HOUSE OF ASSEMBLY

Tuesday 11 December 1990

The SPEAKER (Hon. N.T. Peterson) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Stock,

Wilpena Station Tourist Facility.

PETITION: CLEARWAY TIMES

A petition signed by 561 residents of South Australia requesting that the House urge the Government not to extend the operation of clearway times on South Road between Cross and Daws Roads was presented by Mr Holloway.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 196, 241, 276, 286, 290, 299, 323, 325, 331, 338, 339, 363, 367, 368, 373, 376, 379, 380, 382, 389, 399, 402 and 403; and I direct that the following answers to questions without notice be distributed and printed in *Hansard.*

NORTH TERRACE DRY ZONE

In reply to **Mr BRINDAL (Hayward)** 21 August.

The Hon. J.H.C. KLUNDER: In reply to the member for Hayward's question asked on 21 August concerning the possibility of imposing a 'dry zone' on North Terrace, I offer the following advice. First, on the matter of the assault witnessed by the honourable member and the member for Fisher, I must point out that this particular incident involved one youth assaulting his 'friend' who has subsequently decided to take no action. Although occasions have arisen whereby people affected by alcohol have been involved in unruly behaviour, serious incidents involving police action are rare, with most disturbances being dealt with by Museum security staff.

Since August 1989, police have conducted numerous initiatives to reduce crime in the inner-city area. Police from Bank Street regularly foot patrol North Terrace, and these patrols are supplemented by police from other areas, including Adelaide mobile patrols and other support groups in their efforts to control city crime. Specific operations have been implemented, designed to curb alcohol related offences and these operations include increasing the number of uniform and plain clothes police in the inner-city area during times that acts of violence occurred.

Additionally, police are working closely with a number of inner-city area youth agencies in order to make contact with young people 'at risk' and encourage responsible and acceptable behaviour. These initiatives have resulted in a significant reduction in the amount of assaults and offences against public order since April 1990. Further to this is the advice that I have received from the Minister of Consumer Affairs.

The Minister has advised me that section 132 of the Liquor Licensing Act provides for regulations to be made prohibiting the possession and/or consumption of liquor in public places. Such a prohibition may be absolute or conditional, may operate continuously or at specified times and may relate to a specific public place or to public places of a specified kind. It has been the practice of this Government only to make regulations under section 132 of the Liquor Licensing Act on application by the relevant council. Should the corporation of the city of Adelaide make such a submission, the matter will be considered. In considering any submission regard will be had to the views of concerned bodies such as the police and relevant welfare and health agencies.

SUBORDINATE LEGISLATION ACT

In reply to **Mr M.J. EVANS (Elizabeth)** 23 August.

The Hon. G.J. CRAFTER: A Government adviser on deregulation was appointed in 1986 to promote and monitor the deregulation initiatives and to advise on specific areas of deregulation. The Government adviser provides the Attorney-General with an annual report, which is subsequently tabled in Parliament. The report provides details of the automatic revocation program. The Government adviser has informed the Attorney-General that there are 77 sets of regulations, which are due to expire on 1 January 1991 by virtue of the sunset provisions of the Subordinate Legislation Act. It has already been established that 35 sets of these regulations will be allowed to expire. The remaining 42 sets of regulations are subject to the Government's review procedures. Agencies are required to prepare a 'green paper', which may subsequently be released as a basis for providing further industry and public participation on a particular topic.

With regard to the second part of the honourable member's question, my colleague the Attorney-General has advised that it would be possible to have printed at the top of the first page of each new set of regulations made under an Act and of each set of regulations reprinted a statement along the lines of the following:

> Unless exempted from expiry under the Subordinate Legislation Act 1978, these regulations, and all subsequent regulations amending these regulations, will expire on the seventh anniversary of the day on which these regulations were published in the *Gazette* (or, in the case of reprinted regulations, on a specified date).

If the specific date of expiry is to be printed, there will need to be some special procedure for inserting the date after the regulation is dealt with in Executive Council. This will be necessary because the date on which a regulation is dealt with in Executive Council (and thus the date on which the regulation will appear in the *Gazette*) is not known with certainty at the time that the form of the regulation is finalised. The Attorney-General will examine this aspect in due course.

In addition, a new index of South Australian legislation is currently being prepared in the Parliamentary Counsel's office. The index will include comprehensive information as to the specific dates on which regulations expire under the Subordinate Legislation Act 1978, and as to the regulations that are exempted from expiry under that Act. It is intended that the first publication of the index will be current to 1 January 1991 and that the index will be updated regularly.

CUT-PRICE SALES

In reply to **Mr HAMILTON (Albert Park)** 25 October.

The Hon. G.J. CRAFTER: The Minister of Consumer Affairs has advised that very few goods and services sold in South Australia are subject to any form of price control. In the case of the majority of goods sold by retail in this State, the retail prices generally are determined by the interplay of competing forces in the market place. In the past it has been common for retailers to sell goods in the post-Christmas period at heavily discounted prices. This does not necessarily mean that consumers have been exploited in the period leading up to Christmas. Generally speaking, the main reason for retailers to discount heavily their stock in their post-Christmas sales is that they wish to clear unsold stocks that are excess to their requirements. Another important reason is that retailers wish to retain their market share in relation to their competitors and therefore must at least match the performance of their competitors' pricing.

Many prudent consumers are aware of this practice and deliberately defer their shopping until the post-Christmas sales period. It is interesting to note that this year there has been heavy discounting in the pre-Christmas period. It is believed that this has come about because of retailers trying to retain their market share against their competitors in a difficult economic climate.

For these reasons, the Acting Commissioner has informed me that he does not intend to conduct an investigation into pricing practices in the pre-Christmas and post-Christmas periods. However, he is concerned at some of the advertising of discounts particularly in the retail jewellery trade. Section 56 of the Fair Trading Act 1987 contains a general prohibition of misleading or deceptive conduct, and section 58 *(g)* of the Act specifically prohibits a person or trade or commerce from making a false or misleading representation about the price of goods or services. The Commonwealth Government's Trade Practices Act contains similar prohibitions.

The Trade Practices Commission has recently issued circulars to both the jewellery industry and the liquor industry about advertising, including 'two-price' advertising specifically, and pointing out the risks of infringing the sections of the Trade Practices Act relating to misleading or deceptive conduct and advertising. The Acting Commissioner has advised me that he intends to liase with the Trade Practices Commission with a view to jointly issuing a circular to retailers generally warning them of the risks of 'two-price' advertising and at the same time will publish press releases informing consumers to be aware of post-Christmas bargains and to check prices at several retailers before committing themselves to making purchases. The Acting Commissioner has also informed me that he will monitor 'two-price' advertising by retailers, particularly jewellers, with a view to instituting proceedings in the event that any trader breaches the legislation.

WATER QUALITY

In reply to **Hon. P.B. ARNOLD (Chaffey)** 13 November.

The Hon. S.M. LENEHAN: Regarding the cost and quality of water supplied to Riverland towns compared to 'up-river towns in Victoria', I advise that comparisons between the unit price of water charged by different authorities can give a misleading impression of the overall cost of water to consumers. For example, some of the Eastern States' authorities quoted by the District Council of Berri have higher minimum charges than South Australia and high allowances, with the result that total payments for water faced by many customers of those authorities would actually be higher. The comparisons can also mask the fact that many Eastern States' authorities have had access to subsidised capital funds in the past. Although these subsidies are no longer available, the income of some authorities consequently does not have to cover the full current cost of capital invested in existing works.

For many years this State has had a policy of uniform charging for water. This has brought many benefits to country water users, as it has resulted in substantial cross-subsidisation of the development and operation of country water supply systems, without which much of the development of rural South Australia, and the dramatic improvements in the quality of water supplied in some major systems, would not have been possible. The amount of cross-subsidisation of the recurrent costs of country water supplies is projected to be $37.5 million this financial year.

It is recognised of course that under these arrangements different country water supply systems receive different levels of subsidy, and in some instances individual systems could be as self-sufficient financially as the metropolitan systems currently are. This, however, does not constitute a case to reduce charges in those instances. It is therefore not my intention to introduce differential charging for country water systems at the present time.

STATE BANK

In reply to **Mr VENNING (Custance)** 5 December.

The Hon. J.C. BANNON: The bank constantly monitors the performance of all branches to ensure their commercial viability. A number of small country branches are marginally performing and, as is occurring in a number of rural areas, a decline in population and decrease in the size of some rural communities can easily cause a branch to be unviable. There is currently a proposal to close one such country branch which has still to be ratified by the State Bank board at this stage; however, there are no plans at present to close other country branches.

In reply to **Mr OSWALD (Morphett)** 5 December.

The Hon. J.C. BANNON: Negotiable certificates of deposit (NCD) have increased over the course of this calendar year as a result of the natural growth in balance sheet size and due to a deliberate strategy to expand the spread of the bank's liability base. To achieve this, the State Bank has had to become far more sensitive to clients' requirements regarding the maturity of investments. This has meant that where investor amount and maturity preferences differ from bank acceptance lines available for sale, negotiable certificates of deposit have been issued to fund these assets. For instance, if a customer draws a bill that the bank accepts and undertakes to make a payment on, if the amount and maturity of the bill does not match bank acceptance lines, NCDs have been issued. The increase in such assets which do not have bank acceptance lines for on-sale accounts for a large proportion of the increase in NCD.

In reply to **Hon. JENNIFER CASHMORE (Coles)** 5 December.

The Hon. J.C. BANNON: The foreign currency liabilities in question are held in the bank's offshore banking unit and are invested in high quality assets and held primarily for liquidity purposes. Other foreign currency liabilities held represent the funding for foreign currency loans by Australian residents. As a matter of strict board policy, State Bank of South Australia takes no foreign currency risk in regard to non-Australian dollar deposits it holds. In regard to non-

Australian dollar deposits, these are raised to either directly fund equivalent foreign currency assets or the funds are swapped with a reputable counter party into Australian dollars for use by the bank in its Australian operations. In the case of foreign currencies that are swapped into Australian dollars, the bank undertakes normal counter party credit exposure risk in regard to performance under the relative swap contracts.

In reply to **Hon. D.C. WOTTON (Heysen)** 5 December.

The Hon. J.C. BANNON: An off balance sheet company acting as guarantor is a common commercial practice in larger property transactions and results in considerable cost savings for clients. The State Bank does not stand behind these arrangements as guarantor nor in any other financial capacity. Loans in these instances are guaranteed under an internal arrangement between Kabani Pty Ltd and Beneficial Finance Corporation Ltd. I have no reason to object to such arrangements given that it is common commercial practice for off balance sheet companies to provide such guarantees.

In reply to **Mr S.J. BAKER (Deputy Leader of the Opposition)** 5 December.

The Hon. J.C. BANNON: The honourable member's question was answered fully in the reply to the question from the member for Heysen provided by me on 6 December 1990.

In reply to **Mr MEIER (Goyder)** 6 December.

The Hon. J.C. BANNON: The total carrying amount of freehold land and buildings of State Bank group at 30 June 1990 was $322.041 million—an increase of $153.895 million from the figure at 30 June 1989 of $168.146 million. This increase does not only represent revaluations, as it includes for the first time a total of $90.772 million for properties acquired as part of the acquisition of United Banking Group. Also included for the first time was $50.005 million for freehold land and buildings brought on balance sheet following the reorganisation of the Beneficial Group.

At 30 June, in line with group policy to revalue all commercial properties annually, the value of the group's commercial properties was revalued by $21.830 million. This was partially offset by the sale of freehold land and buildings during the course of the year. This was cleared by the auditors of Beneficial Finance and I have been assured that it was a fair and accurate revaluation as at 30 June 1990.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Industry, Trade and Technology, for the Minister of Health (Hon. D.J. Hopgood)—

Controlled Substances Advisory Council—Report, 1989-90.

South Australian Psychological Board—Report, 1989-90.

By the Minister of Industry, Trade and Technology (Hon. Lynn Arnold)—

South Australian Centre for Manufacturing—Report, 1989-90.

By the Minister of Agriculture (Hon. Lynn Arnold)—

Dried Fruits Board of South Australia—Report for year ended 28 February 1990.

By the Minister of Fisheries (Hon. Lynn Arnold)—

Department of Fisheries—Report, 1989-90.

By the Minister of Education (Hon. G.J. Crafter)—

Commissioner for Consumer Affairs—Report, 1989-90.

Listening Devices Act 1972—Report on the Operation of, 1989-90.

Liquor Licensing Act 1985—Regulations—Liquor Consumption—Thebarton Oval (Amendment).

By the Minister of Transport (Hon. Frank Blevins)—

Road Traffic Act 1961—Regulations—Level Crossing Warning Devices.

By the Minister of Finance (Hon. Frank Blevins)—

South Australian Superannuation Board—Report, 1989-90.

By the Minister of Mines and Energy (Hon. J.H.C. Klunder)—

Office of Energy Planning—Report, 1989-90.

By the Minister of Marine (Hon. R.J. Gregory)—

Boating Act 1974—Regulations—Lake Albert.

By the Minister of Employment and Further Education (Hon. M.D. Rann)—

District Council of Mallala—By-law No. 25—Fire Prevention.

By the Minister of Aboriginal Affairs (Hon. M.D. Rann)—

Aboriginal Lands Trust—Report, 1989-90.

PUBLIC WORKS COMMITTEE REPORTS

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

1. Elizabeth Police and Courts Redevelopment (Report P.P. 180)
2. State Transport Authority—Staged Upgrading of the Permanent Way: Noarlunga and Gawler Lines (Report P.P. 179)

Ordered that reports be printed.

PARLIAMENTARY PRIVILEGE

The SPEAKER: Last Thursday the member for Bright alleged that a breach of privilege had occurred in that the Minister of Correctional Services had obtained a copy of a statement made by the honourable member to police in relation to a criminal investigation. He alleged that the Minister had said:

> The member for Bright gave a statement to a detective sergeant at 5.30 yesterday evening. The statement is here and, if anyone wishes to see it, it is available.

Having had the opportunity of perusing the *Hansard*, I make the following observations. The Minister did say that he had obtained a copy of the member's statement to the police and that it was available to anyone who wanted to see it. The Minister did not read the statement into *Hansard* but read what appeared to be a report from the Commissioner of Police on the member for Bright's original question.

While the obtaining of any evidence by the Minister from the police is a matter between them, the publicising of it in the way the Minister did could interfere with the member's ability to effectively carry out his duties to his constituents and, accordingly, could be a breach of privilege of this House. I therefore rule that a *prima facie* case of a breach of privilege has been made out and I propose to give precedence to a motion in relation to it.

Mr MATTHEW (Bright): I move:

> That, as a result of the Speaker's ruling that a *prima facie* case exists for breach of privilege, this House establish a Privileges Committee to examine the events resulting in the breach, including the related actions of any other Minister or Government officer.

The SPEAKER: In the motion that has been circulated the preamble is redundant. I will therefore accept the motion as follows:

That this House establish a Privileges Committee to examine the events resulting in the breach, including the related actions of any other Minister or Government officer.

Mr MATTHEW: Thank you, Mr Speaker. You have just ruled that there is a *prima facie* case to answer in this matter. This means that the matter must be further investigated. It means the Minister is entitled to be heard in his defence. It means I am entitled to put my case. It means any other person with relevant information should have the opportunity to provide that information and have it considered.

This is an important point, for this is not just a matter between the Minister and me. I believe the Minister of Emergency Services has also to be heard in this matter. I also believe the Police Department needs to be heard about the circumstances in which a statement I gave to that department on a supposedly confidential basis was offered to this House by the Minister of Correctional Services.

On reflection, the Minister may now believe he erred last week, but I believe there are important questions of principle which relate particularly to members' rights and which must be dealt with fully and properly by a committee rather than by a debate and vote in this House today. Last Tuesday I asked a question in this House in response to representations from a constituent. There is nothing unusual in that action; questions are asked on behalf of constituents in this place every sitting day by members of all political persuasions.

The question was to the Minister of Correctional Services about the events surrounding the death of a man in Yatala Prison. I asked the Minister to table reports prepared by his department on the death of Mr Anthony Stone. In making that request I detailed information which had been provided to me and which suggested that a number of unusual events allegedly surrounding Mr Stone's death. I wanted to ensure that the allegations had been fully investigated and documented by departmental reports. My information suggested that the man's murder could have been avoided. The Minister refused my request and went one step further; he implied that I was withholding information from the police and said:

I will see that arrangements are made to interview the member for Bright as early as possible.

The main reason that I raised these matters in Parliament was that, after discussions with the prisoner's widow and the Victims of Crime Service, I was concerned that investigations of the events surrounding the prisoner's murder were not as thorough as would be expected. I therefore sought further information from the Minister of Correctional Services, and it was refused. Straight after Question Time I received a phone call from a detective sergeant from the Major Crime Squad, seeking a statement from me.

Despite the fact that I had earlier advised the Minister of Correctional Services that all information I provided on this matter in this House had been provided to the police on a previous occasion by other parties, the detective sergeant still insisted that the interview was necessary. He said that he had been instructed, on the Police Commissioner's orders, to obtain a statement from me that day. I cooperated with the police by signing a handwritten statement taken during an interview with police in this building.

I made the statement in the belief that it would be used in a normal manner as part of that investigation into the murder. I believed that, in a manner similar to any South Australian citizen, my statement was a matter between the police and myself. However, some 20 hours later in this place on Wednesday 5 December, the Minister flourished a typed version of my statement to the police in response to a question from the member for Playford. Then the Minister went even further: he offered my statement to anyone who wanted to see it. He said:

The member for Bright gave a statement to a detective sergeant at 5.30 yesterday evening. The statement is here and, if anyone wishes to see it, it is available.

I want the committee proposed in my motion to consider whether, by this unprecedented use of my personal communication with officers of the South Australian Police Force, the Minister has interfered with my ability to operate as a member of Parliament, whether he has interfered with my ability to liaise with police on behalf of my constituents, and whether he has interfered with the ability of all members of Parliament to liaise with police. What is to happen the next time a member provides information in this House regarding allegations of illegal activity in government? Can they do so without their statement to police being offered to anyone to see?

The committee must also consider whether this incident will discourage South Australians from giving sensitive information to members of Parliament or from giving information to the police. I believe that it is essential in the interests of all members of this Parliament, and in the interests of their rights, duties and privileges, that the questions which arise in this matter be fully explored by a committee of privileges. I commend my motion to the House.

The Hon. FRANK BLEVINS (Minister of Correctional Services): Mr Speaker, I have listened very closely to the ruling you have given, and I accept it. In explaining why I spoke in the way I did in the House on 5 December, I wish to briefly recount the circumstances in which this matter first arose. On 4 December, the member for Bright asked me a question about the murder at Yatala Labour Prison of Anthony Stone. Having asked his question, he said as part of his explanation:

. . . I am advised that, on the day of his murder at Yatala, the following events occurred; gaol inmates working as kitchen staff were not searched by the prison officer on duty as they routinely should have been; while the same officer was on duty, cameras keeping this area under surveillance where Mr Stone was murdered were switched off. When a knife was noticed to be missing from the kitchen, no search was undertaken to find it. One prison officer is alleged to have said that he 'knew Stone was going to get his head punched in, but I never knew it was going to go this far'. It has now been put to me that the reward offer has been sought to serve as a bribe to encourage selective information to be provided about this matter and connivance in the murder.

In reply I said:

The answer is 'No'; I will not table any documents dealing with this issue. Of course, it is a matter for police investigation and any criminal activity of this nature, whether in a prison or anywhere else, is dealt with by the police. If the member for Bright has any information dealing with this crime, or any other crime, he has a duty to go to the police. However, I will save him the trouble by asking my colleague, the Minister of Emergency Services, whether he will ask the police to interview the member for Bright to find out what information he may have that will assist them with their inquiries . . . It seems to me that the member for Bright is almost alleging some kind of conspiracy to murder amongst prison officers. That is a pretty serious charge to make. If the member for Bright has any information at all to back his allegation, the proper place to take that information is to the police. I will see that arrangements are made to interview the member for Bright as early as possible. Who knows, he may qualify for the reward.

Obviously, I had a responsibility to check out the matter as quickly as possible. My motives in arranging for the honourable member to be interviewed by a police officer were part of this responsibility. Of course, the honourable member could have refused to make a statement but I note

that he willingly complied with the request to make the imformation available. On the following day, the member for Playford asked me what further information I had arising out of the police investigation into the death of Anthony Stone. I had with me a statement from Commissioner David Hunt and the statement which had been taken from the member for Bright.

I note, Sir, that you accept that I did not read from the honourable member's statement, nor have I shown it to any other person. However, members opposite are from time to time sceptical about claims made by Government Ministers. Only a few minutes before the member for Playford's question to me, the Minister of Health made a statement on the St John Ambulance. This was in response to an earlier question from the member for Adelaide where he alleged that this year St John would not be making what are called 'compassionate carries' on Christmas Day, and this had arisen out of the professionalisation of the service.

The Deputy Premier had been able to refute this allegation because he had with him a memo issued by St John on 24 October which had made clear that bookings were being taken on the same basis as in previous years. Not satisfied with the Minister's explanation, the member for Alexandra asked that the memo be tabled. The Minister of Health was only too happy to table the document. Of course, it further undermined the position of the member for Adelaide.

That incident was very much in my mind when addressing the question put to me by the member for Playford. How was I to break down the traditional scepticism of Opposition members? One way was to make abundantly clear to the House the nature of the statement which the member for Bright had given. If the member for Bright has rights and privileges as a member of this House, so have I. I was entitled to take reasonable steps to reassure myself as to the matter alleged by the honourable member. In asking to see the evidence, which of course had to include the statement from the member for Bright, I believe I was only doing my job, particularly in the light of the seriousness of the honourable member's allegations.

The statement which you have indicated breached privilege, Mr Speaker, was intended to assure members that I had indeed taken the matter seriously and had informed myself to the fullest extent possible of the facts of the matter, including any information the honourable member had. However, Sir, my choice of words was unfortunate. I have read *Hansard* and can now see that my words could have been construed in the way that you have regarded them. I have at no stage endeavoured to hinder the honourable member in carrying out his duties. In fact, I felt that I was assisting him. My sole regard has been to get to the truth, whether it be embarrassing to the Government or to the Opposition.

Sir, as I said, I accept your statement. I accept that I should have chosen words which would have better explained my position while avoiding any possibility of a breach of privilege. I apologise to the House for that and regret that this occurred.

The Hon. B.C. EASTICK (Light): This is not a matter between two individuals of this Parliament but a matter that involves every one of the 47 members of this House and, if left unresolved, every member of this place in future. In his statement this afternoon, the Minister of Correctional Services indicated that he had utilised the services of his colleague the Minister of Emergency Services to undertake a direction to the police for a particular purpose. Many members seek assistance from the police concerning vital problems that occur in their district, but they do not receive a service such as was afforded in connection with this particular request. Many members—

Members interjecting:

The Hon. B.C. EASTICK: The Minister can huff and puff: the point I am making is that it does not behove any Minister of this Parliament to seek preference from the Commissioner of Police for an action that would normally be taken in its course as every other action is taken in its course. That is the simple point that needs to be made. We have here a situation which I believe requires a thorough investigation, so that this particular matter does not affect the affairs of this Parliament in the future. I believe that the only way in which that can be undertaken is, as my colleague the member for Bright suggested, to establish a committee of privilege and for such committee to take evidence from the persons directly involved and from any others.

In his statement to the House this afternoon the Minister of Correctional Services said, 'Yes, I had the statement, but I showed it to no-one else.' That is not the problem: the problem is that a member in this House offered it to anyone else who would want to see it, whether they be in this House or in the general community. It is a matter of quite serious consequence to the future of the parliamentary system in this State, and I request members of the House in a completely bipartisan way, and in the best interests of the deliberations of future Parliaments, to support the motion my colleague has moved.

The Hon. D.J. HOPGOOD (Deputy Premier): I do not know what Opposition members intend for this debate, and I indicate that the Government would not, in any way, pronounce, as to the timing of the debate and that sort of thing. Speaking simply as an individual member of this House, I hope that the matter can be resolved speedily so that we can return to Question Time and the business of the day. However, I feel that I should enter the debate to indicate to you, Mr Speaker, that my request to you and to all members would be to reject this motion on the grounds that the apology and the statement given to the House by my colleague the Minister of Transport are sufficient to ensure that the traditions and privileges of this House are maintained.

I make the point that the only thing at issue here is the words in *Hansard* where it is made clear that the Minister made a statement that could be construed that he was offering the statement of the member for Bright to any other member to pursue. There is no other matter, Sir, in relation to which you have found a *prima facie* case of breach of privilege.

I listened also very carefully to your statement, Mr Speaker, and quite obviously your finding was related very specifically to that sentence or so that was uttered by the Minister of Transport and to no other statement that he has made at any stage in relation to this event. That is the matter in relation to which we are entitled to determine our position today.

I join with the Minister of Transport in making it perfectly clear that a reading of *Hansard* could certainly induce a person to draw the conclusion that the Minister of Transport was offering around the statement of the member for Bright. However, I accept also the Minister of Transport's explanation of the circumstances in which this situation arose. It is true that, from time to time, Oppositions are sceptical of claims made by Governments, and I do not quarrel with that. I do not quarrel with the forms of the

House which provide the means whereby those claims may be tested from time to time.

So, I was more than happy to accede to the request of the member for Alexandra—who seems to be signalling some strange things at present—to table that particular document. I accept also that the Minister of Transport clearly had in mind, when he read the statement from the Minister of Emergency Services, how he could get through to members on the other side who were clearly showing by way of interjection that they were very sceptical of the claims.

An honourable member interjecting:

The Hon. D.J. HOPGOOD: I have a statement in front of me. If you want to have a look at it, you can see just how much the member for Bright had.

An honourable member interjecting:

The Hon. D.J. HOPGOOD: That is not the issue before us, as the Speaker has made clear in his statement. That statement should not have been made in the form in which it was made. The Minister of Transport has explained that it should not have been made in that form—that was an unfortunate choice of words; he regrets that it happened and he has apologised. I would have thought that was all that was necessary to secure the matter.

I will briefly advert to an incident that occurred in the Parliament, I think in 1968, when the then Premier (Steele Hall) was accused of a breach of privilege in that he accused the then Leader of the Opposition (Don Dunstan) of orchestrating a gallery demonstration. The House was induced to accept that Don Dunstan had been trying to signal the gallery to be quiet rather than to incite them and, indeed, the Opposition of the day did not proceed with the motion that had been moved in relation to privilege. It seems not unreasonable that this Opposition might want to take the same position in relation to a matter of privilege as that Opposition took at that particular time.

Again, I appeal to you, Mr Speaker, and to the House to reject the motion and to regard the statement and the apology from the Minister of Transport as adequate for our purposes. I fail to see, in the light of what has occurred in the House today, that tomorrow the member for Bright will feel that he is in any way constrained when he seeks to represent the interests of his constituents.

How will he act in any sort of way different from the way in which he acted before today, in the light of whatever may happen in the House today? I certainly will not act in any different sort of way, nor do I imagine that any other honourable member will. The apology which we have received is perfectly adequate for our purposes.

Mr MATTHEW (Bright): I re-emphasise the words that I used when I opened this particular debate: this is not a matter that is just between the Minister and me. I stated that I believe that the Minister of Emergency Services also has a right to be heard in this matter. I also believe that the Police Department needs to be heard about the circumstances in which a statement I gave to the department on a supposedly confidential basis was offered to this House by the Minister of Correctional Services. Further, that statement was—and I repeat 'was'—offered to anyone who approached the Minister for a copy.

The matter also needs to be looked at as to whether the Minister in fact had a right to have a copy of that statement in the first place. Indeed, the copy that the Minister flourished in this place was a typed version of my statement; it was not the statement I signed. I now have a copy of that typed statement and, yes, the text reads the same, but it was not the one that I signed: he had sought to go even further.

Mr Speaker, I believe that those actions need to be investigated and not just the matter between the Minister and me but also the actions of the Minister of Emergency Services and the police—and by moving to form this committee it gives all those people, including me, the right to be heard by that committee. This is an important question of principle relating to the rights and privileges of members of Parliament. I said in the opening of my address, and I say it again in closing: it is absolutely vital that this be dealt with fully and properly by a committee rather than just by a vote and a debate in this House today.

The House divided on the motion:

Ayes (22)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cashmore, Messrs Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew (teller), Meier, Oswald, Such, Venning and Wotton.

Noes (22)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, M.J. Evans, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway and Hopgood (teller), Mrs Hutchison, Mr Klunder, Ms Lenehan, Messrs McKee, Mayes, Quirke, Rann and Trainer.

Pair—Aye—Mr Chapman. No—Mr Ferguson.

The SPEAKER: There being 22 Ayes and 22 Noes, a casting vote is required. Before giving my casting vote, I want to say to the House that privilege, as we are all aware, is the cornerstone of our democratic parliamentary system, and that breaches of it must always be treated with the utmost seriousness. While the breach which has occurred and which was brought to the attention of the Chair has, in the opinion of the Chair, been at the relatively lower end of the scale, the Minister has acknowledged the breach and has apologised to the House for that breach. I accept the apology as sufficient punishment for the breach and therefore give my casting vote for the Noes.

Motion thus negatived.

QUESTION TIME

STATE BANK

Mr S.J. BAKER (Deputy Leader of the Opposition): I direct my question to the Treasurer. Who within the State Bank instructed staff of the Australian retail banking operations area to tell telephone callers that recent media publicity concerning the bank is the result of political point scoring of the bank by the Leader and Deputy Leader of the Opposition in Parliament? Was the Treasurer aware that this was occurring, and will he formally propose to the board of the bank that partisan political statements and activity cease immediately? The Opposition was informed on Friday afternoon that the State Bank was operating two hot lines which were being used to tell callers that the Opposition's questions in Parliament to the Treasurer about the bank had been for political purposes and to lower confidence in the bank rather than legitimate questions to seek information concerning the bank's policies, administration and performance.

I can provide the Treasurer with the names of bank officers who made such statements in the course of several telephone checks made to each hot line number on Friday and again on Monday. We have also been advised by a senior State Bank official that the bank is conducting a survey on the public's recognition and support for the Leader and Deputy Leader of the Opposition which again seems a

direct intrusion into the political process using State Bank resources.

The Hon. J.C. BANNON: I do not know who would have issued such instructions, if indeed instructions as such were issued, but it could be a reasonable interpretation of events that have been taking place over the past few weeks.

Members interjecting:

The SPEAKER: Order!

RURAL MEDICINE

Mrs HUTCHISON (Stuart): I direct my question to the Deputy Premier in his capacity as Minister of Health. Is the Minister aware of a meeting held by the Rural Doctors Association in Adelaide at the weekend at which there was discussion on the need for improvement in rural medicine funding and training? Is the Minister also aware that the keynote speaker, Dr Mark Craig, has been involved in pioneering a package to boost rural medicine in Queensland? If so, does the Minister have any plans to investigate the efficacy of Dr Craig's package and its possible application to South Australia?

The Hon. D.J. HOPGOOD: The Government is only too happy to investigate what the good doctor has to say. However, I would remind the House that we are already into this scene and have been for some time. On 28 October this year I made a press announcement following a report that the Health Commission had received from a Dr Peter Livingstone. It is interesting that Dr Livingstone is also from Queensland and obviously there have been some interesting initiatives in Queensland in the training of country doctors. I would refer the House to my statement in which I confirm that for many years there have been problems in the country areas; first, in some towns it is very difficult to attract a general practitioner; secondly, it is often difficult to retain them; and thirdly, there are some real problems in retaining particular specialities in country hospitals. So, a number of initiatives have been agreed with the profession in relation to trying to get some changes to training and to the initiatives area generally to ensure that more doctors, in particular specialists, are attracted to country areas.

The Royal Australian College of General Practitioners has recognised the importance of the supply of rural doctors and has made substantial improvements to the training of doctors for country practice in recent years and there is the initiative that has been negotiated through the Modbury Hospital in relation to training. I will not detain the House further; again, I would point to my statement of 29 October and the report which lay behind it from Dr Livingstone, but I would be only too happy to take up with the commission the more recent statement that the honourable member has placed before the House.

BENEFICIAL FINANCE

Mr D.S. BAKER (Leader of the Opposition): Does the Treasurer stand by his claim in his written answer to me of 6 December that Beneficial's trust deed did not apply to Southstate Corporate Finance—

The SPEAKER: Order! The Leader will resume his seat. It seems to me that the question has been answered. This is a repetition of the question and does not require a further answer.

Mr D.S. BAKER: Are you withdrawing leave, Mr Speaker, because the question has not been asked previously and it is a clarification of an answer previously given—

The SPEAKER: As the Chair understood the comment in the Leader's opening statement, he asked whether the Premier stands by an answer to a previous question.

Mr D.S. BAKER: A claim that was made in an answer.

Mr S.J. BAKER: On a point of order, Mr Speaker, I believe the Leader of the Opposition is actually asking for clarification of a previous statement and it is important that the House have that matter confirmed.

The SPEAKER: Would the Leader commence the question again.

Mr D.S. BAKER: Does the Treasurer stand by his claim in his written answer to me of 6 December that Beneficial's trust deed did not apply to Southstate Corporate Finance in New Zealand and that Southstate was not a subsidiary of Beneficial?

The SPEAKER: Order! It seems again that, if the question has been answered, the Leader is asking the question again, and that would be out of order.

Mr S.J. BAKER: On a point of order, Mr Speaker, it is a clarification; this question has never been asked previously in the Parliament.

The SPEAKER: The written answer was not an answer to a parliamentary question?

Mr S.J. BAKER: No, Sir.

The SPEAKER: It was a letter?

Mr D.S. BAKER: On a point of order, Mr Speaker—

The SPEAKER: Order! Let the Chair clarify the point of order before it. The written answer was not an answer to a written parliamentary question; was it a question in Parliament?

Mr D.S. BAKER: It was a question in Parliament that was not answered, but we received a written reply some days later.

The SPEAKER: In which an answer was received?

Members interjecting:

The SPEAKER: Order!

Mr D.S. BAKER: I am asking about the detail in the answer given.

The SPEAKER: Order! I ask the Leader of the Opposition to approach the Chair. I will look at the question. I call the member for Playford.

Members interjecting:

The SPEAKER: Order!

DEPARTMENT OF LABOUR INSPECTORS

Mr QUIRKE (Playford): Is the Minister of Labour confident and can he assure the House that all reasonable measures are taken by Department of Labour inspectors to ensure as much safety as possible in the South Australian working environment? Does the Department of Labour keep adequate statistics on computerisation so, when accidents are investigated, inspectors can immediately access information? At a recent national ergonomics conference held in Adelaide, it was alleged by one of the speakers that the Department of Labour was in 'the 60s' and inspectors feared to do their work because of intimidation on job sites. Moreover, it was further alleged that, because of a lack of computerisation, inspectors operate in the dark.

The Hon. R.J. GREGORY: I thank the member for Playford for his question because he raises a number of matters. First of all, I assure the House that inspectors who operate from the Department of Labour are fully equipped to do their job and, to the best of my knowledge, they are doing it very well. They now have access to information from WorkCover, which advises them of companies that have the worst performance. Members will recall that, recently,

the Occupational Health, Safety and Welfare Act was amended to provide for this. My advice from officers of the department is that the information, which has now become available, is being interpreted, and officers are starting to visit various establishments so they can use their skills in improving safety for those companies.

As for the allegations that inspectors are being intimidated, I will take up that matter with the member for Playford to find out from the person who made that statement the basis of it, because, to the best of my knowledge, none of our inspectors are being intimidated. Prosecutions are taking place, but, as I have explained in this House before, prosecutions regarding occupational health and safety matters are taking place only in respect of serious injury or death. In respect of other matters, improvement notices or prohibition notices are being issued, and the statistics in the annual report and those which I see each quarter indicate that more and more improvement and prohibition notices are being issued by inspectors. That increase indicates that inspectors are not being intimidated.

In January this year, members of a union visited the office of my department and had discussions with officials because they claimed that our inspectors were too officious, and they wanted their activities toned down. I refused that course of action. The conference was held to sort through with these people what they thought was officiousness on the part of the inspectors, when they were ensuring that building sites are kept safe. We have a good training policy, which means that all new inspectors go through a seven-week training course so, when they are out on their own on the job, they are fully equipped.

As a result of the last budget, we will be employing two new ergonomists and four additional inspectors, who will have a very important role over the next two years, commencing 1 January, in ensuring that the manual handling code, which comes into operation on that date, is fully understood by all employers. We are hoping that these people will visit the various establishments and train people to train other workers. They will assist employers to avoid strain and soft tissue injury.

All members would be aware that soft tissue and strain injuries cause an enormous cost for WorkCover—the estimate is between $50 million and $60 million a year. As many as 25 per cent of recurring, long-term injuries on the WorkCover books are back injuries. Most of those are caused by inappropriate lifting techniques either on a one-off basis or over a long period.

It indicates that the department is forward thinking in this area. It has the assistance of WorkCover which, for the first time in the history of this State, has been able to collect adequate and accurate statistics on injuries actually occurring in the workplace. The Occupational Health, Safety and Welfare Commission is designing regulations and codes of practice to assist employers to operate a safe workplace.

The inspectors are the third arm. They advise and issue orders, when necessary, to ensure that the standard is improved. I am confident that the department and its inspectors are performing the job adequately, and am also confident that the information systems available to them today are adequate. However, when new technology systems are available, they will be used to assist our inspectors in ensuring that South Australia has one of the safest workplaces in Australia.

STATE BANK

Mr D.S. BAKER (Leader of the Opposition): I address my question to the Treasurer. In what way does the Beneficial trust deed not apply to Southstate Corporate Finance (New Zealand) and to the Treasurer's statement that Southstate is not a subsidiary of Beneficial? Beneficial Finance's half yearly report for December 1988 highlights the fact that Beneficial established a presence in New Zealand in September 1988 when Southstate Corporate Finance Limited commenced trading. The name 'Southstate Corporate Finance' was chosen because the name 'Beneficial Finance' had already been taken in New Zealand.

Beneficial Finance's 1989 annual report states that 'Beneficial's investment banking division . . . has expanded into New Zealand with the opening of Southstate Corporate Finance Limited' and that in the financial year 1989 there was a restructuring within Beneficial so that 'the New Zealand arm of the company's structured finance and project division is Southstate Corporate Finance Limited'. The State Bank's 1989 annual report lists Southstate Corporate Finance Limited as a group subsidiary company held by Bearsden Pty Limited which, in turn, was held by Beneficial Holdings.

