LEGISLATIVE COUNCIL

Thursday 18 February 1988

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

QUESTIONS

QUESTION REPLIES

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Attorney-General a question about replies to Questions on Notice.

Leave granted.

The Hon. M.B. CAMERON: The Opposition is growing increasingly concerned about the inordinately long periods that they are having to wait for answers to Questions on Notice. Up to today's Notice Paper the Opposition was waiting on some 45 replies to questions asked in 1987, some of which have now been on the Notice Paper for almost five months. It seems that virtually none of the Government Ministers in this Chamber can be held blameless. There are questions still remaining unanswered by the Ministers of Tourism and Health from early October. There is a question to the Attorney-General from 15 October that still remains unanswered—nothing, I might add, that requires extensive inquiries; just a question relating to what Government departments took part in the 1987 Labor Day parade, and what were the costs for participation.

The Hon. C.J. Sumner: It's not my responsibility. What are you talking about?

The Hon. M.B. CAMERON: You've got to find the answer: it's directed to you.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: Just wait: you've got a little bit more to come yet. In my own area, of equal concern is the delays in obtaining replies to questions on hospital waiting lists which were asked originally four months ago in the Estimates Committee hearings.

I think it is important to compare what standards this Government sets in providing information to what it itself expected in Opposition, because it soon becomes clear that it has double standards. For example, on 12 August 1980 the Hon. Mr Sumner told this Chamber, (and I quote from *Hansard*):

> Concern has been expressed to me by my colleagues on this side of the Council and I have no doubt that back-benchers opposite are having the same difficulty in relation to answers to questions. At the end of the last parliamentary session the Attorney-General said he would attempt to obtain and supply answers to questions for honourable members and have them incorporated in *Hansard*. I understand that that has not happened as yet. I also point out that during the last session of Parliament at the conclusion of my contributions to the Supply debate I asked a series of questions, but the answers have not been supplied.

And then again on 4 November 1980 the Hon. Mr Sumner raised the matter of questions on notice, and complained about the then Government's inability to supply answers within 'about 10 days'.

Members interjecting:

The Hon. M.B. CAMERON: He said 'I've been waiting 10 days'.

The Hon. C.J. SUMNER: That was under the old system.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: You, Madam President, also saw fit to complain about the delays in obtaining replies to questions, and I quote from *Hansard* of 3 December 1980 when you said:

> There seems to be some delay in getting answers to questions which members on this side of the Council have asked. I have done a count and found that I have 11 questions that have been unanswered. Admittedly, some are fairly recent questions but there is one outstanding from the Minister of Health asked over seven weeks ago on 22 October, and another one asked of the Minister of Environment on 30 October, which is six weeks ago; one asked of the Premier on 6 November, which is five weeks ago; and two questions asked in the Budget Estimates debate on 30 October which is over six weeks ago.

Compare that terrible situation in 1980 with what the Opposition has had to put up with to date! The Hon. Mr Lucas is patiently waiting on replies to three questions asked of the Minister of Tourism on 8 October—that is 19 weeks ago.

The Hon. R.I. Lucas: I got an answer last week to the 5 August question.

The Hon. M.B. CAMERON: That is very good. The Hon. Mr Griffin is still awaiting answers from the Attorney-General to six questions asked in mid-October, that is, 18 weeks ago; Mr Lucas again is awaiting replies from the Minister of Tourism from 4 November, that is, 15 weeks ago; the Hon. Ms Laidlaw is seeking six answers to questions from the Minister of Community Welfare which were tabled in early November, that is, 14 to 15 weeks ago. The list goes on and on. Yet this Government has the largest number of staff at its beck and call in the history of this State. My questions are:

1. What is the Attorney-General's attitude to these unacceptable waiting times for replies to questions?

2. As Leader of the Government in this Chamber, what directives does he give to his Ministers on replying to Questions on Notice?

3. Will he speak to these lazy Ministers about these unacceptable delays—Ministers who, despite having the greatest staff resources in the history of this State, seem unable to get replies to relatively simple questions?

4. Will he give directions to Ministers that they provide, by next Tuesday, replies to all Questions on Notice which were raised more than three weeks ago? That is better than the 10 days that he thought we should have.

5. Further, will the Minister change his mind on freedom of information in view of the Opposition's inability to get swift replies to questions so that at least we have one outlet for information in this State?

The Hon. C.J. SUMNER: A large number of questions have been asked by the honourable member in a somewhat polemical manner. He does not realise the workloads which Ministers have in this place and which are substantially greater than they were five, six or eight years ago. The honourable member seems to be in a state of confusion because my quick reading of the Notice Paper reveals that only 10 questions asked before Christmas are outstanding.

Members interjecting:

The PRESIDENT: Order!

The Hon. Peter Dunn: Some you haven't even answered from 12 months ago.

The PRESIDENT: Order! I call the Council to order. A question has been asked and I suggest that the reply be listened to.

The Hon. C.J. SUMNER: Hear, hear, because it is a very good reply. I am not sure where the Hon. Mr Cameron got his information from but, if he bothered to count the questions in the Notice Paper, which is distributed every day that the Council sits to all members, including the Hon. Mr Cameron, he would find that 10 questions were outstanding.

The Hon. M.B. Cameron: There are 45: there are separate questions within questions.

The Hon. C.J. SUMNER: That is being quite childish.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The honourable member is quite right: the questions should be answered as soon as practicable and there is no question about that. This Government answers the questions as soon as practicable. There are only 10 outstanding from last year. I will take up with my colleagues the issue of answering questions and try to ensure—

The Hon. Diana Laidlaw: Questions without notice were asked.

The PRESIDENT: Order! The Hon. Ms Laidlaw will cease interjecting.

The Hon. L.H. Davis: She is asking a question.

The PRESIDENT: She does not have the call. If she wishes to ask a question she can stand in her place and get the call.

The Hon. C.J. SUMNER: I am sure the honourable member has a little index in her room on questions asked on certain dates, and it will be a simple task for her to put that into correspondence to the relevant Minister and say that certain questions have not been answered.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am sure that a gentle reminder will bring a response—

The Hon. L.H. Davis: Don't you have checks in Government?

The PRESIDENT: Order, Mr Davis!

The Hon. C.J. SUMNER: —if there are in fact any questions outstanding. In the departments for which I am responsible, officers are very assiduous in their devotion to answering questions from honourable members. I am not sure how many are outstanding, but I do not think that in my portfolios many questions on which I have sought answers from other Ministers remain unanswered. I answered a number over the Christmas break and on the first day back had them incorporated in *Hansard* for the benefit of honourable members. The criticism of the Hon. Mr Cameron misses the point and his accusations were considerably exaggerated.

The Hon. M.B. Cameron: You go through and count again—you can't count.

The Hon. C.J. SUMNER: On my count 10 questions are outstanding from last year. That is not unreasonable. I agree that questions should be answered as soon as practicable and I am pleased that the honourable member brought the matter to my attention, although the manner in which he did so was hardly necessary or indeed befitting the dignity of the office of Leader of Her Majesty's loyal Opposition in the Legislative Council.

LAND TAX

The Hon. L.H. DAVIS: I seek leave to make a brief explanation prior to asking the Minister of Ethnic Affairs a question about land tax on ethnic clubs.

Leave granted.

The Hon. L.H. DAVIS: I was appalled to discover recently that ethnic clubs had been savaged by sharp rises in land taxes. The Italian club Fogolar Furlan, with premises at Felixstow, has seen land tax almost treble since 1985-86. Land tax paid in 1985-86 was $1 111. In 1986-87 the amount doubled to $2 027 and for 1987-88 the land tax assessment slug is up a massive 46 per cent to almost $3 000. Another Italian club, San Giorgio in Henry Street, Payneham, suffered an even worse fate. The club's 1987-88 land tax now payable is $3 454.50. In 1986-87 the land tax payable was only $1 170. In other words, the land tax has trebled in just one year. In fact, the first land tax assessment the San Giorgio club received was for the 1987-88 year to the value of $5 108.50—nearly a 500 per cent increase.

On appeal, the value of the property was reduced from $204 000 to $141 000, even though the land was valued at between $90 000 and $100 000. Both clubs were built by volunteer help and a lot of hard work and they are non-profit organisations which are committed to helping their communities. Most of the members of the San Giorgio club are elderly and many of them are pensioners. There are about 300 families in the San Giorgio club who are being asked to meet the land tax bill of $3 454, in other words, over $11 a family. It is not an understatement to say that it is a real battle for the club to cope with this sharp increase in land tax. My questions to the Minister are as follows:

1. Is the Minister aware of the extraordinary increase in land tax facing ethnic clubs?

2. Does the Minister consider this sharp increase in land tax for ethnic clubs justified given that these ethnic clubs are basically non-profit organisations?

The Hon. C.J. SUMNER: As honourable members would know, land tax is related to property value. The rate of land tax has not been increased.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: And we have, too.

The Hon. K.T. Griffin: Once.

The Hon. C.J. SUMNER: Yes, but the rates have been reduced. The fact is that people who are paying higher land tax are doing so because of the increase in value of their properties.

The Hon. K.T. Griffin: And the progressive scales.

The Hon. C.J. SUMNER: And the progressive scales. But the fact is that the rate has not changed and the rate of land tax has not been increased.

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner: In fact, the rate was even reduced on one occasion. Higher land tax is being paid because the occupants of premises paying land tax are getting an increase in the capital value of their property.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That has always been the case ever since land tax has existed, and it has existed in this State for decades, if not over a century. The point is that land tax has always been related to the value of the property. So if the value of a property increases it means that the owner has, over time, if not an immediate amount of money, an appreciating asset, as the Hon. Mr Hill knows.

Members interjecting:

The Hon. C.J. SUMNER: Just a moment. That is the principle with respect to land tax and it has existed for decades if not over a century under this Government and under previous governments. So that is the situation, as honourable members would well know. The honourable member has raised a particular problem relating to ethnic clubs.

The Hon. L.H. Davis: It seems that you are not even aware of it.

The Hon. C.J. SUMNER: The fact is that everyone, except people with respect to their private homes, pays it. That is something that is not unknown to me, and I suspect that it is not unknown to the honourable member: that land tax is applicable to all premises except private homes. That

has meant that in some cases, as in other examples, the actual amount of land tax paid has been increased because of the increase in property values. I will refer the question which relates to the budget to the Treasurer for his consideration.

CONSTITUTIONAL REFERENDA

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to directing to the Attorney-General a question on the subject of constitutional referenda.

Leave granted.

The Hon. K.T. GRIFFIN: The Federal Attorney-General, Mr Bowen, has proposed referenda on 10 constitutional amendments during 1988, perhaps as early as July, and certainly by December 1988. It is reported that Mr Bowen's view is that the referenda should be held as early as July to take advantage of difficult economic circumstances and the bicentenary. Those referenda, as I understand it, would be on matters including the removal of the Queen's residual powers, limiting the power of the Senate to block Supply, giving the Commonwealth the power to override the States on economic development issues, four year terms of Parliament, a right recognising freedom of religion and speech, and the right to trial by jury. Obviously, a number of these proposals impinge directly on the powers of the States and ought to be of vital interest to the State Government and some, if not all, ought to be resisted vigorously. My questions to the Attorney-General are:

1. Has there been any preliminary discussion by the State Government with the Commonwealth about the proposed referenda and the substance of any of these proposals?

2. Has the State Government developed or begun developing its attitude to these proposals and, if so, what attitude?

3. What course of action will the State Government pursue in respect of these referendum proposals?

The Hon. C.J. SUMNER: In respect of the last question, that has not yet been determined. In respect of the first question, from time to time the Federal Attorney has indicated his general approach to the question of constitutional reform at meetings of the Standing Committee of Attorneys-General and, obviously, as a result of the Constitutional Commission's deliberations in South Australia and the rest of Australia, some discussions have occurred with the Constitutional Commission, and some consideration has been given to the issues. However, certainly at this stage the Government does not have a formal position on any of the issues raised by the Constitutional Commission. In fact, as I understand it, its final report is not yet available, and the recommendations that it put forward initially may be subject to change in the light of further comments that it is receiving. So, until the Constitutional Commission makes its final report and the Commonwealth Government determines what it intends to do in respect of that report, that is, whether it intends to place any of the matters before the Federal Parliament for approval to go to a referendum, the State Government does not have an attitude with respect to them.

The Hon. K.T. GRIFFIN: As a supplementary question: in the light of those replies can the Attorney-General indicate whether the State Government has any program for developing an attitude on these issues in order to be adequately prepared when the Federal Government makes a final decision as to the date of any referendum?

The Hon. C.J. SUMNER: There is no need to do anything beyond what we are doing at present—which is monitoring the debate, and at the appropriate time, if decisions are made by the Federal Government, the State Government will be able to develop an attitude to those proposals emanating from the Federal Government. I understand that some work is being done by the committee of Solicitors-General on some aspects of constitutional reform, but they are really looking at technical aspects relating to section 92 and, I think, the external affairs power, as well as at some of the other issues that may come up for debate. But those discussions at this stage are being held by the Solicitors-General and no Government, as I understand it, at this point in time has endorsed the work that they are doing or come to a final view on any of the issues. I anticipate that we will not come to a final view on any of the issues until such time as the Constitutional Commission has reported and the Federal Government has made up its mind as to whether it intends to proceed with any of the proposals by way of referendum.

NATIONAL PARK FIRES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, a question about national park fires.

Leave granted.

The Hon. M.J. ELLIOTT: In the light of the number of fires that have occurred in national parks in the past couple of months, a lot of interest has been shown in the issue, and a lot of solutions have been offered which, I think, have been largely dismissed by anybody who is serious about the real purpose of national parks.

Is the Minister aware of a submission made by Senators Coulter and McLean to the Senate committee inquiring into Australia's northern surveillance? While the submission centred on questions of northern surveillance, they suggested that it was worthwhile that there be a national fleet of amphibious aircraft which could have many purposes besides that of northern surveillance. Included among those would have been sea rescue work, fisheries policing (which is done relatively poorly at the moment) and—in relation to the subject before us—bushfire fighting. Apparently, the use of amphibious planes is extensive in other countries and is highly successful. Is the Minister aware of that submission, and would he please give it due consideration and return at a later time with the Government's response to such an idea?

The Hon. J.R. CORNWALL: I will refer that question to my colleague the Minister for Environment and Planning and bring back a reply as expeditiously as I reasonably can.

RADIOACTIVE MATERIALS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Health a question about radioactive storage.

Leave granted.

The Hon. CAROLYN PICKLES: I was concerned to read an article in the *News* today and comments contained in that article from a Mrs Anne Villani who lives in Christie Downs. She is very concerned about a van that is being parked outside her home, which is opposite a high school in the area. Mrs Villani has made statements that this van contains radioactive materials. In the article she states that the van is owned by a research firm and that the employee takes it home and parks it outside at night. Can the Minister

advise whether the Health Commission has received any complaint about that matter and, if so, can he say whether there is any danger to residents and the nearby schoolchildren from radioactive elements contained in the van?

