LEGISLATIVE COUNCIL

Wednesday, September 15, 1976

The PRESIDENT (Hon. F. J. Potter) took the Chair at 2.15 p.m. and read prayers.

PETITION: SEXUAL OFFENCES

The Hon. R. A. GEDDES presented a petition signed by 27 electors of South Australia stating that the crime of incest and the crime of unlawful carnal knowledge of young girls are detrimental to society and praying that the Legislative Council would reject or amend any legislation to abolish the crime of incest or to lower the age of consent in respect of sexual offences.

Petition received and read.

QUESTIONS

HOSPITAL FACILITIES

The Hon. C. M. HILL: I seek leave to make a statement before asking a question of the Minister of Health.

Leave granted.

The Hon. C. M. HILL: In the *News* of September 9, an article headed "Professor speaks out: funds for medical care 'misused' " states:

A leading Adelaide authority has criticised the misuse and misappropriation of resources by medical technology.

Dr. A. J. Radford, Professor of Primary Care and Community Medicine at the Flinders Medical Centre, said this was "nowhere more in evidence" than in the establishment of cardiac surgery and intensive coronary care units.

"In America in 1970 there were reputed to be more than 700 open heart surgery units," he said.

"About 100 of these did 80 per cent of the work. This suggests the others were unnecessary and maybe their attendants were doing less than enough work to remain competent."

After referring to a British study, Dr. Radford criticised the wasteful use of resources. The article continues:

Opening the Institute of Medical Technologists' first annual conference in Adelaide, Dr. Radford said every Government had a responsibility to put a brake on the wasteful use of resources available for health and medical care.

Does the Minister of Health believe that the professor's criticisms are in any way valid? Also, is the Minister satisfied that there is no evidence within his own department of waste of such resources?

The Hon. D. H. L. BANFIELD: I cannot say whether there is any validity in what the professor was talking about in relation to Britian and America, the two places that the honourable member mentioned. In relation to South Australia, I believe none of these resources are wasted.

CHILD'S PUSHER

The Hon. J. C. BURDETT: I seek leave to make a brief explanation prior to directing a question to the Minister of Lands, representing the Minister of Transport.

Leave granted.

The Hon. J. C. BURDETT: Shortly before lunch, a young lady saw me. She was very distressed and in tears; she was upset. She had, apparently, recently purchased a pusher for carrying her young child. Before purchasing it, she had inquired in the store whether the pusher was suitable in size and weight to be carried on Municipal Tramways Trust buses (and she had been assured it was) because she relies frequently on M.T.T. buses. She sought to put the pusher on these buses. In the first place, the drivers have in all cases, without exception, refused to help her lift the pusher and put it on the bus. Because, apparently, of some complications she had with the birth of her child, she is unable to lift and has had to rely on passengers helping her put the pusher on the bus. Also, she told me that in many cases she had been abused, sometimes very roundly, by the bus drivers complaining about the size of the pusher. She did not take the numbers of any buses and cannot identify the drivers.

She went to the M.T.T. office and asked whether there were any regulations or rules about the type of pusher allowed on buses, and she was told, so she tells me, that it is entirely in the discretion of the driver. First, are there any rules in regard to M.T.T. buses about the size of pushers that can be carried? Secondly, if there are, can they be displayed on the sides of buses so that people will know what they are? Thirdly, could drivers be permitted to assist, in the course of their duties, in putting pushers on to their buses? The reason given to the lady was that drivers would not be covered by workmen's compensation if they did assist. If that is the case, I suggest it is possible for the Minister to alter the nature of their duties so that they would be able to give reasonable and courteous assistance without its being outside their workmen's compensation cover. Can the Minister get replies to those questions?

The Hon. T. M. CASEY: I will refer the honourable member's questions to my colleague and bring down a reply as soon as possible, but my experience of M.T.T. bus drivers is that, provided it is not during peak hours, they have always helped people to the best of their ability. It is difficult to pick out exactly who is capable of lifting and who is not. It is very difficult to prove that point. Nevertheless, I will bring down replies.

KUNG FU KILLER

The Hon. J. A. CARNIE: I seek leave to make a brief statement before asking a question of the Minister of Lands.

Leave granted.

The Hon. J. A. CARNIE: The Minister will have seen a news item in yesterday's *News* about an offensive weapon that is available in at least one city store, and also it was an item in last night's *This Day Tonight* television programme. I quote briefly from the news item yesterday, which is headed "Kung Fu killer is being sold in Adelaide". The article states:

A weapon banned in some American States, because it caused a spate of deaths, is on sale in Adelaide. It's known as a Nunchaku—two pieces of wood joined by a chain . . .

The Nunchaku is part of the weaponry of the ancient martial arts. Its use is taught by instructors at some karate clubs in Adelaide. By holding one stick in the hand, the other end can be swung with deadly force.

I ask the Minister whether he believes that a weapon such as this should be available to anyone, including children, for $12 if they wish to buy it. I also ask the Minister whether he will ban the sale of such weapons in South Australia.

The Hon. T. M. CASEY: I am sure that the honourable member will be aware that this is an offensive weapon and that, naturally, it is illegal to carry it, as it is with all offensive weapons. I cannot see any difference between carrying one of these weapons and wielding a bike chain.

The Hon. J. A. Carnie: This is much more dangerous.

The Hon. T. M. CASEY: I doubt that it is, but nevertheless it can do irreparable damage to people on the receiving end. I will examine the honourable member's question in some detail to find out the situation, and will bring down a reply.

WATER STORAGES

The Hon. M. B. DAWKINS: My question, which is to the Minister of Lands, representing the Minister of Works, refers to the storages at present contained in the reservoirs that serve the northern suburbs of Adelaide and also the lower northern areas of the State. They are the South Para, Barossa and Warren reservoirs. I ask the Minister whether he will obtain for me particulars of the present storages in those reservoirs in relation to total capacity and whether he will also say whether the reservoirs at present are being supplemented from the Mannum-Adelaide main, through the off-shoot that runs through to the Warren reservoir, and also by the Swan Reach to Stockwell main.