The Hon. J.C. BANNON: The answer I provided to the honourable member—and, therefore, the information contained in it—was as supplied based on the reference of the question asked by the Leader of the Opposition. As I have said in this place, in these matters of complicated financial structures it is advisable that responses be given in writing where possible, that is, following notice of the question being given. Obviously, that process has been undergone. It may be that the reason why it was not described as a subsidiary in terms of the trust deed was that Beneficial Finance Corporation Limited's shareholding in Southstate was 49 per cent, that is, less than a 50 per cent majority.

Another 49 per cent was held by Kabani Pty Limited, which simply illustrates the point that was made in response to the question about the purpose of Kabani Pty Limited, which has been placed very fully before this House. However, I will not rest on that point but will refer the question for a detailed response for the Leader.

Mr INGERSON (Bragg): My question is directed to the Treasurer. In view of the recent media report that the State Bank has an exposure to the John Fairfax Group, can the Treasurer advise when the group loaned Fairfax the money and whether the bank has made specific provisions in respect of that exposure? The *Australian Financial Review* has claimed that the State Bank of South Australia is one of four banks with a total exposure of $1.2 billion to the John Fairfax Group. Given that Fairfax has been in trouble for several years, the timing and security attached to the State Bank's loan is important in assessing its prudence.

The Hon. J.C. BANNON: I have seen the report referred to by the honourable member and I have asked the State Bank for information on that particular holding. As the honourable member has indicated, it has been part of a consortium of banks—the State Bank of South Australia being a fairly minor player in that consortium—and I am advised indirectly that that is fully covered. However, again I think it is appropriate that a detailed response be requested of the State Bank itself.

WORLD SQUASH CHAMPIONSHIPS

Mr HERON (Peake): Will the Minister of Recreation and Sport inform the House whether South Australia has been successful in its bid for the 1991 world open squash championships?

The Hon. M.K. MAYES: I can inform the House that we have been successful.

Mr Ingerson interjecting:

The Hon. M.K. MAYES: We as a community have been successful.

Mr Ingerson interjecting:

The Hon. M.K. MAYES: Just rest for a while: the member for Bragg cannot contain his enthusiasm. The Government and the Grand Prix Office have jointly supported the bid and, consequent on an approach by the Squash Racquets Association of South Australia to the Government, and the opportunity that we took up with the Sports Institute through one of our officers working as the coordinator, we put together a package to be placed before the International Squash Players' Association. That association has made its decision, and I was informed just before the House met that South Australia has been awarded the world championships. That is a great plus for us.

The championships will be held between 29 July and 4 August 1991. It is the pinnacle event of the international grand prix circuit and will be timed to coincide with our State championships. There will be 32 international players coming together from countries as far away as the UK, Scotland, New Zealand, Scandinavia and, of course, Pakistan, which at the moment has two very significant players, Jahangir Khan being No. 1. It is an opportunity for South Australians to see the game played at its best. With the agreement we have reached with the Grand Prix Office and the Squash Racquets Association, we will be supporting this event, and we look forward to seeing South Australians supporting what will be a great week of squash, one which I think most sports lovers will enjoy immensely. Of course, it is an opportunity to see one of our great South Australian squash players competing. Let us hope that he is in top form and will win the world championship—I am sure that he will be doing his best.

Together with the Squash Racquets Association we have approached a number of organisations to join together to sponsor the championships. My Federal colleague, the Hon. Ros Kelly (Minister for Sport), has offered her support for this program. We also expect to receive financial support from the Australian Sports Commission and from Foundation South Australia to promote these championships as part of a promotional package for Foundation South Australia. We look forward to seeing this event staged here; some great squash will be played over that period and perhaps we will see an Australian win the world title.

STATE BANK

Mr BECKER (Hanson): Will the Treasurer provide a list of all beneficiaries of the 58 off balance sheet companies, trusts and partnerships created by the State Bank group including full details of directorships and any directors' fees and other entitlements paid?

The Hon. J.C. BANNON: I will refer that question to the bank to see what response it can provide for the honourable member.

CONTAMINATED LAND

Mr ATKINSON (Spence): Will the Minister for Environment and Planning say what progress has been made by the Task Force on Contaminated Land in Urban Areas?

The Hon. S.M. LENEHAN: I thank the honourable member for his question and acknowledge that a number of the contaminated land sites are situated in his electorate as well as in electorates of other members on this side. As the House would be aware, I established this task force in September of this year to review the known contaminated sites in urban areas and to do a number of things: first, to examine the need for short-term management of these sites; secondly, to determine responsibility for the implementation of short-term measures; and, thirdly, to come up with the most appropriate method of rehabilitation for each of these sites.

The task force has now met on three occasions and has taken action to discharge its responsibilities. Of immediate concern has been the need to ensure that sites are managed in a manner that will address the concerns of nearby residents. At the same time the task force has been seeking advice from companies that are able to provide the required technical and scientific expertise to develop rehabilitation plans.

I can inform the House that to date some 77 sites have been identified as having potential for contamination of one form or another, and the cost of rehabilitation could run into many millions of dollars. With this information in mind, last week I, as Minister for Environment and Planning and also representing my colleague the Minister of Housing and Construction, attended the first ever national conference of housing and planning Ministers. At that conference, I am pleased to inform the House, I was successful in ensuring that all the Ministers from across the country (including the Federal Minister, Mr Brian Howe) supported my call for a national approach to this whole question of, first, the identification, and, secondly, the rehabilitation, of contaminated land sites that are suitable for—

Mr Lewis interjecting:

The Hon. S.M. LENEHAN: It is interesting that the member for Murray-Mallee has to interject again. I would hate him to spoil his eight year record, Mr Speaker. However, I intend to continue with my answer because I know it is not proper to respond to interjections. I think this matter is vitally important not only to the members of this Parliament but also to this community and, I suggest, to other cities right across this country. What has been agreed is that we will have a report for the next joint meeting of housing and planning Ministers which will be held in Canberra in March, and at that time I am hoping we will be able, as a joint conference, to make representations to our Premiers so that they can take it the special Premiers' Conference in May.

I know that you, Mr Speaker, are interested in this matter because some of the sites are contained within your electorate. I think that if I give some information to the House it might highlight the enormity of the problem. One of the sites that has been identified is in the member for Spence's electorate, and the estimated cost to rehabilitate this site is somewhere between $80 000 and $12 million, depending on the type of solution that is determined. Quite frankly, no State Government can afford this amount of money, and therefore it is vitally important that we gain the support of the Federal Government in Canberra.

MEMBER'S STATEMENT

The Hon. D.C. WOTTON (Heysen): Did the Minister of Emergency Services supply to the Minister of Correctional Services a copy of the statement given to the police last Tuesday by the member for Bright? If so, will the Minister explain how he received that statement? Did he or any person acting on his behalf request a copy of that statement from the police?

The Hon. J.H.C. KLUNDER: The debate on the matter of privilege on this matter has just finished. Therefore, I do not propose to add anything extra to this debate.

Members interjecting:

The Hon. J.H.C. KLUNDER: Indeed, the debate on the matter of privilege having just finished, and mindful of your dictum, Sir, that this is an important matter, I think it is rather childish for people to now try to see whether they can muddy the waters and get a little bit of extra dirt at this stage.

Members interjecting:

The SPEAKER: Order! The honourable member for Albert Park.

BURDEKIN COMMISSION

Mr HAMILTON (Albert Park): Can the Minister of Family and Community Services say whether the Government is cooperating with the Burdekin commission? When can we anticipate a further report? Are there indications of a modification of policy from the Federal Government in this area?

The Hon. D.J. HOPGOOD: I can indicate to the honourable member and the House that indeed the Government is cooperating very fully with Commissioner Burdekin. Commissioner Burdekin was in town a week ago and I and senior Government officers appeared before the Commissioner and one of his fellow commissioners (the third was unavoidably absent) and put the position in relation to youth homelessness and services to homeless youth generally as seen by this Government. We were one of a number of organisations that put submissions to Commissioner Burdekin.

I was rather gratified to see that the Commissioner, while he was in South Australia, gave some quite reasonable brownie points to South Australia and, therefore, to the South Australian Government on the way in which we have handled this area. It cannot be denied that the Commissioner has been particularly critical of the slowness with which some of the 'so-called Burdekin moneys' have been translated into action by State Governments. He made those statements at the time he was taking evidence in relation to the situation in the eastern States.

Commissioner Burdekin also indicated that he felt that South Australia did not fall within that category, that indeed the very close relationship which exists between Government and community organisations here, who often finish up as the people who spend the money, has been such as to ensure that the money is wisely and humanely spent. That is not to say that the Commissioner is likely to find that everything in the South Australian garden is rosy because, as long as there are any homeless youth, we cannot come to that sort of conclusion. It is likely that the conclusion that the Commissioner will draw is, given the unfortunate fact of homeless youth, that the question is being sensitively addressed in this State.

I anticipate that there will be further initiatives along the lines of those I announced last week at about the time that the Commissioner was in South Australia. They will be directed towards the same purpose, but I cannot at this stage indicate when the current round of consultations will be completed and when a further report will be issued.

CONJUGAL VISITS TO PRISONERS

Mrs KOTZ (Newland): My question is directed to the Minister of Correctional Services. Does the Department of Correctional Services have a policy which allows private visits to inmates of Port Lincoln prison and the Cadell Training Centre during which sexual contact can take place and, if so, when did the department approve this policy? Will the Minister table the written policy or guidelines and explain how this policy is in any way consistent with information he gave to this year's budget Estimates Committee? The policy as reported in the *Advertiser* this morning effectively allows conjugal visits. However, the Minister stated categorically to the budget Estimates Committee less than three months ago that there were no proposals to allow conjugal visits within the prison system.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: I thank the member for Newland for her question. When I read the article in this morning's *Advertiser*, I made a mental note so that, as soon as I arrived at my office, I would look at the report of the Estimates Committee in anticipation of the slavering behaviour of members opposite when they read the *Advertiser* this morning.

Mr Becker: Is this a dorothy dixer?

The Hon. FRANK BLEVINS: This is a real Dorothy! I thank the honourable member for it. Just in case any honourable member does not have the total recall that is enjoyed by both me and the member for Newland, I will read out from the report of the Estimates Committee of 18 September 1990. Mr Such was the questioner, and I have to say that he was slightly flushed when he asked this question.

Members interjecting:

The Hon. FRANK BLEVINS: I beg your pardon?

Mr S.J. BAKER: On a point of order, Sir.

The SPEAKER: Order! The Minister will resume his seat. There is a point of order.

Mr S.J. BAKER: I think the Minister's behaviour is quite unconscionable. He is talking about a member being flushed.

The SPEAKER: What is the point of order?

Mr S.J. BAKER: It is a matter of relevance; it is a matter of debate.

Members interjecting:

The SPEAKER: Order! The Chair will listen to the response and judge on relevance. The honourable Minister.

The Hon. FRANK BLEVINS: Thank you, Mr Speaker. The member for Newland referred to the Estimates Committees; I am only advising the House of the complete statement that was made there.

Members interjecting:

The Hon. FRANK BLEVINS: I beg your pardon?

The SPEAKER: Order! The Minister will ignore interjections and address the Chair.

The Hon. FRANK BLEVINS: It is very hard, Sir.

The SPEAKER: The Minister will.

The Hon. FRANK BLEVINS: I will try, Sir. The question from Mr Such was: 'Have rooms at Yatala and other prisons been set aside for conjugal visits?'

Mr INGERSON: On a point of order, Mr Speaker, in this House it is normal that we address members by the district they represent. I would have thought that by this time the Minister understood that.

The SPEAKER: Order! The honourable member is correct. Was the nomination the member or a name?

The Hon. FRANK BLEVINS: I am citing the *Hansard* of the Estimates Committee of 18 September 1990. It refers to 'Mr Such'; however, I am quite happy instead of saying 'Mr Such' to refer to his district.

Mr S.J. BAKER: On a point of order, Mr Speaker—

Members interjecting:

The SPEAKER: Order! The Chair cannot hear the point of order.

Mr S.J. BAKER: The Minister is not answering the question but, more importantly, my point of order is that he is not allowed to refer to previous debates in this session.

Members interjecting:

The SPEAKER: Order!

Mr S.J. Baker: We want an answer to the question.

The SPEAKER: Order! The Deputy Leader is out of order. I think the honourable member may be correct there; I will check that. I would ask the Minister in the interim not to refer to that but to answer the question without reference to the debates.

The Hon. FRANK BLEVINS: The question was quite specific. The member for Newland asked how I reconciled the article in the paper this morning—I do not know how I am responsible for that, but nevertheless—with my answer to a question in the Estimates Committees. I cannot answer the question without doing so. It is implicit in the question.

Mr Becker: Are they doing it or aren't they?

The Hon. FRANK BLEVINS: Well, I don't know.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: The member for Hanson is getting very excited and asking, 'Are they doing it or aren't they?' It may be of great concern to the member for Hanson whether they are doing it or whether they are not, but it really is not of great concern to me. The question that was asked by the member for Fisher was whether we allow conjugal visits in Yatala Labour Prison or other prisons and the answer today is the same as it was then: we do not have a program of conjugal visits. What we have is private family visits which we have had for many years at Cadell and which have recently been introduced with the new accommodation at Port Lincoln Prison, and I am very pleased and proud that they have.

I do not know whether the honourable member represented the Liberal Party on the Public Works Standing Committee but at least members of that committee would be aware of the matter, because everything is pointed out to all those members on the Public Works Standing Committee regarding precisely what the accommodation is for. Now the question comes, crudely put by the member for Hanson: 'Are they doing it or aren't they?' Frankly, I do not know, but I would imagine that not everyone would be as obsessed with sex as the member for Hanson appears to be. I would have thought that a private family visit can and does mean on very many occasions that the person's wife and family or parents are there with them in the rooms that are set aside for them. There are no bedrooms in those rooms. Anybody on the Public Works Standing Committee, which has given approval for this, would know that there are no bedrooms.

To suggest that a prisoner who has been in prison for many years and who is having a birthday party or something for a child would brush the children out of the way or tell them to close their eyes to do what the member for Hanson has suggested is extremely insulting. However, I have been around for a while and I have to concede that, when two people—I was going to say 'of the opposite sex', but that might be against the Equal Opportunity Act—generally of the opposite sex get together in private, from time to time, as the member for Hanson puts it, it may happen. I do not know that it has happened and prison officers do not know that it has happened.

My guess is that, because of the nature of private family visits, in the overwhelming majority of cases, it does not happen. Unlike Victoria, South Australia does not have a system of conjugal visits, where accommodation is supplied overnight for prison visitors. On a slightly more serious note, let me say this—

The SPEAKER: Order! I ask the Minister to draw his answer to a close. It has been a long and complete answer.

The Hon. FRANK BLEVINS: They are loving it, Sir. On a serious note, I point out that the resocialisation of prisoners who have been out of the community for many years is a very important issue. We aim to get as much contact as possible with their families—their children, their parents, their siblings—to enable them to have a fighting chance when they leave prison after many years. The program has been going for many years, and I hope that it will continue for many more years.

RURAL ASSISTANCE

The Hon. T.H. HEMMINGS (Napier): Will the Minister of Agriculture advise the House what discussions have taken place or may take place with interested groups and other Governments with regard to rural assistance?

The Hon. LYNN ARNOLD: I thank the honourable member for his very important question, given the state of the rural economy at this time. A series of meetings has taken place in this regard, and another one is about to take place. First of all, I can say that last week two meetings which are worth noting were held. I refer to the first meeting of the Ministerial Advisory Committee, which was appointed as a result of the Government's commitment before the last election. Members may recall that the Government promised that there would be a policy committee on rural finance and rural assistance. That committee has now been established under the chairpersonship of Brian Annells, and it had its inaugural meeting last week.

I had the opportunity to address the meeting and I indicated the issues that I thought it was important to look at, so members can advise me and the Government on policy matters in the area of rural finance. I am looking forward to receiving their considered advice over time. In the first instance, I referred a number of policy issues to them, some of which are minor matters, and I expect their report in the next month or so. They include such issues as whether or not leaseholders, sharecroppers or others should be eligible for some form of rural assistance. I also mentioned small businesses and the impact that the rural downturn has on them. Many of those matters have come up in this place through questions or debates.

At the broader level, I have asked the committee to advise me on issues to do with the lending program and the policy of that lending program for the next financial year and for years after that, and I have asked for its considered overview advice by the end of March 1991. That committee is up and running, and I look forward to its further advice.

Another meeting which took place last week was one of an ongoing series of meetings held between officers of the Department of Agriculture, representatives of the UF&S and other organisations, and banks in South Australia. This comes from a series of meetings that was initiated by my predecessor, now the Minister of Housing and Construction. Every few months, meetings are held to discuss the issues facing the rural economy and what banks are doing. The views of the banks and the Government are considered, and we put matters to the banks that we want considered. In the course of the next year, the Government sees that there will be further meetings.

Most pertinently, a meeting will take place in Sydney tomorrow, which is a ministerial meeting to be chaired by

the Federal Minister of Primary Industries and Energy (John Kerin). I will be at that meeting, as will other State Ministers, and I appreciate the courtesy of the Opposition in granting a pair for me to attend that ministerial meeting, because it will be a key meeting to determine what are the policies at the Federal and State level with respect to rural finance. The Federal Government has approved a great deal of delegation or devolution of authority to State Governments, but the broad framework is largely determined from the Federal arena.

It is worth noting that the discussion papers which were released recently by the Federal Government take much of their lead from the views developed in this State (and I again refer to my predecessor, the Minister of Housing and Construction) on rural lending within South Australia. The United Farmers and Stockowners concurs broadly with those views, and its views have been communicated to its national organisation, the NFF. Those issues will be discussed tomorrow. We will also discuss the actual amounts of money that will be available in the program, and I will put a very strong case that the Federal Government look at a three-year commitment to the lending program so that we do not have to have an annual waiting to determine how much money we might be able to lend out under the rural assistance program. That creates uncertainty for the department and the Government and, more importantly, for those potential borrowers from the Rural Finance and Development Division.

WOOL QUOTA SYSTEM

Mr MEIER (Goyder): I direct my question to the Minister of Agriculture. Does the South Australian Government appreciate the effects that the proposed 65 per cent national wool quota system would have on South Australia's wool producers and has any approach been made to Primary Industries Minister Kerin on those effects? If not, why not? Figures given to me show that, if this proposed quota system is applied to South Australian wool producers, together with the optional 50 per cent levy, a wool clip return of $40 000 would drop to $10 000, enough to cripple many of the State's wool producers.

The Hon. LYNN ARNOLD: I refer the honourable member to the comments I made in the debate on the motion of the member for Flinders in private members' time last Thursday. I believe that all the points he raised in his question today were answered by me on that occasion.

GRANNY MAY'S CATALOGUE

The Hon. J.P. TRAINER (Walsh): I direct my question to the Minister for Environment and Planning, representing the Minister of Consumer Affairs in another place. Will the Minister of Consumer Affairs, in consultation with her interstate and Federal colleagues, inquire into the suitability for home delivery via letterboxes of an advertising brochure currently being distributed on behalf of the Granny May's nationwide chain of card and gift boutiques? Will the Minister consult with the relevant advertising organisations to ensure that self-regulation can effectively prevent material such as this being widely distributed when much of it might be offensive to some recipients and is almost certainly unsuitable for children?

The Granny May's boutique chain operates in all States except Western Australia, selling novelty items, a high proportion of which are aimed at children. A constituent living in Park Holme has complained to my electorate office about the 40-page Christmas catalogue letterboxed by this firm. The cover carries a referral to a 'strictly adults only sealed section inside' and carries an 'R certificate' style of logo consisting of an R within a diamond shape outline.

The unsealed contents of the catalogue consist of advertisements for items such as dolls, fluffy animals, various novelty goods based on children's cartoon characters, various practical jokes, T-shirts, scientific toys, and other novelty and stationery items that would appeal to children. Pages 21 to 28 constitute a 'sealed section for mature gift purchasers only' with the right-hand margin being uncut, yet contains advertisements for the merchandise, described as 'adult gifts for those who dare', which can easily be inspected via the other two margins of the sealed page. Many items are of a highly explicit sexual nature. My constituent is concerned that a product containing an adults only section, so easily opened by children, is contained in a booklet which my constituent believes is aimed predominantly at children.

The Hon. S.M. LENEHAN: The honourable member has outlined his question in some detail, and I will be pleased to refer it to my ministerial colleague, the Minister of Consumer Affairs, in another place.

CARBON MONOXIDE

Mr SUCH (Fisher): Has the Minister for Environment and Planning been advised of readings taken by her department which show that carbon monoxide levels in Hindley Street are at times well above acceptable standards? Will she say what action the Government intends to take over this matter? Will she also confirm that her department will cease to monitor air quality standards in South Australia as part of Government cost cutting measures; and, if so, will she explain how air pollution is to be measured in the future?

I have in my possession two documents which reveal readings taken by the Minister's department in Hindley Street last month, covering the period 16-23 November. The readings show that, at eight-hour averages, carbon monoxide levels in Hindley Street were, on 22 November, four times the National Health and Medical Research Council goal, while an hourly value measurement on the same day put the level at about 40 per cent above the World Health Organisation one-hour goal. These documents show that carbon monoxide pollution was particularly prevalent in Hindley Street on 22 November but also exeeded recognised health standards at some other times during the period measurements were taken.

The Hon. S.M. LENEHAN: It would be appropriate to obtain a full report on the questions he has raised and to give the honourable member a detailed answer as soon as I have that report.

ALCOHOL FUEL

Mr De LAINE (Price): Will the Minister of Mines and Energy investigate the possibility of producing alcohol from crops in this State to supplement or even, in time, to replace fossil fuels to power motor vehicles? It has been put to me that there could be many advantages to this use of alcohol, including reduced costs, reduced pollution, creation of jobs and assistance to crop farmers.

The Hon. J.H.C. KLUNDER: That is a question that from time to time has occupied the interest of a number of members of Parliament, and I have some information on

the subject from the Office of Energy Planning (OEP) which may assist members. Alcohol fuels—or ethanol fuels, as they are commonly called—are technically a feasible option for extending the life of gasoline supplies and for reducing the greenhouse gas effects that come from burning petrol. However, it is the view of the Office of Energy Planning that their use in Australia would be unlikely to reduce costs or, indeed, to assist crop farmers in South Australia unless ethanol production were heavily subsidised by Government.

I say that, noting that there are other places in the world—notably some of the States of the United States and Brazil—where a great deal of alcohol substitution takes place, although in each of those locations there is heavy subsidisation by Government. Ethanol can be produced from a number of crops. It is the OEP's view, presumably fairly well off the cuff, that the most likely crops for the production of ethanol in South Australia would be wheat, barley and sugar beet.

However, the use of sugar cane, which would clearly be more a Queensland option, would be, as far as the OEP is aware, the cheapest option for producing ethanol in Australia. A recent Queensland proposal for a major production facility is thought likely to be able to produce ethanol at a cost of approximately 70c to 80c per litre. That is the production cost, not the cost at the pump, which is likely to be at least twice as high.

On this basis, it is not yet a reasonable option for production here. In South Australia, sugar beet is the most likely option but that, again, would be at a much higher cost than the production of ethanol from sugar cane. While there is little doubt that, currently, grain prices are low and the price of petrol is abnormally high due to the Middle East problem, those conditions are not likely to prevail for any length of time.

Given that we would need to set aside large areas of crops to be dedicated for the purpose of producing of ethanol, it would not be economically viable unless the price for the primary product were remarkably low. The Office of Energy Planning indicates that, while it will continue to keep a watching brief in this area, at present it does not appear as though the production of ethanol will be a great prospect for either the farmers or the users of combustible motor vehicle products in this State.

KING BROWN SNAKES

Mr BRINDAL (Hayward): Is the Minister for Environment and Planning aware that the site of the Oaklands Park Primary School, currently owned by SGIC, is infested with king brown snakes? Will the Minister inform this House whose responsibility it is to reduce the danger to the public from this extremely venomous but protected species? I am informed that at least one king brown snake has been sighted—

Members interjecting:

The SPEAKER: Order!

Mr BRINDAL: —in the vicinity of the Marion youth project, which is on the land concerned. On this site there is not only the youth centre but also a large office of CAFHS, and SGIC is leasing a major portion of the site for the Christmas car parking of staff employed at Westfield. The site is also used for recreational purposes by local residents. The lack of upkeep of the grounds by SGIC has long been a concern to residents in the area. I believe that Marion council has made funds available for a snake catcher, but will do nothing unless the snake can be spotted or located on the property of local residents.

The Hon. S.M. LENEHAN: It was a little difficult to hear the honourable member but, as I understand the question, there is more than one of these snakes—there is a nest of snakes?

Mr Brindal: No-one has been able to check—they do not get close enough to identify them.

The Hon. S.M. LENEHAN: As I understand it, the Oaklands Park Primary School is not inhabited by schoolchildren; the site has been closed and, as I understand from the honourable member's question, the Marion youth group has part of that site for its activities; that some king brown snakes—or a snake—have been sighted near the youth centre; and that the Marion council has indicated that it will allocate funds for the eradication of these snakes. I have to say that I did not hear the reason why Marion council cannot proceed with that. Is it because it cannot find the nest where the snakes—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: We could not hear, Mr Speaker, I am sorry.

The SPEAKER: Order! The Minister and the Chair are having great difficulty in hearing the questions and the responses. I ask all members to pay people asking and answering questions the courtesy of allowing them to be heard.

Mr BRINDAL: Can I explain to the Minister again?

The SPEAKER: No.

The Hon. S.M. LENEHAN: I think that the honourable member was genuine in his question, and I am genuine in my answer. First, I will have an officer of my department contact the Marion council to find out what is the problem. Secondly, I will be very happy to have the whole thing investigated to see whose responsibility it is. If I have a role to play, I will be happy to write to the SGIC and clear up this matter. I have a great fear of snakes myself, so I appreciate the honourable member's question.

TEACHING OF ENGLISH GRAMMAR

Mr ATKINSON (Spence): Will the Minister of Education tell the House the level at which the teaching of English grammar starts in our schools and say whether the parsing of sentences is still taught?

The Hon. G.J. CRAFTER: I will be pleased to obtain a detailed report on this matter for the honourable member. I know that the question is of considerable concern to the honourable member and deserves a detailed answer.

GULF ST VINCENT PRAWN FISHERY

The Hon. P.B. ARNOLD (Chaffey): Does the Minister of Fisheries acknowledge that the discussions with licence holders prior to the enactment of the Fisheries (Gulf St Vincent Prawn Fishery Rationalisation) Act 1987 proceeded on the basis that recovery for remaining licence holders was linked to the expected increases in catch forecast by his department at the time, and does he undertake to administer the Act according to paragraph 5 of the preamble, which expresses the understanding under which Parliament enacted that legislation?

The Hon. LYNN ARNOLD: I have already given a statement to the House on this matter and I have also answered a question on the matter of predictions made by the department and the basis upon which the Gulf St Vincent prawn rationalisation was undertaken. In that statement, I also

referred to the second Copes report, which quite clearly indicates that the department has used its very best efforts to apply its research knowledge to the prawn fishery. It is also acknowledged that the recovery rate of the prawn fishery has not been as quick as anyone would have expected but, in answer to a question earlier, I indicated that it would not be correct to attribute blame to one party or another for the prawns not being bred as rapidly as possible to enable the fishery to recover.

The honourable member related that to a particular section in the Act. I will take that part of his question on notice and seek further advice on whether that brings in any new element. I do so not because I believe it does, but because I understand that legal advice is being sought by the Prawn Boat Owners Association and because I do not wish to have my answer to a question asked in this place used in any way that might prejudice the Government's legal position with respect to any subsequent legal action.

Mr Becker interjecting:

The Hon. LYNN ARNOLD: The member for Hanson asks whether I am going to bankrupt them to pay off the loan. The point I made in my ministerial statement in relation to that matter was that if the prawn boat owners believed that they were suffering hardship and were unable to meet the buy back arrangements they should follow the same procedure as happens in any other area of the economy. For instance, if an industry has problems it goes to the development fund to see whether it can get any support, and it is required to prove hardship or financial need; if a farmer wants to seek financial assistance under the Rural Assistance Scheme, he must prove financial need. There is no reason why Gulf St Vincent prawn boat owners should be any different from anyone else. If they believe that they are suffering hardship, they should prove their case by revealing their figures.

That offer has been made. Mr Sheridan is waiting to receive their approach and if they do that and he, as an independent auditor, comes to the Government and says, 'I think this person's debt should be rescheduled,' we will accept his recommendation. But if these prawn boat owners do not approach Mr Sheridan, the presumption is that they are not suffering financial hardship and that they can use their other assets to help meet their needs. It is as simple as that—they have the opportunity. I am not driving anyone to bankruptcy; I am offering them a chance. They can now take up that chance by taking up the opportunity with Mr Sheridan.

BUILDING ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): 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 is a Bill to amend various provisions of the Building Act 1971, to provide for improved administration of building control in this State at both the policy level (through the composition and functioning of the Building Advisory Committee) and the operating level, where councils ensure day-to-day observance of the Act.

A number of proposed changes are necessary to facilitate the making of regulations to enable the introduction of the Building Code of Australia into South Australia. The Act was amended in 1988 to provide for the incorporation, by reference, of the Building Code of Australia by regulation under the Act. In the process of drafting the proposed Building Regulations 1990 which call up the code and set out administrative procedures, Parliamentary Counsel has drawn attention to the need for certain further amendments to the Act.

The code and the proposed regulations will bring a much needed and long awaited consistency to controls which will apply across the nation. It is expected that this will bring important efficiencies to the tasks of designing, approving, and constructing buildings and structures, leading both to control of the costs of all phases of the building process, and to improved levels of service to property owners, consumers, financiers and all other parties involved in the construction industry and its associated professions.

The Government wishes to acknowledge the contribution of a great many individuals and groups to the development of the code. At the national level, the Australian Uniform Building Regulations Coordinating Council and its working parties can now see the results of their years of work.

In this State, I acknowledge the work of the Building Advisory Committee and its subcommittees and working parties, and the many individuals and professional and industry groups who have given their time most willingly to the task of devising a truly national code.

Other proposals in the Bill arise from recommendations of the Review of the Administration of Building Control which was carried out by the Department of Local Government, with the support of scores of submissions from many sources.

One of the areas of building control which is poorly understood in the community concerns the provision of fire safety. Despite the efforts of responsible property owners, the Fire Services, professional bodies and the Building Fire Safety Committees constituted under the Building Act, there are estimated to be in the order of 2 000 buildings regularly frequented by the public in South Australia which need to be inspected to ensure that the occupants would not be at risk should fire occur.

It is gratifying that there have been no serious fires in public buildings involving multiple deaths since the People's Palace tragedy in 1975. However, recent fires interstate and overseas serve to remind us all that constant vigilance must be exercised and the highest standards maintained if disasters are to be avoided.

The Bill empowers a Building Fire Safety Committee for an area to authorise suitable persons who, after receiving appropriate training, may undertake inspections of buildings and provide reports to committees. By this measure it is hoped to greatly increase the rate of inspections so that potentially hazardous situations are identified speedily and given priority.

The Bill also requires property owners who have been served with a notice requiring building work to be undertaken to ensure adequate fire safety, to appeal against the requirements to referees within two months of receipt of the notice. This will prevent a small number of owners from waiting until just prior to the expiry of the time given in the notice for work to be completed before lodging an appeal in the knowledge that action can be further delayed pending a determination by the referees.

These amendments, which were recommended by the Review of Building Control, are simple steps which can be taken immediately to improve the effectiveness of the work of Building Fire Safety Committees. Over the coming months, in the context of the review of State/local government relationships, there will be an opportunity to re-examine the whole system now established in the Act for requiring fire safety in buildings erected before 1974. In the public interest we must ensure that it is as efficient as possible.

There is no doubt that the public interest is also well served by voluntary compliance with the regulations by land owners, and I make a call to property owners to take positive steps to raise fire safety standards in their premises as a voluntary contribution to the community's well being.

As recommended by the Review of Building Control, the objects of the Act are established for the first time by clause 3.

The Bill provides for revised membership of the Building Advisory Committee. Members will now be appointed on the basis of their skills and experience in facets of the building industry, its associated professions or the regulatory process. The discontinuance of the former practice of members being appointed as representatives of particular organisations, and the reduction in size of the committee is expected to bring broader perspectives and greater effectiveness to the committee's work.

The revised membership, which was a key recommendation of the Review of Building Control, nevertheless reflects the role of local government in the day-to-day administration of the Act and regulations by including a nominee of the Local Government Association.

The Bill also makes a number of amendments designed to facilitate the administration of building control by councils, by adding flexibility and powers to exercise discretion, and by clarifying existing requirements.

On passage of the Bill councils will be able to refund, reduce or remit building fees, and waive the requirement that prescribed plans, etc., must be lodged with a building application, in appropriate cases.

A new system of annual revision of building fees will be introduced based on a series of construction indices for various classes of building, reflecting the complexity of the building work, and the extent of checking to be undertaken by council. The changes will provide councils with a predictable funding base which rises in line with building industry costs, and will enable industry to plan for predictable changes in fees, drawn up on a rational and public basis.

Councils will be able to impose conditions when considering granting approval for construction or erection of a temporary building or structure, including conditions regarding the removal of the building. Such powers have not existed previously.

Council or the surveyor will be able to require a person who has lodged a building application which is deficient to remedy the deficiency, or to lodge further details, plans, drawings, etc., within the prescribed time. This provision will resolve problems caused by the existence of a number of complicated provisions relating to the time within which councils must deal with applications. The amendments also provide that councils shall act expeditiously in performing their duties in this area.

The Bill provides authority for the certification by qualified persons of certain aspects of building plans, specifications, etc., such as calculations made by structural engineers, in accordance with current practice. It also provides authority for a system of private certification of plans to be included in regulations at some time in the future.

Such a system now operates in Victoria. I make it clear however, that the Government has no plans to implement private certification in the short term. Any such implementation will occur only after thorough consultation with councils and other interested parties. It is anticipated that these amendments will lay the ground for implementation by councils of improved administrative procedures for processing building applications, in the interests of all parties.

Provisions for access to buildings for people with disabilities were introduced in the South Australian Building Regulations in 1980, but are applicable to new buildings only. Clause 19 of the Bill will allow council to require that adequate facilities for access to or within parts of a building or structure are provided for persons with disabilities, when granting approval for certain kinds of alterations to buildings or structures erected before 1980.

Clause 1 is formal.

Clause 2 provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3 repeals section 2 of the principal Act (which provided for commencement of the principal Act and is now spent) and substitutes a provision which sets out the objects of the principal Act.

Clause 4 amends section 8 of the principal Act to empower councils, at the request of the owner, to waive a requirement that prescribed details, particulars, plans, drawings or specifications be lodged with an application for approval of building work, either unconditionally or on the condition that alternative details, particulars, plans, drawings or specifications be lodged.

Clause 5 amends section 9 of the principal Act:

(a) to empower councils and building surveyors to accept as complying with the Act or approve, without further examination or consideration, details, particulars, plans, drawings or specifications lodged with an application for approval of building work if they have been prepared and certified in accordance with the regulations;

(b) to empower councils and building surveyors to require an applicant for approval of building work to remedy any deficiencies in details, particulars, plans, drawings or specifications lodged, or to supply to the council further details, particulars, plans, drawings or specifications, within the prescribed time and to provide that applications for approval of building work lapse if these requirements are not met;

and

(c) to require councils to act as expeditiously as is possible in performing their duties under the section.

Clause 6 inserts new section 9a into the principal Act to enable councils to attach conditions to approvals to construct or erect temporary buildings and structures requiring their removal and to enable councils to modify the provisions of the Act with respect to the construction or erection of temporary buildings and structures. If a condition of an approval of the construction or erection of a temporary building or structure as to the building or structure's removal is not complied with, the owner of the building or structure is guilty of an offence. The maximum penalty is a division 6 fine ($4 000).

Clause 7 amends section 10 of the principal Act so that the defence to a charge of an offence of performing building work without council approval or not in accordance with the approval or the Act is not available unless the defendant shows that the building work did not adversely affect the safety of the building or structure, not just the fire safety.

Clause 8 amends section 11 of the principal Act to remove sexist language from subsection (1) and to replace the reference to 'clerk of the council' with 'chief executive officer of the council'.

Clause 9 repeals section 14 of the principal Act and substitutes a new provision to remove the requirement that a council appoint its building surveyor and building inspectors and to instead require that councils have on their staff or engage the services of such officers.

Clause 10 repeals section 32 of the principal Act and substitutes a new provision to make it clear that it is the appellant or applicant in a matter to be heard and determined by referees who must pay to the council the fees prescribed under that section.

Clause 11 repeals section 38 of the principal Act and substitutes a new provision which ensures that councils have the power to require the owner of land on which a building or structure that does not conform with the Act has been erected or constructed, or on which building work has been performed contrary to the provisions of the Act, to lodge with the council specified details, particulars, plans, drawings or specifications relating to the building or structure or building work. The new section also ensures that any costs incurred by a council for the purpose of determining whether a building or structure conforms with the Act or whether building work has been performed contrary to the Act is recoverable from the owner.

Clause 12 amends section 39e of the principal Act to empower persons authorised by the Building Fire Safety Committee for an area to carry out inspections under that section. A person can be authorised by a committee only if the person is, in accordance with the regulations, qualified for appointment as a building surveyor or building inspector or if the person has been nominated by the chief officer of the South Australian Metropolitan Fire Service.

Clause 13 makes a consequential amendment to section 39f of the principal Act.

Clause 14 amends section 39g of the principal Act to limit the time within which an application to referees for an order under that section can be made to within two months of receipt of the relevant notice.

Clause 15 repeals section 49 of the principal Act and substitutes a new provision. The new section clarifies in relation to which properties a notice of intention to carry out building work is to be given under that section by a building owner and requires the building owner to do the following:

(a) if so required by the surveyor or the council prior to approval of the proposed building work, to satisfy the council by lodging detailed proposals, prepared and certified as the surveyor or council may require, that the building work includes all such precautions as are reasonably required to prevent or minimise subsidence or other movement affecting the other land or premises; and

(b) at the request of the owner of the affected land or premises, to carry out such building work as is, by reason of the building work to be carried out on the building owner's land, reasonably required to underpin or otherwise strengthen the foundations of any building or structure on the affected land.

Clause 16 amends section 59 of the principal Act to enable the period for which councils must retain documents preserved by them pursuant to that section to be prescribed by regulation if it is necessary that councils keep any documents for longer than the five years from the date of lodgment provided for in the section.