The Hon. J.R. CORNWALL: That article in today's *News* has also been drawn to my attention. Mrs Villani, it is fair to say, indulges in a smidgin of exaggeration to put it mildly. She states that the van constitutes the threat of a nuclear holocaust. Parked there in suburban Christie Downs, she says is a van which constitutes the threat of a nuclear holocaust. When that was drawn to my attention I wondered why it was not on the front page of the *News*. I would have thought that the threat of a nuclear holocaust in suburban Christie Downs, on a reasonably quiet news day, was at least tentatively front page news.

Of course, I was alarmed—to put it mildly—so I immediately asked the Public and Environmental Health Division to provide me with some details of what this van was doing parked in the south. It transpires, Ms President, that we should all be very grateful that in fact there is not any threat of a nuclear holocaust. The person using the van is licensed under the Radiation Protection and Control Act to use radioactive sources. To obtain the licence he passed an examination set by the Health Commission in the principles and practices of radiation protection appropriate to his work, which is that of a soil technician using a nuclear moisture and density meter. He is employed by Research House Proprietary Limited of Norwood, which is registered with the commission as required by the Radiation Protection and Control Act.

The moisture and density meter which contains the radioactive source has been inspected by the commission's radiation control section and found to comply with the ionising radiation regulations. The transport of this instrument in a van labelled with radiation placards is in accordance with the State's radiation safety, transport of radioactive substances regulations of 1984 which conform with international regulations for the safe transport of radioactive substances.

The instrument in question, which I previously described as a moisture and density meter, is manufactured by Troxler Electronic Laboratories Incorporated in the United States of America and is widely used to measure density and moisture content of soils, roads and so forth, for example, during roadmaking. There are 46 such instruments registered in South Australia. The Highways Department owns 16 of these and other users include the E&WS Department and various consultant engineering firms.

In the present case, the soil technician is working on a job at Reynella and takes the van to his home at Christie Downs overnight rather than return it to Norwood. The commission regards this as a sensible arrangement, and there is no reason why the van should not be driven on roads or parked anywhere where there is reasonable security. The van is locked and the instrument itself is kept in a padlocked box when not in use. The radioactive source is separately locked within the instrument; it is doubly encapsulated in stainless steel and shielded with tungsten to withstand accidents, including fire.

The transport and use of these instruments is an everyday part of normal business activity and is in compliance with the radiation protection and control legislation. So I repeat that residents of the southern suburbs can sleep soundly in their beds at night: there is no risk of a nuclear holocaust or any other major nuclear accident.

WELFARE GRANTS

The Hon. DIANA LAIDLAW: My questions to the Minister of Community Welfare concern community welfare grants. Is it correct that, when non-government organisations were advised of their level of grant for 1988, the Minister's letter indicated that during the current year their funding would be reassessed to determine whether the organisation had the capacity to fund its own programs in 1989? Secondly, will the Minister provide the Council with copies of all letters forwarded to organisations advising them of their level of grant for 1988 following consideration of their applications by the Community Welfare Grants Advisory Committee and, if not, why not; also, if not, would the Minister be prepared to at least advise those organisations which have definitely been told that their funding will be reassessed to determine whether their organisation has the capacity to fund its own program in the next calendar year?

The Hon. J.R. CORNWALL: The Hon. Ms Laidlaw does not seem to have a very good understanding of the way in which the Community Welfare Grants Advisory Committee works. The situation is that the majority—and, indeed, a very significant majority—of organisations which are funded by community welfare grants receive their allocation annually. A small number of organisations are granted funding on a three year basis, but the overwhelming majority receive those grants on an annual basis and, in fact, must give an account of their organisation and activities and how that money is spent.

That is not exceptional. In fact, it is a very wise way of ensuring that public moneys, taxpayer funding, which is allocated to them is spent wisely, well and in a way which ensures maximum value for that public dollar. Almost without exception we, the taxpayers, the South Australian public, receive exceptionally good value for those grants. In almost all cases the money which is provided, whether it be for salaries or for other purposes, is supplemented very substantially by the activities of volunteers.

There is, as the Hon. Ms Laidlaw and everyone else knows, a very large network of volunteers in the social welfare area through the non-government agencies, whether they be the church agencies or any other of a very large number of community groups. We are satisfied that we, the South Australian public, the South Australian taxpayers, get very good value for our money and that there are clear lines of accountability—and that is the way it ought to be. So, when they are notified each year of their annual grant, it is usual to draw to their attention that that is not a grant in perpetuity; that their ability to be self-funding, their ability particularly to raise funds from within their local communities, or their ability in a small number of cases to provide for their needs from investments and other sources of income, will be taken into account in assessing ongoing grants from year to year. That is not exceptional. That has been the position for many years: they are told that it is an annual grant, that it is not a perpetual grant, and that when they are reassessed in the following year their capacity to function with or without the grant will be one of the things taken into account. There is nothing exceptional about that at all.

As to the question of copies of all letters forwarded to organisations, I will not provide them, nor will I provide—and I can give notice in advance of this—details of all of the organisations' requests for grants in the past year. It is not that I am not very anxious to cooperate at all times in providing as much information as possible: it is simply that we do not have the permission of individual organisations

to divulge the details. If an organisation makes a submission which it believes will be treated in a confidential (or, at least, semi-confidential) way, and if it makes a submission in good faith which it does not expect to read about in *Hansard* at some stage in the months following, and suddenly I come in here and give all of the details, table all of the scores of letters that have been written by the organisation to us or, in turn, from us to the organisation, then I believe that that is a substantial breach of confidentiality.

The Hon. Diana Laidlaw: They are asking for taxpayers' money.

The Hon. J.R. CORNWALL: They are asking for taxpayers' money, but making a submission under guidelines which have existed for many years. If we were to change the guidelines and say, 'Following a request from the Hon. Ms Laidlaw that she wants to know all of the detail of every submission that is made, we give you notice that in future we will table all of your applications in the Parliament and they will go into the public domain,' and if those people know in advance that their submissions will be matters for the public record, that is a different situation.

That has not been the situation in the past and I do not believe that it would be ethical for me to walk into this place and to table every letter that we received from every organisation asking for a grant, whether they be successful or otherwise. I have been working late at night getting all the details of organistions so that, in response to a question that Ms Laidlaw has on notice, hopefully very sooon I can give her the details of every organisation that applied successfully for a grant. At this stage, unless we change the rules, I do not intend to act in a way which I believe would be unethical, and certainly without the authorisation of the organisations that make those requests.

The Hon. DIANA LAIDLAW: As the Minister would be aware that I had not asked that copies of correspondence—

The PRESIDENT: Order! Sorry, that is not a question.

The Hon. DIANA LAIDLAW: Yes, it is. As the Minister would be aware—

The PRESIDENT: I am sorry, I did not hear.

The Hon. DIANA LAIDLAW: As the Minister would be aware that I did not seek information or copies of letters from organisations to the Minister but, rather, the Minister's letters to those organisations, I again ask if he will make those letters available. If not, why not? Alternatively, does he propose that a suggestion such as he put to the Minister of Health earlier this year that I must pay for the copying of this material and the material itself be adopted?

The Hon. J.R. CORNWALL: You mean the shadow Minister of Health.

The Hon. Diana Laidlaw: Was it a Freudian slip?

The Hon. J.R. CORNWALL: If one looks at the latest *Bulletin* poll, it is a very serious slip indeed.

The Hon. M.B. Cameron: Really? I am glad that you are confident.

The Hon. J.R. CORNWALL: A 10 per cent lead.

The Hon. R.I. Lucas: The polls said that you would win Adelaide, too.

The Hon. J.R. CORNWALL: No, I told anybody who cared to listen, as early as November—

The Hon. R.I. Lucas: You're not a poll.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I'm a very good political judge; I've been around for a long time.

The Hon. L.H. Davis: Your ping-pong balls told you that, did they?

The Hon. J.R. CORNWALL: No, my political tradition—

The PRESIDENT: Order! There has been a supplementary question relating to community welfare grants.

The Hon. J.R. CORNWALL: Quite right, and I have almost forgotten what it was. There have been five supplementary questions. Members opposite seem anxious to discuss the *Bulletin* poll, which gives the Premier a 75 per cent approval rating and it gives us a 10 per cent lead.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: I point out that the Minister is under no obligation to take any notice of any interjections and that the members making them are completely out of order.

The Hon. J.R. CORNWALL: I know that, but I am sure you have observed that these days I only respond to the interjections that I like to pick up. It gives me very considerable enjoyment to refer to the *Bulletin* poll which was published this week. I would be very pleased to go on at some length about it. However, I do not want to take up Question Time.

In regard to the letters that I have written to individual organisations, very soon—hopefully by next week—I will be able to bring back a reply to a Question on Notice which will list every organisation that received a grant—

The Hon. Diana Laidlaw: That is not my question.

The Hon. J.R. CORNWALL: Hang on a minute! It will give details of the amounts requested and actually allocated. If Ms Laidlaw then wants to contact each organisation and ask, 'Do you mind providing me with a copy of the letter which the Minister wrote to you when the grant was given?' or, 'Do you mind if the Minister provides me with a copy?', then I would be happy to do so. It would be quite ludicrous to set a precedent whereby, every time Ms Laidlaw jumps to her feet and says, 'I want a copy of the letter you wrote to a particular organisation on a particular day tabled in this Council', that would occur, and I reject that proposition. I am very happy to cooperate and to provide as much information as possible but, if it involves a breach of confidentiality with regard to an individual or an organisation without their prior approval, then ethics and decency demand that I should not do so.

SEPTIC TANKS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Health a question about septic tanks.

Leave granted.

The Hon. Barbara Wiese: Is that a dunny question?

The Hon. PETER DUNN: A real dunny question. From the information I have received, it is apparent that either the Minister or this Government is giving local government a real attack of the trots. An edict has been issued by the Minister or the Health Commission to local government that septic tanks in unsewered areas must now be large enough to take the capacity of 21 persons in every home in the country. In the past it has been nine persons but, for some reason (and I have given that reason) it has to be increased to 21.

That means that the sullage or soakage pit attached to that septic tank must in turn be increased in size. For an eight person tank, the soakage area was nine square metres, but that has been increased to 41 square metres. If that is applied to older allotments (and people still own many of those allotments, which are 750 square metres), and if you put a house, a garage, a water tank and a very small garden on to that, there is nothing left of that 41 square metres for a soakage or sullage area.

However, in another edict the Government has stated that allotments will now be 1 200 square metres in size, so the cost is increased. So much for this Government's being for small people. In fact, if that is the case and if we need to have septic tanks to cater for 20 persons per house, people must have grown. My questions to the Minister are as follows:

1. What consultation did the Government or the Health Commission have with local government bodies in unsewered areas prior to instructing them to put in septic tanks of that size?

2. What reason is given for the change in criteria for septic tank sizes?

3. What about those people who still own the very small allotments and who may have to put in septic tanks and sullage drains of the larger size?

4. Does this mean that the present smaller septic tanks are not suitable, or is there more human waste under this Labor Government?

The Hon. J.R. CORNWALL: I do not regard this as the great democratic socialistic initiative of the 1980s. I think that it is putting too high a point on it to think that I have been personally involved in septic tanks, directly or otherwise. Although I am sensitively in touch with the electorate at large, in both rural and metropolitan areas, this specific requirement has not been drawn to my attention. However, it is one of the important public health functions of the Public and Environmental Health Division of the South Australian Health Commission. That division contains the experts in this State and they are very good at their job.

If they have drawn up new rules for the protection and safety of communities which live in the areas where septic tanks are used, then I have no doubt that it is being done, as it always is, in close consultation with local councils. The close working relationship that is enjoyed between the Central Board of Health and local boards of health is something that is quite traditional going back over decades. It is very well known to anybody who has had any contact in this area. However, as to the specifics of how many square metres and how much space you need for a one-holer, a two-holer, or a traditional four-holer, or whatever it may be—have you never read that book?

The Hon. C.J. Sumner: No.

The Hon. J.R. CORNWALL: Apparently, the Attorney-General has never read the classic Australian book on privies. I will try to obtain a copy, but it is probably out of print. It has been around for many years.

As to the specific questions of 21 persons, amounts of waste, square metres, and so on, I would be very pleased to refer to the Chief Health Surveyor in the Public and Environmental Health Division and provide the honourable member, the Council and the South Australian public with those details as soon as I reasonably can.

CENTRAL LINEN SERVICE

The Hon. K.T. GRIFFIN: Has the Minister of Health an answer to my questions of 22 October 1987, asked during the Appropriation Bill, on the Central Linen Service?

The Hon. J.R. CORNWALL: I have five pages involving answers to 12 multiple part questions. So that I do not take up the time of the Council reading them, as is the usual custom, I seek leave to have them incorporated in *Hansard* without my reading them.

Leave granted.

The Hon. J.R. CORNWALL: The replies are as follows:

1.Q. How much was paid for the ILS business?

A. This information is of a confidential commercial nature and is not provided at this time as it is considered that such a public disclosure could cause embarrassment to the vendor as well as have a negative effect on any similar purchases in the future.

2.Q. Why does the amortisation of goodwill commence on 1 July 1987 instead of the year the transaction occurred?

A. Australian Accounting Standard 18 requires that:

> 'Purchased goodwill should be amortised, by systematic charges against income, over the period of time during which the benefits are expected to arise. The period over which goodwill is to be amortised should not exceed twenty years.'

In the case of goodwill purchased with the ILS acquisition, CLS management determined that:

(a) benefits would accrue from 1 July 1986 following the transitional handover period;

(b) goodwill should be amortised over a period of three years during which time the benefits expected to arise from the acquisition were expected to at least equal the purchased goodwill.

3.Q. CLS interest brought to account is $1.488 million, but $432 000 has been capitalised.

What interest rate applies to loans?

A. Quarter ended 15.9.86 ..... 13.1%
15.12.86 ..... 13.2%
15.3.87 ..... 13.3%
15.6.87 ..... 13.5%

The $432 000 capitalised represents the interest paid on capital expenditure for the period between actual payment for machinery and the commissioning of that machinery, that is, the inactive period where the machinery was non-operational and non-money earning).

4.Q. Page 346 Auditor-General's report (note 5)—$432 000 capitalised; Page 348 Auditor-General's report (note 5)—$453 000 capitalised.

A. Page 346 ($432 000) refers to interest capitalised in the 1986-87 financial year only.

Page 348 ($453 000) refers to total progressive capitalisation of interest. $21 000 interest was capitalised in the 1985-86 financial year.

5.Q. Is there any further exposure to adverse currency fluctuations? Why was duty freight customs excluded from original estimates in 1985-86?