The Hon. T. M. CASEY: I will refer the question to my colleague and bring down a reply.

PARLIAMENTARY PRIVILEGE

The Hon. ANNE LEVY: I desire to address a question to you, Mr. President. I should like to know whether on the afternoon of Wednesday, September 8, you instructed the Clerk of this Council to approach representatives of the *News*, the *Advertiser*, and the Australian Broadcasting Commission to tell them that, if their organisations published a story relating to the question that had been asked by the Hon. Mr. Dunford, they would be doing so at their own risk, as the matter might be libellous because it would not have privilege? Secondly, if such an instruction was given to the Clerk of the Council, was this given before the Hon. Jim Dunford's question was ruled out of order by yourself later in the afternoon? Thirdly, would you not agree that anything said in this House has privilege, whether it is subsequently ruled out of order or not, and that a factual account of what takes place in this Council could never be the basis of a libel action? Fourthly, would you not agree that such an instruction from yourself, if given, could be regarded as an attempt to intimidate the media and prevent members of the public from knowing what was happening in their Parliament? Lastly, if such an instruction were given, would you not agree that it could be interpreted as an attempt to protect a member of your own political Party by censorship of the proceedings in this House?

The PRESIDENT: I do not think I am called upon to answer all those questions, because I can answer simply that no such instruction was ever given by me, and I agree with the honourable member that anything said in this Council is privileged at any time.

GOVERNMENT CARS

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Minister of Lands, representing the Minister of Works.

Leave granted.

The Hon. M. B. DAWKINS: My question refers to Ministerial cars and cars provided for officers of the Parliament. I understand that at present most of these cars are Ford L.T.D.'s and also that they are very suitable vehicles for the purpose. However, has the Government considered reverting to the practice of using South Australian made vehicles, such as the prestige models that are manufactured by Chrysler Australia Limited and General Motors-Holden's and, if it has not, will the Government consider that possibility? Also, will the Minister ascertain how many cars are needed to be available as spare cars in the present pool of vehicles used by Ministers and officers of the Parliament?

The Hon. T. M. CASEY: I will refer the honourable member's question to my colleague and bring down a reply.

MORPHETT VALE AREA WATER SUPPLY EXTENSION

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Morphett Vale Area Water Supply Extension.

KEEPING OF DOGS

Order of the Day, Private Business, No. 2: The Hon. C. J. Sumner to move:

That by-law No. 32 of the Corporation of Whyalla, in respect of the keeping of dogs, made on August 11, 1975, and laid on the table of this Council on February 3, 1976, be disallowed.

The Hon. C. J. SUMNER moved:

That this Order of the Day be discharged.

Order of the Day discharged.

MORGAN PLANNING REGULATIONS

Order of the Day, Private Business, No. 3: The Hon. J. C. Burdett to move:

That the regulations under the Planning and Development Act, 1966-1975, relating to interim development control by the District Council of Morgan, made on February 19, 1976, and laid on the table of this Council on June 8, 1976, be disallowed.

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

That this Order of the Day be discharged.

In so doing, I make the following explanation. The regulations in question subjected part of the area of the Morgan District Council to interim development control under the provisions of the Planning and Development Act. The council objected to that course and to the regulations being imposed. It made its views known to the Joint Committee on Subordinate Legislation and to other council members.

The council's objections were based on two grounds. The first main ground was that decisions were being made under interim development control that were out of touch with local knowledge, skills and expertise. It cited a number of decisions that had been made by the State Planning Authority in relation to applications for consent under the Building Act, and so on, where a complete lack of local knowledge and needs was exhibited.

One example was given of a case in which an application was made for consent to move a house from a lower level

to a higher level. The house was in an area that was subjected to inundation by floodwaters and, even after it was moved to the higher level, the house would, in extreme conditions, still be subject to flooding.

The State Planning Authority decided to give approval for the moving of the house, provided that certain cladding was added to its floor. Members of the council who made an inspection were of the opinion that if the cladding were added that would make the house very much more flood prone than it was before. That is just an example, and the first complaint is that many of the decisions were being made without reference to the council and without any local knowledge or without accepting any of the local expertise or resources which were available.

The second complaint, which was the more serious one, was that the State Planning Authority has prohibited the building of houses on land which is below the 1956 flood level. This can be very serious because much of this land, and many of these allotments of land or interest in the land have been purchased quite recently and shortly before the regulation was passed, and in many cases before, for considerable sums of money. The net result of the regulation bringing these areas of the District Council of Morgan within interim development control under the Planning and Development Act has been that the land has been rendered valueless, and people have been, in a sense, cheated out of their money. In some cases the land was bought shortly before it came under interim development control under the Planning and Development Act and they paid large sums of money for land adjacent to the river for the purpose of building holiday houses and so on. Shortly after the land came under interim control the S.P.A. has in fact refused to give any permission for the building of houses below the 1956 flood level and the result is that people have paid thousands of dollars for land which has now become valueless. I suggest that the Government should consider in such cases buying the land so that people are not deprived of their money.

The reason that I seek leave to discharge this Order of the Day is that I do accept that it is within the letter and the spirit of the Planning and Development Act that interim development control orders should be able to be made, and that it is necessary that the State Planning Authority be able to say that it is unsuitable to build houses and holiday homes on land which is subject to flooding. However, where people have paid considerable sums of money for this land, and particularly quite recently, and where the land itself became valueless, I ask the Government whether it would consider buying the land. But because I acknowledge that it is within the intention of the Planning and Development Act that such regulations ought to be made, I seek leave to discharge this Order of the Day.

Order of the Day discharged.

PARLIAMENTARY PRIVILEGE

The PRESIDENT: Order! Before proceeding any further I wish to refer to the question that was asked of me a few minutes ago by the Hon. Miss Levy. I have been informed by the Assistant Clerk that he did in fact convey some message to one of the members of the press on Wednesday last. Apparently there was some misunderstanding in this matter about some comment that I made on the question of privilege when I expressed the belief that the press may have to consider the question of privilege if they decided to print. I do not remember any directions to this effect being given to the press at all, but I do remember making a comment to the Assistant Clerk, and others who were speaking to me at the time, that the press might have to consider whether or not there was any breach of privilege involved in publication.