Clause 17 amends section 60 of the principal Act by extending the regulation-making power to regulations empowering or requiring councils to refund, reduce and remit fees payable under the Act and to allow fees to be set by regulation according to factors determined from time to time by the Minister.

Clause 18 amends section 62 of the principal Act to reduce the maximum membership of the Building Advisory Committee from 10 to six, to set out the qualifications for appointment to the committee and to ensure that at least one member of the committee is a woman and one is a man.

Clause 19 amends the schedule of transitional provisions to the principal Act to empower councils to impose, as conditions of approvals to make alterations of a prescribed kind to buildings or structures erected or constructed before 1980, such conditions requiring such building work or other measures to be carried out as may be reasonably necessary to ensure that the facilities for access for disabled persons will be adequate.

The schedule makes amendments to the principal Act to remove spent provisions, to render the language of the Act gender neutral and to bring the language of the Act into line with modern expression. The schedule does not seek to make any substantive changes to the law contained in the Act.

Mr INGERSON secured the adjournment of the debate.

ABORIGINAL LANDS TRUST

The Legislative Council intimated that it had agreed to the House of Assembly's resolution.

BOATING ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

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

BUILDING SOCIETIES BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to provide for the registration, administration and control of building societies; and to repeal the Building Societies Act 1975. There are five permanent building societies and five Starr-Bowkett building societies registered under the Building Societies Act, 1975 with total assets of more than $1.9 billion. Group assets are in the order of $2.2 billion.

Building societies are leaders in the provision of innovative housing finance, developing loans in response to consumer needs. By promoting a range of alternative lending products, they have extended the benefits of home ownership to many families unable to meet the rigid qualifying criteria imposed by other institutions.

Societies hold a significant position in the South Australian financial market with 703 000 savings and investment accounts which represents 12 per cent of the national industry total; against the State's proportionate population of 8.4 per cent of the Australian figure. In addition, there are 42 800 current loan accounts with societies holding in excess of 33 per cent of the total withdrawable household funds held by both building societies and savings banks in this State.

Societies have a significant and important position in the South Australian market as repositories for domestic savings, as major sources of housing finance, and increasingly as providers of an expanding range of competitive financial products and services designed to meet the changing needs of consumers. They are for many South Australians the secure, efficient and preferred alternative to the banking sector. Societies remain committed to providing housing finance for as wide a spectrum as possible of prospective home buyers.

Recognising the impact of deregulation on the financial sector and the resultant increased competition, as well as the changes in corporate structure which have occurred to building societies in other jurisdictions, and having regard to the significant role societies play in the State's capital markets, I approved that the Building Societies Advisory Committee undertake a review of the 1975 Building Societies Act. The committee recommended legislative changes that are considered necessary to ensure building societies remain viable within the competitive environment. The Bill takes into account the submissions made by building societies and their auditors as well as other interested parties.

The recent crisis in NBFI's particularly in Victoria has highlighted the need for more stringent and uniform prudential standards governing the operations of building societies throughout Australia. In this regard the Bill reflects South Australia's commitment to uniformity. The prudential standards in the Bill are consistent with those to be introduced by New South Wales and supported by all other States and the industry. They will afford appropriate protection for the investing and borrowing public and will promote general stability of building societies. The prudential standards where relevant, are also consistent in all substantial respects with those developed by the Reserve Bank of Australia in its approach to supervision of banks. In summary the standards are:

First, a risk-based approach to the measurement of capital adequacy. This new approach includes both on-balance sheet and off-balance sheet items of the consolidated group and takes account of differences in the relative riskiness of transactions. Building societies have agreed to maintain a minimum ratio of capital to risk weighted assets of not less than 8 per cent, with at least half of this comprising core capital, essentially permanent share capital and realised reserves.

This approach caters for societies as they are and as they may develop and acts as a brake on high-risk ventures whilst not obtruding into legitimate management decisions, and provides protection for both industry and its clients. The Bill also provides that minimum capital may be increased where a society has failed for example to manage its risks.

Secondly, a net liquidity requirement which will engender community confidence in building societies. The Bill provides for societies to hold at all times a minimum tranche of high quality liquefiable assets, termed prime assets, equivalent to 10 per cent of total liabilities exclusive of capital.

Thirdly, large exposures of a building society will be regulated by a process of prior notification and other appropriate reporting. If such a transaction is judged to be excessively risky it will attract penalty capital.

Fourthly, a maximum shareholding of 10 per cent of shares and other prescribed securities has been included. This provision has regard to the cooperative nature of a building society and is designed to prevent market dominance by individuals or their associates.

In addition to Reserve Bank prudential requirements, the Bill provides changes to strengthen the objects of societies to reflect their on-going commitment to provide residential finance to South Australians and has regard to the evolving role of societies specialising in servicing the changing financial needs of the community. The Bill provides for a prime purpose test where a minimum 50 per cent of a society's group assets must be held in the form of residential finance either owner occupied or tenanted.

A major recommendation of the committee was in relation to possible changes in the ownership, control and activities of building societies in South Australia. The Bill provides that conversions to company status may only proceed in an atmosphere of full protection of, and disclosure to building society members with the Minister's approval upon the recommendation of a Restructuring Review Committee. This committee will comprise representatives of the Corporate Affairs Commission, Treasury, Housing and Construction and Industry.

To give greater flexibility in raising funds, the Bill allows societies to borrow in foreign currency, providing that the borrowing is hedged to minimise risks of losses due to adverse movements in the foreign currency.

The Bill adopts regulations similar to those applying to companies under the Companies Code where appropriate to the operations of a building society for example a society must issue a disclosure statement not dissimilar to a prospectus, when it issues securities such as permanent shares and prescribed interests. Also permanent shares may be traded on an exempt stock market established under the Securities Industry (South Australia) Code pursuant to a declaration issued by the Ministerial Council for Companies and Securities.

The accounts and audit provisions have been redrafted to be similar to provisions applying to companies including provisions for group accounts and compliance with applicable approved accounting standards. The commission may inspect a subsidiary of a building society or any other corporation with which a building society has invested its funds. The external auditor in his report to members on the accounts will be required to report on the observance of prudential standards and the effectiveness of the building societies management systems to monitor and control risks.

Interest rates to be charged by societies are set by the societies after consultation between the society and the Government. The committee recommended the removal of interest rate controls from the present legislation. These controls give the Government the opportunity of monitoring the rates charged by societies to ensure that home loans are within the reach of the average home buyer. The Government has determined that the controls should remain in the interests of social justice.

Interstate building societies will be required to be registered as foreign building societies under the Act if they trade in South Australia. To be eligible for such registration they must comply with the prudential standards applying to local building societies. Also interstate societies which do not comply with the character tests of one member one vote and limitation of shareholding, will not be eligible for registration.

The South Australian Government is supportive of the aim of maintaining a strong and viable building society industry in South Australia. The Government believes that there is a role for cooperative bodies with their ideals of promotion of the well-being of groups of people with the same background and interests in the financial sector.

The proposals contained in the Bill have been discussed at length with the building society industry and they are fully supportive of the Bill proceeding. The Opposition has been alerted over the past few months to the proposals.

In summary, the Bill provides for the right balance between public protection on the one hand, and on the other, the need for freedom of operation and in so doing provides a basis for future directions for building societies in South Australia.

Finally, the Bill is consistent with proposed legislation in New South Wales and will facilitate the adoption of a uniform national regulatory framework. I commend the Bill to the House.

Clause 1 is formal.

Clause 2 provides for the measure to be brought into operation by proclamation.

Clause 3 sets out definitions of terms used in the measure. Attention is drawn to the definitions of 'residential building' and 'residential development'. 'Residential building' is defined as a building occupied or to be occupied by a person as the person's principal place of residence whether as owner, pursuant to a lease or otherwise and as including—

(a) a building intended to provide accommodation for aged persons, persons with physical or mental disabilities or indigent persons;

(b) a retirement village within the meaning of the Retirement Villages Act 1987 or a residential unit within the meaning of that Act;

or

(c) a building of a class declared by regulation to be residential buildings

but as not including a building that is not situated within South Australia or a building of a class excluded by regulation.

'Residential development' is defined as construction or improvement of a residential building or conversion of a building to a residential building or acquisition or division of land for that purpose.

Clause 4 is an interpretation provision relating to offers or invitations to the public.

Clause 5 is an interpretation provision defining subsidiaries, holding corporations and related corporations in the same way as under the Companies (South Australia) Code but so as to operate in relation to building societies as well as corporations as defined in the Code.

Clause 6 provides that a person is to be regarded as an associate of another for the purposes of the measure if—

(a) they are partners;

(b) one is a spouse, parent or child of another;

(c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust;

(d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity;

(e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in five per cent or more of the share capital of the body corporate or other entity;

(f) they are related corporations;

(g) a relationship of a prescribed kind exists between them;

or

(h) a chain of relationships can be traced between them under any one or more of the above paragraphs.

The clause allows the Minister to determine by notice that specified persons are not to be treated as associates either generally or for a purpose specified in the notice.

Clause 7 provides that the provisions of the Companies (South Australia) Code, the Companies (Acquisition of Shares) (South Australia) Code and the Securities Industry (South Australia) Code do not apply in relation to a building society or an association except as otherwise provided by or under the measure.

Clause 8 provides that the measure is to apply to Starr-Bowkett societies with such modifications, additions or exclusions as are prescribed by regulation.

Part II (comprising clauses 9 to 13) deals with administrative matters.

Clause 9 provides that the Corporate Affairs Commission is, subject to the control and direction of the Minister, responsible for the administration of the measure.

Clause 10 provides for the keeping by the commission of registers and for their inspection and the inspection of other documents registered by or filed or lodged with the commission. The clause also provides for the issuing by the commission of certified copies or extracts from any such register or of a certificate of incorporation or registration or amalgamation issued under the measure or of documents registered by or filed or lodged with the commission.

Clause 11 provides for annual reports by the commission.

Clause 12 provides for the establishment of the Building Societies Advisory Committee. The committee is under the transitional provisions contained in schedule 1 declared to be the same body as the committee of that name under the current Building Societies Act. The functions of this committee are to make recommendations to the Minister on the more effective operation of building societies, to make recommendations relating to regulations and model rules and maximum rates of interest for building society loans, to keep the legislation relevant to building societies under review and to advise on matters referred to the committee and generally on matters relevant to the administration of the measure.

Clause 13 provides for the inspection powers of the commission.

Part III (comprising clauses 14 to 32) relates to the constitution and basic features of building societies.

Clause 14 provides that it is to be an offence if a person other than a building society or foreign building society carries on business as a building society without being registered as such under the measure. The clause excludes certain activities from the application of this provision and excludes banks, credit unions, friendly societies, co-operatives and any person or body exempted by the Minister.

Clause 15 sets out the objects of building societies. Under the clause a building society must have as a primary object under its rules that the society is to operate as a financial cooperative raising funds by subscription or otherwise and applying those funds, subject to the measure and its rules,

in providing loans to its members for the purchase of residential buildings or for residential development. A society may include in its primary objects that the society is to undertake residential development itself or to provide capital for residential development by making loans to, or acquiring securities issued by, a subsidiary of the building society that has as its object or one of its objects the carrying out of residential development, or that the society is to invest in a property trust established and managed by the building society solely or principally for the purpose of carrying out residential development. The building society may have secondary objects as specified in its rules but subject to any limitations imposed by regulations.

Clause 16 provides for the formation of a building society by any 25 or more persons of full age and capacity.

Clause 17 provides for the registration of new building societies and the qualifications for registration.

Clause 18 provides for the incorporation of building societies on their registration.

Clause 19 sets out the general powers of building societies. In addition to the more usual powers are powers to form or acquire subsidiaries in Australia (but in no other place) and to carry on operations as a building society elsewhere in Australia (but in no other place) and to procure registration or recognition as a building society in another State or Territory for that purpose. The clause provides that the powers of a subsidiary are not limited by the objects of the building society or by limitations on the powers of the building society. The clause makes it clear that a subsidiary of a building society is not prevented from forming or acquiring a body corporate or other entity outside Australia as its subsidiary. Under the clause regulations may be made restricting or withdrawing powers of a building society.

Clause 20 provides for the registration of rules of a building society. Under the clause adequate provision must be made requiring insurance against wrongful acts of officers or employees of the building society and against other insurable risks assumed by the building society.

Clause 21 provides that the rules of the building society bind the society, its members and all persons claiming under them.

Clause 22 requires a building society to provide a copy of its rules to any person on application and payment of the prescribed fee.

Clause 23 provides for the procedure for alteration of the rules of a building society.

Clause 24 empowers the commission to require a building society to alter its rules to achieve compliance with a requirement of the measure or where it considers it necessary in the interests of the members of the building society or in the public interest. An appeal will lie to the Supreme Court against any such requirement of the commission.

Clause 25 provides that the members of the building society are those who sign an application for membership on its formation and those who subsequently hold shares in the society or are otherwise admitted to membership in accordance with the rules of the society.

Clause 26 provides that a minor may be a member of a building society but without a right to vote.

Clause 27 provides for corporate membership of a building society and for the appointment of a person to vote on behalf of a corporate member.

Clause 28 deals with joint membership of a building society and provides that the member whose name first appears in the register of members of the society is to exercise the right to vote on behalf of the joint members.

Clause 29 makes it clear that a member of a building society is not liable by reason of his or her membership to contribute towards the payment of the debts and liabilities of the building society or the costs, charges and expenses of a winding up of the society.

Clause 30 provides for the registered name a building society.

Clause 31 deals with the registered office of a building society and service of documents on a society by delivery or post addressed to the registered office of the society.

Clause 32 requires a building society to cause its registered name or a name approved by the commission to appear on all business documents and outside every office or place in which its business is carried on.

Part VI (comprising clauses 33 to 101) deals with shares, other securities and charges of building societies.

Clause 33 sets out certain general provisions in relation to shares in a building society. Building society shares may be permanent or withdrawable and in varying classes and nominal values. Preference shares may be issued as a class of permanent or withdrawable shares. Under the clause only permanent shares may be issued otherwise than as fully paid-up and only permanent shares may be issued at a premium. The clause provides that no building society shares may be sold or transferred except with the approval of the board of the society. The clause makes other provision relating to the rights attaching to and conditions applying to building society shares.

Clause 34 requires the rights of holders of preference shares to be set out in the rules of the building society.

Clause 35 places a limitation on shareholding in a building society by a member or a group of associated members. Under the clause the total nominal value of the permanent shares held by a member or group of associated members must not exceed 10 per cent or, if some lesser percentage is fixed by the building society, that percentage of the total nominal value of all permanent shares in the society. The same provision is made in relation to withdrawable shares. Where this limit is exceeded, the building society must cancel the excess shares or, in the case of permanent shares, forfeit and sell the excess shares.

Clause 36 provides for the establishment by a building society, by special resolution, of a scheme for the conversion of withdrawable share capital to deposits.

Clause 37 deals with the cancellation and forfeiture of building society shares.

Clause 38 provides that a building society has in respect of any debt due from a member or former member a charge on the member's shares, credit balance and any dividend, interest, bonus or rebate payable to the member or former member.

Clause 39 provides that a building society may, in relation to a particular class of shares, distribute profits by way of dividends or bonus shares or pay interest out of its revenue to the holders of the shares. The clause makes it an offence if dividends are paid otherwise than out of profits, or, in the case of permanent shares, out of a share premium account and imposes on any officer who has knowingly caused or permitted such payment liability for satisfying debts due by the building society.

Clause 40 provides for validation by the Supreme Court, on the application of a building society, of shares improperly issued by the society.

Clause 41 requires a building society to register with the commission a disclosure statement relating to securities before making any offer or invitation to the public for subscription or purchase of the securities. This requirement does not apply if a prospectus or statement is registered or required to be registered under the Companies (South Australia) Code in relation to an offer or invitation. Under the

clause any such disclosure statement must comply with the requirements of the regulations as to its form and contents and the reports to be incorporated in it. A disclosure statement may not include any statement by an expert without the prior consent of the expert. The clause contains provisions making it an offence to issue a disclosure statement containing any false or misleading statement.

Clause 42 provides for compensation to be paid by the directors of the building society or any person authorizing or causing the issue of a disclosure statement if any information in that statement is false or misleading.

Clause 43 requires a building society that accepts money on deposit or loan following an offer or invitation to the public to issue a document acknowledging or evidencing indebtedness in respect of the deposit or loan.

Clause 44 prohibits a building society from issuing permanent shares or other securities of a prescribed class at a discount.

Clause 45 prohibits a building society from issuing securities other than permanent shares as partly paid-up and otherwise than in consideration of the payment of cash.

Clause 46 provides for the making of regulations with respect to securities the subject of any public offer, invitation or issue by a building society and the making of any such offer, invitation or issue.

Clause 47 provides for a power of exemption by the commission in relation to the provisions relating to the issue of securities other than the provisions prohibiting the issuing of securities at a discount and the issuing of securities other than permanent shares as partly paid-up or for a non-cash consideration.

Clause 48 provides that subsequent provisions, clauses 49 to 66 (contained in Division III), apply only in relation to permanent shares.

Clause 49 provides that a building society must not accept a non-cash consideration for an allotment of shares without obtaining a report from an expert that contains a valuation of the consideration given.

Clause 50 empowers the commission to exempt a building society conditionally or unconditionally from the requirements of clause 49.

Clause 51 provides for differences in calls and for reserving share capital not already called up for the event of the winding up of the building society.

Clause 52 deals with calls and the effect of non-compliance with calls on shares. A share unpaid at the expiration of 14 days after the day fixed for its payment may under the clause be forfeited by resolution of the board of the building society.

Clause 53 deals with the sale of shares forfeited for non-payment of a call.

Clause 54 allows the person who held a share forfeited for non-payment of a call to redeem the share by payment of all calls due on the share and of costs and expenses incurred in respect of the forfeiture.

Clause 55 prohibits the allotment of shares in respect of which an offer or invitation has been made to the public unless the minimum subscription has been subscribed and the sum payable on application for the shares so subscribed has been received by the society. The clause provides for repayment to applicants for the shares in the event of failure to satisfy the minimum subscription.

Clause 56 requires a building society to lodge with the commission a return relating to any allotment of its shares.

Clause 57 prohibits a building society from applying any of its share or capital money directly or indirectly in payment to a person in consideration of the person's subscribing or procuring subscriptions for shares in the building society.

Clause 58 authorises payments by way of brokerage or commission subject to specified conditions.

Clause 59 provides for the issuing of shares at a premium and for the establishment of a share premium account.

Clause 60 provides for the reduction of share capital in a building society subject to confirmation by the Supreme Court. The provision corresponds to the provision for reduction of company share capital under the Companies (South Australia) Code.

Clauses 61 and 62 deal with the financing by a building society of dealings in its own shares and the consequences of such action. These provisions again correspond to provisions in the Companies (South Australia) Code. Clause 61 prohibits a building society from providing any direct or indirect financial assistance in connection with the acquisition of shares in the building society. Appropriate exceptions are set out in the clause. Clause 62 makes contracts or transactions entered into in contravention of clause 61 and related contracts or transactions voidable at the option of the building society concerned. The Supreme Court is empowered under the clause on the application of the building society or any other person who has suffered loss or damage as a result of such a contract or transaction to make orders for the refund of money or property or for the payment of compensation.

Clause 63 prohibits a subsidiary of a building society from acquiring shares in its holding building society.

Clause 64 requires a building society to keep a register of options granted to persons to take up shares in the society.

Clause 65 provides that an option to take up shares in a building society is void after a period of five years has elapsed from the granting of the option. This does not apply to an option granted to debenture holders to take up shares by way of redemption of the debentures.

Clause 66 requires that each share in a building society must be distinguished by an appropriate number.

Clauses 67 to 76 (contained in Division IV) deal with title to and transfer of building society securities.

Clause 67 provides that a certificate issued by a building society specifying shares held by a particular member is *prima facie* evidence of the member's title to the shares.

Clause 68 authorises a building society, subject to its rules, to have a special version of its common seal for use as a share seal or certificate seal.

Clause 69 provides for the issuing of a duplicate certificate or other document of title to shares, debentures or prescribed interests on the loss or destruction of the certificate or document of title previously issued by the building society to the owner of the securities.

Clause 70 requires an instrument of transfer in a standardised form and executed by or on behalf of both the transferor and transferee to be lodged with a building society before the society may register a transfer of permanent shares, debentures or prescribed interests issued by the society. The clause also contains provisions to facilitate the transfer of shares of a deceased member of a building society.

Clause 71 provides for registration of the transfer of a permanent share, debenture or prescribed interest of a building society at the request of the transferor.

Clause 72 requires a building society that refuses to register a transfer of any permanent shares, debentures or prescribed interests to send to the transferee notice of the refusal.

Clause 73 empowers the Supreme Court to make, on the application of a transferee or transmittee under a transfer

or transmission which has not been registered by a building society, an order for the registration of the transfer or transmission or an order providing for the purchase of the shares by a specified member of the society or by the society.

Clause 74 deals with certification of transfers of permanent shares, debentures or prescribed interests by a building society.

Clause 75 provides for the duties of a building society with respect to the issue of certificates evidencing the issue or transfer of permanent shares, debentures or prescribed interests of the society.

Clause 76 empowers the commission to exempt a building society conditionally or unconditionally from a requirement of Division III.

Clauses 77 to 80 (Division IV) deal with stock markets for trade in securities issued by a building society.

Clause 77 provides that a building society or other person must not establish or operate a stock market for trade in securities issued by a building society except in accordance with the regulations and as authorised by the rules of the society. This provision does not apply in relation to trade in building society securities on a stock market of a securities exchange within the meaning of the Securities Industry (South Australia) Code.

Clause 78 provides for the making of regulations with respect to the contents of rules of building societies relating to the establishment and operation of stock markets and any matter relating to the establishment and operation of stock markets by or on behalf of building societies.

Clause 79 empowers the Supreme Court, where a building society or other person contravenes or fails to comply with a provision of this Division or regulations made pursuant to or for the purposes of this Division, to make an order requiring observance of or compliance with those provisions.

Clause 80 provides that Part X and Division 4 of Part IV of the Securities Industry (South Australia) Code apply with prescribed modifications to and in relation to a stock market operated by or on behalf of a building society. Part V of that code contains provisions creating offences and civil remedies for misconduct in relation to trade in securities on stock markets. Division 4 of Part IV contains provisions designed to enable liability for any such misconduct to be attributed to persons involved in the wrongdoing beyond the immediate and direct participants.

Clauses 81 to 84 (Division V) contain provisions dealing with registers of members of building societies.

Clause 81 requires a building society to keep a register of its members and deals with the contents and evidentiary status of the register.

Clause 82 deals with the public inspection and closing of a building society's register of members.

Clause 83 empowers the Supreme Court to order rectification of a building society's register of members.

Clause 84 provides that a trustee, executor or administrator of the estate of a deceased person, a person appointed to administer the estate of a person incapable of managing his or her affairs through mental or physical infirmity, or the Official Trustee in Bankruptcy may be registered as the holder of a building society share held or beneficially owned by the deceased person, incapable person or bankrupt.

Clauses 85 to 101 (Division VI) deal with the registration of charges over property of a building society. These provisions correspond to the provisions of the Companies (South Australia) Code relating to charges over property of a company.

Clause 85 is an interpretation provision.

Clause 86 sets out the charges that are required to be registered by a building society.

Clause 87 provides for lodgment with the commission of notice of a charge created by a building society.

Clause 88 provides for lodgment with the commission of notice relating to a charge over property acquired by a building society.

Clause 89 requires the commission to keep a register to be known as the Register of Building Society Charges and deals with the entries to be made in the register.

Clause 90 deals with the priority of charges on property of a building society.

Clause 91 provides that failure to give notice as required in respect of a registrable charge on building society property renders the charge void as a security on that property as against the liquidator of the society or an official manager appointed in respect of the society, subject to any order of the Supreme Court. extending the period for giving notice in respect of the charge.

Clause 92 provides that a charge on property of a building society in favour of an officer or former officer of the society or a person associated with such an officer or former officer is in certain circumstances void.

Clause 93 requires lodgment with the commission of notice in respect of the assignment or variation of charges on property of the building society.

Clause 94 deals with the action required to be taken on satisfaction of, or the release of property from, a charge on building society property.

Clause 95 deals with the lodgment of notices in respect of charges on building society property and creates offences for failure to lodge such notices.

Clause 96 imposes obligations on building societies to keep certain documents relating to charges and a register relating to charges and provides for the public inspection of the register.

Clause 97 provides for the issuing by the commission of certificates relating to charges registered by the commission.

Clause 98 deals with the interaction between this Division and other legislation relating to charges.

Clause 99 provides for rectification by the Supreme Court of the Register of Building Society Charges kept by the commission.

Clause 100 empowers the commission to grant exemptions from certain requirements of the Division.

Clause 101 provides for the application of the Division to charges existing before the commencement of the Division.

Part V (comprising clauses 102 to 105) sets out provisions governing the financial activities of building societies.

Clause 102 provides that a member of a building society under the age of 18 years is not entitled to obtain a loan from the society unless made jointly to the minor and his or her parent or guardian and unless the minor and his or her parent or guardian are jointly and severally liable on the contract.

Clause 103 prohibits a building society from conducting a ballot for loans or in any way making the granting of a loan dependent on any chance or lot. This is to be subject to provisions of the regulations to be made in relation to Starr-Bowkett societies.

Clause 104 provides that a building society may, subject to the other requirements of the measure and its own rules, make a loan to any of its officers or employees who are members of the society.

Clause 105 provides that a building society must not, except with the prior approval of the commission—

(a) invest (whether by way of making of deposits or loans or the acquisition of securities or otherwise) any of its funds—

(i) in any body corporate or other entity formed or acquired outside Australia by a subsidiary of the building society;

(ii) in any subsidiary of the building society that so invests its funds in, or guarantees liabilities (whether existing or contingent) of, a body corporate or other entity formed outside Australia;

(iii) in another building society;

or

(iv) contrary to the regulations;

(b) provide a guarantee of a kind not authorised by the regulations.

Clause 106 provides that a building society must ensure that at all times not less than 50 per cent of the total assets of the building society comprises assets derived from loans and investments made by it in pursuance of its primary objects.

Clause 107 provides that a building society must ensure that at all times it holds prime assets that satisfy the required prime assets ratio. To satisfy this ratio the amount of the building society's prime assets must equal or exceed 10 per cent of the difference between the total assets of the society and its defined capital. Prime assets of a building society are the following:

(a) cash at bank (but not including any amount represented by any cheque or bill of exchange drawn or endorsed in favour of the building society but not yet presented for payment);

(b) cash in hand;

(c) deposits in any prescribed bank;

(d) the monetary value of any securities issued or guaranteed by the Treasurer or the Government of this State or of the Commonwealth or any other State or Territory of the Commonwealth;

(e) the monetary value of bills of exchange that have been accepted or endorsed by a prescribed bank and are payable within 200 days;

(f) the monetary value of any loan made by the building society to an authorized dealer in the short term money market;

and

(f) the monetary value of any other prescribed securities or prescribed assets,

but does not include any such funds or investments to the extent of the amount necessary to satisfy any lien or charge (other than a floating charge) over the funds or investments or to satisfy any loan of a prescribed class approved but not yet advanced by the building society.

In determining the amount of the prime assets held at any time by a building society, the following must be disregarded:

(a) any money received by the building society from the Government of the State or the Commonwealth other than money required to be credited directly to depositors' accounts;

and

(b) the monetary value of any security that is not to mature within a period of five years.

A building society's assets are to be as recorded in its accounts subject to any adjustments required by the Minister by notice in the *Gazette*. The defined capital of the building society is to be made up of amounts recorded in the society's accounts that may be brought into account as capital for that purpose as authorized by the regulations Minister by notice in the *Gazette* or as approved by the commission on the application of the building society.

Clause 108 requires a building society to ensure that at all times its defined capital is not less than 8 per cent of the total weighted value assets of the society. The defined capital of the building society is again made up of amounts recorded in the society's accounts that may be brought in account as capital as authorized by the Minister by notice in the *Gazette* or as approved by the commission on the application of the society. The total weighted value assets of the society are assets of the society, or, if the society has subsidiaries, assets of the society or its subsidiaries, that fall within classes of assets specified by the Minister by notice in the *Gazette* together with amounts required by such ministerial notice to be brought into account as assets in respect of off-balance sheet transactions, adjusted, in the case of assets of each class, by a weighting percentage specified by such Ministerial notice.

Clause 109 provides that the commission may, if it is of the opinion that a building society has undertaken excessive risks as a result of financial transactions entered into by the building society or a subsidiary of the society, or that a society has failed to develop and apply adequate systems to monitor and manage risks associated with its financial activities, vary the capital adequacy requirements applying to that society under clause 108. The commission may, by notice in the *Gazette*, require a building society to give advance notice to the commission of any specified transactions of the society or any of its subsidiaries that the commission considers might result in the society undertaking excessive risks. An appeal lies to the Minister against a decision of the commission to vary a building society's capital adequacy requirements or a refusal by the commission to vary or revoke a previous decision with respect to those capital adequacy requirements.

Clause 110 regulates foreign currency transactions by building societies. The clause requires foreign borrowings by a building society to be hedged under arrangements of various kinds specified in the clause or approved by the commission. The clause prohibits a building society from investing any of its funds in foreign currency.

Clause 111 provides that a building society must not engage in transactions of the following kinds:

(a) transactions relating to financial or other futures;

(b) options in futures transactions;

(c) forward interest rate transactions;

(d) interest rate swap transactions;

or

(e) other financial transactions of a kind specified by the Minister by notice published in the *Gazette*,

except as authorised under the clause. The clause allows a society to enter into certain transactions of the above kinds where it does so for the purpose of reducing the risk of adverse variations in interest rates but not otherwise. The transactions that may be entered into for that purpose are:

(a) futures contracts relating to—

(i) securities issued or guaranteed by the Treasurer or the Government of this State or of the Commonwealth or any other State or Territory of the Commonwealth;;

or

(ii) bills of exchange that have been accepted or endorsed by a prescribed bank and are payable within 200 days,

but only where made or dealt in or on a futures market of a futures exchange within the meaning of the Futures Industry (South Australia) Code;

(b)—

(i) interest rate swap contracts;;

or

(ii) forward interest rate contracts,

to which a bank or other prescribed body is a party;;

(c) options in respect of contracts referred to in paragraph *(a)* or *(b)*;;

or

(d) other contracts of a prescribed kind approved by the Commission.

Clause 112 requires a building society to develop and apply adequate systems to monitor and manage risks associated with its financial activities. A building society must under the clause, in developing and applying systems for that purpose, comply with any directions issued by the Minister by notice in the *Gazette*.

Clause 113 provides that the commission may if of the opinion that it is necessary to do so to ensure the financial stability of a building society or to protect the interest of members of the building society, by notice in writing to the society, prohibit or restrict the raising of funds by the society for a specified period or until further notice. An appeal lies to the Minister against such a prohibition or restriction.

Clause 114 empowers the Treasurer, on the recommendation of the commission, to execute a guarantee in favour of a person for the repayment of an advance made, or to be made, by that person to a building society. The Treasurer may require a society to comply with certain conditions before such a guarantee is given.

Part VI (comprising clauses 115 to 154) deals with the management of building societies.

Clauses 115 to 126 (Division I) deal with directors and other officers of building societies. Clause 115 requires the business of a building society to be managed by a board of directors comprised of not less than five persons the majority of whom must reside permanently in the State.

Clause 116 validates the acts of a director notwithstanding subsequent discovery of a defect in his or her appointment.

Clause 117 deals with the appointment of directors.

Clause 118 deals with the qualifications for office and vacation of office as a director of a building society.

Clause 119 provides for the disclosure of conflicts of interest by directors.

Clause 120 requires a building society to keep a register of its directors and specified matters relating to the directors that might affect the manner in which they discharge their duties as directors. The clause provides for public inspection of such a register.

Clause 121 requires a director of a building society to notify the society of matters required to be entered in the register provided for under clause 120.

Clause 122 provides that an officer of a building society must not, without the approval of a majority of the directors—

(a) sell any real or personal property to, or act as agent in respect of the sale of any real or personal property to, a member of the building society who proposes to pay for the real or personal property (in whole or in part) out of a loan made by the building society;;

(b) undertake the erection of any building for a member of the building society who proposes to pay for the building (in whole or in part) out of a loan made by the building society;;

(c) accept as payment (in whole or in part) of any money due to him or her from a member of the building society the whole or part of any loan made by the building society to that member;;

or

(d) borrow money from the building society.

For the purposes of this provision, anything done by a proprietary company in which an officer of the building society is a shareholder or director or by a trust where the officer is a trustee or beneficiary under the trust or where the trustee is a body corporate and the officer is a director or other officer of that body, is to be regarded as having been done by the officer.

Clause 123 provides that a director (other than an employee) of a building society must not be paid any remuneration for his or her services as a director other than such fees, concessions and other benefits as may be approved at a general meeting of the building society.

Clause 124 deals with meetings of the board of a building society. Under the clause meetings must be held once every three months. The quorum for a meeting is to be as fixed by the rules of the building society but not in any case less than half of the total number of members of the board.

Clause 125 prohibits a person other than a director or the deputy of a director of a building society from purporting to act as a director of the society. A director of a society must not permit a person other than a director or a deputy of a director to purport to act as a director of the society.

Clause 126 sets out the duties and liabilities of officers and employees of building societies. Under the clause an officer of a society is guilty of an offence unless he or she acts at all times honestly in the exercise of the powers and the discharge of the duties of his or her office. An officer is guilty of an offence unless he or she exercises at all times a reasonable degree of care and diligence in the exercise of the powers and the discharge of the duties of his or her office. An officer or employee, or former officer or employee, of a building society is guilty of an offence if he or she makes improper use of information acquired by virtue of his or her position as such an officer or employee to gain a direct or indirect advantage for himself or herself or for any other person or to cause detriment to the society. Provision is also made for compensation to be ordered against a person who fails to comply with any of these provisions. This compensation can be ordered by a court convicting the person of an offence against any of the provisions or on action in a court of competent jurisdiction.

Clauses 127 to 130 (Division II) deal with meetings of members of a building society and voting. Clause 127 requires a building society to hold an annual general meeting within five months after the close of the society's financial year or within such further time as may be allowed by the commission. The clause also provides for ordinary and extraordinary members' meetings, the required quorum and notice of members' meetings.

Clause 128 deals with voting at meetings of the building society. Matters to be decided at a meeting must be determined by a majority vote of those members who are entitled to vote and who are present at the meeting either personally or by proxy. Postal voting may be provided for by the rules of a building society on any question other than one to be decided by special resolution. The commission may allow postal voting on a class of questions to be decided by special resolution on application by a building society. No member of a building society is entitled to more than one vote on any question arising for decision at a meeting of the society.

Clause 129 deals with special resolutions. For the purposes of the measure a special resolution is a resolution passed by not less than two-thirds of the members who are entitled to vote and are present at a meeting either personally or by proxy and vote on the resolution.

Clause 130 requires a building society to keep full and accurate minutes of every meeting of the board and of every meeting of the members of the society.

Clauses 131 and 132 (Division III) deal with registers and their inspection. Clause 131 requires a building society to keep such registers as are prescribed by regulation.

Clause 132 provides that a building society must keep at its registered office for inspection without fee by members, persons eligible for membership and creditors of the society a copy of the measure and the regulations, the society's rules and its last accounts together with the auditor's report on those accounts. A copy of the society's rules must be kept available for inspection without fee by members at each branch office. The society must on request by any member furnish the member with particulars of his or her financial position with the society as a member, shareholder, depositor or borrower. The clause also provides that other registers kept by the society pursuant to the measure may, subject to the regulations, be inspected by any person on application and payment of an amount required by the society not exceeding the prescribed amount.

Clauses 133 to 141 (Division IV) deal with accounts of a building society.

Clause 133 provides that the financial year of a building society is 1 July to the following 30 June.

Clause 134 requires a building society to ensure that the financial year of each of its subsidiaries coincides with its own financial year.

Clause 135 provides for the accounting records to be kept by a building society. This clause and the remaining clauses of Division IV correspond to the accounts provisions of the Companies (South Australia) Code.

Clause 136 deals with building society profit and loss accounts, balance-sheets, group accounts and directors' statements.

Clause 137 provides for directors' reports.

Clause 138 provides for the rounding off of amounts in accounts and reports.

Clause 139 requires the directors of a building society to obtain sufficient information from its subsidiaries to enable the proper preparation of group accounts and to ensure the accuracy of statements and reports relating to the group accounts.

Clause 140 requires the building society to cause the accounts and reports to be laid before the annual general meeting of the society.

Clause 141 makes it an offence for a director of a building society to fail to take all reasonable steps to comply with or secure compliance with the provisions of Division IV.

Clauses 142 to 151 (Division V) deal with audits of building society accounts. These clauses up to clause 148 correspond to the audit provisions under the Companies (South Australia) Code.

Clause 142 provides for the qualifications of auditors.

Clause 143 provides for the appointment of auditors.

Clause 144 sets out the procedure for nomination of a person or firm as auditor of a building society.

Clause 145 deals with the removal and resignation of building society auditors.

Clause 146 deals with the effect of winding up on the office of a building society auditor.

Clause 147 provides that the reasonable fees and expenses of a building society auditor are payable by the building society.

Clause 148 deals with the powers and duties of auditors with respect to reports on building society accounts. In addition to the requirements corresponding to those in the Companies (South Australia) Code a building society auditor is also required to furnish to the directors of the society a report in the prescribed form as to the adequacy in the auditor's opinion of the systems adopted by the building society to ensure compliance with the requirements of Part V governing the society's financial activities and of the systems adopted by the society to monitor and manage risks associated with its financial activities. A copy of this report must be forwarded to the commission by the building society.

Clause 149 provides for a final audit on the dissolution of a building society as part of an amalgamation of building societies and on the conversion of a building society to a company, credit union or a friendly society under Part VII.

Clause 150 requires a building society to ensure that the accounts and accounting records of any subsidiary of the society are audited in accordance with Part VI.

Clause 151 makes it an offence if an officer of a building society refuses or fails without lawful excuse to allow an auditor of the society access to all records and registers in the custody or control of the officer or to give information or explanations as and when required, or otherwise hinders, obstructs or delays the auditor. The clause also makes it an offence if an officer or auditor of a subsidiary of a building society is guilty of any similar refusal or failure or similar obstruction in relation to the auditor of the holding building society.

Clauses 152 to 153 (Division VI) provide for the returns to be lodged with the commission by building societies.

