LEGISLATIVE COUNCIL

Wednesday 9 December 1981

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

Pursuant to Statute—

Supply and Tender Board—Report, 1980-81.

By the Minister of Consumer Affairs (Hon. J. C. Burdett)—

Pursuant to Statute—

Commissioner for Equal Opportunity—Report, 1980-81.

QUESTIONS

SOCIAL SECURITY BENEFITS

The Hon. N. K. FOSTER: I seek leave to make a brief explanation prior to asking the Attorney-General, rather than the Minister of Community Welfare, a question involving trade union activity and the delay of cheques to the more unfortunate members of the community who are forced to rely on social security benefits.

Leave granted.

The Hon. N. K. FOSTER: I direct my question to the Attorney-General, as the Minister representing the Premier and Treasurer. We are all aware that it is true that, regardless of who is to blame, when some form of industrial action is taken the innocent tend to become caught up in the web, whether or not the Government is being fair and just or whether or not there is stubborn-mindedness by the union or the Government.

I have had telephone calls during the past few days in respect of the difficulty of ensuring that cheques continue to be made available and go to post because of the current industrial dispute involving certain sections of Commonwealth employees. This stoppage has caused considerable restriction by the union for a number of weeks. It seems to be that the Federal Minister has tried to tough it out with the union, with the result that many people who are relying on pension cheques, unemployment cheques, sickness benefit cheques and so forth, may well be in a position in which they will now not be able to meet their day-to-day expenses. It appears that, because of the stance taken by both sides in the dispute, the likelihood of an early settlement is receding, although I recognise that often when one gets such a situation it is the factor that does bring about a speedy end of such a dispute.

This morning, on the Australian Broadcasting Commission programme *A.M.*, an impassioned plea was made by a person—I did not switch on early enough to ascertain which organisation he represented—who was obviously articulate and concerned that people have got to the stage where they have no money to buy the necessities of life. He hoped there would be a speedy end to the dispute, and that both sides would get together, a not unreasonable request in this situation. He also made a plea to Government departments, such as those dealing with water supply, and the like, not to press for payment from people in receipt of social security benefits; he suggested that they accept from such people a note or an indication that they are unable to pay because they have been without any funds for some time.

The question is not in respect of those areas, which I suppose are outside the Attorney's jurisdiction (although they may not be outside his area of criticism; that is for him to determine), but is this: has there been any discussion at Cabinet or Ministerial level, in regard to this industrial situation, as to whether or not the State may be called on to fill a gap by making moneys available to members of the community who normally receive social security payments? If not, can there be such discussions with the appropriate Federal body to suggest that some form of understanding of payment between both the State and the Commonweatlh be undertaken to ensure that undue hardship does not fall upon those people who are normally in receipt of such benefits?

The Hon. K. T. GRIFFIN: The honourable member has correctly surmised that this is not an area directly within my portfolio responsibilities but more within the responsibility of the Minister of Community Welfare. As I understand it, there is not at this stage any threat to cheques issued by the South Australian branch of the Social Security Department but, if there is a difficulty, the Minister of Community Welfare and his officers have been considering possible contingency plans which necessarily will require him to have consultations with the Federal Minister. Certainly, it is a matter about which this Government is sensitive and, as I say, I know that the Minister of Community Welfare and his officers have been considering possible contingency plans.

SOUTHERN FARMERS

The Hon. B. A. CHATTERTON: I seek leave to make a short explanation before asking the Attorney-General a question about Southern Farmers.

Leave granted.

The Hon. B. A. CHATTERTON: The information for the explanation of this question has been given to me by a retired farmer and previous supplier of milk to Southern Farmers, someone who has been involved with the company for quite a while. I believe that the information is correct in its major thrust, although it may not be correct in all its exact details, because of the complicated legal and corporate changes that have taken place over the past few years in relation to Southern Farmers. I believe that the holding company for Southern Farmers and a number of other companies is called Consortium Investment Holdings. There has been a corporate rearrangement of shares, and the majority of shares in that company are held by an interstate or Sydney-based company. There is still a minority shareholding of South Australian shareholders, and most of those are small shareholders who have previously been involved in the Southern Farmers Co-operative.

My informant told me that he had been informed that Consortium Investment Holdings had made an interest-free loan of $6 000 000 to this company which holds the majority of shares. He was very surprised to hear that because, on the accounts of Consortium Investment Holdings, it still has considerable borrowings on which it pays normal interest rates. The possibility occurred to him that this could be a device to move profits from one company to another. If that is the case, it certainly would be to the disadvantage of the small shareholders involved in Consortium Investment Holdings.

Is it possible for the Minister to have his department look into this situation to ascertain whether that has occurred and, if it has, whether any protection is available

to the small minority shareholders who, on the face of it, appear to have been disadvantaged?

The Hon. K. T. GRIFFIN: It is obviously a question on which I will need to seek some information. Accordingly, I will refer the matter to the Corporate Affairs Commission with a view to bringing back a reply at the earliest opportunity.

POLICE INQUIRY

The Hon. C. J. SUMNER: Will the Attorney-General say, first, why the report of the police inquiry into alleged drug trafficking and corruption has been delayed when he, in announcing the inquiry some two months ago, indicated that he did not think that it would take very long? Secondly, is one of the problems the fact that certain people are reluctant to come forward because of the nature of the inquiry? Thirdly, has the fact that Mr Cramond left the inquiry hindered its progress? Fourthly, will he rejoin the inquiry when he returns from overseas? Fifthly, when is it expected the inquiry will be completed?

The Hon. K. T. GRIFFIN: I made it clear a month or so ago when I was asked a similar question about the timing of the report that, when I announced the inquiry, I did not give any time limit. Although newspaper reports suggested that I put a two-week time limit on it, that was quite erroneous, and I never at any stage said that it would be anything like a two-week period within which a report would be received. I did say that it is a complex inquiry that will necessarily take time. It is not an inquiry that I would seek to hurry. If one were to hurry the investigation and the preparation of the report the possibility would exist that it would then be construed to be superficial and might not enable the investigating team to follow up all possible leads it had in respect of the inquiry.

I am still not able to say when the report mentioned will be presented to me, but I think it is more likely to be in the early part of 1982 than within the next few weeks. As I have said, this is a complex inquiry. Many, many people have been questioned by the investigating team, and that also necessarily means that other leads which are uncovered as a result of that questioning will need to be followed up. The fact that Mr Cramond went overseas for a few weeks to represent the State in a Privy Council case did not hamper the investigation in any way. After adequate briefing, a senior Crown Law officer stood in for him during the period he was away. Mr Cramond has been back for several weeks and is continuing to participate in the investigation.

The Hon. C. J. Sumner: What about people coming forward?

The Hon. K. T. GRIFFIN: The Leader has asked whether one of the difficulties is that people have declined to come forward. That is not so. Some of the persons who signed a statement which was delivered to some members of Parliament through Mr Bleechmore some months or so ago were people who had, in fact, already spoken to the investigating team. Other persons who had been identified as expressing concern about coming forward have also presented material to the investigating team. Certainly that is not any reason at all why the inquiry is taking so long. The inquiry is taking so long because of the sheer mass of information that needs to be gathered and assessed by the investigating team.

MEDICAL ETHICS

The Hon. J. R. CORNWALL: I seek leave to make a brief explanation before directing a question to the Attorney-General, representing the Premier, about medical ethics.

Leave granted.

The Hon. J. R. CORNWALL: In making this statement I want to make clear that this will be the last question that I will ask on this matter during this particular Budget session, and certainly this year. However, it is a campaign that I do not intend to allow to go away, and I will be pursuing it vigorously in the new year unless adequate action is taken.

Some time ago, a 19-year-old man was admitted to the Flinders Medical Centre, after a motor vehicle accident, with a relatively minor chest injury that needed drainage. A doctor inserted a chest tube uneventfully but then connected it incorrectly to strong wall suction. This was done despite the loud protests of other doctors present who tried to reason with the individual concerned. However, he insisted on proceeding. The effect on the patient's lungs was dramatic and he died within a minute. The event was hushed up to the extent of not even giving a unit record number to the patient.

The Hon. C. M. Hill: He was dead.

The Hon. J. R. CORNWALL: He was very much alive when he was admitted and should have been given a unit record. The only record now of the patient is at the West Terrace Cemetery. Despite strong opposition from the hospital authorities, Mr Morris Peacock, a senior chest surgeon at the Flinders Medical Centre, insisted on a surgical audit at which the facts were stated and the cause of death explained. I understand that Mr Peacock has in his possession some very informative X-rays of this late patient. The surgical audit was a very good educational exercise for all the doctors and students present and caused some acute embarrassment. However, the cause of death was never publicised, as it should have been to try to prevent similar deaths occurring in future. As my informant in this particular case said:

> Bureaucrats and those at the top of the medical profession should set an example of candour in their dealings with patients and their relatives. If this is not done their actions are just as immoral though apparently not as unethical as those of doctors who have defrauded Medibank.

This incident reflects extremely poorly on the Flinders Medical Centre medical administration. I regret that I have to say that.

The Hon. K. T. Griffin: How long ago was this?

The Hon. J. R. CORNWALL: I do not have the exact date, but it did not occur in recent months.

The Hon. K. T. Griffin: It didn't?

The Hon. J. R. CORNWALL: No, as I understand it, it was a matter of two or three years ago. However, that does not detract in any way from the horror of the story. As I have said, I regret that I must in any way reflect on the administration of the Flinders Medical Centre, because that centre has been used as something of a punching bag from time to time, particularly by the present Minister. I believe that medical care generally at Flinders is extremely good. Nevertheless, this very grave misadventure and this terrible fatality—this most unnecessary fatality—did occur and there was no doubt at all that it was covered up. I feel that I have a duty to bring this matter to the public's notice. As I have said, the incident reflects extremely poorly on the Flinders Medical Centre.

The actions of those involved in this whole affair are directly contrary to the unanimous decision of the Bright Committee. I am sure that all honourable members will recall quite well what Mr Justice Bright said in his report of 1973, as follows:

> There should be no attempt to suppress information with respect to possible imperfection in treatment. Departmental procedures

should encourage disclosure and should in no way attempt to preserve secrecy . . . in such cases.

My questions to the Premier are as follows: first, why was this incident at the F.M.C. hushed up and who ordered secrecy? Secondly, were the patient's relatives informed of the cause of death? If not, was the suppression intended to prevent relatives from asserting their rights? Thirdly, was the coroner informed and, if so, what did he do about it? Fourthly, will the Premier inquire from the South Australian Medical Board whether the action of the F.M.C. administration in failing to adhere to the recommendations of the Bright Committee was illegal or unethical? If not, will the Premier take appropriate action to amend the Medical Practitioners Act to cover such reprehensible conduct?

The Hon. K. T. GRIFFIN: I will certainly refer those matters to the Premier and bring down a reply. If the honourable member has information about the name of the patient or any other relevant information, I would certainly appreciate receiving it privately, because, as this incident occurred two or three years ago, that information would assist in clearing up the particular matters he has raised.

CAR PARKING

The Hon. G. L. BRUCE: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Health, a question about car parking at the Flinders Medical Centre.

Leave granted.

The Hon. G. L. BRUCE: On Monday 23 November, I visited a child patient at the Flinders Medical Centre. It was about 10.30 in the morning and the parking situation there could only be described as hopeless—and I mean hopeless. In fact, I was turned away by the parking attendant and told that parking facilities were available only for clinic card holders. I was told that the only time parking would be available was at 4 p.m. (visiting time for normal patients begins at 3 p.m. and, as I understand it, visiting for children or young patients occurs at any time).

I asked the parking attendant where I should park, and I was told that I should park wherever I could. After driving around fruitlessly for some time, I finally found a block of shops and parked in a space reserved for shoppers, probably preventing someone from using those shops. My visit to the hospital took about three-quarters of an hour. I went back and asked the parking attendant where visitors to the hospital could park their vehicles, and I was told that there was no hope of parking at the hospital. I understand that there are no immediate plans to extend parking facilities. This is a bad situation, because people using this centre must drive their vehicle. The only alternative is to use public transport. My questions are these: does the Minister envisage extending parking facilities for the visiting public at Flinders Medical Centre; if not, why not?

The Hon. J. C. BURDETT: The Flinders Medical Centre, of course, was planned and constructed under the previous Government, and I understand that there are very grave problems regarding extending parking facilities. I shall refer the question to my colleague and bring back a reply.

The Hon. N. K. FOSTER: I have a supplementary question. Will the Minister consider taking up a matter with the New South Wales Government regarding the conservatorium of music in that State, and will he consider perhaps talking personally with those responsible for building it 110 or 115 years ago? That question is just as stupid as was the Minister's answer when he talked about the previous Government.

The Hon. J. C. BURDETT: The answer is 'no'.

CO-OPERATIVE WINERIES

The Hon. B. A. CHATTERTON: Has the Attorney-General a reply to a question I asked on 3 December about co-operative wineries?

The Hon. K. T. GRIFFIN: I refer to the question by the honourable member in respect of Barossa Co-operative Winery Ltd. I undertook to ascertain further information relating to this matter and I advise as follows.

No formal documentation has been lodged with the Corporate Affairs Commission regarding the proposed offer by Penfolds Wines Australia Ltd for the abovementioned co-operative. The word 'take-over' has been used inappropriately to describe these proposals. The definition of 'company' under the Companies (Acquisition of Shares) (South Australia) Code extends the operation of the code to industrial and provident societies. However, the situation involved here involving a merger of the businesses concerned is not a take-over in that an acquistion of shares in Barossa Co-operative Winery Limited is not in contemplation. As a consequence the code has no application in the present circumstances. I am advised by the Corporate Affairs Commission that this situation was explained to the honourable member in a discussion held with him on Monday 7 December 1981.

There is no power that enables the commission to examine the documentation relating to the proposal by Penfolds Wines Australia Ltd. The commission has no right to insist on any alteration or clarification of the documentation concerned. If members of the co-operative believe that further information is necessary, they should seek independent professional advice. The Safcol matter to which the honourable member referred is not an identical case in that in that situation a scheme of arrangement was proposed. The Rules of Court under the Companies Act give the commission a right of appearance to oppose the making of an order approving a scheme of arrangement in respect of a company or a co-operative. The report of the Working Party on Co-operatives recommended that co-operatives should be excluded from the application of take-over legislation, and indeed this exclusion will be made in the Companies (Consequential Amendments) Bill, 1981. There is no action that the Government can take in relation to the Barossa Co-operative matter but I will ensure that the position relating to the acquisition of shares and/or assets of a co-operative is considered in the context of the examination of the legislation presently being made.

RYEGRASS TOXICITY

The Hon. M. B. DAWKINS: On 17 November I asked the Minister of Community Welfare, representing the Minister of Agriculture, a question regarding the spread of ryegrass toxicity. Has the honourable gentleman a reply?

The Hon. J. C. BURDETT: Yes. In response to the honourable member's question, my colleague, the Minister of Agriculture, has advised me that every opportunity is being taken to alert primary producers to the problem of ryegrass toxicity and to the measures that may be taken to minimise its effects. During the last month, all major newspapers covering rural areas have carried at least one article drawing producers' attention to these matters, and the technical officers involved in the department have given a number of talks on radio. The locations of new outbreaks have also been given wide publicity. He recently launched a new service which will continue to be maintained until February whereby producers will have the opportunity to have their pastures checked to determine whether the organisms associated with the toxicity are present. All

regional departmental centres are promoting this service to local producers.

PETROL SUPPLIES

The Hon. C. W. CREEDON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Mines and Energy, a question about petrol rationing and delivery charges.

Leave granted.

The Hon. C. W. CREEDON: On 1 December the Minister gave an answer to a question I asked on 22 September regarding petrol rationing. His reply did not answer the question I raised relating to the problems at Gawler. The answer certainly said that the Department of Mines and Energy was carrying out a review of the procedures used in the administration of the recent petrol restrictions and the matter of an appropriate metropolitan restricted area.

At the time I coupled that question on petrol rationing with another question relating to delivery charges per litre by the petrol companies, and those charges increased the cost of petrol to the Gawler consumers. If petrol retailers sell petrol in Gawler service stations for the same price as the price at suburban service stations, the Gawler service station proprietors lose that delivery charge per litre. Whichever way it goes, the people of Gawler are the losers. In reply to my question in relation to the petrol restrictions, the Minister said:

> The second criterion which was used was that the defined restricted area should be readily understood by the community. It was therefore decided that the area should be defined on the basis of council areas, and the Corporation of the Town of Gawler was one of the council areas included.

If the Minister of Mines and Energy is undertaking an inquiry into a definition of restricted areas that will be readily understood by the community for rationing purposes, will the Minister take into consideration the matter of delivery charges so that they, too, will be readily understood by the community? Will he consider them at the same time as this other inquiry (or within the inquiry) so that the anomaly of outer metropolitan areas, which are sometimes described as fringe suburban areas and which are penalised with a delivery charge on petrol, are not also penalised with the suburban petrol restrictions?

The Hon. K. T. GRIFFIN: I will refer that question to the Minister of Mines and Energy and bring back a reply.

FIRE INSURANCE CONTRACTS

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about fire insurance contracts.

Leave granted.

The Hon. FRANK BLEVINS: There was a report in this morning's *Advertiser* which said that some major insurance companies were cancelling contracts with owners and operators of nightclubs or discotheques (whatever you call them) in Hindley Street. I wish to read part of the report to the Council, as follows:

> Major insurance firms are cancelling contracts on some Adelaide nightclubs and discotheques because of the loss risk from the spate of club fires.
>
> Lombard Insurance (Australia) Pty Ltd this week served notice on Jules Bar, Hindley Street, terminating its insurance contract on the restaurant-disco, as one of a couple of Hindley Street premises it has decided to stop insuring..... The assistant manager of Lombard, Mr J. V. Ingram, said yesterday the decision to cancel contracts in mid-term had been made because of the high risk associated with Hindley Street insurance and the uncertainty about the cause of the fires... Three last year and three this year, and we can't find out the reason. If we knew the cause or why they're doing it or knew a reason it might be a consideration to consider a risk, but we can't find out the reason behind it and that makes it uncertain. In business you try to make a profit and if there's an element where you have any doubt, you get out.

I knew that business was fairly ruthless, but I did not understand that business was allowed to walk away from a contract in mid-term. The proprietor of the disco involved, Mr Tony Tropeano, said yesterday that his firm would have difficulty finding other insurers. He goes on to state:

> To me it's rubbish. What would happen if we had a major heat wave and the fire risk went sky-high? Would the insurance companies cancel all fire insurance policies in the hills or bushfire risk areas?

The question is fair enough. Apparently the risks in Hindley Street are becoming rather high and the companies are just walking away from it. I would not object to their refusing to insure these premises, because that is their right. But to cancel a contract in mid-term and just walk in and say to the owners of a particular place, 'I'm getting out of the contract', that is wrong.

If it can happen to these premises, it can happen in regard to household insurance. The manager of Jules Bar has raised a legitimate question. If we had a particular fire risk situation, would it be possible for the insurance company to cancel household insurance because the weather was hot for a week? It is a legitimate question and a legitimate area of concern. First, will the Minister investigate whether there is any legislation or problem with legislation in the State sphere and, if not, does the Minister believe that any legislation is required? Will he consider those questions after investigating the cancellation of these insurance contracts in mid-term?

Another issue arises from this matter and leads to a related question to the Minister. What happens to the patrons of these places of entertainment if these businesses are not insured and cannot get insurance? If there is a fire, whether it is caused maliciously or otherwise and patrons get hurt in a place of entertainment, have they any comeback on anyone at all? Obviously, they have none on the insurance companies, because they apparently are ceasing to insure such premises. I am not sure what is the law in regard to public risk insurance, whether all places of public entertainment are forced to carry public risk insurance.

It seems to me that members of the public could unwittingly be caught in what appears to be a nasty campaign by people in the entertainment industry, and I believe that the Government has an obligation to protect as much as possible those innocent parties who may get caught up in this unpleasantness. Secondly, is the Government taking any steps to protect patrons of such entertainment in the event that this gang war or whatever one calls it continues?

The Hon. J. C. BURDETT: As the honourable member said, the questions which he asks are difficult; there is no shadow of doubt about that. The obligation on this Government is the same as the obligation on the previous Government, which did not introduce any—

The Hon. Frank Blevins: There was no gang war during our time.

The Hon. J. C. BURDETT: I am not so sure about that. These things happen from time to time—

The Hon. Frank Blevins: The streets were safe.

The Hon. J. C. BURDETT: That is not true. This happens from time to time, and so far it has not been deemed necessary to have State legislation. The only legislation at present in the insurance field is Federal—

The Hon. Frank Blevins: We know that.

The Hon. J. C. BURDETT: If the honourable member knows that, I do not know why he asked the question.

The Hon. Frank Blevins: I asked so that you could do something about it in the State sphere.

The Hon. J. C. BURDETT: It has never been done before. The only legislation is Federal. I would make the point that insurance companies are entitled to consider the risk, as the honourable member knows.

The Hon. C. J. Sumner: What about cancelling the contract?

The Hon. Frank Blevins: In mid-term.

The Hon. J. C. BURDETT: I am coming to that. If the honourable member wants an answer I wish that he would let me given it. He did acknowledge the fact that insurance companies are entitled to consider the risk. The question of cancellation in mid term may have been in accordance with the contract. As neither the honourable member nor I have not seen the contract we would not know.

The Hon. C. J. Sumner: It sounds like a pretty crook contract.

The Hon. J. C. BURDETT: Some contracts contain powers for cancellation of the contract on the occurrence of certain events. One would have to look at the contract to see what it said. In regard to the honourable member's question, I certainly will investigate the matter and consider whether any steps should be taken. I have found in other cases where I have approached the Insurance Council of Australia that I have usually got a very ready response. It has been prepared to take action to see that proper cover is given. I will investigate the matter and see what steps can be taken.

In regard to the second question as to whether it is compulsory to carry public risk insurance, I advise that it is not compulsory. The redress which anyone who is injured has is against the proprietor initially (as it always has been), whether or not he is insured. In regard to places of public entertainment and the risk, the main remedy which the South Australian Government provides is under the Places of Public Entertainment Act to rigorously scrutinise the premises as to safety factors and proper ability to escape during the event of a fire and so on. It never has been obligatory to carry public insurance risk.

ABORTION PAMPHLET

The Hon. ANNE LEVY: Has the Minister of Community Welfare an answer to my question of 19 November on the abortion pamphlet?

The Hon. J. C. BURDETT: The Minister of Health informs me that it would have been more appropriate to describe the procedure which was undertaken with the draft pamphlet on abortion as 'client research' rather than 'market testing'. This confusion in the terminology used is regretted. The client research objectives were as follows:

(a) to measure the comprehension of presented messages;

(b) to measure the clarity of pamphlet design and layout;

(c) to measure the suitability of presented information.

Professional pregnancy counsellors were approached to assist with this study and the pregnancy counsellors approached their clients. This was done because of the extreme sensitivity of the topic and the ethical issues involved. Social workers and pregnancy counsellors employed by the Family Planning Association and the Adelaide Womens Community Health Centre were the main personnel who made the client approaches. The committee appointed to report on abortions notified in South Australia modified the pamphlet in the light of the report of the client research conducted on the proposed pamphlet.

HOSPITAL STATISTICS

The Hon. ANNE LEVY: Has the Minister of Community Welfare an answer to my question of 19 November on hospital statistics?

The Hon. J. C. BURDETT: My colleague the Minister of Health informs me that there were 4 023 abortions notified during 1980 which were carried out during that year and there were an addition of 50 terminations of pregnancy from 1979 which were notified during 1980. Therefore the analysis of data in the 11th Annual Report of the Committees relates to 4 073 abortions. I have a list indicating the number of abortions carried out in 17 metropolitan non-teaching private and community hospitals and 19 country hospitals making a total of 1 107 abortions which were performed outside the metropolitan teaching hospitals. As the list is purely of a statistical nature I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

NUMBER OF ABORTIONS

Metropolitan Non-teaching Private and Community Hospitals

Abergeldie	1
Ashford	100
Blackwood	44
Burnside	20
Central Districts	11
East Terrace	245
Glenelg	24
Kiandra	3
LeFevre	19
Lyell McEwin	144
Northern	55
North East	3
St Andrews	27
Stirling	3
Thebarton	31
Wakefield	30
Western	21
	781

Country Hospitals

Angaston	2
Balaklava	2
Clare	2
Cowell	2
Hutchinson	9
Lameroo	3
Mannum	3
Millicent	5
Moonta	1
Mount Gambier	79
Murray Bridge	16
Naracoorte	15
Port Augusta	27
Port Lincoln	4
Renmark	3
Southern Districts	32
Tanunda	10
Waikerie	4
Whyalla	107
	326
Total	1 107

INDUSTRIAL WORKFORCE

The Hon. G. L. BRUCE: I seek leave to make a short explanation before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question about the industrial workforce.

Leave granted.

The Hon. G. L. BRUCE: An advertisement appeared in the *News* of Wednesday last, 2 December, which has been

quite prevalent in the papers lately, which was titled 'Adelaide's industrial workforce' and which stated the following:

[People] who really want to work . . . when you need them.

The article then goes on to list those people. Copies of this article have been circulated to management around Adelaide. The article states the following:

Extraman—Adelaide's industrial workforce. Labourers, factory hands, tradesmen who really want to work . . . when you need them. Factory hands, carpenters, cleaners, painters, storemen and packers, warehouse personnel, general labourers, truck and forklift drivers. Daily, weekly or monthly. Contract labour is cheaper. Vary staff daily. Non-productive time is eliminated—you only pay for days worked. Attendance is guaranteed. Our staff report to us before they report to you. All personnel are employed by us. Responsibility is ours for workers compensation, pay-roll tax, taxation, holiday pay, etc. For today's casual labour, phone Extraman . . .

It then gives a phone number at 20 Greenhill Road, Wayville. I find this a quite offensive document to all those people who are unemployed and genuinely looking for work because it implies that this company has the only people who are willing to work. That is just not true!

I understand that the Commonwealth Employment Service has a large number of people on its books. I understand, also, that on the Commonwealth Employment Service books are many, many people desirous of work. I consider that that advertisement is completely misleading. I believe that most people registered for employment with the Commonwealth Employment Services are genuinely looking for work.

Could the Minister have this firm checked out to see what conditions and charges are imposed on those who obtain work through it? Does he consider this advertisement as unfair advertising when viewed in the context of the efforts of the C.E.S. to place people in employment? How is such a large selection of trained people held in hand by this firm? Are they paid a retainer? How does the firm work matters in such a way that it can advertise contract labour as being cheaper than permanent labour when the conditions of awards must still apply to those people? Does the Minister consider this type of subcontracting to be in the best long-term interests of the South Australian workforce?

The Hon. J. C. BURDETT: I will refer the honourable member's question to my colleague in another place and bring back a reply.

NAOMI WOMEN'S SHELTER

The Hon. N. K. FOSTER: I seek leave to make a brief explanation before directing a question to the Minister of Community Welfare about the Naomi Women's Shelter.

Leave granted.

The Hon. N. K. FOSTER: I understand that there has been a general acceptance on the part of the Government since it came to office (and I use that term in a general sense) of women's shelters. I use that term in a way that is intended to convey to the Government that it has taken a more moral stance in this particular area than it displayed during its time in Opposition. Members of the Liberal Party in South Australia are no different from their Liberal counterparts in other places in this respect. However, I commend the changed attitude of the Minister, his department and the Government in respect of this matter. However, that does not necessarily mean that I am conveying to the Council that all is well in this particular area. One can appreciate the fact that the Government has placed itself in financial difficulty since it came to office a little over two years ago. One can also recall, of course, that a property in North Adelaide was 'acquired' by a women's organisation a few months ago, is running well and is in very good hands. The attitude of the Government, although not going all the way—

The PRESIDENT: The attitude of the Government is hardly relevant to the honourable member's explanation. The honourable member has asked leave to make an explanation prior to asking a question and I ask him to do so.

The Hon. N. K. FOSTER: Naomi Women's Shelter has been informed by the Department for Community Welfare of certain things. It goes on to inform people at the shelter that they have been supported by the Government, so this is relevant, with due respect, Mr President. It seems to me that whenever I stand in this place to ask a question and take the Government to task I am continually interrupted either by way of interjection or by suggestions from you, Mr President, that I am overstepping the bounds of the Council. My explanation is relevant to the question. Naomi Women's Shelter has a number of women and children residents. At the moment, it does not have a refrigerator. I understand that the Department for Community Welfare has been informed of that fact, but it will not supply a replacement.

Having regard to the number of cutbacks and retrenchments in Government departments, I am quite certain that a number of refrigerators, which could be lying idle at Thebarton, could be put to good use. When in Opposition, the present Minister of Industrial Affairs, Mr Brown, took the then Government to task because a lot of Government typewriters were lying idle at Thebarton. Mr Brown made a very good suggestion that they should be made available to unemployed people in the community who wanted to gain some work experience on those typewriters. I am making a similar point now. Will the Minister investigate the situation at the Naomi Women's Shelter? Will he ascertain whether any Government department has a refrigerator surplus to requirements which can be made available to the Naomi Women's Shelter as soon as possible so that the women and children there are not deprived of what could almost be described as one of the necessities of life?

The Hon. J. C. BURDETT: There is no question of Government financial difficulties or cutbacks, because the funds for women's shelters across the board have been increased by 10 per cent on last year's allocation. That is the basis set by the Federal Government. The women's shelters receive some Federal funding and some funding from this Government. As I have said, in relation to other questions, the funding for women's shelters is at the same level as last year, plus 10 per cent.

Of course, the funding must be divided up between the various shelters. The funding is intended to cover things such as the purchase of refrigerators, furniture and other appliances which may need replacing. This applies to all women's shelters. The other women's shelters would be very cross indeed if they did not receive some provision that was extended specifically to the Naomi Women's Shelter. These shelters do have their problems, but I emphasise that the total funding allocation is at the same level as last year, plus 10 per cent. The Naomi Women's Shelter receives its share of that funding. The shelter has notified me by letter, and it will be advised in the same terms as I am advising the honourable member, namely, that the money that it receives is intended precisely for this type of thing, along with other matters.

RED CROSS SERVICES

The Hon. J. E. DUNFORD: I seek leave to make a short statement before asking the Minister of Community Wel-

fare, representing the Minister of Health, a question about Red Cross Services.