The Hon. N. K. FOSTER: I take it from your answer that you have now made the position quite clear.

The PRESIDENT: I am quite satisfied that there is no breach of privilege of anything published that was said in this Chamber.

The Hon. N. K. FOSTER: Anything that was said is open for the press to print?

The PRESIDENT: Yes.

ELECTORAL ACT AMENDMENT BILL (No. 3)

Second reading.

The Hon. R. C. DeGARIS (Leader of the Opposition): I move:

That this Bill be now read a second time.

This short Bill seeks to overcome an anomaly that exists in the Electoral Act. This position was no doubt caused by an oversight in preparing the extensive amendments to the Act in 1973. Following those amendments, a common roll was adopted for elections for the Legislative Council and the House of Assembly. Unfortunately, in the rush of legislation following a conference between both Houses, no alterations were made to section 110a of the principal Act to allow it to apply to Legislative Council elections.

Section 110a provides that, where an elector believes his name should be on the roll for the House of Assembly elections and discovers that this is not the case, he may approach the Returning Officer to have his vote recorded in the prescribed manner. Unfortunately, this facility does not apply to electors who wish to vote for the Legislative Council. Obviously, as a common roll is now used, this right should be available to all voters. Many complaints were received at the recent election, and confusion obtained, when electors for the Legislative Council found at the polling booth that their names had been removed from the electoral roll for a variety of reasons, and they could not claim a second vote. This Bill seeks to rectify this position.

Clause 1 is formal. Clause 2 amends section 110a of the principal Act by deleting all references to Assembly districts and subdivisions and refers to the elector's present place of living. I commend the Bill to honourable members.

The Hon. C. J. SUMNER: I support the Bill, which corrects an anomaly. At the last election, electors who wished to apply to vote pursuant to section 110a were not permitted to do so in respect of the Legislative Council election. Section 110a is a saving section that gives electors whose names for some reason have been omitted from the electoral roll the opportunity of approaching the Returning Officer to have their vote recorded in the prescribed manner. Perhaps an elector's name may have been omitted from the electoral roll because of an administrative error or some other reason. This provision gives the officer in charge of the polling booth the right to grant a vote to a person who believes that his name has been incorrectly omitted from the electoral roll. There is absolutely no reason why that provision ought not to apply to Legislative Council elections; indeed, there is every reason why it should apply. I therefore support the Bill.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

DISTRICT COUNCIL OF LACEPEDE (VESTING OF LAND) BILL

In Committee.

(Continued from September 14. Page 955.)

Clause 1 passed.

Clause 2—"Definitions."

The Hon. D. H. L. BANFIELD (Minister of Health): The Select Committee's report, which has been distributed to honourable members, recommends the insertion of a new definition. Accordingly, I move to insert the following new definition:

"the trustees" means the trustees referred to in a certain indenture dated the seventh day of November, 1924, a memorial of which was received into the General Registry Office on the twentieth day of November, 1924, and registered number 184 book 491 and their successors in title.

Amendment carried; clause as amended passed.

Clauses 3 to 5 passed.

New clause 6—"Vesting of liability in the council."

The Hon. D. H. L. BANFIELD: I move to insert the following new clause:

6. (1) Any liability of the trustees in their capacity as such that arose or could have arisen before the commencement of this Act shall upon that commencement and notwithstanding any other Act or law, vest in and be discharged by the council.

(2) For the purposes of subsection (1) of this section the liability of the trustees in relation to a holder of a share certificate in the Kingston Doctor's Building Fund in that capacity shall be and shall be deemed always to have been two dollars for every share evidenced by that certificate.

Because we are vesting assets in the District Council of Lacepede, we believe that, should there be any liabilities resulting from this move, we should vest them, too, in the council. We believe that we should ensure that the value of shares in the Kingston Doctor's Building Fund can be only $2.

New clause inserted.

Title passed.

Bill reported with amendments. Committee's report adopted.

PUBLIC PURPOSES LOAN BILL

Adjourned debate on second reading.

(Continued from September 14. Page 961.)

The Hon. R. C. DeGARIS (Leader of the Opposition): In the second reading explanation, which was incorporated in *Hansard*, the estimated Loan expenditure for the 1976-77 year amounts to $262 000 000. As pointed out in the second reading explanation, although we present two separate budgetary Bills each year, one dealing with Loan funds and the other with general expenditure, the two are linked in many ways. Anyone who examines these papers each year can see that there is much interlocking between the two documents.

It has been the practice to use Loan funds in reserve to cover revenue deficits, a practice which I have previously mildly criticised. On the information given to the Council in the Bill, it appears that that position no longer applies; indeed, it is reversed, and revenue income is being diverted to cover anticipated deficits in the Loan Account. This is the first time that this has happened in at least 10 years, at a guess and as far as my memory goes. It is more difficult to criticise this approach than the use of Loan funds to bolster revenue deficits.

The explanation on page 4 of Parliamentary Paper 11a refers to the fact that new money available to South Australia from the Loan Council was about $169 400 000. Repayments and recoveries of expenditure available would be about $71 600 000, making a total of about $241 000 000.

The total Loan expenditure for 1976-77 is $262 000 000. Before I pass any comment upon the allocation of these funds, I should like to raise again the question of the future of the Australian Loan Council. I have raised this question on two previous occasions, without making much impact, but I believe it is a matter of such importance that it needs to be raised again. On both previous occasions, I have not looked at it in any great depth, and I do not intend to examine the matter fully at this stage. So far, not only by State Parliament and Federal Parliament but also by constitutional lawyers and others who have an interest in this matter, too little attention has been paid to the future of the Loan Council. Already, brief comments have been made by Sir Kenneth Bailey and Professor Geoffrey Sawer, who both state quite definitely that the Loan Council powers in national and State economic policy will end some time between 1980 and 1985.

