HOUSE OF ASSEMBLY

Wednesday 29 April 1992

The DEPUTY SPEAKER (Mr M. J. Evans) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Acts Interpretation (Commencement) Amendment,
Acts Interpretation (Crown Prerogative) Amendment,
Criminal Law Consolidation (Rape) Amendment,
Industrial Relations (Declared Organisations) Amendment,
Real Property (Survey Act) Amendment,
South Eastern Water Conservation and Drainage,
Statutes Repeal (Egg Industry),
Survey,
University of South Australia (Council Membership) Amendment.

PETITION: JUVENILE OFFENDERS

A petition signed by 6 211 residents of South Australia requesting that the House urge the Government to lower the age to 16 years at which a person is treated as an adult in criminal matters was presented by Mr Such.

Petition received.

PETITION: STREET TREES

A petition signed by 1 059 residents of South Australia requesting that the House urge the Government to legislate to provide for accountability of local councils for damage caused by street trees was presented by the Hon. D.C. Wotton.

Petition received.

QUESTIONS

The DEPUTY SPEAKER: I direct that the following written answer to a question without notice be distributed and printed in *Hansard.*

ARTS FUNDING

In reply to Mr GROOM (Hartley) 15 April.

The Hon. S.M. LENEHAN: The Minister for the Arts and Cultural Heritage is unable at this time to give any guarantees on the level of funding for the arts in the coming year, since budget allocations have yet to be determined by Cabinet. Clearly in a time of recession there will be a need to achieve savings in budgets of most portfolios, including the arts. Significant savings in the arts and cultural heritage budget resulting from agreements and reviews conducted in recent months have already been identified. These are not expected to affect the level of existing arts programs but arise from improvement in the cost efficiency of administrative support services.

The Minister is confident that the review process will further assist in the determination of priorities and strategies so that South Australia can maintain its richly deserved reputation in the arts and preserve most of the present per capita funding advantage when compared with at least five other States. Means of achieving additional savings that may need to be found are the subject of continuing discussions with Boards of the Arts organisations, always with the object of improving cost efficiencies whilst maintaining the level of services and/or of reflecting change where this is needed.

QUESTION TIME

STATE TAXES AND CHARGES

Mr D.S. BAKER (Leader of the Opposition): Will the Premier confirm that in both 1990-91 and again in 1991-92 South Australians are suffering the highest tax increase of any State; and that these increases have made a significant contribution to making Adelaide the city with the highest inflation rate in any State of Australia of 2.6 per cent? In the latest CPI statistics released today, the table relating to the contribution that Government charges make to the CPI shows South Australia to be five times higher than the other States' average. Other ABS figures released in the past week show that State taxes, fees and fines have trebled from the $537 million in 1982-83 to $1 509 million in 1990-91, a trend which is continuing this financial year.

The Hon. J.C. BANNON: I dealt with part of this matter yesterday in response to another question about our comparative taxing. The Leader of the Opposition has asked me two questions. First, he asked me about the increases in State taxes, and then he moved on to ask about their relevance and made an assertion in his explanation about their impact on the CPI and the Adelaide CPI rate. Let me deal with each of those questions. First, the comparative State tax issue, as I pointed out yesterday, measured in a particular period increase in States on a six State average, and in South Australia's case. It is a fact that while, for instance, in 1991 we reduced the rate of payroll tax, we had in both 1990 and 1991 some tax adjustments which obviously had an impact on an increased rate. However, in the previous two years—1988-89 and 1989-90 (and I do not think we will hear any questions about that from the Leader of the Opposition)—we were much less than the average.

In those instances I do not recall any questions about why that was so. I simply use that example to explain why one looks at different periods. The Leader of the Opposition remains silent when those periods do not work his way and then highlights them when they do. It is a bit like a member in another place. I notice he talks about bankruptcy statistics quite often, but there has been a bit of quiet in the past few months about bankruptcy. One wonders why. One knows why—because the national figures have turned in South Australia's favour very strongly, and not a single press release or comment is made. To get back to the question, what we are talking about, in whatever period—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.C. BANNON: I thought the Leader was interested in the tax situation. I said I would deal with that and then deal with the CPI. The Leader should control himself. In fact, he had better go back to reading his *Bulletin* and see how he is going there.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.C. BANNON: In relation to tax, the measures the Leader is talking about—and obviously he chooses his years carefully—are charges. The fact remains that we still have the second lowest per capita level of State taxes of the six States. Only Queensland, which has certain other structures in relation to taxes, for instance, railway charges on those exporting natural resources, which means that the overseas buyer pays them—

Mr D.S. Baker interjecting:

The Hon. J.C. BANNON: They do not need to, because Queensland, under Sir Joh Bejelke-Petersen, had these taxes by stealth and the Government did well out of that. That is great, but that is a commodity tax and we are not talking about that. South Australia had the second lowest per capita taxation in this country. Queensland is lower and no-one else is. Do we ever hear about that? Not at all. It is quite clear who has the highest taxes: by some $130 per capita, it is New South Wales, the only Liberal Government in this country of any length. It is in New South Wales where State taxes and charges have registered extremely highly on the index because promises were made about those and they have risen. In fact, that is the situation with taxes. I believe that we can be very proud that in delivering, as the Grants Commission will attest, among the highest level of services in this country, particularly in key areas such as health and education, we are nonetheless a low tax State.

We now turn to the consumer price index. First, it is not true that State charges and taxes have made some major or massive increase to our CPI—it's not true at all. They do have some impact, but so they do Australia wide. I concede that there is an influence in relation to transport charges due to the abolition of free transport for school children, which the Opposition was calling for and indeed had a motion on the Notice Paper to get rid of. So, I concede that that has had some very minor effect. But, in looking at why we have a higher CPI rate, one must look at the elements of it. One of the chief elements, by far the largest, was the growth in health care costs, probably because of the timing of differences in medical insurance premium increases. They have come later in South Australia and are being registered in this quarter. There have been major increases by all the health funds in their premiums, and that has figured quite largely—

Dr Armitage interjecting:

The DEPUTY SPEAKER: Order! The member for Adelaide is out of order.

The Hon. J.C. BANNON: The member for Adelaide is the one who has been demanding that SGIC Health, which was maintaining a competitive lower level of those rates, put up its rates and, when it does, the next moment he and his Leader are braying about the CPI impact of that. He cannot have it both ways. If SGIC is to raise its fees, as the member for Adelaide wanted it to do, it will have an impact on the CPI. So, all the health funds in South Australia, belatedly, after the rates were raised in other States, have increased their rates. That is one of the chief elements.

I now turn to State and local government charges. This is the next point—where was the reference to local government charges? For instance, what has been the impact on the member for Custance, the seat abandoned by the Senator who is now trying to get back through another door? I am surprised that the member for Custance did not stand aside to let him back in, but be that as it may. What has been happening to local government charges? They have to be looked at in this context as well. It is not simply a State measure and, I repeat again, taken over a period of time we have not been out of kilter by any means whatsoever. If in fact one analyses those figures, one can see where and why we are, at the moment, above the national average.

I make another point about that: one reason why we have historically higher inflation is that demand persisted in our economy for longer than it did elsewhere. There is a correlation between demand, particularly in housing and building products and so on, which says that, if demand is maintained, prices will go up: if demand drops to nothing, or in fact reduces as it did in some other States, we see that in the CPI, too. Is that a good thing? Is that something to be pleased about? Of course not. There is an element there that has to be taken into account. Let me conclude on this point.

Mr D.S. Baker: What about the inflation rate? You haven't covered that.

The DEPUTY SPEAKER: Order!

The Hon. J.C. BANNON: The Leader is so busy reading the *Bulletin* and is so shocked by what he has seen that he had to tune out, basically: he was distracted.

Members interjecting:

The DEPUTY SPEAKER: Order! I draw the Premier's attention to the length of the reply.

The Hon. J.C. BANNON: Mr Deputy Speaker, I would have been very much briefer but for the constant interjections and interruptions from the other side. Let me conclude on this point, and it is a very relevant one: CPI measures changes in prices. The fact is, as the Australian Bureau of Statistics bulletins indicate, not only do we have the lowest taxes in the country, apart from Queensland, but Adelaide is the cheapest place in Australia to buy representative baskets of goods. There is a clear advantage in food prices in this State. We have lower petrol prices. I was in Melbourne the other day and there, up on the hoardings, was shown 67.9c and 69.3c a litre. I came back to Adelaide and the first hoarding I saw showed 61.7c. So, we have lower petrol prices. Our housing prices and a range of other goods and services in this State are low priced. So, let us concentrate not just on changes that may be taking place in a particular period of time: let us look objectively at where we sit and try to support South Australia and its cost structure instead of rubbishing it.

The DEPUTY SPEAKER: I advise the House that questions which would otherwise have been directed to the Deputy Premier in his capacity as Minister of Health will be taken by the Minister of Transport and, in respect of Family and Community Services, by the Minister of Education. With respect to the Minister of Housing and Construction and Recreation and Sport, questions will be taken by the Minister for Environment and Planning.

MUNNO PARA PRISON

Mr GROOM (Hartley): My question is directed to the Minister of Correctional Services. What proposals, if any, exist to build a prison in the Munno Para council area? I have been contacted by Andrews Farm and Angle Vale residents, who have expressed concern that a departmental proposal may exist to build a prison in the Munno Para area.

An honourable member interjecting:

Mr GROOM: It's being very well looked after. I understand from the Minister's department that departmental officers wrote to a number of councils to ascertain interest in such a development. Local residents are opposed, as I am, to any such development in their vicinity. Local residents see construction of a prison nearby as seriously impairing and retarding growth in these developing areas.

The Hon. FRANK BLEVINS: The Department of Correctional Services has written to all metropolitan and near metropolitan councils making them aware of the fact that the Government is looking for a certain amount of land for a new prison.

Members interjecting:

The DEPUTY SPEAKER: Order! The Leader is out of order.

The Hon. FRANK BLEVINS: I will try to control myself. I am convinced by the preliminary answers we have had

that more than enough councils will be interested in having this industry established in their area without our having to impose this industry on any council that does not wish it. I have already had extensive discussions with some members of the House who are lobbying, in effect, to have the facility built in their area. I do not think that the Campbelltown council has yet figured in terms of what it wants but, if the Campbelltown council does contact me, I assure the member for Hartley I will let him know just what his local council and his local constituents feel about the issue.

Members interjecting:

The Hon. FRANK BLEVINS: I am sorry. He is the member for—

Members interjecting:

The Hon. FRANK BLEVINS: There is no intention to build a new prison in any council area that does not want it. There are more than enough forward looking councils who want this industry in their area. I am sure that we will be able to accommodate them without disturbing the good people of Munno Para.

MINISTER OF CONSUMER AFFAIRS

Mr S.J. BAKER (Deputy Leader of the Opposition): Why did the Premier not require the Hon. Barbara Wiese to stand aside as Minister of Consumer Affairs, given that the inquiries into conflicts of interest relating to gaming matters will deal with the exercise of her responsibilities as Minister of Consumer Affairs, not as Minister of Tourism?

The Hon. J.C. BANNON: That really is an extraordinary example of the kind of vendetta that the Opposition is waging in an attempt to get maximum political mileage out of the situation. At every point—and I think I have said this before—we have done something, the Opposition has demanded a next and a further step, and so it will go on. The question is a rhetorical one, to which the honourable member does not really expect an answer but, nonetheless, I will give one.

The fact is that the legislation he is talking about is before the House. The extent to which and in what way the Minister of Consumer Affairs will be affected by it is still subject to determination. It is prospective. The matters that have been raised as far as the honourable member is concerned, in relation to her tourism portfolio in particular, and in the handling and introduction of legislation into this place were quite different. That should be perfectly plain for anyone to see. The question is frivolous and is simply just part of a vendetta that is being waged by members opposite.

STA TRAIN ACCIDENT

Mr De LAINE (Price): Will the Minister of Transport inform the House what action is being taken by the State Transport Authority in relation to an incident on Monday evening involving a 10-year-old boy who claims that he was caught by the neck and foot in the doors of an STA train and dragged through nine metropolitan stations? My colleague the member for Albert Park informed me that the boy's stepfather contacted his home on Monday evening and spoke to his wife. The honourable member's wife referred him to me, because the stepfather is a constituent of mine. My electorate office was contacted yesterday by the boy's mother, Mrs Kym Gordon, in relation to the incident. Subsequently an article appeared in this morning's *Advertiser*, and I quote from that article:

Adam Prior, of Exeter, says he was boarding Monday's 6.48 p.m. Outer Harbor-city train at Glanville when the doors closed on him, pinning his neck and foot with most of his body outside the train.

Adam said he screamed for help as the train took off and was frightened when a train going the other way missed him by only about one metre during his 19 minute terror ride.

Adam was freed at the Bowden station, where a man boarding the train saw him and came to his rescue.

The Hon. FRANK BLEVINS: I saw that newspaper article this morning and was quite alarmed, as anyone would be. If those were the facts, then it is something about which we should all be alarmed. I made immediate inquiries as to what the facts were. At the moment the facts are very difficult to ascertain. The boy and his father have refused to speak to the police, who are investigating the incident, until they have had some legal advice. That is legitimate, I suppose. However, the information we have been given to date is rather conflicting.

Mr Brindal interjecting:

The DEPUTY SPEAKER: Order! The Minister will ignore interjections from the other side of the Chamber.

The Hon. FRANK BLEVINS: It is very difficult, Sir. This is a very serious issue and I would have thought that the honourable member could control himself. I would have liked the cooperation of the child and of the child's father in relation to this incident, but apparently it is not to be given to us, on the basis of seeking legal advice, and that makes it very hard for the police, the Transit Police—

Mr Brindal: Did he commit some offence?

The DEPUTY SPEAKER: Order!

Mr Lewis interjecting:

The DEPUTY SPEAKER: Order! The member for Murray-Mallee is out of order.

The Hon. FRANK BLEVINS: Perhaps I had better clear this matter up, because I do not think the Opposition understands that incidents on the STA are investigated by the Transit Police. We have sworn police officers who operate the security system on the STA, and on this train on which this boy travelled was one of those police officers. He was on the train and made no report at all about any youth being stuck in the doors screaming his head off for nine stations, or whatever it was. It was not a driver-only train; it had a transit officer on board the train.

Mr Hamilton: Did they stop at each station?

The Hon. FRANK BLEVINS: Again, that is another question: as I say, there has been conflict. I do not condemn anyone and I do not want to say what is the position or what is not the position until I have all the facts. When I have all the facts I will, as always, advise the House. But I need the cooperation of the people who claim to have been injured. It is very difficult for the police to investigate when people will not talk to them. People want to talk to the *Advertiser*—and that is their right—but why do they not talk to the police who are investigating what, on the surface, is a very serious incident? If members opposite, or members on this side, have any influence with these people, then we ask them to cooperate with the police who are doing the investigations. The sooner they do, the sooner I will have a report to bring back to the House, as I always do, which states the facts, rather than just one side of the story, and that is all we have heard today.

LOTTERIES COMMISSION

The Hon. JENNIFER CASHMORE (Coles): My question is directed to the Premier. As Minister responsible for the Lotteries Commission, is he prepared to defend the commission against allegations made last night by the Minister of Consumer Affairs? Given the seriousness of those allegations and their likely impact on public confidence in

the integrity of the commission, will he ask his Cabinet colleague to provide evidence to justify them? Last night, the Hon. Barbara Wiese alleged, in relation to the participation of the Lotteries Commission in the debate about introducing poker machines in hotels and clubs in South Australia, that the commission had deliberately misrepresented the truth and had 'over a period of months . . . been associated with a campaign that has denigrated members of the industry and members of Parliament by suggesting that anyone who did not support its point of view was aiding and abetting corruption'—

The DEPUTY SPEAKER: Order! The Chair assumes that the honourable member is not referring to debate in another place.

The Hon. JENNIFER CASHMORE: No, Mr Deputy Speaker—and that senior officers had displayed ignorance about the issue.

The Hon. J.C. BANNON: If the honourable member is quoting from remarks made in another place—

Members interjecting:

The Hon. J.C. BANNON: I have not heard those remarks.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.C. BANNON: I am not aware of any speech made by the honourable member on radio outside the House. I am aware of some extracts that were recorded, I understood, directly from the debate in another place, which did not relate to what the honourable member has said. I have not read those remarks and am not aware of them. It is certainly true that emotions were high at times during the lead-up to the preparation of the Bill. It is on record here that, in respect of one particular publication the Lotteries Commission wished to put out, putting its position on record, I felt it was unnecessarily provocative and, indeed, asked for certain changes to be made. So, perhaps it was that sort of thing to which the Minister was referring. However, I have not seen the full text of her remarks. I do not believe that it will damage the Lotteries Commission, as alleged, and I do not think it is appropriate to debate it here.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Stuart.

PORT AUGUSTA HERITAGE STUDY

Mrs HUTCHISON (Stuart): Will the Minister for Environment and Planning advise when the last heritage study was undertaken for Port Augusta and whether an updated study could be undertaken at the earliest opportunity? I have been contacted by Mr Simon Sporowicz of the Port Augusta Junior Heritage Council, who requested information on this matter.

The Hon. S.M. LENEHAN: The State Heritage Branch of the Department of Environment and Planning is not aware of a previous heritage study in Port Augusta. However, if the honourable member has information of such a previous study, I should be very pleased to receive it. Notwithstanding the fact that we have no record of a previous study, I can inform the honourable member that, in consultation with the City of Port Augusta and the District Councils of Carrieton, Hawker and Kanyaka-Quorn, the State Heritage Branch is in the process of developing a package of funds to undertake a regional heritage study of the Flinders Ranges. This heritage study will include Port Augusta and the surrounding area.

The survey will add to the branch's regional survey program, which has been conducted over the past 10 years. The level of funding that we are seeking is in the vicinity of $100 000, made up of Federal funding (under the national grants for 1992-93, for which we have already applied) and State funding (from the State Heritage Fund), as well as possible local government contributions. I am told that the work would entail hiring for a period of about 18 months a consultant who would undertake surveying, documenting and reporting on the heritage resources of the survey area extending from Port Augusta through to Marree. The survey will commence as soon as sufficient funds have been secured to finance it.

TOURISM SA OFFICERS

Mr MATTHEW (Bright): My question is directed to the Minister of Labour. What was the form of inquiry conducted by the Commissioner for Public Employment into allegations that Mr Jim Stitt employed two officers of Tourism SA to work for him while they were still working for Tourism SA; was Mr Stitt interviewed during these inquiries; and, if the allegations were confirmed, what action was taken against the two officers?

In a letter to my colleague the Hon. Trevor Griffin last week, the Attorney-General explained why the alleged employment by Mr Stitt of two Tourism SA officers should not be included in the terms of reference for the inquiry into Ms Wiese's alleged conflicts of interest. He said an investigation had already been carried out by the Commissioner for Public Employment.

The Hon. R.J. GREGORY: I will obtain a full report and make a ministerial statement tomorrow.

CAT SEMINAR

Mr HERON (Peake): Will the Minister for Environment and Planning advise the House of the level of public interest in the Cat Seminar held this week and say whether it provided useful outcomes on this important issue?

The Hon. S.M. LENEHAN: The Cat Seminar was held as recently as this morning. At the risk of repeating myself two days in a row, I acknowledge the tripartisan support that this seminar has attracted. We have had participation for the full morning from the member for Heysen in his capacity—

Members interjecting:

The Hon. S.M. LENEHAN: I am sorry that some members find that amusing. The community finds it extremely important. It is about time we matured as a Parliament and started to address many of these issues in a bipartisan and indeed tripartisan way. I also acknowledge the role played by the Hon. Mike Elliott in another place in terms of his participation for the full morning. I pay tribute to those members who attended. A number of members or their electorate staff attended. The member for Eyre was one such member, and we were very pleased that some members of this Parliament were present. I am informed that there were about 180 participants. In fact, registrations had to be closed in the middle of last week because of the overwhelming interest and support for addressing what can only be seen as a very complex and complicated issue. This morning's format was both interesting and stimulating.

Probably more important and relevant to legislators in South Australia was the fact that at the end of the seminar a straw vote was taken. Before I indicate the results of that vote, I advise that there were representatives from every perspective on cat ownership, including breeders, to con-

servationists and individual cat owners. Indeed, Dr John Walmsley—

The Hon. D.C. Wotton interjecting:

The Hon. S.M. LENEHAN: It was an excellent speech. Another speaker, Dr Carole Webb, came across from Victoria and the breadth of input was probably something that all members would have appreciated. At the end of the seminar, the straw poll that was taken was almost unanimous—one person in the entire hall did not agree—that there should be greater control and management of domestic cats. There was also overwhelming support for the complete eradication of feral cats. The point relevant to members of this Parliament is that again there was almost unanimous support for legislation on the whole issue. That is indeed a great challenge for each and every one of us, not so much for our colleagues in another place but for those of us who have local constituencies.

Members interjecting:

The Hon. S.M. LENEHAN: I do not think that it will be a conscience vote this time; I hope not, as we have tripartisan support. There was great support for the registration and desexing of domestic cats and a differential for registration between entire cats and cats that have been desexed. The debate is moving down the path of addressing the real reason for this seminar, namely, that we are destroying at an incredible rate our native wildlife. Statistics presented this morning would move even the most hardhearted member of this Parliament. We received information about the destruction of not only native birds but also native mammals and reptiles. The accelerated rate at which this is taking place is something which I do not believe any member of Parliament or the community can any longer sit back and ignore.

I again want to pay tribute to the way in which the Opposition has wholeheartedly participated. The member for Light has a great wealth of information, knowledge and experience and I am sure that many of us will be wishing to draw upon that in coming months to try to see whether we cannot look at some form of legislation that will address this very pressing and urgent issue.

JUVENILE ABSCONDERS

Mr OSWALD (Morphett): I address my question to the Minister representing the Minister of Family and Community Services. Will the Minister ask his colleague how many young offenders have absconded on supervised visits out of SAYTC and SAYRAC over the past 12 months and how many are still missing? Both SAYTC and SAYRAC have senior officers who are delegated to grant supervised leave which was originally given towards the end of a sentence but which is now given much earlier. I have been advised by departmental sources of a 14 year old youth on 10 months detention at SAYRAC for involvement in high speed car chases being allowed, after two months, to attend Crows football matches under supervision, but at one of these matches he absconded. He has now been missing for some six weeks and I am advised that the last time he was seen by the police was through the back window of another high speeding car.

The Hon. G.J. CRAFTER: It is easy to make allegations and to denigrate our FACS officers and the juvenile justice system, particularly the courts and the orders they make by quoting selectively and in a ridiculing way bringing matters into this House. I would suggest that the responsible approach is to look at all of the circumstances before forming a judgment in these situations, to assess the orders made by the court with respect to supervision and the appropriate rehabilitation programs that we have available for young offenders.

In this State we are considerably advantaged by having a wide range of rehabilitative programs available for young offenders so that they have an opportunity to begin a new approach to life to eliminate some of those environmental factors which detract from their opportunities in life, and that has been pursued now for some time in this State. We often have questions raised in this place of this type, unfortunately, that cast an aspersion over the important work that is done by officers of the Family and Community Services Department and by all those involved in our juvenile justice system. I will most certainly ask the Minister for a report along the lines that the honourable member has asked for, but whether that can be done in the time scale will depend on the extent of the information sought across the State.

AGRICULTURAL EXTENSION OFFICERS

Mr McKEE (Gilles): Will the Minister of Agriculture explain criticisms that there have been cuts to the number of extension officers from the Department of Agriculture in the Riverland region? I understand the criticisms—

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr McKEE:—stem from the Renmark Agricultural Bureau of South Australia but reflect wider concerns raised with the Minister about the role of Department of Agriculture extension officers in this State.

The Hon. LYNN ARNOLD: I thank the honourable member for his question, as of course he has an active interest in the activities of the Department of Agriculture out at Northfield and the many activities there. As is noted, the panoply or the spread of the department's resources through the regions and through the central offices of the department provide what is really the support service for agriculture in this State. One of the points I have made is that we are doing significant restructuring of the department and we are in fact moving the research facilities from Northfield to Waite Institute—and in the years to come there will be reductions in the size of the department, and that point has already been made clearly—and the Organisation Development Review is charged with the responsibility of pursuing that in the most effective way.

The other point I have made is that the broad level of extension services available to farmers in the various regions of the State will not be, in total, eroded. They will be maintained so that the very effectiveness of the department can continue. However, I have also said that the way in which we deploy those extension services around the State will be subject to change from time to time. So, while the total may be the same—or even hopefully grow over time—from time to time we may move some resources from one region to another or from one part of a region to another.

Herein comes the question with respect to the Riverland Agricultural Bureau, and I certainly appreciate the concerns that it has raised and the seriousness with which it treats these issues. I want to reassure it that the situation with respect to the Riverland has not seen an erosion of extension officer support over the whole Riverland and surrounding areas. If one looks at the situation in 1986 in that region, there were seven scientific and technical officers plus a number of research officers. In 1992, some six years later, the equivalent positions relating to those seven scientific and technical officers saw seven officers still employed and

again some various research officers alongside of them. In other words, the actual sum total of the human resource available in that region had not changed. However, what is true is that there had been some redeployment of those positions so that some centres had fewer people than they did in 1986 and others in that same region had more.

One of the other points made by the Riverland Agricultural Bureau is that there has been an erosion of support for extension at the expense of increased support for research officers. It says that that is a bad thing because, obviously, the real value of agricultural research is feeding the findings of the research to farmers so that they can use it in a productive way; and I have to agree with that point. But, the reality is that there has been a progressive blurring of boundaries between research officer positions and extension officer positions, and I think that that is a quite correct trend for us to be following.

We surely want our researchers to become much more sensitively aware of what they should be doing to help their ideas become useful for farmers to apply. In other words, the research has to be very much an applied type of research and they should know how to get that information to the farmers. So, there has been a distinct blurring between the research and extension officer positions, and that is a good trend.

The letter from the Riverland Agricultural Bureau also indicates its concern—and a quite legitimate concern, of course—about the degradation of natural resources and the environment in which the members of the bureau operate. I certainly support its concern, but I want to say that our track record is very good in terms of the evidence of what we have done to pick up those issues. The Government has supported and the department has done pioneering work in technologies for integrated irrigation improvement, particularly through the irrigated crop management service. It has also seen other activities developed in the private agricultural sector in that region.

The Department of Agriculture, in conjunction with the E&WS Department, has just completed a report for the Minister of Water Resources about ways in which the rehabilitation of the remaining channel-fed irrigation areas can be upgraded to pipelines. That and other work that we are doing in terms of soil conservation and so on is indicative of our concern for supporting improvements in that area. I thank the honourable member for his very important question and give an assurance to producers in that region that we are maintaining our support at the farm front, so to speak, and we will continue to do that, although I reserve the right to redeploy from one region to another or within regions.

JUVENILE ABSCONDERS

Mrs KOTZ (Newland): Will the Minister of Emergency Services inform the House whether the Police Air Wing has three Cessna 402 C twin engine aircraft available for purposes such as escorting juvenile detainees to funerals interstate; were any of these aircraft available last Friday for a round trip to Perth; and was the Police Air Wing asked whether it could provide this service?

The Hon. J.H.C. KLUNDER: I can confirm that the Police Air Wing has three aircraft. I will have to check on their labels or brand. I will obtain a report on the rest of the question and bring back a reply.

HENDON PRIMARY SCHOOL

Mr HAMILTON (Albert Park): My question is directed to the Minister of Education. Will the Minister inform the House as to what proposals the Education Department has to upgrade the Hendon Primary School for the benefit of students in the Hendon and Seaton North areas? Every member in this House would know of my interest in this area. One of the recommendations of the western suburbs review of primary education was that the Seaton North Primary School be closed at the end of this year. Another recommendation was that nearby Hendon Primary School be upgraded so that it could better cater for local students, including those students from Seaton North Primary School who choose to go to the Hendon Primary School.

The Hon. G.J. CRAFTER: I cannot speak for other members, but I can assure the House that I am well aware of the honourable member's concerns for the wellbeing of that school and, indeed, the general state of education in his electorate, as well as his desire to see the schools in his area placed in a position where they can meet the needs of students, not just in the immediate future but in the longer-term future as well.

As a result of the review of primary schools in the western suburbs of Adelaide, it was decided that the Hendon Primary School would be upgraded and that that would be paid for, in part, by sale of surplus property adjacent to that school. The initial feasibility study has been completed, and the local school community has accepted the broad concept plan. I understand that the school community is very enthusiastic about these proposals. Currently, officers of the Education Department and SACON are working on detailed briefs and drawings. The proposed program will be split into two phases: the first phase involves the operation of existing buildings; and the second phase involves new building work. It is anticipated that the new building phase will be completed early next year.

The scope of the proposed work includes, first, rationalisation of the site, realigning of the school oval, demolition of surplus outbuildings, removal of obsolete timber buildings and upgrading of the paved area; secondly, refurbishment of the existing solid brick buildings to provide classroom accommodation and teaching support facilities; and, thirdly, a series of new buildings, including a new administration facility, a library resource centre and a multipurpose hall to be funded under the capital works assistance scheme, with contributions from the school community and the broader community. As I have said, it is proposed that the funds for the major upgrade will come from school restructuring and the sale of surplus property, part of which is adjacent to the Hendon Primary School. Indeed, as part of site rationalisation, it is proposed that certain parts of that site be disposed of, and the funds thus generated will contribute towards the school restructuring program.

COUNTRY ROADS

Mr GUNN (Eyre): Will the Minister of Transport advise the House why the Department of Road Transport is running down operations in the State's Far North in view of the importance of roads in that part of the State to tourism, transport and the general welfare of people living in that area? I have been informed that staffing levels at Marla, Oodnadatta and Coober Pedy could be reduced, and that would put at risk ongoing maintenance and construction work in that part of the State. Due to the rapid decline in the quality of roads in that area, because of thunderstorms

or drought conditions, the levels of maintenance would be reduced if staffing levels were interfered with in any way. Of course, this could affect the tourism industry, making it more difficult for people to travel in that part of the State. Are these cutbacks another direct result of the billion dollar loss of the State Bank?

The Hon. FRANK BLEVINS: With regard to the latter question, the answer is 'No.' They are, in part, the result of the member for Eyre and other members of the Liberal Party altering this State Government's budget when it came before the House to raise money for the Highways Fund. I stated quite clearly to the House at the time that this money was not to go into the exchequer: it would go straight into the Highways Fund. It was a very small impost. The member for Custance looks as though he is about to intervene: I would have thought that the member for Custance had more sense. I would have thought that the member for Custance had been in this House long enough—

Members interjecting:

The DEPUTY SPEAKER: Order! The Minister of Transport will resume his seat.

Mr Venning interjecting:

The DEPUTY SPEAKER: Order! The member for Custance is out of order. I ask members to come to order. The Minister of Transport.

The Hon. FRANK BLEVINS: Thank you very much, Sir, for your protection from the member for Custance. I must admit that I am still trying to work through this very elaborate ploy that was engaged in by the ex member for Custance, to bring in the present member for Custance and then to finish up somewhere via the Senate in Kavel.

Mr Brindal interjecting:

The DEPUTY SPEAKER: Order!

The Hon. FRANK BLEVINS: It was an extremely elaborate ploy.

The DEPUTY SPEAKER: Order! The Minister would do well to confine himself to the subject of the question.

The Hon. FRANK BLEVINS: You are absolutely correct, Sir; I was provoked by the member for Custance, as you would agree. The fact is that the level of road funding in this State is dependent to a great extent on charges that we raise through various means, whether registration on vehicles, or licensing and so on. All those funds go straight into the Highways Fund. I made perfectly clear when that legislation was knocked back in the Legislative Council, at the prompting of members here, what the consequences would be. The consequences are very simple: less money spent on roads.

I do not think there is a member on the other side of this Chamber who does not write to me—and some of them almost on a weekly basis—demanding more funds, saying, 'Give me this, give me that, I demand this, I demand that, why don't you do it?' What absolute hypocrisy. They are all begging on a daily basis for more road funds but when members opposite had the opportunity to supply more funds to the Department of Road Transport they said, 'No.' It was very short-sighted indeed. However, having made that point, I will now come to my second point.

Members interjecting:

The DEPUTY SPEAKER: Order! I trust that the Minister will conclude within a reasonable period.

The Hon. FRANK BLEVINS: I will, Sir. At this stage I am not aware of the fine detail of what is happening in the Marla region, but I have a very great and personal interest in that region. I believe very strongly that people outside the metropolitan area are as entitled to the same degree and level of services—as much as it is practical—as people within the metropolitan area. I know that the member for Eyre is with me on that. A lot of his colleagues are not, but I know that the member for Eyre is. So, I will have the question investigated and get back to the member for Eyre with a reply. However, I conclude by saying that I hope that, when that legislation comes back before Parliament to raise those funds for the Highways Fund, the member for Eyre will stand up for people in the country areas and support the Government in raising those funds. At any rate, I look forward to that debate.

EASTERN STANDARD TIME

Mr De LAINE (Price): Will the Minister of Labour give consideration to investigating the possibility of permanently adjusting South Australia's clocks to Eastern Standard Time? There is an argument that because South Australia uses Central Standard Time, which is 30 minutes behind Eastern Standard Time, business in this State is adversely affected.

The Hon. R.J. GREGORY: I thank the member for Price for his question. The matter was raised recently by the office of the Chamber of Commerce and Industry, and it is a matter that has been of interest to them for some time. I am fully aware that if business hours in South Australia were at the same time as business hours in New South Wales, Victoria, Queensland and Tasmania it would make it a lot easier for business people in South Australia to conduct their business without the loss of time that is created by the time difference. However, there are other competing interests for the time zone in South Australia, and one must appreciate that our State is quite wide—from the eastern border to the western border. Some of our people on the western border would be at a disadvantage if we were to undertake this. It is a matter that can be properly considered by the Industrial Relations Advisory Committee and I will refer the matter to the committee.

HINDMARSH ISLAND BRIDGE

The Hon. D.C. WOTTON (Heysen): Is the Premier yet able to confirm the cost of the proposed bridge to Hindmarsh Island and to say whether the Government has agreed that taxpayers will pay the total cost, rather than half, as originally announced; and what progress has been made regarding Westpac becoming the principal financier for the marina development on Hindmarsh Island?

The Hon. J.C. BANNON: The honourable member has asked a number of detailed questions on that project. As he knows, the proposal is based on commercial justification, initially: that there is an annual ferry cost of some $370 000 or so; that there is a very large volume of vehicles crossing to the island; and that there are major development potentials there. Obviously, in building such a bridge the Government would be seeking contributions from private developers, and local government is also involved in the process. The project is still very much alive—as it should be—but the detailed assessment of it is continuing.

TARIFFS

Mr QUIRKE (Playford): My question is directed to the Minister of Industry, Trade and Technology. What is the Government doing to stop Canberra's further attempts to dismantle protection? In particular, what is he doing to persuade the Federal Government to freeze changes to tariff regimes on textiles, clothing and footwear?