Leave granted.

The Hon. J. E. DUNFORD: I was concerned to read an article in a newspaper recently headed 'Therapy cuts will kill aged men'. The article refers to the Red Cross occupational therapy services for aged ex-servicemen. I can recall in 1944, when I was recruited in the occupational forces, the advice of my older relations who had been to war. They said, 'You are going after the war has finished, but we were assured by Bob Menzies and other politicians when we went away that we would receive the fruits of victory.'

We hear from time to time of cuts in just about everything across the board since the Liberals have been in Government, but here we are dealing with people who have given their lives in the service and the defence of their country, and they are being treated in this way, with cuts being placed on this organisation. It has been announced that only people under the age of 45 years will still receive these services, and that would exclude most of the people who fought in the Second World War. It was alarming to read that Mr Thomas said that one of the men affected was 82 years of age and that another had attended Red Cross for 38 years. The article states:

'We will miss the companionship,' Mr Thomas said. 'They might as well dig 60 holes for us. Some of us will just die.'

Totally and permanently injured pensioner Mr Murray Tanner, 59, has been attending Red Cross occupational sessions for 16 years. He has slight brain damage and has had four partial strokes. 'There are worse cases than mine,' he said. 'One of the girls on the staff was crying when we were told everyone over 45 would be phased out.'

It is bad enough when working class people are phased out of their jobs through technology, but it is a tragedy to phase out people who have given service to save this country and to make it possible for us to live in the conditions we now enjoy. Will the Minister of Community Welfare ascertain from the Minister of Health whether it is her intention to take any action to assist those people of more than 45 years of age who will be affected by cuts in Red Cross occupational therapy services?

The Hon. J. C. BURDETT: I will refer the honourable member's question to the Minister of Health and bring back a reply.

SENATE REPORT

The PRESIDENT: I would like to take the opportunity to correct a reply that I gave to a question asked by the Hon. Mr Milne. I was only partly right. The reference was to the Senate Select Committee report dealing with appropriation for the financing of Senate commitments. In my reply, I expressed the opinion that the matter had been discussed by way of a Bill which had passed through the Federal Parliament. That was not correct. The Select Committee report was considered by the Senate and a resolution to the effect that the Senate had hopes of proceeding with the recommendations of the Select Committee was sent to the House of Representatives. That is where the situation stands at the moment.

PUBLIC RISK INSURANCE

The Hon. FRANK BLEVINS: I seek leave to make a very brief explanation before asking a question of the Minister of Consumer Affairs regarding personal risk insurance.

Leave granted.

The Hon. FRANK BLEVINS: I certainly was not happy with the answer that the Minister gave when I raised this matter a few minutes ago. It seems to me that people are at risk in the conflict that is going on around Hindley Street and in other areas of the city, where places apparently are being fire-bombed. I do not believe that the Government so far has done enough to ensure the safety of patrons. I am concerned about the owners of these premises, but the patrons are the innocent victims if anything goes wrong. I think it is outrageous that places of public entertainment, and in fact any business premises to which the public have access, are not compelled to carry public risk insurance. It is fine to say that people can sue the proprietors if anything goes wrong, but the proprietors quite often have no money. As a matter of urgency, will the Minister consider making compulsory public risk insurance for operators of business premises to which the public has access?

The Hon. J. C. BURDETT: The honourable member started his question by referring to personal risk insurance, and then changed to public risk insurance—

The Hon. Frank Blevins: Sorry—public risk.

The Hon. J. C. BURDETT: —which I take it is what he meant. I indicated in my answer to the previous question on the same general subject that I would institute an investigation, and that I will do.

SURVEYORS FEES

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

That regulations under the Surveyors Act, 1975, in respect of fees for services, made on 15 October 1981, and laid on the table of this Council on 20 October 1981, be disallowed.

The Hon. J. R. CORNWALL: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

MEMBERS OF PARLIAMENT (DISCLOSURE OF INTERESTS) BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2205.)

The Hon. D. H. LAIDLAW: This is the third occasion within four years that the Labor Party has introduced a Bill to force members of State Parliament to make a public disclosure of their pecuniary interests. They argue that Parliamentarians, as trustees of the public confidence, should disclose details of assets and sources of income in order to demonstrate to their colleagues and the electors at large that they have not been influenced in the execution of their duties by considerations of private personal gain. It is based on the premise that legislators should place their public responsibilities above their private responsibilities.

The Labor Party introduced its first Bill in November 1977 when in Government. The Bill languised in another place until March, and when it reached this Chamber only a few hours remained to debate it before the end of the session.

The Hon. J. A. Carnie: Do you think that it would have had anything to do with the Federal election?

The Hon. D. H. LAIDLAW: I am not sure; I would not like to say. That Bill contained some ludicrous provisions and these were pointed out, but no vote was taken. One clause provided that any entertainment extended to a member and his wife on interstate or overseas touring had to be

reported to the registrar appointed to keep the record. For example, if my wife went to Sydney to stay with her sister-in-law, as she does from time to time, and was taken out to lunch by various friends, then I would have to provide those details.

The second Bill was introduced by the Labor Government at the end of 1978. It was an improvement on the original Bill, but was still riddled with inconsistencies and, in the view of my colleagues in this Chamber, did not pay sufficient regard to a member's right of privacy. The Hon. Mr DeGaris moved amendments which, *inter alia*, would have established a register of members' interests to be kept by an officer of Parliament, but not to be made available to the public. The President or Speaker, as the case may be, would decide when a member's pecuniary interests might lead to a conflict of interests in any debate and call attention to that. These amendments were unacceptable to the House of Assembly, and at a subsequent conference between managers from both Houses a deadlock eventuated and the Bill lapsed.

Since that time the report of the Committee of Inquiry into Public Duty and Private Interest has been published. It was established by the Federal Government under the chairmanship of Sir Nigel Bowen, the Chief Judge of the Federal Court. It suggests codes of conduct for various groups other than ordinary Parliamentarians, such as Ministers, members of their staff, the Judiciary and senior public servants, and also examines the practices prevailing in other countries.

The Hon. Mr Sumner has now introduced a private member's Bill on behalf of the Labor Party but it still retains inconsistencies. One wonders whether he and his colleagues have given consideration to the findings of the Bowen Inquiry. I am not against such legislation, but it must have regard to the right of privacy of a member and his family. It is too complicated to amend this Bill, and I think that a completely new Bill should be drafted.

Clause 5 of this Bill provides that a member must submit a report to a registrar, who is to be a Parliamentary officer, at regular intervals on behalf of himself, his spouse (and this includes a *de facto*), and their children under the age of 18 years who normally reside with them. This information must give details of any source of income exceeding $200 during a six-month period, the name of any company or partnership of which they are members, any holdings of real property, any trust in which they are beneficiaries, any superannuation fund from which they could benefit, and any official position that they hold, such as directorships.

So far so good; but this deals only with the assets of a member. What about his liabilities? The Labor Party in the drafting of its three Bills has excluded persistently the need for members to list their liabilities. Could it be that Caucus is sensitive on this subject?

The Bowen Inquiry said in section 2.32 of its report that liabilities should be treated in exactly the same way as corresponding assets. For example, the mortgage on the home should be treated as would be the ownership of the home. Similarly, a liability that touched closely on the office-holder's duties (and in this instance they were referring to Ministers), for example, a loan from a firm whose profitability was influenced by his department, should be regarded as any sensitive asset would be—a matter for concern which might require action to regulate the conflict. The Bowen Report mentioned also the problem of contingent liabilities, such as guarantees given to other people or organisations which might influence a member's conduct.

In the United States, a Federal Ethics and Government Act was passed in 1978 to regulate the conduct of members of Congress. In addition to providing details of assets and sources of income, a Minister also has to list any liability owing to a creditor (other than a relative) exceeding $10 000 at any time during the preceding calendar year, but not including a mortgage on the member's personal residence or loans for cars, household furniture or appliances. In my opinion, this seems a reasonable provision as it assumes that it is not unusual for a member to have a home mortgage, to lease a motor vehicle, or to have a small bank overdraft from time to time.

In Canada, a Federal Independence of Parliament Bill was introduced in 1978, but was subsequently shelved. It provided, with respect to liabilities, that a member should list any unsecured debt over $5 000, but for some unexplained reason excluded secured debts.

Clause 6 of this Bill provides that the registrar shall, at the request of any member of the public, permit him to inspect the register and to take a copy of its contents. In my opinion this ignores the right of a member and his family to any degree of privacy. Disclosure of this information should be closely controlled, as occurs in Westminster. It should be made available either to the Speaker or the President, to be used at their discretion, as was set out in the amendments moved by the Hon. Mr DeGaris in the 1978 Bill, or it should be given by the registrar only to those members of the public who have particular reasons to have access to such information. This is the practice adopted at Westminster.

Parliamentarians are subjected to an increasing amount of harassment from odd elements in the community. If a member has to disclose details of his assets—

The Hon. C. J. Sumner: What's wrong with the Victorian situation.

The Hon. D. H. LAIDLAW: I do not say that the Victorian situation is right. Merely because something applies in Victoria does not mean that we have to slavishly follow it. If a member has to disclose details of his assets to the public, including the media, and if they are substantial and publicised, then I suggest that his home is more likely to be burgled or the member and his family subjected to more abuse than hitherto. This is a matter of concern.

The Hon. C. J. Sumner: It has not happened in Victoria.

The Hon. D. H. LAIDLAW: It has certainly happened in South Australia.

Finally, I refer to clause 9, which provides broad regulatory powers. Some regulatory powers may be necessary but they should be restricted to procedural and not substantive matters. As the Bill is drafted, a member is required to list sources from which he derived income of more than $200 each half year, but not the actual size of each asset. This is unnecessary because it is impossible to judge what size of personal asset may divert a member from his proper line of conduct. However, under the broad powers of clause 9 the Government could regulate at any time for disclosure of the size of each asset belonging to a member.

I am not opposed to the introduction in this Parliament of some register of members' pecuniary assets and liabilities, but this Bill is inadequate. It should be redrafted, and for that reason I oppose its second reading.

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

COMPANIES (ADMINISTRATION) BILL

The Hon. K. T. GRIFFIN (Minister of Corporate Affairs) obtained leave and introduced a Bill for an Act to continue the Corporate Affairs Commission; to establish the Companies Auditors and Liquidators Disciplinary Board; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

In view of the volume of business on the Notice Paper today, I seek leave to have the second reading explanation and the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It is legislation complementary to the Companies (South Australia) Code. It deals with the Corporate Affairs Commission and the Companies Auditors and Liquidators Disciplinary Board. The present Corporate Affairs Commission and Companies Auditors Board are constituted under the Companies Act, 1962-1981, which will be superseded by the Companies (South Australia) Code. If this Bill is not introduced, it will be necessary to retain parts of the old Companies Act on the Statute Book alongside the new Companies Code. This would create confusion amongst practitioners.

Part II of the proposed legislation preserves the existing Corporate Affairs Commission, and provides for a commissioner, deputy commissioner and assistant commissioner. The commission and its employees would continue to be constituted in its present form, with employees subject to the Public Service Act, 1967-1981.

Part III of the Bill provides for the constitution of the Companies Auditors and Liquidators Disciplinary Board to replace the Companies Auditors Board set up under the Companies Act, 1962-1981. The Companies Auditors and Liquidators Disciplinary Board is intended to perform the functions and exercise the powers conferred on it under the Companies (South Australia) Code of disciplining auditors and liquidators after investigation and hearing. Provision is also made in the Bill for transition to the operation of the Companies (South Australia) Code, so that inquiries by the existing Companies Auditors Board which are under way at the time of the commencement of the Companies (South Australia) Code may be completed.

The board has been renamed in recognition of the true nature of its function, i.e. to supervise and discipline registered auditors and liquidators. Under the new Companies Code its registration function will be undertaken on a national basis by the N.C.S.C.

Clauses 1 and 2 are formal. Clause 3 sets out the arrangement of the Bill. Clause 4 defines a number of terms used in the Bill. Clause 5 repeals certain provisions of the Companies Act, 1962-1981. The provisions of Part XIII and section 8 of that Act are replaced by Parts II and III of this Bill respectively. Section 9 is replaced by Division 2 of Part II of the Companies (South Australia) Code.

Clause 6 continues the Corporate Affairs Commission in existence. Clause 7 provides for delegation by the commission of its functions, powers, authorities and duties. Clause 8 requires the commission to keep proper accounts and requires the Auditor-General at least once in each year to audit the accounts. Clauses 9, 10 and 11 provide for the appointment of a commissioner, deputy commissioner and assistant commissioner for corporate affairs respectively. Clause 12 provides for the appointment of officers of the commission. Clause 13 establishes the Companies Auditors and Liquidators Disciplinary Board.

Clause 14 provides for the membership, deputy membership and chairman of the board. Subclauses (6) and (7) provide that members and deputy members of the Companies Auditors Board holding office immediately before the commencement of the Act shall be members and deputy members of the new board respectively. Clause 15 provides that the board may operate through any two of its members. Clause 16 provides for a three-year term of office and lists the ways in which a member's term of office may terminate. Clause 17 provides for remuneration of members of the board. Clause 18 provides for the continued existence of the Companies Auditors Board for the purpose of completing inquiries (if any) under section 9 (9) of the Companies Act, 1962-1981. On completion of such an enquiry the board must make a report to the National Companies and Securities Commission.

The Hon. C. J. SUMNER secured the adjournment of the debate.

COMPANIES (CONSEQUENTIAL AMENDMENTS) BILL

The Hon. K. T. GRIFFIN (Minister of Corporate Affairs) obtained leave and introduced a Bill for an Act to make provision for the formation of companies in South Australia, the regulation of companies formed in South Australia, the registration in South Australia of certain other bodies and certain other matters, and for other purposes. Read a first time.

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

That this Bill be now read a second time.

Again, in view of the volume of business on the Notice Paper, I seek leave to have the second reading speech and the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

First, it amends four pieces of scheme legislation already in force. These were enacted pursuant to the formal agreement entered into between the Commonwealth and the six States on 22 December 1978 with a view to establishing a comprehensive, uniform code of company and securities laws throughout Australia. The four Acts are:

(1) The National Companies and Securities Commission (State Provisions) Act, 1981;

(2)The Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981;

(3) The Companies (Acquisition of Shares) (Application of Laws) Act, 1981;

and

(4) The Securities Industry (Application of Laws) Act, 1981.

The second purpose of the proposed legislation is to effect amendments to other State Acts which have been made necessary by the exclusion of the old Companies Act and the enactment of the legislation under the Co-operative Companies and Securities Scheme.

The proposed amendments to the National Companies and Securities Commission (State Provisions) Act, 1981, are purely technical. They affect the delegation of functions by the National Companies and Securities Commission. The drafting changes would ensure the possible delegation of all the commission's functions to persons holding office under State or Commonwealth law, who could be identified by the position they hold rather than by name.

Most of the amendments to the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981, are also technical in nature. One amendment will preserve the substance of provisions presently found in section 382 of the Companies Act. This states that certain allegations in complaints laid under the

companies and securities legislation (e.g. an allegation that a meeting has not been held within a certain time) shall in the absence of proof to the contrary, be deemed sufficiently proved. The proposed amendments to the Companies (Acquisition of Shares) (Application of Laws) Act, 1981, involve only minor drafting changes; most alter references in the existing legislation to the Companies Act 1962-1981 to the Companies (South Australia) Code. These amendments would only come into force on the day on which the Companies (Application of Laws) Act, 1981, came into operation, implementing the Companies (South Australia) Code.

The proposed amendments to the Securities Industry (Application of Laws) Act, 1981, also involve little substantial alteration to the existing legislation. Most of the amendments involve replacing the existing references to the Companies Act, 1962-1981 with references to the Companies (South Australia) Code or are of a similar drafting complexity. One significant amendment confers a regulation making power on the Governor of South Australia. The power permits the exemption of certain classes of rights from the ambit of the Securities Industry (South Australia) Code. This power may be exercised when the approval of the Ministerial Council is obtained.

The second area dealt with by this Bill is contained in Part VI, and concerns other State legislation which must be amended as a consequence of the changes to be brought about by the introduction of the Companies (South Australia) Code. The most important provision here is purely technical in nature. It 'translates' references in other State Acts to a provision of the Companies Act, 1962-1981, to references to the corresponding provision of the Companies (South Australia) Code. More specific translation provisions have been included to adequately cover relationships between the Companies Act and other pieces of State legislation—notably the Associations Incorporation Act, 1956-1965, the Building Societies Act, 1975-1981, the Credit Unions Act, 1976-1980, the Friendly Societies Act, 1919-1975, the Industrial and Provident Societies Act, 1923-1974, and the Prices Act, 1948-1980.

The private Acts relating to South Australia's four private trustee companies have been amended. Under the present law, these companies have a blanket exemption from the public fund-raising provisions of the companies legislation. It is considered that a more appropriate and flexible approach would be exemption by regulation. This would enable the companies to continue their present business activities, whilst providing a safeguard against any future problems. Therefore, these statutory exemptions are to be repealed on the clear understanding that an exempting regulation will replace them on 1 July 1982.

Provisions have been included to make it clear that the Companies (Acquisition of Shares) Code does not apply to building societies, credit unions or industrial and provident societies. Although the code was never intended to apply to these bodies, it appears that in some circumstances it may. The amendments clarify the matter and ensure that the Acts regulating these bodies also regulate changes in control.

Clause 1 is formal. Clause 2 provides for the commencement of the Bill. With the exceptions referred to in subclauses (2) and (3) the Bill will come into operation on the commencement of the Companies (Application of Laws) Bill, 1981. Clauses 9, 14 and 18 amend schedule 1 of the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981, the Companies (Acquisition of Shares) (Application of Laws) Act, 1981, and the Securities Industry (Application of Laws) Act, 1981, respectively. It is desirable that these amendments operate retrospectively from the commencement of the principal Acts concerned and accordingly subclause (2) provides that they will be deemed to have come into operation on the day on which the National Companies and Securities Commission (State Provisions) Act, 1981, came into operation. Clause 19 makes an amendment to schedule 1 of the Securities Industry (Application of Laws) Act, 1981, for the purpose of 'translating' new section 81 of the Commonwealth Securities Industry Act, 1980, inserted by the Securities Industry Amendment Act (No. 2), 1981. The latter Act came into operation on 1 October 1981 and it is therefore appropriate that subclause (3) provide that the translating provision came into operation on the same day.

Clause 3 sets out the arrangement of the Bill. Clause 4 is formal. Clause 5 by paragraph *(a)* makes a small drafting change to section 12 (1) and by paragraph *(b)* increases the scope given in sectin 12 (3) *(b)* of the principal Act to the commission to delegate its functions and powers to persons holding or occupying positions in State Public Services. Paragraph *(c)* makes a similar amendment in relation to the authorisation by a delegate of the commission to a person to perform the functions or exercise the powers delegated to him by the commission.

Clause 6 is formal. Clause 7 rectifies a previous omission. Clause 8, by paragraph *(a)*, substitutes a new paragraph 3 *(g)* in schedule 1 of the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981, to take account of the amendment of the Commonwealth Act whereby the reference to 'Companies Ordinance 1962' is changed to 'Companies Act 1981'. The new provision also refers to a 'law in force in another State etc.' instead of a 'law of another State etc.' It may be argued that a Commonwealth law that is applied in a State is not strictly a law of the State but more correctly a law 'in force' in the State. Paragraph *(c)* inserts new clause 11a into the first schedule of the principal Act. The new clause inserts new subsections (3) and (4) into section 36 of the Companies and Securities (Interpretation and Miscellaneous Provisions) (South Australia) Code. The new subsection (3) is an evidentiary provision designed to facilitate the prosecution of offences under all the codes, but in particular under the Companies (South Australia) Code. The provisions are similar to those in section 382 (4) of the existing Companies Act, 1962-1981. Paragraph *(d)* inserts a reference to the Justices Act, 1921-1981, into section 38 (3) of the code. Paragraph *(e)* inserts clauses 17 and 18 into the first schedule of the principal Act. Clause 17 ensures that reference is made in section 40 of the code to regulations 'applying' under a relevant code. Regulations will be Commonwealth regulations made under the Commonwealth Act and will apply under a code but will not be made under that code. Clause 18 replaces section 41 of the code with a more accurately drafted provision.

Clause 9 repeals paragraph *(z)* of clause 3 of schedule 1 of the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981, thereby inserting into the code the definition of 'State Act' in the Commonwealth provisions. Clause 10 is formal.

Clause 11 makes changes to section 5 (1) of the Companies (Acquisition of Shares) (Application of Laws) Act, 1981, consequential on the commencement of the Companies (South Australia) Code. Clause 12 replaces sections 7 and 8 of the principal Act with provisions that will accommodate the new Companies (South Australia) Code. Clause 13 by paragraph *(a)*, makes an amendment consequential on the commencement of the Companies (South Australia) Code. Paragraph *(b)* inserts a provision to translate the new subsection 38 (4) inserted in the Commonwealth Act by the Companies (Acquisition of Shares) Amendment Act (No. 2), 1981. Clause 14 amends schedule 1 of the principle

Act. Paragraph *(a)* improves the wording in relation to laws in force in other jurisdictions. Paragraph *(b)* inserts a provision in the code which interprets references in the code to previous laws to include a reference to Part VIB of the Companies Act, 1962-1981, and to the Companies Takeovers Act, 1980.

Clause 15 is formal. Clause 16 inserts new section 15a into the Securities Industry (Application of Laws) Act, 1981. This section gives the Governor power, with the approval of the Ministerial Council, to declare, by regulation, that interests are exempt for the purposes of the definition of 'prescribed interest'. The provision is similar to section 16 (3) of the Companies (Application of Laws) Bill, 1981. Clause 17 amends schedule 1 of the principal Act. Paragraph *(a)* makes an amendment consequential on the commencement of the Companies (South Australia) Code. Paragraph *(c)* inserts new paragraph *(c)* into section 30 (4) of the code and in an amendment to section 30 (5) includes references to the Commonwealth Minister. Paragraph *(d)* inserts a new translation in section 48*(b)* which more accurately expresses the position in the State. Paragraph *(e)* replaces clause 17 with a new clause that translates the new section 75 inserted in the Commonwealth Act by the Securities Industry Amendment Act (No. 2), 1981 of the Commonwealth. The paragraph also inserts new clause 17a which translates new subsection (9) of section 76 of the Commonwealth Act.

Clause 18 amends schedule 1 of the principle Act. Paragraph *(a)* more accurately refers to a law as being 'in force' in a State or Territory. Paragraph *(b)* introduces a new provision into section 4 of the Securities Industry (South Australia) Code that interprets references to previous laws of the State to include a reference to the Securities Industry Act, 1979-1980. Paragraph *(c)* makes an amendment similar to that made by paragraph *(a)*. Paragraph *(d)* substitutes a new section 60 (5) in the code with paragraphs *(a)* and *(b)* in reverse order. Paragraph *(b)* is extended to include an order of a court under the law of other States.

Clause 19 translates new section 81 (2) *(a)* inserted in the Commonwealth Act by the Securities Industry Amendment Act (No. 2), 1981. Clause 20 is a transitional provision. Clause 21 adds a new clause to schedule 2 of the Securities Industry (Application of Laws) Act, 1981.

Clause 22 removes from the Companies Act, 1962-1981, provisions which are obsolete but which would remain in force if not repealed. Clause 18 of the Companies (Application of Laws) Bill, 1981, provides that the Companies (South Australia) Code applies to the exclusion of the Companies Act, 1962-1981, in relation to the matters covered by the code. The sections repealed by this clause are not covered by the code and would otherwise remain in force. Clause 23 provides that references in other Acts and in subordinate legislation and other documents to the Companies Act, 1962-1981, or previous corresponding legislation will be construed as a reference to the new code.

Clause 24 is a similar provision relating to references to the Registrar of Companies and the Corporate Affairs Commission. Clause 25 provides for the amendment of the Acts referred to in the first schedule. Clause 26 is a transitional provision. At the moment some of the Acts referred to in the second schedule incorporate certain provisions of the Companies Act, 1962-1981. Amendments made by schedule 1 replace these with the corresponding provision of the code. This clause makes transitional provisions to accommodate the change by reference to the transitional provisions in Part III of the Companies (Application of Laws) Act, 1981.

Schedule 1: The amendments to the Associations Incorporation Act, 1956-1965 are consequential on the commencement of the Companies (South Australia) Code. Section 22b of Bagot's Executor Company Act, 1910-1978, which is repealed by this schedule, provided that Division V of Part IV of the Companies Act, 1962-1981 which deals with interests other than shares, debentures etc., does not apply to a common fund kept by that company. It is proposed that on the commencement of the Companies (South Australia) Code the Governor will, by regulation under section 16(1) of the Companies (Application of Laws) Act, 1981, exempt the company from the operation of the prescribed interest provisions under the code thus, in effect, preserving the existing situation by a different method. New subsection (2) of section 5 of the Building Societies Act, 1975-1981, is inserted to make it clear that the Companies (Acquisition of Shares) (South Australia) Code does not apply to building societies which are adequately protected by virtue of the strictures imposed by the Building Societies Act, 1975-1981, itself. The other amendments to that Act are consequential on the commencement of the Companies (South Australia) Code. Comments relating to the amendment of the Building Societies Act, 1975-1981, apply to the amendments to the Credit Union Act, 1976-1980. The amendments to Elders' Executor Companies Act 1910-1978, Executors Company Act, 1885-1978, and Farmers' Co-operative Executors Act, 1919-1978, are made for the same reason as the amendment to Bagots Executor Company Act. The amendments to the Friendly Societies Act, 1919-1975, are made in consequence of the Companies (South Australia) Code. New subsection (2) of section 3 of the Industrial and Provident Societies Act, 1923-1974, is inserted to ensure that the Companies (Acquisition of Shares) (South Australia) Code does not apply to societies under that Act. Once again the reason is that the Act itself incorporates sufficient safeguards.

The other amendments to the Act are consequential on the commencement of the Companies (South Australia) Code. Schedules 2 and 3 are self explanatory.

The Hon. C. J. SUMNER secured the adjournment of the debate.

COMPANIES (APPLICATION OF LAWS) BILL

The Hon. K. T. GRIFFIN (Minister of Corporate Affairs) obtained leave and introduced a Bill for an Act to make amendments to certain Acts consequential upon the enactment of the Companies (Application of Laws) Act, 1981, to make certain other amendments to Acts and for other purposes. Read a first time.

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

That this Bill be now read a second time.

In view of the volume of business on the Notice Paper, I seek leave to have the second reading explanation incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Members will recall that when introducing the National Companies and Securities Commission (State Provisions) Bill and associated legislation for the Co-operative Companies and Securities Scheme on 28 August 1980, I described in detail the obligations of this State under a formal agreement entered into between the Commonwealth and the six States on 22 December 1978. That agreement sets out the obligations of the parties in respect of a scheme for the Commonwealth and the six States to enact legislation for the purpose of establishing a uniform system of law and administration regulating companies and the securities

industry in the six states and the Australian Capital Territory. A copy of the agreement appears in the schedule to the National Companies and Securities Commission (State Provisions) Act, 1980.

The agreement establishes a Ministerial council, comprising a Minister from each State and the Commonwealth, which is responsible for the formulation and operation of the uniform companies and securities laws provided for under the agreement and which will exercise general control over the implementation and operation of the scheme.

Pursuant to the agreement a first package of substantive laws relating to the regulation of the securities industry and company take-overs came into operation in all States and the Australian Capital Territory on 1 July 1981. The Bill now before the House relates to the introduction of a second package of substantive laws required by the agreement: laws relating to the regulation of companies.

Under the direction of the Ministerial council, officers from each State and the Commonwealth have, for the past 2 years, worked together to formulate the companies legislation which will be applied uniformly in each jurisdiction under the scheme. This legislation has become commonly known as the companies code. In accordance with the agreement, the companies code is based on the uniform companies Acts presently in force in those States which are parties to the interstate Corporate Affairs Agreement: the States of New South Wales, Victoria, Queensland and Western Australia. The changes which the companies code will make to the existing laws of these States relate mainly to those changes which are expressly authorised by the agreement or which are required to take into account the co-operative nature of the scheme. All changes have received the unanimous approval of the Ministerial council.

The companies code has been exposed for public comment on two occasions and on each occasion the code has been amended to take account of public submissions received. To ensure that the content of the substantive provisions of the code will apply uniformly in each jurisdiction, the agreement provides for the companies code to be firstly set out in Commonwealth legislation that will apply to the A.C.T. Once this has been done, each State is then required to pass an Act which will apply the provisions of the Commonwealth legislation as laws of the State to the exclusion of its present companies Act. Those Acts will make only such changes to the Commonwealth legislation as are required to reflect necessary local legal and administrative differences.

Pursuant to its obligations under the agreement, the Commonwealth, earlier this year, passed its Companies Act, 1981. That Act embodies the provisions of the companies code and applies those provisions as laws of the A.C.T. It will not come into force until all the participating States are ready to proclaim their legislation. Each State is now required to apply the provisions of the Commonwealth Companies Act, 1981 as laws of that State and the Bill now before the House will achieve that purpose for South Australia. Each other State has introduced, or will soon be introducing, similar legislation into its Parliament.

So, as to distinguish the A.C.T. companies laws as they apply in each jurisdiction from the A.C.T. laws themselves, the applied laws will be known as a 'code'. Thus, the A.C.T. companies legislation as it applies in South Australia will be known as the Companies (South Australia) Code. In addition to providing for uniform company law the Companies (Application of Laws) Bill of each State will ensure that the companies codes of each State remain uniform in each jurisdiction by automatically applying any amendments to the A.C.T. companies Act as amendments of the State laws.

It is noted, however, that under the terms of the agreement, the Commonwealth is not free to amend its A.C.T. laws which form part of the scheme without the approval of the Ministerial council. Pursuant to the agreement the Commonwealth has established a body known as the National Companies and Securities Commission. The N.C.S.C. is responsible for the uniform administration of the substantive scheme legislation. The functions and powers of the N.C.S.C. were described in my speech introducing the National Companies and Securities Commission (State Provisions) Bill.