The Hon. R. A. Geddes: What reason do they give for stipulating those dates?

The Hon. R. C. DeGARIS: The Financial Agreement was made in 1927, and the five-year period 1980-85 depends on an interpretation being placed on Part III of the agreement, where it could finish in 53 years but may have to go the extra five years to cover the provisions of Part III. In their opinion, there is no chance of the Loan Council's going beyond 1985, but there is a possibility that the Loan Council's function could change, and change dramatically, by 1980. I point out that we are only three financial years away from this possible (I go further and say "probable") position where the Loan Council's powers will change by 1980. I do not think there is any doubt that the council's powers will change by 1980 or thereabouts, but how much change will take place has yet to be determined.

If the view expressed by Bailey and Sawer is correct, then the balance of power in the Australian Federation would be seriously upset. I stress again that we are only three years from the first deadline set by Bailey and Sawer when the Loan Council's powers will change. It is necessary once again to remind this Parliament of what can happen in these changes. One must bear in mind that the Loan Council's powers extend not only into the fiscal policies of the Commonwealth but also into the balance of payments, as well as the fiscal policies of the States, so the powers of the Loan Council play an extremely important part (and have since 1927) in the economic policies not only of the States but of the whole Commonwealth; also, there is the question of its international relationships in respect of the balance of payments.

I believe the position to be this. At some time in the 1980's, between 1980 and 1985, there will be a Loan Council with one of the following sets of powers: first, a Loan Council with all its current powers that will continue to operate for another 50 years, the term of the last loan made when the powers changed; secondly, a Loan Council with power over Government borrowing for temporary purposes, but with no other powers; and, thirdly, a Loan Council with no powers at all. Those appear to me to be the three alternatives that are possible, following some point between 1980 and 1985.

The viewpoint taken by Bailey and Sawer is that Part III of the Financial Agreement is referred to in the prescribed powers of the Loan Council in this way; if one looks at all the matters, with the exception of two, in the powers of

the Loan Council, it will be seen that these powers are prescribed by the phrase "While Part III of this agreement is in force". That is the qualification that exists in regard to the powers of the Loan Council.

Some commitments in Part III of the Financial Agreement come to an end at some time in the 1980's. Therefore, it is certain that there will be some change in the powers of the Loan Council somewhere between those two dates, 1980 and 1985. If all of Part III is not in force in the 1980's, the powers of the Loan Council that depend upon Part III (and not part of it) could also not be in force. The qualification that the powers of the Loan Council shall continue while Part III is in force applies to most of the council's powers over economic policy. I should like to quote for a moment some of the comments on this matter made by R. S. Gilbert, a research officer for the Centre for Research on Federal Financial Relations at the Australian National University in Canberra. Dealing with clause 4 (4) of the Financial Agreement, he says:

While Part III of this agreement is in force, moneys shall not be borrowed by the Commonwealth or any State otherwise than in accordance with this agreement.

Gilbert goes on to say:

The significance of clause 4 (4) has been forcefully declared by Rich and Williams JJ.: "It necessarily follows from clause 4 (4) that the whole of the rights of the Commonwealth and the States to borrow are included in the agreement and that no such rights exist outside the agreement. There would be a clear breach of clause 4 (4) if the States or the Commonwealth borrowed moneys by way of overdraft in excess of the maximum limits decided upon by the Loan Council for interest and other charges."

Apart from interest and charges, borrowing for temporary purposes is not subject to this or any other subclause of clause 4 because of the effect of clauses 5 (3) and (9) and 6 (3) and (7). But in the commentary on these subclauses it is shown that, while not compulsory, the practice in the 1930's was for Australian Government securities to be issued for States' short-term loans when securities were required by lenders.

One effect of clause 4 (4) is to invalidate any loans (except defence loans) not borrowed in accordance with the agreement. Persons or institutions contemplating subscriptions to a loan to the Australian Government or a State should therefore ensure that the terms and conditions of the loan, and its amount if it is a long-term loan, have been approved by the Loan Council with members validly nominated. The information can be provided by authorised advertisement, Ministerial statement or loan prospectus. The pre-conditions of a valid council require compliance with relevant subclauses of clause 3 which, in form, is mandatory. The provisions of subclause 4 (4) are subject to the qualification that they shall operate "while Part III of this agreement is in force", with all that that implies for the life of these powers.

That is only one quotation on this matter. As I have pointed out, both Sawer and Bailey have already commented on the matter, and their view is quite definite. I raise the question whether this State Parliament, other State Parliaments, and the Commonwealth Parliament should be considering this matter with some urgency, because, if the powers of the Loan Council no longer exist, say, by 1980, we will have the situation where the States once again will be able to arrange their own borrowings overseas, and we will have a competitive situation among the States in borrowing moneys for their particular purposes. The Loan Council no longer will have power to play an important part in policy decisions, concerning not only the State's fiscal policies but also the balance of payments and Commonwealth financial policies on loan rates.

I consider that this matter is now of some urgency and that attention should be given to it, because unless there is a renegotiation of the Financial Agreement and unless these matters can be determined we could quickly go back to a situation that existed before 1927. I do not think any member of this Council would like to see that happen. I am a very firm federalist in approach; I believe that we have moved along the line of centralism far enough, but I do not want to see a return to the situation where we have States competing against one another on the loan market. I think that would be a position not in the national interest.

Regarding these Loan Estimates, the money we receive in allocations to the various areas of Government enterprise comes from decisions of the Loan Council. I pose clearly to this Council the question that this matter is of importance, as there is a distinct possibility that, within three years, there will be no Loan Council that can exercise any control over these particular matters. This is the third time that I have referred to this subject in debate in this Council, and I ask the Government whether the matter is receiving any attention, whether the Government is concerned about the future of the Loan Council, and, if it is, whether a statement will be made to the Council, in the reply to this debate, on the points that I have raised.