Clause 152 provides for the lodging of returns to the commission in accordance with the regulations. The commission is empowered under the clause to require further returns by notice in writing to a building society. The clause makes it clear that the information that may be required in a return or further return may comprise or include information relating to a subsidiary of the society, a body corporate or other entity formed or acquired outside Australia by a subsidiary of the society or a body corporate or other entity (whether within or outside Australia) with which the society, a subsidiary, or a body corporate or other entity as previously referred to, has invested funds.

Clause 153 provides that the time for lodging a return may be extended by the commission on application by a building society.

Clause 154 (Division VII) empowers the commission to relieve a building society or the directors or auditor of a building society from compliance with specified provisions of Division IV or V other than the basic obligation to keep accounts and accounting records.

Part VI (comprising clauses 156 to 173) deals with the restructuring of building societies.

Clauses 155 to 158 (Division I) provide for the establishment and functions of the Restructuring Review Committee.

Clause 155 provides for the establishment of the committee which is to consist of the Commissioner for Corporate Affairs or his or her nominee, a nominee of the Treasurer, a nominee of the Minister of Housing and Construction and a person appointed by the Minister, after consultation with associations of building societies, to represent the interests of building societies.

Clause 156 provides for the quorum of the committee and the procedure at its meetings.

Clause 157 ensures the validity of acts of the committee and protects its members from personal liability.

Clause 158 provides that the committee has the functions of examining and making recommendations to the Minister with respect to—

(a) any proposal for the amalgamation of building societies;

(b) any proposal for conversion of a building society to a company, credit union or friendly society; and

(c) any proposal that would result in a member of a building society or a group of associated members holding shares in the building society the total nominal value of which exceeds—

(i) the limit fixed under Part IV;

or

(ii) a limit approved by the Minister under Division IV of this Part in relation to that member or group,

that is referred to the committee pursuant to Division IV.

Clauses 159 to 164 (Division II) deal with amalgamation of building societies.

Clause 159 sets out definitions of terms used in Division II.

Clause 160 provides for the procedure for applications to the commission relating to an amalgamation of building societies. The clause requires the members of each local building society involved in a proposed amalgamation to have approved of the proposed amalgamation by voting in a postal ballot before the application is lodged with the commission. This requirement does not apply however where a proposal for amalgamation is of such a nature that reference to the Restructuring Review Committee under Division IV is not warranted, but, in that case, each of the local building societies must approve the proposal by special resolution. The clause requires each local building society concerned in a proposed amalgamation to send certain specified information to its members before lodging the application with the commission.

Clause 161 deals with the determination by the commission of applications for amalgamation. Where a proposed amalgamation is referred to the Restructuring Review Committee under Division IV, the commission may not grant the application unless the Minister has approved the proposed amalgamation. Where a proposed amalgamation involves a foreign building society, the commission must be satisfied that the amalgamation as it affects the foreign building society will proceed as proposed according to the law applying to the foreign building society in its place of incorporation.

Clause 162 provides for the transfer of property, debts and liabilities of a building society dissolved as part of an amalgamation to the building society that is formed or that continues under the amalgamation. The clause provides that no stamp duty is payable in relation to the transfer of such property.

Clause 163 provides for the transfer of members of a building society dissolved as part of an amalgamation.

Clause 164 empowers the commission to exempt a building society conditionally or unconditionally from a provision of Division II.

Clauses 165 and 166 (Division III) provide for the conversion of a building society to a company, credit union or friendly society.

Clause 165 provides that a building society may, unless prohibited from doing so by its rules, lodge with the commission an application for approval of a proposal that it convert to a company, credit union or friendly society. The clause provides for the procedure relating to such applications and the information to be sent by a building society to its members before making such an application. An application may not be made for such conversion unless the proposal has been approved by the members of the society by voting in a postal ballot.

Clause 166 provides that where a proposal by a society for such conversion is approved by the Minister under Division IV, the new company, credit union or friendly society is formed and incorporated and all the conditions of the Minister's approval have been complied with, the property and debts and liabilities of the building society are transferred to the new body and the building society is dissolved and its personality merges in that of the new body. Again no stamp duty is payable in respect of such a transfer.

Clauses 167 to 173 (Division IV) deal with the review of restructuring proposals.

Clause 168 provides that the following matters must be referred by the commission to the Restructuring Review Committee:

(a) any proposal for amalgamation in respect of which application has been made under Division II;

(b) any proposal for conversion of a building society to a company, credit union or friendly society in respect of which application has been made under Division III;

(c) any proposal reported by a member of a building society to the commission that would result in the member or a group of associated members holding shares in the building society the total nominal value of which exceeds—

(i) the limit fixed under Part IV;

or

(ii) a limit approved by the Minister under this Division in relation to that member or group.

The commission is not required to refer a proposal for amalgamation to the committee if the proposal is designed to give effect to a direction given by the commission under Part VIII (that is, where the commission considers that the building society is insolvent or in danger of becoming insolvent or has been conducting its affairs in an improper or financially unsound manner) or if the commission has determined that the proposal is of such a nature that reference to the committee is not warranted.

Clause 168 provides for the review of restructuring proposals referred to the committee. The committee is required to examine any such proposal and make a recommendation to the Minister as to whether the Minister should approve it (conditionally or unconditionally) or not approve it. The clause sets out the criteria that the Minister must have regard to in determining whether or not to approve a proposal.

Clause 169 provides that the Minister may, on the recommendation of the Restructuring Review Committee, exempt a building society (conditionally or unconditionally) from a provision of the measure or of its rules to enable it to give effect to a restructuring proposal approved by the Minister.

Clause 170 prohibits a person from issuing advertisements relating to a restructuring proposal without the prior approval of the commission.

Clause 171 controls the lobbying of building society members with respect to a restructuring proposal.

Clause 172 provides that where a proposal that has been referred to the committee under this Division has been approved in a postal ballot, any action required in relation to that proposal by the society concerned does not require approval by resolution or special resolution of the society.

Clause 173 empowers the making of regulations for or with respect to fees and charges payable in connection with the review of proposals under this Division.

Part VIII (comprising clauses 174 and 175) provides for certain special powers of intervention of the commission.

Clause 174 provides that the commission may, if of the opinion that a building society is insolvent or in danger of becoming insolvent or that it has been conducting its affairs in an improper or financially unsound manner, by notice in writing to the society, declare that there is cause for intervention. In that event, the commission may do one or more of the following:

(a) order an audit of the affairs of the building society by an auditor approved by the commission at the expense of the building society;

(b) require the building society to correct any practices that in the opinion of the commission are undesirable or unsound;

(c) prohibit or restrict the raising or lending of funds by the building society or the exercise of any other powers of the building society;

(d) appoint an administrator of the building society;

(e) direct the building society to take all necessary action to amalgamate with another building society in accordance with Part VII, or to sell to another building society all or part of its assets and liabilities, subject, in either case, to the agreement of the other building society, or direct that the building society be wound up;

(f) remove a director of the building society from office;

(g) exempt the building society, by notice in writing addressed to the building society, from all, or any of the provisions of Part V for such period as may be specified in the notice;

(h) stipulate principles in accordance with which the affairs of the building society are to be conducted.

An appeal lies to the Minister against a declaration under the clause or a refusal by the commission to revoke such a declaration.

Clause 175 provides that where the commission appoints an administrator for a building society, the administrator has all the powers of the board of directors of the society. The clause provides for reports to be made to the commission by any such administrator and deals with the remuneration and termination of the appointment of the administrator.

Part XI (comprising clauses 176 to 180) deals with receivers, managers, official management and winding up of building societies.

Clause 176 provides that Parts X and XI of the Companies (South Australia) Code relating to receivers and managers and official management apply in relation to building societies with necessary adaptations and prescribed modifications.

Clause 177 provides that a building society may be wound up voluntarily or by the Supreme Court or pursuant to a direction of the commission under Part VIII or on a certificate of the commission under this clause. The clause provides that Part XII of the Companies (South Australia) Code (relating to winding up of companies) applies with prescribed modifications in relation to a building society as if it were a company limited by shares. The clause sets out the circumstances in which the commission may issue a certificate for the winding up of a building society. These are—

(a) that the number of members of the building society has fallen below 25;

(b) that the building society has not commenced business within a year of registration or has suspended business for a period of more than six months;

(c) that the registration of the building society has been obtained by mistake or fraud;

(d) that the building society has ceased to have a paid-up share capital of at least $10 million;

(e) that the building society has, after notice by the commission of any breach of or non-compliance with the measure or the rules of the building society, failed, within the time referred to in the notice, to remedy the breach;

(f) that there are, and have been for a period of one month immediately before the date of the commission's certificate, insufficient directors of the building society to constitute a quorum as provided by the rules of the building society;

or

(g) that an inquiry pursuant to the measure into the affairs of a building society or the working and financial condition of a building society discloses that in the interests of members or creditors of the building society, the building society should be wound up.

Clause 178 provides for appointment by the commission of a liquidator where a building society is being wound up voluntarily and a vacancy occurs in the office of liquidator that is in the opinion of the commission unlikely to be filled as provided under the Companies (South Australia) Code.

Clause 179 provides that the remuneration of a liquidator of a building society that is being wound up voluntarily must not exceed the amount fixed by the commission.

Clause 180 provides for cancellation of the registration of a building society on completion of the winding up of the society.

Part X (comprising clauses 181 to 187) deals with foreign building societies.

Clause 181 provides that a body corporate lawfully carrying on business as a building society in another State or Territory of the Commonwealth may apply to the commission to be registered as a foreign building society. The clause sets out the information required in relation to such an application and the criteria for determining the application.

Clause 182 provides that a foreign building society must have a registered office in the State.

Clause 183 deals with the name that may be used by a foreign building society in carrying on business in the State.

Clause 184 requires a foreign building society to notify the commission of changes in its rules or constitution, changes in its directors, the agents of the society or the person appointed to receive notices and legal process, and changes in the address of its registered office in this State or in its place of origin or in its name in its place of origin.

Clause 185 requires a foreign building society to lodge, within six months after the end of each of its financial years, a copy of its balance-sheet for that financial year and all accompanying documents required by the law of the society's place of origin. The clause empowers the commission to require further information if it is not satisfied that the balance-sheet and accompanying documents sufficiently disclose the financial affairs of the foreign building society.

Clause 186 requires a foreign building society to notify the commission if it ceases to carry on business in the State.

Clause 187 provides that if a foreign building society fails to comply with requirements prescribed by regulation, the commission may—

(a) by notice in writing served on the foreign building society—

(i) give a direction prohibiting the foreign building society from issuing advertisements of all kinds or of kinds specified in the direction;

(ii) give a direction prohibiting the foreign building society from accepting any further members from within the State;

(b) by notice published in the *Gazette*, cancel the registration of the foreign building society.

An appeal lies to the Minister against any such decision or action of the commission.

Part XI (comprising clauses 188 to 192) deals with associations of building societies.

Clause 188 provides that, subject to the regulations, no building society may be a member of a body whose objects include any of the objects of an association (as set out in clause 189) unless the body is registered as an association under this Part. Clause 189 provides that an association of building societies may be formed by three or more building societies. The clause provides that the objects of such an association may be such of the following as are authorised by the rules of an association:

(a) to promote the interests of and strengthen cooperation among building societies and associations;

(b) to render services to and act on behalf of its members in such ways as may be specified in, or authorised by, the rules of the association;

(c) to advocate and promote such practices and reforms as may be conducive to any of the objects of the association;

(d) to cooperate with other bodies with similar objects;

(e) to promote the formation of building societies; and

(f) to perform such other functions and do such other things as may be incidental or conducive to the attainment of all or any of the foregoing objects.

Clause 190 deals with applications for the registration of associations and the determination of those applications.

Clause 191 deals with meetings of members of an association.

Clause 192 applies the following provisions of the measure to associations with necessary adaptations and prescribed modifications:

(a) Divisions V and VI of Part III (rules and membership);

(b) Division VI of Part IV and Schedule 2 (registration of charges);

(c) Divisions I, III, IV, V, VI and VII of Part VI (directors and officers, registers and inspection, accounts, audits, returns, and relief from specified requirements);

(d) Division II of Part VII (amalgamation);

(e) Part VIII (special powers of intervention of the Commission);

(f) Part IX (receivers, managers, official management and winding up);

(g) Part XII (appeals);

(h) Part XIII (miscellaneous).

Part XII (comprising clauses 193 and 194) deals with appeals.

Clause 193 provides that a person aggrieved by the refusal of the commission to register a building society or foreign building society or to register or receive rules or any other document or by any other act, omission or decision of the commission may appeal to the Supreme Court against such act, omission or decision. This right of appeal is subject to any provision excluding such appeal and does not apply where some other right of appeal or review is provided for. Where, however, there is a right of appeal to the Minister but the Minister has issued a direction to the commission in respect of a matter, an appeal will lie to the court in respect of that matter.

Clause 194 provides for a similar right of appeal against acts, omissions or decisions of a receiver, receiver and manager, official manager or liquidator of a building society.

Part XIII (comprising clauses 195 to 200) deals with miscellaneous matters.

Clause 195 provides that the commission must, on the application of a majority of the members of the board of a building society or of not less than one-tenth of the members of the society, or may, of its own motion, call a special meeting of the society or hold an inquiry into the affairs of the society.

Clause 196 provides that the commission or a building society may require a person who is a member of the society to furnish information as to the person's associates.

Clause 197 imposes restrictions on the initial advertisements of a building society or foreign building society.

Clause 198 confers power on the commission to control the advertising of a building society or foreign building society.

Clause 199 provides that a building society that carries on business for one month or more with less than 25 members or with a paid up share capital of less than $10 000 000 is guilty of an offence.

Clause 200 provides that a building society may not, without the prior written approval of the commission, enter into an agreement or arrangement under which the society agrees to perform the whole or a substantial part of its functions in a particular manner or in accordance with the directions of any person or subject to specified restrictions or conditions or under which a person who is not an officer or employee of the society agrees to perform the whole or a substantial part of the functions of the society.

Clause 201 provides for the power of the commission to reject unsatisfactory documents and to require their correction or the lodgment of new or supplementary documents.

Clause 202 regulates the manner in which records required under the measure must be kept.

Clause 203 creates offences relating to false or misleading statements in documents required under the measure or lodged with the Commission.

Clause 204 creates offences relating to the furnishing of false information to officers of a building society or foreign building society in relation to the affairs of the society.

Clause 205 confers powers on the Supreme Court to prohibit certain payments or dealings in circumstances where an investigation has commenced in relation to an offence relating to a building society or foreign building society or where a prosecution or civil proceedings have been instituted in relation to a building society or foreign building society. This power corresponds to a power conferred on the court in relation to companies under the Companies (South Australia) Code.

Clause 206 confers power on the Supreme Court to grant injunctions on the application of the commission or any other interested person in relation to any act or failure in contravention of or non-compliance with the measure. Again this power corresponds to a power conferred on the court in relation to companies under the Companies (South Australia) Code.

Clause 207 provides for compulsory examination by the Supreme Court of persons concerned with building societies

or foreign building societies on the application of the commission or an official manager or liquidator or any person authorised by the commission. This provision corresponds to a provision of the Companies (South Australia) Code.

Clause 208 empowers the Supreme Court to make orders for the payment of money or transfer of property to a building society or foreign building society or for the payment of compensation in cases where there has been fraud, negligence, default, breach of trust or breach of duty in relation to the society. These orders may be made on application by the commission or by an official manager or liquidator or other person authorised by the commission. This provision corresponds to a provision of the Companies (South Australia) Code.

Clause 209 provides that any civil proceedings under the measure are not stayed by reason only that the proceedings disclose or arise out of the commission of an offence.

Clause 210 empowers the Supreme Court to grant relief to an officer of a building society or foreign building society where the court is satisfied that the officer ought fairly to be excused for some negligence, default or breach not involving any dishonesty on the part of the officer.

Clause 211 corresponds to a provision in the existing Building Societies Act allowing building societies to act as agents of the Aboriginal Loans Commission.

Clause 212 allows a building society to make payments towards funeral expenses or debts of a deceased member or to the executor or beneficiary under the will of a deceased member prior to the production of probate of the will or letters of administration of the estate of the deceased. A similar power is conferred in relation to a member who becomes of unsound mind. Any such payment must not exceed a maximum prescribed by regulation.

Clause 213 provides that a transaction to which a building society or foreign building society is a party is not invalid by reason of any deficiency in the capacity of the building society unless the other party has actual notice of the deficiency.

Clause 214 abolishes the doctrine of constructive notice in relation to a building society or foreign building society.

Clause 215 is an evidentiary provision.

Clause 216 creates a general offence punishable by a division 6 fine for contravention or non-compliance with a provision for which no penalty is specifically provided or for breach by a building society or foreign building society of any of its rules. The clause provides for continuing offences and for a general offence of failing to furnish a return, information or document required by the commission, the Restructuring Review Committee or any other person under the measure.

Clause 217 provides that where a building society or foreign building society is guilty of an offence, each officer of the society is also guilty of an offence and liable to the same penalty.

Clause 218 creates a general defence that there was no failure on a defendant's part to take reasonable care to avoid commission of the offence in question.

Clause 219 provides that an offence that is not punishable by imprisonment is a summary offence. The clause allows summary proceedings for an indictable offence on application by the prosecution, but in that case limits the punishment that may be imposed. The clause fixes the time within which a prosecution must be commenced.

Clause 220 provides for the making of regulations for the purposes of the measure.

Schedule 1 provides for the repeal of the Building Societies Act 1975 and contains necessary transitional provisions. The schedule also provides for exemptions to be granted by the commission to deal with any transitional problems, but any such exemption is to cease to have effect on the expiration of 18 months from the commencement of the measure.

Schedule 2 contains provisions dealing with the order of priority of registrable charges on the property of building societies. This schedule corresponds to Schedule 5 to the Companies (South Australia) Code.

Mr INGERSON secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 3)

Returned from the Legislative Council with the following amendment:

Page 1—After line 11 insert new clause as follows:

Duty to grant registration

1a. Section 24 of the Principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Notwithstanding subsection (1), the Registrar may refuse to register the motor vehicle pending—

(a) investigation as to the correctness of the particulars disclosed in the application for registration;

or

(b) examination of the motor vehicle for the purpose of ascertaining whether it—

(i) complies with an act or regulation that regulates the design, construction or maintenance of such a motor vehicle;

or

(ii) would, if driven on a road, put the safety of persons using the road at risk.

Consideration in Committee.

The Hon. FRANK BLEVINS: I move:

That the Legislative Council's amendment be agreed to.

The amendment is of a technical nature, having been suggested by my advisers. I urge the Committee to agree to the motion.

The Hon. D.C. WOTTON: The Opposition supports the amendment.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

TRUSTEE COMPANIES ACT AMENDMENT BILL

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

SUPERANNUATION ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

FREEDOM OF INFORMATION BILL (No. 2)

The Hon. G.J. CRAFTER (Minister of Education) obtained leave and introduced a Bill for an Act to provide for public access to official documents and records; to provide for the correction of public documents and records in appropriate cases; and for other purposes. Read a first time.

The Hon. G.J. CRAFTER: 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

It represents the second stage of the Government's commitment to make information in the possession of it and its agencies accessible to members of the public. Much information in the hands of the Government can be and is made available at present. The introduction of the administrative scheme, which has been in operation since 1 July 1989, ensured that individuals have access to Government records relating to their personal affairs.

This Bill was introduced into Parliament during the last session. When the Bill was introduced it was made clear that it would lie on the table until the budget session so that interested parties would have the opportunity to examine it and make submissions on it. Comments have been received on the Bill from various organisations and representative groups. Following consideration of the comments a number of amendments have been made to the Bill.

Under this Bill members of the public will have access to a wide range of information held by the Government and its agencies. This Bill is based on three major premises relating to a democratic society, namely:

(1) The individual has a right to know what information is contained in Government records about him or herself;

(2) A Government that is open to public scrutiny is more accountable to the people who elect it;

(3) Where people are informed about Government policies, they are more likely to become involved in policy making and in Government itself.

A number of rights and obligations are established. These are:

(1) A legally enforceable right of access to documents in the possession of Government.

(2) A right to amend inaccurate personal records held by Government.

(3) A right to challenge administrative decisions to refuse access to documents in the courts.

(4) An obligation on Government agencies to publish a wide range of material about their organisation, functions, categories of documents they hold, internal rules and information on how access is to be obtained to agencies documents.

The rights conferred are not, of course, absolute. They are moderated by the presence of certain exemptions designed to protect public interests including the Cabinet process, the economy of the State and the personal and commercial affairs of persons providing information to, and dealing with, the Government.

Freedom of Information legislation was first enacted in Australia by the Commonwealth Parliament in 1982, followed by the Victorian Parliament in the same year, with legislation being enacted in New South Wales last year. This Bill draws on the experience of the operation and administration of the legislation in these other jurisdictions. At the time the Victorian legislation was introduced it was acknowledged that the legislation would need to be reviewed periodically. The need for review has also been acknowledged in the Commonwealth sphere.

The operation of both the Commonwealth and Victorian legislation has now been subject to reviews by parliamentary committees: in the case of the Commonwealth legislation, by the Senate Standing Committee on Legal and Constitutional Affairs, which reported in 1987 and, in the case of the Victorian legislation, by the Legal and Constitutional Committee, which reported in November 1989. As well as these Parliamentary reviews both Governments have conducted internal reviews of their Acts.

Thus, since the 1983 report of the Interdepartmental Working Party on Freedom of Information, there is now valuable experience available on which to draw in framing freedom of information legislation. The Bill draws on this experience and on the New South Wales legislation which has also drawn on the experience in the Commonwealth and Victoria. The result, I believe, strikes a balance between rights of access to information on the one hand and the exemption of particular documents in the public interest on the other. This is not to say that, in the light of experience in South Australia, this balance between rights and exemptions may need to be changed.

Not only has the experience of the operation of freedom of information legislation in other jurisdictions in Australia been drawn on but valuable experience has been gained from the operation, since 1 July 1989, of the administrative scheme to allow individuals access to records relating to their personal affairs. In the first six months of the operation of the scheme a total of 1 830 formal requests were made for access to personal records, of those requests approximately 94.8 per cent had access granted, 2.1 per cent were refused and 0.5 per cent were awaiting a decision as at 31 December 1989. Significantly the agencies receiving the greatest number of requests were those involved in providing services in the fields of health, education, child-care and policing. The scheme is also playing a valuable role in educating the public sector and the Privacy Committee is to be commended for the way it has, in a very short time, come to terms with the requirements of the policy to provide access to personal records and in assisting agencies in implementing the policy. The first Annual Report of the committee for the year ending 31 December 1989 has been tabled.

Attention is drawn to several features of the Bill. 'Agencies' subject to the legislation are defined in clause 4 (1). Agencies that are exempted from the legislation are listed in schedule 2. Other agencies can be proclaimed to be an agency or to be an exempt agency. By virtue of clause 6 courts and tribunals are not agencies and matters relating to a court's judicial function or the determination of proceedings before a tribunal are not an agency or part of an agency.

Part II of the Bill sets out the information agencies must publish and have available for inspection by members of the public. Part III provides for applications for access to agencies' documents and how applications are to be dealt with, clause 12 provides that a person has a legally enforceable right to access to an agency's document. Agencies must deal with applications within 45 days (clause 14). This is the same time limit as applies under the other Australian legislation. Provision is included (clause 17) for agencies to require advance deposits before dealing with an application.

Clause 28 provides that agencies may refuse to deal with an application if dealing with the application would substantially and unreasonably divert the agency's resources from their use by the agency in the exercise of its functions. This is similar to Commonwealth and New South Wales provisions. Provision is made that an agency cannot refuse access to a document that is reasonably necessary to understand a document to which access has been given under the Act. Also, a right of access is given to documents that contain information concerning the personal affairs of the applicant irrespective of when the documents came into existence.

Provision is made for agencies to consult with other bodies before giving access to certain documents. Agencies are required to consult with:

- another Government or a Local Government, if the document contains matter concerning the affairs of that Government or Local Government;
- a person, if the document contains matter concerning the personal affairs of that person;
- a person, if the document contains information relating to trade secrets of that person, information containing commercial value to that person, any other information concerning the business, professional, commercial or financial affairs of that person;
- a person, if the document contains information concerning research that is being, or is intended to be, carried out by or on behalf of that person.

Part IV of the Bill deals with the right of a person to have an agency's records amended if the records contain information concerning the person's personal affairs and the information is, in the person's opinion, incomplete, incorrect, out-of-date or misleading. A three tier process of review is provided for. Where an applicant is dissatisfied with an agency's response he or she can apply to the agency for a review of the decision. A person who remains dissatisfied following an internal review may apply for a review to the Ombudsman and/or the District Court.

The Ombudsman is given power to review a determination made by an agency (clause 39). This gives the Ombudsman jurisdiction to investigate agencies which he is unable to investigate under the Ombudsman Act 1972 since the agencies covered by the Bill are wider than those covered by the Ombudsman Act. And, since 'agency' is defined in clause 4 (1) to include Minister, the Ombudsman will also be able to investigate a Minister's determination not to release a document (except where the Minister has certified that a document is a restricted document). These provisions are in accordance with the recommendations of the 1983 working party but are wider than those in any other Australian Act in allowing the Ombudsman to review whether a 'Minister's document' should be released. The Police Complaints Authority is given power to review a determination made in relation to police documents.

Clause 53 provides for fees and charges. It provides that the Minister may, by notice in the *Gazette*, establish guidelines for the imposition, collection, remittal and waiver of fees. In establishing the guidelines the Minister must have regard to the need to ensure that disadvantaged persons are not precluded from exercising their rights under the Act and the need to ensure that fees and charges reflect the costs incurred by agencies in exercising their functions under the Act. I am pleased to note that the principle of cost recovery was supported by the Opposition as far back as 1986. I quote from comments made in the Parliament by the Hon. M. Cameron, MLC:

> If the Government wishes to head towards cost recovery on such a piece of legislation, let us talk about it. That is the way to go. There is plenty of opportunity in the Bill to do that—it is entirely up to the Government. Certainly, it will receive no criticism from me if it attempts to recover costs as much as possible.

The Bill follows the New South Wales Act in creating three classes of exempt documents, namely, restricted documents, documents requiring consultation and other exempt documents. Documents requiring consultation have already been discussed.

Restricted documents are Cabinet documents, Executive Council documents, documents exempt under freedom of information legislation of other Australian jurisdictions and documents affecting law enforcement and public safety. Clause 45 provides that a certificate signed by the Minister stating that a document is a restricted document is conclusive evidence that the document is a restricted document. A certificate ceases to have effect after two years; a further certificate can be issued.

The District Court is given jurisdiction to consider the grounds on which it is claimed that a document is a restricted document, notwithstanding that the document is the subject of a ministerial certificate. (Clause 43). The District Court can consider the document and, if it is not satisfied that there are reasonable grounds for the claim, can make a declaration to that effect. If the Minister does not agree with the court, he or she must give notice to the applicant and to the Parliament with reasons for the decision to confirm the certificate. The categories of exempt documents are designed to ensure that the confidentiality of information is protected where this is required for the proper and efficient conduct of Government.

Particular attention is drawn to the exemption of Cabinet documents. A document is a Cabinet document if:

- it is a document that has been prepared for submission to Cabinet (whether or not it has been so submitted);
- it is a preliminary draft of such a document;
- it is a document that is a copy of or part of, or contains an extract from such a document;
- it is an official record of Cabinet;
- it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet.
- it is a briefing for a Minister in a Cabinet Submission.

Clause 1 (2) *(a)* of schedule 1 specifically provides that a document is not exempt as a Cabinet document if it merely consists of factual or statistical material that does not disclose information concerning any deliberation or decision of Cabinet.

Part III of schedule 1 deals with a variety of documents for which exemption from disclosure may be claimed. That claim may be overruled by the District Court. The documents are: internal working documents, documents subject to legal professional privilege, documents relating to judicial functions, documents the subject of secrecy provisions, documents containing confidential material, documents affecting the economy of the State, documents affecting financial or property interests of the State, documents concerning the operations of agencies, documents subject to contempt, documents arising out of the companies and securities legislation, private documents in public library collections and documents relating to competitive commercial activities.

As I have previously indicated this Bill differs from the one introduced earlier this year. The main areas of change are:

(a) the removal of local councils from the coverage of the Act;

(b) the inclusion of a reference to privacy considerations in clause 3 (3);

(c) the inclusion of definitions of 'personal affairs' and 'State records';

(d) an amendment to clause 18 so that a refusal to deal with an application is treated in the same way as a determination;

(e) an amendment to clause 26 and clause 6 of schedule 1 dealing with personal affairs to clarify the method of consultation where a person has an incapacity and to reflect archival practice;

(f) clarification of the powers of the Ombudsman and the Police Complaints Authority to investigate;

(g) the inclusion of a provision to ensure that the Ombudsman or an officer of the Ombudsman or Police Complaints Authority can not be called as a witness at a District Court review;

(h) the inclusion of a provision to allow for an appeal on a question of law to the Supreme Court;

(i) the clarification of the right to seek a review of fees. It is arguable under the earlier provisions that a review could only be conducted by a court of competent jurisdiction when action has been taken against the applicant for non-payment of fees;

(j) the time period for the release of Executive Council documents has been increased to 30 years to make it consistent to the period applying to Cabinet documents;

(k) the Operation Planning and Intelligence Unit and Anti-Corruption Branch of the Police Department have been included under schedule 2 as exempt bodies.

The definition of 'agency' no longer includes municipal and district councils. Provisions dealing with freedom of information in the local government sector are to be included in the Local Government Act 1934.

The Government accepts the view advanced by some commentators that rights to access must be weighed against privacy considerations. Therefore, the Bill has been amended to make it clear that it is Parliament's intention that when a decision on access is made under the Act, consideration should also be given to the privacy implications of such a decision. In addition, the Bill now includes a definition of 'personal affairs'. Recent decisions in the Commonwealth arena have given a very limited meaning to the words 'personal affairs'. The words have been interpreted in terms of 'domestic affairs' for example, health, marital or other relationships, domestic responsibilities and financial obligations. Such an interpretation is considered too narrow as it would exclude records such as employment records.

In the original Bill, a refusal to deal with an application because it would substantially and unreasonably divert the resources of the agency was not considered to be a determination. Hence there was no appeal mechanism. The Government does not consider that to be appropriate and an amendment has been made to enable an appeal in such a situation. In addition, Schedule 2 has been amended to include the Anti-Corruption Branch and the Operation Planning and Intelligence Unit of the Police Department as exempt agencies.

Both units were established pursuant to the Governor's directions. In performing their functions, the units receive confidential information from a number of sources. Given the type of material handled by the units and the level of security required by virtue of their special functions, the Government considers that both units should be exempt agencies for the purposes of freedom of information legislation.

In this context, it is important to note that both units are subject to regular independent audits, in each case by a former judge. If documents held in these areas are not held in furtherance of branch or unit functions, then the Commissioner of Police would be in breach of the Governor's directions which established the Anti-Corruption Branch and the Operation Planning and Intelligence Unit. It is important to recognise that this level of accountability does not apply to similar units in Victoria and New South Wales. I commend this Bill to members.

Clause 1 is formal.

Clause 2 provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3 sets out the objects of the measure, the means by which it is intended that those objects be achieved and Parliament's intentions in relation to the interpretation and application of the measure and the exercise of administrative discretions conferred by the measure. The clause provides that nothing in this measure is intended to prevent or discourage the publication of information, the giving of access to documents or the amendment of records as permitted or required by or under any other Act or law.

Clause 4 defines terms used in the measure and makes other provision with respect to interpretation of the measure.

Clause 5 provides that the measure binds the Crown not only in right of the State but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Clause 6 provides that for the purposes of the measure the following are not to be regarded as an agency or part of an agency: a court, a judicial officer of a court, a registry or other office of a court, the members of staff of such a registry or other office in relation to matters relating to the court's judicial functions, a tribunal, an officer vested with power to determine questions raised in proceedings before a tribunal, a registry or other office of a tribunal and the members of staff of such a registry or office in relation to the determination of proceedings before the tribunal.

Clause 7 provides that if a document held by an agency is deposited in the office of State Records (formerly known as the Public Records Offices, the document is, for the purposes of this measure, to be taken to continue in the possession of that agency.

Clause 8 provides for the transfer of the responsibilities under the measure of an agency which ceases to exist to an agency nominated by the Minister or, in the absence of such a nomination, to the office of State Records.

Clause 9 requires the responsible Minister for an agency to publish, within 12 months after the commencement of this measure and at intervals of not more than 12 months thereafter, an up-to-date information statement and information summary and sets out what an information statement and an information summary must contain. The clause does not require the publication of information if its inclusion in a document would result in the document being an exempt document.

Clause 10 requires an agency to make copies of its most recent information statement and information summary and each of its policy documents available for inspection and purchase by members of the public. Nothing prevents an agency from deleting information from the copies of a policy document if its inclusion would result in the document being an exempt document otherwise than by virtue of clause 9 or 10 of schedule 1 (that is, because it is an internal working document or a document subject to legal professional privilege). The clause provides that an agency should not enforce a particular policy to the detriment of a person if the relevant policy should have been, but was not, made available for inspection and purchase in accordance with the clause at the time the person became liable to the detriment and the person could, by knowledge of the policy, have avoided liability to the detriment.

Clause 11 provides that clauses 9 and 10 do not apply to an agency that is a Minister (unless the agency is declared by regulation to be one to which those clauses apply) or an agency exempted by regulation from the obligations of those clauses.

Clause 12 gives a person a legally enforceable right to be given access to an agency's documents in accordance with this measure.

Clause 13 sets out how an application for access to an agency's documents is to be made.

Clause 14 sets out who is to deal with applications for access and the time within which they must be dealt with.

Clause 15 prohibits an agency from refusing to accept an application merely because it does not contain sufficient information to enable identification of the document to which it relates without first taking such steps as are reasonably practicable to assist the applicant to provide such information.

Clause 16 provides for the transfer to another agency of an application for access in the case where the document to which it relates is held by another agency or the document is more closely related to the functions of the other agency.

Clause 17 empowers an agency to require an applicant for access to pay an advance deposit if in the opinion of the agency the cost of dealing with the application is likely to exceed the application fee.

Clause 18 sets out in which cases an agency may refuse to deal or continue dealing with an application.

Clause 19 requires an agency to determine an application for access within 45 days after it is received (unless the application has been transferred to another agency or the agency has refused to deal or continue to deal with the application). If it is not dealt with within that time the agency is, for the purposes of the measure, to be taken to have determined the application by refusing access.

Clause 20 sets out when an agency may refuse acces to a document.

Clause 21 sets out when an agency may defer access to a document.

Clause 22 sets out the forms in which access may be given.

Clause 23 requires an agency to notify an applicant for access of its determination or, if the document to which the application relates is not held by the agency, of the fact that the agency does not hold such a document.

Clause 24 provides that clauses 12 to 23 have effect subject to the provisions of clauses 25 to 28.

Clause 25 deals with the giving of access to a document that contains matter concerning the affairs of the Government of the Commonwealth or of another State or of a council.

Clause 26 deals with the giving of access to a document that contains information concerning the personal affairs of any person (whether living or dead).

Clause 27 deals with the giving of access to a document that contains information concerning the trade secrets of any person or other information that has a commercial value to any person or any other information concerning the business, professional, commercial or financial affairs of any person.

Clause 28 deals with the giving of access to a document that contains information concerning research that is being, or is intended to be, carried out by or on behalf of any person.

Clause 29 gives a person who is aggrieved by a determination of an agency under Part III of this measure an entitlement to a review of the determination and sets out how an application for review is to be made. On an application for review the agency may confirm, vary or reverse the determination. An agency that fails to determine an application for review within 14 days of its receipt is, for the purposes of the measure, to be taken to have confirmed the determination in respect of which a review is sought. However, a determination made by a Minister or the principal officer of an agency is not subject to a review under this clause.

Clause 30 gives a person to whom access to an agency's documents has been given the right to apply for amendment of the agency's records if the document contains information concerning the person's personal affairs, the information is available for use by the agency in connection with its administrative functions and the information is, in the person's opinion, incomplete, incorrect, out-of-date or misleading.

Clause 31 deals with applications for amendment of agencies' records.

Clause 32 sets out who is to deal with applications for amendments and the time within which they must be dealt with.

Clause 33 prohibits an agency from refusing to accept an application for amendment merely because it does not contain sufficient information to enable identification of the document to which the applicant has been given access without first taking such steps as are reasonably practicable to assist the applicant to provide such information.

Clause 34 requires an agency to determine an application for amendment by amending its records in accordance with an application or by refusing to amend its records. An agency that fails to determine an application within 45 days after receipt of the application is, for the purposes of the measure, to be taken to have determined the application by refusing to amend its records in accordance with the application.

Clause 35 sets out in which cases an agency may refuse to amend its records.

Clause 36 requires an agency to notify an applicant for amendment of records of its determination or, if the application relates to records not held by the agency, of the fact that the agency does not hold such records.

Clause 37 provides that if an agency has refused to amend its records the applicant may, by notice, require the agency to add to those records a notation specifying the respects in which the applicant claims the records to be incomplete, incorrect, out-of-date or misleading and if the applicant claims the records to be incomplete or out-of-date, setting out such information as the applicant claims is necessary to complete the records or to bring them up-to-date. An agency must comply with the requirements of a notice and notify the applicant of the nature of the notation. If an agency discloses to any person any information in the part of its records to which a notice relates, the agency must ensure that when the information is disclosed a statement is given to the recipient stating that the person to whom the information relates claims that the information is incomplete, incorrect, out-of-date or misleading and setting out particulars of the notation added to its records and the statement may include the reason for the agency's refusal to amend its records in accordance with the notation.

Clause 38 gives a person who is aggrieved by a determination of an agency to refuse to amend its records to a review of the determination and sets out how an application for review is to be made. On an application for review the agency may confirm, vary or reverse the determination under review. An agency that fails to determine an application for review within 14 days after its receipt is, for the purposes of the measure, to be taken to have confirmed the determination in respect of which a review is sought. However, a determination made by a Minister or the principal officer of an agency is not subject to review under this clause.

Clause 39 provides that a person who is dissatisfied with a determination of an agency that is liable to internal review after review by the agency or who is dissatisfied with a determination not subject to internal review may apply for a review of the determination to the Ombudsman or the Police Complaints Authority. The application must be directed to the Ombudsman unless the determination was made by a police officer or the Minister responsible for the Police Force, in which case it must be directed to the Police Complaints Authority. Where such an application is made, the Ombudsman or Police Complaints Authority may carry out an investigation and, if satisfied that the determination was not properly made, direct the agency to make a determination in specified terms. There is no power under this clause to inquire into the propriety of a ministerial certificate.