The Hon. LYNN ARNOLD: This is a very timely question because of the views that have been expressed by the South Australian Government in recent times, again, on the TCF industry and its extreme vulnerability to the tariff changes that were put in place under last year's industry statement, as well as its particular vulnerability to the spectre of Federal Liberal Party policies on the TCF industry, which would see the industry wiped out—

Mr Venning interjecting:

The Hon. LYNN ARNOLD: That would see in South Australia—if the member for Custance is concerned—7 000 jobs immediately at risk, 7 000 people in the work force whose jobs would be wiped out by the policies of a Federal Hewson Government. That is the point of view that we have been saying for a long time is simply not good enough—that we had to do things to see this industry protected. We had our criticisms and our concerns about the present policy of the Federal Government. We have indicated our views about that quite clearly on a number of occasions, and recently the Premier, in conjunction with Premier Joan Kirner of Victoria, agreed to step up the efforts of the two key States in the TCF sector (South Australia and Victoria). I will be liaising with my Victorian colleague the Hon. David White on the matter of what we can do to keep the pressure on the Federal Government.

Dr Armitage interjecting:

The DEPUTY SPEAKER: Order!

The Hon. LYNN ARNOLD: The member for Adelaide makes irrelevant interjections, but I can say that my own suit is well and truly made in this country of Australian fabric. That is a point of view of which we perhaps need more within this country. The point is that the Federal Opposition is clearly in a state of major—

Dr Armitage interjecting:

The DEPUTY SPEAKER: Order! The member for Adelaide is out of order in his repeated interjections.

Mr S.J. BAKER: On a point of order, Mr Deputy Speaker, the original question related to the Federal Government, not the Federal Opposition. The Minister is debating the subject, and that is not allowed under Standing Orders.

The DEPUTY SPEAKER: The Chair assumes that the Minister will rapidly come to the question.

The Hon. LYNN ARNOLD: Thank you, Sir. It is quite clear that the headline in the *Financial Review* about Coalition members of Parliament becoming jittery over tariffs applies not only to Federal MPs but very much to members here. We can see the jitteriness, the nervousness, because there is a total failure to have any coordinated policy on tariffs in this country by the Liberal Party, either at State or at national level—and that is a great tragedy. It is a tragedy that one of the major Parties in this country should be so bereft of policy that 7 000 South Australians should see their job at risk for this want of policy.

Members interjecting:

The Hon. LYNN ARNOLD: On this side of the House, we stand by our decision to stand up for that industry, and we will continue to put pressure on the Federal Government at the very least to have a moratorium on the implementation of tariff cuts as were announced in the industry statement last year.

As we said at that time, the Federal Government should not have stopped in its tracks the textile or TCF policy that it introduced back in 1987. It still had three years to go and it should have allowed it to continue. That decision having been made, at least we should have a moratorium for some time on future cutbacks so that the industry has a chance to restructure and save jobs. The tragedy is that, if it is not given a chance to restructure, the companies will still exist in the TCF industry, but they will be nothing other than brass nameplates on buildings here and the jobs will have been exported overseas.

Surely none of us could support that—not even the Leader and the Deputy Leader, I would have hoped, who are only there for two more days. They are really into their swan song now. I would have thought that they too would be concerned about the 7 000 South Australians whose jobs are at risk. The tragedy is that they may not be concerned at all, that they are totally heartless, as are all their colleagues on that side of the House. I hope that they will have a change of heart—perhaps a damascene experience of some kind whereby they suddenly realise the failure of their policy and join with us in trying to ensure the preservation of the manufacturing sector in this State, because it is so critically important. The TCF sector is part of that manufacturing sector and it also deserves to be supported.

WEIGHBRIDGES

Mr LEWIS (Murray-Mallee): How can the Minister for Environment and Planning justify requiring service clubs in the east and South-East of this State paying as much as $18 a tonne to transport recyclable newspapers to Adelaide for weighing before being transported back to Melbourne, only to qualify for the $20 a tonne subsidy; and does she realise that the licensed weighbridges in Murray Bridge are just as accurate as those at Dry Creek and Ottoway?

The Hon. S.M. LENEHAN: Of course, the honourable member in his usual ridiculously obscure way has to ask this question. Obviously I would need to get a report for the honourable member on the accuracy of the statement. I remind the House about the honourable member's record in asking questions.

Members interjecting:

The Hon. S.M. LENEHAN: Indeed, the veracity. The honourable member asked me a question last week about land tax and, when I suggested that we should refer the question to my colleague the Minister of Finance, the honourable member indicated in the grievance debate that I did not know that I was Minister for land tax. Obviously, the honourable member does not know that I am not the Minister responsible for land tax. Again he highlighted his complete and absolute ignorance of the whole question. I am certainly Minister of Lands, but that does not mean that I am Minister for land tax.

Mr BRINDAL: On a point of Order, Sir, I ask you to rule on relevance.

The DEPUTY SPEAKER: I ask the Minister to confine her remarks to the substance of the question.

The Hon. S.M. LENEHAN: Thank you, Sir. Having put the question into context with respect to the accuracy of the honourable member, I think it is important to point out to the House—

Mr LEWIS: On a point of order, Sir, I must take exception to the slur. That impugns my reputation.

The DEPUTY SPEAKER: Order! Exception is not sufficient for a point of order.

Mr LEWIS: The point of order is that the Minister impugns my reputation by asserting that I would mislead this place—indeed, lie to it.

The DEPUTY SPEAKER: The Chair does not uphold the point of order. I caution all members against frivolous points of order during Question Time, given the nature of the process of Question Time. The Chair will ensure, wherever possible, that questions are relevant and to the point,

as I hope the answers will be. The Minister for Environment and Planning.

The Hon. S.M. LENEHAN: It is rather disappointing that the honourable member cannot cope with the fact of the matter as I was outlining with respect to some of the questions he has asked in the past. To return to the issue of recycling, I answered a question in this House yesterday about the recycling of newsprint. The honourable member has raised a matter which, if I understood his question, suggests that people in the South-East are paying $18 a tonne to have their paper taken to Adelaide before it goes across to Melbourne.

I would be delighted to have this matter investigated. No member of this Parliament has stood up more on the issue of recycling than I have and, if the honourable member is genuine about supporting the concept of recycling, I would be delighted to have this matter investigated. If we could get a better scheme by which the paper can be picked up—

Mr Lewis interjecting:

The DEPUTY SPEAKER: Order!

The Hon. S.M. LENEHAN: —I would be very pleased. The honourable member does not need to resort to personal abuse by calling me a dope. I do not think that is appropriate. The honourable member is very good at bullying everyone, but he is not so good at coping with anyone pointing out his own inadequacies. The double standard is alive and well with the member for Murray-Mallee. However, the issue is more important than the particular eccentricities of the honourable member and I want to say that, if it is possible to get a better scheme by which we can make use of—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. S.M. LENEHAN: I was about to say that. He is like a child. I was about to say that we would weigh the paper at Murray Bridge and it would then be transported directly to Melbourne. In fact, I have visited Pratt Industries in Melbourne where I imagine the paper ends up, so it would make sense to have a regional collection scheme. I am delighted to do that, but the way in which the honourable member has to ask his question, the childish little boy point scoring, showing a little temper tantrum, is just belittling not only to this Parliament but also to the issue. We are moving forward with recycling and we will ensure that we provide a service for those members in country areas.

GRIEVANCE DEBATE

The DEPUTY SPEAKER: The question before the Chair is that the House note grievances.

Mr BLACKER (Flinders): I would like to use this opportunity to add my full support to a proposed new project by Gulf Link to provide a roll-on roll-off ferry from Wallaroo to Cowell. I do that in the knowledge of the many discussions that have taken place leading up this project for what I can see will be a great economic benefit to South Australia and, in particular, to Eyre Peninsula.

Gulf Link has been working on this project for about two years and during that time has been able to put together a package which will have tremendous impact for Eyre Peninsula. I note that the member for Stuart is listening with some interest to what I have to say and, following the comments she has made in this House on earlier occasions, I indicate that I do not agree that her fears for the Iron Triangle are as serious as she first believed. The cities of Port Pirie, Port Augusta and Whyalla can work collectively and provide tours of the Iron Triangle, or a better description might be Upper Spencer Gulf tours. Perhaps weekend tourist trips could be arranged to visit the Upper Spencer gulf cities. Tourists would travel up one side of the gulf and return by ferry or vice versa. On that basis there would be considerable economic benefit from a tourist point of view to these cities. In any event, the honourable member's concern was primarily based on the amount of traffic that would be diverted from Port Augusta or Port Pirie. We must be talking about Port Augusta in this instance, because little through traffic goes into Port Pirie.

Port Augusta would be little affected by the proposal but, in the preliminary studies undertaken involving traffic volumes, all that Gulf Link wants is to attract 1.3 per cent of the interstate trade so that its vessel would be fully loaded. In effect, as it means that less than 1 per cent of the heavy haulage traffic that goes through Port Augusta would be required to fill the ferry to an economic level, I do not believe that that would be a serious consequence, and the other benefits to the State would be much more effectual.

I think we should look at what this does in terms of interstate haulage. It will mean that double unit road trains can come from Perth and get to Wallaroo before having to be split. As members know, road trains are now taken to Port Augusta where they are split and each of the trailers is brought to Adelaide or goes on to Melbourne as a single unit. This proposal will allow those road trains effectively to get to Wallaroo, and that means a considerable cost saving to the heavy haulage industry. Furthermore, it would make Eyre Peninsula a weekend tourist destination. If the district councils and the Corporation of the City of Port Lincoln get their act together, attracting and developing a weekend tourist trade to the peninsula will result in considerable benefits.

Only recently, Mr Rod Nettle of the Employers Federation addressed a meeting at Tumby Bay and gave projected figures for the housing industry that would be required in the next two decades. It was clear from those figures that, if the councils on Eyre Peninsula were able to get their act together, they would be able to capitalise on a ferry proposal provided there was room on the ferry apart from the provision for the interstate and heavy haulage trade. I know, from much of the correspondence I have seen, that some very big companies and financial institutions are involved in this matter. The whisper I get is that the project will be oversubscribed, not undersubscribed. I have no doubt that the project is a goer and that there will be considerable economic benefit to South Australia because of it. I hope that everyone gets behind it and gives it the support it deserves. The efforts of the Department of Marine and Harbors and its assistance in helping to put together this proposal is acknowledged, bearing in mind that the proposal will operate Wallaroo to Cowell.

The ACTING SPEAKER (Mrs Hutchison): Order! The honourable member's time has expired. The member for Napier.

The Hon. T.H. HEMMINGS (Napier): On 14 April 1992 I wrote the member for Hartley, as the presiding member of the Economic and Finance Committee, the following letter:

Dear Presiding Member, I am writing to you requesting that my driver and I be called to appear before the Economic and Finance Committee at the earliest possible date to discuss certain allegations made to members of Parliament and reported upon in the media that I have abused the use of the ministerial vehicle allocated to me in my capacity as presiding member of the Environment, Resources and Development Committee. In order

that those unfounded allegations are expeditiously dealt with, I would request that the investigations take place on the non-sitting week immediately after the Easter weekend. Furthermore, in order to dispel the cloud of suspicion which is currently hanging over me, I would respectfully suggest that, under section 26 of the Parliamentary Committees Act, members of the public and the media should be admitted to the hearing. I await your reply.

Yours sincerely, Hon. T.H. Hemmings, MP, member for Napier.

I wrote that letter because the member for Hartley made it known to Labor members on this side of the House and to the media that I had abused the use of the Government car that was made available to me as the presiding member of the Environment, Resources and Development Committee and, as a result of that alleged abuse, the member for Hartley, as the presiding member of the Economic and Finance Committee, would have that matter investigated. Just prior to that I had stood in this House and made a rather scathing attack on the member for Hartley's attitude to Government and Government departments, and obviously it met with his displeasure.

On numerous occasions on television, radio and in the *Advertiser* the member for Hartley has said that, as Chairman of the Economic and Finance Committee, if anything did not meet with his satisfaction, he would have the matter investigated. So, imagine my surprise when, the same day about two hours later—before the matter even had a chance to go before the Economic and Finance Committee—I received the following letter:

Dear Mr Hemmings, reference is made to your letter dated 14 April 1992. As no discussion or criticism has taken place before the Economic and Finance Committee, to my knowledge, regarding the allocation to you and use by you of a chauffeur driven motor vehicle I do not personally intend to support your request. While you are now the only committee presiding member of the four committees under the Parliamentary Committees Act, 1991, with the allocation of such a vehicle the allocation is made to you by the relevant Minister not by the Economic and Finance Committee and your use is determined by that Minister.

Yours sincerely, Terry Groom M.P., Presiding Member, Economic and Finance Committee.

I wrote my letter not because of the allocation but because I had incurred the member for Hartley's displeasure, because I am supporting the endorsed Labor Party candidate for the seat of Napier, and he was using his position to have me investigated. I was not asking whether the Economic and Finance Committee should consider whether a car should be allocated to me as a presiding member of a Standing Committee of this Parliament but whether that alleged abuse of that vehicle, which the member for Hartley had raised in this Chamber (and which was known to the media) should be investigated. Because of the member for Hartley's refusal, that cloud of suspicion is still hanging over me, and it is hanging over my driver.

I raise this matter in the grievance debate because the member for Hartley cannot have it both ways. He cannot say in a fit of pique, 'I am going to get at you, Hemmings, and I will have you investigated'. Then, when I gave him this opportunity, he went running to the Premier—and I know he did that—asking him to tell me to lay off, and then he used his position at a subsequent committee meeting to say that he will not have the alleged abuse investigated. I appeal to the House, because it has powers as a Parliament, to have the use of my car investigated by the Economic and Finance Committee so that the whole matter can be cleared up. I want this House to debate a motion on this matter at the earliest opportunity so it can go back before the Committee.

Mr BRINDAL (Hayward): I am pleased to speak in this grievance debate after the member for Napier, who raises the matter of the use of his car. If he seriously wants the Parliament to consider referring this matter to the Economic and Finance Committee, he has only to put a substantive motion before the House and, as it does with all other matters, that request will be resolved quickly for the honourable member. I am pleased to speak after the member for Napier, because he speaks about an abuse in this place, and I also wish to speak about an abuse in this place, that is, the abuse of some Ministers in their attitude to this Parliament.

While the member for Napier seems to spend much of his time attacking private members in this place, he would do well to see more the inadequacies of the Government and many Government Ministers. Conscious of the time, I wish to concentrate on two matters, the first of which relates to health. Some time ago, I wrote to the Deputy Premier in his capacity as Minister of Health. I asked a number of questions about the sale of uncovered foodstuffs in salad bars and hoppers in supermarkets. I did so because I was given information which suggested that officers of the Health Commission had written to health officers of councils suggesting that they should ignore the law as it has been passed by this Parliament in this State.

Basically, the understanding and interpretation of the law is that such uncovered foodstuffs cannot be legally offered for sale in South Australia, and yet the Health Commission, finding this out, wrote to local health officers and said, 'Well, it might not be legal, but we ask for your understanding in this matter, since we are soon to ask the Parliament to change the law.' I think that a very simple and very important principle is involved here: either this Parliament passes laws and our public servants administer those laws on behalf of this Parliament or the public servants make the laws as they interpret them and we pack up and go home and save the taxpayers of South Australia a lot of money. Quite simply, I do not think it is good enough for any public servant in this State, however, exalted, to write instructing any member of a council to basically ignore something which is law, on the grounds that this Parliament might choose to change that law in six months, nine months or a year's time.

I have tried to follow the correct procedures and I have not raised the matter in this place. I have written to the Deputy Premier, but if he does not have the courtesy to reply to me privately in the time that I have allowed him, I will raise the matter in this place, and will continue to do so, both here and publicly outside until we have some satisfactory answers. I do not think it is satisfactory for the Health Commission to act in that way.

I now refer to another matter that involves another Minister, the Minister of Housing. I was most alarmed to learn that Mr Kevin Weeks of Weeks and Macklin had some time ago written to the Housing Trust with a very sensible suggestion for the better administration of the Housing Trust, one that could save $18 million to $19 million for this State, money that could go towards providing housing for the homeless and people such as those whom you serve yourself, Madam Acting Speaker, in Port Augusta. Yet, not only has the Minister not replied either to me or to Mr Weeks but he continues to ignore the suggestion. I feel that is insulting to members of Parliament and it is irresponsible on the part of a Minister who should, after all, be concerned for the public good and for the best utilisation of the public purse. I intend to refer this matter to the member for Hartley, as Chairman of the Economic and Finance Committee. I am going to ask this Parliament to examine the matter. If the Minister cannot determine the proper allocations for the budget, it is about time this House intervened and did so.

Mr HAMILTON (Albert Park): Many years ago I was given some very good advice by Des Corcoran, who as we all know was the member for Millicent, the member for Hartley and, indeed, Premier of this State. The advice he gave me was that one can make the most profound speech of one's career in this place but unless one gets a headline or unless it is reported in one's electorate it is not worth a cold pie. I notice, Mr Acting Speaker, that you nod and, indeed, you have been here for many more years than I have. The work that one does in one's electorate is basically fundamental to the role of a member of Parliament. In the years that I have been a member of this place I have come to understand, like many other members in this House, that it is important to assess the feelings of one's constituents.

On this occasion I refer to the matter of Seaton North Primary School, and it is a matter that, quite frankly, has caused me some concern, as indeed it has to a number of my constituents. The department intends to close that school because of declining enrolments. I took note of the member for Hayward's words 'best utilisation of the public purse', and today the Minister of Education, in response to a question that I raised in relation to the closure of Seaton North Primary School, indicated that it was the intention of his department to upgrade Hendon Primary School as a consequence of the closure of Seaton North Primary School, that students from that school would have the opportunity to go to Hendon Primary School. That is a school that I regard as probably one of the best schools that I know of, in terms of the commitment by the principal and the teachers to the students.

In all my years as a member of this House and in my contact with that school, I have found the commitment of those teachers, particularly to many of the disadvantaged students, to be a commitment *par excellence*, far and beyond the call of duty. It was with a great deal of pleasure that I heard today the response from the Minister in relation to his department's intention through SACON to work on detailed briefs and drawings of the proposed program to upgrade that school. The proposed works are the rationalisation of the site; the realigning of the oval, the demolition of surplus outbuildings, the removal of obsolete timber buildings and the upgrading of a paved area.

Equally important, of course, was the Minister's announcement that new buildings, which included the new administration facility, a library resource centre and a multipurpose hall under the capital works assistance program, are all planned for that school. The Minister went on to says that it is proposed that the funds for this major upgrade will come from school restructuring and the sale of surplus property.

Members will recall that I have made many statements to this House in relation to assets management and the utilisation of proper resources. This is a demonstration of what, as far as I am concerned, this Government is all about—the proper utilisation of resources. In addition, only yesterday I wrote to the Minister of Housing and Construction and asked him to look at the purchasing by his department of 14 blocks of surplus land that are currently on the Hendon Primary School site, to be utilised by the Housing Trust for our elderly constituents in South Australia. I trust that the Minister will take that on board, because I hope to demonstrate in another grievance debate, before this session is over, the benefits of the utilisation of this piece of land, which is close to all public facilities in the area.

Mr S.G. EVANS (Davenport): Over the past two years the Minister for Environment and Planning has condoned, authorised and allowed without any qualms the destruction of hundreds of mature trees in the Belair National Park, previously the Belair Recreation Park. At a time when the STA is talking about planting one million or more trees to try to counteract some of the air pollution, at a time when the Prime Minister is saying that we should be planting trees, and a time when the Minister for Environment and Planning herself is saying that we should be planting trees, to have people cutting down trees of up to 120ft high is scandalous. The trees were not all *pinus radiata* or *pinus insignia*: some of them were golden cypress, which do not spread rapidly. One of them had a shade expansion of over 140ft, so that people could sit alongside the old railway dam that has been made into Playford Lake. Some trees have been taken from near the old railway dam.

The Minister publicly stated quite clearly that only conifers would be taken out—that it was being done to preserve, and that the opportunity would be given to replant with natives. That department—and it must have been with the Minister's approval, or else someone should be sacked—has rapidly cut down at least eight (and by this time possibly more) what we call sugar gums, trees 20 metres or more high and approximately 60cm in diameter, and has been trying to clear up quickly before anyone found out what had taken place.

I am not allowed to use the word 'lie' in this place in describing somebody's actions, but outside I could. This Parliament should have been able to accept the Minister's word and that of the department that native trees would not be destroyed, but they have been destroyed this very day. I am not talking about small trees, they are mature trees alongside the recently replanted maze and they should have stayed there. There is a plantation of them. I do not know whether it is the intention to take out the lot: time did not permit that sort of query. Question Time today did not provide the opportunity for me to ask a question. I hope that some of the Minister's staff or one of her colleagues are listening and that they say to her, 'Ms Minister, there are problems, because you have allowed, or possibly authorised—I do not know—the cutting down of these mature trees in the Belair National Park.'

That is disgraceful when some young people, especially from the Belair Primary School, have spent hundreds of hours planting natives within the Belair National Park; the Minister and the department are allowing the cutting down of mature eucalypts. They are clean barked, tall and quite majestic, but they have been destroyed. At the other end of the park we have the Melville section containing the Melville family home—of my great grand parents—many acres have been denuded, including the fruit orchards. Pines and conifers have been cut and no replanting is taking place. What are they on about? The community has been deceived and misled. The Minister has a lot to answer for, and I am sure that over the next few days, others who communicate with her will ask, 'Minister, why have you failed us? Why have you misled us? Why have you given out false information?' because these trees were valuable Australian natives that should have been kept in a national park as we know it today.

Mrs HUTCHISON (Stuart): I wish to refer today to the Spencer Gulf navigational aids. I am sure the matter is of interest to a number of other members in this House. As the Minister is at the bench at the moment, I place on my record my gratitude for his support for the retention of these aids in Spencer Gulf. I also thank him for having personally investigated these aids in Spencer Gulf during a recent visit to the area. He is aware of the problems involved. The aids are extremely important, and if one speaks to

either recreational or professional fishermen in the area as well as yachting people, one finds that these aids are of prime importance in terms of safety for that area of Spencer Gulf about which we are speaking.

Spencer Gulf hosts yachting regattas and a number of other functions. It is extremely important that these aids stay in place. We are talking about four navigational aids in that area, namely, at Point Lowly, the eastern shoal, the eastern shoal south and Middlebank. I know that the Minister was concerned about two of those aids which he felt were past it and needed to be replaced. I was pleased to see that he had made a proposition to the Federal Minister for Shipping and Aviation, Senator Bob Collins, indicating that he would be prepared to look after the navigational aids in Spencer Gulf if they were replaced. I believe that to date the Minister has not received a reply to his correspondence. Two of the aids will be taken out, one of which is the Point Lowly beacon.

I have had some discussions and correspondence with the Whyalla City Council, as I am sure the Minister of Transport (the member for Whyalla, Hon. Frank Blevins) has, and I know that he is also concerned about this issue. One of the things the council would like to see, if the Point Lowly Lighthouse is taken out, is for the lighthouse and its light—because it is historically significant to the Whyalla area—to be handed over to the council and I am sure that you, Mr Deputy Speaker, would be aware of the maritime museum located at Whyalla.

One of the reasons the council would like to have the lighthouse handed over is that it would enhance the reputation of the museum and give an added dimension to it. The council would like to preserve that historic landmark and continue the operation of the light. It would like to use the lighthouse as part of the ongoing tourist promotion program for Whyalla and its environs. I cannot stress too much the importance of tourism to our areas. Both the member for Custance and the member for Eyre would be aware that in the northern parts of the State we have little in terms of employment opportunities, and tourism is one employment opportunity that we can increase and enhance through this project.

Therefore, I urge the Minister to consider and support the proposition of the Whyalla council. I am sure that he will support it, so that we can get the Federal Minister, Senator Bob Collins, to look at the issue and agree to the Whyalla council's taking over that light. I sincerely hope the Federal Minister brings back a quick reply with regard to the other navigation aids in Spencer Gulf, because that matter is causing increasing concern to the communities that I and the Minister of Transport represent in Upper Spencer Gulf. While congratulating the Minister, Hon. Bob Gregory, I would urge him to push for an early resolution of this problem.

PERSONAL EXPLANATION: VEHICLE USE

Mr GROOM (Hartley): I seek leave to make a personal explanation.

Leave granted.

Mr GROOM: Once again the member for Napier has made a personal attack on me and has again chosen an occasion on which I was absent from the House. He alleges that I have said to Labor Party members—in Labor Party circles, loosely termed—that he had abused his motor car. I want to place on record once and for all that there is absolutely no truth in this mischievous—

The Hon. T.H. Hemmings interjecting:

Mr GROOM: Just be quiet.

The ACTING SPEAKER (Mr Gunn): Order! The honourable member has leave to make a personal explanation. Interjections are out of order, and I ask the honourable member to ensure that he is not commenting but merely making a personal explanation.

Mr GROOM: Quite. Evidently, he alleges that I have said to some Labor Party members that he has abused his car. I just want to place on record that this is untrue and unfounded, and I will not go into the reasons behind that. I want to make it quite plain that when I became Chairman of the Economic and Finance Committee—

The ACTING SPEAKER: Order! I think the honourable member is straying from a personal explanation. I ask him to make a purely personal explanation and not to comment.

Mr GROOM: The problem, Mr Acting Speaker, is that it is connected with the fact that I have my own views on chairpersons of committees using chauffeur driven motor vehicles. My position is that self-drive vehicles would at least be more appropriate. At no stage have I ever made any allegation whatsoever to any member of this Chamber that the member for Napier has abused his motor vehicle. Anything I have said is in relation to a general principle with regard to the general use of chauffeur driven motor vehicles and the appropriateness of the use of chauffeur driven motor vehicles in times of high unemployment and recession.

BARLEY MARKETING BILL

The Hon. LYNN ARNOLD (Minister of Agriculture) obtained leave and introduced a Bill for an Act relating to the marketing of barley and for other purposes. Read a first time.

The Hon. LYNN ARNOLD: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill, together with complementary legislation in Victoria, will continue the joint scheme for the marketing of barley produced here and in that State.

However, the measure represents more than an automatic renewal of the legislation and in fact, is a result of the first comprehensive review of the barley marketing scheme since its enactment in 1947. This review was undertaken in 1988-89 by a group drawn from both Governments, the Australian Barley Board and grower organisations in the two States.

The working group subsequently reported to the South Australian and Victorian Ministers and its recommendations form the basis of this Bill. There was, of course, later consultation with grower organisations and the users of barley in order to refine the recommendations.

Many of the provisions contained in the Bill have been carried over from the current Act, but the proposed measure also contains initiatives designed to improve present marketing arrangements. As a result, it will place the Australian Barley Board in a better position to adapt and respond to a grain marketing environment facing a period of change.

In that vein, the uneasy financial position within the grain industries, deregulation of the domestic wheat market and the expanded powers of the Australian Wheat Board have focussed attention on State authorities marketing their geographical portions of a grain crop or crops.

Although there is evidence of growing industry support for national coordination of the marketing function for most grains,

consensus as to a desirable structure is yet to emerge. Since South Australia and Victoria believe that such consensus may take some years to evolve, they have agreed to maintain an improved form of the joint barley marketing arrangements for a further five years.

The Bill requires the two States to formally consult before continuing these arrangements beyond that term. The role of the Australian Barley Board in future, Australia-wide marketing will be a significant issue at these consultations.

In turning to particular features of the Bill, it is appropriate to reiterate that the measure is based on the recommendations of the working group previously described. However, in establishing the Australian Barley Board, the Bill strikes a compromise between the views of that group and those of certain sectors of industry.

Accordingly, the Australian Barley Board will consist of two Ministerial nominees, two elected grower members from South Australia and four members nominated on merit, by a Selection Committee. The selection process already used by the Commonwealth and others in appointments to statutory marketing authorities encourages high quality candidates to offer themselves for appointment. This is not to suggest that elected members have proved or will prove unsatisfactory, but the positive aspects of selection should be appreciated.

The Selection Committee itself will comprise five members, four of whom will be nominated equally by the United Farmers and Stockowners of SA Inc. and its Victorian counterpart.

The Bill provides for the Australian Barley Board, through a compulsory delivery requirement, to retain its control over the export of barley and oats from South Australia and barley from Victoria. For the domestic market, the Bill establishes a framework whereby barley processors will be able to more readily source grain direct from producers.

In addition to providing an element of domestic competition to the Board, this feature will allow growers and processors to enter into mutually advantageous arrangements for the production and sale of special purpose barley. The intent of the Bill is that the Board may not actively discourage such direct sales nor vigorously regulate the terms and conditions of any contract or direct arrangement between a processor and grower.

The Bill also allows the Board to market, at its commercial discretion, a wide range of grain crops grown in South Australia and Victoria. Marketing of those crops (other than barley and oats) will be on a voluntary basis on the part of both the Board and the grower. Cash trading will be a further option available to the Board.

In a wider monetary context, the Barley Board is entirely self-funding and no Government funds have been, or will be, required for its operations. The Bill provides that the Board's borrowing activities will be governed by South Australian financial legislation under which the Board has operated for some years.

The Bill will also enable the Board to establish grain pools on a range of criteria and to set up financial reserves to facilitate the pooling and marketing operations of the Board. Honourable members will note that under its proposed powers, the Board may carry out or fund research and development that assists in the production or marketing of grain. The reserves could also be put to that use.

On that note, a further initiative in the Bill is the establishment of a Consultative Committee. The major function of this committee is to provide grassroots advice to the Board concerning its general policies but particularly in regard to the Board's use of financial reserves and possible joint venture arrangements with a commercial partner or partners. The joint fixing by the Ministers of a maximum reserve fund would be based on recommendations by the Consultative Committee.

Having alluded to research, the South Australian Bill transfers from the current Act provision for the deduction of 'Voluntary' research levies as they are commonly termed. It will be recalled that the Wheat Marketing Act 1989, has already been amended to accommodate changes in the Commonwealth arena and to deposit wheat levies in the South Australian Grain Industry Trust Fund. This Bill also provides for such procedures with barley levies.

The accountability of the Australian Barley Board to government and the barley growing community will be strengthened. In addition to providing both parliaments and each grower organisation with an annual report detailing its operations and financial position, the Board will also be required to provide both Ministers with a rolling operational plan based on a five year time horizon.

The Government believes this legislation will put into place, for the next five years, marketing arrangements that will make a significant contribution to the efficiency of the South Australian and Victorian barley industry.

Part 1 of the Bill (comprising clauses 1 to 7) contains the preliminary provisions.

Clauses 1 and 2 are formal.

Clause 3 defines words and expressions used in the Bill.

Clause 4 provides that for the purposes of this Act, the Minister may, by notice in the *Gazette*, declare that grain of a specified variety, species or kind is grain to which this Act applies.

Clause 5 provides that parts 4 and 5 apply to barley and oats harvested in the season commencing on 1 July 1992 and each of the next four seasons but do not apply to barley grown in a later season. Proposed subclause (2) provides that the Minister must consult with the Victorian Minister before the end of the season commencing on 1 July 1995 about the arrangements for the marketing of barley grown in South Australia or Victoria.

Clause 6 provides that it is declared that it is the intention of the parliament that this Act and the Victorian Act implement a joint South Australian and Victorian Scheme for marketing barley and oats grown in South Australia and barley grown in Victoria. Proposed subclause (2) provides that it is also declared that it is the intention of the Parliament that this Act not be amended in any manner that may prejudice the operation of the joint Scheme except on the joint recommendation of the Minister and the Victorian Minister.

Clause 7 provides that the Minister may, in writing, delegate to any person any of the Minister's powers under this Act, other than any power which is to be exercised jointly with the Victorian Minister or this power of delegation.

Part 2 of the Bill (comprising clauses 8 to 26) provides for the establishment of the Australian Barley Board and its powers and functions.

Clause 8 provides that the Australian Barley Board is established as a body corporate with perpetual succession with all of the consequences at law that go with being a body corporate.

Clause 9 provides that the Board does not represent, and is not part of, the Crown.

Clause 10 provides that the common seal of the Board must be kept in such custody as the Board directs and may be used only as authorised by resolution of the Board.

Clause 11 provides that the Board consists of eight members appointed jointly by the Minister and the Victorian Minister, of whom one will be a person nominated by the South Australian Minister one will be a person nominated by the Victorian Minister, two will be barley growers in South Australia (who will be elected), one will be a barley grower in Victoria nominated by the Selection Committee, two will be persons with knowledge of the barley industry (one of whom is resident in Victoria) nominated by the Selection Committee and one will be a person nominated by the Selection Committee with particular expertise. A person who is a member of the Selection Committee is not eligible for appointment as a member of the Board.

Clause 12 provides that the Selection Committee is to consist of five persons appointed jointly by the Minister and the Victorian Minister of whom two will be persons appointed from a panel nominated by the United Farmers and Stockowners of SA Inc, two will be persons appointed from a panel nominated by the Victorian Farmers Federation and one (the Chairperson) will be jointly nominated by the chief executive officer of the South Australian Department of Agriculture and the chief executive officer of the Victorian Department of Food and Agriculture. The members of the Selection Committee are appointed for such period and on such terms and conditions, including payment of allowances, as the Minister and Victorian Minister determine. The clause further provides that a decision may not be made at a meeting of the Committee unless all members are present or, in the case of a meeting conducted by telephone, unless all members participate by telephone. The Selection Committee may engage consultants to assist it in nominating persons for appointment as members of the Board. The Board must pay the allowances payable to members of the Committee and any reasonable expenses of the Committee.

Clause 13 provides that the Minister and the Victorian Minister may determine selection criteria to be applied by the Selection Committee in selecting persons for nomination.

Clause 14 provides that the Minister and the Victorian Minister will appoint one of the members appointed by either of the Ministers to be the Chairperson of the Board for such period as the Ministers determine.

Clause 15 provides that the members of the Board may elect another member to be the Deputy Chairperson of the Board.

Clause 16 provides that a member of the Board, unless an officer or employee of the public service, is entitled to be paid by the Board the remuneration and allowances (if any) fixed by the Minister and the Victorian Minister.

Clause 17 provides that a member's term of office must not exceed three years and a member is eligible for re-appointment.

Clause 18 provides the terms by which the office of a member of the Board becomes vacant including the removal from office by the Minister and the Victorian Minister under proposed subsection (2). The Minister and the Victorian Minister may remove a member of the Board from office for misconduct, for neglect

of duty, for incompetence, for failing to disclose a pecuniary interest as required by proposed section 20 or for mental or physical incapacity to carry out satisfactorily the duties of his or her office.

Clause 19 provides that if the office of a member of the Board becomes vacant for some reason other than the expiry of the term of office of the member, a person nominated for appointment to the office in accordance with clause 11 will be appointed to fill the vacancy and to hold office, subject to this Act, for the remainder of the term. However, if the vacancy occurs within six months of the expiry of the term of office of the member, the office may be left vacant for the remainder of the term.

Clause 20 provides that a member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board. Such a disclosure must be recorded in the minutes of the meeting and, unless the Board decides otherwise, the member must not be present during any consideration of the matter by the Board, or take part in any decision of the Board with respect to the matter. It is further provided that this clause does not apply to a pecuniary interest that a member has because of his or her qualification to be a member if that is an interest in common with other persons holding a corresponding qualification.

Clause 21 provides that the Board is subject to the general direction and control of the Minister and the Victorian Minister and any specific written directions given by the Minister and the Victorian Minister or by either Minister with the written consent of the other Minister. A Minister must not give a written direction unless satisfied that, because of exceptional circumstances, the direction is necessary to ensure that the performance of the functions, or the exercise of the powers, of the Board, does not conflict with major government policies and the Board must include in each annual report directious given under this clause during the year to which the report relates.