There are many other aspects of this question that I could deal with and many other points that could be raised. It may well be (I think it is an outside chance, but it could be possible) that the powers of the Loan Council will not be altered by some time between 1980 and 1985, but I believe that that position is somewhat remote. There will be a change and it is a question of what that change will be. Probably, that can be determined only by a High Court action. Nevertheless, the Government should express an opinion on the questions I have asked. At this stage, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

SOUTH AUSTRALIAN GRANTS COMMISSION BILL

Adjourned debate on second reading.

(Continued from September 14. Page 962.)

The Hon. C. M. HILL: I am pleased to see a Bill of this kind before the Council, for two reasons. First, there is a need to formalise the practice that has already been implemented by the Minister, in that an interim commission has been set up to assist with the distribution of money that is already coming from the Federal Government for local government purposes throughout the State. Indeed, the practice of money being allocated from the Federal Government began after the passing by the Commonwealth Parliament of the Grants Commission Act of 1973.

The Hon. C. J. Sumner: Was there any money from the Australian Government for local government before that?

The Hon. C. M. HILL: Not directly for this State; it could come via the State Governments and, naturally, the State Government did make some contribution to local government. As the honourable member knows, most of the local government funds come from Canberra. There is a need to pass a Bill so that a permanent commission will be set up in this State to administer this particular system. The second reason why there is a need for the Bill is that there is an urgent necessity to put aside for all time, if that is possible, the dreams of some leaders of the Labor movement in this country ultimately to do away with State Parliaments and to develop a unitary system of government for this nation, a system in which money would be funded from that unitary Government in Canberra to some form of regional administrative centres.

If that ambition was ever attained, of course, a regional form of local government probably would develop, and an established programme would be laid down in which money would come directly from Canberra to these particular administrative centres. Therefore, the proposal in the Bill certainly is a step in the right direction, because it brings us back to some sanity in regard to the traditional three-tier system of government throughout Australia. It brings us back into a system in which the local government authorities receive more funds than they have received previously. However, the Federal money that they receive will be channelled through the State Government, through this machinery in which the State Government establishes a commission, the Federal money comes to that commission, and then from the commission allocations are made to councils throughout the State on certain bases. Legislation that can tend to cement that three-tier system and do away with any possibility of that direct financial channel between the Federal Government and local government is, I think, good legislation in principle.

The Hon. C. J. Sumner: Creating six bureaucracies instead of one?

The Hon. C. M. HILL: We all know that members on the other side are upset by the presence of State Governments and we know, from the statements that their Leaders make from time to time, that they have this ambition ultimately to abolish State Governments.

The Hon. J. E. Dunford: Only the Upper House.

The Hon. C. M. HILL: I know that that is in their programme, too; that takes some priority over abolition of State Governments, but the State Parliament (in this Council, I know) is the target, and it probably will be abolished, if hopes are realised, by a two-pronged attack, first, on this Council—

The Hon. J. E. Dunford: This one is the most important. We are supernumerary now.

The Hon. C. M. HILL: However, the point I am making is that this Bill emphasises a system that I believe to be a splendid system of government; it emphasises a system where this third tier (local government) is established, as it is under a State Government Act, and a system that can, in future, obtain more finance than it has obtained in the past, but it will obtain that finance through the State Treasury. That State Treasury will be funded from Canberra, and this fair and equitable distribution of money, by somewhat of an independent body, to local government is now included in this chain. So, the Bill seeks to establish this commission.

The Hon. C. J. Sumner: Three steps instead of one.

The Hon. C. M. HILL: That is correct.

The Hon. C. J. Sumner: That's very inefficient.

The Hon. C. M. HILL: There is great safety and many other advantages in the three-step system. In relation to its format, the Bill establishes a South Australian Grants Commission and a South Australian Grants Commission Account, through which this money will pass. It lays down that the Minister shall gazette the proportion of the money that is to go to councils on a per capita basis, on the one hand, and under a heading of "Special grants" for the balance.

Clause 7 lays down the formula regarding the calculation of those capital grants, and clause 8 deals with the subject of special grants. Part III and clause 9 lay down that the commission shall comprise three persons. The conditions of membership, the remuneration of members of the commission, and other functions of those members are set out in clauses 10 to 15. Then, the actual functions of the commission are set out in clause 16. There are the very important clauses 17 to 19, which deal with the equalisation principle and the establishment of the distribution of special grants.

Finally, the Bill provides that the Minister's final approval is required before the commission's findings are adopted. My first query regarding the Bill deals with the definition of "council". I have examined the Acts as and where they apply in other States, as well as the Bill that is still passing through the Victorian Parliament.

The Hon. C. J. Sumner: Have all the other States enacted similar legislation?

The Hon. C. M. HILL: I cannot ascertain whether Queensland has. Although I have tried to do so, I have had only 24 hours in which to do my research. I have not been able to ascertain the exact situation in Queensland.

The Hon. C. J. Sumner: But all the other States, except Victoria, have?

The Hon. C. M. HILL: The Victorian Bill was introduced in that State's House on September 6, and I know the Tasmanian measure has passed. It was assented to on June 26. I commend Tasmania because, after all, this matter was agreed to at the April Premiers' Conference. We are somewhat behind. I cannot say that that delay has been caused by an excessive Parliamentary legislative programme. Nevertheless, there has been some reason for this State's lagging on this occasion.

The Hon. C. J. Sumner: What about Queensland?

The Hon. C. M. HILL: I thought I had explained myself regarding Queensland. As honourable members would know, New South Wales has had its own measure of this kind since as far back as 1968. That State adopted the principle that I think should have been adopted in this case: it amended its Local Government Act. Even the name of this Bill is something that I query. New South Wales did not call it a State Grants Commission: it called it, as I believe our commission should be called, a Local Government Grants Commission.