A. There is a possibility of adverse currency fluctuations. Of a total of 1 418 000 Netherlands Guilders owing at 30 June, 1 000 000 were paid at an exchange rate of NG1.46 per A$1. The balance of 418 000 Guilders still to be paid are retention moneys which will be paid as the guarantee period expires. Future exchange rates cannot be forecast with any accuracy.

The original estimates anticipated the Dutch built specialist designed bag distribution system would be classified as exempt from duty. Unfortunately, the system, which is not available in Australia, was designated as 'conveyors' and 'textile bags' by the Federal Government. This classification was challenged but no variation was permitted by the Federal Government and a higher duty than anticipated was paid.

6.Q. What is current productivity?

A. Direct labour productivity for the quarter ended 30 September 1987 averaged 39.1 kilograms/operator hour. This is a significant improvement when compared with the productivity level of 29.3 kilograms/operator hour in 1982 which preceded the re-equipment program. This productivity level reflects the current product mix which includes handling approximately 15 tonnes per week of intitutional personal clothing including underwear, which generally requires a high component of labour in its processing.

7.Q. Is the provision for workers compensation for an uninsured liability?

A. CLS workers compensation claims are covered by a managed fund under the control of SGIC. CLS premiums in respect of claims arising in any one year are paid in a number of instalments based on SGIC's periodic assessment of the probable outcome of claims. Premium instalments are based on prospective assessments with retrospective reviews.

CLS management has been concerned that its financial accounts should, in accordance with normal commercial practice, record the total estimated premiums for any year against the operating revenue for that year rather than against a number of years when premium instalments are paid. This has necessitated the creation of a provision for future premium payments in respect of outstanding claims arising from past years.

8.Q. Why should SAHC accept liability for $910 000 of workers compensation premiums?

A. The Government determined that the CLS should operate as a commercial enterprise from 1 July 1983. The payment of

$910 000 represents premiums relating to claims arising before 1 July 1983 but not paid under the SGIC Managed Fund arrangements until after that date. The Health Commission determined that it would be contrary to normal commercial practice for these pre-1 July 1983 liabilities to be charged against CLS operations in subsequent years.

9.Q. Profit on sale of fixed assets of $278 000:

(a) What assets sold?

(b) What was book value?

(c) What were sale prices?

(d) What further assets are to be sold?

A. *(a)* Assets sold comprised all of the old redundant machinery replaced during the re-equipment program.

(b) Most of the machinery was 23 years old, worn out with no book value remaining.

(c) All items sold went to tender and the highest offer was accepted in every case.

(d) Items of a similar nature, only older and of less value, will be sold ex our Port Pirie laundry and are expected to realise approximately $30 000.

10.Q. Why a reduction in linen replacement allowances or provisions?

A. The computer controlled ingredient injection system provides a wash system with much less inherent textile damage than previously was the case.

Another significant factor is that the sharply increased productivity within the State Clothing Corporation's factory at Whyalla has resulted in decreased prices to the CLS which, in a full year, will amount to approximately 14 per cent or a figure in excess of $200 000.

11.Q. What borrowings are envisaged in 1987-88?

A. It is not generally understood that the CLS is one of the largest commercial laundry and linen services in the world and its expenditure levels are proportionate to that position.

1987-88 is seen as a year of consolidation rather than major growth, but even so some expenditure will be required:

(a) To finance building alterations to enhance efficiency—estimated $500 000.

(b) To increase working capital for normal growth. This is expected to be less than $1 million.

12.Q. State Clothing Corporation:

A. Two general questions were raised concerning the SCC and its ability to compete fairly on the open market.

The CLS is currently providing contract management support to the State Clothing Corporation and this is improving coordination between the two bodies which is proving beneficial.

Every effort is being made to ensure that the SCC does compete on a fair and even basis.

The SCC is aiming for, and achieving, increased productivity and increased sales by functioning as a subcontractor converting raw material into finished product for other major textile companies. Interstate sales are being viewed as the major target for additional sales and, as a result of increased productivity, the labour charge out rate is being reduced to a level where charge out rates are becoming attractive to private sector manufacturers.

KARRARA KINDERGARTEN

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Children's Services, a question on the Children's Services Office.

Leave granted.

The Hon. R.I. LUCAS: I have been advised that the Karrara kindergarten at Hallett Cove is suffering a staff shortage at the moment due to a full complement of children and more on the waiting list. It has 102 children on the books and the sessions are full with approximately 49 children per session. I am told that, according to the Children's Services Office formula, it is half a staff member short. I am also advised that some 2 kilometres away the Children's Services Office has established a mobile kindergarten operating from a bus attached to a Baptist Church hall. I am told that the mobile bus, which operates three days a week—Tuesday, Wednesday and Thursday—has two full-time staff members. As of Monday of this week two children will be catered for by those staff members.

Suffice to say that the staff and parents of the Karrara kindergarten at Hallett Cove are disgruntled about the situation. I am advised that the Children's Services Office, prior to the establishment of the mobile kindergarten at the Baptist Church hall, had not advertised at all the presence of that facility as being available for the parents of children of Hallett Cove. The question put to me was why it had not advertised and, secondly, as it may be advertised in the near future, if the numbers still remain at such a very low level after advertising, why cannot the mobile kindergarten be relocated at the Karrara kindergarten so that the staff shortage at Karrara can be offset, together with any new children that might be attracted by the advertising campaign? My questions to the Minister are:

1. Why did not the Children's Services Office advertise the availability of the new mobile kindergarten at Hallett Cove prior to the location of the service at Hallett Cove?

2. If there is to be an advertising campaign at some time in the future, if after a suitable time after advertising there are still very few children being attracted to the mobile kindergarten, will the Minister ascertain whether it is possible to relocate the mobile bus kindergarten at the Karrara site to alleviate the staff shortage that exists there?

The Hon. BARBARA WIESE: I will be happy to refer those questions to my colleague in another place and bring back a reply.

FERAL DUCKS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, a question on feral ducks.

Leave granted.

The Hon. T.G. ROBERTS: The obsession with the ducks on the Torrens has been given much publicity and I ask my question on behalf of all children in South Australia who have fed the ducks on the Torrens. Both my children have lobbied me to get an answer to this question. The problem arose when the initial press statement raised the possibility of the ducks being gassed and disposed of quietly by throwing them to the lions. I am not sure whether it is somebody's attempt to wipe out some of the bitsers that move about on the Torrens and may cause environmental problems. I am not as well versed as some experts in regard to competition for breadcrumbs with native ducks, whether they are more aggressive than the native ducks, their feeding habits or competition for nesting grounds.

Will the department keep a close eye on some of the statements made to ensure that the concerns of those children, expressed in a report today with the signing of petitions, are heeded? Schoolchildren have been ringing local members and informing them that they are concerned about some of the press statements. Will the department keep an eye on some of the statements or at least keep in contact with the City Council's Parks and Works Committee to ensure that when it makes statements about how it intends to come to terms with the problem, it does not upset the children of South Australia who, to my mind, have shown a degree of sensitivity and responsibility in the way they have handled the problem? They see it as not a nice way to deal with the problem, and I believe that they are right.

The Hon. J.R. CORNWALL: The question of feral ducks, hybrids, and so forth, to my recollection was first raised by the member for Coles, the Hon. Jennifer Cashmore.

The Hon. Peter Dunn: Hear, hear!

The Hon. J.R. CORNWALL: I do not know about 'hear, hear'. I will not express an opinion on whether or not it is

a good or bad thing to get rid of them, but as an animal lover from way back I express my concern at what appears to be a very insensitive way in which the matter has been handled. It does not do our younger people, our kids or the rest of us who are concerned animal lovers, much good to read that it is proposed that the ducks be gassed with carbon monoxide and thrown to the lions. As to the desirability of culling the ducks in a humane way, I am not able to express either an informed opinion or an opinion on behalf of the Government, so I will refer that part of the question to my colleague the Minister for Environment and Planning and bring back a reply.

Members interjecting:

The Hon. J.R. CORNWALL: We are getting some callous interjections from the Hon. Mr Dunn and the Hon. Mr Elliott.

The Hon. Peter Dunn: Are you a vegetarian?

The Hon. J.R. CORNWALL: I am a veterinarian. One of the compelling reasons I chose to become a veterinarian, against all other professions available to me at the level at which I matriculated—

The Hon. L.H. Davis: Is that a modest aside?

The Hon. J.R. CORNWALL: No, it is just a statement of fact. When I matriculated at the age of 15 in Victoria, it was at such a level in those days that would have enabled me to go into virtually any faculty in the University of Melbourne. I chose instead to do veterinary science because I have been an animal lover all my life. The two things that I love more than anything else are animals and children and the one thing that I hate above all else is Liberals.

LANDLORD AND TENANT ACT AMENDMENT BILL (No. 1)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Landlord and Tenant Act 1936. Read a first time.

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

That this Bill be now read a second time.

The purpose of this short Bill is to ensure that shopkeepers in shopping centres cannot be compelled by landlords to open for extended shop trading hours by amending section 65 of the Landlord and Tenant Act 1936. Correctly, section 65 (1) of the Act prohibits a landlord from including in a commercial tenancy agreement any provision that purports to impose on a tenant an obligation to have his or her premises open for business at particular times, or during particular periods. If such a provision is included it is void and of no effect.

However, section 65 (1) is modified by the operation of section 65 (2). That subsection provides that section 65 (1) does not apply where the premises to which the commercial tenancy agreement relates forms part of a group of premises constructed or adopted to accommodate six or more separate businesses.

However, section 65 (2) is being used by some landlords to require tenants to open during the new extended shopping hours that have applied since the start of the year. It was not the intention of the Government in offering the public extended hours to force any hardship on traders but rather to allow a freedom of choice to operate over the weekend period.

The effect of the amendment will be that normal trading hours for substantial shopping complexes will remain and be covered by shopping centre leases but in respect of extended trading there will be no compulsion on tenant businesses to open. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 repeals and re-enacts section 65 of the principal Act. Subsection (1) avoids provisions of commercial tenancy agreements regulating opening hours unless the premises subject to the agreement are comprised in a substantial shopping complex. Subsection (2) provides that even where the premises are comprised in a substantial shopping complex the tenant cannot be required to keep the premises open after 12.30 p.m. on a Saturday.

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

[*Sitting suspended from 3.22 to 3.56 p.m.*]

SEXUAL REASSIGNMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2823.)

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions to the debate. Members of the Liberal Opposition have advised that they will support the second reading of the Bill, but only for the purpose of enabling it to be referred to a select committee. The Government opposes the Bill being so referred. I do not believe that the issues are so complex that members of Parliament cannot address them during the normal legislative process. As the Hon. Mr Griffin indicated, the issue of sexual reassignment was on the agenda of the Standing Committee of Attorneys-General for some considerable time. During that time the standing committee considered a number of reports and representations dealing with sexual reassignment for the purposes of working towards uniform legislation. I have already indicated that uniform legislation was not possible and the matter is no longer being considered by the standing committee, but it is being left to individual States to determine what attitude they will take and whether or not to introduce legislation.

Nevertheless, much of the information considered by the standing committee has been available to the Government in drawing up this Bill. This includes specialist legal and medical input and comments from such groups as the National Health and Medical Research Council and the Australian and New Zealand Committee on Transsexualism. In addition, close consultation has been held with the Medical Coordinator from the Health Commission regarding medical aspects of the Bill.

Once the Bill was finalised and introduced, it was forwarded to certain medical specialists at the Flinders Medical Centre and the Adelaide Children's Hospital. A copy was also forwarded to the former Coordinator of the Gender Dysphoria Clinic at the Queen Victoria Medical Centre in Victoria. Although responses were not received from all those specialists, one advised that, in his view, the Bill was comprehensive and enlightened and, from a medical point of view, it covered the important aspects of sexual reassignment. That was the view of Professor Walters, Professor of Reproductive Medicine at the University of Newcastle.

The legislation provides some regulation of reassignment procedures and an ability for legal recognition once a reassignment procedure has been undertaken. Given the research and consultation already undertaken on this matter, I do not support the reference of the Bill to a select committee. I note that the Democrats are of the same view, and believe that the issue can be dealt with through the normal Committee process.

The Hon. Mr Griffin has indicated that acknowledgment of reassignment of sex on a birth certificate may cause some difficulty, particularly in relation to passports. The Hon. Mr Burdett has already clarified this matter, as he has advised that the Department of Foreign Affairs has already adopted a procedure whereby a post-operative transsexual can obtain a passport showing the reassigned sex. Therefore, this is no longer a practical problem for a post-operative transsexual. In the case of a pre-operative transsexual, a document of identity which has no reference to sex can be obtained for travel.

Members opposite have queried the establishment of a board to deal with matters of reassignment—or at least that was the matter raised by the Hon. Dr Ritson. One of the main reasons for proposing the establishment of the board was to provide an approval procedure for persons who conduct reassignment procedures. I have been advised that in the past, some individuals have offered to carry out, or have carried out, reassignment procedures without the appropriate counselling support. The need for proper diagnosis, treatment and counselling is important in this area. As a result, the Government considered that a specialist board would ensure that proper medical principles and practice are observed. The board also provides a mechanism for issuing recognition certificates. In this respect, the Bill provides for the Principal Registrar to have access to a specially convened panel of medical specialists to evidence that a reassignment has occurred.

Despite this and the original basis for the establishment of the board, which I indicated would not be a particularly large bureaucratic structure, and certainly would not be very costly—and, therefore, was considered the best way to go—I do have some sympathy with the arguments regarding the establishment of a board to deal with only a few cases each year. Therefore, I am prepared to examine this matter further with a view to determining whether a less formal mechanism could be incorporated into the Bill while at the same time maintaining the integrity of the approval and recognition system.

The Hon. Dr Ritson suggested that the Health Commission could take on this responsibility and, if members opposite feel that that is appropriate, I am certainly prepared to examine that and do away with the board. Of course, in most cases, we have members of Parliament complaining about departments doing things like this, and they usually want some board with special expertise. However, what the Hon. Dr Ritson said in my view deserves further consideration, and I am prepared to give his proposals that further consideration. If members opposite agree with the Hon. Dr Ritson that the approval and recognition system can be supervised by the Health Commission, then that is something I am prepared to examine further.

The Hon. Mr Griffin has raised a number of questions regarding the procedures to be adopted by the board. As I have stated, I will re-examine the need to establish the board. However, I will still deal with the matters raised by the Hon. Mr Griffin in his second reading contribution. The Bill does not set out the procedures to be adopted by the board, which will be differently constituted, depending on what type of matter it is considering. I do not see that there is a need for a strict formulation of the board's proceedings in the Act. The board can determine its proceedings depending on the matter with which it is dealing. Nor do I see that there is any need to include a right for the Principal Registrar to be able to intervene in proceedings regarding the issue of a recognition certificate. The Principal Registrar will be concerned with the procedural implications of a reassignment once it is recognised by the board, not whether a recognition certificate is issued in a given case.

