absolutely nil and it is to be hoped that the facts about unleaded petrol which have been circulated by the Department of Environment and Planning will convince any wayward motorist of the fruitlessness of interfering with emission controls.

It was originally considered that this Bill would not be required. It was thought that the availability of unleaded petrol throughout the State could be achieved by agreement with the major oil companies. However, the major oil companies only lease or own about half of all resellers' sites in South Australia, with the vast number of these being located in Adelaide and major country centres. To ensure that the travellers and those with new cars in the more remote areas of the State were not to be stranded or encouraged to misfuel it was considered imperative that the availability of unleaded petrol be guaranteed. Before proceeding with legislation the Department of Environment and Planning wrote to all resellers asking if they proposed to stock unleaded petrol from 1 January 1986. The response was extremely positive but it did leave areas of the State where supplies were in doubt.

A governmental committee drawn from the Departments of Highways, Environment and Planning, Mines and Energy and the South Australian Health Commission, supplemented by representatives of the AIP, RAA, SAACC and the Oil Agents and Petroleum Distributors Association, recommended to Government that legislation similar to that recently passed in Western Australia should be introduced in South Australia. Recognising that ULP would rapidly gain in market share it was further recommended that this Act terminate after four years. This Bill is therefore intended to provide much needed controls for a very short period.

I will deal now with the key features of the Bill. The main purpose of the Bill is as I have previously stated to prevent misfuelling; the Bill therefore creates an offence for anyone to place leaded petrol in a vehicle designed for unleaded petrol. It is not possible to accidentally add leaded petrol to an unleaded petrol vehicle for five very good reasons:

1. The colour of the new fuel is yellow so there can be no visual confusion.
2. There is a permanent sign UNLEADED PETROL ONLY affixed alongside all petrol filling points.
3. Bowsers will be marked LEADED and UNLEADED.
4. The petrol filler inlet is designed to accept only the small diameter nozzle that will be used to dispense unleaded petrol. It is physically impossible to insert a leaded petrol dispensing nozzle into the unleaded petrol inlet.
5. The petrol filler point incorporates a flap valve which prevents petrol being poured into the tank.

The Bill requires that all resellers offer unleaded petrol for sale. As I have indicated the purpose of this requirement is to ensure availability of unleaded petrol. It may be that because the initial demand for unleaded petrol may not be great, that some resellers will decide to defer stocking the fuel until demand increases. The Bill provides the Minister with the power to exempt resellers who do not wish to stock unleaded petrol. The criteria on which the Minister will make his decision will be the location of the reseller and the proximity of alternative unleaded petrol outlets. Basically, the intention is to avoid unnecessary inconvenience to the public.

To prevent the sale of contaminated unleaded petrol, all unleaded petrol outlets are required to be certified for that purpose by an authorised person. Such action prevents unleaded petrol which has been contaminated through storage in lead contaminated service station tanks being offered as unleaded petrol.

It is proposed that a self certification of service stations will exist. The oil companies already have laboratories and a mechanism for testing petrol and it is intended that they be authorised to perform this function. For resellers not tied to oil companies the option will exist to utilise the oil company laboratories. Alternatively, the services can be provided by the Division of Chemistry of AMDEL. Certification is seen as safeguarding both the reseller and the consumer. The obligation to sell petrol that is uncontaminated by lead rests firmly with the reseller. However, tank decontamination will be conducted by petrol suppliers using a flushing process with no independent confirmation of the standard of cleanliness. Certification ensures that when the reseller commences to offer unleaded petrol it is initially at the required standard.

While it is not expected that resellers will blatantly sell or offer for sale leaded petrol as unleaded petrol the likelihood cannot be ignored. Oil company rebates on leaded petrol or the availability of cheap leaded petrol may create conditions that encourage a reseller to try to improve his profits. To discourage such activities, officers will be authorised to obtain petrol samples for analysis from premises on which fuel is offered for sale or stored. Authorised officers will also be able to take samples of petrol carried by a motor vehicle.

The two final points covered by the Bill are the fines and the cost of the petrol. The fines are set at $10 000 and are intended to discourage misfuelling. The fines are similar to those in New South Wales but greater than Western Australia.

The cost of unleaded petrol relative to leaded fuel has been considered in great depth. There has never been consideration of unleaded petrol being more expensive than leaded fuel as this would only encourage misfuelling. Consideration of a one cent differential in favour of unleaded petrol was seen as a means of encouraging a more rapid acceptance of unleaded petrol. However, strong representations were received from the AIP and the RAA favouring price parity.

Additionally, price parity is favoured by the Federal Government hence Cabinet has chosen to support a pricing policy which will ensure compatibility with our major adjoining States. While the Bill does not cover wholesale prices the Government expects oil companies and their agents to ensure that any rebates passed to resellers on leaded petrol will apply equally to unleaded petrol. As Commonwealth and State Governments have all agreed to the price relatively between leaded and unleaded petrol, any departure at the wholesale level which affected resellers's abilities to abide by the legislation would be viewed seriously.

In summary, I believe this Bill is necessary to facilitate the smooth introduction of unleaded petrol and ADR-37. I see the Bill having the support of both petrol supplier, reseller and user groups and commend it to you.

Clauses 1 and 2 are formal. Clause 3 sets out definitions of terms used in the Bill. Industry uses the terms 'leaded' and 'unleaded' petrol although it will be seen from the definition of 'unleaded petrol' that phosphorus can also poison the catalytic converter.

Clause 4 provides that the Crown will be bound. Clause 5 makes it an offence to place leaded fuel in the petrol tank of a vehicle designed to use unleaded fuel. Clause 6 makes it an offence to sell leaded petrol if unleaded petrol is unavailable. Subsection (2) provides a defence where the unleaded petrol was unavailable for reasons beyond the control of the defendant and the defendant has applied to the Minister for exemption. Subsection (4) enables the Minister to grant exemptions for the benefit of an individual retailer or a group of retailers.

Clause 7 prevents misdescription. Clause 8 provides a system of certification in relation to the problem of contamination of petrol from storage tanks. Clause 9 in combination with clause 18 provides power to make regulations to prevent tanks in which leaded petrol is stored being connected to tanks in which unleaded petrol is stored and to require clear identification on bowsers of the kind of petrol sold through the bowser. Clause 10 provides for the appointment of authorised officers.

Clause 11 sets out powers of authorised officers. Clause 12 provides for the appointment of analysts for the purposes of the Act. Clause 13 provides for procedures for taking and analysing samples of petrol. Clause 14 is an evidentiary provision.

Clause 15 provides that a director of a body corporate is guilty of an offence if the body corporate is guilty of an offence under the Act unless he can show that he could not have prevented the commission of the principal offence. Clause 16 provides that offences under the Act will be summary offences. Clause 17 provides for the making of regulations. Clause 18 provides for the expiry of the Act.

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

ADJOURNMENT

At 12.18 a.m. the Council adjourned until Tuesday 14 May at 2.15 p.m.