This returns me to the point with which I was dealing, namely, the definition of "council". We all know what the Minister of Local Government has in mind when he defines "council" as he has done here, as far as local government is concerned. That definition is as follows:

"Council" means a council as defined for the purpose of the Local Government Act, 1934-1976, and includes any person or body prescribed as a council for the purposes of this Act:

Certainly, we should have had more explanation of this in the Minister's second reading explanation. Although I must admit that the Minister drew honourable members' attention to this definition, he left it at that. Is it the case in this State, as I suspect it might be, that we have people living outside council areas and we have a part of the State that is not yet under local government administration? Or does it go further, and can we foresee, for example, some groups of people, such as residents' societies or associations in this State, being prescribed by regulation as councils for the purposes of this Act, and being in a situation in which such societies or associations might well apply for special grants to establish, say, a playground on land within their neighbourhood communities that they may happen to own? This might involve a promotion by one of the men's groups which provides a community service.

The Hon. T. M. Casey: You are talking about areas outside of local government areas?

The Hon. C. M. HILL: No.

The Hon. T. M. Casey: You are talking about inside local government areas?

The Hon. C. M. HILL: Yes, and I think that there are some dangers in this. If there is to be a definition of "council" meaning any authority other than councils as we know them, it should be specifically laid down in the Bill that such an authority must be a body outside local government areas.

The Hon. T. M. Casey: Something like the Whyalla commission?

The Hon. C. M. HILL: That is so. I am thinking more of the progress association in Coober Pedy. Only this week there was a report about the community's deficiencies in the form of Government grants in connection with Marree. There was a need for some contribution to assist those people with their community hall, and so forth.

I have no objection to groups of that nature, which are outside local government areas, being considered for some form of special grant. After all, the associations in those parts of the State are part of the evolution of local government, anyway, because we all know that in due course such associations grow and that, ultimately, local government will be established in those areas.

However, I certainly do not want to see passing through this Council a Bill pursuant to which a group of people within an existing council area may be able to make representations to the Minister, who could well regulate on a basis that that association be deemed a council for the purposes of this legislation and have the right to apply for a grant under the special needs provisions of the Bill.

I am willing to hear more in the debate on this matter and to listen to the Minister's reply. However, I think this definition ought to be tightened up to mean specifically what the Minister has in mind. That is an important point that the Council ought to examine.

My next point (and I return to my earlier remarks regarding the New South Wales legislation) is that it is a great pity that this Bill does not include provision for the State Government itself to allocate money into this fund, which is being set up by the Bill. The time has come when, instead of the State Government's giving a grant to one council, and another grant to another council, with no-one really knowing what other councils are receiving or going to receive, one lump sum ought to be allocated annually by the State to this account, namely, the South Australian Grants Commission Account, which is being set up by the Bill.

The Hon. J. C. Burdett: Does that happen in New South Wales?

The Hon. C. M. HILL: Yes, and this is written specifically into their legislation, which provides that a sum of not less than $4 000 000 a year must be allocated. Of course, over the years, Governments in New South Wales have gradually increased that with the inflationary spiral and with the needs and demands of local government communities. I think that is a very fair and proper approach. I just give one example. There was a press release, I understand, that came from the Minister of Local Government's office on September 3 of this year, stating:

The South Australian Government is to hand over almost $8 000 to the Tea Tree Gully council for a reserve in the Fairview Park area, the Parliamentary representative for the area, Mrs. Molly Byrne, said today. Mrs. Byrne said that Local Government Minister Geoff Virgo had advised her that the money was for 0·136 hectares of land situated at Hartog Street, Fairview Park.

That particular news item is not, in itself, dealing with the matter which I am criticising. What I am criticising is the principle that has applied in this State, and still does apply, in which separate councils can make application to the Minister of Local Government, and some can be granted allocations and some refused. Really speaking, it is a system which could be improved tremendously if, prior to each financial year, the Minister of Local Government's office made its estimate (or it could be a recommendation with the commission being set up in this Bill) of what was a fair and reasonable aggregate allocation that ought to go from the State Government to local government for the forthcoming year. A certain sum would be set aside and allocated, and then local government throughout the State would have equal opportunity to apply for portion of that money; local government everywhere would know how much the other councils were to receive as well. When one considers the existing system and the machinery in New South Wales, one must come down, I believe, on the side that an improvement is needed, and certainly a system in which the State Government assists with one lump sum in that way is far preferable to the existing arrangement.

I think it is a great pity that in this Bill provision for the State Government to do that is not included. It gives me more grounds to suspect that the State Government here certainly did not produce this measure by way of an amendment to the Local Government Act, as I think it should have, because of some of these flow-on arrangements which might well be demanded, and yet I think there is need for such a change. I repeat that I am very sorry that this Bill is not entitled a Local Government Grants Commission Bill. I am sorry that it is not an amendment to the Local Government Act, and I am sorry, too, as I said a moment ago, that the State Government is not showing generosity and good faith in this measure by its providing machinery in which it can make an aggregate annual grant to local government, as well as, of course, welcoming the Federal grant with open arms, as it is through the machinery that is being set up here.

The next query I have deals with clause 6, and that begins the machinery by which this money it to be distributed. Under clause 6, the Minister must, as soon as practicable after the commencement of each financial year by notice in the *Gazette*, specify three things: first, the total amount that is available from the account for payment of all grants pursuant to the Bill; secondly, the amount that is available from the account for the payment of per capita grants pursuant to the Bill; and thirdly, the amount that is available from the account for the payment of special grants pursuant to this Bill.

I want to know who decides the proportions of the per capita grant and special grant. I have heard (and I would like to know the exact situation) that the Federal Government itself has stipulated that the per capita grants shall not be less than 30 per cent of the whole. I do not know whether that is a strict instruction or not. I do not know whether it is a suggestion, but it would seem to me to leave the door open for an imbalance that might affect the whole of local government if the Minister made the wrong decision in that matter. We all know that the most controversial part of this legislation is going to be the distribution of special grants. There cannot be much controversy in regard to the per capita grants: that is simply a matter of a calculation commensurate with the proportion of population of each area to the whole State.