Although the N.C.S.C. will be responsible for the overall administration of the companies code, the N.C.S.C. is required to have regard to the need to decentralise its administrative activities to the maximum extent practicable. Therefore, it is expected that the South Australian Corporate Affairs Commission will continue to carry out most of the administration of the Companies (South Australia) Code. As I have mentioned previously, this Bill amends the substantive provisions of the Commonwealth Companies Act, 1981 to comply with local legal and administrative requirements. The Bill also permits the printing of the provisions of the Companies (South Australia) Code. Copies of the Commonwealth Companies Act, 1981 which contains the substantive provisions of the code, an explanatory memorandum relating to the provisions of the Companies Act, 1981 and clause notes explaining the provisions of this Bill are available on request.

Members will notice that clause 6 of the Bill makes two significant changes to the applied provisions. Firstly, it excludes the application of sections 1 to 4 of the Commonwealth Companies Act, 1981 because those provisions are only relevant to the A.C.T. In their place the introductory provisions set out in schedule 4 of the Bill will appear in the printed code. Secondly, the applied provisions are adapted in the manner specified in the first schedule to meet local, legal and administrative requirements. Thus, for example, references in the Commonwealth Act to the 'A.C.T.' are replaced with references to 'South Australia'.

The Bill will overcome any local problems which might arise as a result of the amendment of the Commonwealth Companies Act, 1981. As amendments to the Commonwealth Act will apply automatically as laws of the State, those amendments may also need to be adapted to meet local requirements. The Bill overcomes this difficulty by providing for regulations which have become commonly known as 'translator' regulations to be made amending schedule 1. This State's existing Companies Act, 1962-1981 is not to be repealed outright by the proposed legislation, under which it is intended that the existing provisions of the Companies Act, 1962-1981 only be excluded where those provisions have been superceded by the terms of the companies code or the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981.

Power to amend the provisions of schedule 1 by regulations will be necessary to allow amendments to the uniform companies laws to be implemented quickly in the State, and to maintain uniformity with the laws of other jurisdictions participating in the scheme. Similar provision is also made in relation to any amendments to the Commonwealth regulations which may be approved by the Ministerial council.

In addition to applying the provisions of the Commonwealth Companies Act, 1981 the Bill also applies regulations made under the Commonwealth Companies Act, 1981 and fees regulations made under the Commonwealth Companies (Fees) Act, 1981 as regulations in South Australia governing matters required to be prescribed by regulations for the purpose of the Companies (South Australia) Code.

The Commonwealth Companies Act, 1981 to be applied by the proposed legislation does not provide any radical alterations to the structure of company law, but some aspects of existing company legislation have been substantially amended. I shall list and detail six proposed areas of amendment.

First, section 67 of the existing South Australian Companies Act prohibiting a company financing dealing in its shares will be replaced by sections 129 and 130 of the Companies Code. The provisions of section 67 have been broadened to include acquisitions, (not merely purchases), of company shares, and to include units of shares. Section 67 (3) provides that upon any contravention of section 67, both the company and the officer in default shall be guilty of an offence. Section 129 (5) of the Commonwealth Companies Act, however, makes only the defaulting officer liable for a breach of section 129 (1), on the rationale that if the company is penalised under this section, it is the members and creditors who will suffer. The maximum penalty under section 129 (5) is $10 000 or two years imprisonment or both; a substantial increase on the three months imprisonment or $1 000 provided for under section 67 (3) of the existing South Australian Companies Act.

Section 130 of the Commonwealth Companies Act contains entirely new provisions dealing with the consequences of a company financing dealings in its shares. Contracts made by a company for giving financial assistance to a person for the acquisition of shares in that company would not be invalid in consequence of section 130 (1) *(a)*, but contracts by a company which actually effected the acquisition of shares in that company, or effected a loan on the security of shares in that company would be invalid. A contract not invalid in consequence of section 130 (1) *(a)* would be voidable at the option of the company which gave the financial assistance for the acquisition of its shares.

Secondly, section 374C (1) of the existing South Australian Companies Act makes it an offence for an officer of a company to have the company contract a debt when the officer has no reasonable or probable grounds of expectation that the company would be able to pay the debt. This provision would be replaced by section 556 (1) and (2) of the Commonwealth Companies Act which expands the scope of the offence to cover the ability of the company to pay all its debts at the time that a particular debt was contracted. The offence would be committed not merely by the contracting officer, but by any person who was a director or concerned in management of the company when the debt was incurred. Such persons would have a defence if the debt was incurred without their express or implied authority or consent. The concept of 'probable grounds' for expecting that the debt will be met has been dropped from the existing legislation, so that section 556 (1) of the Commonwealth Act makes it an offence for a company to incur a debt where there are reasonable grounds to expect that the company will not be able to pay all its debts. The penalty for the offence has been increased from three months imprisonment of $500 to imprisonment for one year or $5 000 or both. Moreover, the officer will be personally liable to the creditor where section 556 is infringed.

Section 374c (2) of the existing Companies Act makes it an offence to carry on the business of a company with intent to defraud the company's creditors. This provision would be substantially replaced with section 556 (5) of the Commonwealth Companies Act, which however, has increased the maximum penalty for the offence with imprisonment for one year or $2 500, to imprisonment for two years or $10 000 or both.

Thirdly, section 124 (1) of the existing South Australian Companies Act imposes a duty on company directors to act honestly and use reasonable diligence in the discharge of their duties. Section 229 (1) and (2) of the Commonwealth Companies Act has replaced this provision. The new Code provides that an officer of a corporation shall act honestly in the performance of his duties. The maximum penalty is $5 000, or where the offence is committed with intent to deceive or defraud, $20 000 or five years imprisonment or both. Section 229 (2) provides that an officer of a corporation shall exercise a reasonable degree of care and diligence in the performance of his duties. The maximum penalty is $5 000 the penalty under section 124 of the existing legislation is only $2 000.

The provisions of section 124 (3) in the existing legislation (which provide for repayment to the company of profits made by an officer offending against the section, or the payment of compensation to the company for any losses it incurs) are substantially re-enacted in section 229 (7) of the Commonwealth Act.

An important amendment is the expansion of the duty in section 229 of the Commonwealth Act to embrace all company officers, a term widely defined in section 229 (5). Under the present law, the comparable duty only applies to directors.

Fourthly, the registration of company charges. The present law is found in sections 100 to 110 of the existing South Australian Companies Act. The Commonwealth Companies Act deals with the machinery of registration of charges in sections 199 to 215, and with the order of priority of registerable charges in schedule 5 of the Act.

The major difference imported by the Commonwealth Companies Act is the substitution of a system of priorities for the existing provisions making charges invalid if not registered within 30 days after creation. The order of priorities is set out in schedule 5 of the Commonwealth Act. Priority is basically established by the time of registration. However, it can be defeated if the chargee had notice of a prior charge or was not dealing in good faith.

The other major change implemented by the Companies Code is that a charge will be registerable only in the home jurisdiction of a company. The order of priorities in the home jurisdiction will apply and will be registered for the purposes of priority throughout every State and territory participating in the co-operative scheme (throughout all Australian jurisdictions except the Northern Territory).

Fifthly, a further major change to be effected by the proposed legislation is that of a national system of registration. It is intended that a party wishing to reserve a company name, or to incorporate a company, or to lodge documents, may do so at one Corporate Affairs office. At present, these tasks must be duplicated at Corporate Affairs offices in each jurisdiction in which the company carries on business. Section 14 of the Companies and Securities (Interpretation and Miscellaneous Provisions) Code (which is already in force) provides that registration of company documents in a company's home jurisdiction shall be deemed to be registration with the N.C.S.C. and shall be adequate notice of registration in all participating jurisdictions. As a result, a company will only need to register and lodge annual returns in one jurisdiction, rather than being required to register in all Australian jurisdictions in which it is doing business.

These provisions for the uniform availability of company documents allow for a system of simplified company searches, in which only the register in the home jurisdiction has to be searched.

The only Australian jurisdiction at present not participating in the co-operative scheme is the Northern Territory, with the result that the above remarks on the availability of 'one stop shopping' for registration and company searches do not apply to that jurisdiction.

Complementing the simplification of registration and search procedures is the provision in Clause 29 of the proposed Companies Code for the registration of an auditor or liquidator in any participating State or territory to be effective registration in all other participating jurisdictions. Court orders and the exercise of administrator's powers both with respect to liquidations and schemes of arrangement are made applicable in all participating States and territories under sections 465 and 468 of the proposed Companies Code, providing further simplification of the administration of company law throughout Australia.

Finally, there has been a general review of penalties throughout the Companies Code with a view to providing more realistic sanctions. The examples set out above with respect to a company trading in its own shares, entering debts when there are reasonable grounds to expect that the company cannot pay all its debts, and the duties of company officers to show honesty, care and diligence in the performance of their functions, all illustrate the trend in the proposed legislation towards increasing penalties for serious misconduct. The increase in corporate crime Australia wide, and the necessity to emphasise the need for honest corporate practices has prompted the proposed increases in penalties.

In conclusion, the Bill now before the House represents the last and most significant step taken by this State in relation to the introduction of the co-operative scheme legislation. Over many years there have been calls from all sections of the business community for increased uniformity in both company law and its administration.

There have also been calls for a reduction in the duplication of requirements inherent in a system where each jurisdiction imposes its own requirements. The co-operative scheme will establish an effective procedure for securing and maintaining a uniform system of law and administration relating to companies and securities industry matters throughout the six States and the A.C.T. The scheme legislation will also significantly reduce the duplication of requirements inherent in the present companies laws.

The scheme is designed to promote a stable and uniform business environment and to encourage investor confidence. The Bill now before the House has been approved by the Ministerial Council for introduction into the South Australian Parliament. Similar legislation has been approved for introduction into each of the other five State Parliaments. I commend the Bill to the House.

Clauses 1 and 2 are formal. Clause 3 sets out the arrangement of the Bill. Clause 4 contains general interpretation provisions. Some of the more important definitions are as follows: 'Agreement' means the Commonwealth/State Agreement (the Formal Agreement) made on 22 December 1978. 'Commission' or 'National Commission' means the National Companies and Securities Commission established by the Commonwealth National Companies and Securities Commission Act, 1979. 'Ministerial Council' means the Ministerial Council for Companies and Securities established by the Formal Agreement. 'State Commission' means the Corporate Affairs Commission. This Commission was established by Part XIII of the Companies Act, 1962-1981, but as that Act is to be superseded, the Companies Administration Bill, 1981, has been prepared to continue the Commission in existence. 'the applied provisions' means the provisions of the Commonwealth Companies Act, 1981, as amended, and regulations made thereunder applying in South Australia by virtue of Clauses 6 and 7. 'the Commonwealth Act' means the Commonwealth Companies Act, 1981, as amended (see subclause 4 (2)—the result is that amendment to the Commonwealth Act will be automatically applied in South Australia).

Clause 5 provides that the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981, will govern the interpretation of the provisions of the Commonwealth Act applying by reason of Clause 6 of the Bill.

Clause 6 applies the provisions of the Commonwealth Act, except the first 4 sections, as laws of South Australia. Preliminary provisions will, by virtue of Schedule 4, replace the first 4 sections when they are published as a Code pursuant to Clause 10. Clause 10 provides that the applied laws may be cited as the 'Companies (South Australia) Code'. The Commonwealth provisions will be applied with the amendments set out in Schedule 1 and will be interpreted in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981. This Bill however, when it has been enacted, will be interpreted in accordance with the South Australian Acts Interpretation Act, 1915-1975, because it will be a solely South Australian Act, as distinct from a Commonwealth Act applied in South Australia. The Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981 will not affect the interpretation of this Bill. By reason of Clause 4 (2) the reference in Clause 6 to the Commonwealth Act includes reference to future amendments of that Act. Future amendments of the Commonwealth Act require prior approval of a majority decision of the Ministerial Council and will apply automatically in South Australia by virtue of this clause.

Clause 7 provides that regulations in force for the time being under the Commonwealth Act will apply in South Australia as regulations under the provisions of the Code. The regulations will apply with the amendments set out in Schedule 2 and will be subject to the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981. This clause has a similar effect in respect of Commonwealth regulations as Clause 6 has in respect of the Commonwealth Act.

Clause 8 provides for the payment to the State Commission of fees arising from the administration of the applied provisions. The services for which fees will be paid will be substantially performed by the State Corporate Affairs office on behalf of the National Commission and it is part of the Agreement between the States and the Commonwealth that these fees be paid to the States. Subclause (2) provides that these fees must be paid before a document is deemed to be lodged and subclause (3) provides that the National Commission (acting through the State Corporate Affairs office) must not supply a service that has been requested until these fees have been paid. The State Corporate Affairs office by subclause (5) may waive or reduce a fee or refund it in any particular case. The fees payable will be those in the Schedule to regulations under the Companies (Fees) Act, 1981 of the Commonwealth amended in the manner set out in Schedule 3 of the Bill.

Clause 9 deals with the amendment of:

(a) the Commonwealth regulations which are applied as regulations under the Code,

(b) the Commonwealth regulations made under the Companies (Fees) Act, 1981 of the Commonwealth which are also applied in South Australia.

Amending regulations must be initiated by the Commonwealth in accordance with a decision of the Ministerial Council. Normally amendments to the Commonwealth regulations or fee regulations are applied automatically in South Australia. However, if the Commonwealth regulations are delayed for more than 6 months or are disallowed or subject to disallowance after 6 months, the Governor may make the proposed amendments for the purpose of application in South Australia. By subclause (3) regulations

amended in pursuance of this clause are read as regulations applying by reason of, or adapted by, Clauses 7 and 8.

Clause 10 provides for the publication of the Commonwealth provisions applied as law in South Australia by, and as adapted by, Clause 6 of the Bill. The document may be cited as the 'Companies (South Australia) Code' (paragraph 10 (2) *(d)* and by subclause (3) the printed Code shall be *prima facie* evidence of the provisions of the Commonwealth Act applying by reason of, and as adapted by, Clause 6. The printed Code is to contain the headings and Sections set out in Schedule 4 in replacement of Sections 1-4 of the Commonwealth Act which are not applied by Clause 6 in South Australia. The replacement provisions are introductory and informative in nature, and condition the printed Code for use in South Australia.

Clause 11 is a provision similar to Clause 10. It provides for the publication of the Commonwealth regulations applied in South Australia as regulations under the Code as adapted by Clause 7 of the Bill. The document may be cited as the 'Companies (South Australia) Regulations' (paragraph 11 (2) *(d)* of the Bill) and by subclause 11 (3) the printed regulations shall be *prima facie* evidence of the Commonwealth regulations applying by reason of, and as adapted by, Clause 7. The printed regulations are to contain the headings and provisions set out in Schedule 5 in replacement for the provisions of those Commonwealth regulations, providing for the citation or commencement of the regulations, which are not applied by Clause 7 in South Australia.

Clause 12 is also similar to Clause 10. It provides for the publication of the fees schedule prescribed by regulations made under the Commonwealth Companies (Fees) Act, 1981, and applied in South Australia as fees payable under the Code as adapted by Clause 8 of the Bill. The document may be cited as the 'Companies (Fees) (South Australia) Regulations' (paragraph 12 (2) *(d)* of the Bill) and by subclause 12 (3) the printed fees regulations shall be *prima facie* evidence of the Commonwealth fees schedule applying by reason of, and as adapted by, Clause 8. The printed regulations are to contain the headings and provisions set out in Schedule 6 in replacement for those provisions of the Commonwealth regulations to which the Fees Schedule is attached.

Clause 13 facilitates the publication of amendments to the Code, the regulations or the fees regulations as they occur from time to time. This provision will avoid the need to re-publish the entire document each time an amendment is made by permitting the text of the amendments to be published in a separate document in similar fashion to an amendment Act.

Clause 14 makes it clear that a reference in an Act, regulation or other instrument to the Companies (South Australia) Code is a reference to the provisions of the Commonwealth Act applying by reason of Clause 6, and that a reference to a section of the Code is a reference to the corresponding provision of the Commonwealth Act. The clause makes similar provision in respect of the Companies (South Australia) Regulations and the Companies (Fees) (South Australia) Regulations.

Clause 15 provides for the amendment of Schedules 1, 2 and 3 by regulation. Those Schedules spell out the necessary adaptations that must be made to the Commonwealth Act and regulations for their proper application to conditions in South Australia. Further amendments to the provisions of the Commonwealth Act and regulations are likely to require the inclusion of further provisions in Schedules 1, 2 and 3. Amendments to the Schedules of each States' Companies (Application of Laws) Act spelling out these additional adaptations would normally require the passage of amending legislation through the Parliaments of each State. This procedure would greatly delay the implementation of amendments to the applied laws as amendments could not be implemented uniformly in each jurisdiction until such amending legislation has passed through such Parliaments. To avoid these delays Clause 15 provides for the amendment of Schedules 1, 2 and 3 by Regulations. These regulations are commonly referred to as 'translator' regulations. They are required to be approved by the Ministerial Council before they are made and will generally be made before amendments to the Commonwealth Act are proclaimed to come into effect.

Clause 16, by subclause (1), empowers the Governor to make regulations exempting a particular company or a company of a particular class from the provisions of Division 6 of Part IV of the Companies (South Australia) Code. Subclause 16 (2) empowers the Governor to make regulations declaring certain bodies to be 'prescribed corporations' for the purposes of the definition of that term in Section 189 (1) of the Companies (South Australia) Code. Subclause (3) empowers the Governor, with the approval of the Ministerial Council, to declare, by regulation, that interests are exempt interests for the purposes of the definition of 'prescribed interest' in section 5 of the Code. The effect is to remove those interests from the operation of Division 6 of Part IV of the Code which regulates prescribed interests. This subclause is the converse of subclause (1) in that it exempts the interest instead of the company controlling the interest. Subclauses (4) and (5) are transitional.

Clause 17 applies the interpretation provisions of the Companies (South Australia) Code and the Companies and Securities (Interpretation and Miscellaneous Provisions) (South Australia) Code to the expressions used in Part III of the Bill. Clause 18 provides that the provisions of the Commonwealth Act applying by reason of Clause 6 apply to the exclusion of the Companies Act, 1962-1981, the Marketable Securities Act, 1971, and the Securities Industry Act, 1979-1980.

Clause 19 enacts provisions that ensure that the operation of the Companies (South Australia) Code will not affect the previous operation of the Companies Act, 1962-1981, the Marketable Securities Act, 1971, and the Securities Industry Act, 1979-1980, or revive any law or matter not in force at the commencement of those Acts. Provisions similar to these are found in the Acts Interpretation Act, 1915-1975, but it is necessary to make specific provision in this Bill to cater for the introduction of the Code. Subclause (2) continues the inspection powers of the office of the Corporate Affairs Commission established under Part XIII of the Companies Act, 1962-1981.

Clause 20 is a general transitional provision ensuring that all things existing under the old Act continue under the new provisions unless it is made clear in the Bill or the Code that this is not intended.

Clause 21 is of like effect to Clause 20 except that it particularises certain acts and events. Clause 22 provides for proceedings commenced or entitled to be commenced by or against the State Commission under the Companies Act, 1962-1981, to be continued by or against the National Commission under the Code.

Clause 23 is of like effect to Clause 22 providing for property vested in the State Commission under the Companies Act, 1962-1981, to vest in the National Commission under the Code. The provisions of the Code in relation to that property apply as if the property had vested in the National Commission under the Code. Clause 24 provides for the continuation of registers, funds, deposits and accounts kept under the old Act at the time of the commencement of the Code by deeming them to be kept under the corresponding provision of the Code.

Clause 25 lists a series of acts performed by the Minister under the Companies Act, 1962-1981, and deems those acts

to continue in force and in effect under the Code as if they were acts performed by the Ministerial Council or National Commission, as the case may be. Matters or notices which were required to be published in the South Australian *Government Gazette* are now required to be published in the Commonwealth of Australia *Gazette*.

Clause 26 provides for the legal effect of names under which companies were registered pursuant to the Companies Act, 1962-1981, to continue in force and in effect as if registered under the equivalent provisions of the Code. This also applies to names reserved within 2 months before the commencement of the Code.

Clause 27, by subclause (1), states that the provisions of the Code do not affect the operation of Tables A or B of the Fourth Schedule of the Companies Act, 1962-1981, in their application to a company existing immediately before the commencement of the Code. However, this does not prevent the articles of such a company adoptng the regulations in Tables A or B of Schedule 3 of the Code—see subclause 27 (2).

Clause 28, by subclause (1), provides that a prospectus registered under the Companies Act, 1962-1981, within six months of the commencement of the Code will be deemed to be registered under the Code until the expiration of six months from the date of registration. Subclause 28 (2) is of similar effect in relation to a statement under Section 82 of the Companies Act, 1962-1981.

Clause 29 preserves the transferability of partnership interests created before 5 October 1972 which would otherwise be caught by Section 169 of the Code. This mirrors subsection 81 (2) of the Companies Act, 1962-1981.

Clause 30 makes provision for those charges registered or about to be registered under the Companies Act, 1962-1981, in relation to the Code. In recognition of the 'one place of registration' concept, charges will now all be kept on a register kept in the jurisdiction in which the particular company is registered.

Subclause 30 (2) provides that if a charge was registered under the Companies Act, 1962-1981, immediately before the commencement of the Code it will be deemed to be registered under the provisions of the Code and the Commission will be required to enter the relevant details in the Register of Company Charges.

Subclause 30 (3) provides that where a charge was lodged for registration under the Companies Act, 1962-1981, not later than 30 days before the commencement of the Code but had not been registered under the Companies Act, 1962-1981, and had not been refused registration, it will be deemed to be registered under the Code from the date of commencement of the Code.

Subclauses (5) provides that where two or more charges on the same property of a company are deemed by subclauses (2) and (3) of this Clause to be registered under the Code, those charges as between themselves, have the respective priorities that they would have had if this Bill had not been enacted. Subclause (8) deals with those charges which were unregistered under the Companies Act, 1962-1981, and are capable of registration under the code.

Sub-clause (9) deals with those charges which were required to be registered under the Companies Act, 1962-1981, but which are no longer required to be registered under the Code.

Subclause (10) makes provision for charges which have become void under the Companies Act, 1962-1981, because of non-registration within the required period and in relation to which the Court makes an order that subclause (8) is to apply in relation to that charge.

Clause 31 provides that where it appears from a return lodged with the State Commission under the Companies Act, 1962-1981, or any previous law of South Australia that a person was at a particular time a manager of a company then the Commission may give a certificate under the corresponding provisions of the Code that the person was at that time a principal executive officer of the company; a concept similar to that of the old concept of manager.

Clause 32 relates to the new definition of 'financial year' in section 5 (1) of the Code. Part of the definition relates to a company incorporated under the Companies Act, 1962-1981, and provides for the continuance of that company's obligations under the Code in respect of holding Annual General Meetings and the lodging and reports of accounts.

This provision is of particular relevance to directors who have consistently failed to fulfil their obligations to lay annual accounts before the company in general meeting. In essence Clause 32 obliges directors to provide an 'up to date' record of the history of the company's accounts.

Subclause 32 (4) provides that where directors have been granted exemptions under the Companies Act, 1962-1981, from complying with specified requirements as to the form and content of accounts or directors reports if lodged within time, which are deemed to be exemptions granted under the Code, those exemptions will also apply to the accounts and reports required to be lodged under this clause.

Clause 33 provides that where a company has failed to comply with an obligation under the Companies Act, 1962-1981, to lodge an annual return in relation to an Annual General Meeting held before the commencement of the Code then the obligation to lodge that return will continue to apply in relation to that company as if this Bill has not been enacted.

Clause 34 states that the investigation provisions of the Code will apply to any investigation to which the equivalent provisions of the Companies Act, 1962-1981, applied before the commencement of the Code.

Subclause 34 (1) states that inspectors appointed to carry out investigations and so carrying out investigations under the Companies Act, 1962-1981, will be deemed to be appointed and the investigations deemed to be carried out under the equivalent provisions of the Code.

Subclause 34 (2) provides that all matters and things done in the course of an investigation under the Companies Act, 1962-1981, will have the same effect and operation as if done under the Code. Subclause 34 (3) refers to particular instances.

Clause 35 provides that where a person was appointed to adminster a compromise or arrangement before the commencement of the Code then that person shall be deemed, for the purposes of the Code, to be appointed at the date of commencement of the Code.

Clause 36 states that the provisions of the Code with respect to winding up, other than subdivision F of Division 4 of Part XII, will not apply to a winding up of a company which was commenced prior to the commencement of the Code—such a winding up will continue as if the Companies Act, 1962-1981, remained in force.

Clause 37 provides for certain auditors and liquidators registered under the Companies Act, 1962-1981, to be deemed to be registered under the new Code. Subclause 37 (1) provides that a person registered as an auditor or liquidator, or appointed as an official liquidator under the Companies Act, 1962-1981, will be deemed to be registered under the Code for a period of six months after the commencement of the Code, subject to the cancellation or suspension provisions in Section 27 of the Code.

By subsection 20 (6) of the Code a liquidator's registration will only come into force after he has lodged any required security under Section 22 of the Code with the National Commission. Where a person is deemed to be registered as an auditor, as a liquidator or as an official

liquidator under a provision of a State or Territory law that corresponds with subclause (1) he shall be deemed to be registered under the Code, thus giving that person the benefits of Australia-wide registration—see subclause (4).

Clause 38 provides that, where the institution of a proceeding under the Companies Act, 1962-1981, was subject to the consent of the Minister and the proceeding was not instituted before the commencement of the Code but may be instituted after its commencement by reason of the operation of section 18, the power of the Minister to consent is preserved in relation to those proceedings.

Clause 39: Where a corporation that is a recognised company for the purposes of the Code was before the commencement of the Code registered as a foreign company under the Companies Act, 1962-1981, then subclause 39 (1) deems the registered office of the corporation in South Australia to be its principal office within South Australia for the purposes of the Code. This provides for certain corporations that are currently registered as foreign companies in South Australia and which will become recognised companies on the commencement of the Code.

Clause 40: Section 501 (1) of the Code provides that a company that has established a place of business or commenced to carry on business within another jurisdiction covered by the co-operative scheme is required to lodge with the Commission a notice in the prescribed form setting out the situation of its principal office in that other jurisdiction. The notice must be so lodged within one month after establishing a place of business or commencing to carry on a business in the relevant jurisdiction or, in the case of a foreign company, within one month after doing so becoming registered as a foreign company, whichever is the later.

Subclause 40 (1) deems a company, having before the commencement of the Code, already established a place of business or commenced to carry on business, for the purposes of the Code to have done so at the commencement of the Code. Thus the notice must be lodged within one month after the commencement of the Code.

Where a company, incorporated under the Companies Act, 1962-1981, has before the commencement of the Code, been registered in another jurisdiction covered by the co-operative scheme as a foreign company and in compliance with the law of that other jurisdiction relating to registered foreign companies, had lodged certain notices and maintained a branch register, then by virtue of subclause 40 (2) the notice lodged concerning the hours during which the registered office would be open is deemed to be compliant by the company with Section 501 (2) of the Code and by virtue of subclause 40 (3) the branch register will be deemed to be a branch register kept by the company under section 262 of the Code.

Clause 41: Under the Code a company formed outside Australia which is registered as a foreign company in South Australia and in other jurisdictions, will be entitled to carry on business in other participating jurisdictions simply by notifying the Commission of the one jurisdiction in which it wishes to be registered. Then by notifying the Commission of its principal place of business in the other participating jurisdictions where it will be carrying on business, it will be entitled to carry on business in those other jurisdictions. This is another feature of the 'one place of registration' concept.

Clause 42 provides that the National Commission will be able, if it considers it appropriate to do so, to destroy or dispose of any documents lodged by a recognised company or a recognised foreign company under the Companies Act, 1962-1981.

Clause 43: Clause 17 provides for the exclusion of the Marketable Securities Act, 1971, on the commencement of the Code. However, Clause 43 makes provision for certain actions and things done under the Marketable Securities Act, 1971, to continue to operate and have the same force and effect as if this Bill had not been enacted.

Clause 44: The South Australian Supreme Court will be given power to resolve any difficulty that may arise in the application to a particular matter of any of the provisions of the Code, the Companies Act, 1962-1981, the Marketable Securities Act, 1971, or the Bill and any orders made under this provision will have effect notwithstanding anything in the foregoing legislation.

Clause 45: The Governor will be able to make any necessary regulations that are in accordance with advice that is consistent with resolutions of the Ministerial Council. They may be made by reference to the regulations for the time being in force under the Commonwealth Companies (Transitional Provisions) Act, 1981, or otherwise in the normal course.

Schedule 1 makes a number of alterations to the provisions of the Commonwealth Companies Act, 1981, which are applied as laws of South Australia regulating companies in the State. The schedule sets out the adaptations to the Commonwealth Act, as amended, which are required to take account of local conditions. The main adaptations are as follows: Paragraph 1 adapts the general terminology of the Commonwealth Act for use in South Australia. For example, for the words 'the Territory' whenever appearing in the Commonwealth Act, the words 'South Australia' are substituted.

Paragraph 2 as well as adapting the definitions of certain terms certain additional definitions are included in the Commonwealth provisions to take account of the special position of the Code. For example, there is a definition of the 'Companies (South Australia) Code'. Some of the main changes include:

(i) definitions of 'State Commission' 'Commonwealth Minister' and the 'Companies (South Australia) Code'.

(ii) The definition of 'corporation' excludes all bodies incorporated under South Australian legislation other than the Code or a corresponding previous enactment.

(iii) The definition of 'lodged' includes an added paragraph referring to things lodged with the State Commission under the previous law before the commencement of the Code.

(iv) 'Minister' will mean the State Minister responsible for company matters except when the 'Commonwealth Minister' is specifically referred to.

(v) 'Regulations' means the provisions applying as regulations made under the Code by reason of Section 7 of the Companies (Application of Laws) Act, 1981.

Paragraph 3: References in the Code to a previous law corresponding to a provision in the Code includes a reference to a provision of the Companies Act, 1962-1981. Also a reference in the Code to a previous law of another State or Territory corresponding to a provision of the Code includes a reference to a provision of the law of that State or Territory corresponding to the Companies Act, 1962-1981.

Paragraph 4: The powers of the Commission to require production of books under the Code must be exercised:

(a) for the purposes of performing a function or exercising a power under the Code, or a Code of a participating State; or

(b) where the requirement relates to a matter that constitutes or may constitute a contravention, etc., of the Code or Code of a participating State, or the Companies Act, 1962-1981, or

previous law of a participating State or Territory that corresponded with that Code or to an offence relating to a company that involves fraud, etc.