The Bill does not empower the board to make an interim indication of whether or not a recognition certificate will be granted. However, once the prerequisites of recognition are satisfied, the board will be expected to issue a certificate. The ability of the board to shorten or extend prescribed periods under clause 14 has been included to allow a degree of flexibility in special cases. It is unlikely that an application for extension would be made unless a medical practitioner or counsellor involved in the case was of the view that it would not be in the person's interest to undergo a reassignment procedure, despite having completed the prescribed period set out in the Act. In the case of an application for a shorter period, the person undergoing the reassignment procedure may wish to show special reasons why the period prescribed in the Act should be reduced.

The Hon. Mr Griffin has also queried the method of determining whether the criteria for reassignment have been established. In the case of an adult transsexual an approved medical practitioner would need to satisfy himself that the relevant criteria have been adhered to, including the diagnosis of primary gender dysphoria syndrome, the adoption of lifestyle, and the provision of counselling. This is really statutory recognition of what would usually happen in practice now. In the case of an infant reassignment, the board's authorisation would be required.

The Hon. Mr Burdett is concerned that the role of the board in infant reassignments is to the exclusion of the rights of the child's parents. This is not the intention of the Bill, nor does it do this. The Bill provides for the authorisation of the board as a precondition of an infant reassignment. However, normal processes of consent, etc., would still be required from the parents and, where applicable, the child.

The Hon. Mr Griffin has also queried the appeal procedure set out in the Bill. The person directly aggrieved by a decision of the board could appeal to the Supreme Court, for example, a medical practitioner denied approval or a reassigned person denied a recognition certificate. I do not see that there is any need to include a provision to allow the Principal Registrar, the Attorney-General or a parent of an adult transsexual to appeal to the Supreme Court.

The Hon. Mr Burdett has indicated that in his view the regulation making power regarding access to hospital records is too wide. The provision was included to enable regulations to be made limiting access to records associated with reassignment procedures. Such a provision was included because of the highly sensitive nature of records associated with reassignments.

Both the Hon. Mr Griffin and the Hon. Mr Burdett have queried the issue of a new birth certificate and expressed concern at the ramifications of that action. With regard to clause 18 of the Bill dealing with registration, I advise that following discussions with the Principal Registrar, an amendment will be moved to this provision. The Births, Deaths and Marriages Registration Act does not provide for the issue of a birth certificate; a birth is registered and there is provision for issue of a certified copy of the entry in the register. In the case of reassigned transsexuals, a new birth certificate will not be issued: rather a typed copy of the

register entry would be prepared and verified showing the usual registration details as varied by the subsequent process of reassignment. This is the process already used in the case of adopted or illegitimate children, or where the original entry cannot be copied.

As a birth certificate is a basic document for general identification, it is of great importance to a sexually reassigned person that the sex designation on it indicates the acquired sex. At the moment, the sexually reassigned person is in limbo in the legal world. The issue of recognition and revised birth entry will resolve some of these difficulties.

Finally, a number of members have expressed concern regarding the impact of the legislation on the issue of marriage of transsexuals. As members are aware, the law of marriage is within the Commonwealth's jurisdiction. The Commonwealth was originally involved in discussions with regard to uniform legislation dealing with reassignment. However, as I have already stated, the matter is no longer the subject of discussions by the Standing Committee of Attorneys-General. In spite of this, I think it undesirable for this State to postpone legislation on this topic further to wait for other States and the Commonwealth to decide on what, if any, action they will take.

Honourable members have indicated that there may be a problem with persons who have received a revised birth certificate being able to participate in a marriage ceremony, which would be contrary to the provisions of the Marriage Act. It may be that some attention needs to be given to this in Committee to ascertain whether a provision could be included to clarify the matter without conflicting with Commonwealth legislation.

Bill read a second time.

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

(a) That this Bill be referred to a select committee.

(b) That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the chairman of the committee to have a deliberative vote only.

Unlike the Hon. Mr Elliott, I have received comments about this Bill from various people and organisations in the community. I suppose the fact that he has received no comment could indicate one of three things: first, that people do not know about him; secondly, that he has not forwarded the Bill to people; and thirdly, that those who have a view have felt it sufficient to communicate that view to another Council member. The fact is that a considerable amount of comment on this Bill has been made to me and to some of my colleagues as to the moral questions that it raises and the practical questions, some of which have been referred to on second reading.

As I recall, the Hon. Mr Elliott said that the issues in this matter were not complex and that we should be able to resolve the questions in Committee. However, I believe that the issues are complex because they involve the change of sex of a person from the sex into which that person was born to another which, of course, might be the subject also of surgical and medical procedures as well as the counselling which the Bill would provide if it were to be passed. The issues are complex and I referred to a number of them on second reading: the question of the involvement of parents and of children who might be the subject of an application to the board; the involvement of the Registrar of Births, Deaths and Marriages and the consideration of the question whether or not a recognition certificate should be issued; and, if not the Registrar, who else should be involved at least to put an the alternative view, if necessary, or to ensure that the proceedings are conducted with more points of view being presented to the board or the body with the responsibility for making the legal decision as to the change in sex?

I do not believe that all those matters have been dealt with adequately, whereas they should be dealt with, and could be more effectively dealt with by a select committee than by the sort of debate that occurs in Committee when it is considering a Bill such as this. I drew attention to the fact that the *in vitro* fertilisation select committee, although not unanimous on every issue, was at least able to provide a report in which there was a substantial degree of agreement on many complex questions and issues, and I believe that that took much heat out of the issue and also ensured that we had better legislation as a result. The sort of evidence that we received enabled all members of that select committee properly and adequately to consider the issues and to reach appropriate conclusions.

I suggest that the same would apply to this Bill, in respect of which the issues are as complex as those concerning *in vitro* fertilisation. A select committee is more likely to reach a satisfactory conclusion on the issues raised by this Bill than is a debate on the floor of this Council.

It is for those reasons that I believe it is important to give all parties who have an interest in this matter—adults and representatives of children, their parents and guardians—an opportunity to put a point of view on the issues raised in this Bill and then for a select committee to make recommendations to the Legislative Council. However, if the Bill is not referred to a select committee the Council will have to soldier through the Bill and I suggest that that will take some time and will not be as satisfactory as a select committee. So, I strongly support the concept of a select committee, notwithstanding the fact that a number of select committees are already sitting on a whole range of other issues—some significant and some of a more general nature. I believe that a select committee on this Bill will be an important contribution to effective and proper legislation passed by this Parliament.

The Hon. J.C. BURDETT: I support the motion for a select committee. First, I refer to the question of parental consent or consultation, not because I think that that is the most important issue—because it is not—but because on some of the other important issues the Attorney is prepared to compromise to some extent. However, he is not prepared to compromise on this in regard to the parents of children who are to undergo the reassignment procedure: the Attorney is prepared to leave it to the existing law, that is, the Consent to Medical and Dental Procedures Act, to which I referred when I spoke on the issue.

The Hon. C.J. Sumner: You still need parental consent.

The Hon. J.C. BURDETT: You don't actually because, if you look at the Consent to Medical and Dental Procedures Act, you will find that in regard to children over 16 years no parental consent is required. On the other hand, the child's consent is deemed to be as effective as if the child was an adult and, in regard to children under 16 (without any age limit), there are circumstances (and they could apply to sexual reassignment if you look at the criteria) where their consent can be substituted for that of the parent. I have suggested that, first, I do not see it as necessary at all (for the reasons that I gave in my second reading contribution) but, if it is, because the procedure is of such a mutilating nature, I believe that, if you are going to write into legislation principles and criteria about reassignment then you should consider the rights and at least acknowledge parents in such matters.

The Hon. C.J. Sumner: It will not detract from the rights of parents.

The Hon. J.C. BURDETT: I am making the point that under the Consent to Medical and Dental Procedures Act there are circumstances where parental consent is not required. If you are dealing with such a procedure as this and if you are going to write it into the law—and I do not think that you need to do that—it is my view that there should be a provision that parental consent is required. It may be that it can be dispensed with in certain circumstances but at least parents should be consulted. As I have said, I do not believe—

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

The Hon. J.C. BURDETT: I am pleased to hear the Attorney say that he agrees. It would not do any harm to write such agreement into the legislation by amending (from memory) clause 15 to provide for this. In regard to the other issues which I believe are important, particularly clause 18, which relates to a birth certificate, I am pleased to hear that the Attorney is prepared to come to some sort of compromise. However, after listening to him I am not quite sure exactly what that will be. I believe that this is at the very heart of the matter. As I said, I am concerned that under clause 18 as it stands the public record will tell a lie and not the truth. I believe this to be fundamental.

I think that there should be a select committee to hear the views of people concerned in the procedure, the people who care for them as professionals—the other medical, nursing, social and psychological professions and others—and their families and the people who support them because, if the Bill is not now referred to a select committee and goes into the Committee stage without our knowing precisely what the amendments will be, it will be too late. I think it would be much better if a select committee was held.

I agree with the Hon. Mr Griffin that the provisions of the Bill are complex, but because they relate to so few people I do not believe that a select committee would take very long. I think it would be possible in a short time to ascertain the views of the people concerned and other people who are concerned about matters related to the Bill, in particular this issue of truth in public records, and that they should be given the opportunity to state their points of view so that when the matter does reach the Committee stage in the House it will be with the benefit of those people's views. In his reply the Attorney indicated that he had received some views from some people, but there was no indication to me that there has been any across-the-board consultation with the kind of people who will be affected.

In regard to the matter of marriage, I am pleased to hear that the Attorney is prepared to think about something, but that statement was even more ambiguous and unspecific than that, in relation to the birth certificate, and we do not know what he is prepared to do in that regard. My point is, Madam President, that while it is not too late, while there is the possibility of hearing from people who have a legitimate concern—either from the point of view of principle or from the practical point of view—and so that it will have an effect on the Bill, let us hear them before we get into the Committee stage, where, as the Hon. Mr Griffin pointed out, it is merely a numbers game and quite different principles apply. It is for those reasons that I support the motion.

The Hon. R.J. RITSON: I, too, support the motion. It is with somewhat of a heavy heart that I see this most complicated issue at the point of death and perhaps a rapid passage in a moribund form as a result of the Hon. Mr Elliott sitting there with the fixed position that he obviously took some time ago to obstruct the establishment of a select committee because he thinks the matter is not complicated. He sits there ignorant of the very complicated physical, psychological and social matters involved.

The Hon. I. Gilfillan interjecting:

The Hon. R.J. RITSON: He is the crucial man—the balance of power to keep us all honest.

The Hon. C.J. Sumner: The balance of reason!

The Hon. R.J. RITSON: The balance of reason requires the application of a certain amount of reason rather than a fixed position. The fact of the matter is that this Bill proposes a very complicated and somewhat large board to perform two functions. One of the functions—

The Hon. C.J. Sumner interjecting:

The Hon. R.J. RITSON: Yes I was, I heard your response; I heard the first part of it on the loudspeaker and that caused me to re-enter the Chamber to hear you mumble the rest of it. The two functions are the administrative function of providing the appropriate authority to the Births, Deaths and Marriages Registry and the function of overseeing the standards of clinical practice in Flinders University and Adelaide Children's Hospital, because there is absolutely not a skerrick of evidence that these procedures are carried out elsewhere at all in South Australia or by anyone other than the small number of specialists in the field in those two institutions.

As I said before, it is beyond me why such a complex quango is established for such a small administrative problem, particularly without consulting with the specialists involved in those institutions. The Minister rightly said in his response a few minutes ago that there is a need for medical confidentiality and for this reason a certificate of reassignment and a procedure for issuing it has been established. But he has not answered the point I made in my second reading speech as to why a single responsible medical officer cannot review the clinical notes to determine whether sex has been reassigned.

The Hon. C.J. Sumner: I said I was going to re-examine it. You didn't hear that part.

The Hon. R.J. RITSON: I am grateful for that. This is the point the Hon. Mr Griffin raised about dealing with the Bill by amendment. So many parts of it are consequential upon previous parts and definitions. It is not a simple matter to delete reference to the board and replace it with reference to a 'single medical practitioner' without further examination by the Attorney. To deal with the matter by amendment is mechanically going to be difficult.

The Hon. C.J. Sumner: It is not beyond the wit of Parliamentary Counsel.

The Hon. R.J. RITSON: It is going to be a long hard slog, and we are—

The Hon. C.J. Sumner interjecting:

The Hon. R.J. RITSON: I agree with my colleague the Hon. Mr Griffin: to deal with this in Committee without the advice of the psychiatrist who might have given evidence to the select committee if it had sat, and without hearing the advice of the administrators or surgeons—

The Hon. C.J. Sumner interjecting:

The Hon. R.J. RITSON: Madam President, this is a typical lawyer talking *in vacuo* about something he does not understand (it is not typical of all lawyers because we have a lawyer on this side), but it is typical of the present Government to draft legislation *in vacuo* without talking to the people at the coal face who have to work with the Bill. That is simply what has happened here. We are now to be denied an opportunity to receive through a select committee representations by the very people who will have to work with the Bill. We are being denied an opportunity to achieve some fuller understanding of the complexity involved in

this matter, which is being rushed through when the Commonwealth marriage law remains uncertain concerning persons who may in effect deceive a marriage celebrant with a reissued or altered document of birth.

So, I just think it is a pity that Parliament is being asked to consider this Bill now in the absence of that sort of understanding by members of Parliament, and having been denied the opportunity to gain that understanding by what appears to be the Democrats' fixed attitudes, and being rushed through before the Commonwealth has looked at its own marriage law in relation to this problem. The Hon. Mr Sumner said that the balance of reason left the Council some time ago, and I lament the inability of people to change their minds extremely rapidly. This ability appears to have deserted the Hon. Mr Elliott at the moment. Perhaps he feels that somehow there is a loss of face to listen to these arguments and admit more knowledge to Parliament through a select committee.

The Hon. C.J. Sumner: Perhaps he does not agree with the arguments advanced.

The Hon. R.J. RITSON: I am not sure that he understands the argument. There is no point in recycling these arguments any further, Ms President. We just have to make the best we can of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I outlined the reasons for opposing the establishment of the select committee in my second reading reply. The only other thing I want to say is that what this Bill does is to recognise the status of people who have undergone these operations. In other words, we are in the process—as indeed we were with the Reproductive Technology Bill and the debate about IVF and AID, of bringing the law up to date with medical practice. The fact is that these operations—

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: Well, so far as we can do it in this State we are doing it.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: The Hon. Dr Ritson should go off to his medical colleagues, if he does not think the Bill is necessary, and ask why they are doing these terrible operations. The fact is that the medical profession is at present carrying out sex change operations. What we are saying is that, given that that is now an accepted medical procedure—

The Hon. R.J. Ritson: Well, that is in doubt.