Clause 40 provides that a person dissatisfied with a determination of an agency after review by the agency may appeal against the determination to a District Court. On such an appeal the court may confirm, vary or reverse the determination to which the appeal relates or remit the subject matter of the appeal to the agency for further consideration and make such further or other orders (including orders for costs) as the justice of the case requires.

Clause 41 sets out the time within which an appeal must be commenced.

Clause 42 provides that an appeal will be by way of rehearing and that evidence may be taken on the appeal. It also provides that where it appears that the determination subject to appeal has been made on grounds of public interest and the Minister makes known to the court his or her assessment of what the public interest requires in the circumstances of the case subject to appeal, the court must uphold the agency's assessment unless satisfied that there are cogent reasons for not doing so.

Clause 43 deals with the consideration by a District Court of restricted documents.

Clause 44 provides that if, as a result of an appeal, the District Court is of the opinion that an officer of an agency has failed to exercise honestly a function under the measure, the Court may take such measures as it considers appropriate to bring the matter to the attention of the responsible Minister.

Clause 45 provides for an appeal to the Superme Court on a question of law.

Clause 46 deals with ministerial certificates as to restricted documents.

Clause 47 sets out how notices that an agency is required to give by this measure may be served.

Clause 48 puts the burden of establishing that a determination is justified on the agency.

Clause 49 provides that for the purpose of any proceedings, a determination under this measure that has been made by an officer of an agency is to be taken to have been made by the agency concerned.

Clause 50 provides that if access to a document is given pursuant to a determination under the measure and the person by whom the determination is made believes in good faith, when making the determination, that the measure permits or requires the determination to be made, no action for defamation or breach of confidence lies against the Crown, an agency or an officer of an agency by reason of the making of the determination or the giving of access and no action for defamation or breach of confidence in respect of any publication involved in, or resulting from, the giving of access lies against the author of the document or any other person by reason of the author or other person having supplied the document to an agency or Minister.

The clause also provides that neither the giving of access to a document pursuant to a determination under the measure nor the making of such a determination constitutes, for the purposes of the law relating to defamation or breach of confidence, an authorisation or approval of the publication of the document or its contents by the person to whom access is given.

Clause 51 provides that if access to a document is given pursuant to a determination under the measure and the person by whom it is made honestly believes, when making the determination, that the measure permits or requires the determination to be made, neither that person nor any other person concerned in giving access is guilty of an offence merely because of the making of the determination or the giving of access.

Clause 52 provides that a person acting honestly and in the exercise or purported exercise of functions under the measure incurs no civil or criminal liability in consequence of doing so.

Clause 53 empowers the Minister, by notice in the *Gazette*, to establish guidelines for the imposition, collection, remittal and waiver of fees and charges under the measure, sets out the matters the Minister must have regard to in establishing such guidelines, provides for the recovery of fees and charges and empowers a court to reduce a fee or charge that in the court's opinion is excessive.

Clause 54 requires the Minister to report annually to Parliament with respect to the administration of the measure and requires agencies to furnish to the Minister such information as the Minister requires for the purpose of preparing the report.

Clause 55 empowers the Governor to make regulations.

Schedule 1 sets out classes of exempt documents.

Schedule 2 sets out exempt agencies.

Mr INGERSON secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

The Hon. G.J. CRAFTER (Minister of Education) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934. Read a first time.

The Hon. G.J. CRAFTER: 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

It inserts provisions dealing with freedom of information into the Local Gvernment Act 1934. The Government believes that there are no qualities inherent in the structure and functions of local government which render the democratic justification for freedom of information legislation less applicable to local government than to any other level of government. The Government therefore supports the extension of freedom of information provisions to local government.

Local governments have received different treatment in freedom of information legislation in Victoria and New South Wales. Victoria has excluded local government from the operation of the legislation. However, councils are subject to the Freedom of Information Code. The code embraces the principles and concepts of freedom of information but is not legally binding. In New South Wales, local govern-

ments are required to comply with aspects of the freedom of information legislation—The scheme provides access to personal records.

In New Zealand, the Local Government Official Information and Meetings Act 1987 requires local government to meet all obligations in respect of both publication of information and access to documents, subject to relevant exemptions. The Victorian Legal and Constitutional Committee has recently released its report on freedom of information in Victoria. The committee has recommended that the legislation be extended to cover local governments.

The arguments put forward to the committee in support of extending the Act to cover the local government sector were:

(a) Local government has significant powers and responsibilities.

(b) While council meetings may be accessible to the public, the deliberations, decisions and influence of council officers are often hidden from view.

(c) While some councils have been generous in providing information to citizens, the existing discretionary system of granting access has led to significant inconsistencies in approach.

(d) Local government is the level of government closest to the people, which provides greater justification for drawing them to greater account through freedom of information legislation.

(e) There are no differences between local government and State and Federal Governments which justify its exclusion from freedom of information legislation.

The committee commented as follows:

> In short, the democratic justification for freedom of information rests in the belief that government, at whatever level, will be fairer, more effective and more accountable if its constituents are given the means to inform themselves and hence evaluate. the propriety of its actions. A reduction in Government secrecy is a necessary prerequisite for the restoration of a balance between electors and elected consonant with democratic ideals. From this process, local government should not be excepted (Victorian Legal and Constitutional Report on Freedom of Information in Victoria at 32).

The limited application of freedom of information to councils in New South Wales is also likely to be reassessed in any future review. The current provisions were introduced as a compromise. However, some councils are voluntarily adopting full freedom of information. The New South Wales experience is that the more open a council is, the less problems they encounter in the area of development issues, etc.

In April, 1990 the Government first introduced the Freedom of Information Bill (No 2) 1990 into Parliament. At the time the Bill was introduced the Government indicated that the Bill would be laid on the table until the budget session to enable comments to be received on the Bill. In particular, it was made clear that consultations would occur with local government as to the form of coverage for local councils. Subsequently the Bill was forwarded to local councils and the Local Government Association. The association also conducted a survey of councils to obtain their views on specific aspects of the Bill.

The Local Government Association and individual councils were generally consistent in their responses to the Freedom of Information Bill (No. 2) 1990. The local government sector was generally supportive of freedom of information principles extending to local council operations, but argued strongly that such provisions should be dealt with separately in the Local Government Act 1934. The Local Government Association was philosophically opposed to the inclusion of local government as an 'agency' under the current Freedom of Information Bill as such an approach does not recognise local government as a separate tier of Government.

Local Government Association advised that the Local Government Act 1934, as amended, already allows access to a range of documents by ratepayers and the general public and that the Act was only recently reviewed to make local-government accessible and accountable to the public. The Local Government Association argued that the local government process, from policy formulation through to setting a budget, striking a rate and adopting expenditure priorities, is already a public one. The councils argued that the Bill, as originally introduced did not address potential areas of conflict between it and the Local Government Act 1934.

The association acknowledged that several changes to the Local Government Act would be required to reinforce a commitment to public access. The main changes which were identified included:

1. Provision for information statements.
2. Provisions to protect the privacy of individuals when documents held by councils relate to personal information.
3. Provision for the amendment of inaccurate personal records held by local government.
4. A review of the range of documents which are not currently available to the public.

Following representations from the Local Government Association and councils, the Government has decided that freedom of information provisions for the local government sector should be placed in the Local Government Act 1934.

The provisions in this Bill are similar to those in the Freedom of Information Bill (No 2) 1990. Where possible, provisions are identical. This should make it easier for members of the public, in that the procedures regulating freedom of information will be similar in the State and Local Government sectors. A common approach will also assist local councils to work with the Government in the implementation of freedom of information, that is, the training of staff and the development of manuals and handbooks.

However, the Bill does take account of differences between the two levels of Government. The main differences in the Bill are:

1. Documents subject to an order under section 64 (6) of the Local Government Act, 1934 are 'restricted documents'. Section 62 of the Act allows certain designated matters to be considered by the council in confidence. The council can then make an order under section 64 (6) that documents relating to such a matter are confidential. Such a document is then a 'restricted document' for the purposes of the freedom of information provisions.

2. The removal of the 'objects' provisions. The Local, Government, Act 1934 is not set up with 'Objects' provisions. It is inconsistent with the scheme of the Act to include objects relating to freedom of information.

3. The requirements dealing with information statements and information summaries have been modified. Under this Bill, it will not be necessary to publish an information statement in the *Gazette*. It will be sufficient for the statement to be available at the council office. In addition, the information summary need not be published in the *Gazette* but rather in a local paper distributed in the council area. The *Gazette* is not readily accessible to members of the public whereas, the local paper can be easily obtained by any member of the public.

4. Some provisions of the Freedom of Information Bill (No. 2), 1990 have not been included in this Bill as they are unnecessary, that is, they are not relevant to the local government sector or provision already exists in the Local

Government Act 1934, for example, service of notices, delegation, fees and charges.

5. The schedule has been replaced by substantive provisions. I am advised that councils will find it easier to use the Act if the restricted and exempt documents are the subject of substantive provisions rather than set out in a schedule at the back of the Act.

I commend the Bill to members.

Clause 1 is formal.

Clause 2 provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3 inserts new Part VA into the principle Act. Section 65a defines terms used in the Part and makes other provision with respect to interpretation of the Part. Section 65b provides that if a document held by a council is deposited in the office of State Records (formerly known as the Public Record Office), the document is, for the purposes of Part VA, to be taken to continue in the possession of that council.

Section 65c provides that Part VA does not prevent a council from giving access to a document without formal application and without other formality, that Part VA does not derogate from other provisions of the Act under which access to documents is required or permitted and that nothing in Part VA is intended to prevent or discourage the publication of information, the giving of access to documents or the amendment of records as permitted or required by or under any other Act or law.

Sections 65d to 65q set out classes of exempt documents. Section 65r requires each council to prepare, within 12 months after the commencement of Part VA and at intervals of not more than 12 months thereafter, an up-to-date information statement and information summary and sets out what an information statement and an information summary must contain. The section does not require the publication of information if its inclusion in a document would result in the document being an exempt document.

Section 65s requires a council to make copies of its most recent information statement and information summary and each of its policy or administrative documents available for inspection and purchase by members of the public. Nothing prevents a council from deleting information from the copies of a policy or administrative document if its inclusion would result in the document being an exempt document otherwise than by virtue of section 65j or 65k (that is because it is an internal working document or a document subject to legal professional privilege). The section provides that a council should not enforce a particular policy to the detriment of a person if the relevant policy should have been, but was not, made available for inspection and purchase in accordance with the section at the time the person became liable to the detriment and the person could, by knowledge of the policy, have avoided liability to the detriment.

Section 65t gives a person a legally enforceable right to be given access to a council's document in accordance with this measure. Section 65u sets out how an application for access to a council's documents is to be made. Section 65v sets out the time within which applications for access must be dealt with.

Section 65w prohibits a council from refusing to accept an application merely because it does not contain sufficient information to enable identification of the document to which it relates without first taking such steps as are reasonably practicable to assist the applicant to provide such information.

Section 65x sets out in which cases a council may refuse to deal or continue dealing with an application. Section 65y requires a council to determine an application for access within 45 days after it is received (unless the council has refused to deal, or continue to deal, with the application). If it is not dealt with within that time the council is, for the purposes of part VA, to be taken to have determined the application by refusing access. Section 65z sets out when a council may refuse access to a document.

Section 65aa sets out when a council may defer access to a document. Section 65ab sets out the forms in which access may be given. Section 65ac requires a council to notify an applicant for access of its determination or, if the document to which the application relates is not held by the council, of the fact that the council does not hold such a document.

Section 65ad provides that Section 65t to 65ac have effect subject to the provisions of Section 65ae.

Section 65ae deals with the giving of access to the following documents:

(a) a document that contains matter concerning the affairs of the Government of the Commonwealth or of another State or of a council;

(b) a document that contains information concerning the personal affairs of any person (whether living or dead);

(c) a document that contains information concerning the trade secrets of any person or other information that has a commercial value to any person or any other information concerning the business, professional, commercial or financial affairs of any person;

(d) a document that contains information concerning research that is being, or is intended to be, carried out by or on behalf of any person.

Section 65af gives a person to whom access to a council's documents has been given the right to apply for amendment of the council's records if the document contains information concerning the person's personal affairs, the information is available for use by the council in connection with its administrative functions and the information is, in the person's opinion, incomplete, incorrect, out-of-date or misleading.

Section 65ag deals with applications for amendment of council's records. Section 65ah sets out the time within which applications for amendment must be dealt with. Section 65ai prohibits a council from refusing to accept an application for amendment merely because it does not contain sufficient information to enable identification of the document to which the applicant has been given access without first taking such steps as are reasonably practicable to assist the applicant to provide such information.

Section 65aj requires a council to determine an application for amendment by amending its records in accordance with an application or by refusing to amend its records. A council that fails to determine an application within 45 days after receipt of the application is, for the purposes of Part VA, to be taken to have determined the application by refusing to amend its records in accordance with the application.

Section 65ak sets out in which cases a council may refuse to amend its records. Section 65al requires a council to notify an applicant for amendment of records of its determination or, if the application relates to records not held by the council, of the fact that the council does not hold such records.

Section 65am provides that if a council has refused to amend its records the applicant may, by notice, require the council to add to those records a notation specifying the respects in which the applicant claims the records to be incomplete, incorrect, out-of-date or misleading and if the

applicant claims the records to be incomplete or out-of-date, setting out such information as the applicant claims is necessary to complete the records or to bring them up-to-date. A council must comply with the requirements of a notice and notify the applicant of the nature of the notation. If a council discloses to any person any information in the part of its records to which a notice relates, the council must ensure that when the information is disclosed a statement is given to the recipient stating that the person to whom the information relates claims that the information is incomplete, incorrect, out-of-date or misleading and setting out particulars of the notation added to its records and the statement may include the reason for the council's refusal to amend its records in accordance with the notation.

Section 65an gives a person who is aggrieved by a determination of a council to refuse access to its documents or to amend its records, to a review of the determination and sets out how an application for review is to be made. On an application for review the council may confirm, vary or reverse the determination under review. A council that fails to determine an application for review within 14 days after its receipt is, for the purposes of Part VA, to be taken to have confirmed the determination in respect of which a review is sought. However, a determination made by resolution of a council is not subject to review under this provision.

Section 65ao provides that a person who is dissatisfied with a determination of a council that is liable to internal review after review by the council or who is dissatisfied with a determination not subject to internal review may apply for a review of the determination to the Ombudsman. Where such an application is made, the Ombudsman may carry out an investigation and, if satisfied that the determination was not properly made, direct the council to make a determination in specified terms. There is no power under this provision to inquire into the propriety of a council certificate given under section 65av.

Section 65ap provides that a person dissatisfied with a determination of a council after review by the council may appeal against the determination to a District Court. On such an appeal the Court may confirm, vary or reverse the determination to which the appeal relates or remit the subject matter of the appeal to the council for further consideration and make such further or other orders (including orders for costs) as the justice of the case requires.

Section 65aq sets out the time within which an appeal must be commenced. Section 65ar provides that an appeal will be by way of re-hearing and that evidence may be taken on the appeal. It also provides that where it appears that the determination subject to appeal has been made on grounds of public interest and the chief executive officer of the council makes known to the Court his or her assessment of what the public interest requires in the circumstances of the case subject to appeal, the Court must uphold the chief executive officer's assessment unless satisfied that there are cogent reasons for not doing so.

Section 65as deals with the consideration by a District Court of restricted documents. Section 65at provides that if, as a result of an appeal, the District Court is of the opinion that an officer of a council has failed to exercise honestly a function under Part VA, the court may take such measures as it considers appropriate to bring the matter to the attention of the Minister. Section 65au provides for an appeal to the Supreme Court on a question of law. Section 65av deals with council certificates as to restricted documents. Section 65aw puts the burden of establishing that a determination is justified on the council.

Section 65ax provides that if access to a document is given pursuant to a determination under Part VA and the person by whom the determination is made believes in good faith, when making the determination, that Part VA permits or requires the determination to be made, no action for defamation or breach of confidence lies against a council or an officer of a council by reason of the making of the determination or the giving of access and no action for defamation or breach of confidence in respect of any publication involved in, or resulting from, the giving of access lies against the author of the document or any other person by reason of the author or other person having supplied the document to a council or the chief executive officer of a council.

The section also provides that neither the giving of access to a document pursuant to a determination under Part VA nor the making of such a determination constitutes, for the purposes of the law relating to defamation or breach of confidence, an authorisation or approval of the publication of the document or its contents by the person to whom access is given.

Section 65ay provides that if access to a document is given pursuant to a determination under Part VA and the person by whom it is made honestly believes, when making the determination, that Part VA permits or requires the determination to be made, neither that person nor any other person concerned in giving access is guilty of an offence merely because of the making of the determination or the giving of access.

Section 65az empowers the Minister, by notice in the *Gazette*, to establilsh guidelines for the imposition, collection, remittal and waiver of fees and charges under Part VA, sets out the matters the Minister must have regard to in establishing such guidelines, provides for the recovery of fees and charges and empowers a court to reduce a fee or charge that in the court's opinion is excessive.

Mr MEIER secured the adjournment of the debate.

WATERWORKS ACT AMENDMENT BILL

The Hon. S.M. LENEHAN (Minister of Water Resources) obtained leave and introduced a Bill for an Act to amend the Waterworks Act 1932. Read a first time.

The Hon. S.M. LENEHAN: 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

It amends the rating provisions of the Waterworks Act in order to introduce a new rating system for residential properties. The Government had been concerned about the rating system for some time and in February 1990 commissioned an independent review. This new system is the result of that review. For residential properties there will be two distinct rates. An access rate payable for the right to a supply, and a water rate based on consumption. The access rate will be a flat rate for properties below a specified value, referred to in the Bill as the median value. Properties above this value will pay, in addition to the flat rate, a property value rate. This rate will apply only to that part of the value in excess of the median value.

The initial median value will be $110 000 (in 1990-91 values) and will be reviewed each year. The consumption

charge will only apply for water consumed above an allowance of 136 kL. The allowance will not be tied to the access rate. The new system provides considerable flexibility as there can be independent changes to:

- the access charge
- the median value
- the rate in the dollar for the property value component
- the water allowance
- the price per kilolitre

Residential properties will include houses, strata units, and rural living.

Non-residential properties will continue to be rated as before, that is, a property value charge with an allowance based on that charge. The consumption charge for water consumed above the allowance will continue. The new system will be implemented from 1 July 1991. The charges will be set at a level that will be revenue neutral. This will also ensure that a high percentage of consumers will not be adversely affected by the changeover.

The purpose in commissioning a rating review was to seek a level of cost recovery consistent with economic considerations, and a charging system that will encourage the long term conservation of water resources, while maintaining social justice and equity within the community. The recommendations of the review that are reflected in this Bill, provide such a balance.

Clauses 1 and 2 are formal.

Clause 3 inserts Division I of Part V which sets out the new provisions relating to residential land. New section 65a provides definitions of terms. Residential land effectively includes a residence and its curtilage and surrounding land that is included in the same assessment as the residence and is not used for any purpose or is used as a 'hobby farm'. Ratable land is defined to exclude land in a country lands water district thereby excluding residential land from these districts. Rates in a country lands water district are based on the area of land. Section 65b provides for the rates payable in respect of residential land. Section 65c enables the Minister to fix the factors on which the rates depend by notice in the *Gazette*. Section 65d provides for the water allocation. The water allocation is deducted from the quantity of water consumed when determining the amount of the water rate. The water allocation is fixed by the Minister by notice in the *Gazette* and may be varied from time to time.

Clause 4 inserts a heading.

Clause 5 defines non-residential land for the purposes of Division II.

Clause 6 makes consequential amendments to section 66 of the principal Act. Clause 7 inserts a heading.

Clause 8 inserts new section 66a. This section replaces the substance of section 66 (6), (7) and (8). These subsections are removed by clause 6 from section 66 which will now apply only to non-residential land. New section 66a will provide a definition of capital value of land applicable to both residential and non-residential land.

Clauses 9 and 10 make consequential amendments to sections 67 and 94 of the principal Act.

Mr LEWIS secured the adjournment of the debate.

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 1, lines 28 to 31 and Page 2, lines 1 to 4 (clause 4)—Leave out all words in these lines and insert 'by inserting in paragraph *(a)* of subsection (2) "or justice of the peace" after "magistrate".'

No. 2. Page 2, lines 8 and 9 (clause 6)—Leave out all words in these lines after 'is amended' and insert

'—

(a) by striking out "justices of the peace as";'

No. 3. Page 2 (clause 6)—After line 9 insert word and paragraph as follows:

'and

(b) by inserting after subsection (2) the following subsection:

(2a) A person is not eligible for appointment as an inspector unless he or she—

(a) is a person who has retired from judicial or magisterial office;

(b) is a legal practitioner;

or

(c) is a justice of the peace.'

No. 4. Page 4, line 15 (clause 16)—Leave out subsection (11).

No. 5. Page 4, line 24 (clause 18)—Leave out 'life'.

No. 6. Page 4, line 25 (clause 18)—After 'is not' insert '(except where the total term to be served is less than one year)'.

The Hon. FRANK BLEVINS: I move:

That the Legislative Council's amendments be agreed to.

In doing so I want to express my thanks for the cooperation that the Government has been given by the Liberal Party, particularly the member for Goyder, the Hon. Jamie Irwin and the Hon. Trevor Griffin. There was some urgency about this Bill, and the Opposition recognised that. It was also an extremely complicated proposition that was before the House. There is no doubt that the three members I have mentioned cooperated to the fullest in unravelling the complex matters that were before us.

I would like to express again my thanks to the Hon. Jamie Irwin, the Hon. Trevor Griffin and the member for Goyder. The Act as amended will enable us to operate the gaols in a better manner while having full accountability, which is proper. It will also make a significant contribution to the expansion of the home detention scheme, again under proper supervision. I think the State of South Australia will be all the better for that. With those few words I recommend that the Committee agree to the motion.

Mr MEIER: I thank the Minister for his complimentary remarks. The Opposition is always happy to assist in ensuring that legislation is passed in this House which is for the benefit of the community as a whole. We believe that by and large this legislation as it now comes out of the other place is advantageous and, hopefully, will make a positive contribution to the rehabilitation of prisoners in this State and, therefore, to law and order generally. Certainly the Opposition is pleased that the amendments—most of which were originally proposed in this place—have now been accepted by the Government.

Motion carried.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 2361.)

Mr MATTHEW (Bright): The Opposition supports the Bill and generally supports the Local Government Act amendments. The Bill comes to this House in an amended form. I note in particular that clauses 4 and 5, pertaining to allowances and benefits of elected members of council and also the salary and benefits of council employees, have been included in the Bill. The Opposition was pleased to successfully move the insertion of clauses 4 and 5 into the Bill that is before us this afternoon. Similarly, the Opposition was pleased to have a number of amendments to existing clauses included.

Nevertheless, we will seek to further amend some of the clauses in the Bill and will move to introduce new clauses which I will discuss later. Most of the changes proposed in the Bill are the product of suggestions from local government, State Electoral Department officers, candidates and legal practitioners. The Opposition is pleased to note the work done by the Department of Local Government and by local government itself following the biannual local government elections.

Members would be aware that this process has been an ongoing feature since the new electoral provisions of the Act were adopted in 1984. However, I am sure that many members, and in fact many members of the general public at large, are now wondering how such matters will be handled in the future when the Department of Local Government is gone.

Most members would be aware of the widespread dissatisfaction that has come from local government with respect to the counting of votes in elections within the present provisions of the current Act. Certainly, it is true to say that such dissatisfaction has subsided a little of late because we are nearly two years out from the last local government election. However, as we approach the next election, which is due in May next year, it is likely that we will again hear the same dissatisfaction expressed by people associated with local government.

As members would know, the present two methods of counting provided in the Act could be described as an optional preferential method or, as some call it, the bottom-up method, where candidates with the least number of votes are eliminated and, if there are preferences, they are distributed. The other method is one of proportional representation where preferences are required to be indicated and a complicated counting system, much like that which we have in our own Legislative Council, is followed, where candidates are required to achieve a quota before gaining election. Surplus votes are then transferred to other candidates. Councils have indicated individually that neither option is really satisfactory.

Therefore, I propose to introduce a third option whereby an elector fills in every square on the voting paper up to at least the required number of councillors. The candidate with the fewest number of votes would then be eliminated and that candidate's vote preferences would flow to other candidates who remain on the list and so on until one candidate achieves a majority. If there is more than one position to be filled, the one elected candidate's preferences would be distributed through the remaining candidates. If no second candidate has emerged, the candidate with the least number of votes would be eliminated and that candidate's preferences distributed until a second candidate is elected and so on until the required number of candidates have been elected.

Clause 14 makes it an offence for a candidate or someone acting on behalf of a candidate to offer an elector transportation other than in specified circumstances. The Opposition will be opposing this clause because it makes a different provision to that which currently applies to the transportation of electors under the State Electoral Act. The Opposition understood that there would be a certain amount of common agreement with regard to trying to keep the provisions relating to the election of officers under the Local Government Act as close as possible to those relating to elections under the State Electoral Act.

We also seek to insert a new clause in this Bill pertaining to minimum rates. Many members in this House would be aware of the difficulty that has been presented to some councils through the change to the Local Government Act last year which provided that no more than 35 per cent of ratepayers in a council area could be paying the minimum rate. Certainly, one council in my electorate, the Marion council, has been caused a considerable amount of difficulty by that change, and I am aware of statements made in this place at the time of the debate by both the members for Elizabeth and Semaphore expressing concern about the change. I know that some problems have been encountered by their local government areas as well.

The members for Walsh, Hayward and Fisher, as members responsible for part of the Marion council area, would be aware of the grief caused to that particular council by the minimum rate percentage that was imposed through that previous legislation. It is my intention to detail a little more in the Committee stage the problems caused by that previous change to the Act, and I am hopeful that the House will view that matter seriously enough to further change the legislation to enable those councils to overcome their present difficulties.

This Bill also refers to parking provisions which were debated at length in another place. The Opposition was pleased to have instigated amendments to those provisions. It is my intention to consider only one further change to the parking provisions within this legislation, and I will detail that matter during the Committee stage of the Bill.

The Hon. B.C. EASTICK (Light): As my colleague has indicated in his maiden handling of a major Bill—and I congratulate him upon it—the Opposition is in accord with the majority of the provisions currently before the House. He indicated that some of them are indeed our suggestions and amendments from another place, but there are aspects of the legislation which still cause the Opposition some concern and, in due course, amendments will be put forward accordingly.

One feature which ought to be brought to the attention of the House at this stage is the abysmal failure of the Government to fulfil its original promise to local government that it would get together all aspects of local government and have them pass through Parliament so eventually the new refined Local Government Act would be in place. From information which has been made available to the Opposition fairly recently, it is not even on the agenda of the Government to follow up on more than the first two phases of the local government re-write, and I refer members to the fact that there were to have been five re-write sections, four of them positive and the fifth to be a joining together of the various features of the Act.

That has not occurred and, as best can be determined by the Opposition, it is not even within the purview of the Local Government Department at the present moment. When it goes out of existence in a few days, one would ask whether it will be the new bureau that will take over this role or whether in fact the Government has cast aside any intention to make sure that the Local Government Act is brought totally up to date. Members would be aware that the next section to have been considered related to roadways. It was always deemed not to be as controversial as other aspects of the Local Government Act relating to the membership of council. The second re-write related to financial matters.

The multitude of Local Government Act amendment Bills which come before the House every session (and the Minister of Education introduced today the third amendment Bill for this session) take care of various issues raised by the courts and individual local government bodies and the Local Government Association, but the Government still has not reached the nitty-gritty of getting the other phases of the Local Government Act considered and brought before Parliament. Whilst it is not a feature of this matter,

it is necessary that members of the Opposition express some concern on behalf of local government that the promises made by the Government over a long period have not been fulfilled. In fact, if we consider the re-write program, the first major re-write was in 1984, and the second was in 1988. Therefore, one is fearful that it may be 1992 or beyond before we see the other features brought to our attention. My colleague has identified the various positive aspects of this measure and I support the indication that he gave previously that, in due course, he will seek to address other matters which hopefully will receive the positive attention of the House.

Mr MEIER (Goyder): As our lead speaker (the member for Bright) has indicated, the Opposition supports this measure, and I endorse the honourable member's comments and the way in which he made them. I know that there will be more discussion in the Committee stage. The member for Bright alluded to the fact that it was this Government which sought to do away with minimum rating. As a result of discussions between both Houses of Parliament, the 35 per cent compromise was arrived at. The Opposition was quite correct in pointing out at that time that the abolition of minimum rates would have a significant effect on electors' rates generally.

Whilst councils can now maintain only a maximum of 35 per cent of the minimum rate—and I daresay many councils perhaps follow that to the letter of the law—in my experience it has had a significant effect on rates throughout this State. I have had more calls in the past 12 months about massive increases in rates than I have had during any other period in the eight years I have served as the member for Goyder, and in many cases part or all of the reason for a large increase in rates has been that the council has had to compensate somehow for the partial abolition of minimum rates.

Generally, in the cases I have looked at, it has been done through the establishment of a service fee. Rural areas often set rates that are much lower than those in the metropolitan areas if few services are available. By 'few services' I mean that they may not have a garbage collection service or paved roads and, generally speaking, people receive a minimum service from their local government. Therefore, when a service fee of some $80 is added to a general rate of $300, that represents a huge percentage increase, which, understandably, has made many people very annoyed. Whilst those who live in the township areas have learned to accept it, particularly if they are permanent residents, those who occupy holiday residences have on many occasions been loath to accept such increases. I know it has been the particular local government that has had to wear the abuse from ratepayers when I believe it is this State Government that has to wear much of the responsibility for these massive rises. I think the people of South Australia need continually to be reminded of this.

I would also like to draw attention to an issue raised by the Minister in the second reading stage, that is, whether electoral candidates can provide transport to the polling booths for electors. The Minister said that the Bill aimed to clarify the confusion that currently exists as to whether local government candidates and their agents are permitted to provide transport to the polling booth for electors. Certainly, it is noted that this Bill includes a new provision making it an offence for candidates and their agents generally to offer transport to electors to the polling place, and that provision has the endorsement of the Local Government Association as being the best solution to this problem.

I guess that, if a problem exists, it needs to be addressed, but it does concern me a little that we have to resort to this sort of measure. I often wonder what abuse has occurred. In earlier years, well before I came into this Parliament, it was pointed out to me that it was important to transport people to the polling booth. Personally, I cannot recall ever having transported anyone, but I know that it was done by Parties of both political persuasions at the State Government level and at the Federal level for the respective elections.

It would appear that local government is at a disadvantage in this respect. I remember that a couple of local government elections ago one of the three candidates was at the front of the polling booth saying 'Hullo', and I recall someone else saying that that person was taking a great risk in exercising (in this case) his right, because it was felt that, even then, the Local Government Act was so written that it could be interpreted that he might have been transgressing it. Anyway, as it happened, that person was elected quite convincingly, and I thought retrospectively that, if the other two candidates had also appeared outside the polling booth, it might have been to their advantage. We will never know.

Certainly, some problems have arisen from time to time in local government elections and I remember that, at the last local government election, which was about two years ago, I was telephoned on the Saturday by people who were very upset that they were not entitled to a vote. It appears that these people occupied holiday homes in the district and had not previously recorded their intention to vote and, therefore, when they turned up, they were denied that opportunity. Normally, one would say, 'Well, that is just a little bit of bad luck', but there was a very contentious issue in the area and apparently a lot of lobbying had been done and many carloads of people had arrived so that they could record their vote.

I can understand that a few people were very upset that they travelled all the way from Adelaide to Yorke Peninsula only to discover that they were not given the right to vote. So, hopefully, that sort of thing is being conveyed to people slowly; certainly, all the people involved then had the message that they had to make prior arrangements and that only one person from their household could vote, because they were not permanent residents in the area.

Likewise, with the attention to detail on polling day. I always regard local government as a more relaxed level of government than perhaps State or Commonwealth Government. I also envy local government bodies in that, in their council meetings, I would say in all cases in South Australia there are members and there are no such things as Parties. One is not bound to any particular group for vote after vote. One may tie in with a political lobby group on certain issues, but one is just as likely to side with others later on.

I envy them, because I think there is more of an individual feeling and view; the representatives have to test out what their electors really want, and the lobbying of councillors by individuals can be very important. We at the State and Federal Government levels know that, in most cases, once a decision has been made by the Party, that is binding, and we see the vote reflected on the floor of the Chamber, but in local government it is much freer and, hopefully, views are put across in a very positive manner, although I would say the negative side to that is that sometimes individuals are not as informed as they should be.

I have cited the need for many of my constituents, if they have a local government problem and they need to get their local councillors on side, to contact their local councillors, their mayor or chairman of council—whatever the situation is—and to point out the positive features of their proposal.

Some years ago, I put to council a proposal for an extensive tree planting program. I felt it was all fairly much commonsense as to where the trees would go. I was a member of a service club at the time and intended to plant the trees through that club but, much to my disappointment, my plan was knocked on the head by council and I was told that I would not be allowed to plant the trees. As a result, I modified the plan slightly, but not much, and lobbied each councillor to agree that the plan I was submitting was a positive one that would be of benefit to the community. At the next council meeting, that plan, which was almost the same as the first one, was endorsed unanimously. I have never forgotten that example, and similar things can be done easily at local council level.

My point is that, whilst the atmosphere is somewhat more relaxed in local government, it is imperative that those conducting polls or overseeing the polling boxes take every precaution possible to see that no error is evident. At the last local government elections, I was contacted by more than one person who reported to me that there were irregularities in polling. The most striking irregularity was that the polling box was not locked, and there was no reason why votes could not have been put into or taken out of that box. It is very difficult for a State member to address these problems, and constituents do not take kindly to being told that it is a local government matter which should be referred to the local government in question, which is exactly what I did.

The person who raised the point with me took the action much further but, because there was insufficient evidence, it did not proceed through to its final conclusion. Nevertheless, I am sure that the council involved learned a lesson—that every precaution must be taken and that voting for local government elections is as important as voting at a State or Federal level. It is important for us.

One of the amendments on file goes a step further towards ensuring that everything we can do through this Act is implemented, to the benefit of local government. The member for Bright foreshadowed various amendments to the method of voting at council elections. This area has been of great concern to me since the current Local Government Act was introduced. I hope that the Minister will consider and accept the proposed amendments, because I am sure that he would agree, as members on this side of the House concede, that this area needs to be tidied up. The system has been in operation for some time, and we should always think ahead, look to the future, to see how we can tidy up and polish these provisions. I well remember the extensive debate on the method of voting at council elections, and the member for Light enunciated his ideas in great detail in those days. He has a much greater understanding of voting procedures than I have.

Another factor that needs to be tidied up relates to the imposition of parking fines or expiation notices for various offences. I consider it appropriate that the technicalities with regard to offences against vehicles and drivers, when it is not known who the driver was, need tidying up. A little while ago, mention was made of an offence for which an expiation notice was issued against a vehicle. I am sure that members can see the humourous side of a vehicle having to appear before a court or having to explain why it was in a no parking area, or whatever the case may be, and of a vehicle being fined. There is no doubt that the provision relates to the driver or the owner of the vehicle, and this Bill seeks to make the Local Government Act a better Act than it is. I support the member for Bright and the member for Light and by and large, I support this Bill.

Mr LEWIS (Murray-Mallee): My point in rising to participate in this debate is to reiterate and underline my concern about the fashion in which local government elections are currently conducted. The method which is presently in use is gross in its abuse of the intent of the electors, and that is apparent to anyone who examines the result in those situations where multiple members are to be returned, whether for a ward or for the entire council area, and where more candidates offer themselves than are required. Too often, we find that easily the most preferred candidate is eliminated in a three way contest for a two place return.

For example, if 100 electors were voting and 92 of them voted for two candidates and eight voted for the other candidate, the first candidate receiving the highest number of first preference votes would be elected and the other candidate, clearly not preferred because of his or her receiving only eight first preference votes, would nonetheless be elected to the exclusion of the third candidate in such contests. There are a number of other permutations where three people are required and four or more candidates offer themselves for election.

Unless the Government addresses that problem fairly quickly, it will stand condemned, not just discredited—it is already discredited—by the community which has an interest in local government affairs and, as a result, sufficient interest to participate in elections from time to time as they occur. As it stands, the system is crook.

Mr OSWALD: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

The Hon. M.D. RANN (Minister of Employment and Further Education): The Bill makes some changes to the electoral provisions of the Act, most of which have been suggested by people in the local government sector or by the State Electoral Commissioner. It also consolidates provisions of the Act relating to offences involving motor vehicles and expiable offences generally. In so doing, it modifies the owner onus concept by providing that an owner can escape liability by naming the responsible driver. Other provisions will facilitate the making of proposed new parking regulations, the latest draft of which will be circulated to councils and other interested persons shortly.

Bill read a second time.

Mr MATTHEW (Bright): I move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider new clauses relating to minimum rates and procedure at meetings.

Motion carried.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Insertion of section 49a.'

The Hon. M.D. RANN: I move:

Page 2—

Line 15—After 'entered' insert ', in acordance with principles (if any) prescribed by the regulations,'.

Line 17—Leave out paragraph *(a)*.

Line 18—Leave out 'details of'.

After line 33—Insert new subsection as follows:

(5) A Chief Executive Officer is not required to include in a Register of Allowances under this section details of any reimbursement of expenses of a prescribed kind incurred by a member in performing official duties.

New section 49a was inserted by Liberal and Democrat members in the Legislative council without any consultation with the Local Government Association. It provides for a public register of allowances and benefits paid to elected members. Section 49a of the Act provides for annual allowances for members and for the reimburse-

ment of certain expenses. The Local Government (Members Allowances for Expenses) Regulation fix upper and lower limits for alowances for alderman and councillors (currently $1 680 and $300 respectively, due to be increased for the next term of office commencing May 1991). No limits are fixed for mayors, chairmen, deputy mayors, deputy chairmen or members acting in those positions. The above regulations also set out the expenses for which members can be reimbursed. These are:

travelling expenses and child-care expenses necessarily incurred in attending meetings or other functions which the member has been authorised by council to attend on council business; and

midday or evening meal expenses actually and necessarily incurred when a meeting has been adjouned before, and resumed after, the normal meal time.