Paragraph 5: Warrants issued under Clause 13 of the Code can only be issued to a member of the South Australian Police Force or another person named in the Warrant.

Paragraph 6: The Companies (Administration) Bill, 1981, when it becomes law, will continue the Corporate Affairs Commission in existence and will re-establish the Companies Auditors Board under the name of the Companies Auditors and Liquidator Disciplinary Board. This paragraph adapts the terminology of the Commonwealth Act to take note of this fact for the purposes of the Code. Paragraph 9 takes account of the fact that the corresponding office or body to the 'Corporate Affairs Commission for the Territory' in the Commonwealth Act, for the purposes of the Code in South Australia, is the State Commission.

Paragraph 12: In South Australia under the Code documents will have been lodged either with the Commission, the Registrar of Companies or the State Commission. Paragraph *(b)* inserts an evidentiary provision similar to section 12 (5a) of the existing Act.

Paragraph 14: References in Section 33 of the Commonwealth Act to companies formed pursuant to that Act or to another Act will be translated to refer to those bodies formed pursuant to the State Code or a State Act.

Paragraph 20 inserts section 73a into the South Australian Code. This section is similar to section 28a of the existing Act and allows a company incorporated with a deed of settlement to adopt a memorandum and articles in place of the deed.

Paragraph 23: The relevant transitional provisions in South Australia providing for the transition from the Companies Act, 1962-1981, to the Code, are contained in Part III of the Bill. Paragraph 26: Again, this paragraph takes account of the fact that the Codes operating in South Australia are not really Acts and it is not semantically correct to refer to them as a law of South Australia but rather as the law in force in South Australia. Similar reasoning applies for referring to regulations applying under the Code. The regulations are made under the Commonwealth Act and will apply under the Code by virtue of the Bill. They are not made under the Code. Also the provisions of the Companies (Acquisition of Shares) Act, 1980 operates in South Australia as the Companies (Acquisition of Shares) (South Australia) Code and hence the change in wording.

Paragraph 27: Subsection 123 (16) is added to the Code and deems any transfer of a Strata title unit by a company that is registered as the proprietor of land comprised in a plan of strata subdivision registered under the Strata Titles Act, 1966 that is made in exchange for certain rights, not to be a reduction of the share capital of the company.

Paragraph 28: This paragraph takes account of the fact that the Companies and Securities (Interpretation and Miscellaneous Provisions) Act, 1980 applies as a Code in South Australia.

Paragraph 30: Subsection 152 (7) of the Commonwealth Act provides that the provisions of subsection 152 (5) do not affect the operation of any debenture etc., for the purposes of Section 74 of the Companies Act, 1962-1981. Section 74 of the Companies Act, 1962-1981, dealing with the issue of debentures etc., came into operation on 1 January 1965 and hence the reference to that date.

Paragraph 34: This paragraph takes account of Section 16 (2) of the Bill by providing that a 'prescribed corporation' for the purposes of the definition of 'prescribed corporation' in Section 189 (1) of the Code shall be a body approved by the Ministerial Council and prescribed by the Governor for that purpose pursuant to regulations made by him.

Paragraph 38 replaces section 211 of the Commonwealth Act with a provision suited to South Australia. The purpose of the section is to ensure that a charge requiring registration under the Code does not have to be registered under other State legislation.

Paragraph 40: The provisions of the Commonwealth Act will apply in South Australia as adapted and applied by the Bill. Hence references to the enactment of the Commonwealth Act, in relation to South Australia, will be references to the enactment of the Companies (Application of Laws) Act, 1981.

Paragraph 46:

(a) and *(b)* For the purposes of subclause 291 (2) of the Code the relevant Minister is the Commonwealth Minister. In relation to subclause 291 (4) the relevant Minister is a State or Commonwealth Minister.

(c) This sub-paragraph reflects the change made to subclause 291 (2) of the Code by sub-paragraph *(a)* above.

Paragraph 48: Both the Commonwealth Minister and the State Minister can now act under Section 306 of the Code. The provisions of Clause 306 of the Code do not affect the protection given to witnesses under the Evidence Act, 1929-1979. Paragraph 49: Part VII of the Code binds the Crown in right of South Australia only, as it cannot bind the Crown in right of the Commonwealth.

Paragraph 68: Section 552 of the new Code corresponds to section 374 of the existing Act and subsection (17) which is inserted in section 552 by this paragraph corresponds to subsection (14) of sectioin 374 of the existing Act. The present exemption of insurance contracts from the operation of this provision is not to be continued under the Code because such an exemption does not exist in either jurisdictions and is not considered necessary.

Paragraph 70: Division 3 of Part XIV of the Commonwealth Act provides for the making of Rules of the Supreme Court and regulations. Neither power is required in South Australia. Adequate power exists in the Supreme Court Act, 1935-1981, to make the necessary Rules for the purposes of the Code and the regulations required will be made by the Governor-General under the Commonwealth Act and applied in South Australia by virtue of clause 7 of the Bill.

Paragraph 71: Subparagraph *(b)* saves the operation of section 62a of the Law of Property Act, 1936-1980, which is similar but wider in its ambit that section 578 of the Code. Subparagraph *(c)* saves the operation of the Industrial Conciliation and Arbitration Act, 1972-1981, in relation to association under that Act from being affected by the operation of the Code.

Schedule 2 sets out the adaptations that are required to be made to regulations made under the Commonwealth Act before those regulations can be applied as regulations under the Code. The adaptations are interpretive in nature.

Schedule 3 also sets out adaptations that are required to be made under the Commonwealth Companies (Fees) Act, 1981 before the schedule to those regulations can be applied in South Australia. Again, the adaptations are interpretive in nature.

Schedule 4 provides the headings and introductory provisions for the Companies (South Australia) Code. Schedule 5 is similar to schedule 4 and provides the headings and introductory provisions for the Companies (South Australia) Regulations.

Schedule 6 is also similar to schedule 4 and provides the headings and introductory provisions of the Companies (Fees) (South Australia) Regulations.

The Hon. C. J. SUMNER secured the adjournment of the debate.

LICENSING ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment:

Clause 3, page 1, lines 9 and 10—Leave out this clause.

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

That the House of Assembly's amendment be agreed to.

I do not propose to canvass the merits of the Bill as it relates to the age of licensing court judges. They were fully canvassed here and in the other place. It is desirable to recount the brief history of this Bill in Parliament. The Bill was introduced as a measure to change liquor licensing fees to provide lower fees for low alcohol beer and wine and slightly higher licensing fees for other liquor. The Leader of the Opposition quite properly sought and obtained an instruction to add what are now the contested controversial clauses in relation to the age of judges.

As was said during the debate, the situation is that there is a two-tier system—licensing court and industrial court judges retire at 65 and district court and Supreme Court judges retire at 70. I should have thought that this was extraneous to the Bill in more ways than one. The general matter in issue is the question of the age of judges. This should not be changed in an *ad hoc* way in regard to judges in one jurisdiction; it could be considered generally. I might add that I have asked the Attorney-General to consider that general matter and he has agreed that he will do so.

The Bill with the amendment as passed in this Council has gone to the House of Assembly, which has passed the Bill but removed the provisions in regard to the age of judges. I would suggest that, whatever the Council sought before, in all the circumstances which I have outlined, with the provision being removed in the House of Assembly in regard to the age of judges, that we could well accept the decision of that House.

The Hon. C. J. SUMNER: I oppose the motion. The Council took a decision when the Bill was before it previously and decided that in this case the licensing court judge should be able to continue until age 70, just as the judges of the Supreme Court and district courts can continue until that age. The position simply is that the present occupant of the position of judge of the licensing court will not retire, despite the fact that he has attained the age of 65. He will be transferred to another court. That seems to be a totally pointless exercise, unless the Government has some ulterior motive. There is little doubt that it has an ulterior motive. It wants to get rid of the present licensing court judge and put in one of its own appointments. I suspect that it has in mind someone for the job. There can be no other explanation for the Government's bloody-minded attitude over this issue.

Judge Grubb, who is the licensing court judge at the moment, has the respect of the industry and the authorities which appear before him. He has a wealth of experience in the jurisdiction. If this amendment is not insisted on, that wealth of experience will be lost to the court when he does not retire but is compulsorily transferred from one judicial position to another judicial position. That is what makes the situation quite absurd. If the fact was that Judge Grubb was not going to another court position but was retiring, perhaps there would not be any necessity for this amendment.

As well as being the judge of the licensing court, Judge Grubb is also a judge of the district court. I imagine that any future judges appointed to that jurisdiction will also receive commissions in the district court so that their judical time is fully utilised. There is no rationality in the Government's argument in these circumstances. So, if there is no rationality or logic behind it, clearly one must look to what the Government intends to do. It could well be that it has in mind another approach to the member for Mitcham to see whether he wants to sit on the licensing court. I suspect that the member for Mitcham will give the same answer that he gave before—that the Government is wasting its time.

It is quite clear that there is no logic in the Government's position so there must be a political motive. That motive is quite clearly to get rid of Judge Grubb and to get one of its own mates into the position. I think the Minister would be hard put to say that the Government has not got someone lined up. That is what concerns me about it. They have a man in the position who is experienced and who could continue for another five years. He has the respect of the industry, and the Government is going to compulsorily retire him from that position and put him into the district court where he will continue to judge in another jurisdiction for a further five years. How absurd can one get?

I ask the Council to insist on this amendment. Nothing has changed in the past week or so since the issue was last considered. Nothing has changed at all to suggest that the Council should change its mind. If there had been some event or some Government action which could have led us into a position of reconsidering the issue, or into changing our position on this matter, then well and good, but absolutely nothing has happened except that the House of Assembly has rejected the amendment, and rejected it only because the Government took an intransigent stance against it. However, the Labor Party and the Australian Democrat in another place (the member for Mitcham), were solid and strong in their support of the amendment.

The Hon. R. C. DeGaris: Have you still got him?

The Hon. C. J. SUMNER: I have not spoken to the member for Mitcham about the matter recently, but last night he voted with the Opposition when the Government sought to take this amendment out of the Bill in the House of Assembly. If the Council does not insist upon this amendment then it makes a total farce of proceedings. There may be members who wish to make a farce of these proceedings by moving amendments and then changing their minds a few days later without having had additional information or without any new circumstances having arisen. I suspect that there would be nobody in the Council who would be silly enough to adopt that particular approach. I urge the Committee to insist upon its amendment, which I think is a good and logical one and one which would ensure that the Licensing Court has the services of Judge Grubb for another five years.

The Hon. J. C. BURDETT: The Government's attitude to this amendment, which was not proposed by it but by the Hon. Mr Sumner, is an entirely logical one. As was pointed out before (and I had hoped not to have to canvass these issues again) the role of the Licensing Court judge, in particular, is a physically active one. However, the role of the District Court judge is a much less physical one. It is, therefore, logical that the same judge should move from the physically active sphere to one which is not so physically active because he will, on that basis, have a more restful life. One thing I must say strongly is that I completely refute the disgraceful suggestion that the Government has any ulterior motive in this matter.

The Hon. C. J. Sumner: A bit sensitive?

The Hon. J. C. BURDETT: It was a disgraceful and nasty suggestion which should never have been made, and the honourable member had no basis on which to make it. I make no apology for strongly refuting that suggestion.

The suggestion was also made (and this was even more disgraceful) that the Government has someone in mind for this position. That is totally untrue. Honourable members must remember that the Government did not raise this matter and that it was raised by the Hon. Mr Sumner a week ago.

The Hon. C. J. Sumner: You knew he was going to retire.

The ACTING CHAIRMAN (Hon. M. B. Dawkins): Order! The honourable Minister will be heard in silence.

The Hon. J. C. BURDETT: The Hon. Mr Sumner seems to regard the fact that the House of Assembly disagreed with the amendment under discussion as suggesting some form of intransigence. There is no question of that; it is not necessarily intransigent to disagree with the Hon. Mr Sumner and other Opposition members.

The Hon. K. L. MILNE: I think I should make an explanation about this matter, because I am going to change my stance.

The Hon. C. J. Sumner: Not again.

The Hon. K. L. MILNE: Let me explain.

The ACTING CHAIRMAN: The Hon. Mr Milne will address the Chair and ignore interjections.

The Hon. K. L. MILNE: This Bill does not concern the retiring age of judges generally, or the retiring age of any particular judge.

The Hon. C. J. Sumner: Why didn't you vote against the instruction?

The Hon. K. L. MILNE: Because, first, the honourable member asked me to consider the matter. I did that. The Bill then went to the Assembly where the amendment was rejected. The Assembly had its reasons for doing that. I do not think that the reasons the Leader has given for being intransigent about this matter and for standing our ground are good reasons. Nor am I convinced by the Government's arguments against the matter, either. This is an unfortunate argument which has arisen in a Bill in which it should never have arisen, because the retiring age of judges should be the subject of a major inquiry.

The Attorney-General has given an undertaking that he will carry out an investigation into the retiring age for all judges instead of having a two-tier system. I think that that is reasonable and sensible. In view of what both the Leader and the Minister have said, in view of that undertaking and in view of the fact that the Bill does not specifically concern this matter, I think that the Council would be wise to take advice on this matter. I propose to support the Government.

The Hon. C. J. SUMNER: I am not quite sure what the Hon. Mr Milne means by 'taking advice'. He has not indicated anything that has occurred over the past few days to suggest why the Council should change its mind. The fact that the Government is now going to have an inquiry into the retiring age of judges seems to me to have very little to do with the issue in question. What we are talking about here is a particular situation where an anomaly has crept in. We have here a judge of the District Court, where the retiring age is 70 years, who is also a judge of the Licensing Court, where he is required to retire at 65 years. This is a simple, single issue of an anomalous situation which has arisen at this particular time when we are considering amendments to the Licensing Act.

It is too simple an argument for the Hon. Mr Milne to say that the amendment has nothing to do with the Bill and, therefore, should not be proceeded with. The fact is that the issue has arisen, the Bill is before the Parliament and the Parliament ought to take the opportunity to deal with the issue that has arisen; namely, the retirement of Judge Grubb. An instruction was permitted by the Council to the Committee to consider these amendments. They were considered, found favourable by the Committee, and nothing has changed in the meantime which would indicate that we ought to change our minds. What the Hon. Mr Milne is saying leads one to the conclusion that we wasted our time debating this iussue a week ago. It seems to me that if this is the attitude that the honourable member is going to adopt then it is a waste of time debating a whole lot of things and getting amendments put into legislation when all the House of Assembly has to do is reject those amendments to have the Hon. Mr Milne change his mind.

The Committee divided on the motion:

Ayes (10)—The Hons J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Noes (9)—The Hons Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. L. H. Davis. No—The Hon. N. K. Foster.

Majority of 1 for the Ayes.

Motion thus carried.

BUILDING SOCIETIES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 3 December. Page 2305.)

The Hon. C. J. SUMNER (Leader of the Opposition): This Bill amends the Building Societies Act to give building societies greater flexibility when making loans and investments. It also eases the definition of what funds are considered to be liquid funds, and thereby it affects the ratio of funds which may be lent or invested. The reality in the financial world at the moment is such that there is increased competition. There is increased competition as between the banks, and there is increased competition as between the banks and other financial institutions—finance companies, credit unions and building societies. The banks have sought to meet this increased competition through amalgamation, such that there are only three banks in the private sector in Australia at the moment. Also, each State has its own State bank, and there are also the Commonwealth Trading and Commonwealth Savings Banks at the national level.

In effect, there are really only five banking groups: the national system (the Commonwealth Trading Bank and the Commonwealth Savings Bank), the State-owned banking system (which in South Australia is represented by the State Bank and the Savings Bank of South Australia), and the three private banks—the National Bank, the A.N.Z. Bank and the Bank of New South Wales. For some curious reason the Bank of New South Wales has now decided to call itself Westpac. As a customer of the Bank of New South Wales I find that change of name quite curious.

The Hon. M. B. Dawkins: Try E.S. & A.

The Hon. C. J. SUMNER: I was a customer of E.S. & A., but it would not provide me with a loan that I required. Despite my years of connection with that particular organisation I then left.

The Hon. D. H. Laidlaw: You're no more confused than a particular carrier in Victoria who uses the name Westpak.

The Hon. C. J. SUMNER: The Hon. Mr Laidlaw has informed the Council that the Bank of New South Wales has run into trouble with its name change, because the name it has chosen is apparently already registered in Victoria. I suppose that a company such as the Bank of New South Wales would be able to overcome that difficulty. For the life of me I cannot see why it has bothered to change its name to Westpac, which is a name that is

totally unrecognisable anywhere in Australia and, I suspect, anywhere else that the Bank of New South Wales operates. However, if the Bank of New South Wales wants to reduce its competitive advantage, that is its problem. As long as the Bank of New South Wales has enough money to continue to advance the funds sufficient for my purposes I will not be overly bothered. I really do not believe that the Bank of New South Wales needs to change its traditional well-established name. I suspect that, if I continue with that, Mr President, you will pull me up for being irrelevant, and you would be quite right.

The PRESIDENT: Would you agree with me if I did?

The Hon. C. J. SUMNER: I do not often agree with you, Sir, but on this occasion I might be forced to. In the financial arena in Australia there is increased competition. The situation has become much more cut-throat. The whole tenor of the recommendations of the Campbell Committee of Inquiry into the financial system of Australia was for a greater freeing up of the system, the encouragement of greater competition, and indeed the permitting of overseas banking operations to compete in Australia in the normal domestic banking situation.

While we do not know at this point whether the recommendations of the Campbell Committee will be accepted—and I think there must be considerable doubt as to whether they will be because of the likely adverse effect that they will have on interest rates for home buyers and in the rural sector—we have to take note that the atmosphere at the moment with the Federal Government and the Campbell Committee of Inquiry is such that there could be a greater freeing up of the system, a greater deregulation of the system, and the competition which we have already noted has led to the amalgamation of the private banks in Australia will become even more fierce.

Over recent times the building societies in competition have done very well. I would like to refer to a report in the Australian Association of Permanent Building Societies national newsletter of March 1981, first in relation to the expansion of building society activity, and then in relation to an analysis that is given by the article of the future competitive position in which building societies will find themselves. The article was a paper presented at the XV World Congress by Mr R. V. Morris, Managing Director of Statewide Building Society. In relation to the competitive position of the building societies up to the present time, Mr Morris had this to say:

> A bald and factual statement that assets of building societies in Australia have grown from some $300 000 000 in 1965 to over $10 000 000 000 in 1980 suggests that the industry, or movement if that is preferred, is well equipped to withstand the competitive efforts of other financial intermediaries. The placement of those figures within the total financial market and a comparative expression of market share expressed in percentage terms reveals:
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> 1. Market share of trading and savings banks has fallen from 45.5 per cent in 1965 to 38.5 per cent in 1979.
> 2. Market share of life assurance offices has fallen from 14.1 per cent in 1965 to 9.6 per cent in 1979.
> 3. Market share of building societies has risen from 1.2 per cent to 7 per cent in the same period.

So, there has been over the past 15 years a dramatic increase in the share of the market which building societies have been able to obtain, but the question of what the future will bring is much more complicated, and the suggestion is made in this article that the environment will be not so bright for building societies in the future. It is within that context that the building society movement is seeking these amendments to the legislation, so as to free up their restrictions on the loans they may make and the investments that they may make so that they can continue to compete as they have over the last 15 years. I shall quote from this article to give the Council some indication of the sort of difficulties that the building societies see in the financial environment in this country over the next few years. The article states:

> By summarising the possible effects of the foregoing projections we can make some attempt to portray the arena in which Australian building societies will compete during the eighties and beyond.
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> 1. There will be seen a reallocation of money from housing to resource funding. This will be accepted both at the political level and by the whole community in the same way that the unemployment ratio has become accepted over the past six years—as that which is inevitable.

I am not sure that I would agree with the comments in relation to unemployment, but the point that the article makes is that there may well be a reallocation of money from housing to resource funding in the future. The report continues:

> 2. The dual motivation of the Government's monetary policy and the need for equity for banks will lead to a cessation of the false rate structure of housing finance.
> 3. Changing attitudes of household savers will lead to a greater degree of rate consciousness among savers, driving the household savings institutions into a more directly competitive stance *vis-a-vis* Government securities and corporate debentures.
> 4. There must be anticipated some significant change emanating from the inquiry into the financial system. The expectation is that institutions will be required to compete upon more equal terms, and that the market place will allocate money resources rather more than has been the case in the past.
>
> It may be expected that the degree of equity will be realistic. One doubts that there is any possibility of official depositor protection being provided for a broader range of institutions. However, considerably greater freedom must be expected for banks in interest rates and, perhaps to a lesser extent, in asset ratios. At one extreme there could be envisaged a situation where savings banks may cease to exist their functions being taken over by their trading bank owners, perhaps raising the spectre of interest bearing current accounts. At best, from the viewpoint of societies, savings banks will be permitted to determine their own rates upon housing loans and upon deposits.
>
> Much of the building society's response to these prospective developments must depend on the behaviour of the banks in any post-deregulation period, and the ultimate test of bank strategy will lie within their profit and loss accounts.
> 5. The technology now being introduced into financial services will be a constant and continuing concern to building societies. They must watch ceaselessly for market indications of mass acceptance of A.T.M.'s and other devices. There appears to date to be a clear cut division in savings attitudes between that which may be described as 'current' or 'services' money and that which is savings. The answer to the question of whether or not this clear cut 'jam jar' philosophy will understand the march of technical progress will determine building societies attitudes and actions in the financial services area.

To summarise:

> In brief, then, Australian societies will need to compete within a system where there may be less political sympathy than heretofore, open rate competition from larger institutions, by tradition more highly rated from a perceived security viewpoint, with deposit and mortgage interest rates more volatile, and pitched at a relatively higher level.

That article, I think, indicates the sort of environment in which one managing director of a building society sees building societies operating in the future. One does not have to agree with all the points that the article makes, but nevertheless, they are arguments which deserve consideration and they are certainly arguments which the building societies take very seriously and which I would suspect have led to the Association of Building Societies in this State making recommendations to the Government for the changes which we have before us.

I would like to deal briefly with the general philosophical argument which one must consider when dealing with building societies; that is, that they are co-operatives and were established basically to serve their members in the housing loan area. It is legitimate, when considering amendments

which will affect the role of building societies, to decide how much the amendments will run counter to, or interfere with, the basic thrust and rationale for the existence of building societies.

The amendments have been checked by the Building Societies Advisory Committee, upon which there was Government representation, the Registrar of building societies, a nominee of the Treasurer and a nominee of the Minister of Housing. So, one would hope that the public interest has been protected by a careful consideration of the amendments by the advisory committee. The Government has, on the advice of the advisory committee, accepted the need for the amendments. However, the question is raised as to whether or not the societies are becoming another form of a banking and lending service and are really getting away from their essential co-operative nature and, indeed, getting away from the basic rationale for their existence, which was that they be co-operative ventures to provide housing finance to members.

I believe that, when we are considering amendments of this kind, these are legitimate questions that have to be asked and that do indeed raise the whole question of the future of the building societies in this increasingly competitive environment. No doubt the banks would argue that their co-operative status in the past has provided building societies with some advantages on which they have been able to capitalise, to increase their market share. I suppose that the banks would then argue that, if the building societies were able to use their co-operative status to capitalise on the position in the past, why, when the position gets tougher, should their co-operative status be altered in any way, or why should their basic rationale be altered when the competitive situation gets more difficult for them? In other words, in the past they were able to compete: now they are unable to compete as well. The banks therefore would presumably argue, 'Well, why then is legislation necessary, in effect, to broaden the scope of the building society activity to make them more in line with banking institutions?'

These questions need to be raised. Personally, having raised them, I do not believe that these amendments negate the basic role of building societies and, accordingly, this Bill has Opposition support with one minor amendment that I will deal with later. The issues that I have raised mean that we have to think about what role the building societies will have in increasing the competitive environment envisaged by the Campbell Committee, and whether their status as co-operatives and as home lenders will be able to survive completely in that new competitive environment, or whether there will be more and more requests for amendments to the legislation to loosen up the restrictions currently existing for building societies. It is a difficult problem, but I have raised it.

At this stage I do not believe that these amendments negate the basic role of building societies and, accordingly, the Opposition will support the Bill. There are controls in the Bill and qualifications to the argument that building societies are becoming more and more like banking institutions. The definition of 'restricted loan', which is one of the amendments, has been changed so that loans can now be made for residential development, including development for rental and not purchase, of up to $70 000 to a corporation without those loans being considered a 'restricted loan' and, therefore, limited to between 10 per cent and 25 per cent of building society lending.

Previously, it was possible to make a loan to an individual of up to $70 000 for any purpose without it being a restricted loan. There has therefore been some give and take, or *quid pro quo,* on the definition of 'restricted loan'. Loans may now be made to corporations of up to $70 000, but in return the loan must be for residential purposes, for it to escape being considered a 'restricted loan'. The Opposition believes that an amendment should be made to clause 4, which deals with the definition of 'restricted loan', to make it clear that, for a loan to a corporation or an individual to be in the unrestricted category, it should be for the acquisition, construction or improvement of a place of residence, or the acquisition of land for residential purposes in South Australia, and therefore not subject to the limitations in the Act for a 'restricted loan', and that residential development should be in South Australia.

Therefore, loans for such development outside South Australia would be in the restricted category. In other words, we believe that there ought to be some incentive for the loans to be made for these purposes, which I emphasise may not be for residential home purchases, but may be developments for rental accommodation, and that there should be some incentive for those loans to be made for such developments within the State of South Australia; this is the effect of our amendment. I suppose (and the Minister may like to respond to this) that it is theoretically possible for all the loans to be of this type, that is, of under $70 000, to a corporation for residential purposes, not necessarily being for purchase. I do not suggest for one minute that that will occur, but there is nothing in the legislation, as I see it, to prevent that situation. If that did occur then there would be serious questions raised about the co-operative status of the building societies and their fundamental role of providing funds for home finance for their members.

In the second reading explanation there was an interesting justification for this change in the 'restricted loan' category and it was put in terms of Government policy, as follows:

> Government policy is to encourage home ownership and, as an alternative under modern conditions, to encourage the availability of rental accommodation.

Well, with all due respect to the Minister, I am not quite sure what that gobbledegook means, when he says that it is Government policy to encourage home ownership but, if you cannot have home ownership, then the Government wants rental accommodation. I am not sure what else the Minister had in mind, unless he was suggesting that we should pitch a tent on the Torrens or something.

The Hon. Frank Blevins: A boat.

The Hon. C. J. SUMNER: A houseboat, or something of that kind. It was really quite a fatuous statement for the Government to say that it encourages home ownership but, if it cannot do that, that it encourages rental accommodation.

The Hon. J. C. Burdett: Funds will be available.

The Hon. C. J. SUMNER: What did the Minister have in mind? Was it squatting in a tent on the banks of the Torrens. I make that passing remark because there was obviously not the thought that should have gone into the second reading explanation.

The other point I wish to mention deals with Government policy in this area, and I will deal with it briefly. Government policy by the Federal and State Governments is hardly encouraging home ownership with the high interest rates that have been forced on home owners in Australia in recent months and the general down-turn in the building industry that has occurred in Australia. It is difficult to see how the Government is encouraging home ownership.

In fact, a report in today's *News* indicates that building approvals across the board throughout Australia are considerably down, but much more significantly in South Australia than we are used to. They are lower in South Australia than in other States. I refer to the housing agreement deal within this place last week. In that debate, I provided figures relating to private house approvals in this State. I

indicated that in this year, compared with last year, the number of approvals had dropped considerably. The Government may claim that as a policy it is encouraging home ownership, but the facts at present indicate that that policy at both Federal and State levels is not working satisfactorily.

In respect of the other amendments in the Bill there is an amendment to section 43 which deals with investment in shares by a building society. Presently, that is restricted to a maximum of 1 per cent of the total paid-up share capital of the society. The provision in the Bill is for that percentage to be increased by regulation, so an increase in the restriction that exists at the moment would still remain within the control of the Government. I think the Government should have provided to the Council some guidelines as to how that restriction would operate. Clearly, a matter is taken out of Parliament's control again in yet another area, and we are seeing this increasingly with this Government—legislation by regulation. We are seeing the 1 per cent restriction taken out of the Act and put into regulations. That has been done, and the Honourable Mr DeGaris will be interested in this, because it has been without any indication to the Council about what guidelines will be used or whether it will be used in relation to particular societies or across the board. None of that information is in the second reading explanation and I can only ask the Minister why it is not. Will he provide the Council with that information?

Finally, there was some press speculation in yesterday's *Advertiser* in regard to the statement that the building societies denied any interest in the Housing Loan Insurance Corporation (the Federal corporation) or any other housing loan insurance organisation which may be privately run if the corporation is sold by the Federal Government, as has been suggested. In the *Advertiser* the societies were denying any interest in the corporation, and that may well be the case but, if it was, why did the Minister in his second reading explanation refer to the possibility of investment in such an organisation, as follows:

> The purposes for which such an expansion is sought are for investment in insurance of deposit scheme, the Housing Loan Insurance Corporation or its commercial successor(s), and society-owned service companies such as computing services.

On the face of it, there is a clear contradition between the Minister's second reading explanation, which says that the purpose of this expansion in investment power is for investment in deposit insurance schemes, even in the Housing Loan Insurance Corporation or its commercial successor, and then the complete denial of that from the societies.

That may indicate that the Minister does not know what he is talking about (that would not be unusual), or it may be that someone is being less than frank with Parliament. Certainly, the Minister was clear in his second reading explanation, and now we find a categoric denial from the societies in the *Advertiser*, as follows:

> However, spokesmen for the Australian Association of Permanent Building Societies and the South Australian association both denied that any such move was being planned.

This demands an explanation from the Minister. In his explanation he indicated the purpose of the amendment, yet that purpose was denied by the building societies. I seek an explanation of that, along with the other questions that I have raised. I support the second reading.

The Hon. D. H. LAIDLAW: Last week this Council dealt with amendments to the Savings Bank Act, the object of which was to lessen the restrictions on that bank's power to borrow, to lend and to invest so that it can continue to attract deposits and earn sufficient margin from loans and investments to remain viable. This Bill has the same objective as the Bill dealt with last week. The salient clauses relate to the mix of loans and the form of liquid assets and investments.