Clause 22 provides for the manner in which the proceedings of the Board will be carried out, including the following:

- that the Board's meetings will be chaired by the Chairperson or, in his or her absence, by the Deputy Chairperson or, in the absence of both, by one of the members present;
- that a quorum is constituted by 5 members;
- that the Board must meet at least once every 3 months.

This clause further provides that the Board must ensure that minutes are kept of each meeting and that a copy of the confirmed minutes of each meeting are sent to the Minister and the Victorian Minister within two weeks after being confirmed. Subject to this Act, the Board may regulate its own proceedings.

Clause 23 provides that an act or decision of the Board is not invalid by reason only of a defect or irregularity in, or in connection with, the appointment of a member or of a vacancy in membership, including a vacancy arising out of the failure to appoint an original member.

Clause 24 provides that the Board may employ staff (including a chief executive) on such terms and conditions as it thinks fit and may make arrangements for using the services of any officers and employees of the public service or any public authority.

Clause 25 provides that a member of the Board is not personally liable for anything done or omitted to be done in good faith in the exercise of a power or discharge of a duty under this Act or in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act and that any liability resulting from an act or omission that, but for proposed subsection (1), would attach to a member of the Board attaches instead to the Board.

Clause 26 provides that the Governor may, if of the opinion that circumstances have arisen rendering it advisable to do so, by notice in the *Gazette*, remove all the members of the Board from office, but they or any of them are eligible (if otherwise qualified) for re-appointment. Where this occurs, the Minister must cause a report of, and of the reasons for the removal of, the members of the Board under this section to be laid before each House of Parliament within 14 sitting days of that House after the date of publication of the notice.

Part 3 of the Bill (comprising clauses 27 to 32) deals with the objectives, functions and powers of the Board.

Clause 27 provides that the objectives of the Board are to supply marketing services to South Australian and Victorian barley growers and producers of other grains and to maximise the net returns to South Australian and Victorian barley growers who deliver to a pool of the Board by securing, developing and maintaining markets for grain and by minimising costs as far as practicable.

Clause 28 provides that the functions of the Board are:

- to control the marketing of barley and oats grown in this State and of barley grown in Victoria;
- to market and promote grain in domestic and overseas markets;
- to co-operate, consult and enter into agreements with authorised receivers relating to the handling and storage of grain and carriers relating to the transport of grain;
- to determine standards for the classes and categories of grain delivered to the Board;
- to determine standards for the condition and quality of grain delivered by authorised receivers to purchasers;
- to import barley and grain; and
- to provide advice, as requested, to the Minister and the Victorian Minister about the marketing of grain.

Clause 29 provides that the Board may do all things necessary for the performance of its functions and, in particular, has the following powers:

- to acquire barley, oats and other grain;
- to dispose of barley, oats and other grain;
- to appoint agents, or to act as an agent, whether in or outside Australia;
- to give guarantees or indemnities;
- to arrange the marketing of barley, oats and other grain;
- to promote, carry out or fund research and development that will assist in the production or marketing of barley, oats and other grain; and
- all other powers conferred on it by or under this Act or the Victorian Act.

Clause 30 provides that the Board may, in writing, delegate to any member of the Board, or to any employee, any of its powers under this Act, other than this power of delegation.

Clause 31 provides that for the purposes of this Act, the Board may, by notice in writing, served on the person to whom it is addressed either personally or by post to the person's last known place of residence or business, require the person to give to the Board, in writing, within the time specified in the notice, such information relating to barley and oats, barley and oat products or substances containing barley or oats as is specified in the notice. A person must not, without reasonable excuse refuse or fail to comply with a requirement under this section or give to the Board any information that is false or misleading in any particular. The penalty for contravention of this clause is a division 7 fine ($2 000).

Clause 32 provides that before the first anniversary of the commencement of this section, the Board must submit to the Minister and the Victorian Minister a plan of its intended operations during the remaining seasons to which this Act applies and thereafter, with each annual report it submits to the Minister and the Victorian Minister, the Board must also submit a plan of operations for the remaining seasons to which this Act applies.

Part 4 of the Bill (comprising clauses 33 to 41) deal with marketing.

Clause 33 provides that subject to this Act, a person must not sell or deliver barley or oats to a person other than the Board. Subclause (2) provides that it is an offence if a person transports barley or oats which have been sold or delivered in contravention of proposed subsection (1) or bought in contravention of proposed subsection (4), the penalty for which, in the case of a body corporate, is a division 6 fine ($4 000). Proposed subsections (1) and (2) do not apply to—

- barley or oats retained by the grower for use on the farm where it is grown;
- barley or oats purchased from the Board;
- barley of a season sold or delivered to the holder of a licence or a permit for that season issued under proposed section 42 or 43;
- barley or oats which do not meet the standards determined by the Board;
- barley or oats sold or delivered to any person with the approval of the Board;
- oats sold to a person who purchases the oats for the purpose of converting the oats into chopped, crushed, or milled oats or any other manufactured product and reselling the oats in that form; or
- oats sold to a person who purchases the oats for use and not for resale.

Proposed subsection (4) provides that if a person buys barley from the grower other than under a licence or permit issued by the Board under Part 5 or oats from the grower other than with the written approval of the Board, he or she is liable to a penalty, which is, in the case of a natural person—a division 8 fine ($1 000) and in the case of a body corporate—a division 6 fine ($4 000).

Clause 34 provides that, unless it is otherwise agreed, on delivery of barley and oats to the Board, the property in the barley and oats immediately passes to the Board and the owner of the barley and oats is to be taken to have sold it to the Board at the price to be paid under this Act.

Clause 35 provides that the Board may, subject to such terms and conditions as the Board thinks fit, by instrument in writing, appoint a person to be an authorised receiver for the purposes of this Act. Where a grower intends to deliver barley, oats or other grain to the Board, a delivery of the barley, oats or other grain (as the case may be) to an authorised receiver is, for the purposes of this Act, to be taken to be a delivery to the Board and an authorised receiver holds, on behalf of the Board, all barley, oats and other grain the property of the Board which is at any time in the receiver's possession. This clause further provides that an authorised receiver must not part with the possession of any barley, oats or other grain the property of the Board except in accordance with instructions from the Board or from a person authorised by the Board to give such instructions.

Clause 36 provides that any person who, after the 'declared day' (that is, the day which, in respect of a season, is declared by the Board by notice in the *Gazette*, to be the final day for delivery of barley or oats of that season) in relation to a season, consigns or delivers to an authorised receiver any barley or oats harvested before that day, must make and forward to the authorised receiver a declaration stating the season during which that barley or oats were harvested. The penalty for contravening this provision is a division 8 fine ($1 000).

Clause 37 provides that the Board must market or otherwise dispose of, to the best advantage, all barley and oats delivered to it under this Act having regard to the reasonable requirements of persons requiring barley for malting in South Australia.

Clause 38 provides that for the purpose of the marketing of barley and oats of which the Board has taken delivery, the Board may establish pools in relation to barley and oats of a season. Separate pools may be established by reference to any combination of any of the following factors:

- the time of delivery of the barley or oats;
- the place of production;
- the quality of the barley or oats;
- the grade of the barley or oats;
- the variety of the barley or oats;
- any other matter determined by the Board after taking into account the advice of the Committee. The Board may, at any time transfer any barley or oats remaining in a particular pool to another pool and/or declare a pool closed.

Clause 39 provides that if the Board sells barley or oats from a pool, the net proceeds of sale must be distributed among the growers who contributed barley or oats to the relevant pool in proportion to the quantity contributed by each grower. The net proceeds of sale are the gross proceeds or estimated gross proceeds less the Board's expenditure incurred or estimated to be incurred in marketing the barley or oats and administering this Act and deductions made by the Board for the reserve fund established by the Board under proposed section 46.

This clause further provides that any deduction to be made on account of the quantity of the barley or oats delivered by the grower to the Board and any debts owing by the grower to the Board are authorised deductions from the grower's share of the net proceeds.

Proposed subsection (4) provides that in determining the price to be paid for any barley or oats, the Board may take into account the state in which and the place at which the barley or oats were delivered to the Board and any other circumstances affecting the value of the barley or oats.

Proposed subsection (5) provides that the Board may make progress payments, of such amount as the Board considers reasonable, on account of any money payable or about to become payable by the Board to any grower as the price of barley or oats and proposed subsection (6) provides that if, after the Board has made payments under this section for barley or oats of any season, there remains a balance of funds so small that in the Board's opinion it is undesirable to distribute it separately, the Board may transfer the balance to the reserve fund under proposed section 46.

Clause 40 provides that notwithstanding the other provisions of this Act, where barley of a season is sold to the Board by any person under this Act, a payment of the prescribed amount will, with the consent of the person, be made for barley research purposes out of the money payable to the person by the Board in respect of the barley.

This payment will be made by the Board to the Minister who must, subject to proposed subsection (3), pay the amount to the South Australian Grain Industry Trust Funds (established under the Wheat Marketing Act 1989).

Proposed subsection (3) provides that the Board is entitled to presume that each person from whom it has purchased barley of a season has consented to the making of a payment under proposed subsection (1), but, where any such person, by notice in writing given to the Minister during the prescribed period for that season, indicates that he or she does not consent to the making of the payment in respect of the barley of that season, the Minister must pay the prescribed amount to the person out of the money received by the Minister from the Board pursuant to this section.

Proposed subsections (4) and (5) provide that money received by the Minister pursuant to this section must, pending payment under proposed subsection (2) or (3), be kept in a bank account established for that purpose or may be invested in such manner as the Minister thinks fit and that any amount earned through investment of money pursuant to subsection (4) must be paid to the South Australian Grain Industry Trust Fund.

Proper accounts must be kept of the money received or paid by the Minister under this section which accounts may at any time, and must at least once every year, be audited by the Auditor-General.

Proposed subsection (7) provides that a committee comprising three persons appointed by the Minister (after consultation with the Grain section of the United Farmers and Stock Owners of SA Inc.) is established for the purposes of this section, which committee has the function of recommending to the Minister the rate that should, in its opinion, be fixed as the prescribed rate for the barley of a season.

Proposed subsection (9) provides that the Minister may, on the recommendation of the committee established under subsection (7), by notice in the *Gazette*, fix an amount per tonne of barley as the prescribed rate for barley of a season specified in the notice.

Proposed subsection (10) defines the terms used in this clause and proposed subsection (11) provides that this clause applies in relation to all barley of a season to which this Act applies.

Clause 41 provides that where money to which the holder of a mortgage, bill of sale, lien or other charge over barley or oats is entitled is paid by the Board to another person, the holder of the mortgage, bill of sale, lien or other charge cannot make a claim against the Board in respect of the money or the barley or oats unless the Board acted dishonestly in making the payment. This clause does not have the effect of discharging a mortgage, bill of sale, lien or other charge in respect of the barley or oats.

Part 5 of the Bill (comprising clauses 42 to 44) deals with stockfeed permits and maltsters' licences.

Clause 42 provides that a person may apply in the form approved by the Board for a permit for a specified season authorising that person to purchase barley harvested that season from a grower for stockfeed purposes in Australia and that such an application must be accompanied by such reasonable fee as is set by the Board.

Clause 43 provides that a person engaged or proposing to engage in a business of malting or other processing of barley for human consumption may apply to the Board for a licence for a specified season to purchase barley harvested in that season from a grower for malting or other processing purposes in Australia and that such an application must be accompanied by such reasonable fee as is set by the Board.

Clause 44 provides that a licence or permit issued under this Part is subject to the terms and conditions (if any) agreed by the Board and the applicant. This clause further provides that the Board must issue the permit or licence within 21 days of the Board receiving the application or agreeing to the terms and conditions, whichever is the later. The terms and conditions must not include a term or condition relating to the price of barley or to the costs or expenses of delivery of barley to the purchaser.

Part 6 of the Bill (comprising clauses 45 to 47) is entitled 'Financial'.

Clause 45 provides that the Board is a semi-government authority within the meaning of the Public Finance and Audit Act 1987 that must before 31 December of each year, apply to the Treasurer for consent to its proposed financial program for the following financial year and forward a copy of the consent and any conditions attached to it, to the Minister and the Victorian Minister.

Clause 46 provides that the Board may establish a reserve fund to provide for the costs of administering the marketing scheme and defraying any other costs of the Board. This clause further provides that the Board may pay into the reserve fund an amount not exceeding five per cent of the net proceeds derived from the sale of barley, oats or other grain and that the balance of the reserve fund must not exceed the amount set by the Minister and the Victorian Minister.

Clause 47 provides that any of the functions of the Board may be exercised—

- by the Board;
- by an affiliate of the Board; or
- by the Board or an affiliate, or both, in a partnership, joint venture or other association with other persons or bodies.

This clause further provides that for the purpose of exercising its functions, the Board may join in the formation of a corporation to be incorporated and may purchase, hold, dispose of or deal with shares in, or subscribe to the issue of shares by, a

corporation provided the Board acts in accordance with such guidelines (if any) as are determined by the Minister and the Victorian Minister.

Proposed subsection (4) provides that an affiliate of the Board must not, except with the approval of the Minister and the Victorian Minister, engage in any activities which the Board may not engage in. An 'affiliate', in relation to the Board, is defined as—

- a corporation in which the Board has a controlling interest by virtue of its shareholding; or
- a corporation the memorandum and articles of association of which provide that any or all of the directors of the corporation must be persons who are, or who are nominated by, persons for the time being holding office as members of the Board.

Proposed subsection (5) provides that if any function of the Board may be exercised only with an approval under this Act, the function requires the same approval when exercised under an arrangement, or by a company, or in a partnership, joint venture or other association, as referred to in this section.

Part 7 of the Bill (comprising clauses 48 to 52) deals with accounts and reports.

Clause 48 provides that the Board must keep proper accounts and records of all money received and paid by or on account of the Board.

Clause 49 provides that the Board must, in respect of each financial year, prepare an annual report (that must be laid before each House of the Parliament before the expiration of the seventh sitting day of that House after the report is received by the Minister) containing—

- a summary of its operations during the financial year;
- financial statements for the financial year,
- appropriate certification of those financial statements;
- a copy of any specific written directions given to the Board during the financial year by the Minister and the Victorian Minister; and
- any further information required by the Minister and the Victorian Minister.

This clause further provides that if the Board fails to submit an annual report to the Minister within four months after the end of the financial year, or by any later date that the Minister and the Victorian Minister approve, the Minister must cause each House of Parliament to be advised of that failure and the reasons for it.

Clause 50 provides that the Board must cause its accounts to be audited at least once each year by a registered company auditor appointed by the Minister and the Victorian Minister on the recommendation of the Board. The auditor—

- has the right of access at all times to the books of the Board;
- may require from an employee of the Board any information, assistance and explanations necessary for the performance of the duties of the auditor in relation to the audit; and
- must advise the Minister and the Victorian Minister of any serious deficiencies in the Board's accounts and the nature of those deficiencies. The Board must pay the costs and expenses of the audit.

Clause 51 provides that the accounts of the Board relating to different pools of the Board must be kept separately.

Clause 52 provides that the Board must give a copy of each annual report to the United Farmers and Stockowners of SA Inc. and to the Victorian Farmers Federation when the report is submitted to the Minister and the Victorian Minister.

Part 8 of the Bill (comprising clauses 53 to 59) deals with the dissolution of the Board.

Clause 53 provides that the Board may be dissolved in accordance with this Part—

- on a poll taken under proposed section 54;
- at the request of the Board under proposed section 55; or
- on the recommendation of the Minister under proposed section 56 (1) *(a)* (iii) and of the Victorian Minister under the corresponding provision of the Victorian Act.

Clause 54 provides that the Minister must, by notice in the *Gazette*, direct that a poll be taken of growers on the question that the Board be dissolved if the Minister is satisfied, on representations made during a permitted period by growers by petition to the Minister, that at least half those growers desire that the Board be dissolved or if the Minister has received notice that representations have been made to the Victorian Minister under a provision of the Victorian Act corresponding to this section. If a poll is to be held in both states, then it must be held on the sarne day.

Clause 55 provides that the Board may, by instrument under its seal, request the Minister to take action to dissolve the Board. The Minister may refuse to consider such a request unless the request is confirmed by the Board, by a similar instrument, within such period as the Minister determines.

Clause 56 provides that if the Minister is satisfied—

- that more than one-half of the growers are, at a poll conducted in accordance with proposed section 58 and at a poll held on the same day under the Victorian Act, are in favour of the dissolution of the Board;
- that a request has been made, in accordance with proposed section 55 by the Board; or
- that it is in the best interest of growers that the Board be dissolved; and the Minister recommends to the Governor that he or she is satisfied as to those matters, the Governor may, by notice in the *Gazette*, direct the Board to wind-up its affairs. On a notice under proposed subsection (1) taking effect, the Board must proceed to wind-up its affairs.

Proposed subsection (3) provides that if such a notice is published, the Governor may, in that notice or by another notice published in the *Gazette*, appoint a person to be liquidator for the purpose of the winding-up. A liquidator appointed under this proposed subsection has and may exercise such powers of the Board as may be necessary for the purpose of the winding-up. The reasonable costs and expenses of a liquidator appointed under this proposed section are payable from the funds of the Board.

Proposed subsection (7) provides that the members of the Board may not exercise any functions as members while a person holds office as liquidator of the Board.

Proposed subsection (8) provides that if the Minister is of the opinion that the affairs of the Board are wound-up, the Governor may, by notice in the *Gazette*, dissolve the Board and all money and other assets of the Board will become the property of bodies or organisations representing growers in such proportions as are specified in the notice and must be dealt with and disposed of as the Governor may direct.

Proposed subsection (9) provides that a notice under this proposed section takes effect on the date on which it is made or, if a similar notice has not been published under the Victorian Act, on the date on which a similar notice is published under that Act.

Proposed subsection (10) provides that if the Minister makes a recommendation under proposed subsection (1) because the Minister is satisfied it is in the best interests of growers that the Board be dissolved, the Minister must cause a report on the making of the recommendation to be laid before each House of the Parliament within seven sitting days of that House after the recommendation is made.

Clause 57 provides that as soon as practicable after a notice under this Act is published in the *Gazette* directing that a poll be taken, and before the day fixed for the taking of the poll, the Minister must cause a report relating to the proposal to which the poll relates to be published in such manner as the Minister considers appropriate.

Clause 58 provides that the regulations may, subject to this Act, make provision for or with respect to the conduct of polls. The Electoral Commissioner (or a person employed in the office of and nominated by the Electoral Commissioner) is the returning officer for the poll. A roll of growers must be prepared by the Board in accordance with the prescribed requirements (if any) and despite anything to the contrary in this Act, and if the regulations so provide, the growers entitled to vote in accordance with the regulations at a poll are the growers having such qualifications as may be prescribed and only those growers may vote at the poll.

Clause 59 provides that the Board must pay the costs and expenses of a poll under this Act.

Part 9 of the Bill (comprising clauses 60 to 68) provides for the Barley Marketing Consultative Committee.

Clause 60 establishes the Barley Marketing Consultative Committee.

Clause 61 provides that the function of the Committee is to provide advice to the Board about its general policies, particularly with respect to the use of financial reserves and the establishment of joint venture companies.

Clause 62 provides that the Committee consists of a Chairperson (who must not be a grower) appointed by the Minister and the Victorian Minister jointly and four other members so appointed of whom two will be persons resident in South Australia nominated by the Minister from a panel of four names submitted by the United Farmers and Stockowners of SA Inc. and two will be persons resident in Victoria nominated by the Minister from a panel of four names submitted by the Victorian Farmers Federation.

Clause 63 provides that the Chairperson of the Committee must preside at a meeting of the Committee.

Clause 64 provides that three members of the Committee one of whom must be the Chairperson constitute a quorum of the Committee and that the Committee must meet at least once every six months. Subject to this Act, the Committee may regulate its own proceedings.

Clause 65 provides that a member of the Committee, unless an officer or employee of the public service, is entitled to be paid from the funds of the Board the remuneration and allowances (if any) fixed by the Minister and the Victorian Minister.

Clause 66 provides that a member's term of office must not exceed three years and a member is eligible for re-appointment.

Clause 67 provides that the office of a member of the Committee becomes vacant if the member—

- dies;
- completes a term of office;
- resigns by written notice addressed to the Minister;
- without the Committee's approval, fails to attend two consecutive meetings;
- becomes bankrupt; or
- is removed from office by the Minister and the Victorian Minister under proposed subsection (2).

Proposed subsection (2) provides that the Minister and the Victorian Minister may remove a member of the Committee from office—

- for misconduct;
- for neglect of duty;
- for incompetence; or
- for mental or physical incapacity to carry out satisfactorily the duties of his or her office.

Clause 68 provides that if the office of a member becomes vacant otherwise than by reason of the expiry of the term of office of the member, a person nominated for appointment to the office in accordance with proposed section 62 must be appointed to fill the vacancy and to hold office, subject to this Act, for the remainder of the term. However, if the vacancy occurs within six months of the expiry of the term of office of the member, the office may be left vacant for the remainder of the term.

Part 10 of the Bill (comprising clauses 69 to 74) of the Bill deals with general provisions.

Clause 69 provides that the Board may appoint persons as authorised officers for the purposes of this Act.

Clause 70 provides that an authorised officer or any member of the police force may, for the purposes of exercising any power conferred on the officer by this Act or determining whether this Act is being or has been complied with, at any reasonable time and with any necessary assistants—

- enter and search any land, premises, vehicle or place;
- where reasonably necessary, break into or open any part of, or anything in or on, the land, premises, vehicle or place or, in the case of a vehicle, give directions with respect to the stopping or moving of the vehicle (on the consent of the occupier or on the authority of a warrant issued by a justice);
- search for, inspect and make copies of any documents;
- require the occupier of premises entered and searched under this subsection to produce any documents and to answer questions.

Clause 71 provides that it is an offence for a person to—

- delay or obstruct an authorised officer or member of the police force in the exercise of powers under this Act;
- without reasonable excuse, refuse or fail to comply with any requirement made under proposed section 70; or
- give false or misleading information in response to a requirement made under proposed section 70,

the penalty for which is a division 7 fine ($2 000).

Clause 72 provides that in proceedings for an offence against this Act, if it is alleged that any grain, growing crop, treated grain or product of grain is barley or oats, the court before which those proceedings are brought must, unless it is proved to the contrary, presume that the grain growing crop treated grain or product of grain (as the case may be) is barley or oats.

Proposed subsection (2) provides that in proceedings for an offence against this Act, a document purporting to be signed by the presiding member or chief executive officer of the Board stating that a person is a grower of barley or oats and that barley or oats bought from the grower were bought without the approval of the Board, is evidence of the correctness of the statements.

Clause 73 provides that a notice or other document required or authorised by this Act or the regulations to be served on or given to a person is to be taken to have been duly served on or given to the person if it is delivered personally to or left with an adult at the last known place of abode or business of the person or, where no adult person is present, it is affixed to a conspicuous part of the premises or if it is sent to the person by post.

Clause 74 provides that the Governor may, on the recommendation of the Minister after consultation with the Victorian Minister, make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act including the adoption or incorporation, with or without modification, of any code, standard or other document prepared or approved by a body or authority referred to in the regulation and the imposition of a penalty not exceeding a division 9 fine ($500) for a breach of the regulations.

Part 11 of the Bill (comprising clauses 75 and 76) contains the transitional provisions.

Clause 75 repeals the Barley Marketing Act 1947.

Clause 76 provides that on the commencement of this section, the Australian Barley Board under the Barley Marketing Act 1947 ('the old Board') goes out of office and the Board constituted under this Act ('the new Board') is the successor in law of the old Board under the Barley Marketing Act 1947. This clause further provides that the assets and liabilities of the old Board as at the commencement of this section are assets and liabilities of the new Board and that, unless the contrary intention appears, a reference in any Act or subordinate instrument or in any document whatever to the old Board is a reference to the new Board. Any person who, immediately before the commencement of this Act, was employed by the old Board becomes, on the commencement, an employee of the new Board with the same rights and entitlements as he or she had before that commencement.

Mr S.J. BAKER secured the adjournment of the debate.

STATE TRANSPORT AUTHORITY (AUTHORISED OFFICERS) AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Transport) obtained leave and introduced a Bill for an Act to amend the State Transport Authority Act 1974. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill introduces several amendments to the State Transport Authority Act 1974 to allow Transit Officers additional powers to assist them in the execution of their duty on STA property and vehicles.

Members will be aware that following a series of complaints and concerns relating to the safety of STA passengers and staff when working some trains, the Government and the STA decided to replace guards on trains with Transit Officers. Transit Officers are fully trained in all aspects of passenger safety.

Transit Officers currently derive their powers both from the regulations under the Act as 'authorised persons' and from section 76 of the Summary Offences Act. However, Transit Officers do not have police powers and are at present limited in their effectiveness to police the transport system, which in effect, is a public place and attracts similar offences by certain elements of society as any other public place.

A number of offences outside of the scope of the State Transport Authority Act 1974 are presently committed on State Transport Authority vehicles and property; for example, the possession and consumption of alcohol by minors, carrying offensive weapons, etc. These offences do not fall within the present available powers of a Transit Officer and require the attention of the police which may not be readily available due to the limited numbers of members of the Police Force in the Transit Squad.

Accordingly, the Bill proposes to confirm certain special powers on authorised officers who would be designated Transit Officers by administrative instruction. In particular, these powers relate to the ability of an officer to detain an offender in appropriate cases. The officer would be required to inform a member of the Police Force if a power of detention was exercised and to deliver the offender to the police at the earliest opportunity. Administrative guidelines and training provided by the South Australian Police Department would apply to ensure that this power was only exercised in appropriate cases.

The Bill also provides the power for a Transit Officer to demand the name, address and age, if applicable, of persons found committing offences that are outside of the scope of the STA Act on STA vehicles and property.

Although Transit Officers are supervised by members of the Police Force, the Bill provides specifically that they must comply with any lawful direction of a police officer in the execution of his or her duties. This reinforces the supervisory role of the police. In addition, proper training regarding the full implications of this

proposed legislation will be conducted by the South Australian police managers and supervisors of the Transit Police Division to ensure that no infringement of civil liberties or harassment of any kind occurs.

In the preparation of this Bill, the STA held discussions with the South Australian Police Department and officers from Crown Law and Parliamentary Counsel's office to determine the most effective way of increasing the powers of Transit Officers while specifically confining their powers to the transport system, and ensuring their day-to-day supervision by members of the Police Force seconded to the Transit Squad. Agreement was reached by all parties that the proposals in this Bill meet those criteria.

The predominant union in the Transit Squad (the Australian Services Union) has recently indicated, by resolution of its members, support for the State Transport Authority and the South Australian Police Department in the administration of the Transit Squad.

There will be no increase in staffing or cost on the STA side, but the community will benefit from the additional assistance to the Police Department in its effort to maintain law and order on the transport system.

Clause 1 is formal.

Clause 2 provides that a new Part IVA entitled 'Authorised Officers' (comprising three proposed clauses) be inserted after section 23 of the principal Act.

Proposed clause 23a provides that, in Part IVA, 'authorised officer' means a person authorised by the State Transport Authority to exercise the powers of an authorised officer under this Part.

Proposed clause 23b (1) provides that where an authorised officer has reasonable cause to suspect that a person is committing, or has committed, an offence on, or in relation to, the system of public transport service or any property of the State Transport Authority, the authorised officer may require that person to state in full his or her name, address and date of birth and, if the officer considers that it is appropriate in the circumstances, apprehend that person.

Proposed clause 23b (2) provides that where an authorised officer has reasonable cause to suspect that a name, address or date of birth as stated in response to a requirement under subsection (1) is false, the officer may require the person making the statement to produce evidence of the correctness of the name, address or date of birth as stated.

Proposed clause 23b (3) provides that a person who refuses or fails, without reasonable excuse, to comply with a requirement under subsection (1) or (2), or in response to a requirement under subsection (1) or (2) states a name, address or date of birth that is false, or who produces false evidence of his or her name, address or date of birth, is guilty of an offence. The penalty for an offence under this subsection is a division 8 fine ($1 000).

Proposed clause 23b (4) provides that where an authorised officer has apprehended a person under this section, the officer must immediately inform a member of the Police Force of the apprehension and the circumstances surrounding the apprehension and, as soon as practicable, deliver the person into the custody of a member of the Police Force or the member of the Police Force in charge of the nearest police station.

Proposed clause 23b (5) defines 'nearest police station', in relation to a person apprehended by an authorised officer under this section.

Proposed clause 23c provides that an authorised officer must, where a member of the Police Force is acting in the course of his or her duty, comply with the direction of the member of the Police Force in respect of the apprehension of a person or any other matter. The penalty for not complying with this provision is a division 9 fine ($500).

Mr S.J. BAKER secured the adjournment of the debate.

FINANCIAL INSTITUTIONS (APPLICATION OF LAWS) BILL

In Committee.

(Continued from 28 April. Page 4486.)

Clause 2—'Commencement.'

Mr S.J. BAKER: Will this Act be proclaimed in its entirety or will its sections be proclaimed progressively?

The Hon. G.J. CRAFTER: I will need to take advice on this. I may be able to provide the honourable member with the answer when talking to another clause of the Bill.

Clause passed.

Clause 3—'Definitions.'

Mr S.J. BAKER: I can understand why Queensland was used as the initiating State for this uniform legislation, but I cannot understand why that legislation was not placed on the South Australian statutes in a duplicate form. To my knowledge the South Australian statutes are up to date. I believe that we have in our offices a complete set of the laws that have governed this State since the Parliament was first established in 1856.

Although we have previously done this with Commonwealth legislation, for the first time I am aware of we are now attaching ourselves to Queensland legislation which will not appear on our statutes, and I believe that that is a very questionable precedent to set. As a State we have a right to scrutinise legislation. If Queensland was to set the standard, I believe it would have been appropriate for the legislation to be brought down and scrutinised by South Australia—not for us to adopt it *in toto* as we are doing with this Bill. In the negotiations for uniform legislation, why did we agree to this proposition?

The Hon. G.J. CRAFTER: With respect to the question asked by the honourable member to clause 2, at this stage it is intended to have all the pieces of legislation in the statutory instruments around Australia brought into force at the one time, on 1 July this year. That undertaking has been given by each of the States. With respect to why Queensland was chosen—the issue that the honourable member pursued at some length last night—it was chosen because that was the decision of the Premiers.

Mr S.J. Baker: That wasn't the question I asked: it was why the Queensland legislation was not brought down to be scrutinised here.

The Hon. G.J. CRAFTER: Why a State was chosen as the basis for the statutory instrument rather than each State passing similar legislation?

Mr S.J. Baker: Yes.

The Hon. G.J. CRAFTER: Well, that is the basis on which the Premiers agreed to this matter on 22 November 1991. It was agreed that there would be one statutory instrument, and that it would be agreed to by statutory instruments in each of the States. Presumably the Premiers were concerned that if every State debated their own legislation there would be little chance of an agreement in the time frame that was sought by the Premiers. There is no novelty in this situation. We have used the legislative instruments of other States as the basis for our own law for a long period. In this country under our Federation, where that is seen to be the most efficient and effective way of achieving uniformity, and best serving not only our own constituents but those across this nation, that approach I think is the wisest one for any State Legislature to adopt.

Mr S.J. BAKER: Queensland has one House of Parliament and does not have a scrutinising body—an Upper House—as do all other State Parliaments in Australia.

Mr Hamilton interjecting:

Mr S.J. BAKER: The member for Albert Park can make his comments from the sideline. I am making the point that there has been only a single scrutiny of this legislation. In fact, the Queensland situation is quite intolerable. Anyone who has ever examined the powers that pertain to the Executive in Queensland would be absolutely horrified. A Bill of some magnitude can go through the Queensland Parliament in one day, simply by applying gags and forcing it through, as Joh did on a number of occasions. His replacement has not in any way diminished those powers and I understand that he has been wont to do it as well. The Premier of Queensland, who cried long and hard about the

unfairness of the system, has retained it. What we have here is a piece of legislation that has stood the scrutiny of only one House of Parliament.

We know that when financial/legal legislation goes through two Houses of Parliament it is sifted, improved, changed and modified and is better legislation because of it. That is the nature of our Parliament, and we are proud of that tradition. Rarely do we have problems with the interpretation of laws, as can happen with one House, or even two Houses when the Upper House is a captive of the Government in the Lower House.

We are in an interesting situation. I know it is expedient to use the Queensland Parliament to force through this legislation. However, that does not make for good laws: in fact, it makes for putrid laws. It is not the basis upon which legislation that is to be adopted by this State should be coming before this Parliament. I believe that we, as a State, can agree on the principles and the framework, but we should have the right to ensure that justice is done and that every section of the Act that was passed in Queensland is fitting and proper. Everyone in this House would have to agree with that principle. Members of this House would be horrified: if the Bjelke-Petersen Government were in power in Queensland, how many people on the Government benches would trust the legislation that is before us today? None!

The Labor Government in Canberra has reached general agreement that a standard should be set. I do not care whether or not other States are in agreement, and I do not give a damn whether Premier Bannon has agreed to this legislation. The fact is that it is bad practice—atrocious practice—and I hope we never see it again.

As I have said, I have severe reservations about adopting laws that have not been through Parliament. Occasionally, we must inherit laws from the Commonwealth when it believes in uniformity, but generally extensive discussions occur. There was very rigorous debate on the recent Black Spots program and, as a result, we have modified laws compared with those in other States. In that situation we saw fit to have our own laws but consistent with the Federal direction. Under these circumstances, something similar would have been appropriate. The Minister has given a weak excuse as to why this has happened and as to why we should adopt it.

I am not opposed to the principle of one State being used as a guineapig to put the appropriate effort into developing complex laws. However, I am opposed to this State's adopting anything without first scrutinising it, because it must become our law, and that is what the legislation says. The Bill provides:

> 'AFIC Act' means the Australian Financial Institutions Commission Act 1992 of Queensland . . . 'Financial Institutions Act' means the Financial Institutions (Queensland) Act 1992 of Queensland.

So, the relationship is clearly established in the Bill, and this measure just grabs it holus-bolus, and we have to put up with the results. That is not good enough. In fact, the legislation has not withstood the scrutiny of more than one House. Perhaps it should have to withstand the scrutiny of six, seven or eight Parliaments before it becomes law. For the Minister to say blithely, 'It's all right because this is the standard,' without allowing us the opportunity to scrutinise it, I believe is quite shameful.

The Hon. G.J. CRAFTER: I must apologise to the Committee, because I misunderstood the comments of the Deputy Leader of the Opposition when he was criticising this legislation emanating from Queensland, because I presumed he was criticising the legislation emanating from a State Parliament. It is clear that his criticism is based on the unicameral parliamentary structure in Queensland and, in that sense, he clearly misunderstands the nature of the decision taking processes that have occurred over a number of years with respect to the basis of this legislation and the processes through which it has gone to provide it in a form where it could be introduced into a State Parliament and where it could form the basis for the legislation that will apply around the country.