When we come to the area of special grants we know that the Minister of the day, irrespective of who he may be or which Government is in office, is going to be in the hot seat in this matter, because some councils feel they deserve more than other councils, and so forth. I think, therefore, that there may be a possibility of a Minister

(I am not accusing the present Minister of such action), in order to avoid that kind of argument and controversy, increasing his proportion of per capita grants, thereby decreasing the amount available for special grants and, therefore, avoiding some of the problems by saying, "We haven't a great amount available for special grants, anyway."

I think this is a very important first step that ought to be looked at very closely by this Council. Indeed, I cannot find in the Bill where the Grants Commission itself would have any control or say in this matter. I cannot see where it has power even to advise the Minister in regard to this point. However, I do think that the Grants Commission that will be established will know the situation in regard to the needs of local government so well after a few years establishment that it certainly will be a fair, just and proper authority that ought to have some say in the proportion of this money which goes into per capita grants, on the one hand, and into special grants, on the other.

I believe it could well be in the Minister's best interest to give the commission some power to say how this initial split-up of the total funds should be made. Therefore, it might well be that, in reviewing this legislation, this Chamber might consider a changed approach: the Grants Commission either recommends to the Minister or, in fact, the Grants Commission itself should lay down how these two initial proportions should be established. I leave that point for the consideration of honourable members.

I move to the important aspect of the composition of the commission as it is proposed in the Bill, and this is dealt with in clause 9. During the terms of the Labor Governments in this State since 1970, there has been a considerable change in the composition of authorities, committees and commissions set up in legislation that has been introduced. Previously, whenever a Government wanted to have a representative of a particular group that was interested in a Bill, the Government of the day always asked for that representative; it either asked for the body simply to nominate a person, and that recommendation was accepted by the Minister of the day; or, if there was any doubt at all as to whether the Minister ought to have a little more control over such appointments, there was a system by which the authority (in this case I am talking about the Local Government Association of South Australia) was asked to provide three names. The Minister had the choice of the names. After a few years, I was willing to accept that as a reasonably fair principle. It meant that that representative of the Local Government Association at least would be a party nominated by the association. However, the trend has developed whereby the Minister simply plays with words. The rules he lays down to choose such appointees have become farcical. Clause 9 (2) (*c*) provides:

One shall be a person nominated by the Minister after consultation with the Local Government Association of South Australia, who in the opinion of the Minister is capable of representing the interests of local government in this State.

When we carve that provision to the bone, it simply means, first, that all the Minister has to do is to have an appointee in mind; secondly, he consults with the Local Government Association; and, thirdly, he goes back to his office and announces the appointment he had in mind, anyway. What kind of respect for the Local Government Association is that? In the interests of the best possible legislation that this Parliament can pass, this Council ought to consider amending the Bill in this respect. The first two nominees are direct appointees of the Minister, anyway. So, I am only suggesting that one of the three commissioners shall be a person whom the Minister himself has not selected. The procedure I am recommending is far better than the system whereby the Minister has the total say. It must be borne in mind that this Bill will be effective not only as regards the present Government: it goes on to the Statute Book and remains there as it is until amended or repealed. So, it is not a matter of directly criticising the present Minister: it is in the cause of enacting the best possible legislation.

I turn now to two matters that are linked, because one affects the other. I raise the question as to who will have the final say in connection with the amounts that each council receives under the special grants. The matter is dealt with in clause 19. The machinery proposed is that the Grants Commission shall make recommendations to the Minister, who shall either approve those recommendations or send them back to the commission for further consideration; if the second course is adopted, the commission shall reconsider its initial recommendations and resubmit a case to the Minister, who shall then be bound to accept the commission's decision.

What Parliament has to be particularly careful about is whether or not at any stage pressure can be brought to bear on a Minister to ensure that a better deal is given to one council, as compared with the deal given to another council. We all know that Ministers of Local Government, generally speaking, have had fairly close connections with particular councils during their careers. The Minister of Local Government was a member of the Marion council; I was a member of the Adelaide City Council; and the shadow Minister of Local Government in the Opposition has been Mayor of Kadina.

So, it is not a happy situation in which to place a Minister, where some councils may claim that the Minister did not accept the commission's initial recommendations, that he sent back the recommendations, and that his influence over the commission was such that the commission yielded to the Minister's wishes. I do not mean to be personal in any way; I want to protect the Minister, because justice must be seen to be done as well as be done. The solution to the problem is to ensure that the tenure of office of a member of the commission is longer than what is laid down in the Bill. Clause 10 (1) provides:

Subject to this section, a member of the commission shall hold office for a term as specified in the instrument of his appointment in any case not exceeding five years.

The Hon. J. C. Burdett: It should be a full five years.

The Hon. C. M. HILL: Yes. I believe that the term of office in New South Wales is five years and that the terms of office in some States are between three years and five years, but I would not like to be held to that. After all, why is the period "not exceeding five years" mentioned in the Bill if the Minister really means that the appointments should be for five years? If this Bill was amended so that the term of office of each member of the commission was five years, it would certainly indicate security of tenure and it would considerably lessen the likelihood of any influence affecting members of the commission.

If the Minister appoints the three commissioners for a one-year term, if during that period he says to the commission, "I believe a council has a better case than you have adjudged it to have, and I want you to reassess your recommendation," and if those commissioners know that they have only so many months of their term to run, the possibility exists of undue influence. I therefore believe

that we should, as far as possible, prevent that possibility occurring. Accordingly, I believe that the Minister should appoint commission members for a full five-year term.

The commissioners themselves will come under tremendous pressure from local government people. Naturally, councils will make representations to the commissioners to support their case. Much independence will have to be exercised by this commission. It is given some guidelines and I support the general principles of revenue equalisation and expenditure equalisation. I believe the disabilities of councils which are rather similar to each other is another guideline worthy of inclusion in the Bill.

As I read clause 18 (2) (*b*), I note with satisfaction that these guidelines are laid down in the Bill and that the commission will have to give every consideration to them; but it is also given considerable flexibility in its consideration and decision-making. I think that is proper and that, more than anything, highlights the point I am trying to make, that Parliament should protect these commissioners from undue influence, whether from a member of Parliament, the Minister himself, the council, the mayor, a councillor, or anyone else, and one way in which they can be protected is to give such members a minimum term of office. That is a weakness in the Bill at the moment; it should be improved before it passes.