Permanent building societies and savings banks in Australia have played an increasingly dominant role in providing housing loans. As the Campbell Committee of Inquiry into the Australian Financial System pointed out, in 1970 savings banks provided 38.5 per cent and building societies provided 18.9 per cent, a total of 57.4 per cent of all housing loans whereas, by 1980, it had grown to 42.6 per cent and 33.2 per cent respectively, a total of 75.8 per cent. Loans by building societies and savings banks amounted to $18.8 billion in 1980.

During this past year, interest rates on all forms of securities have risen dramatically in Australia, and it has become apparent that the monetary system in this country cannot operate in isolation from trends elsewhere in the Western world.

The activities of the permanent building societies are controlled to varying degrees by the States. In South Australia, the societies are free to set their own deposit interest rates, but the home lending rate is controlled by the Government. In October the upper limit was set at 13.25 per cent, which is still the lowest of any State. By contrast, in Victoria, there is no control over borrowing and lending and even the interest rates there for home loans range between 14.5 per cent and 15 per cent. In Western Australia, it ranges between 13.5 per cent and 13.7 per cent and is fixed after consultation with the Government. In New South Wales and Queensland it is fixed at 13.5 per cent.

Needless to say, since building societies concentrate on home lending and where the lending rate for such is fixed, there is a maximum rate which they can afford to pay for deposits, and still cover their overheads and remain viable. The growth in the deposits of building societies has suffered because of competition from other financial institutions. One building society in the State estimates that the amount available for house loans may drop by 25 per cent this year, compared with 1980-81.

Late last year a merchant banker, Hill Samuel, instituted a cash management trust which accepts deposits at call. At present, the rate is just over 14 per cent and it invests its capital in semi-governmental securities and bank-accepted or endorsed bills but does not provide funds for housing. Four other cash management trusts have been started since then and within one year they have acquired over $400 000 000. Much of these funds formerly would have been directed to savings banks and building societies.

I refer to section 37.26 of the Campbell inquiry report which recommends that in the long run housing financing inflows would be more stable if their interest rates were allowed to move in line with market forces to reduce volatility in funds which should contribute to a more stable housing sector over the long term. This might result in a slower growth in housing costs.

The committee did say at the outset that it paid no regard to the social or political consequences of its report. This recommendation regarding uncontrolled interest rates for housing loans is a most sensitive matter. Imagine the furore and the personal distress if building societies suddenly raised their lending rate by 3 per cent to 4 per cent overnight to bring them into line with open market rates.

The State Government recognises that some action is needed to assist the building societies. There are nine such societies registered in South Australia, and by last month they had acquired assets of just over $700 000 000. They operate as co-operatives by attracting funds mainly by share deposits from their members but also by deposits from the public and by borrowing from other institutions. These deposits are lent principally to members by way of mortgage

to build or acquire homes. However, a minimum of 10 per cent of their assets must be held in the form of liquid funds.

Of these nine societies, the largest is the Co-operative Building Society with assets of over $305 000 000. At last report it had nearly 240 000 deposit accounts, and during 1980-81 it made 2 283 housing loans to members amounting to $67 000 000. The second largest is Hindmarsh Building Society with assets of $298 000 000, followed by Adelaide Permanent Building Society with assets of $63 000 000. These three dominate the scene because the remaining six between them hold assets of only $30 000 000. Assets of $700 000 000 are very significant in a State with a population of only 1 400 000, and a threat to the viability of building societies must be treated with concern by any Government.

The building societies throughout Australia are striving to protect their own positions. This month they announced the formation of Cashcard—a card system based on computerised processing with an Australia-wide monetary clearing system. This will enable members to draw cash from their deposit accounts when they are in the country or interstate. Initially, the scheme will apply only to withdrawals from members' savings accounts but eventually they hope to introduce a full credit card system. Cashcard has been introduced to compete with automated teller machines recently installed by the trading banks.

I mentioned that in South Australia interest rates on building society deposits are not controlled. Therefore, in an effort to compete, the Co-operative Building Society last month introduced staggered rates on savings accounts, being 11 per cent for under $5 000 ranging to 14 per cent for over $30 000. In addition, it offers up to 14.5 per cent for some fixed deposits. The other societies have also raised their deposit rates in varying ways.

As a result of a recommendation from the Building Societies Advisory Committee, which was created earlier this year, the Government has introduced this amending Bill and I wish to comment on three aspects. Clause 4 amends section 33 with regard to restricted loans. At present a society can allocate up to 10 per cent of total advances each year to housing loans of $70 000 or more to individuals, or loans of any size to companies. An increasing number of persons, for tax reasons, own their properties in company names, so that the restricted category is becoming cluttered with loans of under $70 000 to companies. Under this amendment, reference to companies is deleted so that loans to companies in future of under $70 000 will fall within the general category and those in excess within the restricted category. The limit of 10 per cent for restricted loans may be varied in future by the Minister. As he explained, it is intended that societies should be free to lend to developers of rental accommodation, and such loans will fall within the restricted category. Societies will be able to charge normal commercial rates for such loans.

Mr Ponnsett, the General Manager of the Co-operative Building Society, said last month that there must be a massive redirection towards developmental building projects by building societies. We shall watch with interest to see whether the Minister will permit any drastic change in order to expand the income-earning capacity of the building societies.

Clause 5 amends section 36 regarding the definition of liquid funds. I have stated that building societies must keep 10 per cent of their assets in liquid funds as a safeguard against a rush by members to withdraw deposits. We witnessed such an occurrence some years ago with respect to the Hindmarsh Building Society, when Mr Dunstan took to the streets, complete with megaphone, to allay the fears of the depositors. The amendment permits liquid funds to be invested in loans or guaranteed securities of Commonwealth or South Australian Government statutory authorities or Sagasco. In addition, it is proposed that societies will be able to purchase bank-accepted or endorsed bills or invest in any other securities prescribed by the Minister.

I should like to make the observation that it is currently the practice for many of the larger public companies, such as B.H.P., to raise funds by promissory notes. Because of their financial status, they can borrow at prime rates without paying an endorsing fee to a trading bank. Since the aim of the amending Bill is to help building societies increase their profitabilitv (and certainly there is no risk attached to that), the building societies should be able to invest in promissory notes issued by borrowers approved by the Registrar of building societies. I ask the Minister whether he would give an undertaking to prescribe approved promissory notes pursuant to section 36*(b) (g)*.

Clause 6 amends section 40 in relation to the type of securities in which a building society can invest. At present it can invest up to 1 per cent of its share capital, that is, members' deposits, in public company shares. It is proposed to increase the limit for investment in shares slightly, above 1 per cent, according to the Minister in his second reading explanation, but in future the investment must be confined to shares approved by the Registrar in companies engaged in activities incidental to or relating to those other societies.

The Minister believes that building societies should restrict their investments to the building field. He has said that they should be able to invest from time to time in the Federal Housing Loan Insurance Corporation or its commercial successor and in service companies such as computer bureaux. As a result of the Campbell Committee of Inquiry, the Federal Government decided to sell that insurance corporation off to the private sector or to service companies, such as computer bureaux. If a company was formed to operate Cashcard, the local building societies, no doubt, would wish to take up shares. On the other hand, the term, 'incidental or related to' as appears in this Bill is capable of broad interpretation, and it may be deemed to permit an investment in most South Australian based public companies. Subject to these qualifications, I fully support the second reading of this Bill.

The Hon. FRANK BLEVINS: I endorse the remarks made by my Leader. I support the Bill to the second reading stage. One proposal in the Bill which caused me much concern and which I know will be dealt with in the Committee stage concerns the fact that building societies are having financial problems. We all appreciate that. The reason for those problems is that people have woken up to the fact that there are higher interest rates available on their investments than those paid by building societies. They can no longer see the value of putting their money into building societies at lower rates of interest than cash management trusts and finance companies offer.

If this situation was allowed to continue, the building societies would be in real financial trouble and some of them could possibly collapse. I know that the Government would step in to make sure that people were not unduly hurt if this happened, but it would be undesirable for building societies to get into such a mess. What is the answer? The answer is that the societies must invest their funds at higher interest rates so that they're able, in turn, to pay higher interest rates to their investors. This means that they must have a greater flexibility in placing their funds on the market so that they can attract higher interest rates. I am not opposed to that happening. There is obviously less and less competition in the banking field, and if the building societies are no longer in that field that will restrict competition even further, which would be highly undesirable.

One of the areas in which it is contemplated that this Parliament should allow building societies to invest is that of rental accommodation. At first sight, that seems completely contrary to the whole object of building societies as they were formed, which as the Council knows was as co-operatives to allow people to invest their money and to then borrow money to purchase their own home. That is fine, unless one agrees with Proudhon that all property is theft. I could probably speak for longer on that subject than I could on the Bill under review.

The question of building societies being able to invest in rental housing appears to be contrary to the original idea of what those societies were about. I argue that the proposal is not all that far away from the investment by people hoping to buy their own homes or people making a general investment of their few hundred or few thousand dollars in a building society. If it assists people to get into rental accommodation, then it must be regarded as a desirable objective.

The question has been raised whether or not this money should be allowed to go out of the State. I have strong reservations about that happening. This State has attempted, through the S.G.I.C., the State Bank and the Savings Bank, to keep as much of the capital raised in this State as possible at home. We cannot cut ourselves off from the rest of Australia, and I am not suggesting that, but as far as practicable we should use funds raised in South Australia for the benefit of South Australians and the South Australian economy.

During the Committee stage of this Bill, I will be supporting the proposition put by the Leader that it should be mandatory that, where building societies invest funds in the provision of rental accommodation, those funds must be invested within this State. I can see some attraction for building societies to invest in rental accommodation in the Eastern States where the return on capital is possibly higher. There is no doubt that rents in the Eastern States particulary in metropolitan Sydney, are very high indeed.

The temptation for building societies to invest interstate would be, I suggest, very great. I do not know whether it is the intention of the societies to take that course, but I think that, as some insurance, the Parliament should be prepared to say to building societies that we are in effect, coming to your assistance by broadening the scope of your investments but that Parliament wants those investments to be made, as much as possible, in this State. I believe that that is not an unreasonable proposition.

I am not sure of the Government's intention in this matter. It may be that, when we get to the Committee stage, or when the Minister responds in this debate, we will find that the Government's intention is that South Australia be the main beneficiary of this large investment scope of building societies. It would do no harm to have that on record. Certainly, before the Minister responds, I indicate that I will certainly be supporting the proposition that building societies should be compelled to invest in South Australia. During his second reading speech the Hon. Mr Sumner referred to the regulation-making powers in this Bill.

The Hon. M. B. CAMERON: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. FRANK BLEVINS: As I have said, I support the second reading of this Bill. I will be very interested to hear the Minister's response to the points that I have made. I look forward to the debate in Committee about retaining this source of finance in South Australia.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank honourable members for their contribution to this debate, particularly the first two contributors, which were very useful. I did not realise that the Leader was such a strong supporter of the banks. He put so many arguments on behalf of the banks that he did not seem to hold much brief for their competitors. The Leader asked whether building societies were becoming another type of banking service. I believe that the Leader answered that question himself when he said that it was sad that they were not at the present time. As Minister in charge of this legislation, I give that question a very strong 'No'. I have been most impressed that the objective and the reason for the existence of building societies is very clearly to provide shelter. The question of home ownership and rental housing is also within the ambit of building societies. Any suggestion of other investments is clearly for the purpose of carrying out their main objective—the provision of shelter.

I have noticed that investments by overseas building societies are much wider than is contemplated in the principal Act. However, wherever this has occurred overseas, the building societies involved have strongly retained their objective to provide shelter. That point has been made very clearly by officers, board members and members of the societies. The Leader also asked whether building societies were getting away from their co-operative status. Once again, I give a very strong 'No'. There is no suggestion that they are getting away from their co-operative status. That status is firmly retained in their rules. Building societies are managed in such a way that they are very clearly committed to the co-operative form of private enterprise. This Bill will allow wider provisions in regard to investment and liquidity and may alleviate the upward pressure on interest charged to borrowers who, in the main, are home builders or purchasers.

The Hon. Mr Sumner and the Hon. Mr Blevins referred to interstate lending. I point out that there has never been any ban on interstate lending. The Act does not contain any specific restriction on lending. As far as I am aware, there has never been any interstate lending in regard to other investments. I can see no reason why that should occur now. I do not believe that this provision should be inserted in the Bill at this time. I have some sympathy with the Hon. Mr Sumner and the Hon. Mr Blevins. One would hope that South Australian money is invested in South Australia. There is no reason to believe that that will not happen. A loan for the acquisition of a house or land outside South Australia is a restricted loan and therefore subject to the 10 per cent limitation. It should be appreciated that the amendment will affect only loans under $70 000. Loans over $70 000 (or which result in the borrower's total indebtedness exceeding $70 000), are already restricted loans by definition. Therefore, if the amendment is based on fears of large sums being raised in South Australia and lent interstate, those fears are groundless.

The proposed amendment has been discussed with the Acting Registrar and with the building societies. The building societies oppose the amendment, not so much because of its substance, but because it raises an important question which should be given further consideration. No South Australian building society is presently lending interstate and, as far as I am aware, no South Australian building society intends to do so. Therefore, the amendment is not based on any present or immediately prospective problem that needs to be addressed. There are already large, practical, operational difficulties about interstate lending. In some cases, the society would have to become registered interstate. Interstate laws would certainly apply in relation to mortgages over interstate property. The Co-operative Building Society has an office in Mount Gambier but does not lend to residents in Victoria, despite the obvious opportunities to do so.

Questions about whether building societies activities should be permitted to extend across State borders and, if so, to what extent are important and should be examined. However, these questions have obviously national implications and they should be considered on a national basis. Preferably, any legislation in this area should be uniform. In particular, the Campbell committee has recommended that building societies should be able to lend interstate. The Government would not want to be seen to be pre-emptorily rejecting that submission until that recommendation has been submitted to proper public debate. Certainly, it is not appropriate to deal with such an important question in the context of one clause of this Bill.

I give an undertaking to examine the question of interstate lending by building societies and to have it discussed at the next national meeting of Registrars. This will indicate that the substance of the amendment is not necessarily opposed, and it will emphasise that the rejection of the amendment—and I propose to vote against it—is based on the need for a more thorough analysis of this important question.

The next matter raised by the Hon. Mr Sumner related to the figure of 1 per cent and the question of prescribing 'such greater percentage'. The reason for that is that circumstances may vary from time to time, and of course the action should always be taken on the advice of the advisory committee. The guidelines are already in the Bill, although not expressed as such. New section 40(3) *(a)* and *(b)* are the relevant provisions. Paragraph *(a)* provides that the Registrar shall approve in writing of the proposed investment. That was not in the principal Act, so there is an increased safeguard. Paragraph *(b)* provides that the company or body corporate must be engaged in activities incidental or related to those of the society. The intention is to interpret *(a)* and *(b)* closely together, so that really *(a)* is a backstop to enforce *(b)*. The guidelines would ensure that the company or body corporate was engaged in activities incidental or related to those of the society.

The final point raised by the Leader related to the Housing Loans Insurance Corporation and the statement in the second reading explanation that the purpose was to enable investment in that corporation and certain other bodies also mentioned. The Leader pointed out that in the *Advertiser* the building societies had said that they had no such intention. There is nothing strange there. It was the intention of the Government to encourage such investment. The Government considered that that would be a suitable thing to do. If the building societies do not wish to do so and have no such intention, that is fine.

The Hon. C. J. Sumner: I thought the building societies suggested these amendments.

The Hon. J. C. BURDETT: The building societies suggested the amendments, and it was one of the intentions of the Government to encourage investment in that corporation but, if the building societies do not intend to do so, that is their own affair. This was simply an enabling provision.

The Hon. Mr Laidlaw asked a question in relation to promissory notes and the answer is that there would be no objection to a regulation pursuant to section 36(2) *(g)* to make promissory notes acceptable to the Registrar as prescribed assets for the purposes of section 36. The Registrar would not wish to see a blanket approval of all promissory notes prescribed for obvious reasons of lack of liquidity and/or security. From the point of view of security, the Registrar obviously would want to have regard to the identity of the issuer of the note. From the point of view of liquidity (and that is what the section is concerned with), the Registrar would have regard to the marketability of the note. Obviously, a promissory note cannot be regarded as liquid funds unless it can be called up or readily negotiated.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Restricted loans.'

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

Page 2—

Line 3—After the word 'residence' insert 'situated in South Australia'.

Line 5—After the passage 'of land' insert 'situated in South Australia'.

This is the only amendment that I have for this Bill. We have debated it fully in the second reading stage. The motive behind it is to try to ensure that where loans are made, particularly to corporations for development purposes, those loans, if they are made for development purposes outside South Australia, should come within the restricted loans category and therefore form a category of loan which would be up to 10 per cent to 25 per cent of the total of loans made by the building society. It does not prevent investment outside South Australia in the area of rental accommodation which is contemplated by the Bill, but it provides that, if that sort of loan is made, it should come within the restricted loans category.

The issue has been canvassed fully. I believe that it is really an expression of intention and desire more on the part of the Legislature, at least in the present circumstances, than having any restrictive effect on building societies, and I believe it is desirable for that reason. If the societies do not invest outside South Australia, I see no really valid reason for objection to the provision, which I think would express the intention of the Legislature that any loans for this sort of development purpose should be made within the State of South Australia.

The Hon. J. C. BURDETT: I must oppose the amendments. I am entirely in sympathy with the motive of the honourable member but I have pointed out that, as far as is known, no investments outside the State are being made at present. While I realise that the amendments would apply only to funds within the ambit of the Bill, I see no reason to suggest that such investment would be made. More particularly, the Leader says that, if they do not want to, it does not matter, because it is simply an expression of an opinion. It comes to more than that. The Campbell Committee has recommended that building societies should be able to lend interstate. I have pointed out the desirability of uniformity between the States if such conditions are to be provided. In particular, I refer to my undertaking to examine the matter of interstate lending and to refer it to the next national meeting of Registrars. While I am in sympathy with the motive of the honourable member, it seems to me that it should not be put in just as one amendment in one clause of the Bill. The whole matter should be considered on a national basis, and that I undertake to do.

The Committee divided on the amendments:

Ayes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Noes (10)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

Majority of 1 for the Noes.

Amendments thus negatived; clause passed.

Remaining clauses (5 to 9) and title passed.

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That this Bill be now read a third time.

The Hon. C. J. SUMNER (Leader of the Opposition): The Minister said in his reply to my second reading contribution that he thought I was being an enthusiastic supporter of the banks. The Minister grins; I assume from that that he was being somewhat facetious.

The Hon. Frank Blevins: Whimsical!

The Hon. C. J. SUMNER: Whimsical: facetious is a bit harsh. I am pleased to see that that was the point. The Minister, I am sure, was aware that I was playing the role of Devil's Advocate in a sense. The argument is often put that, as you expand the activities and the capacity of building societies to make loans and invest outside their traditional area, then you are making building societies more and more like banking institutions. Banks then argue that, if that is the case, why should the building societies have certain concessions, as they do in terms of taxation and the like?

I was putting that argument and answering it myself in the second reading speech, and this has led to our support for the legislation. I do not believe that the amendments detract from the basic function of building societies.

Bill read a third time and passed.

LAND AND BUSINESS AGENTS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2217.)

The Hon. C. J. SUMNER (Leader of the Opposition): I will be brief and I indicate that the Opposition will not oppose the second reading. I also indicate that we will be giving close attention to the Bill during the Committee stages. The Land and Business Agents Act, which was introduced in 1973 when the now Chief Justice, Mr King, was Attorney-General, was part of the consumer legislation which was passed by the Labor Government during that period and which really was pioneering legislation in Australia.

This legislation in the area of land and business agents has two major objectives. The first was to ensure proper standards on the part of land agents, business agents, land salesmen and the like, and to ensure a degree of professionalism in that area. I have heard expressed recently by the President of the Real Estate Institute that there is a desire for increased professionalism and training, which people involved in the real estate industry must now have. That was the first objective to give the 1973 Bill proper standards of training and conduct by those involved in the industry.

The second objective of the legislation was to protect the consumer. The consumer of course would be particularly protected by the ensuring of proper standards, but the consumer was to be protected in other ways. One of the most important of these areas was the 'cooling off' period that a purchaser of land has, and the requirement that the purchaser is to receive certain information about a property prior to settlement with respect to outstanding rates, taxes, or any other encumbrances on the land.

Sadly, I have to say that on the face of it this Bill represents a retreat from these principles and, while there are some things in the Bill to which we take no objection, there are several others which we will be objecting to and which we will be giving attention to in Committee, either by outright opposition to the clauses or by amendment.

For instance, there is a proposition to allow untrained people to be involved in the management or organisation of leasehold interests, the so-called letting agents provision. The Minister has justified this by saying that there is no professional training required, provided that these people are acting under the instruction of a registered agent, and then the situation is stisfactory. I do not believe the amendment will help. For instance, the large real estate firms have gone into leasing or letting in a big way to the detriment of the smaller ones, which will not have the same capacity to employ people to be involved as letting agents. The large firms employ people who are untrained and who can be employed at a more modest salary. The small firms will still have to have trained agents and will have a lesser capacity to employ untrained letting agents. That is a retreat from the notion of professionalism in one area, a retreat from upgrading training in the area of leasehold arrangements for letting.

Secondly, clause 7 will allow unqualified people to take up directorships in companies; this practice previously, if not prohibited, at least required an application to the Land and Business Agents Board for exemption from the requirement that the directors should be trained and licensed land agents. The position that is now going to automatically apply will enable certain people to be directors of a real estate company without any training, and that, too, is a retrograde step and a retreat from the notion of professionalism in this area. There is no reason to establish a company with one's wife being involved in it. A person could practice as a sole practitioner or agent without establishing a company. It cannot be debated, whether the reasons are justified or not, that it is a retreat from the notion of trained people being responsible for the management of real estate firms. I would have thought that it was a principle that all members of the Council would accept.

Clause 23 deals with the question of what information should be provided prior to a sale, and it excludes from the requirement information about the sale of a business. I oppose that. That, too, is a retreat from the initial position, and it is certainly a retreat from our policy at the moment, which is that consumer legislation should apply to small business men and farmers. The information which is useful to a purchaser will not now have to be provided if one is involved in the purchase of a business.

Clause 4 reconstitutes the board and is also a retreat from one principle—consumer rights—because it effectively cuts down consumer representation on the board. There are several matters on which I will require further information, and one is clause 16, which deals with who is able to prepare instruments of transfer and the role of brokers *vis-a-vis* agents. The provision has been completely redrafted. The second reading explanation indicates that the redrafting is not designed to change the existing situation to any great extent, which is basically that a broker should operate independently of an agent, except in those circumstances where brokers or legal practitioners were employed by the agent prior to the Act's coming into existance in 1973.

Really, the second reading explanation is inadequate. It does not explain why these changes were necessary, and that should be clarified. Frankly, the same applies for the revamping of certain sections in clauses 21 and 23 in regard to the cooling-off period and the information to be provided under section 90.

Again, it can be said that those amendments were purely technical. That is how the Minister tried to paint them but, whether that is the case or not, one certainly would not be able to glean that from the second reading explanation. I believe that further information needs to be provided in relation to those clauses. I will support the second reading,

but I believe that certain areas represent a retreat from the principles that were enunciated when the intitial legislation was brought before Parliament. For that reason, I have much doubt about some of the clauses and may well move amendments or oppose some clauses when the time comes.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank the honourable member for his contribution. If he raises any specific matters in Committee I will certainly reply to him then. The matter of principle which he mainly seemed to raise ws his suggestion that this Bill represents a retreat from the position in the principal Act. That is quite wrong. There is no way in which consumers are deprived of any real protection which they already have. I am not necessarily criticising the principal Act at the time when it was made—I am saying that what this Bill does is to introduce a measure of common sense at this juncture by easing some restraints on agents which are onerous to them and which do not produce any real measure of protection to the consumer.

I say on the matter of principle that this Bill does not represent any retreat from protection of the consumer. That remains as it was before. Rather, it is tidying up the legislation, tidying it up after a considerable time in order to make the principal Act operate more reasonably, sensibly and rationally for agents and consumers alike.

Bill read a second time.

In Committee.

Clause 1 passed.

The Hon. J. C. BURDETT: The Leader of the Opposition has indicated that he wishes to examine some of the clauses and to possibly prepare amendments.

Progress reported; Committee to sit again.

BUSINESS NAMES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2304.)

The Hon. C. J. SUMNER (Leader of the Opposition): I do not intend to oppose this Bill. The Government has placed the rationale for the Bill in the category of its deregulation policy. The Minister said in his second reading explanation that it is a very desirable deregulation method which is in conformity with Government policy and which will confer a substantial benefit by way of convenience on the small businessman, as well as facilitating the administrative process. That is really claiming far too much for an amendment to the Business Names Act. The second reading explanation does not tell the small businessman that the $20 limit on fees which the businessman will have to pay under the Act is now being removed.

So, the Government may be doing a bit of deregulating in one area by rationalising the categories of fees that are to be paid but at the same time it is removing the limit of $20 on fees which exist at the moment. None of the fees under the principal Act can exceed $20; the Bill does away with that. The small businessman will no doubt in the future be paying much more for the filing of his documents than he did previously under the Act. Deregulation it may be but the principal purpose of the Bill is a revenue raising measure in accordance with the Government's 'user pays' principle. No doubt the small businessman will find over the next twelve months that his fees under this Act have been substantially increased.

The Hon. K. T. GRIFFIN (Attorney-General): I thank the Leader for his indication of support of the second reading. It is a correct emphasis that it is a deregulation measure. As I indicated in the second reading explanation, there are now 17 forms to be filled out, some of which require fees of $1. It is quite ridiculous to be processing fees of $1 for lodging forms. It is cumbersome for business people as well as for Government administrators. The trend in government right around Australia is to provide a composite initial fee which will encompass all likely costs that would otherwise be incurred in lodging various statutory forms during the period of registration of a business name. Notwithstanding its brevity, it is an important Bill.

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

SOUTH AUSTRALIAN COLLEGE OF ADVANCED EDUCATION BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 2377.)

The Hon. ANNE LEVY: I support the second reading of this Bill. In view of the lateness of the hour and the amount of business still before us I will not make extensive remarks about the value of the proposed South Australian College of Advanced Education to the South Australian community. I imagine that the value of this new institution will be apparent to all members of the Council and it hardly needs elaborating on. It is interesting to note that when the amalgamation of the four colleges occurs the new South Australian College of Advanced Education will have about 10 700 students, some of whom are part-time and a large number of whom are full-time. Its student numbers have varied little over the last few years. The enrolment figures for the four constituent colleges give a total student enrolment of about 10 500 students for the last four years. With such a number of students the new South Australian College of Advanced Education will, I believe, be the largest tertiary institution in the State. I am not exactly sure on that figure but I suspect that the number of students in the new college will exceed that at the Adelaide University which, until now, has been the largest tertiary institution in the State.

The Hon. D. H. Laidlaw: I thought Adelaide University had about that number.

The Hon. ANNE LEVY: It has about that number. The two institutions will obviously be of the same order of magnitude. As to which will win in the numbers game, I do not know, particularly as one has to take into consideration that part-time students may not be given the same weight as full-time students. Perhaps the two institutions, when they both exist next year, can play with figures and determine which is the larger and on what basis they make that calculation.

The Hon. D. H. Laidlaw: Will the College of Advanced Education have more part-time students than the university has?

The Hon. ANNE LEVY: I think it would probably have more part-time students, but I would not like to vouch for that. One interesting factor which I think should be noted is that the colleges of advanced education have a much more equal ratio of the sexes than applies in the universities in this country. I do not have figures for individual colleges or universities, but in this country at the moment colleges of advanced education have 51 per cent male student enrolments and 49 per cent female student enrolments and have done so for a number of years. This compares with the universities in this country, where male students make up 59 per cent of total enrolments and female students 41 per cent; so the colleges are doing better in terms of equality of ratios of the sexes.

However, one should not ignore the fact that in the colleges the ratio of male to female has not changed over a number of years, whereas in the universities it is changing rapidly: only 10 years ago the universities had 70 per cent male and 30 per cent female enrolments. In just 10 years, that ratio has changed to the virtual 60-40 ratio that exists today. At such a rate of change, in another 10 years we can perhaps hope that the universities will have achieved the figures that the colleges of advanced education currently enjoy.

One other point that I think is worth putting on record is the change which has been occurring within colleges of advanced education and the universities regarding the age composition of students. We can see that a great increase in the number of mature age students has been occurring in recent times. This increase in mature age students is occurring in relation to both men and women, although the increase in mature age students has sometimes been attributed to a second opportunity of education for women. While this undoubtedly is true, recent figures for the tertiary sector show that the increase is occurring for both men and women mature age students.

For instance, in the college sector, only six years ago mature age male students made up 10 per cent of the total and mature age female students made up 8 per cent of the total student enrolment. Currently, the mature age male students make up 21 per cent of total enrolments and mature age female students 17 per cent of total enrolments. Therefore, mature age students have risen from a figure of 18 per cent to nearly 39 per cent of the total college of advanced education enrolments. This is a significant change, which I am sure is influencing the learning processes and the educational experience given by the colleges to all students.

I can well recall when teaching in a tertiary institution how welcome it was to have mature age students present in the classes, as their contributions were welcomed by both staff and other students. Those students contributed considerably to the education process. I am sure that the large proportion of mature age students must be having an effect in both colleges and universities currently, to the benefit of all the students and staff of those institutions.

I now turn to the Bill before us, which has resulted, we are told, from a lengthy process of consultation involving groups from all four existing colleges at all levels. Certainly, there has been much activity throughout this year between the principals, staff, councils and students of the four colleges, and much work has gone into arriving at a considered proposal for the amalgamation of the four colleges of Hartley, Sturt, Adelaide and Salisbury into the one institution, the new South Australian College of Advanced Education. It is surprising, in view of all the consultation which has occurred, that the Government, when it finally produces the legislation, creates a furore at all levels in all the constituent colleges.

The Hon. C. M. Hill: That's a bit of exaggeration.

The Hon. ANNE LEVY: It is not an exaggeration by any means, judging from the correspondence which I and many other members of Parliament have received from principals, chairmen of college councils, chief executive officers, staff associations, and student associations, as well as motions from councils, and delegations of all groups within the colleges. There is unanimity regarding some of the clauses in this Bill which have aroused the most intense hostility at all levels on all campuses.