As I said previously, this legislation is not new or novel. For a long period the companies law in this nation has been based on legislation passed in the ACT legislature and later with the legislative authority of the Commonwealth Parliament. In that way, statutory instruments of another Parliament have applied as law in this State without this Parliament having to pass the same legislation. The honourable member's fears about the Queensland Parliament changing its law in the middle of the night are totally unfounded and, indeed, mischievous, because changes can be made only as a result of a decision of the ministerial council. So, the honourable member's thesis, if taken to its conclusion, is simply that legislation of a cooperative nature would never be achieved in this country and would never be based upon a statutory instrument of one Parliament, which has proven to be an effective way of passing cooperative legislation and providing for uniform law in this country over many years.

To depart from that practice, which I believe has been successful, would be folly and would lead to a breaking down of cooperative federalism in this nation. Further, it would allow those who seek to evade the law and to engage in undesirable practices—whether or not they are legal is another matter—to pose great risks with respect to the investments of ordinary Australian people. I believe the honourable member's thesis is one that can lead only to disaster and, as I said, to a great disservice to this nation.

Mr S.J. BAKER: That is rubbish, and the Minister seeks to misinterpret my comments. Obviously, any member in this place—and I will make the point again—must be concerned with a complex piece of legislation which the Premiers could never scrutinise to the level necessary, even if they had the time available, and it is being rushed through. In the past 24 hours I have had a chance to glance through this heap of legislation, which is being rushed through the Parliament on the basis that everything is correct, appropriate and requires no modification. I refuse to believe that.

I do not wish to contest it any further than that. I simply say that it is a bad precedent. I am saying not that State Parliaments should not be used as a processing point to achieve uniformity, because that is an efficient way of doing it rather than every State doing their own, but that, if the directions about core requirements from the Commonwealth—if that is where they are coming from (and they are in this case)—are appropriate, those requirements can be satisfied. We can even have a complete Act and regulations put before the Parliament and, as long as the core items are satisfied, we will have met the requirements. I do not believe that we are doing justice to South Australia in this process, and there I will let the matter end.

The Hon. G.J. CRAFTER: I cannot allow the honourable member's comments about this legislation's being rushed through the Parliament pass without stating the facts. This Bill was introduced into Parliament five weeks ago and was debated quite thoroughly by the Minister and the shadow Minister in another place. The legislation and the process that led to its being introduced into the Parliament has been going for a considerable time. Indeed, it was in May last year that the Premier's Conference gave its formal approval to this method of dealing with the legislation. I guess the honourable member's concerns are based on the concerns

of the industry, but the industry has been involved in this process and has been involved in the preparation of the legislation itself, as I explained in my second reading reply last night.

It is not true to say that the matter has come out of the blue and is being forced through Parliament in this way. It comes here as a result of a long and thorough consultative process, which is the only way successful uniform legislation can be achieved. The process that we are going through is the process that the other State Parliaments and the Federal Parliament is going through as well. It is not novel to South Australia; it is not something that has come out of the blue.

Clause passed.

Clause 4—'References to Queensland Acts.'

Mr S.J. BAKER: How many other pieces of legislation will be forthcoming? I understand that the friendly societies are currently negotiating their stance on the application of these rules. How many other pieces of legislation will be forthcoming to tidy up this area?

The Hon. G.J. CRAFTER: As I indicated to the House last night, and also in my second reading speech, the friendly societies working party has been established and it will report in due course to the Premiers Conference, and a decision will be taken there whether it is also to form part of this legislation and eventually come to this Parliament and to other Parliaments to form part of this uniform legislation. I know of no other legislation that is proposed to form part of this enactment at this time.

Clause passed.

Clause 5—'Application in South Australia of the AFIC Code.'

Mr S.J. BAKER: Can the Minister read out section 21 of the AFIC Act? By way of explanation, I have a copy of the broad reference document that deals with AFIC and section 21, which must have been the original, as we have not had an update. It is one of the problems we face. I cannot check the validity of what the Minister has said. He has not provided the Queensland Bill to this Parliament. Clause 21 provides that AFIC does not represent the Crown; obviously, that is not the appropriate reference. Can the Minister please read from the Queensland document and tell us what section 21 provides?

The Hon. G.J. CRAFTER: The honourable member is playing games with the Committee. He well knows, if he has read the legislation that section 21 provides for the complete AFIC Code. It is some 120 pages in length, and that is embodied there and available for the honourable member for his perusal. If he could not find the legislation by his own resources or through his colleague, we would have been pleased to provide it to him for his elucidation.

Mr S.J. BAKER: I cannot leave that unchallenged. It should have been provided with the Bill. It should have been provided to every person in the House, because it is legislation affecting South Australia. That has not been provided to members of the Opposition. I have in front of me a buff coloured booklet in an open loose leaf form which deals with the original Bill, the Australian Financial Institutions Commission Bill. That is the only piece of legislation, and that is the proposal. We also have the Financial Institutions (Queensland) Bill, but that is not the AFIC Bill. It was not provided to members of the Opposition. I do not think it is good enough. I think it is slack, and it is about time the Government got its act together.

The Hon. G.J. CRAFTER: The reality is that a copy of this was provided to the Opposition about two or three weeks prior to this matter being introduced in Parliament. No request was received from any member of the Opposition for multiple copies. They could have been made available, or the Opposition could have photocopied them themselves. But I think it is a bit rich to come in here and make the sort of allegations that the honourable member has made, quite outrageous allegations, about it not being made available to members, when a copy was made available to the Opposition and members opposite sought no further copies.

Clause passed.

Clause 6—'Application of regulations.'

Mr S.J. BAKER: I will take that on notice: it was not included in my file. I would say that the person with whom I deal and liaise is one of the most meticulous members of this Parliament. Therefore, I say to the Minister that I have a copy of the Financial Institutions (Queensland) Bill 1992, I have regulations under the Financial Institutions Act 1992 and I have this loose leaf buff coloured booklet which deals with the original legislation as proposed, which obviously has been amended by the Queensland Parliament. In relation to clause 6 of the Bill, I refer to the regulations under Part 5 of the AFIC Act. Can the Minister satisfy the Committee as to what is actually covered under Part 5 of that Act?

The Hon. G.J. CRAFTER: First of all, let me further clarify the situation of the AFIC Code being made available to the Opposition. A copy, as I said, was provided to the Opposition—

Mr S.J. Baker: The Act.

The Hon. G.J. CRAFTER: Yes, the Act, rather, and the Opposition was also invited to contact the given officer in the respective department for briefings to be made available. That officer was not contacted by the Opposition on this matter.

Mr S.J. Baker interjecting:

The Hon. G.J. CRAFTER: I would not have thought it was that onerous. Part 5 is entitled 'Power to make regulations for the purposes of the AFIC Code'. The provisions in there are adequate, I think.

Mr S.J. BAKER: Also in clause 6, can the Committee be satisfied as to what extent the Queensland regulations apply to South Australia and what further regulations will be made on our own behalf?

The Hon. G.J. CRAFTER: The honourable member seems to want to misconstrue this legislation as a Queensland Act alone. In fact, the regulations in the Act are as a result of an agreement reached between all the States and Territories, and the regulations are of a similar nature. They apply across this country. They cannot be described as Queensland regulations. They are in a form that was passed by the Queensland Parliament but they are agreed and can only be changed as a result of the cooperative arrangements that I have described to the House previously.

Mr S.J. BAKER: Perhaps I am not getting through, and so I ask a further question. I think we will get off the subject of whose regulations and whose Act they are. We have already argued that point. I am using Queensland as a reference point and do not intend to continue the war of words on the issue of whether we should be adopting the legislation and regulations from that State. The Minister has made quite clear that the regulations under the Queensland Act will be applying to all the States. I ask what additional regulations will be made on behalf of South Australia, if any.

The Hon. G.J. CRAFTER: There is no authority for a State to pass its own regulations. There is a power in there for transitional provisions of a mechanical nature, but certainly there is no authority for a State to go off on a frolic of its own and pass its own regulations. This needs to be

comprised of regulations arrived at as a result of agreement between the parties to the original agreement.

Clause passed.

Clause 7 passed.

Clause 8—'Application in South Australia of the Financial Institutions Code.'

Mr S.J. BAKER: I looked up section 30 of the national legislation that went through the Queensland Parliament. I have looked at the Financial Institutions (Queensland) Act and it says that words and expressions used in a statutory instrument have the same meaning as they have from time to time in the relevant code or relevant provision of the relevant code under or for the purposes of which the instrument is made or in force. I am not sure that that is the appropriate reference. Has the Minister got another reference?

The Hon. G.J. CRAFTER: I think I am as lost as the honourable member is. If he could go through it again I will try to track it down for him.

Mr S.J. BAKER: I remind members that clause 8 deals with the Financial Institutions Code set out in section 30 of the Financial Institutions Act. If we go back to the definitions, 'the Financial Institutions Act' means the Financial Institutions (Queensland) Act 1992 of Queensland. According to the document I have before me, which presumably was provided originally by the Crown, section 30 deals with words and expressions. Obviously, I have the wrong piece of legislation and should like to know to what section 30 refers.

The Hon. G.J. CRAFTER: I will read part VII of the AFIC Act, subheaded 'Financial Institutions Code'. Clause 30 provides:

> The Financial Institutions Code is as follows . . .

It then provides the code, which follows for the next 336 pages. That is the way in which it is described. With respect to 'expression', it is clearly desirable to have the same expressions used across the nation. That is the essence of uniform legislation of this type and the reason for dealing with it in this way.

Mr S.J. BAKER: I am in a very difficult situation. The Bills on my file seem somewhat different from the legislation the Minister is dealing with, and I do not know how we can proceed under those circumstances. I thank the Minister for his response: I now know what section 30 of the Financial Institutions Act covers.

Clause passed.

Clause 9—'Application of regulations.'

Mr S.J. BAKER: What is the status of any changes to regulations? How do we go forth from here? Because there is only one House of Parliament in Queensland, obviously, there will be errors in this legislation—there always are in legislation of this magnitude—and there will be modifications as circumstances change. What consultation will take place before any changes are made to the Queensland legislation, so that we are not lumbered with whatever Queensland decides?

The Hon. G.J. CRAFTER: The regulations are in place and have been formulated as a result of the work undertaken by a working party. They have gone to the Premiers, the Premiers have agreed to them and the Queensland Parliament has passed the regulations. They are in place. For amendments to be made to those regulations there needs to be the agreement of the ministerial council, once again through the Queensland Parliament.

Mr S.J. BAKER: Has agreement been reached as to the processes involved in changing those regulations? Is there an estoppel on the Queensland Parliament's changing anything until all States have agreed? What processes will be followed? It is a very simple question.

The Hon. G.J. CRAFTER: I am sorry that the honourable member seems to be under a misapprehension about the authority of the Queensland Parliament alone to change the regulations. That is not possible: there needs to be agreement of the ministerial council that regulations should be changed, because this is cooperative legislation. It is simply not a valid instrument if the Queensland Parliament passes that in terms of the Bill we have before us.

Mr S.J. BAKER: According to what the Minister is saying, that means that, if there is a matter of some urgency, we will have to wait for some protracted period that might be 20 or 30 times as long as we would normally take to put a regulation in place in an emergency situation. If we follow the processes laid down by the Minister, we will not be able to solve an emergency situation very quickly.

The Hon. G.J. CRAFTER: There are such things as faxes and telephones that enable Ministers to make decisions quite quickly. Conferences these days do not require Ministers to travel to meetings, and this is not a matter dealt with in an annual ministerial meeting or the like. A tradition is now established within the Companies Code area of ministerial councils being able to respond quickly to emerging situations, but one needs to contrast that with each State's having to pass its own legislation and regulations in order to deal with situations that cross State boundaries.

If we were in that position—and that is the position the honourable member has been advocating throughout the debate on these clauses—it would be an incredibly convoluted and time-consuming process. I believe that this mechanism is one that all States, regardless of their political persuasion, believe is a mechanism whereby we can respond more quickly to emerging situations that require changes to the legislation or the regulations.

Mr S.J. BAKER: I have an alternative proposition for the Minister. If we have a temporary regulation-making power the problem is solved, and we then have to be satisfied at some later time that there is an order of flexibility and durability about the regulations, which would stop any difficulties arising if there were a need for action. On a number of occasions we in this Parliament are faced with making decisions quickly. The Government is faced with having to make decisions quickly, and that is done quite often through the regulatory process.

We have never in any way criticised that process: it is an important part of Government. It is important to be able to make decisions as and when appropriate. I suggest that the Minister put to his colleague in another place that he might wish to look at this proposition. At the end of the day, there may well be a limited time frame under which these regulations operate, if agreement cannot be reached, but it is something that may well need to be looked at.

The Hon. G.J. CRAFTER: In relation to the honourable member's question about the passing of legislation or regulations that are in conflict with the Act, section 409 of the Australian Financial Institutions Commission Act provides:

> A State will not submit legislation to its Parliament nor take action for the making of regulations which will, upon coming into force, conflict with or negate the operation of the financial institutions legislation.

Clause passed.

Clauses 10 to 12 passed.

Clause 13—'Conferral of jurisdiction on Queensland Supreme Court.'

Mr S.J. BAKER: I bring to the attention of Parliament the position of the Supreme Court of Queensland in relation to appeals, which has already been reflected upon in another place. It appears somewhat bizarre to me that the Supreme

Court of Queensland is placed in this position. I wish simply to note that and will want to see how it works in practice.

Clause passed.

Clauses 14 and 15 passed.

Clause 16—'Fees for chargeable matters.'

Mr S.J. BAKER: Is it intended that all fees other than those related to the supervisory authority be standard across Australia?

The Hon. G.J. CRAFTER: Yes, it is.

Clause passed.

Clause 17—'Levies, contributions and loans.'

The Hon. G.J. CRAFTER: I move:

Page 6, after 24—Insert new clause 17 as follows:

Levies, contributions and loans

17. (1) The section imposes—

(a) the levy payable under section 119 of the AFIC (South Australia) Code by a financial institution;

(b) the levy payable under section 95 of the Financial Institutions (South Australia) Code by a financial body;

(c) the contributions payable under section 98 of the Financial Institutions (South Australia) Code by a credit union;

(d) the support levy payable under section 99 of the Financial Institutions (South Australia) Code by a credit union;

and

(e) the compulsory loans payable under section 100 of the Financial Institutions (South Australia) Code by a credit union.

(2) An expression has in subsection (1) the meaning it would have if this section were in the AFIC (South Australia) Code or the Financial Institutions (South Australia) Code, as the case requires.

This procedure will include in the Bill the clause in erased type.

Clause inserted.

Clauses 18 to 23 passed.

Clause 24—'Repeal and amendment.'

Mr S.J. BAKER: This clause repeals the Acts. I have tried to go back to some of the Acts to ensure that we have transitional provisions regarding all relevant sections of the Building Societies Act 1990 and the Credit Unions Act 1989. Is the Minister satisfied that all those provisions have been covered?

The Hon. G.J. CRAFTER: I am advised that that has been considered; the officers are satisfied that all necessary requirements have been met.

Mr S.J. BAKER: The Building Societies Act 1975 is referred to in subclause (2). I have not had a chance to examine it. Will the Minister explain why two Building Societies Acts are mentioned in the Bill? I have not had opportunity to review it, but this is the first time I have ever seen two Acts in tandem. Normally, when we amend Acts we include the amendments in the original and do not have separate Acts. Will the Minister clarify the matter?

The Hon. G.J. CRAFTER: The 1990 Act was not proclaimed because it was overtaken by the events culminating in the legislation before us. We are currently operating under the 1975 legislation.

Mr S.J. BAKER: Subclause (2) *(a)* states that the Building Societies Act 1975 ceases to apply to certain societies. It seems that we are taking out the Starr-Bowkett societies rather than taking those sections that apply and declaring within the Act that those sections stay in force for the Starr-Bowkett societies.

The Hon. G.J. CRAFTER: We need the whole Act in place in order to provide for the appropriate administration and supervision of those remaining bodies known as the Starr-Bowkett societies.

Mr S.J. BAKER: The Bill states that 'the Building Societies Act 1975 ceases to apply to'. According to my interpretation, that means that the Building Societies Act has no relevance at all to the Starr-Bowkett societies. It is strange terminology.

The Hon. G.J. CRAFTER: My understanding is that subsection (2) states that the Building Societies Act of 1975 ceases to apply to societies as defined in that Act except Starr-Bowkett societies. Paragraph *(b)* provides 'is amended', namely, the Building Societies Act of 1975 is amended by changing its short title to 'the Starr-Bowkett Societies Act 1975'. That legislation is restricted to Starr-Bowkett societies.

Clause passed.

Clauses 25 to 31 passed.

Clause 32—'Miscellaneous transitional provisions.'

The Hon. G.J. CRAFTER: I move:

Page 10, after line 19—Insert new clause 32 as follows:

Miscellaneous transitional provisions

32. The following transitional provisions have effect for the purposes of the financial institutions legislation:

(a) an exemption granted under section 9 (4) of the Credit Union Act 1989 from section 9 (1) *(b)* continues to have the effect after the commencement of the Financial Institutions (South Australia) Code as if it were an exemption under section 144 (4) of that code;

(b) despite the Financial Institutions (South Australia) Code, rules made by a continuing society before the commencement of the Credit Unions Act 1989 continue to operate in relation to shares issued under those rules before the

(c) an approval in force under—

(i) section 20 (2) of the Building Societies Act 1975;

(ii) section 28 (5) of the Credit Unions Act 1989,

immediately before the commencement of the Financial Institutions (South Australia) Code continues in force as an approval under section 139 (5) of that code;

(d) where a continuing society issued a disclosure statement under section 39 of the Credit Unions Act 1989 the disclosure statement is taken to be a disclosure statement registered under Part 5, Division 6 of the Financial Institutions (South Australia) Code;

(e) an application or order made under section 79 or 99 of the Credit Unions Act 1989 is taken to be an application or order under section 291 of the Financial Institutions (South Australia) Code;

(f) a direction under section 82 of the Building Societies Act 1975 or section 141 of the Credit Unions Act 1989 is taken to be a direction under section 107 of the Financial Institutions (South Australia) Code;

(g) a continuing society need not comply with section 140 (2) of the Financial Institutions (South Australia) Code until six months after the date of its commencement;

(h) charges of which copies were lodged with the Registrar under section 34 (4a) of the Credit Unions Act 1976 are taken to be registered under the Financial Institutions (South Australia) Code and rank in priority according to the time of lodgment of the copy with the Registrar;

(i) charges registered under the Credit Unions Act 1989 are taken to be registered under the Financial Institutions (South Australia) Code and rank in priority according to the time of registration;

(j) if a continuing society has been declared to be subject to supervision under section 118 of the Credit Unions Act 1989 the declaration has effect as if it were a notice placing it under direction under section 88 of the Financial Institutions (South Australia) Code;

(k) anything done under section 121 of the Credit Unions Act 1989 continues to have effect as if done under section 88 (3) of the Financial Institutions (South Australia) Code;

(l) a consent under section 60 (4) of the Building Societies Act 1975 or section 76 (3) of the Credit Unions Act 1989 continues in force as a consent under section 257 (3) of the Financial Institutions (South Australia) Code;

(m) where approval has been given under section 64a of the Building Societies Act 1975 for a continuing society to enter into a management contract, the approval continues in force as if given under section

245 (2) of the Financial Institutions (South Australia) Code;

(n) the amount standing to the credit of the Credit Union Deposits Insurance Fund under section 110 of the Credit Unions Act 1989 immediately before the commencement of the Financial Institutions (South Australia) Code is transferred to the Credit Unions Contingency Fund under section 97 of that code (and the transfer is exempt from stamp duty and other taxes and charges under the law of the State);

(o) subsections (3) and (6) of section 110 of the Credit Unions Act 1989 apply in relation to the Credit Unions Contingency fund for a period of two years after the commencement of the Financial Institutions (South Australia) Code as if references in those subsections to the fund were references to the Credit Unions Contingency Fund and references to the board were references to the SSA.

The clause was included in the Bill in erased type as it deals with money matters.

Clause inserted.

Clause 33 and title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

In Committee.

(Continued from 28 April. Page 4463.)

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. B.C. EASTICK: This whole measure was seriously debated in another place, particularly from clause 4 onwards, and there were differences of opinion regarding the Bill that came to this place as a result of the deliberations of Committee there. The second reading debate picked up a number of issues in question, before the other place got into Committee debate. As the member leading the debate for the Opposition in this measure, I have to say that I am aware that a number of discussions have taken place about amendments to be moved from clause 4 onwards. I was handed a copy of them this morning, not having been part of their construction, albeit that I was made aware earlier of some of the intentions.

The last communication I have had from the LGA on this issue was a fax forwarded to my colleague the Hon. Jamie Irwin on 27 April that drew attention to various aspects of the broad brush of the amendments contemplated at that time. I have had no further instructions at all from the LGA regarding any further comments it may have relative to that document. Earlier this afternoon I rang to seek information, but there was no-one at the LGA who could assist. Subsequently, I identified someone in the gallery, but I have had no documentation.

I just want to put the matter into context: we will debate the issues from clause 4 onwards in a positive way, I can assure the Committee, but I would not want it to be understood by anyone abroad that the decisions, discussions or amendments necessarily have the imprimatur of the Opposition, which had no part in their direct construction. Having made those remarks, I believe that the debate might continue.

The Hon. M.D. RANN: I am aware that a number of amendments to be placed before the Committee were put on record yesterday. There were discussions with the member for Elizabeth last night. Most members in the second reading debate yesterday said that this was not a Party political Bill and that we wanted to get the best possible result for local government because of the importance of that sector to our South Australian community. Certainly, as a result of those discussions I believe that there were some compromises reached and some amendments redrawn overnight, and I certainly apologise to the honourable member opposite and I understand his concerns.

Clause passed.

Clause 4—'Substitution of divisions.'

The Hon. M.J. EVANS: I move:

Page 8, line 14—Leave out '50' and substitute '25'.

This is a substantive amendment in relation to the percentage of the electorate who are required to be involved in the process of creating a poll situation in relation to amalgamations and changes of boundaries. The amendment has the effect of reducing from 50 per cent, which is a substantial percentage of the electorate, to 25 per cent, which is a more representative sample, the percentage that is required to determine whether or not the proposal will be submitted.

That figure of 25 per cent is a much more realistic and achieveable result. We are dealing in this context with a voluntary voting sector: it is not a compulsory voting sector under the Constitution. Anything that is supported by 25 per cent of the electorate surely must be perceived in the community to have substantial support and should form the basis of the proposition covered by section 17 of the proposed new Act.

The 50 per cent figure is unrealistic and places far too high a demand on the electorate as against the demands that can be placed on a council. A council, which can be elected with 10 or 20 per cent of the vote in the metropolitan area and more in a country area can determine proposals just by simple resolution, but for the electorate the Bill proposes a figure of 50 per cent, and that is quite unrealistic and disproportionate. I commend to the Committee the 25 per cent, as I believe this figure would more accurately reflect a proposal that gives the electors the initiative but would not go so low as to make the process subject to minor whims on the part of small pressure groups. The 25 per cent would hardly constitute a small group, and it would be one deserving of consideration.

The Hon. M.D. RANN: With some reluctance the Government will not oppose the amendment, which would allow 25 per cent of the electors of an area directly affected by a proposal, for example, 25 per cent of the electors for a ward or precinct which is proposed to be removed from one council and be added to another to initiate a proposal for council creation or boundary change.

The existing Act requires elector proposals to be initiated by 20 per cent of electors for a whole area or 20 per cent of electors of a directly affected portion of the area. The Bill provides for 10 per cent of the electors of the whole council or 50 per cent of the electors of a directly affected portion of a council area to initiate a proposal.

The objective in the Bill is to make it more feasible for electors who are concerned about their council's ongoing capacity to provide them with the representation and services they want to get a sufficient number of signatures regarding a proposal affecting the whole area; it is a little more difficult for a small group in one ward or precinct that may be disaffected by some of their councils current policies and practices to set the whole structural change process in motion as a way of resolving their dispute with the council.

However, given the large variations in council size and in the size of portions within an area that might be the subject of a proposal, these percentages are fairly arbitrary in their effect and 25 per cent of the electors for a proportion of an area directly affected by a proposal is in most cases,

in my view, a reasonable number of electors. We are prepared to accept the amendment.

The Hon. B.C. EASTICK: I was interested to hear the Minister's acceptance of the figure. Another place sent us the figure of 50 per cent and the member for Elizabeth has indicated by virtue of this amendment a much lower figure of 25 per cent. It almost becomes an argument as to how long should a piece of string be. I am aware the Minister of Local Government Relations was keen in the not so distant past and, while she was of the belief that 50 per cent was somewhat higher than she wished, she indicated that a figure of between 30 per cent and 40 per cent (33.3 per cent or 35 per cent) was a more acceptable figure. Obviously, the Minister has changed her mind in this matter and, if the Government has settled on 25 per cent, we will not seek to upset it at all. We do not have the numbers to upset it, anyhow, but it is obvious that it is a figure which will still have to be achieved, and I am happy to make that point.

The member for Elizabeth indicates that 50 per cent is too high a percentage and is not likely to be achieved; 33 per cent or 35 per cent would be more difficult to achieve than would be 25 per cent, but it clearly indicates that the proponents of the discussion which takes place will have to make sure that there is a true and representative understanding of the circumstances, and the 25 per cent would seem to be a not unreasonable compromise, albeit that it is the Government that has backed down and not the member for Elizabeth.

The Hon. M.D. RANN: I should say that it is not a question of backdown: it is a question of trying to reach consensus on issues of importance to the State and, as the member for Light suggests, they are issues that should be beyond Party politics or even talk of the numbers. I am interested only in logic, not numbers.

Amendment carried.

Mr M.J. EVANS: The next group of amendments relates to the constitution of the special panels and makes a number of changes to the nature of the qualifications of the people who make up those panels. The panel proposal is an interesting and, in some ways, innovative one. Obviously it is an important change from the present system which has not served us particularly well. It has had a number of difficulties, many of which have not been of the making of the people who are actually on the present advisory commission. Unfortunately, it has not enjoyed the degree of success which perhaps its members might have hoped for and which, I am sure, this Parliament hoped for at the time it was established.

It is indeed reasonable at this time to consider an alternative structure, and one which falls within the purview of the LGA. Given the way in which the LGA has operated in the past to seek consensus and agreement from its members, I am sure that it has had a remarkable track record of success in achieving that and I hope that that continues, but I beleive it is important to ensure that the panel members have the appropriate qualifications in the sense of their background and membership, and I have a number of amendments which I hope will make some useful changes to that structure. I move:

Page 9—

Line 10—Leave out 'a person' and substitute 'a member or former member of a council'.

Line 12—After 'person' insert 'with extensive experience in management or financial matters (other than a member or an officer of the council)'.

After line 28—Insert—

(ab) in the case of a person appointed under subsection (1) *(d)*—the person has within the previous 12 months been employed or engaged by such a council;.

The amendment to line 10 will ensure that the person concerned is experienced in elected membership of local councils by requiring that they are at least a former member and possibly even a current member of a council. This will equip them to represent the interests of elected members and, I would hope, of the electorate that they have represented either in the past or presently. Naturally, they would not be a member of any of the affected areas, because that is obviously a clear conflict and is prescribed elsewhere in the Bill.

The amendment to line 12 ensures that this particular category of representative on the panel will have extensive management or financial experience, which I believe will be very useful in resolving questions of boundary changes. However, it ensures that they are not currently a member or an officer of any council. So, they are bringing an external perspective to the discussions of the panel, and I believe that that is quite important.

The amendment to be inserted after line 28 will ensure that the representative of the United Trades and Labor Council has not during the previous 12 months been a member of the particular council or councils which are subject to the inquiry because, obviously, that also would represent a conflict which would not be acceptable in this context. Because the number of people in this category is relatively limited, it is important that this prescription is not set back too far, and 12 months is considered to be an adequate time to ensure some separation from the councils concerned.

The Hon. M.D. RANN: The Government is prepared to accept the three amendments.

The Hon. B.C. EASTICK: On behalf of the Opposition I support the amendments. From a very fruitful discussion with the President of the Local Government Association and Mr Tate (who is now on his honeymoon but who was advising the LGA at that time), we learned that the association did not necessarily want to be seen to be driving the ship to the point where it might be held to be a retarding force. Whilst I do not have a specific understanding of the total acceptance of the amendments, they are not inconsistent with the discussion that was held, and I know that the member for Elizabeth has had discussion on these matters. Therefore, I believe them to be completely competent amendments which will be subject to review in due course. If they are proven to be against the best interests of local government there will be an opportunity later this year for the matter to be reconsidered. I accept, as does my colleague in another place who has had the overall responsibility for the Opposition's involvement with this Bill, that it would appear to be a distinct move in the right direction to get a very effective panel system going. In the absence of any contra view from the Local Government Association, I accept the amendments.

Amendments carried.

Mr M.J. EVANS: I move:

Page 10, after line 38—Insert—

(1a) A legally qualified person is not entitled to act as a representative.

This amendment relates to the hearings before the panel. I think it is important that the hearings do not become bogged down in technicalities and legalisms which would result in both delay and substantial cost to the councils concerned. It must be borne in mind that councils will now carry the cost of these proceedings before the panels, and it is important that what is considered is logic and policy (as the Minister said earlier) and not just the legal technicalities of the process. I am sure that we can rely on the panels themselves and on the expert advice that is available through the councils and the LGA to ensure that adequate facts are

brought before the panel. Legal advice can be sought by the panel in the event that it feels it needs to be appropriately guided by legally qualified people. It is important that the councils are not pushed into a position where they feel obliged to mount expensive legal defences and attacks.

The Hon. M.D. RANN: The Government is happy to accept this amendment. In fact, I am particularly keen to accept it, and this is not in any way to be taken as a reflection on the legal fraternity in South Australia, some of whom are among my closest friends. The last thing we want to do is lock in an adversarial process. Therefore, it is appropriate to make sure that council and elector representatives are not lawyers who may unnecessarily not only add technicalities (in terms of the litigious nature of lawyers) but also add massive costs.

Amendment carried.

The Hon. M.J. EVANS: I move:

Page 11, lines 33 to 39—Leave out paragraphs *(b)*, *(c)* and *(d)* and substitute—

and

(b) consultation with any organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers within the local community, persons who are interested in relevant environmental issues, or otherwise),.

Page 12, lines 23 to 29—Leave out paragraphs *(b)*, *(c)* and *(d)* and substitute—

and

(b) consultation with any organisation or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers within the local community, persons who are interested in relevant environmental issues, or otherwise),.

These amendments relate to the question of consultation. The Bill provides for a number of categories of consultation including, first, public consultation, secondly, consultation with the Conservation Council of South Australia Inc, thirdly, consultation with organisations that represent employers or commerce and industry and, fourthly, consultation with employee organisations. Unfortunately, by naming a number of organisations in general terms, and one organisation in particular, I believe it creates a position where electors, residents and ratepayers of the area may feel left out. The particular organisation named is well known for its concern and effort in relation to local government, and I am sure many members have been lobbied by that organisation in recent days about local government.

While I believe it has a valuable role to play with respect to local councils, I am sure that many other groups in the community feel the same way. It is possible that other organisations will evolve over time, and this organisation may not have a strong interest in local government in the future if some of these changes come forward; if other reforms are made to local government it may feel less inclined to be involved.

Therefore, it is an unfortunate precedent to single out one particular organisation and to name other categories in a general way. So, I have formulated an amendment, which simply requires public consultation, then consultation with organisations and associations, where these exist, that represent ratepayers and residents. I believe they are the first people who should be consulted and therefore their category should appear at the very beginning of such a clause, and then there are officers and employees of councils who, of course, have a vital role to play in any boundary change proposal, as well as employers within the local community, and other persons who are interested in such matters, for example, environmental issues or otherwise. By expressing the clause in this more general way, I believe we will guarantee consultation with the affected groups, and not single out anyone, but still give the residents and the ratepayers primacy in the matter.

The Hon. M.D. RANN: I have thought deeply about this matter, and I have decided—perhaps courageously—to accept the amendments.

The Hon. B.C. EASTICK: That was a most heartening rendition from the Minister. What is provided here is more realistic and in line with the realities of the marketplace. Because one is a lawyer, a member of the Conservation Council or of any profession or group should not necessarily mean that one has the total information needed to determine a particular set of circumstances. The amendment provided by the honourable member does not put one or two organisations on a pedestal: it provides the opportunity for merit to be the consideration in the making of an appointment. In that sense, the measure is completely consistent with what I understand many people in local government in my own area want. They want results: they do not want results that might be jaundiced in one direction or another. They want someone who will look at the whole of the cake and come up with the best recipe and the best result. On that basis alone, we accept the member for Elizabeth's amendments.

Amendments carried.

Mr M.J. EVANS: I move:

Page 12, line 34—leave out '*(b)*'.

Page 13—

Lines 1 and 2—leave out 'in relation to any recommendation contained in the report' and substitute 'in relation to the matter'.

Line 6—leave out 'recommendation of the panel' and substitute 'proposal (being either the original proposal or an alternative proposal (if any) recommended by the panel)'.

After line 8—insert—

(14a) Where a poll is to be conducted—

(a) if—

(i) the original proposal was initiated other than by a council (or councils);

(ii) the panel has recommended—

(A) that an alternative proposal be carried into effect;

or

(B) that the proposal not be carried into effect (and the panel has not recommended an alternative);

and

(iii) a person nominated under section 17 (3) has maintained serious opposition to the recommendation under subsection (11).

then—

(iv) if subparagraph (ii) (A) applies—the original proposal, the alternative proposal and a proposal that no change occur must be submitted to the poll;

(v) if subparagraph (ii) (B) applies—the original proposal and a proposal that no change occur must be submitted to the poll;

(b) in any other case, the recommendation of the panel must be submitted to the poll.

Lines 9 and 10—leave out 'the recommendation' and substitute 'the original proposal, or by an alternative proposal (if any) recommended by the panel'.

Line 15—leave out 'any recommendation of the panel that is to be the subject of a poll' and substitute 'any question to be submitted to the poll'.

Line 23—leave out 'any council affected by the recommendation' and substitute 'the council'.

After line 27—insert—

(20a) Where subsection (14a) *(a)* (iv) applies to the poll—

(a) a ballot paper for the poll must contain three squares, one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the original proposal, one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the alternative proposal, and one being clearly differentiated as the square to be marked by voters desiring to vote in favour of no change;

(b) a person voting at the poll must make a vote on a ballot paper by placing the number 1 in the square

opposite the voter's first preference, the number 2 in the square opposite the voter's second preference, and the number 3 in the square opposite the voter's third preference;

and

(c) the result of the poll will be determined as follows:

(i) all ballot papers that contain an informal vote will be rejected;

(ii) the remaining ballot papers will be arranged into three parcels according to the first preference indicated on each ballot paper;

(iii) the number of ballot papers in each parcel will be counted;

(iv) the ballot papers in the parcel with the fewest ballot papers must be redistributed to the parcels next in order of the voter's preference;

(v) the number of ballot papers in the remaining two parcels will be counted;

and

(vi) the result will be determined according to the parcel with the greatest number of ballot papers.

(20b) Where subsection (14a) *(a)* (v) or *(b)* applies to the poll—

(a) a ballot paper for the poll must contain two squares—

(i) in the case of subsection (14a) *(a)* (v)—one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the original proposal and the other being clearly differentiated as the square to be marked by voters desiring to vote in favour of no change;

(ii) in the case of subsection (14a) *(b)*—one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the recommendation and the other being clearly differentiated as the square to be marked by voters desiring to vote against the recommendation;

(b) a person voting at the poll must vote by placing an X on the ballot paper in a square opposite the voter's preference;

and

(c) the result of the poll will be determined as follows:

(i) all ballot papers that contain an informal vote will be rejected;

(ii) the remaining ballot papers will be arranged into two parcels according to the vote indicated on each ballot paper;

(iii) the number of ballot papers in each parcel will be counted;

and

(iv) the result will be determined according to the parcel with the greatest number of ballot papers.