The Hon. C.J. SUMNER: Well, it is not in doubt for how ever many people have had the operations.

The Hon. R.J. Ritson: But for the future.

The Hon. C.J. SUMNER: Then one needs to debate whether or not we ought to be legislating to prohibit such operations, because my information is that there have been queries from other medical practitioners about carrying out these operations.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: But it is not just the Flinders Medical Centre that is doing it. In the absense of any legislation prohibiting them, it may well be that other medical practitioners will offer the service.

The Hon. R.J. Ritson: You are saying it is already done elsewhere?

The Hon. C.J. SUMNER: No, as far as I know I do not think it is, but there have been inquiries from other medical practitioners, as I understand it, about doing it. So, even if the Flinders Medical Centre stops, if there is still a demand there from people wanting the operations, it is quite likely that they will continue to be done by the medical profession. The point that I am making is that the operations already occur and have been going on for some time, carried out by the medical profession. We are trying to do two things with this Bill. First, to say, if they are to be carried out, that they ought to be carried out in accordance with certain safeguards—

The Hon. R.J. Ritson: But why in legislation; there are tons of other controls.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —relating to counselling and the like, and the circumstances—

The Hon. R.J. Ritson: That is being done properly already.

The Hon. C.J. SUMNER: It may be done properly while the Flinders Medical Centre is doing it; we do not argue about that. What I am saying is that if they stop and another surgeon comes along and decides that he will be the local surgeon in Adelaide in this particular area it may be that the ethical requirements relating to counselling that have so far occurred through the Flinders Medical Centre may not continue to occur.

The Hon. R.J. Ritson: You think the ethics committee will change its policy?

The Hon. C.J. SUMNER: Maybe it would.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: It is all very well but the medical ethics committee of the AMA, whoever it is—

The Hon. R.J. Ritson: The Institutional Ethics Committee at Flinders Medical Centre.

The Hon. C.J. SUMNER: What I am saying is that, as I understand it, the AMA has not yet given any ethical rulings in this respect. So, it is not unreasonable for the Parliament to say that, if you are going to have these sex change operations which have been going on for some time, there ought to be certain safeguards with respect to how and when they are carried out. That is the first point, in summary.

The Hon. R.J. Ritson interjecting:

The PRESIDENT: Order! A speech in Parliament should not include a conversation across the Chamber.

The Hon. C.J. SUMNER: We have been in contact with Dr Connon of the Health Commission during the drafting of the Bill, and I understand that she has some expertise in these areas.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: That's all right—the Bills were sent when they were introduced two months ago.

The Hon. R.J. Ritson: But during the drafting.

The Hon. C.J. SUMNER: Okay, but they laid on the table for 2½ months so that people could comment on them before they were passed by Parliament.

The Hon. R.J. Ritson: You are not going to change them, anyway.

The Hon. C.J. SUMNER: That is not true—there may be changes. The Flinders Medical Centre received copies of the Bill after it was introduced. It regularises a practice that is already going on so it is not the Government's fault that these operations are occurring. Some people who have had one of these operations are confused about their status. That is a fact. This Bill regularises the practice and provides that a person can have the status that is intended by the operation. I would have thought that that was perfectly sensible and not that complex in principle. The issues can be dealt with in the Committee stage, and I oppose referring it to a select committee. I do not have at hand the letter of support to which I would like to refer. I repeat: the Bill was sent out to a number of people who practice in the area and I indicated in my second reading reply that at least one response was very complimentary about the Bill.

The Hon. M.J. ELLIOTT: I reiterate the comments that I made during the second reading stage about a select committee not being necessary. The matters that need to be considered, whilst not unimportant, are not complex. They are certainly not of sufficient complexity to demand a select committee. In addition, I suggest that a select committee would have a great deal of trouble sitting at the moment. I am on several select committees that have been struggling to find a time at which all members can attend. I am most disappointed in the suggestion by the Hon. Dr Ritson that there is a degree of inflexibility on this side. On almost every occasion when I have attempted to move amendments, Liberal members have shown an amazing degree of inflexibility or refusal to listen to anything that has not emanated from their minds, or whatever they call them. I made it quite clear during the second reading stage that I was open to discuss any of the matters that were of concern, but I do not see the necessity for a select committee.

The Council divided on the motion:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (11)—The Hons. G.L. Bruce, J.R. Cornwall, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Majority of 1 for the Noes.

Motion thus negatived.

ELECTORAL ACT AMENDMENT BILL (No. 2)

(Second reading debate adjourned on 16 February. Page 2755.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Entitlement to enrolment.'

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

Page 2, lines 14 to 29—Leave out paragraph *(c)*.

This clause seeks to replace a provision in section 29 of the Act that deals with entitlement to enrolment. The controversial issue that we debated when the Bill was before us in 1985 was the place at which a prisoner should be entitled to be enrolled, recognising that the prisoner did not have a principal place of residence other than the gaol and that, if a prisoner was to be treated in the same way as any other person, the gaol should be that principal place of residence. Although in 1985 I sought to oppose treating prisoners differently from other members of the community, the numbers in this Council were sufficient, with the support of the Australian Democrats, to make some special provisions about the principal place of residence of a prisoner.

The concern that I expressed in 1985 was that the sort of flexibility that was being given to the prisoner to identify a place of residence would have facilitated roll stacking, certainly manipulation of the systems, and that it was inappropriate in an electoral system to have that sort of flexibility. In consequence the present subsection (4) is in section 29 and its intention is to try to give the prisoner some opportunity to be enrolled at a principal place of residence other than the prison if certain criteria are satisfied, yet it does not provide the sort of flexibility that was included in the Government's original proposal.

Present subsection (4) allows for the prisoner's principal place of residence to be deemed to be the place that constituted the prisoner's principal place of residence immediately before the commencement of the imprisonment. That is fixed; there can be no debate about that and it is not affected by the amendment. The next option provides that if the place of residence—that is, the principal place of residence immediately before the commencement of the imprisonment—was owned wholly or in part by the prisoner or was the place of residence of a parent, spouse or child of the prisoner at the commencement of the imprisonment; if the prisoner or the parent, spouse or child of the prisoner acquires during the term of the imprisonment some other place of residence in lieu of the place of residence referred to in paragraph *(a)*; if the prisoner intends to reside at that new place of residence on release from prison and the prisoner elects to be enrolled in respect of that place, then that place may be the address of the prisoner.

The Government wants to remove the reference to the prisoner's principal place of residence immediately before the commencement of the imprisonment being owned wholly or in part by the prisoner or being the place of residence of a parent, spouse or child of the prisoner at the commencement of the imprisonment. In reality, that means a great deal more flexibility for the prisoner to, in effect, play the roll. It will not have the ingredient of stability or certainty that ownership gave; rather, it will allow a somewhat flexible approach, dependent on the acquisition, whether by way of ownership, lease, tenancy or some less formal occupancy, during the term of imprisonment of some place other than the place of residence prior to commencement of the imprisonment by the parent, spouse or child of the prisoner who was residing with the prisoner immediately before the commencement of the imprisonment.

If that criteria is satisfied, the prisoner can indicate that he intends to reside at the new place of residence on release from prison, no matter when that release will be—even if it is years down the track—and, if the prisoner elects to be enrolled in respect of that place, that is to be deemed to be the principal place of residence of the prisoner who will be, thereafter, enrolled for that place. That appears to give too great a degree of flexibility in relation to the prisoner's choices.

Of the two propositions, I prefer the provision which is already in the Act under subsection (4) *(b)*, because that has a greater element of certainty and less potential for abuse. It is for those reasons that I move my amendment which, if carried, will have the effect of maintaining the *status quo*.

The Hon. I. GILFILLAN: The Democrats oppose this amendment. The factor which, I think, the Hon. Trevor Griffin fails to recognise is that there is a very important survival mechanism for people who are in prison, and that is some link with the family. Identification of a voting location, in the preferred position that the Hon. Trevor Griffin has identified as being the prison itself, is a very soul-destroying restriction. I believe that, if the honourable member uses a little of the human sympathy and compassion that I know he has, he will recognise that no one wants to have their entity as an individual identified with a prison when they are exercising their right as a citizen in this State to vote for a Government or a member of Parliament.

The risk of roll stacking, to which the honourable member referred, is minuscule. The numbers of prisoners, although regrettably large (and too large in South Australia), is still so relatively small as to be of no consequence in regard to the roll-stacking factor. I just mention in passing that, if we were to adopt multi-member electorates, of course, this issue would not arise at all.

More important than any of the other arguments that I could put up is the fact that it is essential that there is a link not only retained but nourished between the prisoner

and whatever family he or she may have, and one way to do it, and quite validly, is to ensure that prisoners feel that they can be attributed to the address of a parent, spouse, child, person or family with whom they have some connection. I believe that, for that reason alone, it is well worth supporting the subclause in this Bill.

The Hon. C.J. SUMNER: I oppose this amendment. The Hon. Mr Griffin's amendment seeks to retain the present law in relation to a prisoner's entitlement to enrolment. The Government's amendment seeks to dispense with the requirement that a place of residence of a prisoner at the commencement of imprisonment had to be 'owned wholly or in part by the prisoner', that is, before the prisoner was entitled to get a new enrolment outside the prison. In other words, it places an ownership of property criterion in the legislation for qualification to vote. Ownership is a restrictive concept. Besides, how many prisoners would actually own, as opposed to rent or lease, premises? The Government's amendment seeks to accord greater recognition to realities. People, including prisoners, should not be disfranchised solely on the basis of non-ownership of property.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They are not disfranchised completely but they are disfranchsed if their family moves from the place of residence at which they resided when they were imprisoned: the prisoner cannot transfer his enrolment from that place to the new place of residence of the family. If he is imprisoned for under two years, then he would be left in limbo—disfranchised. If he was imprisoned for over two years, he could enrol in the prison.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Because that is what the Act says.

The Hon. R.I. Lucas: He can retain his enrolment at his old—

The Hon. C.J. SUMNER: If there is no nexus with his old place, he would be struck off, and that would be artificial, too.

The Hon. R.I. Lucas: He can't be struck off. He is deemed to be residing at that address. That is contained in subsection (5). You can't strike him off. That was the whole reason for that.

The Hon. C.J. SUMNER: It still creates an artificial situation.

Members interjecting:

The Hon. C.J. SUMNER: Well, it is and it isn't. Then, enrol them in the prison the moment that they go in. If they are in prison for over a month, enrol them in the prison. That is the other way of approaching it, but that was not acceptable to Parliament when this matter was debated—

The Hon. K.T. Griffin: To the majority.

The Hon. C.J. SUMNER: —to the majority of Parliament when it was debated on an earlier occasion. I think that was the effect of the Bill when it was originally introduced: prisoners could be enrolled at the prison, but this compromise in the existing Act—

The Hon. K.T. Griffin: It was much broader. We said that they should be enrolled at the prison, but your Bill wanted to go very much further. They could choose where they wanted to be enrolled.

The Hon. C.J. SUMNER: As a result of the conference, we ended up with what is now contained in the Bill, but it imposes an ownership concept as to where the prisoner can be enrolled. It seems more sensible that, if a prisoner's family shifts from the place of enrolment and the prisoner intends to return to the family in their new place of enrolment, that ought to be where the prisoner is entitled to enrol.

The Hon. R.I. LUCAS: I want to clarify that last matter. If the person is imprisoned for under two years and chooses subsection (4)*(a)* of the Electoral Act, that is, they choose to be enrolled at the place of residence prior to commencement of imprisonment, the Attorney-General said in his contribution that the prisoner is left in limbo or disfranchised. Section 29 (5) is that it provides:

> A prisoner shall, for the purposes of the provisions of this Act relating to enrolment and entitlement to vote, be deemed to reside at the place that constitutes the prisoner's principal place of residence under subsection (4).

I had some discussions with Parliamentary Counsel about this matter because I thought that we may have to move an amendment, but Parliamentary Counsel pointed out to me that that deeming provision ought to cover prisoners so that, if they choose that option, they are not disfranchised or left in limbo: they retain a vote. I concede that it is artificial, but then this whole business in relation to prisoners is artificial. We are trying to accommodate them as much as possible. It is a question of how far we accommodate them.

I want to clarify that the Attorney-General's understanding of the matter is that a prisoner is not disfranchised under any of the options: it is really just a question of where they choose or are allowed to choose to enrol under section 29 of the Electoral Act.

The Hon. C.J. SUMNER: The honourable member is correct: they are not in limbo unless they are not enrolled.

The Hon. Peter Dunn: Or come from interstate.

The Hon. C.J. SUMNER: Or come from interstate—in which case, unless they have been imprisoned for two years, they are in limbo. In that sense, if they have a principal place of residence at the time of their imprisonment, they can remain at that place while they are in prison. However, the Government's argument is that it seems odd that, if a prisoner owns property at that principal place of residence and the family moves, the prisoner can transfer his or her new enrolment to the new residence with the family. However, if the prisoner does not own that property, then he must remain enrolled at the old address, which seems to the Government to be a more artificial situation indeed than what is in the existing legislation.

The Hon. K.T. GRIFFIN: But let us face it, everything in respect of the prisoner is artificial when dealt with, either in the way that subsection (4) already provides or by way of the amendment, so it is artificial. The question of ownership just gives a bit less flexibility. It perhaps requires more stability than no reference to ownership at all. I have made my points on this. It is obvious that it will not get the support of the Australian Democrats. Therefore, I indicate that, if I lose it on the voices, I will not on this occasion divide, although there are other issues in the Bill on which I will be dividing.

The Hon. R.I. LUCAS: I refer to the definition of 'spouse' in this provision. We have had this argument in other legislation, but I cannot see in the introduction to the Act that 'spouse' is defined. What would be the interpretation of 'spouse' in relation to this provision? Are we talking in terms of marriage as we know it? Are we talking about *de factos* relationships or putative spouses?

The Hon. C.J. SUMNER: Legal spouses—married.

Amendment negatived; clause passed.

Clauses 5 to 9 passed.

Clause 10—'Printing of the names of political Parties in ballot-papers.'

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

Page 4, line 18—After 'group' insert '(and, in the case of an application made on behalf of all members of the group, must be accompanied by the appropriate written authorisation signed by all of the members of the group)'.

In the other place, an amendment was inserted in relation to House of Assembly members giving authorisation to the registered officer of the registered political organisation who would be authorised to request the description of the political Party beside the names of those House of Assembly candidates on the ballot-paper and also in relation to the lodging of voting tickets.