No specific amounts are prescribed for these expenses—the amounts reimbursed are those actually incurred. Councils are also obliged to insure their members in their official capacity, and some councils provide facilities such as members' rooms. The Local Government Association's position on this clause is that it would prefer to have the matter dealt with under the Bill to amend the Local Government Act in relation to administrative principles and personnel practices which has been introduced in the Legislative Council, but it is not particularly concerned. The Government has no objection to this register in principle although—and I stress this—it is an extra administrative task; the Department of Local Government has no evidence of widespread abuse; and one would not like to see members with young children, or those who live long distances from the meeting place, made to feel intimidated for claiming their legitimate expenses.

The Government amendment will allow for regulations to be made, if necessary, setting out relevant principles for compiling the register. This will allow any subsequent confusion as to what amounts are to be included or how they are to be shown to be sorted out. It is a sensible precaution in view of the lack of consultation on the practical effects of this new section. It will remove the need to list members' names and positions. This simplifies the job of compiling the register, as allowances and benefits paid or payable to each group of members, (that is, councilllors, aldermen), will usually be identical.

The amendment will also make it clear that it is not necessary to include reimbursement of prescribed expenses actually incurred. The Members Allowances for Expenses Regulations are already quite specific as to those expenses incurred which can be reimbursed (that is, travelling, child-care and some meal expenses) and members are entitled to these reimbursements as of right.

Mr MATTHEW: The Opposition believes that the amendments will not detract from the result we wish to achieve by the amendments introduced in another place. I have no objection to the amendments, and thank the Minister for his full and frank explanation.

Amendments carried; clause as amended passed.

New Clause 4a—'Procedure at meetings.'

Mr MATTHEW: I move:

Page 2, after line 33—Insert new clause as follows:

4a. Section 60 of the principal Act is amended by striking out from subsection (3) 'votes of the members present at the meeting' and substituting 'votes cast by the members present at the meeting who are entitled to vote'.

This amendment deals with the issue of procedures at meetings, a matter which has generated considerable controversy in recent times and one which has been the subject of a number of questions asked by the shadow Minister of Local Government in another place. Presently, councils with a mayor have a confused situation as to whether the mayor has both a deliberative and a casting vote. I understand that there is conflicting legal opinion about the interpretation of the words 'all members present'.

Consultation has taken place with local government to come up with words that would satisfy the concerns and clarify this situation for the future. It is important that the situation be clarified quickly, because, as members of this place would be well aware, councils are dealing with more and more contentious issues that could well be the subject of litigation. When we know that there is a problem, as in this case, we should deal with such matters at the first opportunity. I believe that this Bill provides such a platform.

The Hon. M.D. RANN: As has been indicated, there was some discussion in the Legislative Council on whether the Act should be urgently amended to overcome confusion as to whether or not the mayor is counted for the purpose of calculating a majority at a council meeting. The Minister of Local Government in another place indicated that she was having discussions with the Local Government Association about the possibility of giving the mayor a deliberative and not a casting vote, which, of course, would solve the whole problem. She undertook to clarify the matter in the new year. The association has confirmed that it needs more time to consult its members about a change to the mayor's voting rights and that it is not necessary to resolve the problem in this Bill at this time. We oppose the amendment.

The Hon. B.C. EASTICK: With the knowledge that there is ongoing dialogue and that the Government intends to accommodate further discussion on this matter in due course, I am quite happy to accept the Minister's explanation. This matter does need resolution and if local government through its association is unable to reach a consensus among its own members, I believe that this Parliament will have to make the decision and that it ought to do so before there are further problems for local government as we have seen recently at Burnside. I am quite happy to forego voting to enforce this particular measure at this stage, on the expectation that it can be discussed when Parliament resumes in February.

New clause negatived.

Clause 5—'Register of salary and benefits.'

The Hon. M.D. RANN: I move:

Page 2, lines 38 to 44—

Leave out all words in these lines after 'entered' in line 38 and insert new words as follows:

in accordance with principles (if any) prescribed by the regulations—

(*a*) the title of each position held by an officer or employee of the council;

(*b*) in relation to those positions held by officers or employees who are paid according to salary scales set out in an award or industrial agreement under the Industrial Conciliation and Arbitration Act 1972, or the Industrial Relations Act 1988 of the Commonwealth—

(i) the classifications of the officers or employees who hold those positions;

(ii) the salary scales applicable to each classification (indicating in relation to each scale the number of officers or employees who are paid according to that scale);

and

(iii) details of any other allowance or benefit paid or payable to, or provided for the benefit of, any of those officers or employees as part of a salary package;

(*c*) in relation to each position held by an officer or employee who is not paid according to a salary scale set out in an award or industrial agreement referred to above—

(i) the salary or wage payable to the officer or employee who holds that position;
and
(ii) details of any other allowance or benefit paid or payable to, or provided for the benefit of, that officer or employee as part of a salary package.

New section 70a was inserted by Liberal and Democrat members in the Legislative Council without consultation with the Local Government Association. It provides for a public register of salaries, wages and benefits payable to council officers and employees. The association would prefer to have the matter dealt with under the Bill to amend the Local Government Act, in relation to administrative principles and personnel practices, which is to be introduced in the Legislative Council, but it is not particularly concerned to provide that references to award classifications and salary scales be used to replace the present excessive detail required.

The Government's amendment is designed to protect to some extent the privacy of officers and employees who are paid according to salary scales set out in awards and to make compiling the register administratively easier. This amendment allows for regulations to be made if necessary and sets out relevant principles for compiling the register. This procedure will allay any subsequent confusion as to what amounts are to be included or how they should be shown to be sorted out, and will change the format of the register so that positions rather than names are listed against awards, salary scales or salary packages as the case may be.

The amendment makes it clear that reimbursement of expenses incurred as part of official duties need not be included. It is the right of officers and employees specified in the relevant awards to such reimbursement and these payments go through the council's normal accounting procedures. Where a lump sum is taken in lieu of reimbursement for work-related expenses, which is an available option to chief executive officers of councils, this sum will be shown on the register.

Mr MATTHEW: I thank the Minister for his comments regarding the amendments to this clause. This amendment does not detract from the initial intent of the amendments put forward in another place by the Opposition and I acknowledge that the changes made protect the privacy of council employees. This is an important change; therefore, the Opposition has no objection to the amendment.

Amendment carried.

The Hon. M.D. RANN: I move:

Page 3—
Line 1—Leave out 'an appropriate' and insert 'a'.
After line 7—Insert new words as follows:
(insofar as may be necessary or appropriate in the circumstances of the particular case).
After line12—Insert new subsection as follows:
(5) A chief executive officer is not required to include in a register of salaries under this section details of any reimbursement of expenses incurred by an officer or employee in performing official duties unless that reimbursement occurs by way of the periodical payment of a lump sum that is not calculated so as to provide exact reimbursement of expenses incurred by an officer or employee in performing official duties.

These amendments are consequential upon my first amendment.

Amendments carried; clause as amended passed.

Clause 6 passed.

New clause 6a—'Method of voting at elections.'

Mr MATTHEW: I move:

Page 3, after line 17—Insert new clause as follows:
6a. Section 100 of the principal Act is amended—
(*a*) by inserting after paragraph (*b*) of subsection (1) the following paragraph:
(*c*) where the method of counting votes applying at the election is the method set out in section 121 (4a)—by placing consecutive numbers beginning with the number 1 in the squares opposite the names of candidates in the order of the voter's preference for them until the voter has indicated a vote for all of the candidates.;
and
(*b*) by inserting before paragraph (*a*) of subsection (3) the following paragraph:
(*aa*) the method of counting votes applying at the election is the method set out in section 121 (3) or (4);.

As I detailed in the second reading debate, this particular amendment provides an additional option for voting at council elections. At present, under the provisions of the Act, there are two different methods of voting which local government may elect to use: the optional preferential system and the proportional representation system. Members would be aware that many people associated with local government are not happy with either system; therefore, following a process of consultation, the Opposition has proposed a third option.

This amendment provides for this third option, so that when an elector votes at the time of a council election he or she fills in every square on the voting paper up to at least the required number of councillors. The candidate with the fewest votes would then be eliminated and that candidate's preference votes would flow to the remaining candidates and so on until one candidate would have an absolute majority. If more than one position is to be filled, the first elected candidate's preferences would be distributed among the remaining candidates. If at that time no second candidate has emerged, the candidate with the least number of votes would be eliminated and that person's votes would be distributed until the second candidate is elected, and so on, until the required number of candidates has been elected. I do not believe that this is a complicated amendment nor that the system resulting from it would be complicated, and I commend it to the Committee.

The Hon. M.D. RANN: I do not intend to speak at length on this matter. Since 1974, there have been extensive debates and consideration of electoral procedures and the establishment of a number of working parties. We are now seeing an attempt to reintroduce a system similar to that which applied to voting in the Legislative Council in the dark old troglodyte caveman days prior to 1973.

The amendment to introduce the majority preferential voting system as an option for councils is not supported. Democratic representation does not depend on having a voting system where voters can cast a full value vote for each vacancy, as Parliament decided when it rejected the first past the post system for local government. Councils wishing to ensure that the preferences of the most popular candidates carry some weight should consider using proportional representation. We see this amendment as a great leap backwards and therefore cannot support it.

Mr MATTHEW: I am disappointed with the Minister's reply. Clearly, this is not a step backward; it is a step forward by offering councils greater flexibility in choosing a method of voting that best fits a council's particular needs. Quite clearly, a number of councils within our State are unhappy with the present options offered in voting systems under the Act, and therefore I see it as the obligation of this place to come up with an alternative system. This particular system proposed by the Opposition has been arrived at after consultation with local government and is certainly a system that meets the desires of many local government areas in our State.

The Committee divided on the new clause:

Ayes (22)—Messrs Allison, Armitage, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker and Brindal, Ms Cash-

more, Messrs Eastick, S.G. Evans, Goldsworthy, Gunn and Ingerson, Mrs Kotz, Messrs Lewis, Matthew (teller), Meier, Oswald, Such, Venning and Wotton.

Noes (22)—Messrs L.M.F. Arnold, Atkinson, Bannon, Blevins, Crafter, De Laine, Gregory, Groom, Hamilton, Hemmings, Heron, Holloway, Hopgood, Hutchison and Klunder, Ms Lenehan, Messrs McKee, Mayes, Peterson, Quirke, Rann (teller) and Trainer.

Pair—Aye—Mr Chapman. No—Mr Ferguson.

The CHAIRMAN: There being 22 Ayes and 22 Noes, I give my casting vote for the Noes.

New clause thus negatived.

Clauses 7 to 10 passed.

The CHAIRMAN: Does the member for Bright wish to proceed with his amendment to insert a new clause 10a?

Mr MATTHEW: No, Mr Chairman, the other amendment was contingent upon the previous one being passed, so there is no longer any reason to pursue it.

Clauses 11 and 12 passed.

New clause 12a—'Violence, intimidation, bribery, etc.'

Mr MATTHEW: I move:

Page 4, after line 32—Insert new clause as follows:

12a. Section 125 of the principal Act is amended by inserting after 'entertainment' in the definition of 'bribe' in subsection (3) 'but does not include the provisions of transportation to a polling booth'.

This new clause concentrates mainly on the issue of transportation to a polling booth. It was the understanding of members on this side of the Committee that amendments drafted to the Local Government Act would as near as practicable reflect the provisions of the State Electoral Act. The Bill before us seeks to preclude councillors from offering transport to electors on the day of an election, and this clearly conflicts with the provisions of the State Electoral Act. In the interest of consistency, the Opposition saw it as being necessary to insert a new clause to provide for what we saw as being the intent behind the Government's original amendment. Therefore, I recommend this new clause to the Committee.

The Hon. M.D. RANN: What we have been trying to do during the debate on this matter is to clarify whether or not local government candidates can offer electors transport to the polling place by specifically providing that they cannot do so. There has been confusion about this for some years, and I am sure that every member of Parliament has had this issue raised with them.

I cannot understand why the member for Bright cannot see the clear difference between what applies in the local government area and what applies in this State electoral area. Quite frankly, the stark difference is that one is compulsory voting and the other is not. But, let me go into this in some detail. Submissions from local government agree that the position should be clarified, that defences are provided so that transport can continue to be offered to members of the candidate's household—persons generally reliant on the candidate for transport assistance—and other candidates, that is, running mates.

We are not being bloody-minded about this; we are actually providing for clear exceptions. The arguments for generally prohibiting rather than generally legitimising offers of transport by candidates are that the very accessible advance voting procedures that obviously exist in local government obviate the need for any means available to get electors to the booth, and candidates with fewer resources than others will not be disadvantaged. Let me cite an example. The member for Napier is a former Mayor of Elizabeth.

An honourable member: And a good one.

The Hon. M.D. RANN: And a very good one. If he was in that situation again (and, who knows, he may be) his resources on the ground, in terms of his network of support in that district, would quite clearly be an advantage over lesser known candidates, and that would be quite unfair, as much as I would like to see him resume his role at some future date. The public's perception is that, under a voluntary voting system, a candidate who can transport numbers of voters to the polling booth has an unfair advantage over one who cannot. Pursuant to section 140 of the Act, commission of this offence will not in itself void the election of a candidate unless the Court of Disputed Returns is satisfied that the election result was thereby affected.

In debate on this clause in another place, Liberal members opposed it and indicated that an amendment might be moved in this place. They referred to the fact that there had been much debate about the bribery provisions of the State Electoral Act and that provisions referring specifically to transportation were removed from the State Electoral Act and that consistency between the two Acts should be the aim. That argument is consistently inconsistent. Prior to 1984 the electoral bribery provisions of the Local Government Act used archaic language and, for the benefit of members, I will quote the following:

> ... supplying horse or carriage hire or conveyance hire with a view to influencing the vote.

It is surprising that, just before Christmas, we are not incorporating sleigh rides! The extensive Local Government Act Revision Act replaced those provisions with sections 125 and 128—

Mr MEIER: On a point of order, Mr Chairman, I seek your guidance. Is the Minister quoting from *Hansard* in the other place? I believe that he made reference to that debate. If that is so, it is out of order.

The CHAIRMAN: The Minister may make passing reference to it but he is not permitted to quote extensive tracts. I have not detected that yet.

The Hon. M.D. RANN: I was quoting from an archaic provision of the Act.

The CHAIRMAN: That was my understanding. The Minister made an oblique reference to the debate earlier, and that is acceptable.

The Hon. M.D. RANN: I am surprised by the member for Goyder, seeing that his deliberations, which I found quite helpful, were listened to in silence. The extensive 1984 Local Government Act Revision Act replaced those provisions with sections 125 and 128 which set out the bribery offence in more general terms. The same archaic language was removed from the State Electoral Act in 1985 so, from 1985, there was no mention of whether I could use a horse and cart to transport voters in the electorate of Briggs. Section 109 was inserted to cover bribery. The wording of the Local Government Act probably influenced the wording of the State Electoral Act. The provisions are not identical, but I concede that they are certainly very similar.

The meaning of section 190 of the State Electoral Act was further discussed in the Legislative Council in 1988. Under both provisions, there can be no hard and fast rule about what is or is not a bribe. As is clear from the debate which took place concerning the provisions of the State Electoral Act, it depends on the facts of each and every case. The voter must have been offered or given a material advantage or benefit, and the voter must have been given that advantage with the intention—and I stress 'the intention'—of influencing his or her vote. There will always be a debate about the effect of these provisions when general examples rather than factual instances are raised, and both State and local government candidates have obviously had to live with that for some time. We have seen various claims about 'Sausagegate', and whether a sausage at a

barbecue is an inducement to an unfair election and so forth.

The Government has indicated that it is not prepared to try to identify in the State Electoral Act every possible circumstance which would constitute an electoral bribe. Obviously, you do not stipulate offering sausages—you talk about offering inducements. It is not possible to do that comprehensively. More importantly, the key to the offence is the intention of the accused person which will always be a matter for the court to decide on the evidence. Opposition members who want to argue that the Local Government Act should be consistent with the State Electoral Act might argue that clause 13 should be omitted entirely from this Bill. Another way to look at it is to say that the Local Government Act and the State Electoral Act are consistent when it comes to bribery, and this clause and what we have been talking about does not change that at all.

The Local Government Act makes some specific mention of candidates' opportunities to influence voters and votes because the main and essential difference is that local government voting is voluntary. For example, under the State Electoral Act any person who accepts an electoral paper for transmission to an electoral officer is obliged to transmit it forthwith to the appropriate officer. However, the Local Government Act specifically provides that no person who is a candidate for election or acting on behalf of such a candidate may have in his or her possession advance voting papers except those issued to the person as an elector in his or her own right. Similarly, the Local Government Act, but not the State Electoral Act, prohibits candidates or their agents from acting as a witness or an assistant to a voter, including assisting voters to obtain or return advance voting papers. So, local government advocates of clause 13 see it in the same light, that it is a good precaution to have in a system where voting is voluntary and where very small numbers of votes can obviously secure office.

I might mention that I live in the Salisbury council area, which is the largest council area in terms of population in South Australia. Some councils are elected with minuscule numbers of votes, so offering transport to the polls, particularly if there is strong local support for the candidate (as was enjoyed by the member for Napier), is obviously a considerable advantage.

Mr MATTHEW: Frankly, I am disappointed by the Minister's comments about this. He has missed the point and almost lays himself open with some of his closing remarks. He mentioned that he lives in the City of Salisbury which has minuscule numbers turning out to vote. This amendment will encourage people to go out to vote. It is a simple matter of fact that many people are unable to get to the polling booth, and it is quite natural that they may seek to contact a candidate who is standing for election and ask that person to assist them in getting to the polling booth. I repeat: the Opposition's amendment draws a greater consistency between the Local Government Act and the State Electoral Act. The Minister seeks to differentiate by pointing out that we have a voluntary voting system for local government and a compulsory voting system for State Government. I might add that that is certainly not by choice of the Opposition. We would welcome changing the State Electoral Act to provide for a voluntary voting system, so that we have even greater parallels between those two Acts. However, with the legislation standing as it does today, there is no difference—despite the difference in the voting systems—between transport being offered through a member seeking election under the State Electoral Act and a person seeking election under the Local Government Act.

If it is to a member's advantage to offer transport under one Act, that advantage is no greater or lesser under the other Act. It is a nonsense to suggest that just because the voting systems are different there is somehow a greater benefit under one Act than the other. I stand by the amendment and commend it to the Committee.

The Hon. M.D. RANN: I certainly reject the logic of the honourable member's argument. He seems to miss a very key point. In terms of whether this will enhance the number of people voting, nothing is intended in these amendments or in the legislation to stop a councillor or a candidate from giving someone a ride to the polling booth if that has been requested by the person.

For instance, if a voter were to ring up the member for Napier in his other life and say, 'I am going to support you; can you arrange a lift down to the polling booth?', that would be okay. It would be quite different if in his leaflets the member for Napier offered to provide transportation to the polls. One is an inducement and the other is not. I guess I have a fairly hard and fast view on this, having watched the American political process in action and having been told of situations where, in one particular electorate in California, people go around the pubs on election day and offer people $5 each to vote the right way and, presumably, with an inflation index, it would be considerably more these days.

New clause negatived.

Clauses 13 to 16 passed.

New clause 16a—'Minimum amount payable by way of rates.'

Mr MATTHEW: I move:

Page 5, after line 4—Insert new clause as follows:

16a. Section 190 of the principal Act is amended—

(a) by striking out from subsection (3) '1991-1992' and substituting '1992-1993';

(b) by striking out from subsection (3) '35 per cent' and substituting '50 per cent'.

I believe that this clause is probably the most important clause that is before this place for consideration this afternoon. I move to insert this new clause after considerable consultation with local government, as I believe it will help alleviate the problems being faced by many councils that cover areas represented by members in this place.

I was interested to note that the Minister lives in the Salisbury council area, and I am sure he would be aware of the difficulty that the Salisbury council has been having in coming up with a rating formula that satisfies residents of that council area; he would indeed be aware that the council has recently changed its rating system, undergoing a considerable amount of grief. Other members of this place represent electorates that cover all or parts of the Marion council area. I am one such member, and the members for Fisher, Hayward, Morphett, Walsh and Mitchell also represent part of the Marion council area. Those members would be fully aware of the grief that has been caused to the City of Marion since the minimum rate was set at 35 per cent.

Indeed, the grief caused to the Marion council was such that two groups of residents living in Marino and Seacliff Park and Seaview Downs respectively sought to secede from the City of Marion, due in the main to the enormous increases in their council rates, which in many cases were in excess of 200 per cent and which were brought about as a direct result of the changes to the Local Government Act that restricted councils over a period to having no more than 35 per cent of ratepayers on minimum rate. In fact, Marion council faced a difficulty in reducing the number from 87 per cent to 35 per cent. Some members would be aware that only at the end of last week the Local Government Advisory Commission handed down a decision on

those two groups that sought to secede from the council, the recommendation handed down to the Minister being that the petitioners not be upheld. However, it was interesting to note that the finding of the Commissioners was that both groups would be significantly financially advantaged if they changed councils.

I believe that this amendment to the Act would compensate for some of the difficulties that have been felt by those residents and in doing so enable the City of Marion and other similarly affected councils to have greater flexibility with their rating system. Indeed, this flexibility problem is experienced by councils in whose care a high proportion of ratepayers live in Housing Trust built accommodation. Members such as the member for Semaphore, the member for Napier and the member for Elizabeth would be well aware of the difficulties that councils are experiencing setting an equitable rate. I note that the member for Napier and the member for Elizabeth are past mayors of the City of Elizabeth and I would hope that they have a very close knowledge of the ramifications being felt by that council in the change to 35 per cent minimum rate.

I propose to substitute the 35 per cent with 50 per cent, which would give those councils a little more flexibility, and I also propose that they have an extra year in which to achieve it. Under the present legislation, councils have until 1991-92 to achieve the 35 per cent minimum rate; I propose that they have until 1992-93 to achieve a 50 per cent minimum rate. I am also aware that, at the time of the debate on the amendment that brought the minimum rate to 35 per cent, the member for Semaphore and the member for Elizabeth expressed concerns on behalf of their constituents. I am sure now that, with the wisdom of hindsight, they would be able to say that not only were their concerns justified but they are now proven. In saying that, I encourage all members to look very closely at what is proposed here and to consider the advantages for the local governments that cover the areas they represent if this amendment is carried. I commend this amendment to the Committee.

The Hon. M.D. RANN: I have to say that, when a similar amendment was moved in the Upper House, it was basically a furphy in terms of the intent of the legislation. It was not an amendment of anything that was being discussed at that time: it was a bolt out of the blue in the Upper House and what we are seeing is a repeat of the Liberal amendment that would have allowed councils until 1992-93 to limit the percentage of their assessments on the minimum rates to the percentage prescribed and to increase that percentage from 35 per cent to 50 per cent. Of course, that amendment was defeated in another place.

Existing section 190 of the Act provides that after 1991-92 the number of properties in an area subjected to an increase in the amount payable by way of rates because of the fixing of a minimum amount may not exceed 35 per cent of the total number of properties in the area, subject to the separate assessment of rates. The existing section came into operation in January 1989, so councils have had the 1989-90 and 1990-91 financial years to decrease their reliance upon the minimum rate (misnamed, I hasten to add, because really it is a maximum rate) and they will have 1990-92 as well.

Since the second revision Bill was assented to on 21 April 1988, the prudent councils have had at least three years and will have a fourth year in which to adjust as a phasing-in process. Councils were advised on numerous occasions to take the necessary steps and to make full use of the time available to avoid large changes in rating patterns. It would be unfair to those councils that have acted properly to extend the deadline previously set by Parliament. We have gone through this process with enormous debate in recent years, both in this Parliament and in the community, when the pattern of phasing in and the standards set were agreed to by this Parliament. A number of councils have taken the responsible course of action and, obviously, this would be quite unfair, in terms of those councils that have acted properly in this matter.

Likewise, the figure of 35 per cent was reached as a compromise position after the most extensive debate and a conference of both Houses, as the member for Coles would realise. The figure of 50 per cent certainly could not be supported. Of the 116 councils which have submitted their audited financial statements for 1989-90, 23 showed no data on the number of assessments on the minimum, and 36 councils have more than 35 per cent of their assessments on the minimum and will need to bring the figure down. Almost all these councils show a decreasing proportion on the minimum over the past few years. The majority—57 councils—now have fewer than 35 per cent on the minimum.

Although these data are incomplete and have not been crosschecked (I know that members would not be surprised that I have not had time this afternoon to crosscheck the information), it appears that existing section 190 is gradually working to reduce the reliance of councils on this regressive tax. In 1985-86, 59 councils applied a minimum rate to more than 35 per cent of their assessments. To increase the permitted percentage to 50 per cent would undermine all the work that has been done by councils to restore some progressivity to their rating system and to institutionalise a system where half the ratepayers with the lowest valued properties pay a higher rate of tax than other ratepayers.

Mr S.G. Evans: 'Progressivity'—is that a Kiwi word?

The Hon. M.D. RANN: It is a Kiwi word, and it is one that I have tried to infiltrate into the Australian idiom, and I emphasise the word 'idiom'. As I said, we want to institutionalise a system of fairness. It is quite clear that members of the Opposition, who are absolutely transfixed by the United Kingdom and the Conservative Party, have a plan for some kind of poll tax. I can just see Tweedledum and Tweedledee on the election trail arguing for a poll tax. The Opposition leadership is likely to change several times before the next election, but I am sure that they are aiming for a poll tax.

Councils have other options, including the fixed charge component of the general rate, which is fairly applied as a flat rate across all assessments, regardless of their value. If there is a council which, with the best will in the world, having decreased its reliance on the minimum rate for the past three years, will not be able to meet the deadline without severe financial dislocation in its community, it would be preferable for it to be dealt with as a separate case. The Government opposes the amendment.

Mr MATTHEW: Once again, I am disappointed with the Minister's response.

Mr S.G. Evans: But not amazed.

Mr MATTHEW: No, I am far from being amazed. The Minister started off by saying that the amendment was produced almost as a bolt out of the blue in another place and, once again, it has arrived here. I freely acknowledge that other options are available to me, and I could have presented this amendment in the form of a private member's motion. However, with a local government Bill before us, it seemed appropriate to take the earliest possible opportunity to move an amendment to help reduce the pressure that many councils are feeling.

The Minister expressed concern that this amendment would 'undermine the good work done by councils'. I cer-

tainly do not deny that many councils have had to put in a lot of good work to reduce the number of ratepayers on minimum rate, but that does not mean to say that they are satisfied with the Act as it stands. Nor does it mean to say that they are not facing immense problems through the changes that are being forced upon them, and I remind the Minister of the examples that I gave of two large groups of residents who sought to dissociate from the city of Marion and join another council, principally as a result of the large rate burden that they now face through the actions that have been necessary by the Marion council to reduce the number of people on minimum rate.

The Minister sought to justify his argument with incomplete data that have not been crosschecked. What a gall! How many members would bring to this place incomplete data that have not been crosschecked in an attempt to try to back up their argument? The Minister also mentioned the lengthy debate that occurred in this place at an earlier time when the 35 per cent minimum rate was introduced, and said quite correctly that the 35 per cent was the result of compromise. That does not detract from the fact that, with the wisdom of hindsight, the compromise has now been shown to be a poor compromise.

In putting forward 50 per cent, I am seeking another compromise. However, it is a compromise that I believe will allow councils more flexibility to be able to set a minimum rate with which they feel more comfortable, and with which the people to whom they provide services will feel more comfortable. Indeed, it is a rate that is much fairer to the councils which are currently feeling the pinch through the unfairness of an amendment last year to the Local Government Act.

I was also disappointed that the Minister sought to diversify with irrelevancies such as a poll tax. Quite clearly, the Opposition has not been talking about a poll tax for local government, and to indulge in such nonsensical rhetoric simply wastes the time of the Committee.

The Hon. B.C. EASTICK: It is necessary to put a few facts on the record. What was achieved in 1988 was a sell-out by the Local Government Association, which had great difficulty explaining to its membership the manner in which it had arrived at the 35 per cent. In the committee of managers, the argument went on for quite a long time, and it was finally a cave-in by the Government, helped by the Hon. Mr Gilfillan from another place, that saw local government provided with this changed approach to rating. It was a change which was to cause a great deal of concern within the Local Government Association to the point where a number of councils toyed with the idea of leaving the association because they had been so poorly let down in their representation by that body.

I indicate that the decision was not arrived at unanimously because it was fought on the floor of the Parliament subsequent to the report of the committee of managers. My colleague is seeking to restore some of the commonsense approach which it was suggested in 1988 ought to apply to the provision of a rating opportunity and option for local government. One of the major arguments put forward by the Opposition on that occasion was that the amendments to the Local Government Act contained provisions similar to those in the Highways Act concerning the use or nature of land, whether it was housing, housing of a particular type, vacant land, commercial land, manufacturing land, etc., and that it made a number of alternatives available to local government.

The record will also show that some concern was expressed by local government, subsequent to the event, that the provision offered to them in relation to the use of that other formula has not proved as successful as was originally intended. We do not seek to make changes in that area at this time, but I support my colleague in saying that what is now on offer to the Committee is still very strongly supported by a large number of councils.

New clause inserted.

Clauses 17 to 25 passed.

Clause 26—'Expiation of offences.'

Mr MATTHEW: I move:

Page 8, line 20—Leave out '21' and insert '60'.

I am reliably informed that 60 days is the period allowed for in other Acts, and that by changing 21 days to 60 days the Local Government Act would be more in keeping with other pieces of legislation.

The Hon. M.D. RANN: The effect of this amendment would be to allow 60 days rather than 21 days for the payment of expiable offences under the Local Government Act. It is true that it would make this consistent with other Acts (such as the Dog Control Act, which I am sure most members have followed up quite extensively). However, the idea was rejected after submissions by local government, because, first, given that the Bill provides for a new procedure in which owners must be given 21 days in which to nominate the driver of a vehicle involved in an offence, the total period for payment will be 81 days, unless the owner is notified midway through the 60 days.

In fact, this was the original proposal put to local government but strongly rejected by it because it would provide no mechanism for recovering the motor vehicle search fee. Where the notice to the owner is sent at the end of the expiation period, this cost can be recouped via the late payment fee. Under some legislation providing for 60 days (for example, the Summary Offences Act, Expiation of Offences Act, etc.), it is not possible to expiate after that time, but late expiation is always available under the Local Government Act. Expiation fees are generally higher under the legislation allowing for 60 days. Most expiable offences under the Act involve motor vehicles, so this Bill provides for at least 42 days to pay and effectively longer, up until the court proceedings are actually commenced.

Amendment carried; clause as amended passed.

Clause 27—'Certain prosecutions must be commenced within one year.'

Mr MATTHEW: I move:

Page 8—
Line 44—After 'amended' insert:
(a)
After line 45—Insert:
and
(b) by striking out 'one year' and substituting 'six months'.

These amendments deal with certain prosecutions being commenced within a time limit. The Bill proposes a time limit of one year, and the Opposition believes that it is appropriate in the circumstances that the time limit be reduced to a maximum of only six months.

The Hon. M.D. RANN: This amendment is not supported. Existing section 794c was inserted in 1979, providing that prosecutions for parking offences may be commenced within one year. After the parking regulation had been in force for a while, the customary period of six months within which proceedings for summary offences (such as parking and by-law offences) must be commenced was found not to be long enough satisfactorily to begin proceedings for a percentage of parking offences.

At the time, the Opposition did not oppose its introduction, and the proposed new owner defence provisions in section 789d will add to the time which elapses between the offence and the commencement of any proceedings. Clause 23 of the Bill amends existing section 794c to extend

the ability to commence proceedings within a year to all expiable offences under the Act. So, littering and by-law offences, many of which involve owners of vehicles, will be included.

Amendment negatived; clause passed.

Remaining clauses (28 and 29) and title passed.

Bill read a third time and passed.

ADELAIDE CHILDREN'S HOSPITAL AND QUEEN VICTORIA HOSPITAL (TESTAMENTARY DISPOSITIONS) BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 1694.)

Mr MEIER (Goyder): This is an important Bill. I wish to make it quite clear that I am not the lead speaker in this debate—that will be the member for Adelaide—and I do not have very much to say about this Bill. The situation with hospitals in this State and in this country is of concern to the Opposition and, I would say, to the community at large. Whilst this Bill is fairly specific, it is important at this stage to consider for a moment how our health services generally have not improved over time, particularly since the provision of so-called 'free' health, which when it was first brought in it was argued would lead to better services and would benefit the community generally.

It is quite clear that that has not occurred. I am disappointed because I see more and more examples, particularly in my own electorate, of health care in country areas suffering. Whilst it is recognised that this Bill relates to the Adelaide Children's Hospital and the Queen Victoria Hospital, it is important to put on the record the situation in South Australia and to remind this House continually that, unless the Government takes stock of what it is doing, and unless it puts pressure on the Federal Government, which by and large provides so much of the money for health services, we will suffer.

The shadow Minister of Health, the member for Adelaide, assumed his portfolio earlier this year. He has handled his portfolio exceptionally well and highlighted many of the problems that exist today and, as time progresses, he will identify further the areas that need attention. I will not go into those areas in detail now, but I simply say that the Opposition supports this Bill, and I look forward to hearing the remainder of the debate.

Dr ARMITAGE (Adelaide): The purpose of this Bill is to ensure that the intent of certain wills is carried out in as much as these wills concern the amalgamation of the Adelaide Children's Hospital and the Queen Victoria Hospital. This Bill was examined by a select committee of the Legislative Council. In the report of that select committee, it is stated:

> The committee is satisfied that the Bill is an appropriate measure but certain provisions to protect the intentions of a testator or testatrix need to be included.

I specifically mention that paragraph of the report because of the potential danger of the intent of a will not being adhered to in the letter following the amalgamation of these hospitals into the Adelaide Medical Centre for Women and Children. In particular, I draw the attention of the House to the example of a large bequest specifically designated for research that could be made to the Children's Hospital.

Clearly, it would be the intent of the person making that will that the money was to be used for research. Once that money is bequested to the Adelaide Medical Centre for Women and Children, the intent of the will must continue to be upheld. In other words, in my view, and that of the Liberal Party, that money would have to be spent on research or whatever specific purpose was intended by the testator or testatrix. I say this because there may be the potential for moneys gleaned from the disposal of various bequests to be spent on capital assets, particularly when a new hospital is to be formed by this amalgamation, and I believe that that would be in direct contravention of the intent of this Bill. The Hon. John Burdett, when speaking to this Bill in another place, said:

> Obviously, it is desirable that this Bill should interfere as little as possible with the expressed wishes of people who make their wills.

By those words, the Hon. John Burdett is exemplifying the fact that, whilst we as a Party agree to a bequest being devolved to the Adelaide Medical Centre for Women and Children, it would be in direct contravention of the intent of a will if the money was spent in any way other than as designated.

I implore the Government to look specifically at the way in which the money is to be devolved once it reaches the Adelaide Medical Centre for Women and Children. With that rider, the Liberal Party supports the Bill. It is necessary to clear up facts which could have caused considerable difficulties to estates if this Bill was not passed. As I said, with that rider to ensure that the intent of the person making the will is fully upheld, the Opposition supports the Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this measure which, as the member for Adelaide has indicated, has been the subject of review by a select committee of the other place, this being a hybrid Bill. It is a simple measure which seeks to ensure that testamentary dispositions made to either the Adelaide Children's Hospital Incorporated or the Queen Victoria Hospital incorporated will pass to the new Adelaide Medical Centre for Women and Children.

It is important to bring down this measure so that there is no confusion as a result of the change of function of those two institutions to the amalgamated hospital for women and children and also so that these scarce resources that are intended by beneficiaries to be expended on important works in the new hospital are not frustrated by legal processes or dissipated by way of legal costs.

This measure ensures that the original will of a testator will be applied in accordance with the testator's original intention and that there will be no opportunity to create confusion or to dissipate those resources as a result of this matter not being attended to. It is similar to a previous measure that came before this House in 1986 with respect to bequests made to the work of the Little Sisters of the Poor. Following the dissolution of that institution in South Australia, the Parliament gave effect to those testamentary dispositions in a similar way. I understand that that legislation has proven to be adequate and successful for the purposes intended by the Parliament. I commend this measure to members.

Bill read a second time and taken through its remaining stages.

WRONGS ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 22 November. Page 2200.)

Mr INGERSON (Bragg): The Opposition recognises that after the second reading of this Bill it will be referred to a select committee. A lot of areas in the Bill concern the

Opposition. For example, there is a lot of support in the community for the suggestion that parents should be held responsible for the actions of their children, particularly those under the age of 15 years; but there is also a significant group of people in the community who say it is unfair that parents in some instances should be held responsible for the actions of their children if there was no way that they could be within their control.

There is a fair amount of controversy in that particular area, which is the major area the Bill really sets out to do something about. We recognise that a lot of issues relate to the control of children, and a lot of issues take away the control parents have over their children. Some of those issues have been expressed at great length in this House, and we have criticised the Government at length about some of the changes that have occurred in this area. In principle we support the Bill so that it can go to a select committee. We hope that the committee will be able to modify it and come back with a very practical arrangement as it relates to this very sensitive area of responsibility for children and the responsibility of parents for those children.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this Bill to amend the Wrongs Act which will be referred to a select committee of this House. I think that is an entirely appropriate avenue to deal with the many and varied issues that are associated with this particular measure. Undoubtedly there is concern in our community about juvenile crime and anti-social behaviour, in particular on the part of young people. From time to time there are also calls for perhaps simplistic solutions to these problems, whether they be by way of tougher penalties or more discipline at home, at school or in the community generally and the exposure of young people to ways in which they can achieve a greater degree of responsibility for their own actions.

There is no doubt that both in law and in fact parents have responsibilities and obligations towards their children; that has always been accepted and is established at law and by way of social practice. It is also true that children have responsibilities and obligations not only to their parents but also to the broader community. We all have a responsibility to conduct our affairs and live our lives in an orderly and law-abiding manner.

One role of the criminal law and of our community and society is to translate prevailing community standards into legislation. It is the means by which society declares what it believes to be right and wrong—what is acceptable behaviour and what is not. The Government believes that the principle of parental responsibility is right, and the Bill seeks to have Parliament assert that that principle is right and just. Following the vote after my second reading contribution members of Parliament, members of the public and particular interest groups in our community which have firm views on this matter, will have the opportunity, through the medium of the select committee that it is intended to establish, to determine how that principle of parental responsibility ought to be given effect in the context of this legislation.

There is no doubt that a feature of the juvenile justice system is that juveniles are considered to be accountable for their actions. Similarly there is no question that parents should take their responsibilities towards their children seriously and make every reasonable attempt to prevent those children in their care from offending and causing damage, harm and upset in our community. This Bill seeks to find a way of ensuring that that obligation on the part of parents is fulfilled.