(20c) A ballot paper is not informal by reason of non-compliance with subsection (20a) or (20b) if the voter's intention is clearly indicated on the ballot paper.

(20d) Subsections (20a) and (20b) do not preclude the preliminary counting of ballot papers at various polling booths after the close of voting.

Line 28—leave out '50' and substitute '25'.

Lines 28 to 47—leave out all words in these lines after 'electors for the' in line 28 and substitute 'relevant area or areas vote at the poll, then the result of the poll (disregarding the area or areas in which the electors are voting) is binding (notwithstanding any opposition under subsection (11)), and the panel must, if necessary, in consultation with the representatives of the parties, revise its report to such extent as is appropriate to enable the outcome of the poll to be brought into effect'.

After line 47—insert—

(22) If less than 25 per cent of the electors for the relevant area or areas vote at the poll, the result of the poll is not binding but if a majority of electors voting at the poll indicate opposition to a recommendation of the panel—

(a) the panel must reconsider the recommendation in consultation with the representatives of the parties (and may, if it thinks fit, alter its report);

and

(b) if the panel decides to maintain its recommendation in any event, the panel must set out its reasons for the decision in its report.

Page 14, line 10—leave out 'formulated' and substitute 'dealt with'.

These amendments are quite substantial and are, indeed, perhaps the most critical aspect of this part of the Bill. They deal with the question of the recommendations of the panel and the opportunity of the electors to further their own interests in relation to matters that they have brought before a panel. I will briefly canvass the areas concerned here. Presently, the electorate is empowered by provisions contained in the Bill to bring forward proposals before the panels and have those proposals considered.

In the event that the proposal is rejected by the panel, a mechanism exists which allows that to be brought forward. In the event that an alternative proposition is brought forward by the panel, it is difficult for the electorate to have their original proposal put before the electorate. They can require that the alternative proposal be put forward but, of course, already 10 per cent of the electorate and, in some cases, a higher percentage, have indicated their support for a particular proposition. In my view, when such a substantial slice of the electorate indicates its support for a proposal, it should at least be given a substantial consideration, and the electorate should have the right to have that matter put before it and voted upon as a part of the referendum.

This series of amendments is designed to achieve that. It is designed to ensure that, where an elector-driven proposal is placed before a panel and the panel produces an alternative recommendation, the representatives of the electorate have the right to have that proposition tested by the referendum held in accordance with the poll provisions of this section of the Act. Of course, the alternative proposition put forward by the panel would also be tested in the referendum. So, in fact, three questions would be available to the electorate: first, the original proposition of the electors; secondly, the alternative proposition of the panel; and, thirdly, the proposal for no change, because it is essential that the electorate has the opportunity to reject both proposals for change. There would then be a preferential ballot undertaken of these three propositions with the proposal—or the no change proposal, as the case may be—having the least number of votes being excluded, and then the preferences would be distributed in the normal manner, which all honourable members would be familiar with, to determine which of the three propositions has the support of the electorate.

It is necessary to make a substantial number of modifications to the existing machinery in the Bill in order to achieve that, although members should not be misled by the voluminous nature of these amendments into thinking there is more of a policy change than I have outlined. It is only necessary to have this volume of words in order to insert the preferential voting provisions and the provisions for having the elector-driven proposition placed before the electorate as part of the three-up proposal. I believe that that is a very substantial provision, because it does empower the electorate to be involved in this process in a substantial way, not just the internal local government machinery, which we are in danger of ensuring is the one given consideration at the moment. By empowering the electorate in this way, we will substantially improve the chances of the electorate being satisfied with the result. It is the electorate which is the primary concern in this whole issue, and I do not think we should lose sight of that.

The attention of the Committee should also be drawn to the amendment which reduces the 50 per cent requirement to 25 per cent again, because this is the level at which the result of the poll becomes binding. I believe that the Bill as it is presently drafted with the 50 per cent provision provides for a figure that is far too high. The 25 per cent which I have selected—and, of course, I certainly do not wish the

Committee to believe that 25 per cent has any magic about it because, as the member for Light pointed out, any number of other figures could have been selected, and I quite agree with him—was simply chosen in relation to the 17 per cent average turnout in the metropolitan area.

I understand that it is substantially higher in the country areas, but in terms of the overall average of this State one must take account of that 17 per cent in the metropolitan area. To require a 50 per cent turnout before the wishes of the electorate are binding would in my view not be an appropriate figure. Even at 25 per cent, I am concerned that we may be placing an unduly harsh requirement on the electorate in relation to its own referendum that we do not require of the electorate when they are voting for council, because as all members would know in many cases councils are elected on the figures of the order of 10 or 15 per cent of the vote. Why should we now require 50 per cent of the electorate for themselves to have a say in this kind of decision making process.

So, at 25 per cent, we have selected an adequately high figure, which will ensure that it is not a small or unrepresentative sample of the electorate that makes this decision. Indeed, in most cases, I would expect that it would probably be double the percentage that turnout in a council election. But even in the best cases, it is still higher than the usual turnout in some areas, although I readily acknowledge that in some districts, particularly in the country and in some metropolitan areas, the turnout is indeed substantially higher, and those communities deserve the credit for that. However, I do think we must look at the average figures when we are determining what percentage we should choose.

This large group of amendments all relate to the provision of the poll in relation to the elector-driven proposition. They change the percentage from 50 to 25 per cent, and they create the environment in which the poll may be held and in which the preferential voting provisions may be operative. This block of amendments, although it is substantial, achieves only those policy areas.

The Hon. M.D. RANN: These are fairly complex matters. On the first batch of the honourable member's amendments, I guess my sort of bottom line is that, if polls of electors are to be decisive rather than indicative, it is vitally important that the provisions cover the various circumstances that can arise and apply in a consistent way. Like the LGA, I am a very strong believer in consistency. I believe that these amendments help to do that and they are supported for that reason. That is the first batch. As to the second part of the amendments, which concerns the honourable member's amendment to clause 4, page 13, line 28, again we need to explore the argument here. The effect of this amendment is that the result of elector polls will be binding where 25 per cent rather than 50 per cent of electors of all affected areas turn out to vote. The Government's preferred position is that polls should be indicative, not binding.

The Bill as it was introduced in the other place provided for consultation with the community and interested groups throughout the community. The combined result of this comprehensive consultation was intended to reliably inform councils, and in the case of elector proposals the electors concerned, of the views of all electors and interested groups and indicate to councils that either they had sufficient support to implement structural changes or that people had significant objections that needed to be overcome if structural change was to proceed. As a fail-safe, at the end of the process, the Bill as introduced by my colleague in another place provided for electors to demand a poll on any recommendation of a panel, whether a recommendation for or against change and whether or not councillors or electors' representatives had vetoed it—so that electors could express their views. The panel, in consultation with the parties, was obliged to reconsider the recommendations and have the opportunity to change them or to stick with them.

It was considered highly unlikely that any council would choose to proceed with structural changes when its electors were clearly against such a proposal or, ultimately, that it would be able to resist clear demand for change. That is the political imperative of what we are talking about. Members in the other place successfully introduced amendments which make poll results binding where a majority of electors of all affected areas turn out to vote. Those amendments initially considered only the situation where a poll is demanded about a proposed structural change which has not already been vetoed by council or elected representatives. They were subsequently extended for the sake of consistency, so that the views of electors would be decisive either to prevent a change or to insist on one, regardless of whether the parties to the proposal agreed to it.

The Government has accepted that Parliament's view is that polls should be able to be binding in some circumstances. But having accepted that, the decision as to whether the turnout required for a binding poll, when voting is not compulsory, should be 50 per cent, 35 per cent, 33 per cent or 25 per cent, or somewhere in between, is in my view a fairly arbitrary one. So, if the figure is at the higher end of the scale it will be argued that it is too high to have any effect in urban areas, which currently average about a 17 per cent turnout for elections—and these obviously are some areas where there is a high turnout, and I think Elizabeth is one of those, while in other areas in the metropolitan area they have a poor turnout. If the figure is at the lower end of the scale, there will be a concern that a relatively small minority can bind the silent majority and the changes by electors in one area imposing their will on the electors in another area would in my view be unacceptably high.

I know that the Minister for Local Government Relations in the other place shares my views. Cases both for and against can be made for any figure. Consequently, the Government will not oppose reducing the turnout figure required to 25 per cent. In theory, this means that 13 per cent of electors located in part of a council area could join a different council or form themselves into a new council, regardless of any procedure for examining such a proposal. This is balanced by the requirement that a 25 per cent turnout is achieved overall. That has got to be stressed.

Ironically, those who turn out to oppose the formation of a new council, because they can see that this would not be in the interests of the area generally, might be sufficient in number to give the poll binding effect, but not sufficient to carry the day, ultimately. It may be very difficult to get electors out to vote in large numbers against a proposal which is against their long-term interests but which they do not feel directly affects them, their day-to-day lives. So it remains to be seen how lowering the turnout requirement to 25 per cent will affect boundary reform. Hopefully, Parliament will be prepared to look at this again when the process is reviewed, and I am sure that the member for Elizabeth will be happy to take part in that scrutiny to see how it all works out. I think it is all fairly arbitrary, but we are prepared to accept the honourable member's amendments.

The Hon. B.C. EASTICK: It is an interesting set of amendments that has been brought forward by the honourable member. Shortly I will ask the member for Elizabeth to explain to the Committee the significance of the amendments at lines 28 to 47, at the bottom of page 5 of his

amendments. First, I want to make some comment in a more general sense about the totality of this matter. The greater option which is provided here for views to be expressed by the nature of the poll, and more particularly, by the nature of the voting paper associated with the poll, is quite commendable. We go further and indicate that, in essence, we have an exhaustive vote, and that will determine the proposition rather than first past the post or whatever, and that we reckon is quite good.

The Minister in his comments indicated that the council would not be unmindful of the decisions of its electorate in going against the expressed wish of the electorate. Might I go one step further and say that I am genuinely of the belief that local government needs to be very mindful of the feelings of the electorate before they get into the position of forcing a poll to occur—and might I say that most of them are. I shall take a couple of examples of the past. They are not completely analogous with the position that we are presently discussing but they do pick up the point that the Minister made. First, I refer to the time when the District Council of Clare proceeded to spend large sums of money some many years ago on computerisation without having discussed the matter with its local community, and eventually it was forced into a poll situation. I cannot recall the exact figure, but it was something in excess of 1 000 votes to about 28 to reverse the decision of the local governing body. Obviously, the local governing body had not been listening or attempting to test the feeling of the community.

Coming a little closer to where I live, I refer to the case of the Corporation of the Town of Gawler and to the time following the amalgamation which took place in 1985, when the original council area had site valuation as the means of determining its rating system. The amalgamating proclamation required that the areas that were put into the Gawler council from Barossa, Light and Munno Para would be on an annual value basis. The councillors at a later stage decided that they would force the situation and put the whole area on the one basis, and they sought to put it on to annual valuation.

They were eventually forced to a poll, which was costly to the community and they lost that poll. The fact is that the council lost the poll with a vote in excess of 2 000 to about 196. Here is another case where it was quite obvious what the community attitude was long before the council made its decision. It made no factual attempt to fly the kite and find out what came up on the tail of it. It simply blundered into a set of circumstances which eventually cost the community a large sum of money and it had to reverse the decision, by virtue of the poll. I want to make the point that this does not simply relate to getting to a poll and working out what takes place and making a decision afterwards. It is fairly important for local government to make sure that it knows what the feeling of its community is before it makes decisions that are likely to be as disastrous as those two I mentioned—and there have been many others in the past.

I am not suggesting that it will not be practical, but it will be interesting to see the practicality of this matter when we turn the theory into practice. We are fortunate that under such circumstances, when theory does not work out in practice, we can always come back by way of amendment. The Minister nods his head in agreement with that proposition. We seek to ensure that we put up legislation that does not require early amendment, and I hope that the set of circumstances outlined by the member for Elizabeth will provide for a successful operation should it need to be brought into effect. I should like to obtain further information from the member for Elizabeth as to the importance and ramifications of the amendments he makes to lines 28 to 47 on page 5.

Mr M.J. EVANS: The amendments to lines 28 to 47 simply encapsulate existing clause 21 *(a)*, *(b)* and *(c)* into one simplified package. These are the circumstances that flow from when the electors actually have the say at a referendum. Because the other amendments that I am moving as part of this package provide for the alternative poll provisions (where we have the three way poll for the electors' recommendation, the panel recommendation and no change) and also for the poll where it is simply the panel recommendation and no change, both of those possibilities open up a series of options as to what is to happen with the result of that poll.

Because we now have these two alternatives, it has been possible to present my amendments in such a way that, whereas before it was necessary to have three separate paragraphs that incorporate those possibilities and spell out the outcomes legally, we now have one single paragraph, which says that the result is binding if 25 per cent (under my amendments) of the electorate votes. If a majority carries the result, the panel must, in consultation with representatives of the parties, revise its report to the extent appropriate to enable the outcome of the poll to be brought into effect.

In other words, it simply says that, where the electorate is in a position to make a binding determination, whether it be the two way poll or the three way poll or whether the electorate votes for the electors' recommendation, the panel recommendation or the alternative panel recommendation, or no change—whichever of those comes up as a result of the electoral poll—the panel, if the result is binding under the conditions laid down under the amendments, must retire and revise its report in such a way, in consultation with the parties, that reflects the outcome of the poll. It then presents the report in accordance with whatever the outcome of the poll is. It is no longer necessary to go through and pick out each of the possible outcomes individually. It is now possible to incorporate all those outcomes into one provision in the amendment.

The ACTING CHAIRPERSON (Mrs Hutchison): Can I clarify with the Minister that he does not wish to proceed with clause 4, the first of his circulated amendments?

The Hon. M.D. RANN: Absolutely.

Amendments carried.

Mr M.J. EVANS: I move:

Page 17, lines 30 to 35—Leave out section 28 and substitute—

Reports and expiry

28. (1) The Local Government Association of South Australia must, on or before 31 October in each year, deliver to the Minister a report on the operation of this Division during the preceding financial year.

(2) The Minister must cause a copy of the report to be laid before both Houses of Parliament within four sitting days after his or her receipt of the report.

(3) The Minister and the Local Government Association of South Australia must, on or before 31 October 1997, present a report to Parliament on any legislative changes to this Division that appear appropriate in the circumstances.

(4) This Division expires on 30 June 1998.

It is important that Parliament should be kept advised every year of the outcome of boundary change in the State. I do not mean this to be a large scale report but simply one that would follow along the lines of previous annual reports by the Local Government Boundaries Commission, which would simply advise the Parliament of the status of changes before it, the successes or failures in the process, and any necessary comments the organisation would make as part of a normal annual report. Of course, this report would then be laid before both Houses of Parliament.

Because this is such a major change, my amendment also envisages that, on or before 31 October 1997, the Minister and the association present a report to Parliament on any legislative changes to the division that appear appropriate in the circumstances. This would be the major report contemplated by the original provisions of the Bill, and would deal with the overall philosophical review of the way in which boundary change has taken place.

The amendment provides that the division will expire on 30 June 1998, which is, of course, nearly 12 months after the substantial report on philosophy and legislative change will have been presented by the Minister and the LGA. This will give Parliament ample time to consider that report before the division expires, so that it can make whatever legislative change is required. I have included the expiry provision because, in my experience, this is the best way of ensuring that a matter is properly and thoroughly reviewed, and it does indeed guarantee that Parliament will have the opportunity of amending, changing or confirming the process, as the case may be.

The Hon. M.D. RANN: I am aware of the honourable member's commitment to expiry dates, having had somewhat anxious moments with the University of South Australia legislation recently. However, those anxious moments meant that we were able to focus our mind correctly. The amendment ensures that the new procedures will definitely be reviewed by Parliament in a fixed time frame and, therefore, is supported for that reason. Hopefully, five years will be long enough to see what trends are emerging, to analyse those and to consult widely on any proposed changes. That is vitally important, as is preparing the necessary report.

The Hon. B.C. EASTICK: I do not oppose the proposition before the Committee and note that the Minister is satisfied with it. I should have thought that the Local Government Association's need to make a report overall might well be a matter that is canvassed in the Local Government (Constitution) Bill, which will be forthcoming later, and it may be that this will become a subsection of that reporting process when that Bill is before the House. We cannot presume anything. We cannot say that it will definitely be there, but it would not be unreasonable to say that, if the Local Government Association is required to make a report, it would be a full report of all aspects of the legislation, which had been directed to a report function.

With that in mind, it may be that the Bill that will come before us or, indeed, when this amendment is considered in another place, it may require some adjustment in relation to an already existing reporting process. I must admit that I have not looked sufficiently at the legislation to recognise a reporting function, but I am sure that there will be a need for a better understanding and cooperative arrangement to exist between all tiers of government when that constitutional arrangement comes into being.

I would not want the Local Government Association to be required to make a series of reports on different aspects of its activity. If it is required to make a report, surely we should collect together all the requirements of reporting so that it is a meaningful document, and one does not have to chase around finding various parts that might apply to one sector of the community vis-a-vis another—it is all there and can be integrated. It is a matter that needs to be considered in the future rather than now. I support the general context of the amendment.

Amendment carried; clause as amended passed.

Clauses 5 to 11 passed.

Clause 12—'Status of a council.'

Mr M.J. EVANS: I move:

Page 19, lines 34 to 43 and page 20, lines 1 to 6—Leave out all words in these lines after 'subsection (1a)' in line 34.

This amendment has the effect of deleting provisions from the Bill and the parent Act to ensure that where an election is due for a council it does take place, notwithstanding that boundary adjustment proposals are in contemplation. The experience of boundary change and postponement of elections has not been an entirely happy one. There is no reason in my view why a simple boundary change proposal should postpone the electorates right to have a say in the composition of its council. That fundamental democratic right should not be set aside just because another council or group of electors, perhaps in another area, have put forward a boundary change proposal which ensures that some significant change, which may or may not occur some time down the track, is contemplated.

For that reason I seek to strike out those words and to effect the repeal of the provisions in the parent Act which empower the Governor to postpone an election because in the long run it is much cleaner for electors to have their say, to elect a new council at the appropriate time and to make that determination in accordance with their democratic rights. If a new council takes a different view from the old council on an issue of boundary change, it is a relevant matter to take into account. Why block that kind of change? The new council may have a stronger view or indeed it may wish to retreat from the position that the earlier council took, but it will do that on the basis of a democratically elected council decision-making process, and it is one that we should interfere with only under the most extreme circumstances.

This is not one of those circumstances and the boundary process should proceed, notwithstanding any change in the election and, indeed, more importantly the election should proceed notwithstanding the contemplation of a change in the boundaries. This situation is now less important than it was when Parliament first inserted the provision and when it may have had far more cause for doing so because now, under the provisions the Committee adopted earlier in the Bill, it will be possible for the Governor to appoint members of a new council following boundary change, which will simplify the process of changing the make-up of a council. For those reasons I commend the amendment to the Committee.

The Hon. M.D. RANN: This provision is also part of the current Local Government Advisory Commission process for amalgamation. It was inserted back in 1986 with the object of saving councils the expense of a periodical election for a council which might soon cease to exist on the assumption that the amalgamation proposal would be finalised one way or another within that year. The amendment is not opposed, given that since 1988 there has been considerable flexibility to adjust the election process on the commencement of an amalgamation. For example, the first members of a council created by amalgamation may be appointed rather than elected. In either case the May periodical elections may be cancelled for a particular year, which was the case the last time around. The provision should be enough to ensure that electors in a particular area do not have to fund and attend several general elections in quick succession. We do not oppose the amendment.

The Hon. B.C. EASTICK: The proposal before the Committee is realistic, having regard to circumstances that have arisen since 1986 when the provision was originally put into the Act. A number of councils—at one stage something like 25—were under consideration for amalgamation or change. There was a belt of them from Jamestown right down beyond Truro to Mannum. All of them were affected in some way. A number of those councils finally missed out

on the 1991 election as there was still some contemplation on when the results might be achieved. This Saturday a number of councils will be having an election for the first time in three years. The contract that various members entered into when they went onto council was for two years.

A number of people have expressed to my colleagues and me that the extension beyond their expectation has caused them a considerable degree of concern. In some cases it has been against the best interests of their family, their business or their intention to travel. If they had known three years ago that it would be a three year council, they would not have cause for complaint that it was too long or that they had other things in contemplation. Circumstances in the Bill thus far and the manner in which it has been exercised have caused a degree of anxiety for a number of people in local government, where people have just had to move out of the contract that they entered into when they first went into council for two years, causing supplementary elections in many cases. Those matters will be resolved in future by this provision.

We will watch with a great deal of interest how the panels work, whether they will be less disruptive than some of the measures that have been in place in the past. We hope that there will be less State Government interference in the proposals for amalgamation than there has been in the immediate past. One has only to look at Henley and Grange or Mitcham as examples of major difficulties which caused heavy cost to local government. Both examples did not do anything much for the Government of the day and caused a lot of unrest. Those matters are of the past by virtue of the process put in place. I am in accord with this proposition, which matter has been argued quite consistently in another place by my colleague the Hon. Jamie Irwin, not only in relation to this Bill but also in submissions that he has made relative to local government and in questions that he has asked about the delay in local government elections over time. He sees some virtue in it and, from discussion with a number of councillors who have found themselves in this unfortunate position, it has their approbation.

Amendment carried; clause as amended passed.

Clause 13 passed.

Clause 14—'Objects and principles.'

The Hon. M.D. RANN: I move:

Page 20, line 28—After 'five financial years' insert 'or, in the case of an amalgamation, such longer period (if any) as may be specified by a proclamation made for the purposes of the amalgamation under Part II'.

Clause 14 as printed allows councils to levy differential rates over five years following an amalgamation or boundary change, so that ratepayers who find themselves in a new council with a different rating level can have their rates gradually realigned to those paid in the rest of the area. This is not a new practice, although under the current Act councils need ministerial approval to levy differential rates in these circumstances.

The question has been raised whether five years of differential rating will be long enough in all cases. For example, the City of Woodville is convinced that, if it were to amalgamate with Hindmarsh and Port Adelaide, a proposal which is currently before the LGAC, rates could not be gradually equalised in less than seven years and that a time-frame of 10 years would be more practicable.

The other councils involved in this proposal do not necessarily agree: they argue that amalgamated councils should be perceived as a single entity as soon as possible and that community benefits achieved through economies of scale should be realised as quickly as possible. However, there is a general agreement that every case will be different and that it would be useful to have some flexibility in the time-frame.

This amendment limits differential rating following boundary change or amalgamation to five years but provides that, in the case of amalgamation, differential rating can continue for a longer period specified in the proclamation creating the amalgamation. Whether differential rating should go beyond the five years will then be a matter considered as part of the process of considering the amalgamation proposal itself.

The Hon. B.C. EASTICK: I can see the virtues of the first part, but I question the proclamation beyond five years. There must be some reason why this has been brought forward by the Government and I would like to know whence it came. Can the Minister advise the Committee? I am not opposing it *per se*.

The Hon. M.D. RANN: I think it was because of the Woodville situation, in terms of its negotiations, where it saw a real problem in terms of the grading in of the changes within five years.

Amendment carried; clause as amended passed.

Clauses 15 and 16 passed.

Clause 17—'Fees and charges.'

Mr M.J. EVANS: I move:

Page 21—

Line 2—After 'amended' insert—

—

(a)

After line 5—Insert—

and

(b) by inserting after subsection (7) the following subsection:

(8) The Local Government Association of South Australia may prepare guidelines relating to the fixing of fees and charges by councils under this section.

This amendment precedes the main amendment in this matter, which will come up in respect of clause 18, but I will canvass the whole arrangement now. The LGA, in consultation with the Minister, was proposing that it should have the power by regulation to set maximum fees, in effect, for any appropriate change which a council might levy, but of course councils were to be given the legal power to waive any of those fees or to set a lower fee. While there is some merit in allowing a uniform fee process, I believe it does run partially counter to the ethic that we are delegating power to local councils as part of the reform process, and I am also concerned that we would be giving a regulation making power to the LGA when it may not necessarily be appropriate to clothe such a body with regulation making power, given that such regulations have the force of law.

Whilst it is true to say that the Parliament has the right to disallow any regulation, that is also true of regulations made by Ministers and of by-laws made by democratically elected councils. The LGA is not directly elected by the public: it is indirectly elected by councils but not on a basis which bears much relationship to the relevant size of the council areas where people represent the electorate within the LGA itself.

So, for a number of reasons I believe that it is inappropriate to do this on the basis of a fixed maximum through the regulation making process. I believe it would be more appropriate, first, because councils should have the power themselves to be involved in the fee fixing process, secondly, because I have some concern about the use of the LGA as a regulation making body itself and, thirdly, because I think it is better to have a degree of deregulation in this area—that the LGA instead of presenting regulations, should prepare guidelines relating to fees for the benefit of councils.

This puts the LGA in a more appropriate context of advising its members and offering them information and advice, and coordinating local government's response to a particular issue, rather than putting the LGA in the context of mandating fees by a legal process itself. The amendments will ensure that the LGA has the opportunity to prepare guidelines relating to fees and charges. Of course, it could do this of its own volition anyway without that amendment to the Act but, by inserting this provision, we are indicating Parliament's agreement to the concept involved and indicating to the LGA that we think this is a desirable process to follow. It gives the matter some greater substance without clothing it with the force of law.

The Hon. M.D. RANN: As the honourable member has explained, the amendment provides that the LGA may provide guidelines relating to the fixing of fees and charges by councils under section 195 as amended by the Bill. It is not obliged, and councils are not obliged, to follow such guidelines, and that has to be stressed. This relates to the fact that the honourable member intends to oppose clause 18, which provides for the LGA to achieve State-wide consistency in respect of certain fees payable to councils by making a regulation which is reviewable by Parliament. The making of such guidelines would be the only way in which the LGA could promote uniformity in relation to particular fees which might be devolved to the sector, and this is likely to influence immediate decisions about which fees are considered appropriate for transfer to councils at this time.

The loss of clause 18 is accepted. The idea behind section 195a was to transfer to local government the power to set fees for work performed by councils, not only those fees which it is appropriate for each council to set on an individual local basis but also those fees it is agreed should be generally uniform over the State. It is intended to transfer to the local government sector a package of planning, building and related fees, to amend the necessary current Acts and regulations and to prepare a Governor's declaration that this could happen.

The LGA agreed that it would make regulations fixing these fees for the first two years so that fees were standard across the State. It would seek the advice of the State agencies currently involved in setting these fees and consult with relevant groups before fixing fees and, together with the State Government, it would ensure that proposed or potential schemes for one-stop shop inquiry/approval systems which are convenient for users and in which one level of government is the contact point and fee collector for both levels of government are not jeopardised by this new process.

Examples of such systems include the proposal that persons be able to obtain all section 90 details of State and local council encumbrances by inquiring through the Department of Lands, and the new procedures for the control and development of land being developed by the planning review. Given that the fees in question were to be reconsidered in the context of the proposed development Bill and that the previous clause retains an important mechanism for other fee setting to be devolved to individual councils, the Government will accept the removal of this clause.

The Hon. B.C. EASTICK: I am sure that this is not the last we have heard of this section in the Local Government Act. We are not quite certain, as the member for Elizabeth said, what the powers of the Local Government Association are in a total legislative context. Under the constitution of the Local Government Assocation (which will be covered in the next series of amendments to the Act), opportunity will be provided for representations to be made as to what those powers ought to be—whether they are for the preparation of regulations or to whatever other format their powers may be extended. In that sense, I am not unduly perturbed that the requirements of the Local Government Association, at this moment, are being deleted, albeit I know that it would not be pleased with that.

It does revolve back to the position (which I alluded to in the second reading stage) of whether we have the cart before the horse or whether the horse has not even got into the shafts in relation to a number of these issues. The requirement of the Local Government Association to have statutory recognition is not in dispute, but it is a matter of whether one can presume that in future it will have certain powers which it currently does not have from a fee structure or regulatory making basis. Those matters need to be sorted out, and I have no doubt they will be.

The other point that is very telling—and I can well imagine will potentially be of some problem to the real estate industry, BOMA and others—is whether the developers or those who want to build houses will have difficulty knowing what the fees will be, because they could be different from council to council area. Previously where fees were set across the State there was an understanding of what the fee structures were. Two years ago, when I was directly involved as the local government shadow Minister, representations were regularly made by various people in the development industry as to why, when they went to Campbelltown, there was one set of circumstances and, when they went somewhere else, there was a different set of circumstances, so that they could not, in the preparation of their contracts with individuals, identify all the costs.

In a number of cases, it was a matter of interpretation: it was not so much that there was a different fee structure but that there was a difference of interpretation as to how the fee structure should be put into place. The Local Government Association, the Institute of Municipal Management and other bodies had discussions along those lines in an effort to sort it out. I see a possible danger, when local government decides on a particular fee structure, that we might reopen those wounds, although I am fully appreciative that, if this matter is addressed as part of the total constitutional aspects of local government (which is 'perhaps' not all that far away and should be before the end of 1992), those matters can be resolved and the whole issue can be put into proper context.

I am happy to support the proposition that has been put forward at this stage. There was quite serious opposition by my colleagues in another place about the regulating provisions contained in the Bill, mainly because the subordinate legislation provisions were somewhat silent and it could not be determined how they would apply in relation to some of the regulations. I do not go into whether or not those concerns were factual or mythical, but those propositions were considered and canvassed, there was no clear answer and, therefore, the course of action that has been offered by the member for Elizabeth and accepted by the Minister after consultation I think is not unreal. I guarantee local government *per se* that it will be an area that the Opposition will look at very seriously when the constitution of the Local Government Association comes forward later for debate this year or early next year.

Mr M.J. EVANS: I support that. I think it is very much a matter that can be revisited at an appropriate time in the future. I also draw the member for Light's attention to the fact that many of these fees that the development industry is concerned about are fixed under Acts such as the Building Act, the Planning Act and so on, and all these fees will continue to be fixed under those Acts. It will be a matter

then for local government as a whole to negotiate, under the structure that I am proposing, with individual Ministers in those areas if they want to effect changes in respect of those areas. So, we would not, forthwith upon these changes coming into effect, see wholesale variations, because the existing fee structures proposed under the Planning Act or the Building Act would remain and that would not be removed by this amendment.

While local government would have considerable flexibility in many areas, it would not have that flexibility, as the other statutes would still continue to operate under the proposal that I am putting forward. It would then give opportunity in the future to revisit this area and perhaps, when the Local Government Association has been constituted in a way which may make it more appropriate for a regulation making power to be granted, or other changes have taken place, the Parliament can reconsider that aspect and open up the whole fee question again.

Amendment carried; clause as amended passed.

Clause 18—'Fees and charges set by the LGA'.

Mr M.J. EVANS: I oppose the clause, my opposition to this clause being consequential on the carrying a moment ago by the Committee of the other amendment.

Clause negatived.

Clauses 19 to 22 passed.

Clause 23—'Substitution of ss.668 and 669.'

Mr M.J. EVANS: I move:

Page 24, lines 39 and 40—Leave out subsection (2) and substitute—

(2) A by-law cannot be made under this Act unless—

(a) the by-law is made at a meeting of the council where at least two-thirds of the members of the council are present;

and

(b) the relevant resolution is supported by an absolute majority of members of the council.

I believe that this amendment is a twin safeguard which is essential in order to ensure that by-laws are adopted in a consistent way and in a manner that guarantees that as much of the council as possible has had the opportunity to participate in the process. The Parliament can then be assured that the by-laws that are adopted had the full support of at least an absolute majority of the council and that at least two-thirds of the council were present to ensure that there were enough members present, if they wished to argue against the proposal, for their voice to be heard. I have moved this amendment in order to ensure that by-laws, which are, after all, a very important matter, are determined by at least two-thirds of the council and are supported by an absolute majority of the council.

The Hon. M.D. RANN: This is a slightly more stringent requirement than exists at present, and the Government is happy to accept it.

The Hon. B.C. EASTICK: There has been a great deal of discussion over an extended period as to what is an absolute majority of a council on the basis of whether the mayor is or is not a member of council. There have been court cases—actual and many threatened—over the interpretation. I would be interested to know from either the Government or the member for Elizabeth the understanding of the situation at the present moment and whether, in framing this variation to the original Bill, any thought was given to clarifying that conundrum which has been abroad for some time.

Mr M.J. EVANS: I am aware of this matter. It has been the subject of much discussion in local government over the years. I think there has been a great deal of heat but not a lot of light in relation to it—if the Member for Light will forgive the analogy. It is my understanding that the definition of an absolute majority is quite clear in law.

Obviously, the mayor would be included within part B, as I would perceive the matter, because it is an absolute majority of members of the council and the mayor is a member of the council. So, as I would read the definition—and, of course, this is not a legal opinion but simply the advice of a member who has been exposed to these matters over many years—in this case the question of an absolute majority would have to include the mayor.

Many of the other issues that have been raised in another context would not relate to this kind of provision, but rather to other provisions, and it may be that the Minister has additional information on that matter. I believe it is desirable that we limit this measure to an absolute majority and, indeed, if the mayor is a member of the council and must count for the purposes of determining what is an absolute majority. Of course, that is the first integer above half. So, when half the council has been counted, one takes the next highest integer, and that is the absolute majority. I believe that will give us the safeguard that we require.

The Hon. M.D. RANN: I totally concur with the member for Elizabeth. Whilst I recognise the concerns of the member for Light, they are quite covered in this provision, because we are talking about absolute majorities. I am aware of the debate on the other question, because it has been going on for years. It is also a debate that goes on in university councils. I understand that the LGA is currently trying to resolve that problem to ensure that agreement is accepted. I do not think the honourable member's concerns about this Bill are strictly relevant, because it is an absolute majority.

Mr HOLLOWAY: I wish to ask the Minister two questions. These questions have been brought to my attention by a constituent who takes a very close interest in local government matters. Under the existing Act, by-laws are made in accordance with sections 679 and 686 of the Act which, of course, are to be repealed under clause 23 of this Bill. The new enabling power for by-laws made by councils will be contained in section 670, to be inserted in the Local Government Act. Does that mean that existing by-laws that have been made in the past pursuant to sections of the old Act, which are to be repealed, will be invalid and, if so, will councils be required to pass new resolutions to replace all existing by-laws?

The second question is related to that matter. Are there adequate transitional provisions for by-laws which have been adopted by council but which have not yet been confirmed at the date of proclamation of the Act? This would involve, for instance, a situation where a by-law was subject to disallowance at the date of proclamation. My constituent has provided me with an example of this. In a letter he sent me, he says:

By-law No. 2 of the District Council of Mallala just confirmed and published in the *Gazette* of 23 April 1992 at page 1208 is an example which may and should be subject to disallowance after proclamation of the amendments. Paragraph 1, subparagraph (1), of this by-law is not in accordance with the provision of section 679 (proposed section 670) that the itinerant application of a by-law should be by resolution.