The Hon. Barbara Wiese: And from the Universities.

The Hon. ANNE LEVY: This antagonism is reflected in other tertiary institutions, such as the universities. The University of Adelaide happened to have a council meeting the day after this Bill was first made public. It was very direct and forthright in its condemnation of some clauses of the Bill before us. That concern has been unanimous throughout the tertiary sector in South Australia. It would be harder to imagine greater unanimity and greater concern than we have witnessed in the past week or so regarding the measure before us, so the long and careful process of consultation that the Government pretends to be so proud of has hardly led to a happy result. There are certain parts of the legislation which, quite obviously, did not result from consultation because one cannot find a single individual in any of those colleges who would have proposed or agreed with the measure before us.

The Hon. C. M. Hill: A few sensitive nerves have been touched.

The Hon. ANNE LEVY: More than a few—a very large number. Clause 7 deals with the composition of the new council of the college. All colleges have indicated that they agree with this clause. I note that the majority of the council will be Ministerial nominees. This clause will make colleges of advanced education different from universities, because members of the university councils are elected by a university convocation of electors made up of graduates and staff of the institution. In this case, 14 of the 25 members of the council will be Ministerial nominees. The Minister will be able to control the college council through the individuals whom he nominates. I am not suggesting that the current members of college councils can in any way be regarded as 'Yes-men' for the Minister.

The Hon. C. M. Hill: Yes-persons.

The Hon. ANNE LEVY: Yes-persons. However, the potential certainly exists. Ministerial control of college councils will be much greater than occurs in universities, where Ministerial nomination to the governing body does not exist. Clause 8 specifically states that no member of the staff or students of the college shall be eligible for election as president or deputy president of the council. I believe that provision has also received general agreement in the college sector. It has been arrived at following consultation, so I will not quarrel with it if everyone is happy with it.

However, I point out that no similar restriction exists in the universities. In fact, one of the Deputy Chancellors of the Adelaide University is a member of the academic staff. There is nothing to prohibit that occurring in the universities. The Adelaide University Council, in its wisdom, has elected him to this position, which he fulfils most admirably. It has never been suggested that it has caused any conflict of interest or any impropriety. This provision will not apply to colleges. However, if everyone is happy with that situation I will not disrupt it.

Clause 13 (2) has aroused the furore that I mentioned before. It provides:

> In formulating statutes or policies, the council shall collaborate with the Minister, or any committee established by the Minister, with a view to ensuring that the public interest, as assessed and determined by the Minister, is safeguarded.

In his second reading speech the Minister suggested that this was merely an extension of an existing clause in the Acts covering Hartley College of Advanced Education, Adelaide College of Advanced Education, and the Colleges of Advanced Education Act. The Minister said:

> This latter provision extends a power in all constituent college Acts presently referring to the admission of students to courses for the training of teachers. The extension is related to the new college's substantial interest in fields outside teacher education.

However, the clause does not do that. It is not merely an extension from the field of teacher education to all areas of education covered by the colleges. I will be amending this clause to provide what the Minister envisaged in his second reading speech.

As it stands at the moment, the clause could be interpreted as a provision to enable gross political interference in the affairs of tertiary education. It is this clause which has aroused so much ire. I have received letters objecting in the strongest possible terms to this clause from the council of the Salisbury C.A.E., the council of the Adelaide C.A.E., Mr Justice Hogarth (President of the Sturt C.A.E.), the Council of Staff Associations of the Colleges of Advanced Education, the Dean of the Faculty of Arts, Adelaide C.A.E., the president and directors of all four C.A.E.'s involved in the amalgamation, the council of the University of Adelaide, the principal-designate of the new college, the council of South Australian College Student Organisations, and the South Australian Group of Chief Executive Officers of Tertiary Institutions (who call themselves SAGE). They are all the official letters I have received, and there have been countless others from people involved in the tertiary sector at all levels. All the letters I have received have been unanimous in rejecting this clause because it permits political interference in the affairs of a tertiary institution. No Government should do that.

I will be moving an amendment to replace this clause with a provision in accordance with the Minister's second reading speech, that is, to extend the existing provisions in the various C.A.E. Acts to cover other than teacher education with all the courses that are being conducted. It does not have the sweeping powers contained in this clause. My amendment refers to collaboration between the Minister and the college councils in matters affecting the admission of students and their right to continue their courses of study. No other areas are being considered.

I now wish to comment on clause 17 (3), an absolutely outrageous clause which has aroused the same ire and furore throughout the entire tertiary sector as has clause 13 (2), to which I have referred. Most of the organisations that have written to me on clause 13 (2) have also roundly condemned clause 17 (3). Clause 17 (3), as it comes to us, is supposed to be a clause for voluntary unionism, but in fact it is a clause for decimating unionism, as it would completely destroy all the student unions within the institution; there is no doubt about that.

The Hon. D. H. Laidlaw: Wouldn't they join voluntarily?

The Hon. J. E. Dunford: They never have.

The Hon. ANNE LEVY: They never have and they never would, and the vast services and amenities provided by the student associations or unions would have to close down. I am told that, as a result of this clause being in the Bill, the employees of the student unions at the four amalgamating colleges have been given 28 days notice. If this clause passes, those people will all lose their jobs on 31 December. They have been given the requisite notice so that they can be sacked, because it is widely realised that, if that clause stays in the legislation, there will be no student unions; they will have to close down.

The Minister suggested in another place that student unions should be run on a user-pays basis, but that is absurd and ridiculous. The situation would be that the only people who would pay towards student loans would be those who needed the loans. It is an absolute joke and a farce, and it is incredible that, for ideological reasons, this Government would wish to kill the student unions that currently exist—and that is what would be done if this clause were to pass. Furthermore, quite apart from these arguments, an interesting argument was drawn to my attention only this afternoon.

The Hon. C. M. Hill: Are you going to say all this again in Committee?

The Hon. ANNE LEVY: I would rather deal with this now in discussing the matter, because it is very important. It has been suggested on good legal advice that, if clause 17 (3) remains as it is, the entire college may lose all Federal funding, because it will be contrary to the States Grants Tertiary Education Assistance Act, 1981, passed by the Federal Houses of Parliament only a couple of weeks ago, again with great furore regarding other clauses. I am told that in the Federal Act, which of course over-rides any State legislation where they might conflict, the definition of 'fees' in relation to a relevant institution, which would include the amalgamating colleges, does not include fees payable in respect of an organisation of students or of students and other persons or in respect of the provision to students of amenities or services that are not of an academic nature.

We then have a clause in the Federal legislation that is a condition for receiving money from the Federal Government for the running of a college of advanced education that will ensure that each college of advanced education situated in the State does not charge any student fees in respect of that year or a part of that year. If fees are charged as defined, then no money will come from the Federal Government to the institution. 'Fees' does not include fees payable in respect of an organisation of students, it does not include an organisation of students and other persons, and it does not include the provision to students of amenities or services not of an academic nature.

The unions as currently set up in the colleges of advanced education provide amenities and services, but do not provide them only to students. Staff are eligible to use the cafeteria and graduates are eligible to belong to the sporting associations; most of the football clubs have graduate as well as student members. The amenities or services are not just for the students. They are hired out to outside bodies during vacation time, thereby providing a considerable source of revenue.

The union as currently set up would mean that the fees payable would not be of the type which would be exempt by the Federal legislation. I understand that, particularly with the way in which clause 17 (3) left the House of Assembly, the wording of it is such that, on legal advice, there would be conflict between the State and Federal legislation. I raise that point as an additional point, quite apart from the issue of principle involved in clause 17 (3).

[Sitting suspended from 6.12 to 7.45 p.m.]

The Hon. ANNE LEVY: Before the dinner adjournment I was discussing clause 17 (3) of the legislation. I will not say any more on this clause at the moment, as the matter will be taken up during the Committee stage. I have two further remarks to make, one relating to the absence of a clause in this legislation—the complete absence of any clause prohibiting discrimination on the part of the institution. This is surprising, as all the other Acts for tertiary institutions in this State contain anti-discrimination provisions. The University of Adelaide Act, the Flinders University of South Australia Act, the Act for the four colleges that make up the new combined college, all have anti-discrimination provisions in them. When I first saw the legislation I thought that it was simply an omission on the part of the Government, that it had overlooked this very important clause and had merely forgotten to put it in.

The Hon. J. A. Carnie: What's wrong with the overall State Acts on discrimination?

The Hon. ANNE LEVY: The overall State Acts do not cover all aspects of discrimination.

The Hon. J. A. Carnie: But they cover most of them.

The Hon. ANNE LEVY: We have Acts that cover the areas of sex, marital status and racial discrimination.

The Hon. C. M. Hill: And the handicapped.

The Hon. ANNE LEVY: And the handicapped, if it is proclaimed at some stage. It has not yet been proclaimed and we do not know when it will be proclaimed; presuming it will be proclaimed at some stage, there is such legislation.

The Hon. C. J. Sumner: When was it passed?

The Hon. ANNE LEVY: Months ago. No State legislation prohibits discrimination on religious or political grounds or on sexual preference grounds. The provision I propose to move as an amendment to the legislation is taken from the Adelaide C.A.E. Act and the Hartley C.A.E. Act. It has an important subclause which permits the institution, with the concurrence of the Minister, to practice positive discrimination where a particular group has been culturally or educationally disadvantaged. The State Race Discrimination Act contains no such provision and the Sex Discrimination Act only permits such positive discrimination for a limited period of three years after having applied to the Sex Discrimination Board.

This is a clumsy procedure, and it is highly preferable to have a clause within the legislation for the South Australian C.A.E. Act in the same way as in the Adelaide C.A.E. Act and the Hartley C.A.E. Act, whereby the council of the institution, with the concurrence of the Minister—and there is no attempt to bypass the Minister—can practice positive discrimination for groups which have been culturally and socially disadvantaged. There are examples of this happening now within the constituent colleges that make up the new college, the subject of the legislation.

The universities are also doing this. They make special provision for certain classes of students, such as Aboriginal students, mature age students, students with particular talents, and students that have admission criteria different from other students. Where this refers to disadvantaged groups we should all applaud this, and heartily endorse the actions the tertiary institutions have been taking in this regard.

Without adding such a clause to the Bill, it will be impossible for the new college to have special criteria for the admission of Aboriginal students. A very important Aboriginal programme is being conducted at the Underdale campus of the current Adelaide C.A.E. Without such a clause permitting positive discrimination, the admission of students will be hampered. I am surprised that the Government should suggest that this should be done. I was amazed at the absence of this provision opposing discrimination in general terms, but permitting it in specific instances with Ministerial approval.

As I say, I thought it was an accidental omission on the part of the Government. I sincerely hope that it will consider it as being an accidental omission and accept my amendment to insert such a provision into the legislation, in line with the Acts controlling all the other tertiary institutions in this State.

My final remarks relate to clause 19 of the Bill. Clause 19 gives the council of the new college the power to make, alter and repeal statutes for many different purposes. It lists the purposes from *(a)* to *(q)* (there being 17 different procedures), and adds an additional paragraph *(r)* (making 18 in all), which provides for 'any other matter affecting the administration of the college'. My query with regard to this clause is that it says that the council 'may make, alter and repeal statutes for all or any of the following purposes,' but that it is not obligatory. It is possible that, while the council may have the power to create these statutes for the smooth running of the college, it may choose not to have statutes relating to some of these matters.

It is highly desirable that statutes should be drawn up to deal with many of these matters. I refer particularly to paragraph *(p)* which provides for the establishment of an appellate committee and its practice, procedure, jurisdiction and powers; to paragraph *(n)*, which provides for the maintenance of good order and discipline in the college; and to paragraph *(q)* which provides for the establishment or administration of a fund for the purpose of assisting students in necessitous circumstances. I will not pick out any more of the paragraphs, but I am sure that there will be agreement that many of these different statutes not only be set up by the council, but, indeed, be set up by the council before too long a period has elapsed.

I understand that the Principal Designate of the new college has indicated that preparation is well under way for drawing up Statutes on most if not all of the matters indicated in clause 19. I sincerely hope that these Statutes will eventuate before much time elapses so that some of these matters are not left without Statutes governing them within the college; abuses might occur in the absence of such Statutes.

We will certainly know when such Statutes are created, because the procedure as set out in the Bill is that Statutes must be laid before each House of Parliament, and in the coming months we will be able to see whether in fact the council of the new college has created the Statutes indicated in clause 19. We sincerely hope that they do, so that proper procedures, including a provision for discipline, good order and an appeal system, will be operative soon after the establishment of the new college.

Finally, I wish the new college well. Its creation will mark an important institution in the educational scene of South Australia. I am sure that it will contribute greatly to this State, as indeed its four constituent colleges did, and I look forward to its continuing this contribution and making a considerable mark on the educational face of South Australia. I support the second reading of this Bill.

The Hon. K. L. MILNE: I will speak briefly at this stage on the philosophy of the Bill as I see it. A number of matters introduced in the Bill have been undertaken without understanding by those responsible. The essential thing, when one talks about a college of advanced education, is the extra-curricula activity, the student activities outside the lecture rooms and their academic work. The success and character of a college depends largely on that. The bulk of it is the responsibility of the students and their association, society, guild, union or whatever it is called.

As I think I have told the Council, I was a member of the Commission on Advanced Education before it was amalgamated with the Tertiary Education Commission (this is in Canberra) and, as such, we toured most colleges in Australia. It is strange that, in almost every college we visited, a big emphasis was on the staff and relatively little emphasis was on the students. For example, in a college like the Melbourne Institute of Technology, the students did not even have a cafeteria, although the college had been going for many years.

There is a tendency to overlook the fact that colleges and universities are there for students and not for staff. It disappoints me to read in this Bill that there are attempts to limit or even distort the work of the students union. I am sure that it comes about through ignorance of what the students union does. I can forecast certain amendments, some of which are similar to those of the Hon. Miss Levy. I have given notice of the amendments which have been circulated. I would like to see a clause against discrimination, although I would not care to include sexual preference in this Act. I do not believe it is relevant. If it is to come, it could be dealt with in another Act, but otherwise my amendment will be much the same as that of the Hon. Anne Levy.

I, too, am worried about the over-emphasis on control by the Minister, and I hope that the relevant clause can be

deleted. The Honourable Anne Levy has indicated that she will probably move an amendment to put in its place, and I will be interested to hear her views on that. The greatest number of approaches to me have concerned clause 17 and the question of whether or not fees for the student union should be compulsory. People confuse two things: one is that there is a difference between compulsory fees and compulsory membership, and the second is that there is a distinct difference between a student union and a trade union.

I have tried to work out in conjunction with students, some staff and others, an arrangement which would be suitable for everyone and which would cope with the question of an assured income for those running the students union while allowing some students (who have conscientious objections or sincere religious objections to joining such an association) to play their part without necessarily offending their beliefs.

My suggestion, and I ask the Government to consider it carefully, is that either the college or the students or both create a welfare, sickness or benefit fund or the like into which conscientious objectors could pay their entire fee money. When one sees the activities carried out by the students union, one realises that they are costly to carry out, and it is not fair that some people should not contribute to the running costs of the facilities provided by the union simply on the grounds that they do not want to pay.

I can assure honourable members that, if fees were voluntary, a lot of people, particularly part-time students, would simply not pay their share but would use some of the facilities. They could not avoid using some of the facilities. Part-time students do not have the tremendous feeling of corporate, under-graduate life and are not interested in playing a part in student organisations. Therefore, they do not want to pay subscriptions. This has been a problem, and I assure the Government that that problem is experienced in colleges throughout Australia. There are always some people who believe that fees should be paid voluntarily and some people who believe that fees should be compulsory.

The Hon. C. M. Hill: What does Mr Millhouse think?

The Hon. K. L. MILNE: He thinks fees should be voluntary.

The Hon. C. M. Hill: You are at variance.

The Hon. K. L. MILNE: Mr Millhouse believes that fees should be voluntary because he has not had the experience that I have had in these matters.

The Hon. C. M. Hill: I think there is a split in your Party.

The Hon. K. L. MILNE: You would not really notice it, would you?

The Hon. M. B. Cameron: It is a one-for-one split.

The Hon. K. L. MILNE: I have put this suggestion to Mr Millhouse: he had not thought of it, and he believed that it had merit. I am happy to say that the students believe that a measure of this kind has merit. I hope that something will not be thrown at me when I am not looking. Speaking as an accountant, I know that it is a simple matter to form a trust fund so that people can pay into that fund the equivalent of their subscription to the students union. A lesser amount of the subscriptions paid by the members of that union would then be allocated to welfare and sickness benefits, because non-members would be paying in full. We should maintain the *status quo* that student fees are compulsory, because that is the fairest way.

If students are able to register as conscientious objectors to union membership by contributing to a welfare or sickness benefit fund rather than paying a membership fee, the problem would be overcome. The payment of a fee should be compulsory, because all of the students must share the cost of services and amenities that are provided by the students union. The public should be made aware of the fundamental difference between a students union and a trade union. Students unions are comparable to local government, which requires householders to pay rates so that services and amentities can be provided for the whole community. Some people pay rates all of their life but very seldom use the facilities. It is a similar situation.

The Hon. Frank Blevins: What about trade unions?

The Hon. K. L. MILNE: Some people pay subscriptions to trade unions and do not get a great deal of service from those unions. The students unions have agreed to create a welfare and sickness trust fund so that students could pay the equivalent of the students union membership fee into that fund without actually joining the union, if they had a reason for not doing so. In this way, the cost of facilities would be shared, but a person's beliefs would not be offended by his being forced to join the students union. Members of one particular religious group are not allowed to join, so that fund would overcome that problem.

One must recognise the necessity for compulsory contribution. The people who run the union, whether they are students, the college council, or both groups combined, must know what their income will be. They must have a budget and they must know roughly how many students will join. They can then work out what the contribution will have to be each year. The council has the power to do that. Some of the services that students unions provide include catering in cafeterias, sporting and craft clubs, retail shops, welfare services, theatre groups, medical and counselling services, and emergency financial assistance, apart from the cleaning and maintenance services carried out in many buildings that are owned by the students unions or for which the union is responsible. The cost of cleaning buildings at Flinders University is up to $150 000 a year.

One must consider what the students union does. In some cases, it takes on activities that are not approved. The union runs a big business. If membership of the union and payment of fees were no longer mandatory, these services would quickly collapse. The Hon. Anne Levy made that point and she was asked why this would occur. I believe it would occur because particularly part-time people who do not want to pay fees and who do not want to feel that they are part of the corporate undergraduate life of the college would not contribute. It just will not work unless the union knows what its budget will be.

In the event of a collapse, the college would face considerable administrative and financial difficulties, because it would be forced to take on many of the functions and services that are offered by the students union. This would be very expensive, because additional paid staff would be required. An enormous number of man hours are given free to the students union. Apart from that aspect, the opportunity for a large number of students to gain experience in administration and in taking responsibility would be taken away.

I say quite definitely that, without these services, the organisation would not be a true college and the education of the complete individual (as we say) would be substantially affected. I will have more to say when I move amendments: I will outline the situation in Western Australia and at Flinders University. I will move amendments to give the college council the power to fix and collect membership fees of students unions. It is beyond my comprehension why the Government is taking what I believe is a foolish step in providing that fees will not be compulsory and why it intends to exclude the college from power to collect fees. It is quite mad. That action is absolutely opposed in every college and university. I understand that the Minister in his second reading explanation stated that the Government is

taking this action to see what will happen. What a stupid reason for doing a thing like that! I ask the Government to consider the people involved (the students) and the services that are provided, how much they contribute, and the staff who are employed. Hundreds of staff are employed in the student organisations in various ways, and they are very anxious about the outcome of this Bill.

Apart from anything else I cannot see why the Government is bringing in something which will create unemployment even in a small way. I believe that that is mad. I admit that possibly there should be further discussion on the matter where the relationship between students, their union, the councils and the bursar can be looked at more carefully. It is quite unacceptable to leave the Bill in the form in which it came from the House of Assembly.

The Hon. J. E. Dunford interjecting:

The PRESIDENT: Order!

The Hon. K. L. MILNE: I am trying to distinguish between students unions and trade unions. In Western Australia they call it the undergraduates guild. That is a good name.

The Hon. J. E. Dunford: It is the same thing.

The Hon. K. L. MILNE: It is different from a trade union. If one attacks it from the viewpoint of the trade union one will get the wrong answer as the Government and the Minister of Education has the wrong answer.

The Hon. J. E. Dunford interjecting:

The PRESIDENT: Order! We have got a long way to go tonight. I call for order and I hope that I get it or I will take action immediately.

The Hon. K. L. MILNE: I take umbrage at being treated in this manner. It upsets me. If we are going to consider that the students union is a dangerous outfit attached to the Trades and Labor Council we are going to be hammering the college council to death at the taxpayers' expense and that is quite wrong. The sit-ins are not done by the students union. The students union has to run things and keep them running. Do not try to punish it in this way. I will deal at greater length in Committee with these matters.

The Hon. C. M. HILL (Minister of Local Government): I thank the members who have spoken on the Bill at the second reading stage and for the manner in which they have undertaken their research. Much of the material raised so far can be discussed at length in the Committee stages. I wish to reiterate the Government's view that it is seeking to obtain the best possible legislation in this new arrangement in which the four colleges of advanced education will come under the one umbrella—hopefully from the begining of 1982. Naturally we want the new organisation to be tremendously successful. We want the students who pass through it to be well satisfied.

The Hon. J. E. Dunford: And not many members. You want a weaker organisation with fewer members, because that is what you'll get.

The Hon. C. M. HILL: I do not know what the honourable member is talking about. The Government wants to see the new college as a very successful organisation. In quite good faith and accepting the fact that there will be quite a deal of controversy in regard to the legislation and accepting that that controversy will have to be met and discussed, we have brought forward to Parliament legislation which has already passed the other place and which is now before us. Hopefully we can discuss the details that have been brought forward in the Committee stage and the best possible result will ensue. I can assure those members who have spoken and who have indicated that they intend to move amendments that the Government is very strong in its view that the proposed Bill, to which a great deal of thought and consideration has been given, is in its best form in its present state. Naturally we will give full consideration to amendments as they are moved and discussed tonight.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

New clause 6a—'College not to discriminate.'

The Hon. K. L. MILNE: I move:

Page 3, after clause 6 insert new clause as follows:

6a. (1) The College shall not discriminate against or in favour of any peson on the ground of sex, marital status, religion, race, political belief or physical impairment.

(2) Notwithstanding the provisions of subsection (1), the College may, with the approval of the Minister, make special provision for any students, or class of student, where it is in the opinion of the Council, necessary to do so to enable those students, or students of that class, to overcome any cultural or educational disadvantage to which they may be subject.'

I have had many approaches on this from various colleges, both students and staff.

The Hon. C. M. HILL: The Government fails to see the need for the amendment moved by the Hon. Mr Milne. We understand that the honourable member is moving that amendment in good faith. However, the Government is concerned with the running of the future college and does not think that the running of that college will be adversely affected by the Bill in its present form. The Government acknowledges that the question of discrimination is catered for under other Acts that this Parliament has passed, Acts such as the Sex Discrimination Act, Racial Discrimination Act and the Handicapped Persons Equal Opportunities Act, which was passed only this year. We question whether or not the honourable member is going too far in introducing something that is not really necessary. I see that the honourable member's amendment goes into such subjects as religious discrimination, but I must say that we do not have any evidence of religious discrimination happening.

The Hon. J. E. Dunford: Then you shouldn't oppose the amendment, which makes sure it doesn't occur.

The Hon. C. M. HILL: If the honourable member wants to clutter up the Statute Book with unnecessary sections, then he can support the amendment. It sounds good, but I am asking whether that amendment is really necessary.

The Hon. J. E. Dunford: You said it sounds good.

The Hon. C. M. HILL: The honourable member said it sounds good—it appeals to you.

The Hon. J. E. Dunford: It talks about democracy.

The Hon. C. M. HILL: We do more than talk about democracy.

The CHAIRMAN: Order!

The Hon. C. M. HILL: We want to see democracy in train.

The Hon. J. E. Dunford: No you don't, you want to control the students and break down their organisations.

The Hon. C. M. HILL: No, we do not. We want the college to be a successful tertiary institution.

The Hon. J. E. Dunford: Rubbish.

The Hon. C. M. HILL: That is a ridiculous interjection. The simple aim is for this tertiary institution to be a successful operation.

The Hon. J. E. Dunford: Without Government interference, it would be.

The Hon. C. M. HILL: If we felt that the institution would succeed to a greater degree with a provision of this type in the Bill, then we would support it, but we cannot see any need for it. That is the Government's answer to the Hon. Mr Milne's suggestion. We have given the matter much consideration, and it was debated at considerable length, as we all know, in the other place. We accept the need for existing Acts which deal with discrimination, but when the honourable member talks about such things as

religious discrimination then I must say that we do not know of any instance when that has ever occurred.

The Hon. J. E. Dunford: Because you've never been down there.

The Hon. Anne Levy: Change your name to Levy and try joining the Adelaide Club.

The Hon. J. E. Dunford: Or Dunford; it's worse. Or try to join the Farmers and Graziers.

The Hon. C. M. HILL: I was looking at the television the other night and I noticed that a certain person became Prime Minister of England, and he was a person who would probably champion the Hon. Miss Levy.

The Hon. J. E. Dunford: What was his name?

The Hon. C. M. HILL: The honourable member should just think about that. If the Hon. Mr Milne can give examples of religious discrimination in any tertiary institution here—

The Hon. K. L. Milne: The objection of the legislation is to plug the gaps and to overcome the problems which have occurred.

The Hon. C. M. HILL: The Government is not concerned with pie in the sky, but if the honourable member can inform us of examples of admissions to tertiary institutions that have been forbidden on religious grounds, then we would look most seriously at this proposal. We do not know of any such happenings. The Government is, admittedly, quite pragmatic about this matter. It does not want to fill the Statute Book with unnecessary sections. We acknowledge, as I said before, that the Parliament has passed Acts dealing with the question of discrimination generally and the Government believes that those pieces of legislation are sufficient to cover situations which might arise and, of course, which are quite serious matters in the Government's view.

The Hon. ANNE LEVY: I move:

To insert after the word 'sex' in line two of the proposed new clause the words 'sexual preference'.

My reason for moving this amendment is that I feel that an anti-discrimination clause should include all the grounds on which people can be and are being discriminated against in our society. I am not suggesting that our tertiary institutions are discriminating on one or any of these grounds, but such discrimination does occur within our society on each and every one of the grounds set out in new clause 6a as proposed by the Hon. Mr Milne, and also on the grounds of sexual preference, which I feel should be added to this clause. I do not think that the Minister is correct in saying that such discrimination does not occur. There is certainly discrimination on the grounds of sex in our society. There is also discrimination on the grounds of marital status, even though the Sex Discrimination Act prohibits such discrimination. The clause mentioned raises, as well as sex and marital status, racial discrimination, because it is quite obvious that there is racial discrimination in our society, whatever the Law may say.

So far as I am aware, the Racial Discrimination Act does not make any provision for positive discrimintion such as is indicated in subclause (2), which is very necessary if the college is to continue with the functions it currently carries out. There is a special programme for Aborigines at the Underdale campus, as I am sure the Minister is aware. The entrance requirements for that course are not those required for the general run of students at the college.

The Hon. J. C. Burdett: But that would go on without this amendment.

The Hon. ANNE LEVY: This amendment ensures that such courses can continue and that such provisions can be made. Also, that the Racial Discrimination Act cannot be invoked against the college. For the Minister to suggest that there is no discrimination on the ground of religion in our society is patently wrong.

The Hon. C. M. Hill: So far as entry to the college is concerned?

The Hon. ANNE LEVY: I am talking about our society. These forms of discrimination occur within our society, and one cannot deny that. We wish to ensure that the tertiary institution does not practise any form of discrimination. This is a statement of principle that the college wishes to have. We are not imposing something on the college which it does not wish, because it positively wishes to have such a statement of principle in its legislation and has requested it. There are no laws in our society prohibiting discrimination on the grounds of religion or political belief. I can assure the Minister that discrimination does occur in our society and could occur in a tertiary institution unless care was taken.

For example, when I taught at university a number of my students were Seventh Day Adventists. Because of their religious beliefs these students could not undertake any educational activity on a Saturday. When it came to exam time and excursions, special provision had to be made for these students, because these activities usually occurred on a Saturday. So that these students would not be discriminated against, the staff went to a great deal of trouble to ensure that other activities and arrangements were made for them. If that had not been done, we could have been accused of discrimination on the grounds of religion, because it was certainly the students' religious beliefs that caused the problem relating to the arrangement of exam time tables, field excursions and so on. I cannot imagine that any member of the staff would not have been willing to do that.

I believe it is highly desirable that this provision appears in the legislation to indicate that such students are not to be discriminated against should they encounter a staff member who does not wish to make special provision for them. I believe that political belief is in the same category as religious belief. There is no prohibition anywhere in our legislation to prevent discrimination on those grounds. It is obvious that such discrimination should not occur. I have moved an amendment to the Hon. Mr Milne's amendment for the sake of completeness. I believe that sexual preference is another ground on which no tertiary institution should discriminate. Discrimination on the grounds of sexual preference certainly occurs within our society, and I doubt whether any member opposite would argue that point. It is highly desirable, for the sake of completeness, that this provision is included in the general anti-discrimination clause which will apply to one of our major tertiary institutions.

The Hon. J. E. DUNFORD: I did not intend to speak to this Bill, but the Hon. Miss Levy has taught me a lesson: no wonder she was such a great teacher. Even if she has not taught Government members anything, she has taught me a lesson. One of the most offensive things in our society is discrimination. I have been offended by discrimination all my life, but I have overcome it. I have overcome the cockies and capitalists, and I have exposed this Government and its rotten deals with the bosses. The Government has tried to sell out this State, and now it wants to sell out the kids. The Government wants to stop these kids from joining organisations—yet it talks about democracy. I just wonder how the Hon. Mr Laidlaw can sit with the Government, although I understand that he will not be there much longer; he will not make the pre-selection, so he is not a goer.

I believe that the Hon. Miss Levy's speech is one of the best speeches that I have heard in the six years that I have been a member of this Council. I believe that our society

revolves around religion, politics and sex. Discrimination is rampant in each of those areas. Women call me a male chauvinist pig, and they are probably right. I am too old to change, but I am not too old to listen, and I am not too old to support legislation to help those people who are discriminated against. We should not wait until discrimination occurs: we should act now.