The Children's Protection and Young Offenders Act working party recommended this measure in 1988. Since then a number of jurisdictions have amended their legislation to place some measure of responsibility on the parents of young offenders. The select committee will look obviously at these measures in the other jurisdictions in this country and elsewhere.

The Children's Protection and Young Offenders Act has already been amended to provide for community service orders by the Children's Court as from January 1991. This will allow the court to require juvenile offenders, for example, to take certain courses of action that previously have not been available to the court by way of the sentencing process. For example, one that is commonly discussed in the community is for perpetrators of graffiti in our community to in fact clean up that graffiti and carry out other community service-type orders. The Bill also addresses the principle of accepting responsibility for the consequences of one's action.

Probably many members of this place would have wished to speak in this debate if the matter were not proceeding to a select committee, but those members will have an opportunity through the select committee process or when the matter returns to this place to make their contribution and to invite other members of the community to make a contribution to the committee so that this measure can come back to us the better for that process and be in a form which can eventually take its place in the criminal law of this State. This measure has been before Parliament on two occasions previously and, unfortunately, has not passed to this time. No doubt the select committee will advertise widely in the community and I am sure many people will wish to make a contribution. I commend this matter to members for their attention during the forthcoming recess.

Bill read a second time and referred to a select committee consisting of the Hon. E.R. Goldsworthy, Mr Groom, Mrs Hutchison and Messrs McKee and Matthew; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on Thursday 21 March 1991.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 1265.)

Mr INGERSON (Bragg): The Evidence Act amendments do several principal things: first, regulations and proclamations will be recognised as evidence before the courts; there is an amendment to the best evidence rule relating specifically to the copying of documents; a provision will enable evidence to be given in a State, recognising a person's rights in the State in which the evidence is given; and, finally, in relation to suppression orders, an alleged victim of a crime is to be recognised also.

The Opposition supports the amendment in respect of the regulations and proclamations. Ever since I have been in Parliament I have understood that regulations, proclamations and any explanation of a Bill were considered to be part of evidence. It is unusual that we now find that this may be technically invalid. We believe it is a very sensible amendment, and it has the total support of the Opposition.

Concerning the best evidence rule, the Bill's modification really deals with the copying of an original document. This amendment is supported strongly by the Attorney-General and, consequently, the Government, but the Opposition has

a number of concerns in recognising the difference between a copy, albeit a legitimate copy, and an original document. The removal of this original document requirement has been put before Parliament as a way to reduce the costs of court proceedings. In particular, it has been put forward by the State Government Insurance Commission because, in its third party bodily injury claims, a significant amount of documentation is required in any court case.

In the second reading explanation, it is noted that SGIC wishes to change all its existing hard copy records to be covered by computer records using optical character reading instruments. This will enable SGIC and, for that matter, any other company registered under this new Act, to destroy all their hard copy and to use some electronic or optical character reading instrument to record that particular document. SGIC has argued that, if we do not amend the Evidence Act, it will be unable to use these very good copies as admissible evidence before the courts. With the changes in technology, we would recognise that this sort of move had to happen at some stage, and that Parliament would be faced with this very important and dramatic change in technical copying. In principle, the Opposition supports this change, but we would like the Minister to consider some of our concerns and perhaps provide us with some answers, if possible.

[*Sitting suspended from 6 to 7.30 p.m.*]

Mr INGERSON: Prior to the dinner break I was talking about the concerns associated with removing hard copy from the evidence and the argument that SGIC had put forward in the hope that Parliament would recognise that these new optical character reading instruments would enable everybody to replace hard copy in the courts. Some concerns have been expressed to us, the first of which relates to the correct copying of all markings and signatures. Whilst I recognise that some of these copies cannot be absolutely precise, it is really a matter as to what the courts will accept. Do they want an absolutely perfect copy of an original hard copy or will they accept some modifications to that? There is no statement in this Bill about any variance to that and we are concerned that, whilst we may see no problems here in the Parliament, some may arise when the courts come to make decisions on these documents in relation to evidence as to what level of copying ability they will accept.

What is the question in relation to fraud? If a hard copy is no longer available to the courts, how will we guarantee that the signature on the document is in fact a legitimate, original signature? Of course, if a fraud has been perpetrated and an incorrect signature has been fraudulently put there, how will that be accepted in terms of the document? The question of the quality of equipment that will be used in obtaining these documents arises; there is no mention in the Bill as to standards that are likely to be set in obtaining this photographic copy from the original, and it seems fairly important that we should have some comment from the Minister in relation to the quality of equipment because, whilst we can accept that SGIC as our major insurer in the State may be able to afford top grade equipment, the reality of this Bill is that it will have a widespread effect on every constituent, and they will obviously want to admit copies in the court.

The quality of the copy or the equipment to be used will not always be controlled. So, that is an area in which there is some concern. In relation to the reproduction of the whole original document, what happens if fingermarks, markings generally, and writings in pencil in the margins of the document are not picked up from the original copy? Will this be accepted? In other words, to what extent will these documents need to be as near to perfect as possible before they are accepted by the court?

There is a question that this whole process in itself should be recognised by regulation, and I note that the Government has accepted a change in the Bill as it comes from the other place that no longer requires only the Attorney-General to make the decision about the type of equipment: it has now been accepted that it should be done by regulation. That is an area which we believe is very important. There is no doubt that Parliament itself should be involved and should discuss any major technological changes such as this. Whilst obviously we would not want to question the integrity of the Attorney, it is important that Parliament should be totally involved in this type of change. We will see some massive technological changes in the next 10 to 20 years and the Parliament should be part of those changes and should recognise them through the Bills and the Acts that we develop.

One of the questions that was put to me by a small operator was how this digitalised image equipment works, and I thought that that might be a question we could ask of the Minister, because it seems to me that there were a lot of words. The Minister might be able to advise us how this equipment will work and what sort of copying reproduction percentage it is capable of. What are the guarantees that a reliable copy has been made before the original is destroyed? That in itself is a very important issue because, once the original has gone, if we do not have a precise copy, whether it be in a photographic sense or whether it be digitalised on a computer, we still have this difficulty of following up any lost documents. What is the back-up requirement for the computer in relation to these photocopies? Is the system similarly used in the rest of the world? In other words, is the system, particularly relating to SGIC, a widely used system and can we be guaranteed as a Parliament that, if we accept it for the SGIC and it flows through to the rest of the community, it is a system we would want to endorse?

Whilst my last few comments are really strictly related to SGIC or to any managers who would want to go down that track, it seems to me it is important that Parliament ask these questions of the Minister before agreeing to the Bill. Must the person certifying the copy have any experience in validating this new procedure? Whilst that may seem an unusual question to ask, I point out that some of this equipment is quite technical and would need a fair amount of experience in its use. So, that was another question that has been put to me in discussing this Bill.

The third area to be covered by the Bill relates to evidence that is taken outside this State to be used in the courts of our State and the reverse, where evidence may be collected within our State and used in a court outside. According to the Commonwealth Attorney, there is some question whether the existing Evidence Act covers a person whose evidence is taken in South Australia. If we have different laws from Queensland or any country in which people may be required to give evidence, they are protected under our own State law, so the next part of the Bill provides that, if a person has rights before the court in their own country, those same rights will be extended to them in our States and in the Commonwealth. Article 11 of the Hague Convention requires a contracting State to commit a person whose evidence has been taken in Australia to refuse to give evidence in so far as he or she has a privilege or duty to refuse to give the evidence under the law of the State of origin of the request for taking the evidence.

The article permits the privilege or duty to refuse to give the evidence arising under the law of the State of origin of the request to be specified in the letter of request or at the instance of the requesting authority—such as the South Australian court—to be authorised and confirmed to it by the requesting authority. As I said earlier, the Commonwealth Attorney was concerned that the law did not reflect this position and this Bill consequently puts that beyond doubt by amending section 59f of this Act. The object is to make clear that the person cannot be compelled to give evidence if that person could not be compelled to give that evidence in proceedings in the State of origin of the request.

Finally, there is a minor but very important amendment in relation to suppression orders. Currently, the court is able to make a supression order when satisfied that an order would prevent undue hardship to a victim of crime. This particular amendment changes the wording slightly to read 'an alleged victim of crime'. That very small but important change recognises that many people who are alleged victims of crime need to be protected and, consequently, the Opposition supports that minor change and the Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this measure, which amends the Evidence Act in a number of ways. The honourable member raised a series of questions, but I will not answer them in detail because many of them were answered in detail in another place, on my reading of *Hansard*. The Attorney-General's reply is on the record and it would add little if I simply repeated what he said.

I advise the House that I do not have precise specifications and details of the instruments to which the Attorney-General referred with respect to optical reading instruments, and so on. I will be pleased to obtain some details if that will assist the honourable member and any other members who are interested in that particular area of the application of this law.

The honourable member also raised some concerns about the proposal that these processes or instruments be approved by way of a notice in the *Government Gazette* on instruction from the Attorney-General. I note from the debate in the other place that some concern was raised about this process and it was suggested that this should be a matter solely for Parliament. It is the view of the Government that that would be a cumbersome approach to dealing with this particular issue. Technology changes rapidly and the proper administration of justice may not be well served by adopting that approach.

It is of interest to note that, for many years under legislation in Victoria, Western Australia, New South Wales and Queensland, Attorneys-General have approved of the machinery and technology in this way. So, a very strong precedent has been set in this country and experience shows that the course of action that the Government proposes with this measure is acceptable and appropriate and is in the best interests of the proper administration of justice in our courts.

As I said, the honourable member raised a series of other issues and I can only say that they have been answered in considerable detail in the other place. I will not detain the House this evening by repeating information that is on the record. I commend this measure to the House.

Bill read a second time.

Mr S.G. EVANS (Davenport): I move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider new clauses relating to prohibition on publication of identity and restriction on reporting proceedings.

In Committee.

Clauses 1 to 6 passed.

New clause 6a—'Interpretation.'

Mr S.G. EVANS: I move:

Page 3, after line 4—Insert new clause as follows:

6a. Section 68 of the principal Act is amended by inserting after the definition of 'news media' the following definition:

'newspaper' means any newspaper, journal, magazine or other publication that is published daily or at periodic intervals:.

If I lose this amendment, the rest of my amendments will also fail. Would it be appropriate for me to explain all the amendments at this stage?

The CHAIRMAN: I am sure that it would suit the convenience of the Committee for the honourable member to canvass the whole question on this test case on the basis that he will not proceed with the other amendments in the event that it is not proved.

Mr S.G. EVANS: Members will recall that, before the last election, Parliament changed the law relating to suppression orders to make it more difficult to suppress people's names or to identify them when they are accused of an offence. Many of us from both sides of Parliament followed that course against our own conscience. We did it because one section of the news media, in particular, pointed a gun at our head and said that, if we did not make it easier for the news media to be able to publish names, we would get a rough trot in the election campaign. Strange as it may seem, both Parties fell for it.

I do not intend to identify individuals. We all know what happened and, in a way, that was a disgrace. However, it just shows the power the media really have in this area—that before an election, political Parties face such a threat and have to bend to it. Although it was subtle, the message was clear. When I challenged the decision and asked why the measure was to be brought in, commenting that it was different from what had been said in the corridors and from what we wanted to achieve, a member from a different side of politics from mine said that we have to be pragmatic. That was the same on both sides. It is not a reflection on any individual, except those in the media who used it.

I want the Committee to stop and think of the person who is accused of an offence. That person might be a schoolteacher, and the case might take 12 months to two years to get to court. The person's name is published. He might have a wife and children, who go to a different school. Can that teacher go back into the classroom? Of course not, because of the ridicule and the attitude of some parents. The kids would cop it at school, with all the criticism and allegation against the parent concerning the offence that he is alleged to have committed.

That individual has no chance of protecting himself or of trying to get the case quickly before the court. In some cases, these people are ruined financially. Such an accused person might wonder whether it is worth staying on earth or whether it is better to take his own life. As members of Parliament, we know that, if we support a proposition that reverses the process of suppression, we will not close the courts.

The courts are still open for those who want to go along and listen, who have a keen interest or who just want to be *quidnuncs*. That is still open to them. The intention of my amendment is to reverse the whole process; to ensure that everyone's name and identification are suppressed until such time as they are found guilty. On this occasion I know that I am unlikely to win the argument, but I ask all members, whether Independent Labor, Labor, Democrat, Liberal or National Party, to think seriously about this.

Should we be afraid of the media? If we all stick together, they can do nothing. If we all believe that human beings

are not guilty until proven guilty, we should support such a proposition. I will quote some examples, although I will not name people. There is the case of a man alleged to have interfered with a 12 year old girl. His name was published recently, which made a great story for the media. Subsequently, the Crown did not have enough evidence to go on with the case, and he was released. I am not saying whether this person is innocent, nor is that what the court sets out to do. The court only finds you guilty or not guilty, but that person is named for life, while he may well be completely innocent.

At the moment in the Eastern States there is the case of a minister of religion whose name has been published all over Australia—although, of course, my proposition relates only to South Australia. This man has no chance of coming before the court for a long time. He is one of the most brilliant men I have known, who, until now, has worked for charity. He does not belong to the same faith as I do, although I have heard him speak several times. But he is condemned. Only those who are true Christians within his faith will stay beside him through this most terrible period through which he lives.

There is the case of an 80 year old man who recently was charged with an offence against a young girl. Subsequently, the Crown did not proceed with the case, yet his name has been published. Again, that is great for the media. We all understand what I am talking about. Related to the amendment I have moved are certain other matters. Section 69a of the principal Act deals with the publication of material relating to criminal proceedings. It makes it an offence to publish, by newspaper, radio or television, material tending to identify a person against whom proceedings for an offence have been taken (or are about to be taken) or tending to identify a person alleged in proceedings to be the victim of an offence.

Material tending to identify a person includes their name, address, race, sex or occupation. I intend that none of that can be used in any publication. Proceedings include the laying of a charge. The offence applies to South Australian proceedings and those taken (or to be taken) elsewhere in Australia, where the material concerned cannot be published under the law applying in that other part of Australia. The maximum penalty is a fine of $10 000 or imprisonment for one year, or both.

I do not think that that is a severe penalty for such an offence, and I have included the proposition that, if it is an offence in another State to publish the information, we should honour that State's law. I believe that in Australia we will eventually go down that path. Section 69aa provides a number of exemptions to this prohibition on publication, and material tending to identify a person against whom proceedings for an offence have been (or are about to be) taken can be published if both that person and the alleged victim consent to the publication.

Material tending to identify an offender can also be published after that person has been convicted of an offence. Material tending to identify an alleged victim can be published if the alleged victim consents. No consent can be obtained for the purposes of this section from an alleged victim who is a child. Clearly, that is understood. The other major exception to the prohibition on publication is where the publication of material tending to identify an alleged offender or victim is authorised by a court. Such authorisation may be granted by a court on its own initiative or on the application of the police.

Before granting an authorisation, a court must be satisfied that publication is in the public interest and must give an opportunity to be heard to a number of people, including the person whose identity might be revealed, and a representative of a newspaper or a radio or television station. Any authorisation granted by a court must specify the material that can be published, and must identify the person who can publish it. An authorisation can be subject to conditions. An appeal lies against a decision to grant or refuse an authorisation and against any conditions attached to that authorisation.

Those parties who had to be given an opportunity to be heard before the primary court can commence or be heard on such an appeal, as can interested parties or a newspaper, radio or television representative, who did not appear before the primary court but who can satisfy the appellate court that their non-appearance was not due to a lack of proper diligence.

A court must report to the Attorney-General on any authorisation that it grants, setting out the terms of that authorisation, the name of the person whose identity might be disclosed and a summary of the reasons for granting it. I want to have that included later, if we reach that point.

Section 699 empowers a court to forbid the publication of evidence or of material tending to identify a party or witness to, or person alluded to in the course of proceedings. The court can make such an order where it is satisfied that it is necessary to prevent prejudice to the proper administration of justice or to prevent undue hardship to a victim of crime as a witness or potential witness (other than a party) in civil or criminal proceedings. This amendment inserts a new subsection (1) *(a)* which excludes the operation of this section where the publication of the material concerned is prohibited, under proposed new section 69aa.

I do not think that I need go through the others. It is quite clear that I intend that the court can reverse the process and allow the publication of names where the police or some person in the media believe that it is in the public interest, but also if the victim—if there is a victim—and the accused both agree that it can be published and the accused would make that application for their own benefit, believing that it is in their interest to have their name published. I hope that every member thinks seriously about the matter, and that we make the move before being within six or 12 months of an election.

I ask the Committee to consider seriously what I am saying, because I have no doubt as to why we ended with the law as it is. I think that it is very bad for Parliament to have that threat against us as individuals and as Parties—and that is no reflection on the Parliament. Parliament is governed only by its members. In putting the first amendment as a test of the overall proposition, I put it to the Committee to reverse the whole process of suppression orders, so that every name, race, sex, address and profession is suppressed until such time as a person is found guilty.

I believe that that will ensure much more justice in the system. I want members to take particular note of a case in which people have to wait for one or two years before the case is heard. How can people still operate in their profession or workplace or amongst their own friends? The inner circle of friends may stay intact, but the outer circle will drift away. There is also a financial burden. I hope that members will consider the matter and support the amendment and, if not, that the Minister will make some response to indicate his Party's attitude in future.

The Hon. G.J. CRAFTER: Clearly, the honourable member advances this amendment out of concern for individual accused persons who, in his view, have been adversely affected by the application of the law as it stands. However, in opposing these amendments, I argue that the broader community interest must dominate our consideration of

this issue. The Government opposes the honourable member's amendments on the ground that the power of the courts to suppress the identity of an accused or an alleged victim was dealt with very thoroughly—as the honourable member mentioned in his speech—in consideration of the Evidence Act Amendment Bill of 1989.

In considering the options faced by the Government at the time when this matter was last considered by this House—and, indeed, this same debate occurred—the major concern was to eliminate the unsatisfactory aspects of the then law. The law was unsatisfactory in that it appeared to operate inconsistently, capriciously or in a biased fashion. The name of a medical practitioner or lawyer and such like appears to have been more readily suppressed than that of a clerk or a labourer. This is no fault of the judiciary, as the discretion to suppress is so broad that the appearance of inconsistency is inevitable.

Suppression orders gave rise to unnecessary gossip and rumour—as has been referred to by the honourable member—orders were made in inappropriate cases, and the terms of some suppression orders were too wide. Suppressed names and evidence, while not obtainable in South Australia, were freely circulated in other States. I have seen some varying examples of this over the years. Critics of the 1989 amendments asserted that the answer was to prohibit the publication of a person's name until his or her guilt was proved beyond a reasonable doubt or at least until he or she was committed for trial.

That is the position advanced again this evening by the honourable member. Unless the ban on publishing the identity of an alleged offender is fixed at an earlier time in the continuum, the ban will also have the opportunity to operate capriciously, as reported by the Australian Law Reform Commission. In its report on contempt, paragraph 304 states:

> ... often the time when a warrant is issued or a suspect is arrested is the very time when a case involving a serious crime is most in the public eye. The circumstances of the arrest of prime suspects for the murder of Anita Cobby in Sydney in 1986 provide a good example. The development of satellite technology and other electronic techniques giving immediacy to sensational police arrests is likely to increase, if anything, this tendency of large segments of the media to give special prominence to the time when 'the police get their man' (or woman).

It would have been bizarre, for example, if the law were to provide that when John Friedrich was arrested his name could not be published. I have not been able to find any common law jurisdiction that has a blanket prohibition on the publication of the names of those accused of crimes. Indeed, in the United Kingdom the opposite is true; one of the few things that can be published about a committal hearing is the names, addresses and occupations of parties and witnesses. Presumably in the United Kingdom, as the identity of the accused is known at all times, the suppression of committal evidence occurs in order to ensure no prejudice to a fair trial. The law can already handle this problem through the power of the courts to punish for contempt.

So, what is the alleged justification for a blanket ban on reporting names? It is the potential harm that can be done to a person and because no person shall suffer penalty of any sort until convicted. The publication of names is said to conflict with the principle that a person is innocent until proven guilty. However, in only looking at the effect on the alleged offender, the wider interests of the community are in danger of being totally ignored.

I think that the community has a right to know, for example, that the head of the Drug Squad has been charged with a serious drug-related offence. Certainly, the fact that Mr Moyse's name was suppressed for 18 months was most undesirable and contrary to the public interest. The rights of others in the community to be protected from false rumours and innuendo need also to be considered. If the name of a senior police officer, a leading banker or a prominent lawyer is suppressed, what about the rights of other police officers, bankers and lawyers? This problem is exacerbated in a smaller community where the number in these categories may be quite limited. Mr Justice Cox in *Roget & Ors v Flavel* (1987) 47 SASR 402 specifically recognised that section 69a did not prohibit unedifying gossip. Mr Baker, the Editor of the Adelaide *News*, said:

> When you have serious accusations tried in camera it is absolutely inevitable that the rumour mills will begin to grind and the reputations of accused men and women will be traduced.

Another quotation from the Australian Law Reform Commission's report on contempt is, I believe, apposite. In that report it is stated:

> Reporting of proceedings held in open court acts as a corrective to fabrication, gossip or rumour emanating from those few people who actually attend the proceedings and to imaginative invention on the part of those who do not.

So, the 1989 amendments tightened up the grounds upon which a court could authorise a suppression order. There is now an assurance that any decision to make a suppression order will not be taken lightly. The court must now recognise the public interest in publication of the relevant material and the right of the news media to publish it. For the first time in relevant Australian legislation, the right of the news media to publish relevant material is to be accorded full recognition by the courts.

The 1989 Act embodies a conscious policy which declares the right of the news media to publish relevant material. The courts are only able to make suppression orders if they are satisfied that grounds exist which justify subordinating the right of the news media to publish the relevant material. The Government recognises that publication of the name of the accused may result in possible prejudice to the individual; however, on balance, the Government believes that it is better to err on the side of freedom of speech and publication and the right of the news media to convey relevant information to the public.

For those reasons, the Government opposes this amendment. This matter has been canvassed previously in this House in very recent times, and it is the Government's view that the amendments passed by this Parliament last year are serving the interests of the community well and should not be disturbed at this time.

Mr S.G. EVANS: I am disappointed with the Minister's response. I am not disappointed with the fact that the Government said it would not support my amendments—I expected that, because it is too soon after the event to admit that we were bludgeoned into a decision—but I think that there would have been some merit in saying that individuals are important. The State—the collective body of the people of this State—is also important, but individuals have a lot going against them. For instance, they have to find finance to fight a case if a charge is laid in a court. If they are poor, they might get legal aid; if they are rich, they can employ the best lawyers available; and if they belong to the middle income group, they may face bankruptcy. That is the first point—they have to face that hurdle.

The Minister said that if we allow people's names to be suppressed until they are found guilty, innocent people, such as fellow travellers in the same profession (policemen, doctors and lawyers), may also be affected. They will only be affected if the name is talked about, but, if details of the sex, address, profession and name are banned, it becomes a person, and the identification of that person by address, profession, political affiliation or name will not be made public as in the case of the Drug Squad or any other incident. What if we do affect some honest people? Are we

saying that the person who is alleged to have committed the crime (the accused) is dishonest? Are we saying that that person is definitely guilty?

Without a shadow of a doubt that is what we are saying with that assessment. The Minister also mentioned unnecessary gossip. You can be innocent and wait 18 months to get before a court, but the gossip is on. Is the Minister suggesting that that is necessary gossip, that it is acceptable? The accused might have one of their family at university at a critical stage of study or sitting for exams, and suddenly there is a full blast on the front page that a member of that person's family is accused of some crime. There is no chance to stand up and say, 'I am not guilty, here is the evidence.' As soon as they are accused, that fact is published. They may not have even briefed their lawyer, may not have been before the court for the committal hearing and they may not have even been through the door of the court—and we say it is all right to publish their identity in total.

Where is the public interest? Is that justice? It is possible in this day and age that certain people who have nothing in the world can make an accusation against someone to get that person's name in the paper to destroy them, all the time knowing that they are innocent and knowing that the least that can happen to them is to be accused of libel and sued for something they do not have. Yet, the accused has to front up and find money for court costs to fight the allegation. Let no-one say that in this society there is no such thing as a set-up. We all know that there is—those who do not know that are not very observant about what happens in society. I did not expect the Minister to stand up and say that the Government will change its mind, or that the Government thinks that it went the wrong way in 1989, but at least I expected a little bit of compassion.

The courts are still open; we are not closing the courts. People who want to can go to the court and listen to the proceedings, but they will not be able to publish the accused's identity; what they can do is publish the details of the case. I hope that the Minister is not suggesting that newspapers, television or radio stations publish or broadcast in the public interest—they publish or broadcast those things that are gruesome or gory, or accuse, denigrate or destroy individuals because it sells more papers or gets more time on radio and television and a larger audience so that they can get higher ratings and, thereby, more advertising. That is the truth of it, and each and every one of us knows it. If a person is found guilty, there is the opporunity to take up five pages of the paper and repeat all the evidence that was given; there is nothing to stop that.

In the early days when English law first changed so that there was difficulty in suppressing names—and the Minister has said that in England there is virtually no suppression—people could shift from one part of the world to another and start again. I pick up the point made by the Minister about labourers and clerks—the poorer people in the workforce, not the professionals—who are quite often hit the worst because they cannot sell up and shift, even in this country. Today more people read newspapers and have the ability to read.

If we go back 100 years, we would find that many people never read the newspapers. There was no wireless or television to bring the news into their homes. Fifty years ago you might have read about Mrs Smith of Mount Gambier doing something, but you would never know Mrs Smith because there would be a rough photograph in the paper to make her look as wicked as possible. The papers always used the worst photograph they could get if one was accused of a crime; but, if you did something good (and usually that is given very little publicity), the best photograph would be used. But now on television your image is shown clearly and on many occasions right throughout the State, until your face is identified in every person's mind who watches that television station—and in the mind of most people you are guilty.

When a person is found innocent there is nothing on television or on the radio, and no photograph on the front page; it is buried on page 14 of the *Advertiser* or on the last page of the *News*—nearly in the death notices, and virtually the accusation is a death sentence. There is a little paragraph, and we condone it as a Parliament—yet we say that we represent justice. I challenge anyone to say that that is justice. The public interest is protected with my amendment because, if the court is convinced, for instance in the Friedrich case, as the Minister mentioned, or any other case, that in the public interest the name should be published, it shall be published. If we cannot trust the courts to make that decision in the public interest, why do we trust the courts to make the decision about penalty in the public interest?

I know—and I knew before tonight—that my amendment will not be successful. But, it is the beginning of a long path, and I will not stop. I have believed it ever since I came here in 1968. We were within touch of doing it in 1969, but someone in the news media cottoned on to it and decided to cut off the path just before the election and make us all duck for cover. They can do what they like to me, but I will not duck—not again—because I believe that it is unjust for people who are not guilty, and proven to be not guilty and sometimes not even taken before the court to face the charge, to have their name published and, in essence, to be sold by the media as guilty.

New clause negatived.

Mr S.G. EVANS: Mr Chairman, as my other amendments are consequential on that vote I will not proceed with them.

Remaining clauses (7 and 8) and title passed.

Bill read a third time and passed.

[Sitting suspended from 8.20 to 9.20 p.m.]

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Returned from the Legislative Council with an amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL

The Legislative Council intimated that it had agreed to the House of Assembly's amendments Nos 1 to 8 and had disagreed to amendments Nos 9 and 10.

Consideration in Committee.

The Hon. M.D. RANN: I move:

That the House of Assembly insist on its amendments Nos 9 and 10, to which the Legislative Council had disagreed.

The Hon. B.C. EASTICK: The Opposition concurs with the Government's position and congratulates it on its attitude.

Motion carried.

The Hon. D.J. HOPGOOD (Deputy Premier): With some reluctance, I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

LOCAL GOVERNMENT ACT AMENDMENT BILL

The Legislative Council requested a conference, at which it would be represented by five managers, on the House of Assembly's amendments to which it had disagreed.

The House of Assembly agreed to a conference, to be held in the House of Assembly conference room at 10 a.m. on Wednesday 12 December, at which it would be represented by Messrs Eastick, M.J. Evans, Matthew and Rann.

ADJOURNMENT

At 10.21 p.m. the House adjourned until Wednesday 12 December at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 11 December 1990

QUESTIONS ON NOTICE

GOVERNMENT MOTOR VEHICLES

196. **Mr BECKER (Hanson)** asked the Minister of Transport:

1. What Government business was the driver of the vehicle registered UQZ 159 carrying out on Saturday 8 September 1990 at a shopping centre in the Fussell Place, Alberton, vicinity?

2. Who was the female passenger who alighted from the vehicle to go into a shop?

3. Is the driver of this vehicle authorised to carry passengers as, in this instance, a woman and child?

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

1. The vehicle is operated by the Department for Family and Community Services and is allocated to the Metropolitan Aboriginal Youth Team, Hindmarsh. The driver of the vehicle on the date in question was an Intensive Neighbourhood Care Supervisor who was rostered 'on call' to respond to emergencies. The employee was called out to visit one of the families in the Intensive Neighbourhood Care Scheme and legitimately used the Government vehicle for that purpose.

2. The female passenger was a member of the employee's family.

3. The presence of the employee's family members in the car was not authorised and it was not appropriate for him to be visiting the shopping centre in these circumstances. He has therefore been subject to disciplinary action within the department.

SECURING THE FUTURE

241. **Mr D.S. BAKER (Leader of the Opposition)** asked the Premier: What specific action has been taken to implement the commitment made in the October 1989 document *Securing the Future* that the Government would work with the Federal Airports Corporation to develop a marketing strategy for Adelaide Airport?

The Hon. J.C. BANNON: The Government through the Department of Industry, Trade and Technology has joined with the Federal Airports Corporation to further develop and implement a strategy to market Adelaide Airport. The Federal Airports Corporation General Manager, Adelaide, has joined the newly formed Air Services Development Group. To complement this group, the Department of Industry, Trade and Technology has engaged an aviation specialist who has been working directly with the Federal Airports Corporation and airline industry in the development of the marketing strategy. The Federal Airports Corporation and the Department of Industry, Trade and Technology will embark on a major program of Airport/State marketing.

It is worth noting that, as a result of the activities of the previous Air Access Group and submissions developed in conjunction with the Federal Airports Corporation, Tourism South Australia and Department of Industry, Trade and Technology, Cathay Pacific has won rights to serve Adelaide from April next year. Negotiations are continuing to ensure Cathay takes up these rights by November 1991.

DEPARTMENTAL DISCIPLINE

276. **Mr D.S. BAKER (Leader of the Opposition)** asked the Minister of Labour: In relation to the reference in the annual report of the Department of Personnel and Industrial Relations that nine agencies invoked disciplinary procedures in 1989-90 involving 21 employees, for each disciplinary procedure, what was the agency involved, what was the reason for the disciplinary procedure and what penalty was imposed?

The Hon. R.J. GREGORY: The reply is as follows:

DISCIPLINARY PROCEDURES INVOKED IN 1989-90

Agency	Reasons for Invoking Disciplinary Procedure	Penalty Imposed
Department of Correctional Services	Misconduct on duty	Fined $750
Department of Correctional Services	Misconduct in private capacity	Counselled
Department of Correctional Services	Misconduct—criminal offence	Fined by court (no further disciplinary action)
Department of Correctional Services	Misconduct—criminal offence	Suspended from duty with pay pending trial
Education Department	Misues of petrol card	Transferred to another department (arrangements have been made for restitution of the value of petrol obtained)
Department of Environment and Planning	Absent without approval	Dismissed
Department of Environment and Planning	Unsatisfactory work performance	Appointment terminated
Department of Environment and Planning	Unsatisfactory work performance	Probationary appointment terminated
Department of Environment and Planning	Unsatisfactory work performance	Probationary appointment terminated
Department for Family and Community Services	Harbouring an offender and false declaration	Investigation continuing
Department for Family and Community Services	Misappropriation of money	Dismissed
Department for Family and Community Services	Harbouring an offender and store-room breaking	Suspended without pay pending outcome of court action
Department for Family and Community Services	Store-room breaking	Action abandoned after police withdrew charges
Office of Multicultural and Ethnic Affairs	Misappropriation of other employee's money (The employee had solicited money from fellow employees for a specific purpose and had not applied the money for that purpose)	Fined $300
Department of Personnel and Industrial Relations	Unauthorised disclosure of information	Action suspended pending result of legal challenge

Agency	Reasons for Invoking Disciplinary Procedure	Penalty Imposed
Department of Recreation and Sport	Unauthorised outside employment	Reprimand
Department of Recreation and Sport	Unauthorised outside employment	Reprimand
Department of Road Transport	Improper conduct	Reprimand
State Services Department	Improper conduct	Reprimand
State Services Department	Violation of co-workers' property	Counselled
State Services Department	Violation of co-workers' property	Counselled

SCHOOL PAINTING

286. **Mr BECKER (Hanson)** asked the Minister of Housing and Construction: How many schools in the past three years have not had their painting completed in the year commenced and how many have not had painting work satisfactorily completed at all?

The Hon. M.K. MAYES: In 1989-90 a total of 469 painting and repair projects were undertaken. Information for the previous two years could not be readily retrieved at this time. All projects were inspected and satisfactorily completed. The completion of painting projects has no relationship with either calendar, school or financial years.

GOVERNMENT MOTOR VEHICLES

290. **Mr BECKER (Hanson)** asked the Minister of Transport: What Government business was the driver of vehicle registered UQR 023 carrying out at 4 p.m. on Saturday 20 October at Pets World, Grange Road, Welland, and was the male passenger authorised to travel in the vehicle?

The Hon. FRANK BLEVINS: Vehicle registration number UQR 023 is owned by State Fleet and leased out on long-term hire to the Intellectually Disabled Services Council. The driver had been authorised to use the vehicle at the time mentioned and under normal circumstances would have accompanied a male with an intellectual disability to Pets World as part of a program which enables people with disabilities to access community facilities.

However, on this occasion, the client had cancelled his regular outing and was not accompanying the worker at this point. The male who was in the vehicle was not an authorised passenger. Appropriate action has been taken in respect of the officer. The council has been vigilant in constantly informing staff of their obligations in using Government vehicles, and regrets this incident which unfortunately reflects on the otherwise legitimate use of vehicles for client purposes.

SICK LEAVE

299. **Mr BECKER (Hanson)** asked the Minister of Labour:

1. What action has the Government taken to reduce the amount of sick leave taken by Government employees as promised during the November 1989 election campaign?

2. Has the number of sick days been reduced and, if so, in which departments/authorities and by how much?

3. What is the estimated cost of paternity leave per annum for State employees?

4. What action has the Government taken to abolish wage differentials between men and women?

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

1. To focus on the amount of sick leave taken by Government employees is to misconstrue the November 1989 election campaign promise. The industrial relations policy issued by the Government during that campaign refers to a 'need for objective analysis of the various causes of work absence to see if programs can be put in place to supplement existing programs and policies within the areas of occupational health and safety and public health'. The emphasis of the policy is on the causes of work absence across all workplaces not merely the incidence of sick leave taken by Government employees.

The Government is committed to inquire into this general area of avoidable work absence with a view to identifying additional measures which might be taken to assist all workers to fulfil their family and other responsibilities without absenting themselves from work. Such measures might include flexible work arrangements to care for sick children or dependent relatives, work-based child-care or the provision of legal, financial, medical or social services at the workplace. Officers of the Department of Labour are engaged in gathering information on a wide range of measures which have been successfully implemented in companies and public agencies in Australia and overseas which might be components of a practical and comprehensive Workplace Supports Strategy.

The recent Conference on Absenteeism and Labour Turnover convened by the Centre for Industrial Relations and Labour Studies at the University of Melbourne, at which Senator Peter Cook spoke of the 'silent strike', was one source of such ideas and it is expected that the Family and Work Forum proposed for early next year will be another.

The inquiry into this general area, then, is ongoing research into positive possibilities for reducing avoidable absences from work in the future, not merely an inquiry into the amount of sick leave which Government employees have taken in the past.

Nevertheless, the Government and the public sector are working on a number of specific initiatives which should produce a more motivated, enthusiastic workforce and should lead to reduced sick leave. These include:

redesign of jobs, commencing with CO-1 jobs across the public sector, to increase work variety and make better use of people's skills;

redesign of classification systems as part of the award restructuring process to enable people to become more multi-skilled and to be recognised without having to be appointed to supervisory positions;

reduction of management hierarchies and assignment of greater authority to people in all parts of organisations to make decisions about their jobs;

specific attention to the roles and skills training of first line managers commencing with pilot programs in Education, Health and State Services;

putting the overall 'sick leave system' on the agenda with unions as part of the structural efficiency principle discussions; and

major reviews in some areas such as hospitals, where sick leave levels appear high.

All of these intiatives are consistent with good management practice in both the public and private sectors. In addition, the Department of Personnel and Industrial Relations has made a module available to managers as part of the AUSTPAY system to enable them to monitor sick leave and to

address unusually high occurrences at the time the leave is taken.

2. At this stage no internal comparative information is available. The Government Management Board undertook its first examination of sick leave approximately 18 months ago for the 1988 calendar year.

It established that the average level in public service departments was 7.2 days per person with 90% of people taking an average of 5.1 days. A recent Confederation of Australian Industry report referred to an Australian average of eight days per person.

The Government Management Board has undertaken to review all sick leave patterns from time to time. The board has not determined the frequency for its reviews but it does not intend to conduct a major review each year.

3. There is no direct cost attached to paternity leave for State employees as such leave is without pay.

4. With regard to the part of the question relating to wage differentials between men and women, I point out that there is no longer any distinction in awards between male and female employees. However, average earnings and average full-time ordinary earnings for men and women are different. Recent figures indicate a consistent differential of 20 per cent between the full-time ordinary earnings of women and men.

The reasons for this differential include occupational segregation and an under-valuation of work normally undertaken by women. The commitment of this Government and all other States and the Commonwealth to the removal of this differential is reflected in the goals of the Australian Women's Employment Strategy which include 'promoting pay equity'.

The Government views award restructuring as an opportunity to improve career paths for women and men and to ensure that traditional prejudices about the value of work done by women are not reflected in new awards. We also recognise that much of the devaluing of women's work has not been intentional and will therefore require particular efforts to eradicate.

The Commissioner for Public Employment has given a commitment to improving opportunities for women and other disadvantaged groups through the award restructuring process. The Department of Labour has two staff employed under an initiative announced in the Government's platform, to assist the private sector in ensuring that the needs of women are taken into account in the restructuring process.