What will happen in cases such as this? Can the Minister assure the House that no legal ambiguity will hang over the validity of by-laws that are still subject to confirmation?

The Hon. M.D. RANN: In relation to the second question, on the basis of Parliamentary Counsel's advice, we do not think that there will be any problem with the transition from the existing process of making by-laws to the one proposed in the Bill. If the Council has not yet made the by-laws on the date when these provisions begin—for example, if it has not adopted the by-law at a meeting—it will

need to comply with the Bill's requirements of public notification of the proposed by-law before it can proceed.

If, on the day these provisions commence, the council has made a by-law that has not yet been confirmed by the Governor, it need not be, because the Bill removes this requirement, but it will still need to be reviewed by the Legislative Review Committee. So, whatever is more simple administratively will be done. If a by-law is just about to be considered by Executive Council, it will probably be easiest for the Governor's confirmation process to be completed and the by-law automatically forwarded to the Legislative Review Committee, rather than for the by-law to be returned to the council concerned for it to be forwarded to the Legislative Review Committee. If a by-law is before the committee when these provisions begin, the committee can deal with it as usual.

Proposed section 670 (3), (4) and (5) allows for a by-law to provide that the by-law, or any provision of it, applies only within the parts of the area as determined by council. The resolution applying a by-law to a part of the area must be made at a meeting at which at least two-thirds of council members are present, and council must publish that resolution in a local newspaper. These provisions are similar to those in existing section 679 of the Act. Such resolutions must be provided with the by-law to persons who exercise their right under existing section 874 to obtain a certified copy of a by-law.

Clause 28 of the Bill amends section 874, so it refers to new section 670 rather than to section 679, which is replaced. It does not mean that resolutions made under existing section 679 will no longer be effective or that they will no longer need to be supplied to the public. Section 15 of the Acts Interpretation Act will have the effect that resolutions made under existing section 679 will be regarded as being made under new section 670. If the honourable member wants a more detailed response, I will write to him.

The Hon. B.C. EASTICK: I was interested in the Minister's statements. It is obvious that the Government has taken a great deal of counsel on the matters raised by the member for Mitchell. In relation to the majority provision contained in the member for Elizabeth's amendments, what the honourable member has had to say is totally correct. He would appreciate that members in another place, where the legal eagles get to work on those matters being under every leaf and stone, will look at this matter. The interpretation that is provided by the Minister, which is useful, will also receive consideration, and it may well be that, following reports coming back to the House in due course, full effect can be given to what we all seek to achieve—and certainly what local government has sought to achieve for a long time—removal of any ambiguity, which causes a great deal of concern.

Progress reported; Committee to sit again.

[*Sitting suspended from 5.58 to 7.30 p.m.*]

STAMP DUTIES ACT AMENDMENT BILL

Mr LEWIS (Murray-Mallee) obtained leave and introduced a Bill for an Act to amend the Stamp Duties Act 1923. Read a first time.

Mr LEWIS: I move:

That this Bill be now read a second time.

This Bill is simple to understand and yet long overdue in the effect that it would have on the many people who presently are crying out for the reform. As the situation stands it is certainly not just. It is definitely not equitable in any sense or meaning of that word and therefore not fair. There are three sets of circumstances to which I will refer. It could be argued that these would result in the Government losing revenue, but that is nonsense. The reason why any such argument would be specious, would be a nonsense, is quite simply that at present such transactions do not and cannot take place because the people affected do not have the money to make those transactions; they cannot afford the stamp duty involved.

As I say, the circumstance to which I refer covers three broad categories. First, there is the transfer of property between people who are married or between members of their families where the property is being dispersed as a consequence of marriage break up and the flow-on from that. The second category relates to the transfer of property between parents and their children. The third category relates to the transfer of a mortgage, substantially having the same title and owners, from one bank to another bank, from one finance house to another finance house. At present some people who have a mortgage established with a bank cannot afford to pay the high interest being demanded by that bank and they could get a much lower interest elsewhere in the money market, but they cannot afford to do that because the stamp duty on the transfer of the mortgage from one bank to another would be too great and would take them much further into debt. They thus simply stay paying the punitive and excessively high rate of interest.

So, in the name of compassion I have decided that we have waited long enough and I signal with this Bill the direction in which I believe every member of this Chamber and indeed this Parliament ought to take the law in addressing the iniquitous situation defined in my remarks and addressed by this Bill. Presently, stamp duty is payable in each of the three circumstances to which I have referred, and on my judgment that is wrong. People who are or who have been married to each other should be able to transfer property from one to the other or from one to joint names without paying stamp duty on the value of that transaction. Additionally, in other circumstances stamp duty should not have to be paid where a married couple is transferring property to a child or to children or where a widow or widower is transferring property to a child or to children and where no other person is obtaining an interest in that property.

The most telling instance in which this occurs is when farms are being transferred from father to son or from mother and father to son or daughter, or mother to daughter, whatever might be the circumstances. There are indeed scores—and not just in my electorate—and perhaps hundreds of elderly couples or widows or widowers around South Australia who have only an academic or perhaps nostalgic interest in their rural properties. At present they are being denied their natural right to a pension because of the assets test. The property might be in heavy debt and they cannot transfer it to the people who are operating that property or, in another context, perhaps operating a small business in the town. Many of them, indeed in my experience most of them, as has been drawn to my attention by either themselves or rural counsellors, are living well below the poverty line because they cannot afford payment of stamp duty to have their properties transferred to their sons or daughters, although their sons and daughters are currently occupying and operating those properties. Those people are just elderly victims of an unjust system, which penalises them for maintaining a joint ownership of an asset from which they

receive no income and in relation to which they have no hope of ever receiving any income.

Mr Venning: Die on the job.

Mr LEWIS: They will, as my colleague says, end up, as it were, dying in harness. Because they share ownership in name only of the property or own it in name only, the value of the property disqualifies them from satisfying that means test to which I have referred, and therefore they are denied an age pension. In most cases their sons and daughters will be struggling to survive through the rural recession—the one we had to have, according to Prime Minister Keating—with little enough to live on themselves let alone enough to provide a living for their parents. It is vital and long overdue that we give those citizens some dignity and a small measure of security, which is available to others in similar financial situations.

This Bill will exempt these families from stamp duty, so long as the criteria are satisfied—and they are simple and sincere enough: where the transferor of the property has owned and operated the business for at least five years and has derived no more than $10 000 a year income, or no more than 50 per cent of his income from the business, stamp duty on the transfer would be exempted, if this legislation passes. It would mean then that no longer will the parents be financially victimised by having their names attached in ownership to the property. Instead of living literally in poverty they would be able to qualify for a well-deserved pension.

Their plight could have been recognised years ago, and I have drawn attention to this matter in grievance debates and at other times over the years that I have been here. I hope that this Bill will correct this long-term injustice. There is another set of circumstances to which I have already referred, in which I believe the legislation will relieve an unjust burden. This relates to circumstances where punitive interest rates, well above the market, are still being charged by banks and yet where the owners of the properties simply cannot make the transfer, for the simple reason that they cannot afford the stamp duty payable to discharge the mortgages and transfer them. In all the circumstances to which I have referred there would be no loss of revenue to the Government, or if there was any loss it would be totally insignificant in the total budget context. There is a great deal of justice, a great deal of equity involved here, and it is only fair and reasonable that we as legislators should exercise our compassionate understanding of the peculiar circumstances in which these people find themselves because of the way the law has been historically written.

Clause 1 is formal. Clause 2 amends section 71ca of the Act, so that the disposition of property of a marriage to a child or children of the marriage as part of a matrimonial settlement will be exempt from stamp duty. Clause 3 will exempt certain transfers from a parent to a child from stamp duty. That exemption will apply if the transfer relates to a business that satisfies prescribed criteria. The criteria as outlined in the legislation include a transferor who has owned and operated the business for at least five years and derived not more than $10 000 per annum income, or at least 50 per cent of his or her income from that business, so that it is always in circumstances where it is *bona fide*.

Clause 4 will exempt certain refinancing arrangements from stamp duty. They are the circumstances to which I have referred. The exemption will apply when the relevant mortgage is over land used for primary production or for a business that satisfies criteria similar to those described in clause 3. I commend the Bill to the House and trust that all members will give it a speedy passage. I believe that, in the event that it does not pass this session, the Minister will do as Ministers have done when I have made similar suggestions on previous occasions, and restore the measure to the Notice Paper with Government support at the earliest possible opportunity in the budget session.

The Hon. T.H. HEMMINGS secured the adjournment of the debate.

COUNTRY FIRES (NATIONAL PARKS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 3078.)

The Hon. J.H.C. KLUNDER (Minister of Emergency Services): The Government's case on this measure was outlined very reasonably by the member for Stuart when she spoke on 19 February 1992, and there seems very little point in extending the debate on this Bill much further. It seems to me that the Government and the honourable member who introduced this measure tend to disagree on a number of measures. Under the circumstances, the best thing might well be to refer this to the select committee that is at the moment looking at very similar, if not the same, issues and allow that select committee to take up the information that has been provided in the debates and bring back its recommendations to the Government when it reports.

I therefore indicate that we will oppose this measure if it is proceeded with, but we are perfectly happy for the select committee to look at the information that has been given to the House during the debate on this measure.

Mr VENNING secured the adjournment of the debate.

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 April. Page 4061.)

Mr LEWIS (Murray-Mallee): I do not see any reason at this time to provide a Government as small in numbers as in this place with a secure term until March 1994. It is unnecessary for the House at this point to judge—

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Murray-Mallee has the floor.

Mr LEWIS: —the future of the Government, given the number of instances we have before us of Government incompetence, alleged corruption in dealings in which Ministers and their departments have been involved, and in the administration of affairs undertaken by Cabinet and/or the Premier. It is simply unwise in the name of democracy to commit ourselves to such a course of action where, in circumstances in which the Government shows itself to be unworthy of the continued confidence of the House, we would otherwise forgo removing that confidence and compelling the Government to face the people.

I am sure that it would be comfortable for members of the Labor Party to find themselves in a position where they cannot be assailed by any scandal or misdemeanour but simply left in power to enjoy the fruits of office without the confidence of either this place or the public. In my judgment, that would cause us as members of this place to be brought into bad odour and even greater contempt in

the mind of the public than is presently the case. God knows, at this time it is as bad as it has ever been.

Sooner or later, according to the way in which Parliaments traditionally determine the length of time they will run, if a motion of no confidence is passed, the Government should at that time go to the people, according to the way in which the House assesses whether or not it has confidence in the Government. I have not heard any reason given in formal debate in this Chamber or in the lobbies to support the proposal. It is for that reason that I will oppose the proposition.

Mr McKEE secured the adjournment of the debate.

WORKERS REHABILITATION AND COMPENSATION (COMPENSABILITY OF DISABILITIES) AMENDMENT BILL

Second reading debate adjourned on 12 February. Page 2702.

Mr S.G. EVANS (Davenport): I move:

That this Bill be read and discharged.

Bill read and discharged.

WATERWORKS (RATING) AMENDMENT ACT REPEAL BILL

Second reading debate adjourned on 12 February. Page 2702.

Mr S.G. EVANS (Davenport): I move:

That this Bill be read and discharged.

Bill read and discharged.

NATIONAL PARKS AND WILDLIFE (EMU FARMING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 April. Page 4061.)

The Hon. J.P. TRAINER (Walsh): In view of the fact that the Minister is detained downstairs doing an interview for the *7.30 Report*, I will indicate on her behalf that the Government opposes this measure. Some points need to be drawn to the attention of the House in the course of my explaining why the Government is opposing the measure. Over the past two years, significant consultation has taken place, between officers of the Minister's Department of Environment and Planning and the community, on a package of amendments to the National Parks and Wildlife Act. Included in this package of amendments is a provision for the taking of protected animals for commercial purposes. Emus, along with most other species of native fauna in South Australia, are protected under the provisions of the National Parks and Wildlife Act. Whilst provisions exist in the legislation in its present form for the taking of protected animals, it was never the intent of the Act when it was drafted in its original form in 1972 to provide for the commercialisation of wildlife species.

The Government has recognised that the current intent of the Act does not include commercialisation of species. At the same time, it has also recognised the desirability of allowing some form of commercialisation of common species of native wildlife, including animals such as kangaroos and emus and also certain types of plant species. The Government amendments currently subject to preparation will be debated in Parliament in the budget session later this year when we return from the impending recess. The major points relating to amendments to the Act for commercialisation of native species are as follows: first, the granting of a permit to any person for the taking of protected animals or the eggs of protected animals for commercial purposes; secondly, the keeping of protected animals or the eggs of protected animals for such purposes; thirdly, the selling of such items; fourthly, the issue of permits are to be subject to any conditions imposed by the Minister or prescribed from time to time by regulations; and, finally, the amendments will require the Minister to prepare draft guidelines for circulation to the community to allow for public input on the commercial use of native species.

The first reading by the member for Murray-Mallee includes a number of points of interest and possible concern. They include the emphasis for emu faming to be undertaken by Aboriginal people with no clear indication that other members of the community can be involved. There were concerns about genetic diversity but on a some what unclear basis, and there was the requirement that the Minister responsible for the amendment to the National Parks and Wildlife Act be the Minister of Agriculture. The Government at this stage is not prepared to support these proposals, although they will be given due consideration and incorporated within a Government Bill at a later stage. At this point the Government opposes the Bill.

Mr BLACKER (Flinders): I note with interest the comments made by the member for Walsh on the one hand supporting in principle the idea of farming of emus but on the other hand saying that there were a lot of problems with it. I have some concern with the manner in which the Bill was originally drafted, but I certainly support the principle that it is possible that emus and some other forms of native species can be farmed effectively. It is possible that many of our protected species could be further enhanced if proper farming practices were accepted. Whilst I know that that can draw a fair degree of debate, nothing will guarantee more the continuation of any species than if that species is commercially viable. If the best of the species is kept, a higher grade and more healthy animal can be kept in the native environment which in turn will ensure the continuation of the species for ever and a day.

There are other areas in which the issue needs to be debated, namely in terms of the farm management practices that would be involved. A code of practice would need to be established on what is a reasonable thing, bearing in mind that our wildlife is accustomed to a range type environment. On the other hand, I know that some people are skilled in the carving of emu eggs. It is stated on those eggs when sold that they come from farmed emus. That raises a whole series of other questions. A number of sideline pursuits can be attached to the industry, and to that extent the matter needs to be addressed. I applaud the member for Murray-Mallee for raising the principle of emu farming in this place. I would like to see it expanded so that the average South Australian could, if they met certain criteria, farm emus in certain circumstances. I do not doubt that South Australia would benefit from such an industry if it is established with proper guidelines from the word go.

Mr S.J. BAKER (Deputy Leader of the Opposition): I, too, support the initiative shown by the member for Murray-Mallee in his attempt to introduce an innovative scheme into South Australia. I have been party to an outline of the

scheme by the member for Murray-Mallee. He has a very comprehensive knowledge of emu farming and has made an extensive study of it. It has great potential to become an important industry. We recognise that two products would be in demand with emu farming—the meat (which I understand is a delicacy overseas), and the feathers (used for a variety of purposes, quite often ornamental). We should not reject the idea as it operates elsewhere in Australia.

I heard the member for Murray-Mallee refer to 18 enterprises in Western Australia which are operating quite successfully. We should turn our minds to some of the possibilities that prevail in the marketplace for extending the principle into other areas. Without looking at the issue of the usefulness of emus in terms of their meat and feathers, we could look at how we can use wildlife in general for commercial purposes. We have certain species of protected birds that continue to increase and cause considerable problems to farmers.

Mr S.G. Evans interjecting:

Mr S.J. BAKER: The member for Davenport makes the very point that I was going to make with regard to the export of galahs. I was thinking of starting on the other side of the House and exporting one or two members opposite. Being a little more serious, it is high time Australia utilised its natural resources far better than it has in the past. It is absolutely crazy for us to look at our wildlife species (the endangered species are not an issue as many of our birds are not in danger in any shape or form) and not take up the opportunity to sell them overseas, where there is a demand for Australian wildlife. There are enormous commercial opportunities for our bird life, and I refer not to endangered species but birds that are plentiful in this State and which cause tremendous concern for farmers. We have a potential market from which we could make millions of dollars, and we could make millions of dollars from emus. The pathetic response by the Government appals me. We have a State that is going down hill at a rapid rate and we have no new initiatives. The Premier clings to an MFP and we have no idea—

The Hon. T.H. HEMMINGS: Mr Deputy Speaker, I rise on the point of order that any reference to the MFP has no relevance to this Bill.

The DEPUTY SPEAKER: I am sure that the Deputy Leader will link his comment to the Bill shortly.

Mr S.J. BAKER: I am linking it to the need to think laterally about our business opportunities. We have here a wonderful idea put up by the member for Murray-Mallee, an idea that is worthy of scrutiny and consideration and it has just been thrown out by those simple minded members of the Government who are really incapable of thinking beyond their own front doorstep. I commend the member for Murray Mallee because he believes in South Australia and he believes that there is opportunity for advancement even in this relatively untapped area of emu farming, which could be the start of greater things and I commend the honourable member.

The Hon. T.H. HEMMINGS (Napier): I listened closely to the member for Murray-Mallee when he introduced this Bill and I must say that I had a certain amount of sympathy for what he was trying to promote. Obviously the Deputy Leader did not listen to what the member for Walsh said. He said that the Government was not putting away the whole idea introduced by the member for Murray-Mallee because amendments to the National Parks and Wildlife Act to be introduced in the budget session will adequately answer the points raised by the member for Murray-Mallee. That is the way I saw it.

The member for Flinders made some valid points in support of emu farming and they did not contradict what the member for Walsh said. The Deputy Leader then gave us a classic example of how, when he is pushed into the deep end, he just flounders. Obviously, the Deputy Leader had not listened to what had been going on. His sole support for the member for Murray-Mallee's Bill was because it showed initiative and he implied that the Government was mealy-mouthed in rejecting it. So far as I am aware no-one in this Chamber or in conversations that I have had with the member for Murray-Mallee on emu farming since he introduced the Bill has had anything but praise for his attempt to allow people to market this product. There was no contradiction of the main thrust of the Bill by the member for Walsh. In fact, his comments clearly identified that amendments by the Minister in the budget session would adequately pick up what the member for Murray-Mallee is proposing.

He also pointed out that there were some shortfalls in the member for Murray-Mallee's Bill. The member for Walsh outlined them to the House, indicating that the Minister's amendments would overcome those problems. We then heard from the Deputy Leader who went on about the MFP and the Bannon Government clinging to the wall in a financial crisis. I could equally digress from the Bill and say that within one day the Deputy Leader will be buying a Malvern Star bike because he will be stripped of his position as Deputy Leader. That would have nothing to do with the Bill, in the same way that the Deputy Leader—and we will be calling him the member for Mitcham shortly—made comments that had nothing to do with the Bill.

The member for Walsh actually encouraged the member for Murray-Mallee by saying, 'You have a good point and it will be picked up in the overall amendments to the Act by the Minister in the budget session.' I know your well earned record for efficiency in parliamentary life, Sir. You have worked tirelessly since you have been in this Parliament, and you have worked even more tirelessly since you have held the position of Deputy Speaker, so you will know that there is no point in having two pieces of legislation that are exactly the same. That is the point the member for Walsh was making. I congratulate the member for Murray-Mallee for picking up an important aspect of the National Parks and Wildlife Act. He should be commended for his initiative but, in this case, the matter will be taken care of by the Minister in the budget session.

Mr VENNING (Custance): Briefly, I support my colleague the member for Murray-Mallee and congratulate him on having the foresight to see the value in introducing this Bill. Why do we need further regulations in this new industry? We have regulations that prevent cruelty to animals and every other thing that can go wrong with such a venture. We do not need to regulate the husbandry of sheep, cattle, goats, horses or any other animals and there should not be any difference in respect of emus. As a native animal, emus would come under all the regulations that we already have to protect any animal from cruelty.

Mr Lewis: They are farmed in Canada.

Mr VENNING: They are farmed in Canada, with great success. It is an insult to Australia to see one of our natives cultivated overseas while we are not able to do so here. The emu is a native of Australia which obviously does well in this country because it does not need humans to help it breed and flourish extremely well. Ostrich farming is a new growth industry in South Australia and I have two ostrich farms in my electorate, but it is a high cost industry to get into. One such farm is close to Port Pirie. I am interested

in this industry, but the cost of getting into such farming is prohibitive and the average rank and file farmer could not get into it, so why should we mess around with or prohibit the farming of its cousin the emu?

From a dietary point of view, the meat is very good, as most members would be aware. It is game meat, low in cholesterol and high in protein, and overseas it is sought as a culinary delight. As with pigs, most of the emu can be used, except for its beak. Emu farming is a wonderful idea and I have often wondered why we did not come up with it earlier. As most members would know farmers are desperate to find alternative means of earning an income. They seek alternative industries, because they face huge overseas imposts and prevent us pursuing our traditional markets. Niche marketing of the emu is a great idea as a nutritious game meat. I commend the member for Murray-Mallee for bringing this matter up and I commend the Bill to the House.

Mr MEIER (Goyder): I support the Bill. Members will recall that on 28 February 1990 I asked the Minister of Agriculture whether he would give permission for emu farming to commence in South Australia. I detailed an explanation to the House and identified the fact that Western Australia had emu farming since 1987. I indicated that it was increasing at a rapid rate and that South Australia would be behind the eight-ball if it did not get into the industry smartly. The Minister replied in April 1990 and indicated, amongst other things, that he had been informed by his colleague the Minister for Environment and Planning that amendments to the legislation were being considered.

Mr S.J. Baker: When was that?

Mr MEIER: It was 11 April 1990, two years ago, that I got a reply from the Minister, who indicated as follows:

> . . . amendments to the legislation were being considered, and if the Act is amended the provisions relating to emu farming will have a similar intent to those enacted in Western Australia. This was agreed to at a meeting of the Council of Nature Conservation Ministers in 1989.

The Minister for Environment and Planning cannot lift her head up high. She is responsible for the fact that nothing has been done to bring in emu farming. Members would also recall that in this House I highlighted that in the United States of America emu farming, the cultivation of emus, has been undertaken for some years—emu farming, which we will not allow in South Australia.

I also highlighted catfish farming and many other things, as members opposite may recall, but nothing has been done. I highlighted many other areas that we need to consider for diversification. It is a credit to the member for Murray-Mallee that he had the foresight to bring in this very comprehensive Bill. I have only one problem with the Bill: it restricts emu farming to people of the Aboriginal race. I believe that we should do away with any reference to a race in this Bill and allow any person who is interested to go into emu farming.

Whilst the member for Murray-Mallee highlighted many matters in his speech, I remind the House that today various items from emus are commercially viable. The skins are used primarily for leather for women's garments; the leg leather is used for ornaments; and the meat has been found to have a bright future. In fact, one chef saw emu meat being served up quite well as steaks, mince and kebabs. Emu oil is another item that can be used; it is very good in cosmetic creams as a moisturiser. Research also indicates that emu oil could be helpful in treating arthritis. There is a significant demand for emu eggs; properly carved emu eggs can bring up to $600 each. Also, emu feathers are used for craft work.

The tragedy is that one national park, back in 1990, was slaughtering up to 100 emus per annum. I have been informed in the past few weeks that many hundreds of emus are slaughtered in national parks around this State under permit, yet those same emus could have been used for breeding purposes for many years, certainly since 1987. If the Minister had acted back in 1990, those emus could have been used for the past two years to help the people of South Australia who are interested in emu farming to have an alternative or, in some cases, a sole income source. The Bill deserves our full support. I trust that an amendment relating to people other than those of Aboriginal descent will be moved and that the Government will support the Bill and act on it.

The Hon. S.M. LENEHAN (Minister for Environment and Planning): I reiterate the sentiments that have been expressed by the members for Walsh and Napier: the concept is something with which we concur, but we believe that the timing is inappropriate for the very reasons that have been outlined. I think the two previous speakers from the Opposition, the members for Custance and Goyder, highlighted that, because they both supported concepts which go far beyond the provisions of the Bill; as the member for Goyder said, they do not support having this practice restricted only to people of Aboriginal descent or origin. It seems to me, therefore, that what we need to do is to have further community consultation so that we can ensure—

Mr Meier interjecting:

The Hon. S.M. LENEHAN: I did not interrupt the honourable member.

The DEPUTY SPEAKER: Order! The member for Goyder is out of order. The Minister for Environment and Planning.

The Hon. S.M. LENEHAN: Goodness me! This is becoming bigger than a production of *Ben Hur*, Mr Deputy Speaker. If the honourable member had paid me the courtesy of allowing me to finish what I was saying, I was about to say that I will be bringing to the Parliament quite a package of amendments concerning the National Parks and Wildlife Act in the next session relating not only to emus but to the taking of protected animals for commercial purposes. It may even be appropriate that we look at certain types of plant species.

To clear the record, the reason these amendments have taken so long is that the Reserves Advisory Committee has been charged with the responsibility of assessing the impact of that package of amendments. Surely the honourable member would think it appropriate to get those amendments right, rather than to rush in with them. Also, it seems appropriate that we wait for the complete package of amendments which will probably be broader than just dealing with emus and may well deal with other forms of protected wildlife, as I said both flora and fauna.

I want to commend the member for Murray-Mallee for his initiative. From the first day he asked me a question in the Parliament in this regard, I have made very clear that I supported the concept and said that I was working with my officers in relation to it. I have had people from the community ring me expressing concern about the narrowness of the present Bill and asking for more consultation. Perhaps before the honourable member reacted, he might have allowed me to explain that. I am not talking about protracted delays: I am talking about the coming session of the Parliament, when we will all have the opportunity to put this into its context as a total package of amendments which address more than just emus.

I think it is important to have on the record what I am doing and what is my position. I again thank the two members for the Government for the way in which they have clearly delineated the Government's position. I hope that the member for Murray-Mallee will see that, while I am supportive of the concept of this Bill, I think it is much more appropriate to ensure that we bring in these amendments in the next session as part of a total package.

Mr BRINDAL (Hayward): I sincerely commend the Minister. As you would be aware, Mr Deputy Speaker, last week I was very critical of Ministers who do not bother to come in here and address seriously matters put forward by private members. The Minister has been prepared to come in here and debate the member for Murray-Mallee's Bill; she is one of the few Ministers to do something similar in the two years I have been here, and she is to be commended for that. However, I am disappointed that the Minister cannot accept the Bill as it stands. I think it is visionary. The member for Murray-Mallee is to be commended, as the Minister has acknowledged, for what he is doing.

I can see that a comprehensive set of measures brought in by the Government would be a fine thing, and I hope that the Minister will do that in the next session of this Parliament. However, in the meantime, if we have the first part of the car assembled here tonight, does it matter? We can pass this Bill tonight and then bring in the more comprehensive set of measures later. I commend the member for Murray-Mallee and remind the Minister that it is very rarely that prophets are acknowledged in their own land.

Mr Quirke interjecting:

Mr BRINDAL: The member for Playford laughs, but I was informed that tonight in the Senate in Canberra Senator Coulter made a speech.

The DEPUTY SPEAKER: I hope it related to emu farming.

Mr BRINDAL: I think it did, Sir: it was about the visionary nature of this Bill, because Senator Coulter, the Leader of the Democrats, said how much this State needed a Liberal Government and commented on one of the Senators and his ability to lead South Australia. I am just saying that I do not think the Democrats—

The Hon. T.H. Hemmings interjecting:

Mr BRINDAL: It was Senator Olsen, Sir. The member for Napier could not work it out, so I have to tell him. He is very difficult. I do not think that the Democrats here share their national Leader's enthusiasm. As I said, prophets are not acknowledged in their own land, so tonight I think we should acknowledge the member for Murray-Mallee for this fine contribition. I hope that the Minister will support the Bill.

Mr LEWIS (Murray-Mallee): I thank all members for their contribution, and for their considered opinion, however short or long, to the debate. I appreciate the duty that the member for Walsh found himself needing to perform on behalf of the Minister. I commend the Minister for coming into the Chamber but regret that she was not able to be the lead speaker for the Government. She was busy talking to the people of South Australia on the *7.30 Report*. I would have thought that, when Parliament is sitting, Parliament is important. Notwithstanding that, the member for Walsh referred to commercialisation, but that related to the way in which birds are kept in cages or animals are kept as pets, not to farming. That is what was in mind at the time the National Parks and Wildlife Service Act was introduced.

The honourable member gave us reasons why the Government could not support the measure, and that disappointed me. On previous occasions the members for Walsh, Unley and Napier have all said to me, by way of interjection or otherwise across the Chamber, that I would not recognise deregulation if I saw it. Yet their entire opposing argument in relation to my Bill is to regulate this new industry to the wattles. It is crazy. We are talking not about keeping pets but about farming. As the member for Custance pointed out, one does not need a permit to keep goats, sheep, cattle, horses or, indeed, any farm animal, and whether it is native or otherwise should not make any difference whatever. Farmers are not out to commit atrocities just because an animal is a native animal—or indeed to commit atrocities on any animal.

I thank the honourable member for his comments about the necessity for genetic diversity and the desirability of incorporating native animals in general and emus in particular into agriculture. I noted the concern of the member for Flinders. I believe that the remarks I have made about the necessity for regulation, or in my judgment the lack of such necessity, apply to the concern in relation to that aspect, as the member for Flinders has expressed as much as they do to the concern expressed by the member for Walsh. I thank my Deputy Leader for the support which he gave to the Bill—to the general context of it. I have circulated amendments, which will be considered by the Committee, in the event that the House decides to proceed to that point.

The member for Napier said virtually nothing useful, except to shore-up the flagging argument put by the member for Walsh in his usual tongue-in-cheek fashion. He did make the useful point, in his concluding sentence, that my Bill and the Bill proposed by the Minister would be identical and, therefore, it would be unnecessary for me to proceed with this legislation, and the House should, therefore, chuck it out. The members for Custance, Goyder and Hayward have all made contributions in support of this Bill. I thank the Minister for her comments. I believe that everybody who wishes ought be able to farm emus. My proposed amendments to the legislation will enable that. If that is so, I do not understand why the Government does not have the wit to introduce such amendments at this time. For the Minister and Government members to claim that further consultation with the public is necessary is drivel.

This matter has been around for a long time—before the last election. I can remember a certain Premier saying to South Australian people at that time, 'What we need is flare and light.' Where the hell is the flare and light in the Government's attitude to this legislation tonight? It smacks of a complete dereliction of any consideration of what those two words as a slogan mean in our language. I will not make any other comment about those two words, because if I did so they could be taken as other adjectives in other contexts and cause the Government some embarrassment. I am not of that mind. My inclination, therefore, is to point out yet again the products and benefits mentioned by members that accrue from allowing us to farm emus for the purpose of slaughter and to slaughter them here in South Australia instead of having to transport them to Western Australia for slaughter, as happens at present.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

EMPLOYMENT AND TRAINING

Mrs HUTCHISON (Stuart): I move:

That this House resolves to refer the following matters to the Social Development Committee—

(a) the causes of long-term unemployment in regional rural and urban communities of South Australia;
(b) the adequacy of Commonwealth income support measures including Austudy and Abstudy;
(c) the impact of proposed tariff changes on future employment prospects; and
(d) positive long-term strategies at Commonwealth, State and local government levels to improve employment and training prospects for disadvantaged groups.

As far as I am concerned, and I am sure as far as all the electors in the electorate of Stuart are concerned, unemployment is one of the biggest single problems that we face in both country and urban areas. It is a problem not only in South Australia and Australia but in the world, and it is one with which we must learn to deal. I recommend that these matters be referred to the Social Development Committee so that we can investigate ways in which to do something positive to attack the unemployment problem in our State. The causes of long-term unemployment in the regional, rural and urban areas of South Australia need to be looked at, and separate resolutions to those problems must be found. I have to admit that my main problem areas are the regional and rural areas of South Australia: I have a heavy bias and, quite frankly, I make no apology for that, because that is what my electorate involves.

One of the things I think we really need to deal with as well concerns the adequacy of the Commonwealth income support measures, and that includes Austudy and Abstudy. Over a long period of time a large number of problems have been raised with me with regard to these issues. I welcome the fact that the Federal Government does make an allowance under the Austudy and Abstudy programs, but I feel that it does not go far enough. I think that both programs need to be reviewed. I note that the Minister of Employment and Further Education is presently in the Chamber, and I know that he would agree with me. In relation to the provision of those allowances, I refer particularly to students in the country areas—and in the area that I represent there is a large number of Aboriginal students, as is the case in the area that the member for Eyre represents. Also, a large number of students from those areas come to the city to study under the Austudy program.

The DEPUTY SPEAKER: Order! Call on Orders of the Day: Government business.

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

Debate in Committee (resumed on motion).
(Continued from page 4563.)

The ACTING CHAIRPERSON (Mrs Hutchison): I advise the Committee that we have presently before the Committee the member for Elizabeth's amendment to clause 23, page 24, lines 39 and 40, and the question is that the amendment be agreed to.

Amendment carried.

Mr M.J. EVANS: I move:

Page 25, lines 5 to 7—Leave out subsections (4) and (5), and substitute—

(4) Subject to subsection (5), a by-law comes into operation four months after the day on which it is published in the *Gazette* or from such later day or days fixed in the by-law.

(5) A by-law may take effect from an earlier day specified in the by-law if—

(a) it revokes a by-law without making any provision in substitution for that by-law;
(b) it corrects an error or inaccuracy in a by-law;
(c) it is required for the purposes of an Act that will come into operation on assent or less than four months after assent;

or

(d) it confers a benefit on a person (other than the council or an authority of the council) and does not operate so as—

(i) to affect, in a manner prejudicial to any person (other than the council or an authority of the council), the rights of that person existing before the date of commencement of the by-law;

or

(ii) to impose a liability on any person (other than the council or an authority of the council) in respect of anything done or omitted to be done before the date of commencement of the by-law.

The Committee will observe here a clause which, in effect, requires that all by-laws come into operation four months after the by-law is published in the *Government Gazette*. There are a number of exemptions provided in the amendment which allow by-laws to come into effect earlier than four months where there are special circumstances that make that a logical situation. For example, if the by-law revokes an existing by-law and does not make any provision in substitution for the by-law, there is no reason why we should have to wait four months for that to come into effect. It may correct an error or an inaccuracy in another by-law or it might be required for the purposes of an Act that will come into operation on assent or less than four months after assent, or it may, for example, provide a benefit for a person other than a council or council instrumentality, and therefore there is no reason why one should not allow that to come into effect earlier.

I believe that it is a very important provision and it is one which on a related matter I believe the House will be considering also in relation to State Government regulations. So it is not a case requiring something of the councils that I believe this House will not also be requiring of the State itself—that the public should have ample time and opportunity to examine the impact and import of by-laws before they come into effect. That way, the council will promulgate the by-law and the public will be well aware of the legal implications that they will be required to comply with, but they will have a substantial period of time in which to take note of those provisions and to act accordingly and prepare their affairs accordingly.

Also, importantly, it will give this Parliament the opportunity, and not under the pressure of a by-law which has already taken effect, but in a period when there is no by-law in operation, although one is clearly to come into effect on a specified date, to consider the merits of that by-law and possibly of exercising its right of veto over that by-law, in an atmosphere where the measure is not yet in effect. I believe that that is both an important measure of respect for this place and the processes of parliamentary veto and also an important opportunity for the public to consider the nature and effect of these by-laws and to make any representations to this House that they feel might be necessary.