The question was raised in the other place as to what happens with the Legislative Councillors. I have given some consideration to this, and it seems to me to be appropriate that, if a candidate in the Legislative Council is to give an authority to the registered officer of a registered political organisation to identify a political Party and grouping and the lodging of a voting ticket, there ought to be an appropriate written authorisation signed by all members of a group and that ought to be produced by the registered officer at the time of the lodging of the voting ticket and making the request with respect to the addition of the political Party involved. So, this really picks up the same sort of provision in relation to the Legislative Council as was included by the Government and subsequently added to, by way of amendment, by the Liberal Party in the other place in respect of the House of Assembly.

The Hon. C.J. SUMNER: That is a sensible amendment and it is accepted.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—'Display of certain electoral material.'

The Hon. I. GILFILLAN: I move:

Page 5—

Line 1—After 'amended' insert:

'—

(a)'.

After line 4 insert new paragraph as follows:

and

(b) by inserting after subsection (6) the following subsections:

(7) The presiding officer at each polling booth must arrange on a table in a prominent position in the booth how-to-vote cards submitted by or on behalf of candidates in the election for use by voters who come to the polling booth to vote.

(8) The following provisions apply in relation to how-to-vote cards submitted for use by voters—

(a) they must be in the same form as how-to-vote cards submitted for inclusion in posters by or on behalf of the same candidate or group and if no such how-to-vote cards have been submitted they must comply with the requirements as to form imposed by subsection (2).

(b) they must be submitted to the presiding officer on or before the opening of polling in quantities not exceeding an amount determined by the presiding officer;

(c) they must be displayed from left to right on the table in the same order as they appear in the poster and if any do not appear in the poster they must be placed to the right of those that do in an order determined by lot.

Here we have a novel and welcome initiative coming in with this amendment, which is linked with the second amendment I have on file and deals with the extension, from 6 m to 500 m of the area around a polling booth within which the handing out of how-to-vote cards and other general forms of harassment will not be allowed.

The Hon. C.J. Sumner: That's because you cannot man all the polling booths.

The Hon. I. GILFILLAN: The staffing of polling booths at the recent Adelaide by-election was carried out by a most reluctant lot of people from both major Parties, all of those to whom I spoke having indicated that they would be delighted to see the handing out of how-to-vote cards prohibited and abolished from the face of the earth. That included a Minister of this Government and other eminent people. Outside this Chamber I will name that very Minister. Because of the application to detail with which the Democrats approach their constructive amendments, this amendment comes before the debate on the 500 m rule, but I will debate the issue as a whole, as these matters go together. This rather wordy amendment to clause 12 will allow for how-to-vote cards to be available within the polling booth in an orderly manner where the voter has the option to take one or more as he or she sees fit.

The argument for this and the subsequent amendment was proved beyond doubt with the bunfight, circus and harassment that went on with the Adelaide by-election. In some instances nine assailants were waiting for timid voters to appear around the corner before virtually pounding them into a state of mental delirium. They were then expected to go in and make some form of deliberate and wise choice. That may be a clue to the Government as to why it lost some of its votes: maybe its voters are a more sensitive breed and wilt under the pressure of the barrage of paper and physical intimidation.

This measure must be taken very seriously. We have introduced such measures before in previous debates on the Electoral Act. It is not a laughing matter. The Democrats need to be the circuit breaker. Neither the Labor Party nor the Liberal Party is prepared to take the plunge as they are frightened that the initiative will backfire in some way or another. That is ridiculous. I have heard of no enthusiasm, let alone any cogent argument, for the continuation of the practice of handing out how-to-vote cards within walking proximity of the polling booth. These amendments will allow the availability and distribution of electoral material outside the immediate vicinity of the polling booth, but within 500 m would mean that people could come in free from this gauntlet running exercise that plagues voters in South Australia these days.

To its great credit, this Government realises that it would be of enormous benefit to have how-to-vote cards in polling booths; that is true. Therefore, there is a substantial reason why there is no need to have a 'how to vote' card thrust into one's hand or face or any other part of one's anatomy when going to vote. This amendment allows for how-to-vote cards to be provided in booths appropriately, conveniently and non-intrusively for the benefit of voters. This is a facilitating amendment; it does not hinge entirely on the success or otherwise of our later amendment that refers to the 500m and can stand on its own right.

Members interjecting:

The Hon. I. GILFILLAN: I am arguing them together because I think the two can go together. In this instance it would be convenient for voters to be able to go inside a polling booth and choose the how-to-vote card help they may need. Think of the really foul weather that Governments have chosen for election days. People would far prefer to be able to scurry into shelter and there choose the how-to-vote cards that they want to use.

So, I recommend this amendment to the Committee because in its own right I believe it would be remarkably convenient as an alternative for voters to take the material that will help them vote. I urge the Committee to vote for this measure as an additional help to the voters in this State

in its own right, regardless of whether or not one feels that the extension from 6m to 500m is an improvement.

The Hon. C.J. SUMNER: The Government opposes this amendment. This issue has been debated on previous occasions and the Council has never accepted that there should be a prohibition on how-to-vote cards being handed out outside polling booths. I do not see any basis for saying that one should not be able to do this on an election day to assist voters in making up their minds about the way they wish to vote.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Yes, I was there.

The Hon. I. Gilfillan: Did you enjoy it?

The Hon. C.J. SUMNER: I quite enjoy handing out how-to-vote cards.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Yes, lots of things.

Members interjecting:

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: They congratulated me on giving them assistance by handing out the how-to-vote cards.

The Hon. C.M. Hill: It didn't help the vote very much.

The Hon. C.J. SUMNER: No, it did not help the vote. It was not too bad in North Adelaide; it could have been worse. I do not think there is any basis for agreeing to this amendment. I think it is a reasonable proposition that people ought to be able to hand out how-to-vote cards, and this amendment would effectively prohibit that.

The Hon. K.T. GRIFFIN: This is one of those rare occasions when I agree with the Attorney-General on an amendment. I do not see any basis for it.

The Hon. C.J. Sumner: It's there to help the Democrats at all the polling booths.

The Hon. K.T. GRIFFIN: It will undoubtedly help the Democrats. It really depends on the political climate at the time, but I think there are supporters of political Parties who regard it as an important function. Although some may not do it particularly cheerfully, they recognise that it is important to provide for those who are not actively involved in political Parties or up to date with political debate to be able to be there at the polling booth and hand out a card. Certainly, at some polling booths where there are many candidates in an electorate we can get a horde of people converging on electors as they walk up the path to the door. My experience has been that that has always been a fairly orderly process and that those who are assisting in the handing out of how-to-vote cards for all Parties tend almost to adopt a conveyor-line approach as people pass along a particular pathway to the entrance to the polling booth.

While some people have made up their mind and say that they do not want a particular Party's card, there are others who do wish to take a card and there are many who have not made up their minds. I must say that the appearance of a Party helper at the entrance of the polling booth holding out a how-to-vote card can have some bearing on the way in which a person finally decides to vote. If there is a scowl in the handing out of the card compared to a smile by another Party helper, the smile will win. That is why there is a bit of competition to be smiling and helpful at polling booths. Nevertheless, it is an integral part of the electoral process and it would be wrong to prevent the handing out of how-to-vote cards. In fact, it would detract from the political process, rather than enhancing it.

As for preventing the handing out of how-to-vote cards within 500 m of the entrance of a polling booth, that means that there will be a radius of 500 m around all the cross streets and roads leading to polling booths where there will be signs and people handing out how-to-vote cards. If people are mobile, they may even be stopped. The prospects of road blocks raises its head.

The Hon. C.J. Sumner: Like selling newspapers?

The Hon. K.T. GRIFFIN: Anything; or collecting for the Good Friday Easter Appeal; all sorts of prospects come to mind if we prevent the handing out of cards within 500 m of the entrance of a polling booth. I do not support the proposal, despite its being attractive superficially to some people who say, 'Leave them at the door and I do not have to bother doing anything.' On the other hand, I suggest that a substantial majority of people recognise it as an important part of the electoral process and, rather than preventing this occurring, I think it should be encouraged.

The Hon. R.I. LUCAS: I oppose the amendment of the Democrats for a number of reasons already enunciated. There is no doubt that there is a fair degree of self-interest in the amendments being moved by the Democrats in this Chamber.

The Hon. I. Gilfillan: That's being judgmental.

The Hon. R.I. LUCAS: Yes.

The Hon. I. Gilfillan: Look at them on their face value.

The Hon. R.I. LUCAS: In looking at the amendments moved there is a hidden agenda. The Democrats seek to portray themselves as pure and untainted by self-interest when it comes to electoral matters but, whenever they want to put their nostrils into the trough on a matter, they are in it with the rest of them.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: No, 'them' not us. 'Them' is the Government and the Democrats. So, let us not believe the words of the Democrats when they portray themselves as being pure and untainted in electoral matters. So, there is the motive; it is a motive of self-interest. But let us disregard the motive at the moment and look at the practical effect of the provisions. First, there is nothing to prevent the Australian Democrats from leaving boxes of Australian Democrat material and how-to-vote cards at a distance of six metres from the polling booths. Indeed, at the most recent Federal election, and the State election, but the Federal election in particular, there was the smiling visage of one Ms Janine Haines greeting me at Elizabeth, Salisbury or Port Adelaide—whichever booth I happened to be at on the day, with a box or arrangement with the Democrat how-to-vote cards.

The Hon. T.G. Roberts: How much did you end up with in your booth?

The Hon. R.I. LUCAS: None, but we do not joke about those sorts of things, after recent court cases. The Democrats can do that if they wish; they can leave out their how-to-vote cards. I can say that in all the polling booths there was no pinching of Democrat how-to-vote cards and, indeed, on the rare occasions when a Democrat voter came and asked a Liberal polling booth worker for a Democrat card we pointed that person in the general direction of where to head.

The Hon. Diana Laidlaw: The Labor Party in my booth was handing them out.

The Hon. R.I. LUCAS: The Labor Party people were handing out Democrat how-to-vote cards, I understand—there you are, they are very helpful. So, if the Democrats do not want to participate in this harassing and haranguing of voters they do not have to. If they are genuinely concerned about this, they can opt out and leave their boxes suitably located around the polling booths.

The Hon. Diana Laidlaw: Five hundred metres away.

The Hon. R.I. LUCAS: Or six metres, depending on whatever happens. But they do not have to participate in this harassing; if it offends them in any way they need not

participate in this harassing—in their words—of the voters. They can just leave their how-to-vote cards for the voters to collect themselves.

There is another aspect to the amendment that has not been discussed, namely, that the Democrats seek to provide, through the back door, a further restriction on the type of how-to-vote card that can be distributed. The Electoral Act provides a restriction on the how-to-vote cards that are used by the Electoral Office, for mobile booths, for declared institutions and for the inside booths. We have strict requirements on the dimensions and what can be put on them. The how-to-vote card that is distributed by all Parties outside the polling booth is quite different from the how-to-vote cards used within the polling booths and used by the Electoral Office. We have the smiling faces of, say, the working class hero, Michael Pratt in Adelaide or Janine Haines in the Federal election—or if one wants to put Bob Hawke on it, one can do that. So, that is allowed, and one is allowed greater flexibility in respect of colour and size. There is a whole range of things that one can do (and the Parties do) in the education of voters and in assisting them in the decision that they have to make in respect of those how-to-vote cards, things that are not allowed in relation to the how-to-vote cards used by the Electoral Office.

Obviously, the Australian Democrats do not want voters to see the photos of their candidates or of their Parliamentary leaders, because what they are trying to do here, through the back door, is to remove the option in relation to that for political Parties. I think that that is something that the Democrats have not explained in outlining their amendment. I think that they have tried to sneak this provision through without explaining it, as they do not want voters to have that additional extra information to make their considered judgment on the day. Certainly, the Liberal Party is not ashamed of its leaders or its candidates and we are quite happy to have the photographs of our candidates and parliamentary leaders on those how-to-vote cards, with extra voting assistance with, for example, big arrows which point to where one should put figure '1' in the box, and all those sorts of things.

The Hon. T.G. Roberts: Sometimes it is the first time that one has seen them.

The Hon. R.I. LUCAS: The parliamentary leader or the candidate?

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I will not be distracted, further, Ms Chair. How-to-vote cards for the very difficult voting procedure in the Upper House also contain additional information for voters. Big arrows point to where voters should put '1' in the box for the Party they wish to vote for. They also tell voters to do certain things or not to do certain things, and they also provide information for members of the ethnic community. They may have translations in Vietnamese or Khmer, as the Labor Party had last year at the Ridley Grove booth. Italian and Greek translations are also common. However, that information is not available on the how-to-vote cards placed in each polling booth. Perhaps the Hon. Mario Feleppa would care to comment, on behalf of members of the ethnic community, about the Democrat's attempt to prevent that sort of information being provided on how-to-vote cards through this sneaky, back-door method. That is a shame.

Many other pieces of information are provided on how-to-vote cards to help educate voters and provide information for those who do not understand the electoral process as well as the Hon. Mr Gilfillan thinks he does. It is a shame that the honourable member is attempting to remove that information from the how-to-vote cards that Parties distribute to assist those people who do not understand the process as well as members of Parliament do.

The final matter that I wish to address with regard to rejecting this amendment concerns the 500 m provision. In looking at the amendment, one needs to refer to section 125 of the Electoral Act (which the Democrats would also seek to amend), which provides:

(1) When a polling booth is open for polling, a person shall not—

(a) canvass for votes;

(b) solicit the vote of any elector;

(c) induce an elector not to vote for a particular candidate;

(d) induce an elector not to vote at the election;

or

(e) exhibit a notice or sign (other than an official notice) relating to the election . . .

Of course, if the Democrat amendment is successful, none of that could occur within 500 m of a polling booth. In other words, if I happen to live within 500 m of a polling booth and erect a sign urging support for a Liberal candidate, I commit an offence punishable by a penalty of $500. That is what the Australian Democrats seek to do with this amendment. It will affect anyone who has that sort of literature or material or exhibits a notice or sign 500 m from a polling booth whether inside or outside their house or on their front fence. Members must consider the motives of the Democrats. If the amendment were to be successful, it would be shown to be unworkable and impracticable. It is something that Parliament ought not accept.

The Hon. I. GILFILLAN: I thank honourable members for their helpful suggestions about the amendments. It is quite plain that the criticism of the Hon. Robert Lucas is incidental and not germane to the question of whether the public wants the continuation of the current practice of handing out how-to-vote cards.

The Hon. M.J. Elliott: Of course they don't.

The Hon. I. GILFILLAN: That is the point. As my colleague said, the general public do not want it. Both Labor and Liberal members have forgotten the adage that they batter about each other's ears: have you consulted the consumers? They have not. No-one, except the Democrats, has consulted the consumers. I would love to see the results of a poll of the now swollen number of Liberal voters in the seat of Adelaide as to how many of them enjoyed the recent experience of being barraged with how-to-vote cards on that Saturday? I might say the same for the diminished number—

Members interjecting:

The Hon. I. GILFILLAN: They often received more than one because so many people were forcing how-to-vote cards on them from all angles. The voters were absolutely bewildered. The voter would often say, 'I already have one of that colour.' It was very confusing—the cards were like confetti. That is the real point of these amendments: consideration of the general voting public. Some members have demeaned the debate by sliding out from the major issue with vituperation of the Democrats. It was a pathetic and demeaning reflection on a highly reputable political Party.