The Hon. Mr Burdett, like a parrot, continually asks for proof. The evil people who practice discrimination and victimisation on the grounds of race or for other reasons do it with cunning and secrecy. Usually, they are people who have been spoon-fed, just like members of the Government. They are usually well protected by their lawyers, so you can never pin them down. In fact, they are criminals because they do not allow people to express themselves. When I was a young agitator in the 1940s, I was referred to as Red Jim and a Communist (I could not even spell that word). I was blackballed and branded as an agitator all over Australia.

The Hon. J. C. Burdett: Hear, hear!

The Hon. J. E. DUNFORD: The Hon. Mr Burdett said 'Hear hear', but all I wanted was a decent wage so that I could afford to stop eating rotten meat and sleeping on straw. We did not need legislation to change the system: we overcame. We said that we would fight the system. Many times I was arrested and assaulted by the police, and many times I was charged with as many as six offences, but they could not be proved in court and I was released. After those police officers were sacked from the force, they told me that they were ordered to get me. I could also tell the Council about the graziers who used guns against union organisers.

This Council is obligated to provide legislation to stop these things happening. We are allowing people to discriminate, because the law does not say otherwise. The lawyer from Mannum, the Hon. Mr Burdett (the Hon. Mr Foster says that he is in this place because he cannot win a case) is waiting for proof. The Hon. Miss Levy is saying that she hopes that discrimination does not happen, that we can prevent its occurrence, and I hope so, too. If one person is discriminated against because of race, religion or sex, the person responsible should be brought to justice. We should legislate against people who are sometimes incited to attack people because of their political views. That happens quite often in country areas, such as McLaren Vale and Mt Compass, where there are many fascists.

The Hon. D. H. Laidlaw: Where is your front bench? They should be here to listen to this speech.

The Hon. J. E. DUNFORD: They are not here because—

Members interjecting:

The CHAIRMAN: Order! I do not think the Hon. Mr Dunford needs any help.

The Hon. J. E. DUNFORD: Thank you, Mr Chairman. Your protection has always been available to me and I appreciate it. The Hon. Miss Levy has put forward a good proposition, which will protect those people who can be disadvantaged and discriminated against. This proposition should appear on the statute book. At the moment, students in universities could be gaoled because of their political beliefs and women could be attacked and harassed because of their sex. That could happen, and I believe that it does happen. The Hon. Miss Levy's proposition should be supported by Parliament and by anyone who believes in democracy. All Government members should support this proposition, including the Hon. Mr Hill, who is one of the best Government debaters, apart from the Hon. Mr DeGaris (the Hon. Mr Dawkins would come about fifth, the Attorney-General would not get a mention, and I will leave the Minister of Community Welfare to the Hon. Mr Foster). Any member who believes in humanity and is concerned for people should not reject this proposition.

The Hon. R. C. DeGARIS: I would like to make a comment and to ask a question of the Minister. When we come to a clause such as this, is it not reasonable to assume that discrimination is restricted to those matters in the clause? In other words, we are liable to make things worse by including such a clause than if the matter is left to the good sense of those to whom the clause is to apply. If we were to list every ground of discrimination (and already in this clause the Hon. Miss Levy has included another, sexual preference), should there be, perhaps, provision for discrimination against age? Should there be reference to discrimination on grounds of ability or physical appeal? Some people look better than others. Baldness? Both the Hon. Mr Laidlaw and I feel strongly about that. Consider the question of physical impairment: we do not think that it is a physical impairment.

The Hon. D. H. Laidlaw: We think it is a benefit.

The Hon. R. C. DeGARIS: Yes, we do. Lack of social status, lack of wealth, even beards could be discriminated against. If we are to put in this clause everything that may happen at some time to be a point of discrimination, the list will be never ending. Will the Minister say whether it is not fair to assume that in such a clause discrimination is virtually invited on those things that have not been included in the clause? Therefore, I think it is better to leave things as they are.

The Hon. C. M. HILL: The Hon. Mr DeGaris has highlighted the point I endeavoured to make when I spoke to the original amendment moved by the Hon. Mr Milne. There is simply no need for this amendment, since the important areas of discrimination which Parliament has already dealt with over recent years are covered by other discrimination legislation. We have sex discrimination legislation, racial discrimination legislation, and in recent times we have had handicapped persons equal opportunity legislation. The Government believes that those Acts are sufficient to cover the matter of discrimination. It believes that it is unnecessary for this amendment or for the amendment to the amendment, which is perhaps the one to which I should be speaking, to be included.

I question the good faith in this matter of the Hon. Anne Levy, because her amendment is to add the subject of sexual preference as a ground for discrimination. Did I see her get to her feet in 1978 when the Adelaide College of the Arts and Education legislation was going through and move then that that item be added to the items laid down in that legislation as grounds for discrimination? I did not. Did I hear her object when the Hartley legislation went through because this ground of sexual preference was not in that legislation? We can simply ask whether she is opposing for the sake of opposition on this clause. Is she really acting in good faith in this matter?

I think this really explodes the argument coming from the other side and, summarising it again, the legislation will be no better for the inclusion of this provision. It is cluttering up the Bill, and there is no need for it. The welfare of the students and the performance at the new college will not be adversely affected if the Bill remains in its present form. The Government believes that the amendment is not necessary, and therefore I cannot support the Hon. Anne Levy's amendment to the Hon. Mr Milne's proposed new clause.

The Hon. ANNE LEVY: I think I could well ask the Minister why, in 1978, he did not oppose the clause on anti-discrimination in the Adelaide College of the Arts and Education legislation or the Hartley College of Advanced Education legislation. Both Bills, which were passed in 1978, contained clauses if not identical then virtually iden-

tical to that proposed by me and the Hon. Mr Milne. Not one member of the then Opposition objected. Not one member said that it was unnecessary. Not one member suggested that it would cause complications, that it was undesirable, unnecessary, or cluttered up the Bill. There was agreement that that clause should go in. There has been no opposition mentioned by anyone currently sitting on the benches opposite.

I cannot understand why they are now opposing a clause relating to discrimination. One can only assume that they want discrimination to occur, that for some reason they wish to have discrimination on political or religious grounds, and that that is why they have suddenly found opposition to an anti-discrimination clause when, until this moment, they have never suggested that such clauses were unnecessary or should be removed. Their very opposition now is highly suspicious and leads one to wonder why they are opposing it when they have never opposed it previously. I can only assume that it is because they wish to have discrimination on the grounds of political and religious belief.

The Committee divided on the Hon. Anne Levy's amendment:

Ayes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy (teller), C. J. Sumner, and Barbara Wiese.

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

Majority of 1 for the Noes.

Amendment thus negatived.

The Committee divided on the new clause:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, K. L. Milne (teller), C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

New clause thus inserted.

Clauses 7 to 12 passed.

Clause 13—'Council to collaborate with certain bodies, etc.'

The Hon. K. L. MILNE: I move:

To strike out subclause (2).

A number of people have approached me, both students and others, from South Australia and interstate (interstate people seem to be worried about this as well), and are worried that this subclause gives too much to the Minister. This sort of provision would not be tolerated in relation to a university, and it should not be tolerated in relation to a major college such as the South Australian C.A.E. Clause 13 (2) provides:

In formulating statutes or policies, the council shall collaborate with the Minister, or any committee established by the Minister, with a view to ensuring that the public interest, as assessed and determined by the Minister, is safeguarded.

I know what the Government means, but it is going too far to say 'in formulating statutes or policies'. That is too dangerous. It interferes with the academic freedom which is talked about in universities and which should be cultivated in colleges. I think that this is a bad provision.

The Hon. ANNE LEVY: I support this amendment strongly. This clause is probably the one that has caused most furore in the academic institutions in South Australia. A letter written by the South Australian Group of Chief Executive Officers of Tertiary Institutions (SAGE), a group comprising the Vice-Chancellor of the Adelaide University, the Vice-Chancellor of the Flinders University, the Director of the Institute of Technology, the Directors of the four Colleges of Advanced Education (Adelaide, Hartley, Salisbury and Sturt), the Director of Roseworthy Agricultural College and the Director-General of Further Education, states that the group made a unanimous decision to oppose this particular clause. It states:

SAGE considers that this clause provides for a degree of direct political control of an institution of higher education which is both undesirable and unnecessary. It is undesirable because, in principle, the strength of higher education lies in its independence from sectional control. It is unnecessary because the Minister already exercises considerable influence on the nature and direction of the development of higher education institutions, through his power to nominate usually more than half of the members of their governing councils, and through the activities of the State's co-ordinating agency TEASA. It may also prove to be impractical in terms of the management problems presented to a council by the imposed need to obtain Ministerial approval for many of its actions.

I will not take up the time of the Chamber by quoting from other institutions and individuals who have written to us on this matter. I fully support the Hon. Mr Milne's amendment and will be moving a subclause to replace the offending provision.

The Hon. C. M. HILL: Basically, we have to acknowledge that, when legislation of this kind does come before Parliament, it creates much sensitivity amongst those who serve well within tertiary institutions and similar areas. The Government's view in regard to this subclause is that the reaction of people has been quite extreme, as they have searched this provision word by word and construed in it all the evil that they can possibly foresee. There is no intention at all on the part of the Minister of Education to intrude into the day-to-day activities of this proposed college. The Government's intention is that it would be utilised only in the most extreme circumstances, and even then it must be clearly demonstrated by the Minister that the public interest is being protected. It can be looked on purely as an emergency power within important legislation.

We must all acknowledge that Ministers of Education, no matter from which Government they come, are and have been responsible people. Therefore, in the Government's view there has not been the need for the furore to develop as it has. The Government acknowledges that many people have expressed concern, but apparently they have all written to the Hon. Miss Levy about this matter. Whether or not she stirred up a point or two—

The Hon. Anne Levy: I didn't need to.

The Hon. C. M. HILL: I am not certain, and perhaps the honourable member would deny that. Anyway, I do not want to press that point too much. We are talking about responsible Ministers of the Crown when we talk about Ministers of Education, and generally they are senior Ministers in a particular Government. Therefore, the Government does not see the need to alter the legislation from its present form.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, K. L. Milne (teller), C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. ANNE LEVY: I move:

Page 6, lines 5 to 8—insert new subclause:

(2) In formulating any Statutes or policies affecting the admission of students, or the right of students to continue in any course, the council shall collaborate with the Minister, or any committee established for the purpose by the Minister, with a view to ensuring that the public interest, as assessed and determined by the Minister, is safeguarded.

In fact, this subclause does what the Minister in his second reading speech said he was doing, even though he was not. It takes a provision which is presently in Hartley and Adelaide C.A.E. Acts and restates it so that it embraces courses leading to the profession of teaching, and makes it cover all courses at the C.A.E.s. We fully recognise that the C.A.E.s have a much broader function than just training future teachers at the moment, and the legislation will reflect this. In those Acts were clauses enabling the Minister to ensure that the public interest was safeguarded relating to the admission of students to continue in any course related to teacher training.

I have moved the same subclause but without reference to teacher training, so that it will apply to all courses conducted at the institution but limited to the areas of admission of students and the right of students to continue in the courses, as included in the existing legislation. I am sure that this does not have the dangers of political control which has been concerning so many people. There was never any objection raised to the clause in the existing Hartley and Adelaide C.A.E. legislation, and I cannot imagine that there will be in this clause, either.

The Hon. C. M. HILL: I oppose the amendment. It is quite obvious that the fate of this Bill will rest with another place when the amended version of this Bill goes to the House of Assembly. I believe it would be prudent for the Minister to consider further this whole matter. At this point, I oppose the amendment.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy (teller), K. L. Milne, C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No.—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 14 to 16 passed.

Clause 17—'Student bodies.'

The Hon. ANNE LEVY: I move:

Page 7, lines 19 to 21—Leave out subclause (3).

This is the controversial clause which relates to the students union. The matter has been canvassed at great length and I do not propose to take a great deal of time in discussing this clause. The Hon. Mr Milne indicated the functions of the union within the various tertiary institutions. I have indicated the effects of such a clause. If the clause is passed, it will lead to the collapse of the facilities of the different students unions. The unions would cease providing the amenities and facilities that they currently provide. A tremendous amount of capital resources that have been invested in such institutions would be wasted, and unemployment would be created because people who are currently employed in these organisations would be sacked.

It is unnecessary for me to expand on this matter, except to say again that there have been innumerable expressions of opinion opposing subclause (3) from bodies such as the Council of the Salisbury C.A.E., the Council of the Adelaide C.A.E., the Council of the Staff Associations of the Colleges of Advanced Education, the Council of Adelaide University, the Presidents and the executive officers of the Adelaide University Union, the Principal designate of the college that is being created, the Council of the South Australian College Student Organisations, and the South Australian Group of Chief Executives of Tertiary Institutions. There is general unanimity in the tertiary sector that the non-removal of this clause could be absolutely disastrous for the institutions concerned.

The Hon. D. H. LAIDLAW: I oppose this amendment. Honourable members will recall that in 1978 there was a prolonged debate on this same issue in regard to the University of Adelaide Act Amendment Bill. Clause 15 of that Bill sought to legalise a long-standing arrangement between the university and the students union, whereby the university could prescribe and collect union fees on behalf of the union. During that debate, I referred to the objections that were expressed by members of the public as well as students in regard to compulsory membership of the student union. A fee in that year of $118 was to be collected from each full-time student, the only relief on conscientious grounds being that the $118 involved would be passed from the students union to a prescribed charity.

I stated that, while I objected to mandatory membership, I was aware that there had been changes over many years. As honourable members may recall, the Hon. Mr DeGaris moved an amendment that proposed that any donation of up to $2 000 that was paid by the student union to an outside body must be publicised on the notice board for five days or more so that students who objected had the opportunity to call a referendum to decide to which organisation the donation should be made. That amendment was passed by the Council; however, there was a conference between both Houses, and therefore my colleagues and I did not insist on that amendment. The Bill was passed, and the long-standing arrangement of compulsory collection of students union fees at Adelaide University continued.

We have a situation as to whether there should be compulsory joining of the students union. I have listened to the Hon. Anne Levy and was dismayed to hear her say that the employees of the students unions of various campuses would be given 28 days notice.

Members interjecting:

The Hon. D. H. LAIDLAW: This Bill has not yet passed. I cannot understand the references to giving notice. I believe that the new college is somewhat different from the Adelaide University. First, they are starting a new institution. I recognise that a lot of academics and people are involved, and some people say it is essential to make it mandatory, but others think otherwise. Instinctively I object to compulsion. It would be a pity not to give it a try to see whether it could be made to work effectively on a voluntary basis. I refuse to accept that anything is impossible. Because these campuses are going to be divided it may be important to have it mandatory and it may not. I would prefer to see it tried on a voluntary basis in the first instance. For that reason I oppose the amendment.

The Hon. K. L. MILNE: I support the amendment and foreshadow that I will be moving new subclauses dealing with what I believe is one solution to the problem of compulsory and voluntary membership. The Hon. Mr Laidlaw is always reasonable in these matters. He put a good case. We are dealing with students, and to many of them $100 is a lot of money. They will have to go to a great deal of trouble to find it. We have forgotten that fact because

in our day the students' subscription was about £5. That was in the Boer War! The amount of money that is now collected and the total amount required to run the student activities is a very different proposition from what it was in our day. Perhaps the students need guidance and help in some of the colleges. I would like to say more about the functions of the students union and why it cannot be on a voluntary basis. However, at the present time I support the amendment.

The Hon. C. M. HILL: We are dealing with the Hon. Miss Levy's amendment. The Government's view is similar to that of the Hon. Mr Laidlaw and it is based on philosophical grounds. We are great supporters of freedom as against compulsion. We believe that springing from that base the student body should have voluntary membership and not compulsory membership. We have strong feelings in regard to that principle. I believe that the Hon. Mr Laidlaw has made a good point that, if after a period on a voluntary basis it appears it is not successful, it could be looked at again.

The Hon. K. L. Milne: It is too late then.

The Hon. C. M. HILL: It is not too late. Not only do we base our stand on philosophy but also we believe that, if a vote on a secret ballot principle was taken as to whether students desired voluntary or compulsory membership, the voluntary vote would win. After all, if that happened we would be down amongst the masses of students themselves. We believe that the majority of students favour voluntary membership.

The Hon. K. L. Milne: Of course they do—they do not understand it.

The Hon. C. M. HILL: The great Democrat said, 'Of course they do—they do not understand it'. He said that the little people do not understand and that we must decree what is right for them. It surprises me greatly. I will give full credit to his Leader, Mr Millhouse, who got up in the other place and said, 'I am a Democrat and I believe in the voluntary principle'. The No. 2 of the Party (the only remaining member of the Party in this Parliament) is in complete contradiction with what Mr Millhouse stated in another place. That is a very interesting point which will not go unnoticed. They are the simple grounds. We are not complicating ourselves with a lot of detail that is peripheral to the principle and the main question. We support voluntary membership and believe that the majority of students support it.

The Hon. B. A. CHATTERTON: I support the amendment moved by the Honourable Anne Levy. What I find surprising about the Minister's argument is that it is based on Liberal Party philosophy. It seems an inconsistent philosophy because the Government supports the compulsory collection of fees in other areas. I refer particularly to the Australian Fishing Industry Council. That is an organisation that represents fishermen in this State. Fishermen have to pay part of their licence fees towards the cost of the upkeep of that organisation. Those fees are collected by the Government and it is compulsory. There is no opportunity for fishermen to opt out and say that they do not want to have their fees paid to the Australian Fishing Industry Council.

It is not a question of the Government having just inherited this idea, because it was instituted by the Labor Government, and I was the Minister involved. The industry representative came to see me. I was quite happy to institute the system because I thought it was important for the fishing industry to have that sort of representation. I was not worried about the fact that the fees were being collected by the Government. However, it was enshrined in legislation and the Government could have reversed it. It could have been made completely voluntary and the fishermen could have been allowed to collect their own fees. If that had happened, the AFIC organisation would have collapsed. However, the Government has not chosen to do that.

There have been a number of questions asked in the House of Assembly of the Minister of Fisheries to ascertain what his attitude was to this question of compulsory membership of AFIC and compulsory levying of fees on fishermen to support that particular organisation. He said that he supported it and that he would not change it. In fact, when a group of fishermen in this State sought an opportunity to object to having their fees paid to this organisation (they wanted to opt out) the Minister said that he would not allow them to do that. It seems to me incredibly inconsistant on the part of the Government if it says that it is doing this on philosophical grounds. It is quite prepared to accept a degree of compulsion in one area, but it is not prepared to accept it in this area. It seems quite extraordinary, and that is one of the major reasons why I support the amendment moved by the Hon. Anne Levy.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy (teller), K. L. Milne, C. J. Sumner, and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

Majority of 1 for the Ayes.

Amendment thus carried.

The Hon. K. L. MILNE: I move:

Page 7, lines 19 to 21—Leave out subclause (3) and insert subclause as follows:

(3) Subject to subsection (4), each student of the College must—

(a) where one association or council has been formed under this section—be a member of that association or council;

or

(b) where more than one association or council has been formed—be a member of at least one of those associations or councils.

Quite clearly this is prototype legislation. It is an attempt to produce something new which the Government says is its philosophy but which I do not think is its philosophy. However, it has implications not only for South Australian C.A.E.s but for all tertiary institutions in the State, including the universities. These students unions are not trade unions, we must get that straight. The function of the unions is to provide student welfare services, catering services, recreation facilities, retail shopping facilities, and to undertake maintenance and renewal of buildings and plant (and that is something that is not generally known). No other State has imposed such restrictions.

The provision of services and facilities is essential to the proper functioning of tertiary campuses. No Government funds are allocated, or would be available, to meet this expenditure. The cost of the maintenance and services in tertiary institutions would probably exceed $1 000 000. Clearly the Government has not given sufficient thought to how this money should be found. What would happen is that there would be a loss of revenue from fees which would destabilise the continuity and level of even the basic services such as cleaning and security. It would also have grave employment implications for more than 300 employees of the students unions in South Australia. I am quite sure that the Parliament is not aware of the practical implications of clause 17 for the new college council when administering the Act, for the staff and students of the college, and for

the community, in terms of the provision and maintenance of essential services.

Clause 17 means that the college would be responsible not only for the collection and control of amenity funds, but also for the administration of the services provided from those funds. The college would then have to do three very unpleasant things. First, dismantle existing administrative structures relating to services which have functioned effectively for many years and establish a new system, which would involve extra costs. Secondly, employ sufficient staff to maintain and develop such services. The future employment of 48 staff (equivalent to 35 full-time persons), currently paid by the present student organisations, will immediately be at risk, because those organisations will have no guaranteed income after 31 December this year. In addition, many of the services are run by voluntary labour, presently estimated at 10 000 man hours per annum across the five campuses. The new college would be obliged to substantially increase the present fees to cover these extra costs or allow the level of services to decrease to an unacceptable level. I am afraid that the South Australian College of Advanced Education students union would be the laughing stock of Australia. Thirdly, the college would have to take over the outstanding financial commitments of the present organisations, such as contracts, other agreements, lease agreements, loan repayments, overdrafts, and so on.

The existing organisations would have no guaranteed income. In fact, their source of income would be below the budgeted level. They would be unable to service their debts and they would get further into debt; for example, Salisbury and Adelaide colleges student unions have commitments between them amounting to $55 332. I am not saying that that is clever; I believe it is foolish and a great mistake. Student organisations should receive better supervision, as happens in Western Australia, with proper and regular audits, accountancy advice and regular reports to the council. These young people are busy with their studies, sport and other activities, yet they are expected to do this extra work in their spare time. Obviously they need help and guidance, as occurs in Western Australia.

The Government's proposal would do exactly the opposite to its intention. It would not give the students any freedom and it would damage the financial situation of the students unions. The students would be less free than they are now and, in fact, their freedom would be taken away from them. I would like to deal with my amendment in two parts, because I believe there will be some objection to the first part. My amendment has been drafted in this way because four campuses and four organisations have to be amalgamated. A federation of unions will be formed, which will have a branch at each campus.

The Hon. ANNE LEVY: I oppose the insertion of new subclause (3), but I do not disagree with its sentiments.

The CHAIRMAN: The whole of new subclause (3)?

The Hon. ANNE LEVY: Yes, the whole of new subclause (3). In its present form I believe that new subclause (3) could have several different interpretations. Paragraph *(b)* could lead to the setting up of dummy councils by splinter groups charging 50 cents membership fee, and that could have an effect quite contrary to the honourable member's intention. I believe that the amendment is quite unsatisfactory. I considered amending the Hon. Mr Milne's amendment by deleting paragraph *(b)*, but that would require amendments to paragraph *(a)* and to clause 17 (1). This Bill will be referred to a conference and I believe the correct approach can be discussed then.

Amendment negatived.

The Hon. K. L. MILNE: I move:

Page 7, after line 22—Insert the following new sublause:

(4) Where a student has a genuine conscientious objection to being a member of such an association or council, he is not obliged to be such a member if he pays each year into a benevolent fund established by the college for the welfare of the students an amount equivalent to the annual membership fee of the association or council for that year.

I think this amendment will be helpful to those concerned about whether membership should be compulsory. It is necessary for the students concerned to pay some amount, because they cannot help using the facilities for which everyone else is paying. When they have paid a proper amount they have every right to use those facilities, but a donation to the fund of an amount equivalent to the annual subscription to the union does not necessarily make the student a member of the association. This overcomes the problem for quite a number of students. The welfare fund would get extra amounts from those students, but instead of the 4 per cent, or whatever percentage goes to welfare from the full subscription, they would pay the full subscription, and the other students would not have to pay so much. It would even out and overcome all the problems. If some people have not paid a subscription but still use the facilities, it causes ill feeling. If they have paid the same amount as everyone else, and if they are using the facilities occasionally or whenever they want to, the difficulties are overcome.

I commend the amendment to the Committee as a solution to the problem which is worrying the Government and other people about whether membership should be compulsory. Speaking as a chartered accountant, I know that it is not possible to have a voluntary system of subscription to the union, but I also know, from different aspects of my own life, that there are people who cannot and should not necessarily conform to all our own rules. I hope the amendment will solve those difficulties, and I commend it to the Government and the Opposition.

The Hon. ANNE LEVY: I support the amendment, which seems a perfectly reasonable and very sensible way of getting around any dilemmas that some people might have. I know that, even without such legislation, there is provision at all tertiary institutions to cater for individuals who have truly conscientious objections to belonging to an organisation such as a student union. The letter that we received from the Chief Executives of tertiary institutions indicated that the institutions do provide for various types of conscientious objection. At the University of Adelaide, there has been provision made along those lines, not in legislation but in fact, for many years.

The main people who have made use of it are those who belong to the Plymouth Brethren sect and who, according to their religion, are unable to belong to an organisation that includes people who are not Plymouth Brethren. For religious reasons they have a conscientious objection to belonging to the student union, and a provision such as this has been applied for many years by the University Council. I see no objection whatever to its insertion into the legislation, so making it mandatory. I am sure it is really placing on record what is already happening in the institution.

The Hon. G. L. BRUCE: I support the amendment and put possibly an alternative viewpoint. I believe that we should have this amendment, and I agree with it, as most people opt out because of the hip pocket nerve situation. If they are hit in the hip pocket, more than likely they will be a member of the organisation. If they decide not to be, I do not see why they should have available to them all of the organisation's facilities. I believe they should be able to use the facilities for which they pay, whether it be a subsidised meal or any other situation where, because of the subsidy, it is cheaper, but I do not believe that the union should be involved in spending money on maintaining welfare officers to advise them or give them free service.

If they opt out, I do not think they have the right to use those services, but they should have the right to use the paid services provided. I do not think they should have all the facilities made available when other union members have paid for them.

That is the only difference I can see, but I still support that amendment. The principle is sound. I take exception to how the Government sees this from a philosophical viewpoint. Without compulsory unionism the whole set-up at those institutions would collapse. I draw to the attention of the Minister that, as I understand it, taxation becomes a voluntary situation if one has enough money. I have read in the papers that it is a conscience decision of those who make $100 000 a year whether or not they pay taxation. The Minister is moving out into left field. The little man has no option. I do not think anyone should have the option in relation to services available in the community, and the same thing applies to this situation.

The Hon. C. M. HILL: Let me remind the Hon. Mr Bruce that the South Australian Institute of Teachers is a non-compulsory union and gathers into its ranks a great number of teachers who are served very well under a voluntary system. As all members opposite are supporting this proposal, it will pass; therefore, I do not intend to divide the Committee on it. I express the Government's view that we still oppose this approach, because we hold very hard to our original concept of a voluntary system.

Amendment carried.

The CHAIRMAN: There is no longer any subclause (3), so the amendment just passed will become subclause (3) instead of subclause (4).

Clause as amended passed.

Clause 18 passed.

Clause 19—'Power to make statutes.'

The Hon. K. L. MILNE: I move:

Page 8—After line 11 insert new paragraph as follows:

(fa) the fixing and collection of the membership fees of any association or council of students, or students and staff, of the college;

I suggest that the college will wish to retain the power, if possible, of fixing and collecting membership fees, if it so wishes. That is what is done in Perth, and it is possible that the college may want to do it here. I suggest that after paragraph *(f)* there be inserted a new paragraph (fa), which provides for the fixing and collection of the membership fees of any association or council of students, or students and staff of the college. That will give the council the power to do it and will indicate to people that it has the power to do it. I feel that at some stage this provision may be used, and that it will be useful to have it in the legislation from the beginning.

The Hon. C. M. HILL: Does the honourable member appreciate that it does include the fixing of these fees by the college?

The Hon. K. L. Milne: Yes, I think that is quite normal.

The Hon. ANNE LEVY: Councils of tertiary institutions currently fix fees and approve the rules of student organisations. These institutions are in fact controlled by the council of the institution in terms of the rules, procedures and the fixing of fees. It is putting into legislation what occurs at the moment.

The Hon. C. M. HILL: The Government opposes the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (20 to 28) and title passed.

Bill read a third time and passed.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 8 December. Page 2377.)

The Hon. BARBARA WIESE: I rise on behalf of the Opposition to support this Bill which makes provision for the Governor, on retirement, to receive his full entitlement of salary after serving at least nine-tenths of his term of office. For the purposes of this new provision, periods of furlough will not be counted as part of the Governor's period of service. As all honourable members know, this Bill has been introduced by the Government—much to its embarrassment I am sure—to ensure that the current Governor, Sir Keith Seaman, will not be disadvantaged when he leaves office early next year, before completing his full term of office. I say that the Government must be embarrassed because it wanted as little attention as possible drawn to this matter. For its own political purposes, the Government wanted to push Sir Keith Seaman from office early in order to announce his successor before it had to face the people later next year.

The Hon. C. M. Hill: That's simply not true.

The Hon. BARBARA WIESE: Well, I think it is. It wanted to get this matter out of the way to avoid any controversy close to election time. I believe that Sir Keith Seaman has been treated very shabbily in this instance and, to add insult to injury, the Government is not even capable of carrying out its execution efficiently. It had the opportunity some six months ago, when two other Bills were introduced into the Parliament, to cover the matters that are being covered by this legislation, but it has been so incompetent that it did not achieve its aim with those Bills, and so it has now had to bring this Bill before the Parliament in the last two weeks before we rise.

The Government must now face public criticism which has arisen; it rightly deserves that criticism. I was pleased that this matter was reported in the *Advertiser* this morning, following a debate which occurred in another place yesterday. The Leader of the Opposition in that place quite rightly criticised the Government for the way in which it handled this matter and also criticised the actions that it has taken. I was disturbed to learn that the member for Mitcham also used that debate to pursue his long-standing and rather disgraceful obsession for hounding Sir Keith Seaman. I would hope that all members in this Chamber would want to join me in dissociating myself, as a member of Parliament, from the remarks he made during that debate, and would want to join me in condemning the honourable member for his disgraceful comments.

I do not want to take up any more time of the Chamber on the matter. I think that we would all agree that this Bill should be passed. In conclusion, I wish to place on record on behalf of members on this side of the Chamber our appreciation to Sir Keith Seaman for the distinguished service he has given to the people of South Australia during his term in office and, in addition, I would like to add my own good wishes for a long and happy retirement to Sir Keith and Lady Seaman.