It is also a very useful aspect of this that the public and councils will have the opportunity to peruse these measures to determine whether there is any fault or error in the document. I am sure that is very rarely the case; but it is an opportunity to examine them in the cold light of day, a time when the public at large may examine the matters in some detail. I have thus formally moved the amendment and I commend it to the Committee. It inserts a restriction on the by-law making power, to ensure that they only come into effect four months after they are gazetted.

The Hon. M.D. RANN: I was going to vigorously oppose this amendment, but having listened to the honourable

member's argument I have decided that the Government accepts this, on the basis that, as a result of the amendments being made to the Subordinate Legislation Act, a similar restriction will apply to all regulations.

The Hon. B.C. EASTICK: An excellent example of shadow boxing! I recognise that this measure is one that is being addressed in other areas of government and that it will bring about an element of regularity across the board and that therefore it is worthy of support. I draw attention to what I believe is a typographical error on the top of page 8 of the honourable member's amendments as circulated: in the third line I think 'if' should be 'it'. So with that minor change, I do not think we have any argument with the proposal. I recall that when the member for Elizabeth put this proposition to the House in respect of the wider field of by-laws and regulations it was understood that it was to be for a period of time and to come forward for review as to its effectiveness. The thrust of the argument presented no concern at all to members on this side of the House. It was supported; but there is that need to be open-minded enough to say that if one or two aspects of it need fine-tuning to make it work in a very practical sense in the field then that support will be given in due course.

Amendment carried.

Mr M.J. EVANS: I move:

Page 25, after line 7—Insert—

Expiry of regulations

672. (1) A by-law will, unless it has already expired or been revoked, expire as follows:

(a) a by-law made before the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January 1996;

(b) a by-law made after the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January of the year following the year in which the seventh anniversary of the day on which the by-law was made falls.

(2) For the purposes of this section, a by-law will be taken to have been made on the day on which it was published in the *Gazette*.

The insertion of section 672 will in fact ensure that by-laws are subject to the same kinds of requirements that subordinate legislation already is. At the moment, regulations under the Subordinate Legislation Act expire after a defined period of time and, of course, that ensures that all regulations are required to be periodically reviewed and revisited by the authority that makes them. I believe that this is an absolutely vital part of a modern democracy and is essential for administration in the 1990s, to ensure that, where an authority makes a regulation or a by-law, the authority is required to review and to keep it up-to-date, and to remake the whole by-law to ensure that in fact it is relevant to the requirements of today.

This ensures that the council will be required to examine the whole matter afresh and to take account of changes which have been made since the by-law was first enacted. Of course, this can often be many many years ago, and this will ensure that, where changes in circumstances have occurred, the council will be able to take those into account. It will also ensure that, for example, if prevailing community standards are changed significantly, and the Parliament was then a decade later, for example and was of a mind that by-laws of this kind were no longer appropriate, even though they may have been when originally made, that would give the Parliament a fresh opportunity to examine the matter and a fresh opportunity for the public to again comment on the matter.

I think it is perfectly reasonable that by-laws, like subordinate legislation, should periodically expire so that they can in fact be re-examined and re-enacted where appropriate with amendments. I have thus formally moved the amendment to insert new section 672 relating to the expiration of by-laws. This recognises that all current by-laws will cease to have effect on 1 January 1996, and thereafter seven years after they have first been made—so, of course, councils will have quite some period, of 3½ years approximately, in which to review the existing by-laws, and then every seven years they will be required to re-enact them.

The Hon. M.D. RANN: I am starting to feel like the Neville Chamberlain of the Local Government (Reform) Bill. I feel that pretty soon I will draw a line in the sand—but, in the meantime, having consulted my ministerial colleague, I indicate that the Government accepts this amendment on the basis that it always intended that by-laws should be subject to sunset clauses. Such clauses would have appeared in this Bill, but it was considered that it might be onerous to require councils to remake by-laws before the present archaic by-law making powers had been revised. Instead of providing for a staggered expiration of existing by-laws based on when they were made, this amendment provides for them all to expire on 1 January 1996, by which time councils' by-law making powers should be revised. We are prepared to accept this amendment.

Amendment carried; clause as amended passed.

Clause 26—'Power to make model by-laws.'

Mr M.J. EVANS: Clause 26 enacts the power to make model by-laws. Model by-laws have been with us for some considerable time. They were formerly adopted by the Governor and councils were then permitted to pick them up without a very significant requirement on their part for any regulatory process. It is proposed in the Bill to adopt a modernised form of that in which the Local Government Association picks up the role, formerly of the Minister and the Governor, to adopt model by-laws. I consider that there are some problems with model by-laws.

First, there is no time limit here as to when a model by-law can be adopted. It is quite possible that a by-law enacted many years ago can be picked up as a model by-law. It then remains on the statute book, so to speak, for a council at any time anywhere in the State to adopt and then, of course, the right of Parliament to veto that by-law lapses. There is also the problem that by-laws that are appropriate for one part of the State (Ceduna, for example) may not be appropriate for urban areas such as Elizabeth or Noarlunga. Quite substantial differences exist between areas of the State, and one of the main advantages of local government is that it recognises those differences and enacts appropriate by-laws for each part of the State.

There is the further difficulty that a council is, in fact, almost encouraged not to adapt the by-law for its own area, because the moment it adapts the by-law it loses its validity as a model by-law and, therefore, the council is almost encouraged to accept some failing in the model by-law simply to accommodate the fact that it needs to pick up the by-law as it stands. I also consider that a very useful role could be played by the Local Government Association, were it to publish desirable by-laws in the form of draft model by-laws, which would not be given any special status in law but, because of the importance of the association in the South Australian local government scene—because of the influence of that organisation among its members—quite clearly, members would then examine the by-laws available through the association, which would obviously be those most in demand by councils.

They would adapt them to local circumstances of their own council and would then enact them in the normal way and submit them to this Parliament for consideration and, subject to any veto provision of Parliament, they would

come into effect in the normal way. This is a much more appropriate mechanism to adopt in the 1990s to ensure that each law is properly considered as it is made and that we do not seek to adopt a standardised system of law making that simply applies across the board because of administrative convenience.

It is for that reason that I invite the Committee to oppose this clause and, if it were so minded, it would be my intention to propose the insertion of a new clause in the Bill, which would give the Local Government Association the power to prepare model by-laws with a view to their adoption by councils under this Act. While they would not be compelled to do that, obviously, it is indicating to the association the strong view of this Parliament that that is a very useful role it could play in the community in promoting such appropriate draft model by-laws. I invite the Committee to negative clause 26.

The Hon. M.D. RANN: Finally, the line has been drawn. The member for Elizabeth and I have had similar views representing the northern suburbs for years, but when it is drawn down to the final wire, he is a supporter of Elizabeth Football Club and I support Salisbury.

The ACTING CHAIRMAN (Mr Gunn): The Minister will link his remarks to the Bill.

The Hon. M.D. RANN: There is quite a causal link here, because the Act currently provides for the Governor to make model by-laws, although that has not been done for many years. New section 685 establishes a process by which the Local Government Association can nominate as a model by-law any by-law made by a council that has completed the process of parliamentary review. Other councils may then adopt the model by-law by resolution, after advertising their intention to do so.

The potential benefits of this procedure include the sharing of resources within the local government sector, an economical, time saving and certain process for councils adopting a model, and a reduced workload for the Legislative Review Committee. It is important to note that the association has not been given the power to make laws that bind councils or their constituents. It is entirely up to councils whether they adopt any model by-laws. I stand by the honourable Minister's original clause.

The Hon. B.C. EASTICK: I am not fussed about this one way or the other. However, it gives me the opportunity to draw attention to the need for a considerable amount of additional work to be done in respect of model by-laws and by-laws generally. It is an area that has been a little like Topsy: it has just grown, and not enough consideration has been given to the nature of many of these model by-laws. They are taken up by councils as a cheaper way of achieving a result, and on many occasions the councils do not recognise the ramifications as far as their own constituency is concerned.

I will give a simple example and one that is fairly close to my heart, one that I drew to the attention of the Local Government Association and the Minister of the day some years ago. Members of the House do not have the opportunity to change by-laws: they can only make recommendations. If we look at what has virtually become the model by-law on dog kennelling or dog housing, we find that it indicates that the specifications for a kennel for a dog shall be such and such. It pays no heed whatsoever to whether the dog is a chihuahua or a St Bernard, so we find the situation in which councils right across the State have this by-law relating to dogs and how they will be housed. You would lose a chihuahua in the corner of one of them and, if you took aspects of that by-law to the full extent, the St Bernard would be living better than hundreds of thousands of children in this State.

I make the point, without dwelling on it too long, that it has been convenient to hide behind a piece of paper that says that this is how certain actions will be undertaken. There is a warm cosy feel about it, because it is a model, recognised as such, which has been adopted by councils across the State, but it is not worth the paper is is written on. The theory is all right but in practice it just falls apart. The amount of cost that has been forced upon a number of people to house a very small toy dog is an absolute disgrace. Fortunately, not so many governing bodies that have the by-law in position abide by it. It is there if they need to answer someone's query, and it is there if people get upset about their neighbours who they believe are not looking after their dog or whose dog is being kept in unhygenic conditions. They can use the by-law to come down heavily in such cases. A zealous council officer—and we have all known them to exist from time to time in various councils—can cause a major financial disadvantage to people within the council area, because he follows to the word the requirements of the by-law.

By-laws will now be considered more closely in future. It is hoped that the Local Government Association, along with its constituent bodies, will look at this area seriously rather than treating it as one of the other appendages that must be given consideration but not worried about too much as there are bigger fish to fry. If we persuade local governing authorities to change their attitude in line with variations provided for in the Act, and following the position enunciated by the member for Elizabeth, it will be to the long-term advantage of local government and will spur it on to greater things. I oppose the clause.

Clause negatived.

New clause 26a—'Model by-laws prepared by the LGA.'

Mr M.J. EVANS: I move:

Page 26, after line 8—Insert new clause as follows:

Insertion of s. 685

26a. The following section is inserted immediately after section 684 of the principal Act:

685. The Local Government Association of South Australia may prepare model by-laws with a view to their adoption by councils under this Act.

This new clause will provide the Local Government Association with the power to prepare draft model by-laws, which councils would then be able to adopt at their discretion. I thank the member for Light for his fine example of what happens when model by-laws are simply adopted time and again over a long period of years without any assessment of the need for local attention being given to the matter. We have canvassed the issue at some length and I commend the new clause to the Committee.

New clause inserted.

Remaining clauses (27 to 30 passed).

Schedule.

Mr M.J. EVANS: I move:

Page 29—leave out clauses 1 to 5 (inclusive) (and the heading to the schedule).

Page 30—leave out (including model by-laws made by the Local Government Association of South Australia).

Leave out subparagraph (ii).

The amendments are consequential on the amendments carried earlier in relation to fees. Given that the Committee has adopted these earlier amendments, these provisions will ensure that councils continue to be bound by the individual provisions of these Acts. In the next phase of the reform process it may be appropriate to re-examine the issue of fees, but in the mean time it is appropriate that councils fix their own fees or remain in accordance with fee schedules fixed under these various Acts.

The Hon. M.D. RANN: Lest anyone in this Committee believes that I have been too hard on the member for Elizabeth during the preceding couple of hours, I set the record straight by saying that we agree that these amendments are consequential on the earlier application of clause 18, relating to fees and charges set by the LGA, and clause 26, relating to the power for the LGA to make model by-laws. The Government accepts the amendments.

The Hon. B.C. EASTICK: I take this opportunity to indicate that I appreciate the answers I received from the member for Elizabeth when the matter was alluded to earlier. I spoke of the difficulties that can occur for real estate agents and others where there is a variation in values or costs. Having been somewhat in error in suggesting that there would be changes of fees between councils by virtue of the honourable member's amendment, I realise that it is now covered by this amendment. Notwithstanding that, I again refer to the variation of interpretation involving charging arrangements which are an embarrassment to developers, BOMA, real estate industry people, and the like, and concerning which they do not get a consistent approach from the various councils.

It is a lesser problem now since the attention of local government generally has been drawn to the issue, but the opportunity still exists for that variation of interpretation. I am hopeful that those members of local government who have followed the debate on this matter might pick up that point and ensure the existence of a level playing field, acknowledging that what is best for local government is best for the industry generally.

Amendment carried; schedule as amended passed.

Long title.

Mr M.J. EVANS: I move:

Page 7, lines 6 to 8—leave out 'Building Act 1971, the Land Agents, Brokers and Valuers Act 1973, the Planning Act 1982, the Real Property Act 1886, the Strata Titles Act 1988 and'.

In view of the amendments adopted to other parts of the Bill, I move this amendment to delete the titles of the various Acts, which no longer appear in the schedule.

Amendment carried; title as amended passed.

The Hon. M.D. RANN (Minister of Employment and Further Education): I move:

That this Bill be now read a third time.

I commend the officers who have worked very hard on this legislation for some time with the LGA and councils. I also commend all members of the House for the spirit with which they have dealt with this historic legislation. We realise that this important Bill marks the coming of age of local government as the third tier of government in this State and certainly it is a recognition of what was decided in 1990 in terms of conferring on local government a degree of autonomy and self-management for its future. I commend the Bill to the House.

Bill read a third time and passed.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 14 April. Page 4256.)

Mr SUCH (Fisher): The Opposition supports this Bill, which seeks to amend the various Acts including the Criminal Law Consolidation Act, Evidence Act, Real Property Act, Strata Titles Act and Summary Procedures Act. During its passage through another place, the Bill was amended and improved. One aspect of concern to the Opposition and the Real Estate Institute was remedied, namely, the matter of insurance as it pertains to units within strata title corporations.

That matter has been addressed by way of amendment in another place and, as a consequence, this Bill in various ways contributes to significant improvements in the various Acts that I mentioned earlier. There is little point in delaying the House by repeating the arguments that have been raised in another place. Therefore, I indicate the Opposition's support for this measure.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this Bill, which brings together a number of amendments that come within the Attorney-General's portfolio. The amendments arise from representations the Government has received or as a result of advice of officers of the Attorney-General's Department or from Parliamentary Counsel about matters consequential to other pieces of legislation requiring some tidying up of respective measures.

The Bill will bring about not only improvements to the administration, particularly of our criminal justice system, but also provide some efficiencies in the administration of our courts, and that is to be welcomed. I would also like to comment briefly on the ability of a Minister to bring in a range of measures in the one Bill to tidy up various Acts under that Minister's responsibility and general portfolio area. That is to be welcomed as a more efficient use of the time of the Parliament and a better facility for the passage of minor aspects of legislation in this place. I commend the Bill to the House.

Bill read a second time and taken through its remaining stages.

CRIMINAL LAW CONSOLIDATION (DETENTION OF INSANE OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 3535.)

Dr ARMITAGE (Adelaide): In addressing the Bill the Opposition thanks the Government for its support of the measure. I understand that the Government will now be seeking further amendments and that those amendments were worked out in a bipartisan manner in consultations between the Hon. Dr Ritson, the original proponent of the Bill, and officers of the Attorney-General's Department with the knowledge of the Attorney-General.

Some of the amendments are of a clarifying nature and some are made at the suggestion of the Chief Justice and take the form of a non-exclusive list of the kinds of matters that the courts could use as guidelines in weighing the interests of parties. I might say that there are other areas, for example, children's welfare, where the courts are required to consider a child's interests with no statutory guidelines although no doubt a fairly consistent set of judicial practices has arisen out of experience in those jurisdictions.

I would have thought that it was possible for courts to work out how to make judgments under the legislation as it now is, but since the court system has asked for some guidelines the Opposition will give favourable consideration to the Government's proposed changes in the Committee stage. However, there is one cause for concern in respect of the 'day to be proclaimed' clause. The anxiety about that is that some Bills or parts of Bills are never proclaimed.

I understand that officers involved in the administration of the Health Commission have indicated that they were

not consulted about this Bill and that the Hon. Dr Ritson had only informal talks with Dr Ken O'Brien, Director of James Nash House. However, I am informed by the Hon. Dr Ritson that, as well as writing formally to Dr O'Brien and receiving a formal response, he sent the Bill and explanation to the following people and organisations, and I intend to list them to indicate the wide reach that the Hon. Dr Ritson made in discussing this Bill. The list of people who were sent the Bill is as follows:

Dr John Clayer,
Research and Evaluation Centre.
Dr Carl Radeski.
Dr Bill Lucas,
Director,
Forensic Psychiatry,
Glenside Hospital.
Dr Joanna Lammersma,
President,
Royal Australian & New Zealand College of Psychiatry (S.A. Branch).
Mrs Shirley Wilton,
Secretary,
Association of Relatives and Friends of the Mentally Ill.
Mr Neville Morcombe,
President,
Law Society of S.A.
Mr Kevin Borick, QC.
Mr Michael David, QC.
Mr K. McCarthy, QC.
Ms Liz Dalston,
Executive Director,
Mental Health Associaiton and Resource Centre.
Professor Sandy McFarlane,
Professor of Rehabilitation Psychiatry.
Dr Philip Harding,
President,
Australian Medical Association.
Legal Officers,
Attorney-General's Department.

In fact, there is wide knowledge about this Bill and support for it was expressed strongly by everyone who responded and indeed there were helpful suggestions, I am informed by the Hon. Dr Ritson, which resulted in changes being made in another place.

This Bill has been before Parliament for more than four months and has been the subject of extensive consultation and has been widely reported in press and radio. It has had a very considerable input from experts in criminal law and in psychiatry. Dr Ritson confesses to me that he did not consult with health administrators because there are minimal implications for health administration, and I agree. In the first place, there are presently only three patients detained at the Governor's pleasure, only one of whom is likely to apply for release upon the proclamation of this Bill.

The only administrative impact will be that, instead of reporting to the Parole Board and through that board to Cabinet, the psychiatrist in charge of the case will report to the court and, in the event of an application, may have to attend court and give evidence along with other expert witnesses. He or she will also have to write reports annually in respect of the three patients. The Health Commission will probably have to designate a person or desk to receive requests for information from solicitors, Crown Law, next of kin and clerical court staff and pass information between these parties and those caring for the patients. The Bill is silent as to how this ought to be done and is deliberately so.

It is not for administrators to seek to be legislators but rather to administer the will of Parliament. I would be astounded if an administrator could not put a system of dialogue and record keeping in place consistent with the Bill in a very short time. As I have already indicated, there are only three people who would be affected by this Bill at present. This is a very important piece of legislation as far as justice is concerned and the Opposition would not want to see this Bill fail because of an administrative objection and hence we would give way on the 'day to be proclaimed' issue but believe that a fixed date of proclamation, say 4 months hence, would be far more satisfactory.

Finally, I want to remind the Minster of Health that experts in medico-legal matters are currently studying and conferring all around Australia and may propose new legislation which will deal with different classes of offender, namely, those with affective disorders and with intellectual abnormalities. Such potential new legislation can sit happily side by side with this Bill, even if McNaghten is put to rest, but such changes may result in a considerable number of prisoners becoming patients under the Health Minister's care, and that will have a much greater administrative and resource implications than this Bill.

This brings me to my final point, that is, the matter of the Supplementary Provisions (Mental Health) Act. That legislation, which provides for proclamation of a prison or part of a prison to be a hospital for legally insane people, was lifted from an English statute of the early nineteenth century. It is currently not used, and transfer between prison and hospital takes place by administrative fiat.

The Bill provides that persons subject to it must be confined to a psychiatric hospital under the care of the Health Minister. If, in the future, either new legislation increases the number of patients or, for some reason, James Nash House were disposed of—and I understand the immediate sensitivity of that, given the Glenside scenario—the Government could proclaim, say, part of B division at Yatala to be a hospital under the supplementary provisions. I ask the Minister to give an undertaking never to take that leap backwards into last century. The supplementary provisions ought to be repealed.

In summary, the Bill is a criminal law reform measure and has widespread professional support. It gives a greater measure of justice to a small number of people who are non-culpable. It has negligible administrative and resource implications. It can sit happily alongside potential wider reforms which will have resource impacts. The Opposition will look favourably on amendments that will be moved to the Bill, and commends the Bill to the House as an important measure of justice for people who will be affected by its passage.

Mr SUCH (Fisher): I commend the Hon. Dr Ritson for his initiative in bringing forward this measure. It is an indication that we are a civilised community when we are able to take into account the welfare of a very small minority, such as the people who are affected by this measure. It is important, in the larger scale of things, that we do not overlook people who often, through unfortunate circumstances, find themselves in this situation. The Bill is an attempt to balance a person's freedom and rights against the obvious necessity to protect and safeguard the community, and I see in it a degree of flexibility which will enable an individual's situation to be taken into account. Once again, I commend the Hon. Dr Ritson for his initiative and indicate that I will support the Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank members of the Opposition for their indication of support for the Bill and the circulated amendments which have arisen as a result of the further consideration of matters that were raised in another place and discussions with people who have a particular interest in the matter. The Bill is an indication of the importance of private members' time in our Houses and the contribution that individual members with particular expertise can make to the Parliament. In this case the Hon. Dr Ritson, as a medical practitioner with a particular interest in this area, has obviously given the matter considerable thought and saw it appropriate to introduce a Bill of his own volition: that was agreed to by the Government as a matter appropriate to become part of Government business. It passed the other place and now comes to us in a form where, with appropriate amendment, we believe it can substantially improve the law in this area.

As the member for Adelaide explained to the House, the current statutory provisions are quite ancient. Because we are dealing with a very small group of people in our community who are affected by this legislation, it is not a matter that is given high priority. As my second reading contribution has indicated, there is universal agreement that the state of the law in this area is most unsatisfactory although there is less agreement about what ought to be done about it. We have proposals before us, and I think we should continue to review the matter. As the member for Adelaide said, there could well be further legislative movement in this area in the not too distant future.

The Bill does three things. First, it takes the decision about the detention or continued detention of a person found unfit to plead or not guilty by reason of insanity out of the hands of the Governor-in-Council and places them in the hands of the court and provides for the applicable judicial procedures. Secondly, it provides for the concerns of the next-of-kin and the victims of the offence in the decision about the future of such people. Thirdly, it compels the formulation of a treatment plan for such people. In my earlier contribution, the role of the Governor-in-Council is pursued and argued. I think that, in more recent times, there has been a move away from the Executive arm of Government taking decisions of this nature, particularly with the complex information that is now available—medical information in this instance. Asking Cabinet Ministers to advise the Governor on these matters may not be the entirely proper course of action to take, although one does not want to excuse the Government from responsibility for final decision taking with respect to public accountability.

It is seen that it is more appropriate to vest in our courts, or perhaps in some other tribunal or authority, a role to play in making decisions about these issues. We should always be mindful of the risks that are associated with the release of persons who have previously been declared unfit to plead in matters, and then the subsequent harm that they can cause in the community. From my experience in Cabinet, these are always matters of grave importance and concern, and most Ministers would appreciate the role that we are asking the courts to now play in these matters.

As has been foreshadowed, some amendments are to be moved by the Government. The amendments serve four purposes. The first amendment provides the courts with guidelines on the question of whether to release a person detained as not guilty by reason of insanity or being unfit to plead. The second amendment provides for the suspension of the order by which such a person is detained, if having been released on licence that person commits a criminal offence and is sentenced to a term of imprisonment. The third amendment makes it clear that the provision which requires that the circumstances of a person released on licence be reviewed by the court if three years have passed since the last review places the principal obligation for initiating that review on the Minister and not on the courts. The fourth amendment inserts a proclamation clause into the Bill.

The first three amendments arise after consultation with the Chief Justice which was undertaken by the Attorney-General when the Government assumed the carriage of the Bill. The fourth amendment is proposed as a result of representations that were made by the relevant staff in the South Australian Mental Health Service who will have to put the administrative arrangements in when this Bill becomes law.

With respect to the matters that were raised by the member for Adelaide concerning the proclamation date, I undertake to have his concerns conveyed to the relevant authorities for full consideration, and they sound worthy of that proper and full consideration. Obviously the matter of new legislation in this area is under more general review, and the Bill before us may well be an interim measure before it is encompassed in a more comprehensive enactment by this place. I seek the support of the House for the amendments and the Bill as a whole.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1A—'Commencement.'

The Hon. G.J. CRAFTER:

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

1a. This Act will come into operation on a day to be fixed by proclamation.

This amendment inserts a proclamation clause. If the Bill becomes law, it will require the creation of appropriate administrative arrangements so that the Minister may meet his or her obligations under the Act. Sometimes it is necessary for this to be done, and the member for Adelaide commented on this in his second reading contribution. However, it is envisaged that the Bill will be proclaimed as soon as is reasonably practicable, and obviously some time will need to be taken in drawing up the appropriate instruments that are envisaged under this new clause.

Dr ARMITAGE: I accept the Minister's explanation. Whilst we would prefer a specific date, we understand the dilemmas, as outlined. I stress that the administrative load is not great in relation to this Bill, and accordingly we hope that the authorities, to who the Minister has undertaken to relay our thoughts, might be swayed to be quicker rather than more lengthy.

New clause inserted.

Clauses 2 and 3 passed.

Clause 4—'Special provisions relating to detention of insane offenders.'

The Hon. G.J. CRAFTER: I move:

Page 30—

After line 15— insert 'and'.

Lines 19 to 24—Leave out all words in these lines.

After line 26—Insert new subclauses as follows:

(12a) In determining an application for the release of a person on licence or for variation of the conditions of his or her licence, the court—

(a) must seek to make a determination that is the least restrictive of the person's freedom and personal autonomy as is consistent with the safety of the community;

and

(b) to that end, must have regard to—

(i) whether the person is suffering from a mental illness or has an intellectual impairment;

(ii) whether, if the person were to be released, his or her behaviour (whether or not arising from a mental illness or intellectual impairment) would be likely to constitute a danger to another person, or to other persons generally;

(iii) whether there would be adequate resources available to the person in the community for his or her treatment and support;

(iv) whether the person would be likely to comply with the conditions of his or her licence;

and

(v) such other matters as the court thinks relevant.

(12b) In fixing or varying the conditions of a licence, the court must also have regard to the interests (so far as they are know to the court) of the person's next of kin and of the victims (if any) of the offence with which the person was charged.

Line 32—After 'cancelled' insert 'and the detention order is suspended while the person is in prison serving the term of imprisonment'.

Lines 33 to 39—Leave out subsection (15) and insert subsections as follow:

(15) Where the circumstances of a person released on licence pursuant to this section have not been reviewed by the court for a period of three years (either pursuant to an application under this subsection or an application for discharge of the detention order), the Minister must apply to the court that released the person on licence for a review of the detention order.

(15a) On completion of a review, the court may discharge the detention order unless it is satisfied that, in the interests of the safety of another person, or of other persons generally, the order should remain in force.

The first amendment is a drafting amendment, which is required as a result of the amendments that follow. The amendment involving lines 19 to 24 deletes the clause dealing with the interests of the victims of the offence and next of kin. However, the substance of the clause is not lost: it reappears integrated into the provision dealing with the discretion of the court, which now follows.

The next amendment, after line 26, deals with the discretion of the court. It requires the court to impose the determination that is least restrictive of the person's freedom and personal autonomy, as is consistent with the safety of the community. The reasons for this are as follows. First, people who are the subject of the detention in question are, without exception, people who have been aquitted of any criminal offence or who have never even been tried for an offence with which they are charged. The justification for any restriction of their liberty by the criminal justice system can be based only on the safety of others, otherwise they should be treated as innocent people in the eyes of the criminal law. In particular, criteria such as retribution and deterrence have no place in this assessment.

Secondly, the last comprehensive look at this issue was by the Victorian Law Reform Commission in its report on mental malfunction and criminal responsiblity. The Commission recommended that the court should have the power to make a disposition order, choosing the least restrictive of the following options based on the person's mental impairment and future dangerousness. This recommendation has been adopted by the Criminal Law Officers Committee, which consists of criminal justice representatives of all States and Territories. Thirdly, exactly the same principle can be found at work in sections 9*(b)*, 25c *(b)* and 28 *(d)* (2) *(c)* of the Mental Health Act 1977. The rest of proposed new subclause (12a) *(b)* lists the factors to which the court may have regard. It is a non-exhaustive list, as new subclause (12a) *(b)* (v) makes clear. Proposed new subclause (12b) reinserts the provision dealing with the interests of the next of kin and the victims of the offence, if there are any.

In relation to the amendment to line 32, in commenting on the Bill, the Chief Justice was concerned that the Bill should state explicitly what would happen to the detention order to which the person would be still subject should that person, while released on licence from that detention, be convicted of a criminal offence and sentenced to imprisonment. The clause is amended to make clear that the sentence takes precedence and the detention order is suspended while that sentence is served. Since the detention order is indefinite in duration, it will cut in again once the sentence is served, and these provisions will then operate.

Regarding the amendment to lines 33 to 39, again the Chief Justice was concerned to point out that the courts did not have the resources or the information to keep the records necessary to ensure that a person released on licence would have their situation reviewed if, in effect, they had been out on licence for three years without any trouble. It was never intended that the courts would bear that responsibility; therefore, the amendment seemed to make clear that this is the case and provides that the Minister, who has the care and control of these people, has the responsibility to ensure that that review takes place.

The amendment also makes clear the criteria on which the discharge decision should be made. As with the initial decision to release, concern has been expressed that the discretion was not structured in a helpful way. The amendment seeks to make the criteria for discharge as reasonably explicit as possible, given the wide variety of possible circumstances. I commend the amendments to the House.

Dr ARMITAGE: I have previously signalled the Opposition's agreement to the amendments. However, I would like to speak briefly to the amendment moved after line 26, which relates to the clause dealing with the requirement of the court to make a determination that is the least restrictive of the person's freedom. I emphasise that we believe that this Bill deals with people who are non-culpable as a result of their mental status and, as such, it is absolutely appropriate that the court should be required to take the least restrictive option for their care, having due regard to the safety of the community, and it is that aspect that I want to address.

Some people may be anxious about inappropriate release but, under these amendments, the court is still definitively obliged to satisfy itself with regard to the safety of the community, hence I believe that any objective or subjective dissent from the fact that the person may be completely safe in the community and the community may be safe with the person in it we would see no release of that person. Consequently, I believe that there is still a safeguard built in, but it is a completely humane measure recognising, as I indicated before, that we are dealing with people who have no blame for crimes that they might have committed because of their mental status.

The Hon. G.J. CRAFTER: I thank the member for Adelaide for his comments. This provision needs to be contrasted with the current situation, where this matter is dealt with by the Governor in Executive Council. Having been a member of that council for some years, I can assure the honourable member that I am acutely aware of the requirements that safety be provided in the community. However, I am also acutely aware of the deficiencies that my colleagues and I have in making a proper, detailed assessment of all the relevant facts in order to make that decision. The proposal before us, where this decision is made in a court by a judge, is eminently sensible. We need to review it in the fullness of time to ensure that that is so and that there is not a need, for example, for a more specialised tribunal, perhaps involving assessors and so on. Nevertheless, we are moving in the right direction in this area, but we must always be mindful of the safety and well-being of the community.

Amendments carried; clause as amended passed.

Clause 5 and title passed.

Bill read a third time and passed.

SUBORDINATE LEGISLATION (EXPIRY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 March. Page 3536.)

Mr MEIER (Goyder): The Opposition supports this Bill. Members would be aware that it proposes changes to the automatic expiry provisions of the Subordinate Legislation Act and that it was back in 1987 that the Parliament passed legislation providing for sunset provisions for regulations after seven years. At the time the arguments primarily centred around the fact that there needed to be some consolidation, rationalisation and simplification of regulations which in many cases had become outdated. One of the problems, however, in the expiry program has been the delays in

completing reviews and in many cases the delays have been caused because the review of the regulations under an Act has prompted a wider review encompassing the Act itself. In other words, when the regulations are being looked at, often the whole Act itself has to be revamped. If no adjustment is made to the expiry timetable currently set by the Act, many exemptions will have to be granted over the next two years. As a member of the former Joint Committee on Subordinate Legislation, now the Legislative Review Committee, I have raised concern over this aspect for some period of time.

As members may be aware, exemption from expiry is achieved by prescribing in regulation those regulations to which the expiry provisions do not apply. As there are no provisions to the contrary, all exemptions from expiry have, to date, been granted for no specific period. This Bill before us proposes that, rather than the term 'exemption', which conveys the impression that the regulation is in some way outside the provisions of the Act, the process should be referred to as a 'postponement' of expiry. In addition, this Bill provides that postponement will be for a period of up to two years, with provision for further such postponements up to a total of up to four years. Although I said that the Opposition supports this Bill, we do have a problem with the fact that it is only the regulations that are signed by the Governor that are covered. We do feel that this should also include the regulations made by a person, body or authority, and in fact notice has been given by the member for Elizabeth of appropriate amendments in that respect, which the Opposition will be happy to support. The Bill also proposes that disallowance of a regulation granting postponement has the effect of revoking the regulations as from the date of the resolution of disallowance.

Finally, the Bill provides for a new expiry timetable to be set to provide that regulations falling within the ongoing review program expire on 1 September in the year following the year in which they have their tenth anniversary. Certainly, quite a few sets of regulations will need to be reviewed and either be redrafted or let lapse after the first stage of the automatic revocation program is completed. The Subordinate Legislation Act currently provides that this is to be achieved by 1 January 1993. It will mean that the 'rolling' expiries, that is, those regulations made after 1 January 1986, will be scheduled to commence on 1 January 1993. This Bill provides that the program be extended to enable the backlog of regulations to be dealt with before starting out on the 'rolling' expiries. To achieve this, obviously the regulations falling within the ongoing review program are to be given a longer life. The Bill also provides that that the catch-up program be extended so that all regulations made before 1987 be dealt with by 1 September 1996. As a member of the Legislative Review Committee, I am pleased that these changes are proposed. As I said, the Opposition supports the legislation.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for the Bill. It proposes changes to the automatic expiry provisions of the Subordinate Legislation Act and a number of matters to improve the operations of the subordinate legislation process and to restrict the use of exemption clauses, or the term 'exemption', which conveys the impression that the regulation is in some way outside the provisions of the Act. The process should be referred to as postponement of expiry, and provision is made for some changes in the way in which the consideration of the statutory review of regulations will in fact occur in the future, and indeed the nature of the regulations which are encompassed by these provisions.

The role that the Parliament need play in this area is a matter of debate, given the enormous time that is taken, often by very senior officers of agencies working on reviews of regulations, which can be very costly in terms of time and also in a monetary way, when very little is achieved as a result of that process. On the other hand, I think there are strong arguments to be made for periodic review of regulations. In a number of areas, as has been explained in the report associated with this Bill, in fact the whole Act has been called into review because of the review of the regulations, and of course benefits can be obtained by us all when that process occurs. So I think this is a matter of some degree of judgment and of balance.

I note that the member for Elizabeth intends to move some amendments to this Bill. They have been discussed with the Government and the Government agrees with all of them except the final amendment. I shall speak a little further on that during the Committee stage of the Bill. However, in general terms the Government accepts the amendments, apart from that one to which I have referred. I ask the House to support the measure that is before us.

Bill read a second time.

The Hon. G.J. CRAFTER: 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 the commencement of regulations.

Motion carried.

In Committee.

Clause 1 passed.

New clauses 1a, 1b, 1c and 1d.