It is quite pathetic to spend time haggling over whether a sign in the garden of some house is within 500 m. It does not address the major issue. I make it plain that during debate on clause 23 I will not seek to confront the major issue of the virtual abolition of handing out how-to-vote cards. If this amendment is lost, I will call for a division, taking it as the test case for the whole point of the two amendments to stop the harassment of voters by the peddling of how-to-vote cards close to polling booths on election days. So I recommend this amendment as one part of the two Democrat amendments on file which we hope will

protect electors in South Australia from the harassment they suffer on election day from the how-to-vote card onslaught.

The Committee divided on the amendment:

Ayes (2)—The Hons M.J. Elliott, and I. Gilfillan (teller).

Noes (19)—The Hons G.L. Bruce, J.C. Burdett, M.B. Cameron, J.R. Cornwall, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Carolyn Pickles, R.J. Ritson, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Majority of 17 for the Noes.

Amendment thus negatived; clause passed.

Clause 13—'Entitlement to vote.'

The Hon. K.T. GRIFFIN: We oppose this clause. Section 69 of the Act deals with the entitlement to vote. It provides specifically that a person is not entitled to vote at an election unless his principal place of residence was, at some time within the period of three months immediately preceding polling day, at the address for which he is enrolled. That has been in the electoral legislation for many years and it is a safeguard against abuse of the roll largely through the concept of stacking. That has been raised as an issue in past elections not so much in relation to the long-term but more in relation to the short-term where it has been believed, but has always been difficult to prove, that some persons get on to the roll for addresses that are non-existent, for an address that might be an address of convenience, or for an address at which they have no intention of residing.

One of the mechanisms for ensuring some integrity in the electoral system is the fact that a person must, some time within three months immediately preceding polling day, reside at the address for which he or she is enrolled. At the time of the last State election (and I referred to this during the second reading stage) a check was made of some electors' addresses and it was clear that they had been on the roll for something like one, two, or even three years for a particular address but had not resided there during that period of time. In the circumstances where a vote is close, such discrepancies between the electoral roll and fact can make the difference between winning or losing a seat.

While political Parties are concerned with that issue above anything else, notwithstanding that, it is important for the integrity of the electoral system to ensure that there can be no manipulation of the roll and, that, if attempts are made to stack the roll, or to fail to notify a change of address within the required time, some procedure should be available to ensure that, on polling day, the matter can be raised and that the matters at issue can be addressed so that it can be seen, after the event, that the election has been conducted fairly and properly and that, if there has been any defect in the roll, that should be addressed.

In his second reading speech the Attorney-General said that this provision tends to reflect upon the integrity of the roll. However, I would suggest that, if the provision for residence of some time during the period of three months immediately preceding polling day at the address for which the person is enrolled is removed from the legislation, there will be even less prospect of ensuring that the roll is true and correct.

In the other place there was some comment by the Minister handling the Bill to the effect that computerisation will assist the move towards ensuring that there are minimal defects in the roll. I would submit that that has no relevance to the issue, and, no matter how often there might be so called purges of the roll or checks by electoral officers at State or Federal level, they are not conducted so frequently as to ensure that at all times, and particularly on polling day, every elector on the roll in fact satisfies the necessary prerequisites for voting.

Therefore, with some vigour I oppose the clause in the Bill which would seek to remove one other mechanism by which we can ensure that an election is beyond criticism and that those who are on the roll are in fact entitled to be so and are entitled to vote on polling day. I should say that this provision, which the clause seeks to remove from the principal Act, has been a provision of our electoral system for many, many years and has not created injustice. In fact, I believe that it has been an aid to ensuring the accuracy of a roll and I would be very disappointed to see it deleted from the Act. Accordingly, I indicate opposition very strongly and vigourously to clause 13.

The Hon. I. GILFILLAN: The Democrats support this clause. The only people who are likely to be affected if the Hon. Trevor Griffin's amendment came into effect would be a very small number of naive, honest voters who would probably be quite stunned to find that, having honestly answered that question, they were then not allowed to vote, and that the only basis on which that decision was made was that for some reason or other they had been away from their address as registered on the electoral roll. I believe that this would apply particularly to younger people. It seems to be serving no useful purpose. It could be restrictive to the most innocent of prospective electors. From that point of view, I have no hesitation in indicating our support for the clause and our opposition to the amendment.

The Hon. C.J. SUMNER: Obviously, the Government opposes the amendment for the reasons that have been partly articulated by the Hon. Mr Gilfillan. I point out that there was a report of the Federal Parliament Joint Select Committee on Electoral Reform on the operation during the 1984 Federal general election of the 1983-84 amendments to Commonwealth electoral legislation. That was an all-Party committee, and it recommended quite firmly at pages 28 and 29 that this rule of three months habitation should be removed.

Some aspects of this report were not agreed to by all its members, but I understand that this recommendation was supported by all Parties in the Federal Parliament and that it has now become part of the Federal Electoral Act. In that sense, we are following an all-Party recommendation of the Federal Parliament which has now become the law. I can only commend to members the arguments which are contained in this select committee report. The report sets out the reasons for the abolition of the rule; it includes the argument that was raised by the Hon. Mr Gilfillan; and it makes some other points to justify the deletion.

The Hon. R.I. LUCAS: It would appear that the Democrats will support the Government on this provision, and I think that is very disappointing. I think the Hon. Trevor Griffin has very eloquently outlined the problems with this, but the practical effect is that it opens the system up to the tremendous potential for political Parties to defraud it. I think that State electorates with only 20 000-odd electors (as opposed to Federal electors with 80 000-odd electors) are potentially more vulnerable.

In the State electorates the odd 100 votes here and there are potentially more significant as opposed to a Federal electorate, which is some four times larger. I will give a recent example where there was a very close result in a State electorate. In checking the entitlements of quite a number of people who either lived in nursing homes, blocks of flats or in colleges of residence and a whole range of locations like that, we were able to establish over 100 examples of people who had not resided at that address for a period of at least three months.

The Hon. I. Gilfillan: Was that deliberate?

The Hon. R.I. LUCAS: Some of it, yes.

The Hon. I. Gilfillan: Can you prove it?

The Hon. R.I. LUCAS: Some of it, yes, and some of it was a genuine mistake made by honest people. We say that if you get into some of these areas in the marginal seats, you get yourself onto the electoral roll and you leave yourself there. If you happen to leave that electorate, you leave yourself on the roll.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: Perhaps if you get caught.

The Hon. I. Gilfillan: You reckon they will answer 'Yes' when they are asked a question?

The Hon. R.I. LUCAS: A lot of them will. The Electoral Commissioner will know that you cannot cleanse the roll in all the electorates on a yearly or six monthly basis, or just before every election. It is physically impossible for the electoral staff to cleanse the roll.

The Hon. C.J. Sumner: Every 12 months.

The Hon. R.I. LUCAS: If you did it every 12 months, in one State electorate—

The Hon. C.J. Sumner: If they are going to stack the roll, if that is their intention, when they get to the polling booth, they will not answer the question correctly.

The Hon. K.T. Griffin: It gives them a chance to check them out.

The Hon. C.J. Sumner: And by that time they have already voted.

The Hon. R.I. LUCAS: I am saying that it is not correct to state that the Electoral Commissioner and the electoral staff cleanse the rolls every 12 months because, if they do, there are massive errors. In one State electorate at the last State election, we were able to establish in just 10 days that over 100 people who were still on the roll and who had voted had not been at their residential address for a minimum of three months. Some had not been there for two or three years but had lived in colleges of residence or nurses quarters. The Democrats and the Government want us to accept that someone who—

The Hon. C.J. Sumner: And the Liberals and the Country Party.

The Hon. R.I. LUCAS: No, we are talking about this Chamber.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I have just said that in a State electorate of 20 000, a few hundred votes here and there mean a lot more than they would in a Federal electorate of 80 000. But forget that; we are entitled to our own views and we will put those views.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: We are speaking on behalf of the State Parliamentary Liberal Party. People who vote in a critical marginal seat may well determine whether or not the Government changes, and up to 100 of the people who voted were not on the electoral roll. Some of them were not entitled to be on the electoral roll for some two or three years and, just because they had not been caught, they were entitled to vote at that election. It really is not satisfactory in my view, or in the view of the Liberal Party, that Governments or elections ought to be determined, or that members of Parliament ought to be elected, on the basis of an electoral roll which, in significant part, bears no resemblance at all to what exists at the time of the election. That was 100 voters. My view and that of some of my colleagues was that, if given the resources and the time, we could have established that some 400 to 500 voters out of about 18 000 did not comply with the residency requirement of the Electoral Act for that one State electorate.

The Hon. I. Gilfillan: It would be the same in all the others.

The Hon. R.I. LUCAS: It may have been; I do not know. If you have nurses homes, blocks of flats and colleges of residence, even the Hon. Mr Gilfillan would accept that you would be likely to have a greater turnover than you would in a quarter acre block at Dernancourt or Tea Tree Gully.

The Hon. C.J. Sumner: If you are going to do that, when you go along and are asked the question, you say, 'Yes, three years.' If you move your address for the purpose of fraudulent voting, you will not answer the question correctly.

The Hon. K.T. Griffin: You tell us what you see as the solution to the problem.

The Hon. C.J. Sumner: What we have done.

The Hon. K.T. Griffin: That is nonsense. It will not solve anything. It will just enable them to cover up. People who want to rig the rolls will be able more easily to cover up.

The Hon. R.I. LUCAS: In the State electorate of Adelaide, with colleges of residence, nurses homes, and places like that, people will move in, get themselves on the electoral roll and leave themselves there. If the Electoral Commissioner picks you up, as he says that there is a cleanse of the roll every 12 months—

The Hon. C.J. Sumner: There will be.

The Hon. R.I. LUCAS: All I can say is that that has not been, and never has been, the case.

The Hon. C.J. Sumner: That is the proposal of the Senate select committee.

The Hon. R.I. LUCAS: That does not bind the State Electoral Commission.

The Hon. C.J. Sumner: The other amendments to clauses 7 and 8 give the Electoral Commissioner greater capacity to get them off the roll or to have their address changed.

The Hon. R.I. LUCAS: The Electoral Commissioner has always had the capacity to take people off the roll. He could not change their address—that is what cleansing was about.

The Hon. C.J. Sumner: He couldn't take them off, but just move them within the subdivision.

The Hon. R.I. LUCAS: That is right. If electoral staff knocked on the door and said, 'Does Fred Bloggs live here?' and Mrs Smith said, 'No, I've lived here for six months,' the electoral staff would then take them off the roll—that is what cleansing is. There was a problem with respect to transfer of address, but what I have instanced is removal of the person; that is cleansing of the roll. Even with that power, we had a situation of one marginal seat—which could well determine the result of the next State election—involving at least 100 voters, some of whom had not been there for two or three years: on what the Attorney-General and the Democrats are saying, the votes of those people will be accepted to determine the victor in that marginal seat and possibly the difference between one political Party winning or losing. The Parliament ought not to accept that.

If we have a residency requirement, one ought to live in the electorate to be able to vote there—surely that is what an electoral roll is about. It is not about someone having lived in the electorate two years ago and making an honest mistake, and the Parliament saying that we ought to accept that one can continue to vote there for two or three years, or however long before the Electoral Commissioner picks it up. I urge the Attorney and the Australian Democrats to reconsider. If they do not accept our amendment, let us come up with a solution to an honest mistake. To open it up so that Governments can be decided on the basis that hundreds of people who no longer live in the electorate can determine who gets into Parliament and who will be in

Government is clearly unacceptable in a democracy. We ought not to accept it.

The Hon. K.T. GRIFFIN: It is a mistake to say that just because the Commonwealth Government or Commonwealth Parliament has done or recommended something we ought to be blindly following it. They are two totally different electoral environments and we ought not to be rubberstamping what is happening at the Federal level. We ought to exercise our own minds on the merit of the proposal. The Hon. Mr Gilfillan is saying that the subsection presently picks up only the innocent, honest electors who can answer the question 'Have you resided at this address at some time during the past three months?' Some will say 'No' and others will say 'Yes'. The majority will say 'Yes' but others may cover it up.

If the honest, innocent person is caught it is tough, but on the one hand the Hon. Mr Gilfillan is suggesting we compel them to go to the polling booth under pain of a penalty if they do not, and on the other hand he is suggesting that we keep an eye on these poor individuals, give them a way out and let them vote, even though they are not eligible to vote by the criteria specified in the Act because they have not resided at an address for the past three months and have not bothered to comply with the law that states that they have to notify a change of address within 21 days. On the one hand he is saying 'compel', and on the other hand 'excuse'. That is not good enough in an electoral system. We must have certainty in the electoral system, particularly in the very basis of the electoral system, namely, the electoral roll.

According to the criteria which the Parliament sets, if people qualify they are entitled to vote. If they do not qualify, for whatever reason—even an honest mistake—they are not eligible to vote. One cannot have an electoral system which excuses some people from mistakes when they do not qualify to vote for a particular electorate. That opens the way to all sorts of abuse and gives fuzzy edges to the electoral system. I do not believe that, because the stakes are so high—because it is a matter of Government at stake—we ought to tolerate that sort of attitude. One has to have certainty. If the obligation is placed upon citizens, they have to comply. If they do not comply they should not be eligible to exercise the responsibility of casting a vote in a particular electorate for a particular candidate of their choice; it is as simple as that.

By the introduction of this amendment the Attorney-General wants to say, even though the qualifications are specified, 'Even though this is what you ought to be doing we will give you some excuses.' He is tolerating the potential for electoral roll stacking. My colleague the Hon. Robert Lucas has quite clearly identified the problem. It is all very well for the Attorney-General to say, 'If people don't want to answer honestly, they won't, and they will have voted'.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: But the potential is that they will be caught. If there is an obligation in the Act, there is at least an opportunity to catch them and challenge the validity of that election and their right to vote. The Attorney is closing the door and saying that the roll is inviolate on the day of the election and it does not matter whether people are not qualified to vote on that day: if they are on the roll, that is it; even if one goes to a court of disputed returns on the basis that some people are enrolled and voted on that day but had not been resident for even six months before the election, too bad—that is not a basis for having an election set aside. Yet it is an election on a false basis. That is the argument that I have with the Attorney-General's proposition, and I argue as vigorously as I can against it.

The Hon. C.J. Sumner: That is the situation now.

The Hon. K.T. GRIFFIN: It is not the situation now.