I now refer to clause 12 and raise a new point that has not been raised in principle, as I recall; however, I think the time has come in these days of economic restraint when it should be raised, and that is that there is every possibility of a member of the Public Service being appointed one of the members of the commission. I say that because I notice that in some places in State legislation a senior officer of a Minister is a member of a commission and, although I am not absolutely certain whether he could move about and circulate through the local government areas, as I believe this commission should, nevertheless I think a strong case can be made for a close liaison to be established between councils and such an officer. But the point I make now is that I think the time may have come when any member of a body such as this, who is a member of the Public Service and who carries out his work during normal working hours within the Public Service, should not be entitled to an extra fee for that work.

I notice it was especially laid down in one of the State Acts; and we know, too, that there are many public servants in this State who hold office on committees outside the realm of their normal departmental work and who receive extra fees (in some cases, extra fees of considerable proportions) for that work and responsibility. If the work is done outside their normal working hours, I am prepared to say that certainly that situation is different from the one I have in mind, but I make the point that I do not think it is right that, if a member of the Public Service becomes a member of this commission and if his work as a member of that commission entails work within the normal working hours of the Public Servce, a fee should be paid to that person.

He may well be recompensed for expenses and that sort of thing, but for that man to receive the same fee as, for example, a representative of local government is not right; and I do not think, either, it is fair from the point of view of many public servants who do not have the opportunity to obtain such appointments and who, generally speaking, together with the appointee who I am imagining may be on this committee, should be paid properly and commensurately with their normal duties, anyway. I point that out to the Council and, if it thought that that point should be safeguarded, consideration could be given to an amendment to that effect.

I make only two further points. One is that I cannot find anywhere in this Bill where it is specifically laid down that the commission is forbidden to attach conditions to special grants. I believe that should apply. I do not believe the commission should have the right to say, "We are going to recommend a special grant to council A, provided that"—and then conditions apply. That general principle of funding is one I object to, in principle anyway, and I believe members on this side as well object to it, but it probably is not envisaged that it should occur. The alternative is that, if a special grant is given, it is the duty of the Grants Commission to make its inspections in due course to see whether the money has been spent in accordance with the request as to how it should be spent.

If a particular local government body fails to play its part and does not spend the money as envisaged by the Grants Commission, that body will pay a penalty and will suffer no doubt in the future when it applies for special grants. So the commission has some check and supervision in the overall scene as a result of that. That is an important principle, which should be carried into this Bill, and that matter should be looked into. Lastly, I make a point that may be relatively minor for the Government but is important for me. The Minister in his second reading explanation (I do not know whether he was being facetious or not) was certainly telling an untruth, and I take him to task for that. He said:

Clause 23 is a regulation making power in the usual form.

The Hon. J. E. Dunford: You should withdraw that word.

The Hon. C. M. HILL: I am making my point. I repeat the words "in the usual form". The form in Part V is as follows:

23. The Governor may make such regulations as he thinks necessary or expedient for the purposes of this Act.

This Council has debated this issue before. The Government knows that honourable members on this side feel keenly and strongly about the matter. The Government previously agreed to the change, and yet the Minister now produces a Bill that goes back to the old form of words, and has the audacity—

The Hon. M. B. Dawkins: Goes back to "his" old form of words.

The Hon. C. M. HILL: Yes, and he has the audacity to stand up, after a change has been made by the Council and agreed to by his side of the Council, and say:

Clause 23 is a regulation-making power in the usual form.

He knows it is not in the usual form, and so do I. Would he agree in due course to an amendment to put the matter right? The basis of the argument, of course, is that only regulations that are necessary or expedient for the purposes of the Act must be brought down, not merely regulations that the Minister may think are necessary or expedient.

The Hon. C. J. Sumner: What was the legislation last year?

The Hon. C. M. HILL: I have it on the files in my office. If the honourable member would like me to reintroduce the matter in the Committee stage, I will be happy to do that.

The Hon. Anne Levy: It was the sex discrimination legislation.

The Hon. C. M. HILL: I think it was. I did much research on it, because I knew that the Hon. Anne Levy would pull me up if I had not tackled it in a competent

way. Nevertheless, the Government agreed and altered the Bill, but now it has come back to its old form and has said that everyone will be pleased about clause 23 because it is in the usual form. That statement is not correct, and I ask the Minister to agree to an amendment and to be more careful in future.

I support the second reading but I hope that before the Bill passes we shall have legislation dealing with such a commission that will be second to none in Australia. If we can produce the best legislation, I hope that it will prove to be successful and that local government will benefit considerably by grants that will come from a generous Government in Canberra.

The Hon. D. H. L. Banfield: Is there going to be a change of Government in Canberra?

The Hon. C. M. HILL: I must state how much money local government is getting this year and how much it will get next year. I understand that $9 100 000 is being handled now by the interim commission, and that next year the figure will be $11 900 000.

The Hon. D. H. L. Banfield: Have they promised that?

The Hon. C. M. HILL: The Federal Government has not forgotten local government, and members on this side will not forget it. We want local government to get the best possible legislation.

The Hon. N. K. Foster: You can't make a comparison between the present Federal Government and the former Federal Government regarding grants and loans in totality.

The Hon. C. M. HILL: The Hon. Mr. Foster had better produce his figures. He is good at spouting words, but he never backs them up. Before 1973, there were not specific grants of this kind. Federal money came to the States and the States made allocations to local government as best they could, but it was difficult to amass all those amounts into a specific grant. I am concerned more about the future than about the past.

The Hon. J. E. Dunford: You are ashamed of the Liberal past.

The Hon. C. M. HILL: Not at all. I am a progressive and I am casting my mind forward. I hope that in future local government will benefit considerably from the commission that is established.

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

ADJOURNMENT

At 3.55 p.m. the Council adjourned until Tuesday, September 21, at 2.15 p.m.