Mr M.J. EVANS: I move:

Page 1, after line 12—Insert:

Commencement

1a. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 10—Making of regulations

1b. Section 10 of the principal Act is amended by striking out subsection (2).

Insertion of ss. 10aa

1c. The following section is inserted after section 10 of the principal Act:

Commencement of regulations

10aa (1) Subject to this and any other Act, a regulation that is required to be laid before Parliament comes into operation four months after the day on which it is made or from such later date as is specified in the regulation.

(2) A regulation that is required to be laid before Parliament—

(a) may come into operation on an earlier date specified in the regulation if the Minister responsible for the administration of the Act under which the regulation is made certifies that, in his or her opinion, it is necessary or appropriate that the regulation come into operation on an earlier date;

but

(b) may not come into operation earlier than the date on which it is made unless that earlier operation is authorized by the Act under which the regulation is made.

(3) Subject to any other Act, a regulation that is not required to be laid before Parliament comes into operation on the day on which it is made or from such later date as is specified in the regulation.

(4) A document appearing to be a certificate under subsection (2) will, in the absence of proof to the contrary, be accepted as such in any legal proceedings.

(5) A certificate under subsection (2) cannot be called in question in any legal proceedings.

Amendment of s. 10a—Regulations to be referred to Legislative Review Committee

1d. Section 10a of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) If a Minister issues a certificate under section 10aa (2) in relation to a regulation, the Minister must cause a

report setting out the reasons for the issue of the certificate to be given to the Committee as soon as practicable after the making of the regulation.

This group of proposed new clauses has the effect of ensuring that, when a regulation is brought into effect, that regulation will not actually become the law of the land until some four months after the regulation is initially gazetted. This will give the public and business the opportunity of examining in detail the regulations that will bind them in their everyday lives and businesses. I believe that it is an important part of our democracy that citizens should not simply wake up on Thursday or Friday morning to find that the *Government Gazette* issued at midnight contains hundreds of pages of regulations that impose detailed burdens on them, often carrying heavy penalties if they default, their having very little time to study those regulations to determine what problems might exist with them and how best they could implement them in their own life or business.

There is also the other important consideration, that this Parliament should have the opportunity of examining, unfettered by the fact that the regulation has already been given legal effect, whether or not it wishes to veto the provision as part of the normal disallowance process of this Parliament. Of course, one must always take into account the fact that regulations also close loopholes in the law in relation to matters of finance. They close loopholes in relation to matters of criminal behaviour and often bestow a benefit on citizens which in the general community interest should come into effect immediately. There must be a mechanism in any clause such as this to allow the Government of the day to bring those regulations into effect immediately, where that is clearly desirable in the public interest.

The Bill provides for a Minister to issue a certificate that will allow the regulation to come into effect before four months, but the Minister, of course, must then cause a report setting out the reasons for the issue of that certificate to be made to the Legislative Review Committee as soon as practicable after making the regulation. Then the Minister and the reasons for that process will be fully accountable to this Parliament and to its committee set in charge of such examinations.

While I know that that process is open-ended, it is one that is very highly politically accountable, and the normal standard that the law will set is the four months notice. That is very clearly on the record. I believe that it would be a very brave Minister—indeed, a courageous Minister—who would set out on a course of flouting the law and this Parliament by granting certificates in the full glare of publicity for regulations where there was clearly no need for such certificate to be issued.

I believe that any such Minister would soon be brought to book, although I would not imagine we would have such a problem. The law will quite clearly set out the normal process, which will be that four month delay. That will give the community good time in which to examine those regulations and determine how best it can live with them. It will also give the authority making the regulation the opportunity for a period of public comment and, if there are any serious deficiencies in the regulations that have not previously come to light, they would come to light before the regulations took effect. It may have some unintended beneficial consequence in that respect as well, although that is not an argument I put forward as the main substance in support of the matter. I commend the proposal to the Committee. I move these proposed new clauses *en bloc* because they are entirely interdependent and consequential upon each other.

The Hon. G.J. CRAFTER: As I indicated in my second reading speech the Government supports these amendments, and it is appropriate that I say something about them. First, the Government accepts that, as regulations are becoming more complex in nature, from time to time greater scrutiny is required. These amendments provide that a regulation that is required to be laid before Parliament comes into operation four months after the date on which it is made. A regulation may come into effect at an earlier date if the Minister responsible for the administration of the Act certifies that it is necessary or appropriate that the regulation come into operation at the earlier date.

In the event that the Minister so certifies, he or she must report to the Legislative Review Committee setting out the reasons for the issue of the certificate as soon as practicable after making the regulation. The member for Elizabeth has just explained the safeguards that are associated with that process to alleviate the concerns that have occupied his attention.

Some consideration will need to be given to the types of regulation that may need to come into operation earlier than four months after the day on which they were made. The following list is not intended to be exhaustive, rather an indication of the types of regulation from which a Minister may certify earlier operation. For example, a regulation that revokes a regulation, without making any provision in substitution for that regulation; a regulation that corrects an error or inaccuracy in a regulation; a regulation that is required for the purposes of an Act that will come into operation on assent; and a regulation that imposes a fee, tax or other duty or is otherwise of a financial nature. Another example is a regulation which grants an exemption from compliance with certain legislative requirements but which does not operate to prejudice the rights of any other person. These are some examples that may be of help the Committee as guidance in terms of the application of this measure. On balance, it is considered that these measures should provide a better system for the scrutiny of regulations.

Mr MEIER: As a member of the Legislative Review Committee (formerly the Joint Committee on Subordinate Legislation), I understand the intention of the member for Elizabeth. There have been many occasions on which the committee felt that regulations had come in without appropriate consultation with the bodies or groups they affected. Nevertheless, the Opposition feels that this is a significant departure from the current state of affairs. Members would be aware that the member for Elizabeth had incorporated this very provision in a private member's Bill until recently, when he withdrew it. He now seeks to bring it into this Bill.

It would be much more appropriate to have the matter referred to the Legislative Review Committee, because members would appreciate that we set up that committee to look into just such matters as this. It would give the opportunity for a proper look at and appreciation of the various pros and cons of such a move. For that reason, the Opposition cannot support the member for Elizabeth in these new clauses. We would prefer to see the matter looked at further by the Legislative Review Committee and then brought back to this Parliament for further consideration.

Mr S.G. EVANS: As a person who chaired the Subordinate Legislation Committee for some time, I can understand why the member for Elizabeth has moved this amendment. I always argue that that committee—now the Legislative Review Committee—should have a positive rather than a negative role. While the member for Elizabeth is attempting to move in that direction, I point out that some other countries have a system whereby any proposed

regulations, except those involving a matter of urgency (which we all know cannot be delayed as some people exploit the situation), are put to a committee which reviews them and takes evidence before they are gazetted. That is the direction in which we should be going. It is not the full distance that the member for Elizabeth wishes to go, but I am a strong supporter of the proposition that most regulations should be available to the community to look at before they become operative. The way that is done in some other places is to have the matter go before the committee, which takes evidence from various groups or individuals in the community before making it available to the Parliament.

To have it go to the public I do not think achieves quite that goal because the evidence will not be documented as well as it would be otherwise especially if the regulations are already listed but not operative; in other words, gazetted but not operative for four months. It puts more pressure on those who must give an opinion. We will move in the direction suggested by the member for Elizabeth, but not strictly by this process. I hope that in the other place members will give some thought to the other process. We do need to give people the opportunity to look at proposed regulations before they become operative. I accept that principle. I hope that the committee is used as the vehicle for calling for evidence to review regulations. I do not support the amendment but believe that the principle will be implemented within the next 12 months by some other method.

New clauses inserted.

The Hon. G.J. CRAFTER: I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

Clause 2—'Regulations to which this Part applies.'

Mr M.J. EVANS: I move:

Page 1, lines 13 to 18—strike out this clause and insert:

2. Section 16a of the principal Act is amended by striking out paragraphs *(e)* and *(f)* and 'and' appearing between those paragraphs.

The Bill as proposed by the Minister seeks to remove certain classes of regulation from the expiry provisions, but I do not believe that is appropriate. The Bill seeks to remove, for example, rules of court and any other prescribed regulations and insert a provision that regulations made by a person, body or authority other than the Governor will be exempt. That exempts a whole range of regulations made by organisations, boards, committees or authorities which are not in many cases of great significance. I do not maintain that these have significance across the board in the way that regulations made by the Governor would have, but they exempt many aspects of individual people's lives. Quite often, because of the relative lack of significance of these organisations, regulations made by them are allowed to stagnate because obviously they do not receive overwhelming public attention. Provisions are therefore allowed to roll on year after year, long after they cease to be entirely relevant. To exempt them from the expiry process will ensure that that continues.

While I recognise that it may be difficult to determine just which regulations come into these categories, it is a much better precedent and process to set on behalf of deregulation to ensure that these regulations do expire and therefore are forced to be revisited and renewed on a periodic basis by those authorities. This amendment will at least guarantee that rules of court and indeed any other regulations, except those specifically exempted in the Bill, will be brought into account and forced to be renewed on a periodic basis, which is now, after all, every 10 years, so it is hardly burdensome for those organisations and will at least ensure periodic public scrutiny and parliamentary veto.

Mr MEIER: The Opposition supports the amendment. The member for Elizabeth clearly outlined the reasons, and it is obvious that any person, body or authority should come under the same rules and conditions as those in the normal cases. I trust that the Parliament will accept the amendment.

The Hon. G.J. CRAFTER: The Government opposes the amendment. In response to previous amendments I stated that there needs to be some balance in terms of how far one will take procedures and indeed the authority of the Parliament into the review of the activities and processes associated with various organisations which come under these regulation-making rules. What is the harm that we are trying to eradicate in our community? We must balance it against the costs and interference and other priorities set aside in order to conduct these parliamentary reviews of our administration. That is a matter of judgment, and obviously the honourable member has formed a view and made a judgment in favour of the Parliament having this parliamentary review of the administration in this form. The Government believes that this degree of intervention is not required.

The repeal of paragraph *(e)* will have the effect of making rules of court subject to the expiry process. Rules of court are made by the Judiciary to regulate the practice and procedure of the courts. It is not appropriate that these rules be subject to automatic expiry. Further, the expiry regulation program is aimed at regulations that regulate business and impinge on the way that people conduct themselves in their day-to-day business. Rules of court, I suggest, do not fall into this category. The expiry program is resource intensive, as I have explained to the Committee, and resources need to be concentrated on the regulations which are the focus of the program. New paragraph *(f)*, passed in another place, includes rules of court in subordinate legislation, which does not expire automatically, as other types of subordinate legislation are also included in that paragraph.

For example, greyhound and horse racing rules then fall within the ambit of these measures. I do not suggest to the Committee that there is good reason for these to be included in the program and for them to be included, because attention and resources are diverted from more pressing and important responsibilities of Government. There is a matter of judgment and balance involved and the Government comes down against this extent and degree of intervention.

Mr M.J. EVANS: I thank the Opposition for its support, and I certainly acknowledge what the Minister has said. I would like to respond briefly and say that, just because an organisation—for example, the court—has made rules, it does not mean that every 10 years they should not be required to be revisited and examined to ensure that they are appropriate. For example, although the greyhound board is not one of the primary concerns of the Parliament—it is an organisation which operates effectively and efficiently, so far as I know—the reality is that it operates outside the glare of normal political accountability.

There is no Minister who accounts to this House in direct terms for the making of those regulations. It is the board that does that to one side of the normal political process and, therefore, it is important that those organisations should be required to renew and reconsider, just as we have required of local government, and that is an important part of the process. Obviously, the importance of the regulation would determine the amount of resources allocated to it, and I would expect that the organisation itself that was making the regulations would undertake the review. In fact, little in the way of resources at the State level would be allocated to that.

While I acknowledge the force of what the Minister is saying, it is important that these organisations as well should be forced that consider their regulations which, after all, have the force of law and are binding on our citizens. They should be required to renew and revisit those regulations to ensure that at least once a decade, which is not that onerous I would have thought, they are entirely appropriate 10 years after they were made. For those reasons I commend the amendment to the Committee.

Amendment carried; clause as amended passed.

Remaining clauses (3 and 4) and title passed.

Bill read a third time and passed.

LEGAL PRACTITIONERS (LITIGATION ASSISTANCE FUND) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 April. Page 4363.)

Mrs KOTZ (Newland): In relative terms this Bill is a minor piece of legislation, but its intent has outstanding merit. In 1990 the legal practitioners guarantee fund was showing a surplus of just under $2 million. The Law Society, in agreement with the Attorney, agreed to allocate money from that fund to set up a contingency aid scheme which would assist litigants who, in other circumstances, could not obtain legal representation.

It has been indicated that the initial allocation to this fund will be $1 million and that a ceiling of the same amount will be set. The Liberal Opposition supports this Bill and applauds its intent, which is that the fund is available to any person who believes that he or she is likely to achieve a remunerative result, including a defendant who may have a cross claim. In applying for assistance the applicant will have his or her means to pay and the merits of the case carefully considered.

Applications will be received from legal practitioners and will be examined first by an assessment panel comprised of one member of the advisory board and two experienced legal practitioners. The decision will then be taken to the manager of the fund and a final review may be undertaken by the advisory board. Where a case is considered to have merit and has a strong chance of success, and where the applicant for assistance satisfies a means test, assistance will be granted.

It is intended that, where an action is successful, a percentage of the judgment sum will be contributed to the fund, together with any costs recovered from the unsuccessful party. Western Australia, which has a similar fund, has fixed the required percentage at 15 per cent, and I am led to believe that it is likely that our fund will follow this lead. Western Australia has also set a scale of fees which has been approved as the basis on which fees will be paid by the fund to the solicitor.

I believe that the advisory board here is yet to examine this matter but, when this occurs, a decision will be made by the Law Society upon the recommendation of the board. It is expected that there will be a decline in the funds over the first few years of operation, but the expectation is that before long the fund will be self-funding and the Liberal Opposition fully supports that concept.

The Western Australian scheme began on 5 June 1991, and to date has received 105 applications and assistance has been granted in 21 matters. The Bill also allows deputies for members of the Legal Practitioners Complaints Committee to be appointed by the Governor. It was explained that on a number of occasions members had to disqualify themselves, which resulted in the lack of a quorum.

Amendments regarding this area, moved in another place by the Hon. John Burdett and accepted by the Government, ensure that the qualification of the deputy shall be the same qualification as the member's qualification and I believe that this is a proper and correct amendment, as it is quite clear by reference to the principal Act that the deputy must have the same qualification as stated in the principal Act.

The Bill will not overcome all the problems of legal aid, but I believe that any measure which will provide assistance to those people who otherwise obviously would not receive legal aid is certainly worthy of our support and the support of the House. I support the Bill.

Mr SUCH (Fisher): I support strongly any measure that will enable people to be represented in our court system, people who otherwise would not be able to afford being represented. As we know, it is expensive to be represented in court, as our legal system has significant costs associated with it. It is no surprise that there will never be enough legal aid to satisfy the demand for it. At present the rich can look after themselves as they can afford legal representation in court, those at the poorer end of the economic scale can obtain legal aid, but those in the middle—the large bulk of Australians—are at risk of missing out on appropriate and affordable legal aid. If this Bill does anything to assist the people in the middle, it is certainly deserving of support.

I have had an interest in this matter for a while. At present I believe that many people who should get legal aid do not get it and some people get it who should not get it, but I believe that those matters will be addressed in due course through other avenues in this Parliament. As legislators we should ensure that we do not create unnecessary legislation as that is one matter that impacts on the need for people to appear before the courts and we should ensure, as much as possible, that laws are kept simple.

With respect to the not so serious matters that come under the ambit of legal dispute, I believe we could be looking at a whole range of approaches, for example, an extension of the successful mediation scheme which deals with problems between neighbours. I believe we could make greater use of the JPs in our community who could be involved in some of the not so serious aspects of the law; I believe there is room for extension there. I believe there are opportunities to develop negotiation arrangements to avoid people going through the courts system, to develop insurance schemes, as well as the possibility of extending some of the powers of the Ombudsman, or something similar to that.

I realise that the measure before us is likely to be used in relation to more serious legal matters, but nevertheless I think it is important that those other aspects also be considered in due course. I believe that, if one cannot afford to be represented in our courts system, one is denied justice, and that is one of the things we should seek to ensure is available in our community. To the extent that this Bill will increase the likelihood of people obtaining justice through affordable representation in the courts, I believe it is a very worthwhile measure and I commend it to the House.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this Bill which has two components. First, it concerns the establishment of the Legal Assistance Fund which is to be administered by the Law Society of South Australia by way of a

trust constituted by a Deed of Trust dated 2 April this year. This is to establish a scheme to provide legal aid to a certain class of litigant who otherwise would not obtain legal aid, particularly in the civil jurisdiction in this State however worthy their cause and however important the law to be clarified in that area for the community as a whole. Unfortunately, the process of litigation is beyond the means of some prospective litigants.

This Bill provides for the allocation of moneys which have accumulated and accrued interest in the Legal Practitioners Guarantee Fund, this money being the property of the citizens of this State who become involved in matters that require moneys to be placed in legal practitioners' trust funds. This scheme proposes that initially $1 million be granted to this fund to establish a scheme similar to that which was recently set up in Western Australia and which has so far proven successful in that State.

It should be pointed out that the Law Society has accepted, on behalf of the people of this State, a grave responsibility, and it will receive applications from legal practitioners which, in the main, will be assessed and administered by legal practitioners. So, it is important that this scheme be embodied in a statutory instrument of this type. It is public moneys that are being handled in this way and the contingency nature of the proposal will mean that substantial moneys will pass through the fund annually. As I say, it is a grave responsibility that has been accepted by the Law Society, and the need for this statutory instrument is therefore evident.

It also compliments the very valuable and effective work, particularly in South Australia, of the Legal Services Commission, in a very difficult economic climate and in circumstances where a vastly greater number of people are asking for legal aid than can be provided with that assistance. Together these two schemes compliment the provision of access to quite a large group of people in our community to legal advice and assistance and access to the courts. I think it is unfortunate that there is in our community a very large number of people who cannot gain access to the courts to resolve their disputes or to gain the justice that they seek. That is the subject of a Senate select committee and is certainly under active consideration right around this country and in many other nations as to how we can establish insurance schemes or other forms of access that will make the courts and legal advice more generally available.

I think that that is one of the great challenges we have as our society becomes more complex and it is more important for people to assert their rights. I well recall the very first lecture that I attended as a law student, and the lecturer said, 'The law, as it is applied in the courts, is like the Waldorf Astoria Hotel: it is open to everyone as long as you can afford it.' This measure aims to allow a few more people to gain access to the law and to the courts without having to be barred by impecunity. It is for that reason the Government seeks the support of the House for that provision. The second provision is a matter of empowering the Legal Practitioners' Complaints Committee to have deputies appointed so that a quorum can be maintained in the important work that is conducted by that committee. I seek the support of the House for the Bill.

Bill read a second time and taken through its remaining stages.

SUMMARY OFFENCES (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 3540.)

Mr MATTHEW (Bright): I rise to support the Bill on behalf of the Opposition. We note that the Bill seeks to amend section 33 of the Summary Offences Act, which deals with the publication of indecent material. The Bill seeks to prohibit the possession of child pornography, making it an offence punishable by imprisonment for a year or a $4 000 fine. In addition, a person who produces, sells or exhibits child pornography may be imprisoned for two years for a first offence and four years for a second or subsequent offence. We note that the provisions of the Bill follow the recommendation of the Australian Law Reform Commission in its report No. 55 entitled 'Censorship Procedure', which amongst other things recommends the adoption of a national legislative scheme in the censorship area.

The report concludes that child pornography is likely to involve child sexual abuse and is often associated with child sex offenders. Because of that, specific legislative provisions should deal with that subject. The Attorney-General in another place and his representative in this House, in the second reading explanation, said that the offence of production, sale or exhibition of child pornography is regarded as the first link in the chain of sexual exploitation of children, and is often done for commercial gain and, therefore, must be the subject of tough penalties. That is a view that the Opposition—and I am sure that every member of this Chamber (or at least I hope every member of this Chamber)—would share. We believe that every step should be taken to stamp out the production, sale and supply of child pornography, and anything that might lead to children being involved in this sort of pernicious activity.

While debating this Bill, it is appropriate to look at a number of child pornography issues that have been raised in more recent times by the media. In so doing, I turn, first, to a report in the *Advertiser* of 19 October 1991 entitled 'South Australian link in child sex racket'. In part, the report states:

> South Australian children as young as eight are being used in hard-core pornography made locally and traded in a multimillion-dollar international black market. Local and international sex industry sources say Adelaide is a significant part of an Australian supply system feeding the world child pornogaraphy market. The local operation works through a well established paedophile network 'swapping' pictures and tapes, as well as exporting for duplication and sale.

Further, the report states:

> Profits of up to $15 000 are reportedly available for an hour-long master tape after duplication in Asia. The officer in charge of the police anti-child abuse team at Elizabeth, Detective Chief Inspector Barry Presgrave, said many of the child abuse charges laid by the team against 167 people in less than 12 months involved child pornography.

I am sure that you, Mr Deputy Speaker, would be concerned to hear those figures because, in your role as the representative for that area, I have no doubt that would have very close links with the Elizabeth CIB and would have some knowledge and concern about the activities of people in that area. The report further states:

> Vice industry insiders have told the *Advertiser* the local market has been boosted by anti-child pornography operations in the United States in the past 12 months which have almost wiped out the commercial child pornography market there.

That in itself is an important point. At least one part of the United States has come down heavily on the peddling and production of child pornography and, alarmingly, an Adelaide newspaper is alleging that, because of that crackdown, these people are seeking perhaps easier pickings in Adelaide where they perceive that the legislative provisions are not strong enough. It is for this reason, amongst many others, that the Opposition applauds the initiative to bring forward this Bill.

Further, the article quotes one of Australia's most experienced child pornography investigators, Assistant Commissioner Neil Comrie, of the Queensland Police Force, who described it as 'an area of opportunity' for criminals which local investigators had only begun to understand over the past 10 years. In itself, that, too, is a startling revelation, because it would seem that some of the things that have been reported in our city in recent months could just be the tip of the iceberg. Once again, that highlights the need for legislation of the type that is before us. Later, the article states:

> Despite recent successes, Customs Department specialists in the United States estimate more than three million tapes are still circulating on any given day in that country and Canada. A child pornography specialist, Detective Sergeant Toby Tyler, of San Bernadino Sheriff's Department, described a paedophile's desire for child pornography as 'an incredible appetite'.

Sergeant Tyler is quoted in the *Advertiser* as saying:

> ... Australia was in a perfect position to supply the Asian child pornography market, which was growing in line with the increasing affluence of Asian economies.

I am sure that that article would have concerned all members of Parliament, and certainly all decent, caring South Australians. In fairness, I note that on 22 October the former Adelaide paper the *News* carried an article that disputed some of the statements made in the *Advertiser* pertaining to the child pornography trade. That aside, on 23 October the *Advertiser*, in an article entitled 'Child porn sales evidence grows', in part stated:

> Documentary evidence of at least 35 separate examples of child pornography now being offered in Adelaide has been gathered by the *Advertiser*. Some of the illicit material involves children as young as five being molested by their 'parents'. Police and vice industry sources, who have refused to be named, supported yesterday claims that pornography involving children as young as eight was being produced and distributed here, interstate and throughout Asia. It was being distributed through certified mail in disguised videotapes and available only after a lengthy 'screening' process.
>
> Their claims included references to child pornography being produced in Adelaide and being swapped and sold interstate and overseas. The new evidence suggests child pornography from India, Thailand and Australia has been available commercially in Adelaide for at least two years. Material includes footage of 'doctors' 'examining', molesting and having sex with children.

As if those allegations were not disconcerting enough, later, the article states:

> Information obtained by the *Advertiser* suggests a strong local market being run through computer programs fitted with modems, and classified advertisements written in specially coded wording. These are used as a form of maintaining contact between 'networked' paedophiles and child pornography 'dealers'.

Any action at all that can be taken through this Parliament to stamp out this sort of perverted behaviour and this type of abuse of innocent children is something that I welcome strongly, and I would hope that every member in this place would welcome this with equal eagerness.

The child pornography area, while seemingly new in Adelaide, is certainly growing. Despite claims and counterclaims of its existence, there is no doubt that a number of prosecutions have been made in recent years by police of those who produce the pornography. Of course the difficulty we have had is that it is not necessarily an offence in itself to possess the material. Indeed, this legislation will provide the police with wider powers to enable them to levy charges against known paedophiles who seem to habitually store this type of rubbish. The worrying thing is that the innocent children involved in its production will not be helped unless we can stamp it out altogether.

It is fair to say that we need to clamp down on many other areas before we can eliminate the child pornography racket in this State, but making its possession illegal is indeed a large step in the right direction. A number of issues in the Bill do need to be addressed and, at this stage, I indicate that the Opposition had an Adelaide QC look at the Bill, and that QC raised a number of concerns.

The first concern that he raised was in relation to the definition of the Bill itself. It seems that he believes that there is a problem in the definition of child pornography and the relationship of that particular definition to other provisions of the principal Act. I should like to draw attention to several aspects of that definition. 'Child pornography' is defined in the Act to mean 'indecent or offensive material'. The definition of 'indecent material' in section 33 of the principal Act is 'material of which the subject matter is in whole or part of an indecent, immoral or obscene nature'. 'Offensive material' is defined to mean 'material of which the subject matter is or includes violence or cruelty, the manufacture, acquisition, supply or use of instruments of violence or cruelty, the manufacture, acquisition, supply, administration or use of drugs, instruction in crime or revolting or abhorrent phenomena and which, if generally disseminated, would cause serious and general offence against reasonable adult members of the community'.

So, effectively, 'child pornography' means that sort of material in which a child, whether engaged in sexual activity or not, is depicted or described. The definition is probably fair to a point, but it goes on to qualify the definition that it 'is to be depicted or described in a way that is likely to cause offence to reasonable adult members of the community'. Not only does that tend to suggest that it must be indecent or offensive material—and the definition of 'offensive material' already carries that qualification whereas 'indecent material' does not—but it also adds a qualification which, in the context of section 33, is not appropriate and may, our QC adviser argues, result in argument in court which would allow some disagreement as to what is really meant by the definition of 'child pornography' and its application to individuals who might be alleged to have been guilty of an offence.

The point that has been made to the Opposition is that the definition should be in one form or another; that is, it should mean indecent or offensive material in which a child, whether engaged in sexual activity or not, is depicted or described or it should mean material whose contents contain a reference to or a depiction of a child where the context of that reference or depiction is such that the material is likely to cause offence. That is very much broader than limiting it to indecent or offensive material.

It is possible that material might not be indecent or offensive if there were no child in it, but because the child is there as a bystander being depicted or represented in the material that would make it indecent or offensive material and thus child pornography. I note that the Minister in his second reading explanation in this House referred to that type of example in particular. The other aspect relating to the definition is that it would seem that there needs to be a definition of the relationship between the child and the material which is in itself offensive.

There is one other matter that I think needs to be raised, and this relates to a matter which is already in the principal Act but which, in the light of the reference to child pornography, specifically ought to be considered. 'Child' is defined as a person under or apparently under the age of 16 years; so, therefore, child pornography would obviously relate to some indecent or offensive material in which a child—that is, a person under or apparently under the age of 16 years—is depicted or described. Subsection (2) contains several paragraphs which relate to the involvement of minors, and that subsection provides:

. . . a person who *(f)* delivers or exhibits indecent or offensive material to a minor other than a minor of whom the person is a parent or guardian; *(g)* being a parent or guardian of a minor causes or permits the minor to deliver or exhibit indecent or offensive material to another person . . . is guilty of an offence.

A minor in that context is a person who is under the age of 18 years, so we seem to have a discrepancy in that, on the one hand, one section of the Act relates to a person who is under the age of 18 years and looks at that person as being a minor whereas, on the other hand, the Bill before us looks at a person under the age of 16 as being a child. It seems to me that, if we are to develop the concept of child pornography properly in this legislation, we need to be consistent in the manner in which we do so. It may also be argued that there are many other Acts that have been passed by this Parliament that are perhaps not entirely consistent in this classification of a minor or a child or an adolescent.

The point is that we have an opportunity before us this evening to ensure some consistency at least in this area. Therefore, I would advocate that, indeed, we should look at child pornography as being material involving a person under 18 years of age. If nothing else, that at least provides an opportunity to broaden the impact of this legislation and indeed it would enable other people involved in the distribution, production and holding of this sort of perverted material to face prosecution. So, having said that, I once again reiterate the Opposition's support for this Bill. I commend the Attorney-General in the other place for his actions in bringing this Bill before Parliament and I commend my colleague the shadow Attorney-General in the other place for his strong support of the principles behind the Bill. I look forward to the passage of the Bill through Parliament, in order that some of these people can at long last be brought to justice.

Mr SUCH (Fisher): I strongly support this Bill. I believe that what adults do sexually, providing it is between consenting adults, is their business but that when it comes to children this Parliament has an absolute obligation to seek to protect them as best we can, not only from those who would prey on them but often from themselves. The link between pornography and sexual crime is not clearcut, but I believe we should err on the side of caution, and to that extent I believe this Bill will assist in reducing the likelihood of sexual crime, particularly that which is directed against children. Although the research suggests that the link between pornography and sexual crime is not totally clearcut, I believe that this sort of measure does go partway towards reducing the likelihood of people being encouraged to go from simply possessing and reading this material to actually implementing some of the suggested behaviour that is contained in this sort of material.

We know that the adults who molest children and who engage in sexual activity with children often suffer from a personality disorder and that it is a manifestation of insecurity and an inability to relate to adults. Nevertheless, that should not deter us from seeking to protect children by such measures as this which, as I say, will lead it is hoped to a reduction in the likelihood of sexual crime against children. I believe that sexual behaviour can be in the form of an addiction, just as there is an addiction in relation to drugs, and I think this sort of material can result in a particular form of addiction, which can then flow over into a form of behaviour which is at the expense of young children.

This measure, in reducing the risk to children is I believe absolutely desirable and if it results in just one less child being molested or in any way being interfered with, then it will have been worthwhile. I am aware from representations made to me by people from within our prison system that there is a sophisticated paedophile network operating in this State, and the information I have has been relayed to the appropriate authorities. I understand that the Major Crime Squad is actively pursuing some of these matters, including a computer listing of children who are at risk, and this is often linked with claims about Satanism and other sorts of unusual behaviour.

I should like to conclude by acknowledging the work of the police and the staff of the Department of Family and Community Services in seeking to tackle the question of sexual abuse of children, which is clearly a matter related to the substance of this Bill. Whilst attention has been focused on the northern suburbs, we kid ourselves if we believe that undesirable sexual activity involving children occurs only in those suburbs. I do not believe that is the case. I publicly acknowledge the role of the police in their supportive activities working with FACS there and in other suburban areas of Adelaide, as well as in country areas.

I am not being critical of FACS, but I think that the police, in pursuing those sorts of matters, bring their particular skills in questioning and interviewing techniques and, as a result, have been very successful in uncovering some of the undesirable activities that constitute sexual abuse of children. I commend this Bill to the House and look forward to its speedy implementation to ensure that children in our community are given a greater degree of protection than currently exists.

Mrs KOTZ (Newland): I want to take only a few minutes of the time of the House to indicate my support for this Bill and to say that I do not intend to outline it, as I believe the member for Bright has done that sufficiently on behalf of the Opposition. At the beginning of the year, I held several meetings with certain members of our community who were concerned with this very subject. These meetings included members of the Police Force, who spoke of their very real concern that the possession of child pornography was not illegal. Their concerns were represented by many years experience and sensitive understanding of the area of deviant behaviour and victimisation of our children.

I intended at that time to introduce a private member's Bill to achieve what now amounts to the amendments inherent in this Bill. I was, therefore, most pleased to support the Attorney's move to introduce the Bill. I was also pleased to learn that the Australian Law Reform Commission had recommended that possession and production of child pornography, regardless of its intended use, be made an offence. It was also most heartening to find that the definitions cover not only a situation where a child is not represented or actually involved in indecent activity but also a situation where a child is the witness to indecent activity, and I believe that is most important.

However, as the law stands, before this amendment, the mere possession of child pornography is not an offence. The sexual exploitation of our children must be totally condemned and is condemned, I am quite sure, by all members in this place and by all responsible adults in our society. I believe it is most appropriate that the possession of such highly offensive material will now attract a year's imprisonment or a $4 000 fine. Therefore, I declare my support for this Bill.

The Hon. G.J. CRAFTER (Minister of Children's Services): I thank members of the Opposition who have contributed to this debate for the indication of their support for this measure, which is of some import. Members have, I think, expressed the views of all members of this House.

The Bill comes to us, having been thoroughly scrutinised in another place, although I note that we will be considering a series of amendments in Committee tomorrow. The Bill simply amends section 33 of the Summary Offences Act 1953 to prohibit the possession of child pornography, making possession of child pornography an offence punishable by imprisonment for a maximum of one year or a $4 000 fine.

Further, the Bill provides that a person who produces, sells or exhibits child pornography may be imprisoned for two years for a first offence or four years for a second or subsequent offence. The later offence attracts a high penalty, because it is the first link in the chain of sexual exploitation of children and is often done for substantial commercial gain. As the member for Newland has just said, the amendments are based on the recommendations of the Australian Law Reform Commission in its report No. 55 entitled 'Censorship Procedure', which, amongst other things, recommends the adoption of a national legislative scheme in the censorship area.

Currently, child pornography has been deemed unsuitable for commercial distribution in Australia and is classified as a refused classification by the Chief Censor. Under the Criminal Law Consolidation Act 1935 in this State, various provisions make it an offence to have sexual intercourse with persons below a certain age. Section 58a of the Criminal Law Consolidation Act makes it an offence if a person, for prurient purposes, incites or procures the commission by a child of an indecent act. However, as the law stands, before this amendment, the mere possession of child pornography is not an offence.

The Australian Law Reform Commission, to which I referred a moment ago, considered Australia's obligations as a result of the ratification of the United Nations Convention on the Rights of the Child, particularly of article 34, which undertakes to protect all children from all forms of sexual exploitation and abuse. The production of child pornography is likely to involve child sexual abuse, and is often associated with child sexual offenders.

As a result of extensive consultation, the Australian Law Reform Commission has recommended that the possession and production of child pornography, regardless of its intended use, be made an offence. So, that has now resulted in the legislation before this place. That recommendation and the other experiences that have called for this legislation in South Australia have resulted in its appearing before us now.

The Government believes that children, who are amongst the most vulnerable in our society and for whom we accept a special obligation, must be protected from adults who seek to abuse and exploit them. This amendment will work to eliminate the sexual exploitation of children in our society. The Bureau of Criminal Intelligence, which investigates the problem of child pornography, fully supports the amendment. I note the comments of the member for Bright and the member for Fisher with respect to the work of the Bureau of Criminal Intelligence and the Police Department generally in this area, in specific locations of our State over recent years, which adds further impetus to the importance of the passage of this legislation. I commend the Bill to the House.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

The Legislative Council intimated that it insisted on its amendment No. 3 to which the House of Assembly had disagreed and had disagreed to the alternative amendments made by the House of Assembly in lieu of amendment No. 3.

ADJOURNMENT

At 10.52 p.m. the House adjourned until Thursday 30 April at 10.30 a.m.