The Hon. C.J. Sumner: People can just say, 'I've been there three months.'

The Hon. K.T. GRIFFIN: Yes, but one can challenge the fact that they are on the roll and have exercised the right to vote when legally they should not have voted. That is the point: one can challenge it.

The Hon. I. Gilfillan: What if they have not notified change of address?

The Hon. K.T. GRIFFIN: This is what I find inconsistent with the Hon. Mr Gilfillan's point of view. On the one hand there is an obligation to go to a polling booth and vote, and if you do not you face a penalty. There is also an obligation to notify change of address, and if you do not you will be excused; that is his argument.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: It still applies. They voted, yet they might have changed their address to an electorate 100 miles away and are not eligible to vote on that basis in the electorate for which they have in fact voted. Under the proposed amendment—and under the Hon. Mr Gilfillan's proposition—they are to be excused and there is no way of challenging it. That is the problem as I see it. There is no way that any Party—it does not matter whether it is Labor or Liberal or, in the Upper House, the Australian Democrats—can challenge the validity of the electoral roll, and the votes which any people have given, on the basis that they were not eligible to vote on that polling day.

The sole basis upon which they will now be eligible to vote is that for a month before they enrolled they were resident within the electorate at the address for which they are enrolled. That is the criterion: not what happens on polling day, but what happens for one month before you make your claim for enrolment. If there is not the sort of purge or cleansing of the roll, to which my colleague the Hon. Mr Lucas referred, there may well be people on that roll for more than 12 months who are not entitled to vote at an election.

That is the point. It is all very well to say that the Federal Senate Committee recommended that there should be a cleansing of the roll every 12 months. There has been no indication by the Commonwealth Government that it will accept that and, even if it does accept it in principle, there is no guarantee that the Electoral Commission, which does it at the Federal level and therefore it flows over into the State rolls, is going to have the resources to do it.

Even if it does it, it may do it 12 months before an election, but what happens in the 12 months between that cleansing and the date of the election? There is still the potential for considerable abuse with an itinerant population in the context outlined by the Hon. Robert Lucas and a potential for stacking the roll. It is all very well for the Attorney to say they can do that now. Of course, they can do that now, but at least there is an opportunity before a court of disputed returns to challenge the validity of that vote. As the Hon. Mr Lucas said, in the State electorate of Adelaide where there are nurses homes, residential colleges, hospitals and a whole variety of other places, such as lodging houses, multi tenanted dwellings, and numbers of students, there is a real potential that the roll could be stacked and there is no way of challenging it. It does not matter whether it is Liberal, Labor, Democrats or anyone else. It may not have even happened with the knowledge of a particular political Party. It could have been a group of radicals on the other side.

The Hon. C.J. Sumner: You would have to ask the question in every case.

The Hon. K.T. GRIFFIN: That is right. What is the problem with that?

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I am not fussed about that: I am concerned about the integrity of the roll.

The Hon. C.J. Sumner: The question would be, 'Have you lived in this place for the last three months?'

The Hon. K.T. GRIFFIN: At some time—it does not say for all of that three months. It says 'for some time'.

The Hon. C.J. Sumner: If someone wanted to fraudulently roll stack, all they have to do is move in for the night.

The Hon. K.T. GRIFFIN: It does not say go in on a one night stand; it concerns residence—come on. Anyway, what the Attorney is doing and what the Democrats are supporting has a much greater potential for abuse of the electoral system, and that is what I object to most strongly and vehemently, because I do not see how in any other way you can effectively challenge the validity of the roll in circumstances where it might have been stacked and, as I was saying before the Attorney interjected, it may have been by people who wanted to influence an election but who may have done it without the knowledge of the political Parties or even the candidate.

It is quite easy for them to do that and this will make it easier for them to get away with it, because they will not be subject to any challenge or potential for investigation after the election and before the time for the challenge to any election has passed. I believe that there are very persuasive reasons why both the Democrats and the Government should rethink their position on this issue and agree with me that, because it has been in the legislation for many years, it ought to remain there as a safeguard against abuse of the electoral process.

The Hon. R.I. LUCAS: I support those comments of the Hon. Trevor Griffin. I want to pursue the statement of the Attorney-General that the Electoral Commission will be cleansing once every 12 months. I want to get this on the record in detail. Given that I presume the Government and the Democrats will not rethink, we want the commitments on the record. The Attorney is saying that there will be a cleansing of the roll every 12 months. Looking at the metropolitan area first, of 33 State electorates, and the Attorney is giving a commitment that—

The Hon. C.J. Sumner: I did not say that.

The Hon. R.I. LUCAS: You said there would be a cleansing of the roll every 12 months. Now the Attorney is backing out. I want on the record what the commitment is, because I know for a fact that the Electoral Commission does not have the staff to cleanse the roll every 12 months.

I do not believe that the Electoral Commission would get through the whole of the metropolitan area every Parliament. However, I want to get on the record from the Attorney-General what the commitment is in respect of the cleansing of the roll, because if this provision is passed there will be a cleansing of the roll in seats like Adelaide such as we have never seen before. In relation to the seat of Adelaide, the marginal seat held by a former staffer of the Attorney-General, a member of the Government, in the space of some seven to 10 days we have established that over 100 people voted who should not have voted, and I believe that we would be able to establish that a figure of some 400 to 500 would apply if we had some three or four weeks. We will not stand by and allow the Attorney-General and the Labor Government, together with the Democrats, to institute a system which will enable them to have on the electoral roll in marginal seats like Adelaide hundreds of people who no longer qualify on the residency requirement—some people not having been in the area for two or three years—but who would be able to vote in the next State election. So, I want on the record from the Attorney-General details of the exact nature of the cleansing that will be undertaken by the Electoral Commission this year and next year prior to the next State election.

The Hon. C.J. SUMNER: I think the honourable member should not get so agitated about the matter and start getting involved in unnecessary invective and abuse. The reality is that this has arisen from a recommendation of the Electoral Commissioner based on the calm and careful consideration of the issue by a Commonwealth Parliament joint select committee on electoral reform. I refer the honourable member again to pages 28 and 29 of that report, which was produced following the 1984 general election. In fact, it was produced in December 1986 and formed the basis for amendments to the Commonwealth Electoral Act. The honourable member can correct me if I am wrong—he can check it with his colleagues—but I understand that this aspect of the proposal was supported by the select committee members, including the Liberal members, and it was not opposed when it went through Parliament. So, it is all very well for the Hon. Mr Lucas to carry on with a lot of silly abuse, but all I am telling him is that the genesis for this did not come out of any desire by me to assist the State member for Adelaide in the way that the electoral system is set up. It came up in the normal course of events following the Electoral Commissioner's report on the last State election.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I know it is not, but I just want the honourable member to calm down a bit.

The Hon. R.I. Lucas: This is very important; we want to get into Government.

The Hon. C.J. SUMNER: The honourable member says he wants to get into Government next time and it is very important. But he should not get carried away and imply all sorts of base motives in me or the Government. The fact is that we introduced, I think, a very good Electoral Act in 1985. It is a modern piece of legislation; it worked very well at the last State election. We are now tidying up some of the what are principally administrative issues that the Electoral Commissioner identified following that election. This is one issue which, as I said, has arisen out of the Electoral Commissioner's consideration of the issue and the Federal select committee. So, I just want to reject the sort of innuendo and attack on motives which has come from the Hon. Mr Lucas.

The reference to updating the rolls comes from the select committee report, which states at paragraph 330:

> The committee believes that the regular maintenance of the rolls by annual habitation reviews should ensure improved accuracy and reliability.

The Electoral Commissioner has advised me that it is hoped that, in the new joint rolls agreement that is currently being negotiated, annual habitation reviews will occur. The South Australian Government will make an appropriate contribution through the joint rolls agreement. That has not been finalised yet so what I said picks up the select committee report, which suggested annual habitation reviews. We expect that to be carried through by the Commonwealth Electoral Commission in conjunction with the State Electoral Commission through the joint rolls agreement. I am not in a position to say absolutely that there will be annual habitation reviews, but that is certainly the intention, as indicated in this report, and it is currently the subject of discussion with the Commonwealth.

The Hon. R.I. LUCAS: I accept that the Electoral Commissioner who is advising the Attorney-General would not be able to indicate the exact number of residences that would be checked in one year, given that it is a very difficult matter. However, I am sure that the Electoral Commissioner could estimate the number of residences that could be checked in one year. Can the Attorney please indicate for this year and next year what number of homes in South Australia will be checked, if annual habitation reviews go ahead? I accept that a review is only a possibility at this stage and that the Attorney cannot give an absolute commitment.

The Hon. C.J. Sumner: It was suggested in the select committee report and we are discussing it.

The Hon. R.I. LUCAS: Okay. If it goes ahead, what number of homes and residences would be checked this year and in 1989, as a percentage of metropolitan Adelaide? Would it be 50 per cent or two-thirds?

The Hon. C.J. Sumner: 100 per cent.

The Hon. R.I. LUCAS: 100 per cent in one year?

The Hon. C.J. Sumner: That is the intention.

The Hon. R.I. LUCAS: Every home in Adelaide would be checked?

The Hon. C.J. Sumner: That is what is suggested by the select committee.

The Hon. R.I. LUCAS: Will electoral staffers visit every home in Adelaide every year if this concept of annual habitation reviews goes ahead?

The Hon. C.J. SUMNER: That is the idea. I am advised that it takes about a month and a half to two months.

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

The Hon. C.J. SUMNER: To do the whole lot. It is a matter of discussion at present. I referred specifically to the select committee recommendation for annual habitation reviews. The debate about the efficacy of the roll is tied in with that. It is not the principal argument but, if there are annual habitation reviews, to a considerable extent the problems identified by the honourable member will be overcome. However, it does not get round the principal argument outlined by the Hon. Mr Gilfillan that, by keeping a three months residence qualification, honest voters are essentially penalised. That was the principal argument of the select committee. The report states:

> More seriously, however, its operation is anomalous in that it only works to disenfranchise those electors who have not correctly maintained their enrolment but are honest enough to admit it.

The Hon. I. Gilfillan: Or if they have been away.

The Hon. C.J. SUMNER: Yes, or if they have been away. It is not a question that is asked as a matter of course; it is not an obligatory question at the polling booth. If a person wants to get into electoral fraud and changes address to enable him to vote in a particular electorate that he should not vote in and is asked this question at the booth, that person will say, 'Yes, I have been there for three months.' That is the principal problem.

The Hon. R.I. LUCAS: Will the Attorney give an undertaking to advise Parliament of the ultimate decision in relation to annual habitation reviews when that decision is made?

The Hon. C.J. Sumner: Yes, I will let you know.

The Hon. R.I. LUCAS: That is a commitment. Secondly, will the Attorney indicate whose decision it will be in relation to the timing of the annual habitation review given that the Electoral Commissioner believes that it will only take, say, one and a half to two months?

The Hon. C.J. SUMNER: The Electoral Commissioner will decide after consulting with the Commonwealth Electoral Commission. It is a joint exercise.

The Hon. R.I. Lucas: So it will be an individual decision of the Electoral Commissioner not subject to discussion with Government.

The Hon. C.J. SUMNER: The Hon. Mr Griffin can tell you about the discussion that occurs between electoral commissioners and Attorneys-General, but the Electoral Commissioner has certain statutory responsibilities. He is a bit of an anomalous creature, really. He is the chief executive officer of a Government department, but he also has certain statutory responsibilities. I recall that there was a bit of a dispute when the Hon. Mr Griffin was Attorney-General about what discussions he had had with the Electoral Commissioner about certain matters and whether he had given directions that he should not have given.

I cannot recall the details at the present time but, obviously, because of this situation, discussions occur between the Minister responsible and the Electoral Commissioner. As far as I am concerned, it would be a matter for the Electoral Commissioner to determine.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Certainly, that will be determined as part of the discussions with the Commonwealth on the joint rolls agreement. When we get to the point of drafting that agreement—and as yet I have not been involved; it is being handled by the Electoral Commissioner with the Commonwealth—a recommendation will be put to Cabinet on whether we will agree with the new joint rolls agreement. If we do, we will obviously have to look at the resource implications.

The Hon. K.T. Griffin: You would support it, though, in principle?

The Hon. C.J. SUMNER: Yes. I have no problems with it except for the resources. There may be other problems, but I do not know. All I know is that the Commonwealth will proceed in accordance with the select committee recommendations. We are discussing a joint rolls agreement, one aspect of which is the annual habitation review, and we will look at that when it comes up. Clearly, in that respect, the final decision is a matter for the Minister and for Cabinet. That is an area where the traditional relationship between Cabinet, the Minister and the permanent head applies as far as the Electoral Commissioner is concerned.

With respect to the conduct of elections, as all honourable members would know, the Electoral Commissioner has a statutory responsibility that he carries out in terms of the legislation that he administers. It may be that some matters are discussed between the Electoral Commissioner and the Minister but, as I say, the conduct of an election is one for the Electoral Commissioner.

The Committee divided on the clause:

Ayes (8)—The Hons G.L. Bruce, T. Crothers, M.J. Elliott, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Noes (7)—The Hons Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons J.R. Cornwall, M.S. Feleppa, and Barbara Wiese. Noes—The Hons J.C. Burdett, M.B. Cameron, and L.H. Davis.

Majority of 1 for the Ayes.

Clause thus passed.

Progress reported; Committee to sit again.

CORONERS ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This very short Bill seeks to amend the Coroners Act 1975 to ensure that, where a person dies in lawful custody within South Australia, an inquest into the cause or circumstances of the death will always be held. Inquests into deaths in prison in this State are not presently mandatory as a matter of law. They were so under the Prisons Act 1936 which was repealed in 1982. This amendment therefore seeks to reinstate the old law. Clearly, as a matter of Government policy since 1982, inquests into deaths of persons in custody have always been held as a matter of course. But it is preferable that this be a matter of law, not practice.

The Government believes that inquests into deaths in custody should always be mandatory for the following reasons:

(i) the relevant affairs of the Police and Correctional Services Departments should be seen to be open;

(ii) the conduct of an independent inquiry provides protection for staff and peace of mind for a deceased detainee's family;

and

(iii) the results of an inquest are public and available to all concerned including the Parliament and the Government.

I commend this Bill to members.

Clause 1 is formal.

Clause 2 amends section 14 of the principal Act, which presently defines when a State Coroner must hold an inquest. Section 12 (1) *(da)* of the principal Act gives the State Coroner jurisdiction to hold an inquest into the cause and circumstances of the death of any person while detained in custody, including where there is reason to believe that the cause of death or even a possible cause of death arose while a person was detained in custody. The amendment to section 14 provides that it will now be mandatory for the Coroner to hold such an inquest.

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

ADJOURNMENT

At 6.29 p.m. the Council adjourned until Tuesday 23 February at 2.15 p.m.