ROXBY DOWNS MEDICAL COSTS

323. **Dr ARMITAGE (Adelaide)** asked the Minister of Health:

1. What is the cost of supplying a doctor or doctors from Adelaide to run a general practice service in Roxby Downs?

2. What is the cost of an air ambulance retrieval from Roxby Downs to Port Augusta and Adelaide, respectively, and how many of each such retrievals occurred in the past financial year?

3. What is the cost of a road ambulance evacuation from Roxby Downs to Woomera and Port Augusta, respectively?

4. Why is funding provided for evacuations from Roxby Downs to Port Augusta, by-passing Woomera, when there are two specialist surgeons at Woomera?

The Hon. D.J. HOPGOOD: The replies are as follows:

1. Medical services in Roxby Downs are provided by general practitioners in private practice in a similar manner to the services provided by general practitioners to the metropolitan communities. No cost is incurred by the State in terms of recruitment and retention of general practitioners in Roxby Downs; however, premises on a rental basis are provided for the medical practice.

2. The evacuation of patients from Roxby Downs is undertaken by either the Royal Flying Doctor Service or St John Air Ambulance depending upon the circumstances. The service provided is determined partly by the needs of the patient and the cost varies accordingly. St John Air Ambulance: The aircraft costs associated with air ambulance transfers from Roxby Downs to Port Augusta and Adelaide are as follows:

Roxby Downs to Port Augusta	$
Prior 1 December 1990 256 km	645.80
1 December 1990 Emergency Carry	863.20
1 December 1990 Elective Carry	673.20
Roxby Downs to Adelaide	
Prior 1 December 1990 578 km	1 354.20
1 December 1990 Emergency Carry	1 571.60
1 December 1990 Elective Carry	1 381.60

Total 1989-90 retrievals:
Roxby Downs to Adelaide—4
Olympic Dam to Adelaide—1

Royal Flying Doctor Service: the aircraft costs associated with an air transfer by the Royal Flying Doctor Service from Roxby Downs to Port Augusta and Adelaide are as follows:

(a) Chieftain Aircraft (at $350 hour)	$
	$
Port Augusta 1.5 hours	525
Adelaide 3.2 hours	1 120

During the 1989-90 financial year the following flights were undertaken:
Chieftain Aircraft
Port Augusta—Roxby Downs—Port Augusta—25 flights
Port Augusta—Roxby Downs—Adelaide—6 flights
Adelaide—Roxby Downs—Adelaide—4 flights

(b) King Air Aircraft (at $750 hour)	$
Port Augusta 1.0 hour	750
Adelaide 2.3 hours	1 725

The King Air is used only for the more critical cases due to its higher operating cost.
King Air Aircraft
Port Augusta—Roxby Downs—Port Augusta—31 flights
Port Augusta—Roxby Downs—Adelaide—8 flights
Adelaide—Roxby Downs—Adelaide—1 flight

NOTE:
i A flight commencing at Port Augusta to Roxby Downs then on to Adelaide incurs the same cost as a flight emanating from Adelaide to Roxby Downs and returning to Adelaide.
ii Port Augusta is only by-passed in critical cases requiring intensive or specialist care.

3. The St John Ambulance Service has supplied the following information:

Cost of road retrieval—

Roxby Downs to Woomera	$
Prior 1 December 1990 76 km	246.80
1 December 1990 Emergency Carry	467.20
1 December 1990 Elective Carry	277.20

Roxby Downs to Port Augusta
The costs are the same as for those charged for the Air Ambulance transport.

4. There are not two specialist surgeons resident at Woomera—there are two general practitioners. Evacuations to Port Augusta (rather than Woomera) occur for a number reasons, including the following:

as the regional hospital, Port Augusta has resident specialists in anaesthetics, orthopaedics, obstetrics and gynaecology, and paediatrics;

a High Dependency Unit (currently being upgraded) is available at Port Augusta; and

the range of services available at Port Augusta far exceed those available at Woomera, e.g., radiology, pharmacy and pathology are available in Port Augusta together with an extensive range of Allied Health Services.

It is worth nothing that negotiations with the Commonwealth in respect of the upgrading of the Woomera Hospital are at an advanced stage with a view to Woomera providing primary care health services to local residents.

GOVERNMENT MOTOR VEHICLES

325. **Mr BECKER (Hanson)** asked the Minister of Transport:

1. Was the vehicle registered UQW 282 being used for Government business at 2 p.m. on Saturday 20 October 1990 on the Ocean Road, Victoria, between Lorne and Apollo Bay and, if so, what was that business and, if not, what was the reason for the vehicle being in this location?

2. Who were the four male occupants of the vehicle and was the driver authorised to carry passengers on this occasion?

3. Were Public Service circular No. 30 guidelines for use of Government vehicles being adhered to and, if not, why not?

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

1. Vehicle registered UQW 282 was being used on Government business on Saturday 20 October 1990. It was being used by four members of the teaching staff of Noarlunga College of TAFE to return from the National Cabinet Makers' Conference conducted in Melbourne on 18, 19 and the morning of Saturday 20 October 1990.

2. The occupants of the vehicle were staff of the Noarlunga College of TAFE. The driver has authority to carry the occupants.

3. The vehicle was being used in accordance with the guidelines in commissioner's circular 30.

DEPARTMENTAL COMMITTEES

331. **Mr MATTHEW (Bright)** asked the Minister of Transport: How many formal and how many informal committees exist within the Department of Road Transport and the STA and in relation to each:

(a) what is the name;
(b) what are the terms of reference;
(c) when was it formed;
(d) when is it expected to achieve its objective; and
(e) to whom does it report?

The Hon. FRANK BLEVINS: First, the Department of Road Transport has 62 internal committees, half of which are in the areas of occupational health and safety, structural efficiency and quality management. Secondly, the State Transport Authority (STA), in line with other large organisations, public or private, places a strong emphasis on consultation with all affected parties in its day to day operations and in planning for the future.

Such Federal Government initiatives as award restructuring and structural efficiency are progressed through a formal structure of consultative committees. Also, salary classification and appointment appeal committees operate in accordance with the requirements of the relevant employee awards.

Operational committees exist to achieve employee/union agreement on issues such as roster, timetable, route and scheduling changes, new bus and railcar design, depot construction and upgrading and major engineering projects. A number of committees act as steering committees on project teams for corporate planning, business plan projects, other forward planning activities and the development of major projects.

Several liaison committees exist to consult with other Government departments, local government and outside contractors in relation to specific aspects of the operations of the STA. In addition to the formal committees established, as mentioned above, the STA has an executive committee chaired by the General Manager.

Informal committees are not easily distinguished from normal day to day work groups and are quite numerous due to the widespread nature of the STA's service provision and related activities. *Ad hoc* committees are frequently set up to achieve a specific objective and they disband when the work is complete. The STA regularly reviews committees and their purpose and when applicable disbands the committees or incorporates them elsewhere as appropriate. Unfortunately, the honourable member's question is particularly involved to answer in the detail requested and it is considered that the information obtained could not justify the exercise.

ATTORNEY-GENERAL'S DEPARTMENT

338. **Mr MATTHEW (Bright)** asked the Minister of Education, representing the Attorney-General: How many formal and how many informal committees exist within the Attorney-General's Department and in relation to each:

(a) what is the name;
(b) what are the terms of reference;
(c) when was it formed;
(d) when is it expected to achieve its objective; and
(e) to whom does it report?

The Hon. G.J. CRAFTER: The following committees exist within the Attorney-General's Department; information as requested is provided for each:

1. *(a)* Name: Board of Management.

(b) Terms of Reference: to monitor the operations of the department, to establish forward plans and to ensure the delivery of efficient and relevant legal services.

(c) Date of Formulation: The Board of Management was created following a review of support services functions within the department. As part of this review, it was recommended that a board of management be created to replace the existing executive and divisional heads committees. The first meeting of the new board of management was held on 10 October 1990.

(d) Achievement of Objectives: Ongoing.

(e) Reporting Responsibility: To the Chief Executive Officer.

2. *(a)* Name: Occupational Health, Safety and Welfare Committee.

(b) Terms of Reference: To ensure that the safety, health and welfare of all employees within the Attorney-General's Department is monitored in terms of the Code of General Principles of the Occupational Health, Safety and Welfare Act, 1986.

(c) Date of Formation: The committee was first formed under the old Act in 1985.

(d) Achievement of Objectives: Ongoing.

(e) Reporting Responsibility: To the Chief Executive Officer.

Other committees are coordinated by the Attorney-General's Department. However, the terms of reference of these committees are not confined to departmental operations and have objectives which may relate to other government and semi-government agencies and the community in general.

ADELADE MEDICAL CENTRE FOR WOMEN AND CHILDREN

363. **Mr BECKER (Hanson)** asked the Minister of Health: In view of the successful surgery on foetuses performed by the Foetal Surgery Unit at the Royal Hospital for Women, Paddington, Sydney, when will similar surgery be available at the Adelaide Medical Centre for Women and Children; will the South Australian Health Commission now concede that life begins at conception; and, if not, why not?

The Hon. D.J. HOPGOOD: A protocol is being developed which will outline the circumstances under which foetal surgery could be performed. Once complete this protocol will be submitted to the Adelaide Medical Centre for Women and Children Ethics Committee for consideration. As previously advised, the South Australian Council on Reproductive Technology has been asked if it can make a determination on when life begins and after discussion has decided that it is unable to make a simple pronouncement on such a complex issue. However, foetal surgery *in utero*, while recognising the life of the foetus, occurs in a period of foetal development which is well beyond the time over which the beginning of life is debated. Therefore, it is possible to conduct foetal surgery *in utero* without first clearly delineating the legal, moral or theological definition of life beginning at conception or later in the development of the embryo or foetus.

DEPARTMENTAL COMMITTEES

339. **Mr MATTHEW (Bright)** asked the Minister of Education representing the Attorney-General: How many formal and how many informal committees exist within the Court Services Department and in relation to each:

(a) what is the name;
(b) what are the terms of reference;
(c) when was it formed;
(d) when is it expected to achieve its objective; and
(e) to whom does it report?

The Hon. G.J. CRAFTER: A list of the Court Services Department's committees, together with a summary of their terms of reference, year of formation and reporting responsibilities is attached. All the department's committees are standing committees on the basis that they continually support the achievement of the department's objectives. Some have, by nature, a limited life.

Standing Committees

Buildings and Accommodation Strategic Plan Committee: Undertakes annual reviews of the buildings and accommodation strategic plan to ensure that the department's accommodation needs are met.
Formed: 1986
Reports to: Executive

Clerks of Court Management Committee: Comprising metropolitan clerks of court, country representatives and senior management, this committee meets on a monthly basis and facilitates the discussion of issues of importance by court managers.
Formed: 1988
Reports to: Executive

Common Law Libraries Committee: Supervises any abnormal expenditure by the Supreme Court and Sir Samuel Way libraries, and conducts annual reviews of the needs of the libraries and the services they provide. The committee then makes recommendations to the Attorney-General regarding their required budget levels.
Formed: 1972
Reports to: Attorney-General

Court Services Department/Law Society Committee for the Introduction of New Technology in Courts: Established to facilitate consultation between the department and the legal profession about technological developments in the courts.
Formed: 1988
Reports to: The Executive of both the Court Services Department and the Law Society

Executive: The role of Executive is to formulate and implement policy, assist the Chief Executive Officer in the management of the department and to ensure that departmental, courts and Government objectives are being met.
Formed: 1981
Reports to: Director

Information Services Committee: Considers and acts upon the information needs of the judicial officers of the District and Magistrates' Courts.
Formed: 1988
Reports to: No formal reporting function—comprises senior judiciary

Interchange Management Committee: Comprises senior representatives of the Police Department, Court Services Department and the Justice Information System.
Formed: 1990
Reports to: JIS Board of Management

Inter-Departmental Publications Committee: This committee is task oriented and meets only when required. Its terms of reference are to:
- identify common issues for publication;
- share resources, both financial and human;
- avoid duplication;
- ensure the community has information which is relevant, accurate and topical; and
- improve standards of publication.

Formed: 1989
Reports to: Executive

Joint Consultative Committee for the Sir Samuel Way Building: Comprises representatives of the Chief Justice, the Senior Judge of the District Court and the Director of the department. The committee makes recommendations as to policy and, to that end, conducts investigations into the proposed use or variation in use of the Sir Samuel Way Building as a courts complex.
Formed: 1986
Reports to: Director

Judicial Computing Committee: Comprises representatives of all levels of the judiciary and of the director of the department. Its terms of reference are:
- provide a venue for the lateral liaison of requirements of the various areas of the judiciary;
- represent the combined interests of the judiciary and provide advice to the department on needs and priorities;
- oversight the development and implementation of judicial support systems;
- provide advice on general development issues;
- monitor the progress of development work; and
- oversight the management of shared judicial databases.

Formed: 1989
Reports to: No formal reporting role or requirement—chaired by judiciary

Magistrates' Clerks Implementation Committee: The role of this committee is to review the administrative support needs of the magistracy and service provision by magistrates' clerks in all jurisdictions, and to consider alternative methods of addressing those needs and providing those services.
Formed: 1987
Reports to: Chief Magistrate

Occupational Health and Safety Committee: The role and function of the committee is to develop and implement policies and strategies which will lead to the provision of a healthy, safe and congenial working environment for all staff.
Formed: 1988
Reports to: Executive

Staff Development Committee: To formulate policy in relation to the training and development of the department's employees.
Formed: 1986
Reports to: Executive

Systems Development Committee: Facilitates closer divisional involvement in the systems development process of the court computerisation program.
Formed: 1989
Reports to: No reporting function—comprises members of executive and has cross-divisional co-ordinative/liaising role.

Youth Committee: The Committee comprises seven employees under the age of 25. The purpose of the committee is to:
- promote the image of youth within the department;
- encourage departmental youth to broaden their skills and achieve personal development;
- communicate the views of youth to the executive to complement the formation of departmental objectives and policies;
- assist in attaining departmental goals through service to youth within the community; and

- enhance the department's image through professional service delivery to all court clients.

Formed: 1984
Reports to: Executive

GOVERNMENT MOTOR VEHICLES

367. **Mr BECKER (Hanson)** asked the Minister of Transport: What Government business was the driver of the vehicle registered UQR 800 carrying out on Sunday 28 October 1990 at 5 p.m. that necessitated travelling on South Road, Happy Valley, who were the occupants of the vehicle and is the driver of this vehicle authorised to carry passengers?

The Hon. FRANK BLEVINS: The driver, the Medical Director and Executive Officer of Alfreda Rehabilitation, was returning to his house at Aldinga Beach to retrieve papers he had been working on over the weekend for a meeting the next day after having attended an Alfreda staff social function earlier in the day. The Medical Director's son and his fiancee, who were visiting him at the time, were passengers in the vehicle. The driver was authorised to carry passengers.

368. **Mr BECKER (Hanson)** asked the Minister of Transport: What Government business was the driver of the vehicle registered UQW 318 carrying out that necessitated travelling on Tapleys Hill Road, West Beach at approximately 4 p.m. on Sunday 28 October 1990?

The Hon. FRANK BLEVINS: The Commissioner of Police has advised that the driver of the vehicle UQW 318 on Sunday 28 October 1990, was conveying necessary uniforms and personal requirements for use in performing vice-regal escort duties. This was in connection with the commencement, the following day, of a two-day farewell tour of the Riverland by His Excellency, the Governor, Sir Donald Dunstan.

EXCESS NOISE

373. **Mr BECKER (Hanson)** asked the Minister of Emergency Services:

1. Why is it necessary, before pursuing a noise complaint, for police to request the name and address of and to interview the complainant before requesting the noisy neighbours to cease excess noise?

2. Will the Minister take action to improve legislation concerning noise pollution complaints to have police evidence accepted by the courts, rather than having to rely on complaints from neighbours who are reluctant because of fear of reprisals and, if not, why not?

3. Have the police experienced an increase in the number of noise pollution complaints between neighbours in the past 12 months and, if so, what is being done to curb the incidence of disruption to residential environments by noisy neighbours?

The Hon. J.H.C. KLUNDER: The replies are as follows:

1. Before a prosecution under the Noise Control Act for causing or permitting excessive noise from domestic premises can occur, a resident must be prepared to provide police with a statement and, if required, give evidence in court. This is due to the wording of section 18 of that Act, which states in subsection (2) that:

> Excessive noise is emitted from domestic premises, if—
> *(a)* the noise emitted from the domestic premises is of such a nature it unreasonably interferes with the peace, comfort or convenience of any other persons in any other premises:

A decision in 1981 in the case of *Maddison v Coombe* interpreted this provision to mean that a person on some other premises had to actually make a complaint to police that his 'peace, comfort or convenience' was being interfered with. This then is an essential element of the offence and, obviously, if the matter was to be later contested in court, the aggrieved neighbour would have to give evidence that his peace, etc. was interfered with. Accordingly, the wording of section 18 (2) effectively prevents police from prosecuting on the basis of anonymous complaints, even though they may have attended and heard the excessive noise for themselves.

2. The Noise Abatement Branch in the Department of Environment and Planning is currently reviewing the Noise Control Act.

3. Police are unable to provide statistics easily on the number of complaints received regarding noise disturbances. A manual check would be necessary to obtain this information. However, it is their opinion that noise complaints probably are increasing or at least remaining static.

ADELAIDE MEDICAL CENTRE FOR WOMEN AND CHILDREN

376. **Dr ARMITAGE (Adelaide)** asked the Minister of Health:

1. Where will the terminations of pregnancy currently performed at the Queen Victoria Hospital be carried out after the physical amalgamation with the Adelaide Children's Hospital?

2. What is the profit/loss on a weekly basis for the months of July, August and September for the multi-storey car park in Kermode Street used for servicing the Adelaide Children's Hospital?

3. Have any payments been made from the Adelaide Medical Centre for Women and Children's capital account to fund loan repayments on the car park and, if so, how much were these payments and is it envisaged any more such payments will need to be made?

4. What is the full nature and extent of asbestos products in the current Adelaide Children's Hospital buildings and what are the implications of the removal of any such products for future building works and costs associated with the amalgamation?

5. What demographic studies have been performed to determine the nature of future demands on the Adelaide Medical Centre for Women and Children and what are the results of those studies?

6. What funds were spent by the Community Liaison Department of the Adelaide Children's Hospital on a public relations campaign concerning the proposed amalgamation, why were the funds spent and what discussions took place between that Department and the Queen Victoria Hospital Public Relations Department with regard to the campaign?

7. What are the details of the recurrent cost savings which will occur following the amalgamation?

8. In the amalgamated facility, will the accommodation provided for mothers of babies in intensive care be an area shared with mothers of healthy full-term babies and, if not, what will be the type of accommodation?

9. Will fathers of critically ill babies be able to be accommodated in the amalgamated facility and, if so, what form will their accommodation take?

10. Are there plans for a helipad and, if not, why not?

The Hon. D.J. HOPGOOD: The replies are as follows:

1. At this stage in the development planning of the AMCWC only genetic terminations of pregnancy on the

grounds of grave foetal or maternal ill-health will be undertaken on the North Adelaide site. However, the board has clearly stated its commitment to 'ensuring that the full range of high quality termination services which are presently provided at the QVH continue to be provided following the closure of the QVH on its present site and its transfer to North Adelaide. The board intends to monitor developments in relation to the provision of termination services throughout the State.

2. For the period July to September 1990, the multi-storey car park in Kermode Street incurred an average weekly deficit of $4 186.

3. The first six monthly loan repayment of $205 100 was made in August 1990 and included a contribution from capital funds of $102 466. It is expected that payments of similar magnitude may be required until physical amalgamation, depending on the success of actions aimed at maximising revenue. It is expected that the car park will be self financing following physical amalgamation.

4. The Samuel Way Building is the only building with asbestos fire protection in the structural framework of the building. There is asbestos (mainly white and brown varieties) present in minor degrees in the other buildings except for the Rieger Building, which is asbestos free. 'Minor' presence of asbestos refers to items like hot water insulation, asbestos cement sheeting, vinyl asbestos floor tiles and some flat roof bitumen-based waterproofing material which contains asbestos fibre.

Existing buildings in which work will be carried out for the amalgamation project and which will have the asbestos removed are Florence Knight, Ernest Williams and Gilbert which are to be demolished and Good Friday and Rogerson which require minor building work. Existing buildings outside the amalgamation proposal but which may have alteration work (including asbestos removal) going on at the same time are Michell, Angas and Campbell.

The extent to which asbestos must be removed has been agreed in discussions with representatives of the SACON Asbestos Liaison Unit and the UTLC. The cost of removal of asbestos in the amalgamation project is estimated to be between $400 000-$500 000, but the final figure is the subject of a detailed report by the SACON Asbestos Liaison Unit, which is not yet completed.

Although the Samuel Way Building does not form part of the amalgamation project, SACON's survey of all existing buildings indicated that asbestos removal in the Samuel Way building is estimated to cost $3 million. It has been agreed with the SACON Asbestos Liaison Unit and the UTLC that it is acceptable to retain the asbestos in this building (subject to its being undisturbed by building and maintenance works) for a further 10 years at which time a project would need to be organised for its removal.

5. The AMCWC commissioned Health Solutions Pty Ltd to carry out a demographic analysis to identify any interim trends and to confirm likely demands by the year 2001. The detailed report submitted by Health Solutions will be contained in the Project Definition Report. For the purposes of planning, the trend can be defined as steady, without significant increase or decrease on demands for existing services.

6. The public relations aspect of a hospital amalgamation development such as the AMCWC is crucial to community acceptance and appropriate use of services and for this reason the AMCWC Director of Public Relations was appointed on 1 October 1990. Prior to this time the CEO retained Mr Michael O'Reilly of Marlow O'Reilly Public Relations to advise on specific community liaison issues. For a three week period from 20 July 1990, the fee was $2 200.

Both the Manager of Community Liaison Services (ACH) and the Manager of Public Relations and Fundraising (QVH) were informed of the situation. The project was co-ordinated by the CEO of the AMCWC who consulted as he felt appropriate.

7. The target savings of approximately $2 million per annum, post amalgamation, as previously determined by the Government on the basis of the 1987 feasibility study, will be achieved. This amount comprises savings effected in cleaning services and some clerical salaries prior to the amalgamation, a specific reduction in the ACH budget in 1990-91 ($400 000), and savings in administrative and other salaries and some goods and services ($1 600 000), which will be achieved after physical amalgamation takes place.

8. The neonatal intensive care unit will not contain separate sleep-in facilities as ample separate and private accommodation is available in the post-natal ward immediately above the neonatal intensive care unit. Accommodation for parents is also available in the Samuel Way Building immediately adjacent to the Queen Victoria Building.

9. Fathers of critically ill neonates will have a number of options for accommodation, including sharing a single room with portable bed, or a two-bed room within the post-natal ward immediately above the neonatal intensive care unit or staying in accommodation within the Samuel Way Building.

10. Intensive care staff and the project control committee have recommended that the helipad concept not proceed because in their view its likely use (only 30-50 times a year) does not justify the very substantial capital expenditure involved. Likely inability to comply with Commonwealth regulations and difficulty in obtaining planning approval were further complications. Consequently the existing use of the oval adjacent to Frome Road is seen to be an acceptable solution.

CHILD PROTECTION SERVICE

379. **Dr ARMITAGE (Adelaide)** asked the Minister of Health:

1. What has been the cost incurred for stress-related leave of two staff members of the Child Protection Service at the Adelaide Children's Hospital and for weekly psychiatric consultations for three staff members?

2. What was the cost of a management consultant appointed to the service from February to May 1990 and what were the subject matters and results of the reports produced by the management consultant?

3. What was the cost of the independent inquiry conducted in the service by Mr B. Callaghan and Dr T. Gruseit during July and August 1990 and what were the subject matters and results of the inquiry?

The Hon. D.J. HOPGOOD: The cost incurred for stress leave was approximately $25 000 and the cost for counselling was approximately $4 100. The consultancy cost $1 437. It was conducted on behalf of the Health Commission by a private consultant employed by SGIC Risk Management Services. The subject matter included confidential issues about the management of particular staff members, and proposals to improve working relationships within the unit, and to clarify organisational philosophy.

The cost of the independent evaluation of child protection services at AMCWC, FMC and TQEH was $23 000. The evaulation was conducted by Bruce Callaghan and Associates, consultants in human services management. The evaluation made a number of suggestions and proposed options

for discussion. The final report has been forwarded to the relevant hospitals for comment, and initial responses have been favourable. After the comments have been received and analysed the Health Commission will prepare a report including recommendations and an implementation plan.

POLICE STATION CLOSURES

380. **Mr GUNN (Eyre)** asked the Minister of Emergency Services: Does the Government intend closing any police stations on Eyre Peninsula and, if so, which ones?

The Hon. J.H.C. KLUNDER: The South Australian Police Department is constantly assessing the most effective use of its resources, so as to provide the best possible service to the public. This process involves, as part thereof, a continuing review of country police stations and their methods of operation. The Commissioner of Police has advised me that no decisions have been made concerning the closure of any particular station. Due to the ever changing environment and expectations of the community of the Police Force, it is, of course, difficult to predict what requirements might be *vis-a-vis* police stations 24 months hence. There would be public consultation before any police station would be closed.

GOVERNMENT ENVELOPES

382. **Dr ARMITAGE (Adelaide)** asked the Minister of Health: What is the policy of the South Australian Health Commission with regard to the use of South Australian Government envelopes for private correspondence and what penalty, if any, is imposed on offenders against this policy?

The Hon. D.J. HOPGOOD: The South Australian Health Commission does not have any specific written policy in relation to the use of South Australian Government envelopes for private correspondence. Instances that are detected of mis-use or misappropriation of Government property, including stationery, other goods, money etc., are dealt with under the provisions of the South Australian Health Commission Act and normal disciplinary procedures and, if necessary, civil and criminal law. Action taken, and the penalties imposed, would depend on the circumstances and seriousness of the offence.

METROPOLITAN FIRE BRIGADE

389. **Mr BECKER (Hanson)** asked the Minister of Emergency Services: How many Metropolitan Fire Brigade call-outs have there been to the Adelaide Remand Centre in the past month, what were the reasons for the call-outs and what was the cost of responding to them?

The Hon. R.J. GREGORY: The South Australian Metropolitan Fire Service attended seven calls at the Adelaide Remand Centre during October 1990. Four incidents were the result of installation faults, one was for a fire, one for an accidental operation and one for a malicious false alarm. The Adelaide Remand Centre was charged for three attendances a total of $570.

OPAL MINING

399. **Mr GUNN (Eyre)** asked the Minister of Mines and Energy:

1. What action has the Government taken to resolve outstanding difficulties where opal mining is taking place on pastoral leases and does the Mines and Energy Department intend taking a leading role in resolving the on-going difficulties?

2. Will the Government give greater representation to opal miners on the Opal Mining Review Group and, if not, why not?

The Hon. J.H.C. KLUNDER: The conflict of interest associated with opal mining on pastoral leases has caused concern to all the parties involved. To establish the Government's position in this matter, an interdepartmental Opal Mining Review Group has been established under direction from the Land Resource Management Standing Committee. Its terms of reference are to:

review legislative and administrative arrangements for the management of opal mining outside of proclaimed precious stones fields;

assess whether there is consistency of approach and compliance with legislative requirements under existing conservation, pastoral and mining statutes;

identify deficiencies requiring attention from Government (and the action required to remedy the deficiency).

Members are drawn from the agencies directly concerned with these matters:

Department of Mines and Energy
Department of Lands/Pastoral Board
Department of Agriculture/Soil Conservation Boards
Department of Environment and Planning

The review group is currently finalising procedures for mine rehabilitation, the control of exploration drilling and bonds. The review group's report will be the basis for consultation with the opal miners and the pastoralists. The Department of Mines and Energy's role as the responsible authority will be to ensure the procedures arising from the consultation are implemented and to resolve any ongoing difficulties which may subsequently arise.

The Opal Mining Review Group is an interdepartmental group whose responsibility is to advise the Government on the management and administration of opal mining on pastoral leases. As the role of this group is only to provide advice to Government on possible legislative change and on administrative arrangements, it has not been appropriate to include industry representation (whether mining or pastoral). However, both groups will have had an opportunity to present their views to the review group prior to its report to the Land Resource Management Standing Committee. Consultation with both interest groups will occur after Government has had an opportunity to consider the proposals of the review group.

EXECUTIVE SALARIES

402. **Mr BECKER (Hanson)** asked the Treasurer: What action will the Government take in relation to the Public Accounts Committee recommendation of full disclosure of all senior executive staff salaries and remuneration of those employed by statutory authorities and, if none, why not?

The Hon. J.C. BANNON: The Government has under consideration the sixty-first report of the Public Accounts Committee tabled in the House of Assembly on 6 September 1990. The Governmnent will formally respond to the committee. While it is not appropriate to pre-empt the committee's receipt of the formal response, it is desirable that the Government indicate its support for the full disclosure

of salaries and fees paid to the chief executive officers and members of boards of statutory authorities.

ABORIGINAL HEALTH COUNCIL

403. **Dr ARMITAGE (Adelaide)** asked the Minister of Health:

1. What is to be the specific role and function of the Aboriginal Health Council, as mooted in the Commonwealth/State Strategy Assessment Report on the Aboriginal Health Organisation?

2. Does the South Australian Health Commission support Aboriginal community control of the council?

3. Have local Aboriginal communities been consulted about the setting up of the council, particularly communities that are presently serviced by the Aboriginal Health Organisation of South Australia?

4. Have the concerns of local Aboriginal communities about the involvement of TAFE in the provision of Aboriginal health services been addressed and, if so, how?

5. Are there any plans to assist local Aboriginal communities to set up their own health services and, if so, what are these plans?

6. Are the local country Aboriginal communities presently serviced by the Aboriginal Health Organisation to be represented on the Aboriginal Health Council and, if so, in what capacity?

7. Are the local country Aboriginal communities to be represented on the implementation committee for the council and, if so, in what capacity and, if not, why not?

8. With respect of the Aboriginal Health Organisation of South Australia—

(a) how many staff positions are funded by the South Australian Health Commission;

(b) how many staff positions are funded by ATSIC;

(c) how many staff positions are permanent and which are they;

(d) how many staff positions are temporary and which are they?

(e) will the present staff be disadvantaged in any way by the information of the council; and

(f) how will the present staff be re-deployed in the council?

The Hon. D.J. HOPGOOD: The replies are as follows:

1. The council's principal role and function is to act as an advocate for the Aboriginal community of South Australia in health and health related issues, and to provide policy advice on Aboriginal health matters to both State and Commonwealth Governments and, in particular, the South Australian Minister of Health and the South Australian Health Commission. The detailed aims and objects of the council, as contained in its constitution, are attached as Appendix I.

2. As part of the National Aboriginal Health Strategy the council will also fill the role of a tripartite forum to formalise the partnership between Aboriginal communities and State and Commonwealth Governments on Aboriginal health matters. However, at least 15 of the 17 members of the council will be of Aboriginal descent, representing Aboriginal organisations and community-controlled health services.

3. The establishment of such a council is not a new idea, having been one of the principal recommendations of the 1984 Report of the Committee of Review into Aboriginal Health in South Australia (the Foley report). That committee consulted widely, including with those communities presently serviced by the AHO. More recently, members of the AHO board of directors have consulted with their respective communities, and the then Chairperson of the board was contracted to consult specifically with those communities serviced by the AHO.

4. There is no proposal for TAFE to be involved in the 'provision' of Aboriginal health services. However, discussions are continuing with senior TAFE staff, including the Head of School, School of Aboriginal Education, about the delivery of the TAFE accredited Certificate in Aboriginal Health Studies and the certificate in Aboriginal Primary Health Care. Community views, those of existing students, and those of the senior staff of existing community controlled health services are all being taken into account in the discussions. It is intended ultimately that any agreement reached between the Aboriginal Health Council and DETAFE will be in the form of a 'contract', with the council providing funds for TAFE to deliver accredited courses to Aboriginal people in accordance with negotiated conditions.

5. The State, Territory and Commonwealth Governments have endorsed a number of the principal recommendations of the National Aboriginal Health Strategy Working Party Report which include *inter alia* 'that new community-controlled Aboriginal and Torres Strait Islander health services be established where communities have submitted for funding and submissions have been endorsed by the State/Territory tripartite forum and by the relevant funding agency'. The only submission currently in this category in South Australia is that by the Port Lincoln Aboriginal Organisation. A lot of background work has been completed, and negotiations concerning funding and staffing are continuing.

6. It is intended that those communities will be represented on the Aboriginal Health Council through the aegis of their ATSIC Regional Council which will nominate both a councillor and a deputy councillor to the AHC.

7. The implementation committee was a tripartite group, comprising representatives of the Aboriginal Health Organisation board of directors plus one representative of the South Australian Health Commission and the State office of ATSIC as the funding bodies. The committee's role formally concluded on 27 November 1990 when its report was endorsed by the AHO board and presented to the Health Commission and ATSIC. The views expressed by individuals and groups not directly represented on the implementation committee were taken into account as part of the strategy development process.

8. *(a)* 24.5 full-time equivalent Health Commission funded positions.

(b) 27.5 full-time equivalent ATSIC funded positions.

(c) 50 'permanent' positions—refer attached schedule (Appendix 2)

(d) five 'temporary' positions—refer attached schedule (Appendix 3)

(e) Present staff will not be disadvantaged by the formation of the council. The majority will continue to perform the same, or very similar functions. The rights of those few who may be without a position with the council when restructuring is complete will be preserved, and redeployment will be negotiated with the individuals concerned in consultation with their respective union.

(f) Core elements of administration, research, planning and clerical support will be maintained in the council's secretariat. Negotiations are continuing with DETAFE, with the probability that staff in the training team may be offered a transfer to TAFE with the Aboriginal Health Worker Training Program. Health workers and hospital liaison officers will generally continue to be employed by the council but will be seconded to host hospitals or health centres

under formal agreement between the Aboriginal Health Council and the relevant health service. Two or three metropolitan based positions will be transferred to the Aboriginal Medical Service in Wakefield Street. The future utilisation of approximately seven positions has still to be determined by the Aboriginal Health Council.

APPENDIX I

Aims and Objects

7.1 Subject to the provision of clause 5.1 of this constitution the aims and objects of the council are:

7.1.1 to act as an advocate for the Aboriginal community of South Australia and its members in relation to the provision of health services and related services which aim to improve the quality of life for Aboriginal people;

7.1.2 to provide policy advice on Aboriginal health matters to the State and Commonwealth Governments and, in particular, the Minister and the commission.

7.1.3 to plan, coordinate and develop health services which are designed to benefit Aboriginal people and communities of the State;

7.1.4 to encourage and facilitate decentralised community-based control of health services for Aboriginal people by local Aboriginal communities;

7.1.5 to give guidance and assistance to the Minister, the commission and other individuals and organisations engaged in the delivery of health services to Aboriginal people so as to ensure that those services are appropriate and sensitive to the needs of those people;

7.1.6 to provide assistance and support to locally controlled community services, which have requested such assistance and support;

7.1.7 in consultation with appropriate educational institutions, to develop, facilitate, monitor and review appropriate educational and training programs for Aboriginal people involved in the delivery of health services to Aboriginal people in South Australia;

7.1.8 to educate members of health and health related professions and the community about the health service requirements of Aboriginal people;

7.1.9 to facilitate, monitor and undertake research into the health needs of Aboriginal people;

7.1.10 in cooperation with relevant government agencies, health services and Aboriginal organisations, encourage and assist in the development of a comprehensive Statewide collection of Aboriginal health statistics; and

7.1.11 to ensure that Aboriginal people are fully informed of the options available to them in the way of health and local community services;

ABORIGINAL HEALTH ORGANISATION APPENDIX II
'PERMANENT' STAFF POSITIONS—AS AT 1 DECEMBER 1990

Position/Location	Classification	SAHC Funded	ATSIC Funded
NORWOOD			
Director	AO-4	1	—
Medical Officer	MO1-L9	—	1
Community Health Nurse	CHN-3A	—	1
Community Health Nurse	CHN-2A	—	2
Principal Health Worker	HW-4	—	1
Supervisor Health Worker	HW-3	—	1
Hunting. Counsellor	SW-1	—	1
Senior Administration Officer	AO-1	—	1
Personnel Clerk	CO-2	—	1
Registry Clerk	CO-1	—	1
Accounts/Payroll Clerk	CO-2	1	—
Receptionist	CO-1	—	2
Research Officer	AO-1	1	—
Hospital Liaison HW	—	2	—
Administration Trainee	CO-3	2	—
METROPOLITAN			
Hospital Liaison			
—QEH	HW-2	2	—
—RAH	HW-2	2	—
—Lyell McEwin	HW-1	1	—
—QVH	HW-2	1	—
—AMS	HW-1	1	—
—ACH	HW-2	1	—
TRAINING			
Coordinating/Educator	CO-6	.5	.5
Adult Educator	LEC-1/2	.5	.5
Clinical Educator	RN-3	.5	.5
Project Officer	CO-4	.5	.5
Project Officer	CO-4	.5	.5
Typist Receptionist	CO-1	.5	.5
COOBER PEDY			
Community Health Nurse	CHN-2A	—	1
Hospital Liaison	HW-2	1	—
Health Worker	HW-2	1	—
Health Worker	HW-2	—	1
BERRI			
Health Worker	HW-2	—	1
GERARD			
Health Worker	HW-2	—	1
MURRAY BRIDGE			
Health Worker	HW-2	—	1
PORT LINCOLN			
Health Worker	HW-1	—	2
MOUNT GAMBIER			
Health Worker	HW-1	2	—
POINT PEARCE			
Health Worker	HW-2	—	1
POINT McLEAY			
Health Worker	HW-2	—	1
WHYALLA			
Health Worker	HW-2	1	1
OODNADATTA			
Health Worker	HW-1	—	2
		23	27

ABORIGINAL HEALTH ORGANISATION APPENDIX III
'TEMPORARY' STAFF POSITIONS—AS AT 1 DECEMBER 1990

Position/Location	Classification	SAHC Funded	ATSIC	Other Funded
NORWOOD				
AIDS Project Officer (Grant funded to 30.6.90)	CO-4	1	—	—
Implementation Executive Officer (Temporary position until 21.12.90)	AO-1	.5	.5	—
Health Promotion Officer (Temporary funded until Feb. 1991)	HW-3	—	—	1
Research Assistant	CO-3	—	—	*
Health Promotion Officer	HW-3	—	—	*

* These two positions temporarily funded from savings redirected from vacant positions within AHO.