During the two years that I have been a member in this place I have had an opportunity to meet Sir Keith and Lady Seaman on a number of occasions and I have a great deal of respect and affection for both of them. I am sure that I speak for the majority of South Australians when I say that they have carried out their public duties in this State at all times with dignity and have demonstrated their concern for the welfare of all South Australians, and that has been much appreciated by us all. I support the Bill.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate that the honourable member has indicated support from the Opposition for the second reading of this Bill, which is to tidy up what is in effect a relatively minor matter.

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

STATE THEATRE COMPANY OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2303.)

The Hon. ANNE LEVY: The Opposition supports the second reading, but wishes to ask the Minister a few questions relating to the Bill. The Bill's sole purpose is to expand the board of the State Theatre Company of South Australia from six to eight members. The Minister has indicated the reasons for this, and we accept that it is desirable to take this action. The consequential amendment relating to the quorum is understandable. However, clause 3 *(b)* increases the size of the board by increasing the number of Ministerial nominations.

The board presently has six members; three are nominated by the Minister, two are elected by subscribers and one is elected by the company. Honourable members can see that there is a balance and equality of numbers between the members nominated by the Minister and the members elected by different electorates. Although we are happy about increasing the number to eight members, we are concerned that the balance is being altered, that the Minister is nominating five members to the board, leaving the same three who are elected by two different electorates.

This means that the Minister is nominating the majority of board members and can, in consequence, by means of the people that he nominates, have a much greater influence on the activity of the board than he has had to date. The Opposition is concerned about this change of balance that results from clause 3 *(b)*.

In this regard, I have had discussions with a number of people connected with the company, and the suggestion has been made that it would be desirable to maintain a balance of four people nominated by the Minister and four people made up of the elected members and an *ex officio* member. The suggestion has been made that, instead of the Minister nominating five members, four should be nominated by the Minister, two should be elected as at present by subscribers, one should be elected as at present by the company, and that the Artistic Director should become the eighth board member.

As I understand it, the Minister would not be opposed to such a proposal. On 21 November 1978, the Minister who was then the Opposition spokesman on arts matters suggested himself that the Artistic Director of the company should be a member of the board. This was at a time when the Act had been opened up and various amendments were being moved. I think it was proposed to make an elected member of the company a member of the board, and the then Government was upholding firmly a policy of worker participation. At that time the Hon. Mr Hill stated:

> I believe that, if employees of statutory bodies and institutions of this kind sit on the governing board, there should as representatives of the total staff be two members, one of whom should be the chief executive officer of the body or institution.

At that time he was proposing to increase the membership of the board from six members to seven, so that the Artistic Director could be added to the board. Without going through the whole history in 1978, this was not agreed to and the board was left comprised of six members. The Hon. Mr Hill made numerous statements other than the one I have quoted supporting the Artistic Director's being a member of the board.

The Hon. C. M. Hill: Did you join in that debate?

The Hon. ANNE LEVY: Yes, briefly, although I was of course not the Minister in charge of the Bill. As I say, I have had numerous discussions with various people connected with the company. There seems to be concern that the Bill before us would upset the balance between nominated members and other members, and the general feeling is that it would be much better to maintain a ratio of four to four in the enlarged board of eight members.

I have considered moving an amendment to this effect. However, that would take some time. I am quite prepared to move an amendment, but first I ask the Minister whether he will undertake that, of the two extra members whom he will have the power to nominate, one will be the Artistic Director of the company? This action would achieve the same aim without necessarily enshrining that provision in legislation, although if the Minister would prefer, I am quite happy to move an amendment. I have had an amendment drafted, which would achieve the same end.

The Minister may prefer to give an assurance that one of the two extra people who are to be nominated will be the Artistic Director and, if that is the case, I will leave the clause as it stands, a procedure which would certainly expedite matters in view of the hour but which would also achieve the objective of having four outside people nominated and balanced by four people either elected or serving on the board by virtue of the role that they play within the company. I will be interested to hear the Minister's response, and if necessary I will follow up this matter in the Committee stage. I support the second reading.

The Hon. C. M. HILL (Minister of Arts): I thank the Hon. Miss Levy for her contribution. This Bill has been introduced based on my experience as Minister in charge of this theatre company over the past two years. That experience has indicated to me that my proposal of 1978 was not wise. I would not agree to the Artistic Director or the General Manager (because he would have to be considered if we consider putting existing employees on the board) serving on that board at this stage.

Difficulties have been experienced in the State Theatre Company. It is a performing company that is funded by a large sum of money, the amount from Treasury this year being $1 075 000. Actual payments for 1980-81 were $1 012 000. One of the problems has been that the board has not had enough personnel; as well, the board has required, as a lot of these arts company boards require, an injection of new ideas from outside, from people such as successful business men and people who are experienced in corporate activities and who can contribute greatly to the wise administration of the overall board. There must be more objective thinking and decision-making on boards of this kind.

I am not criticising the present members of the board: they have done their very best. However, they have been limited because of problems of absence from the board for one reason or another. Indeed, in one instance, I was somewhat to blame because, when a board member resigned, I took a considerable time to find a replacement. That occurred because one has to be extremely careful in choosing such people. Not only did I want a business man to replace Sir Bruce Macklin but also I wanted a business man who was an exceptionally good communicator.

The Hon. Anne Levy: Couldn't you have a business woman?

The Hon. C. M. HILL: I assure the honourable member that appointments to arts boards have indicated that we

consider women for positions just as much as we consider men. Of the last two appointments made to the Adelaide Festival Centre Trust, one was a woman. However, I do not want to pursue that matter: it is somewhat of a tangent. I stress that some time was taken to replace Sir Bruce Macklin because I was looking for a specialised kind of person. There is a need for business men who are appointed to these boards to be expert not only in business management and administration but also in communication, because, as I believe we would all appreciate, there must be a great deal of successful communication between board members in an instance such as this and the senior staff of the State Theatre Company. Hopefully, at long last I have obtained the services of a gentleman who I believe will be successful in these two respects.

The board has required a greater contribution from people who are close to the scene or involved with the company as executives: it needs contributions from those outside who can give voluntary service and accept appointments of this kind as a particular interest. Therein, in my view, lies the secret of successful boards of such companies. The new members become involved in sponsorship activities, which is a very serious new area that has loomed.

Another reason why I have changed the view that I held in 1978 is that at that time we were in Opposition and we were looking very closely at the then Government's worker participation programmes. There were instances where the Labor Government of the day was considering introducing its worker participation scheme in some way with which we did not agree. For instance, it was considering placing people on boards who were below the level of the senior executive officer in the organisation. We had some objection to that, because we believed that the senior executive officer at least should be one of two persons, or the person, appointed under a worker participation scheme. The pressure of that concern is not present now, and the present Government's employee involvement schemes are going very well, because we want them to evolve naturally within these organisations.

The Hon. Frank Blevins: Which organisations are they?

The Hon. C. M. HILL: The scheme evolved to the point recently where the Government approved a staff representative on the board of the Parks Community Centre Trust. That will certainly occur if the Bill setting up that board is passed by this Parliament within the next 48 hours. That Bill has been debated this afternoon in the other place, having passed this Council within the past two weeks.

So, I can understand the Hon. Miss Levy quite properly seeking advice from people involved. I commend her for her research in finding out my views as held in 1978. I am not ashamed to say that I have changed that approach. When in Opposition we were learning about the arts and administration activities in this State and we were learning the hard way. In Opposition we did not have inside information and we had to do the best that we could with the information available. In the last two years the situation has been different and we have been able to find out the full depth of the administration of the State Theatre Co. It had a very difficult time. The existing board members have done a good job. I believe firmly that they would be helped tremendously by an increase of two in their numbers. I want to appoint (or recommend that the Governor to appoint) two experienced businessmen or businesswomen who, in my view, would be by far the best two additional people to have on such a board.

To hark back for a moment to the suggestion that the Artistic Director be appointed, it would create problems in relation to the General Manager. That is something which one cannot escape when one considers the situation. In the last few days I have considered it because it quite understandably has come to my notice that the Hon. Miss Levy has been discussing matters down there.

The Hon. Anne Levy: I wasn't making a secret of it.

The Hon. C. M. HILL: I know. I have discussed the proposal which she has mentioned with one or two of my senior officers. The point they make is that some embarrassment could be caused by the Artistic Director being at board level and the General Manager not being given a position. Indeed, I am not breaking any confidence when I say that the current Artisic Director has indicated that he looks upon board members as people who have to raise money for the company. I would strongly suspect that he would not be interested in sitting on the board anyway, but I have not raised that with him. In any case, I must be perfectly frank. I cannot entertain the idea of the Artistic Director or the General Manager coming on to the board. The board needs the injection of two outside people. I am sure that they would impove the board and the decision making of the board greatly. I cannot achieve those objectives if I put more of the staff, the company of players or the subscribers on to the board. Quite understandably, their views are subjective at board level. I do not say that critically nor am I being critical of the Hon. Miss Levy's contribution tonight. I would rather join with her and the Party opposite in trying to keep politics out of this question and improve the board so that it can help the arts scene and help to get the State Theatre Company back on to the high plane that it has enjoyed for most of the time that it has been established. There have been some rough waters through which it has had to pass. We are well on the way to success with the State Theatre Company.

The appointment of Mr Jim Sharman to the office of Artistic Director was something which I supported very strongly; indeed, I hailed it. His plans so far have indicated that that company is going to be very successful in the 1982 season. I only hope that the Adelaide audiences support it as much as they should. We have every indication that in time they will. The company needs more strength and more help at board level. It needs specialist representation on that board, representation which can be objective. We need people who have served in fields entirely outside the theatre. It was with that objective that I brought this proposal to Parliament to increase the number from six to eight. It does, in general terms, conform to the numbers that we have placed on other similar boards. In the second reading explanation I mentioned the boards of the regional trusts. Every one has eight members.

The Hon. Anne Levy: I am not objecting to eight.

The Hon. C. M. HILL: I realise the Hon. Miss Levy is not objecting to eight. I do counsel her now and suggest that in the years to come, as she will be close to this scene for a long time, she bear in mind that too many of those involved in artistic or executive activities within the company being on the board can cause decisions which tend to be subjective. It is only human and not in the best interests of the board. I hope that I have said nothing in my reply that is taken as criticism, because that is not intended. I am only being perfectly frank and explaining my view because of the seriousness of the situation which could develop if the Hon. Miss Levy pursues the proposal she mentioned at the second reading stage. It is my firm view, based on my experience in the past two years, that the course that I am proposing and which I hope to achieve is by far a better course than the proposal which the Hon. Miss levy mentioned.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'The Board of Governors.'

The Hon. ANNE LEVY: I move:

Page 1
Line 15—Leave out 'five' and insert 'four'.
After line 15 insert the following paragraph:
and
(c) by inserting in subsection (2) after paragraph (a) the following paragraph:
(ab) of whom one shall be the Artistic Director of the Company *ex officio;*

My amendment accepts that the desirable size of the board is eight people but states that only four people should be nominated by the Minister and not five. The other four would consist of two elected by the subscribers to the company (as at present), one elected by the members of the company (as at present) and the eighth person would be the Artistic Director of the company *ex officio*. I appreciate the comments which the Minister has made with regard to the type of people he believes should be on the board. However, he clearly indicated in his speech that he had one person in mind who had what he regarded as the necessary business experience and qualifications and was also a good communicator.

The Hon. C. M. Hill: That was the person who was appointed to the board only recently—one of the existing three.

The Hon. ANNE LEVY: There is already one person of this type on the board. By enlarging the board the Minister can appoint another person to make up his four nominees. I presume that when he wants five people nominated he does not necessarily want five people who all have business experience, because that might result in uniformity of opinion which would not canvass the wide range of expertise and experience relating to the theatre which one might expect to find on such a board. If he already has one person, my amendment will allow the Minister to propose another such person who could bring his valuable experience to the board whilst still enabling other views and approaches to the theatre to be represented on the board.

I see no reason why there should be any disagreement among those people, anyway. People who are committed to the value of the State Theatre Company should be able to work harmoniously towards achieving that end regardless of their backgrounds and previous experience. The Minister mentioned the position of the Artistic Director *vis-a-vis* the General Manager, which was a matter of discussion in 1968 when this matter was debated in this Council at some length. I am sure that the Minister has reread that debate as, indeed, I have. However, in the existing situation I think one needs to consider not only the ideal situation but also the existing persons within the organisation.

The Minister indicated that he had spoken to people connected with the company, as indeed I have. I must stress that I have not spoken to either the Artistic Director or the newly appointed General Manager of the company. However, I have spoken to individuals who, in turn, have spoken to those people and who feel that they can judge their reactions. As I understand, the amendments that I am putting forward would not meet any opposition from either the Artistic Director or the newly appointed General Manager of the State Theatre Company. I may be wrong, but that is my understanding of the situation, so there is no question of causing friction or of upsetting people by adopting my amendments. That, I would agree, is no reason for approving this amendment, but it does indicate that some of the fears the Minister has regarding this amendment are, I think, groundless.

I think that it is worthwhile looking at the situation in other State theatre companies in Australia. My information is that in nearly all State theatre companies the Artistic Director is a member of the board and that that is considered to be part of his function, to be a member with full voting rights on the Board of Directors. I am told that this is the case with the Sydney Theatre Company, which enjoys a great deal of respect and esteem in New South Wales. It is the case with the Melbourne Theatre Company, which is famous throughout Australia for the work that it does. It is also the case with the Queensland Theatre Company, which is highly respected in that State. It is also the case with the National Theatre Company in Perth, which again is highly regarded within its State, and indeed, outside the State of Western Australia.

In those four examples we have a situation where the Artistic Director is a full member of the Board of Directors of the company. If we do not have the Artistic Director of our company on the State Theatre Company Board, then we are the exception and not the rule. By accepting my amendment, we will be coming into line with the other major State theatre companies in the country. Not having the Artistic Director as a member of our board could, in the future, have deleterious consequences for our company. It has been suggested to me that, because in all the other States the Artistic Directors are members of the board, any possible Artistic Director worth his salt is likely to be concerned if he finds that he is not to be *ex officio* a member of the board in South Australia.

It has been suggested to me that by not having the Artistic Director as a member of the board in South Australia we have, on occasions in the past, not been able to encourage people to become Artistic Director of our State Theatre Company, people who are household names in theatre terms in this country and who would have very much graced our State Theatre Company. By not having our Artistic Director as a member of the board we could be doing a disservice to our State Theatre Company, which may find that, perhaps, at times in the future (as perhaps has occurred in the past) it is difficult to find the best person to fill that job when it becomes vacant. In saying that, I hope it is understood that I am in no way criticising previous Artistic Directors, and I would like that to be very clear. I have nothing but the highest regard for members of the State Theatre Company—management, artistic and other levels.

The proposition that has been put to me, that by not having the Artistic Director as a member of the board we could be damaging our State Theatre Company, is a serious one which might merit careful attention. In conclusion, I urge members to accept this amendment. It will do no harm in the current situation and will still allow the Minister flexibility with the type of member he wishes to appoint. Also, it will ensure that we are not harming our State Theatre Company by discouraging future Artistic Directors who otherwise would consider coming to South Australia.

The Hon. C. M. HILL: If the honourable member wishes to quote the other States she must also disclose the composition of the boards in those States and their membership. I do not know whether they have, for example, two representatives of subscribers and one representative of the company of players on those boards. However, that is a factor on our board which is quite serious so far as objective decision-making is concerned.

The Hon. Anne Levy: The Australia Council insists on 25 per cent of the board being elected by the subscribers for the companies it subsidises. That is an Australia Council rule.

The Hon. C. M. HILL: They are not subsidising many things at the moment. I cannot debate the question of interstate practices until I have had time to look at the composition of the total board membership in each instance. One of my senior officers, in a report to me on the matter raised by the Hon. Miss Levy, said:

The most important concern is the added advantage the Artistic Director would have over the General Manager, which could create difficulties in the General Manager exercising financial control of the company if the Artistic Director attempted to override the General Manager's authority at board level.

I do not want to buy into problems of that kind, simply by being forced to make a particular appointment. Secondly, I refer honourable members to the comments of an expert in the field of arts administration, Miss Elizabeth Sweeting, who is probably known to all members as one of the most capable arts administrators in Britain, Australia and throughout the world. In a paper on the subject of board membership by senior executives and staff, she said:

It is generally considered not advisable in the U.K. for the top staff executives—the Artistic Director and the Administrator—to be members of the board. In general, they do not wish it. They avoid a situation in which they may have to give a casting vote in their own favour.

For the purpose of board membership here, they are regarded as the providers of ideas backed by facts and figures, speaking as one voice to the board for the information about policy and practicalities for the board's consideration and decisions. There is no question about the presence being essential at all meetings of the board and board committees and taken into account in consideration of board membership. This does not diminish their status but is thought to enhance their independence and freedom of speech.

In essence, my case rests with my very strong view that there is a need for further experts in business administration from outside the theatre world to contribute to the improved functioning of this particular board. That is the Government's intention. The Government feels very strongly that if the board is to be improved this is the best way of doing it. I hasten to repeat that the Artistic Director attends board meetings and discussions so he can contribute his artistic (and in the present instance it is quite brilliant) input in the boardroom.

The Committee divided on the amendment:

Ayes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy (teller), C. J. Sumner, and Barbara Wiese.

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill (teller), D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN FILM CORPORATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2303.)

The Hon. ANNE LEVY: I support the second reading of this Bill. In his second reading explanation the Minister indicated that the Bill would avoid confusion in film circles as to the meaning of the word 'Director'. I understand that this measure was suggested by the South Australian Film Corporation itself, although it probably expected it to be incorporated in a larger Bill, if the occasion arose to amend the South Australian Film Corporation Act. It could be regarded as a waste of Parliament's time to put such a trifling measure before Parliament. However, it is an eminently sensible proposal which will avoid any confusion which might arise.

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

IRRIGATION ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 8 December. Page 2379.)

The Hon. B. A. CHATTERTON: The Opposition does not oppose this Bill, although I do not say that we support it with any great enthusiasm.

The Hon. M. B. Cameron: It is just that it is popular in the Riverland.

The Hon. B. A. CHATTERTON: The honourable member took the words out of my mouth. We do not support the sentiments included in the second reading explanation, in which the Government states that a freehold title is the most desirable form of tenure. That may be so in some cases, but certainly not in all cases. We view with some disquiet the other remarks in the second reading explanation suggesting that the freehold form of title might be introduced for marginal and pastoral lands. In this instance I think it is desirable, because the form of leasehold land in the irrigation areas does not serve any useful purpose. The leases, because of their *de facto* transferability, their saleability—

The Hon. M. B. Cameron: Most perpetual lease country is like this.

The Hon. B. A. CHATTERTON: Yes. In this case the realities of the situation are that the land is effectively freehold, and there is no real reason why it should not be converted to a freehold title, thus saving the Government a considerable amount in administration. The fees charged on leasehold land usually do not cover the cost of collection and other administrative processes associated with leasehold land, so the conversion to freehold does save the Government money and pointless expenditure.

The other provisions in which leasehold lands require the permission of the Minister of Lands for mortgages, and so on, are no longer relevant, and we see no reason why they should not be repealed. For those reasons, and on the grounds of practicality, although not on the grounds of any particular agreement with the philosophies expressed in the second reading explanation, we support the Bill.

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

DISCHARGED SOLDIERS SETTLEMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 2379.)

The Hon. B. A. CHATTERTON: I support this short Bill which, as the second reading explanation says, is consequential on the previous one and does not really require any further explanation.

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

MOTOR FUEL DISTRIBUTION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 2378.)

The Hon. G. L. BRUCE: The Opposition supports this Bill. I congratulate the Government on introducing a very simple and plainly stated document. The Bill changes the gallon measurement to a litre measurement, which is more convenient in terms of the tank. Instead of the old 400

gallon tank, there will be a reference to a 1 800 litre tank. The new tanks are of 2 000 litre capacity, thus the Bill refers to 2 001 litres and covers the situation that has arisen because of that. We support the Bill and we wish it a speedy success.

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

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (No. 3)

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 2, and had disagreed to amendments Nos 1, 3, and 4.

Consideration in Committee.

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

That the Legislative Council do not insist on its amendments Nos. 1, 3 and 4, to which the House of Assembly had disagreed.

As the merits of this matter were thoroughly canvassed yesterday, I do not propose to canvass them again.

The Hon. FRANK BLEVINS: If anything has changed, and I believe, despite what the Minister has said, that things have changed slightly, then the change has strengthened the resolve of members on this side to insist upon the amendments, and we will do that.

The Hon. C. J. SUMNER: Members should be aware that, since the debate yesterday, some support has been expressed for the amendment that was introduced by this Council to enable the Transport Workers Union in South Australia to cover owner-drivers. I raised several issues in relation to the Trade Practices Act, and I indicated that employers were in favour of the amendment. I received notification today from a number of employers, such as Fleetxpress, Mayne Nickless, United Transport, T.N.T., Brambles, John Dring, George Wills, Ansett, Ipec, and Northern Territory Freight Services, which are members of the South Australian Road Transport Association, in the following terms:

We, as members of the South Australian Road Transport Association and major employers of owners-drivers, urge you to support the Legislative Council's amendment No. 1 in the Industrial Conciliation and Arbitration Act Amendment Bill No. 3 of 1981 relating to owner-drivers. Failure to pass this amendment will place each member of the Australian Road Transport Federation and the South Australian Road Transport Association at risk with the Trade Practices Commission and in the public interest the *status quo* concerning owner-drivers should remain.

I indicated yesterday that there was broad employer support for the amendment I moved. I understand that this information has been given to the Government and yet, in the face of this information, it insists on trying to strike out this provision. I would have thought that the fact that owner-drivers have indicated their support generally by their current participation with the Transport Workers Union would have convinced it. The Transport Workers Union has indicated its support, as have the major employer groups in South Australia. Perhaps the Hon. Mr Laidlaw would like to now know that these companies have supported the amendment.

In the face of that, since there does now seem to be general industrial agreement, what is the Government on about in continuing to say that the Transport Workers Union should not cover owner-drivers? Its attitude is strange. It is quite inexplicable to me unless there is some political pay-off which the Government has to meet. If not, why is the Government opposing this amendment which has the broad support of industry? I believe I have conclusively demonstrated my point to the council.

The Committee divided on the motion:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin, C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, K. L. Milne, C. J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. L. H. Davis. No—The Hon. N. K. Foster.

Majority of 1 for the Noes.

Motion thus negatived.

[Sitting suspended from 11.35 p.m. to 12.1 a.m.]

PLANNING BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

Consideration in Committee.

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

That the Legislative Council do not insist on its amendments.

Honourable members will recall that the merits of the numerous amendments were canvassed at great length yesterday afternoon and evening. I do not propose to go through them again.

The Hon. BARBARA WIESE: So far as the Opposition is concerned, nothing has happened since we last debated these issues to make us change our minds about the amendments that have been carried in this Chamber. For that reason, we insist upon them.

The Committee divided on the motion:

Ayes (8)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, M. B. Dawkins, K. T. Griffin, C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Noes (11)—The Hons. F. T. Blevins, G. L. Bruce, B. A. Chatterton (teller), J. R. Cornwall, C. W. Creedon, R. C. DeGaris, J. E. Dunford, Anne Levy, K. L. Milne, C. J. Sumner, and Barbara Wiese.

Pair—Aye—The Hon. L. H. Davis. No—The Hon. N. K. Foster.

Majority of 3 for the Noes.

Motion thus negatived.

STONY POINT (LIQUIDS PROJECT) RATIFICATION BILL

Ajourned debate on second reading.

(Continued from 8 December. Page 2401.)

The Hon. C. J. SUMNER (Leader of the Opposition): At the outset, I would like to say to the House that I believe that the Parliamentary process that the Government has undertaken in relation to this Bill represents an absolute travesty of what the Parliament ought to be involved in in relation to a Bill of this significance. The fact is that the Bill was introduced into this Council only yesterday. We are now required to debate it today with the Government saying that it must have this Bill through by tomorrow afternoon, so now, at 10 past 12 the night after the Bill was introduced, we are being required by the Government to debate it, pass it, or deal with it in some way by tomorrow afternoon.

The Bill, to say the least, is complex. It represents an agreement in relation to a major development project in this State. The Council has been given 24 hours in which to consider and pass it. The situation was not much better

in another place, where the Bill received its second reading on Wednesday 2 December and a Select Committee was set up on that day. On Thursday 3 December, the Select Committee met for the first time; on Friday 4 December it took evidence in Adelaide; on Monday 7 December it took evidence in Whyalla; and on Tuesday 8 December it presented its report to Parliament.

Immediately the report was presented the Government insisted that the Bill be debated in another place so that it could reach us as it did last night, and we have but today to deal with it. Anyone who is in any doubt about the complex nature and importance of this Bill should take time to read it. Quite frankly, I believe that no member of the Legislative Council has read the Bill—

The Hon. K. T. Griffin: I've read it.

The Hon. C. J. SUMNER:—apart from the Attorney-General, who has had several months to read it, because the Government had access to it. Certainly, Parliament did not have access to it, the Opposition did not have access to it and, as far as we know, the Liberal Party back-benchers did not have access to it. I would suggest that, apart from Government Ministers, no-one else has read the Bill, yet we are being asked to consider it in 24 hours. The Government has crammed the Notice Paper at the end of the session in a quite ridiculous way. We were sitting around for weeks doing nothing but twiddling our thumbs. No legislation was brought before the Council, and it was rising at 4 o'clock in the afternoon. In fact, the Attorney-General cancelled the sittings of the Council on one day, because it did not have enough business. The Attorney is now putting us through this test: 3 o'clock yesterday morning, it is already 12.15 a.m. today, and we will probably do the same thing tomorrow night. We are having three days of Parliament by exhaustion.

The Attorney-General and the Government expect the Opposition to give detailed consideration to this Bill in this atmosphere with this threat hanging over our heads. It is totally unacceptable, and I think that is recognised in the Select Committee report. Anyone who has read that report could only come to the conclusion that it is probably the scrappiest document ever prepared by a Select Committee on a major project in this State. That has occurred because the Government insisted that the Select Committee report by last Tuesday. Labor members on the Select Committee wanted more time to consider the Bill. The minutes of the Select Committee indicate that the Hon. Dr Hopgood moved to insert the following in the Select Committee report:

> A common feature of the evidence was the complaint that witnesses had had too little time in which to study the Bill and prepare material for presentation. The committee draws the House's attention to the First Schedule of the Bill and clause 7 of the indenture. The First Schedule indicates that the document was signed on 26 November. Clause 7 states:
>
> > If the Stony Point (Liquids Project) Ratification Bill, 1981, does not come into operation as an Act on or before 31 December 1981, or such later date as the parties to this indenture may agree in writing, in the same terms as those now contained in the Stony Point (Liquids Project) Ratification Bill, 1981, or in such other terms as the parties hereto otherwise may agree in writing, this indenture shall lapse on and with effect from that date.
>
> At the time of signing of the indenture, it was common knowledge that the Parliament was to sit until 10 December, i.e. clause 7 was agreed to in the knowledge that Parliament had six sitting days in which to process the legislation. The life of a Select Committee should ideally be determined by the quantity of evidence placed before it and the complexity of the matters addressed. In this instance we found a good deal of public interest and concern.
>
> The committee is not unsympathetic to the company's desire for early Parliamentary approval particularly in order that financial arrangements be completed but on balance it accepts the argument that more time should have been made available for Parliamentary consideration.

That statement was supported by the three Labor members of the Select Committee (Dr Hopgood, Mr Payne and Mr Brown), but it was opposed by the Liberal members. The proposed amendment to the report was defeated on the casting vote of the Chairman.

Obviously, all the Liberal members of the Select Committee thought that the procedure that Parliament went through in relation to this Bill was satisfactory. I ask any fair-minded person to consider the time that Parliament has had the Bill and the fact that the Government signed the document on 26 November and knew that it had only six days to consider the matter in Parliament before the deadline of 31 December. Quite frankly, that was clearly unfair to Parliament. In effect, we have been presented with a *fait accompli*. The Government has told us to pass the Bill or else.

I do not want to traverse the details of the development, because it has been discussed sufficiently in the press and in debates in this Council. Suffice to say that its development is supported by the Opposition. However, I make clear that the Opposition does not support the procedure that was adopted to bring this Bill before Parliament. The Opposition's view on that is reflected in the amendments suggested to the report by Labor members. Quite simply, Parliament and those people who had objections to the Bill should have been given more time to consider it. How any person who is concerned about the effects of the development could consider that they received a fair go from the Select Committee or from Parliament I do not know. Quite clearly, if Parliament and the Government continue to behave in this way the public will become even more disillusioned with the processes adopted by this Government.

I acknowledge that the Cooper Basin Indenture Bill was passed in this Council in a brief period in 1975. That Bill did not involve community concern and no-one objected to it. It did not involve significant environmental considerations, and no shacks or beaches were affected as they are in this case. This Bill has significant opposition, and it involves serious environmental issues. I do not know whether honourable members have read the Select Committee's report. If they have read it they must be absolutely appalled that a Bill of this significance is dealt with in 2¼ pages.

Let us see what the Select Committee said in relation to a number of significant issues. In relation to the question of oil spills, clause 5 of the report states:

> The committee finds that there is a need to give further consideration to contingent plans and techniques to deal with oil spills.

Note that: further consideration. Clause 6 deals with the question of shacks and their possible relocation, and it states:

> The committee finds that there is a need to give further consideration to shacks and their possible relocation.

Clause 7 states:

> The committee recognises that there is concern in the public mind about the pollution potential of the development.

Clause 8 states:

> The committee believes that there is a need to undertake further investigations into the impact on fish and the fishing industry in the area of the plant.

Clause 9 states:

> The committee agrees with the recommendation of the Department of Environment and Planning that there is a need for further consideration of the environmental aspects of the proposed towers for the pipeline communication system, and that separate environmental approval should be sought for that part of the project.

On those four grounds: oil spillage, shack relocation, the impact on fishing, and the environmental aspects of the towers on the pipeline, the Select Committee reports that further consideration needs to be given; in other words, the

Select Committee, on the evidence it had, thought that the matters were of concern, but did not come to any conclusion.

Further, the Select Committee recognised that there was pollution potential in the development, but what did it do? It did not investigate any of these issues, but merely raised them in this scrappy document as issues that needed further consideration. What happens after further investigations have been carried out into the impact on fish and the fishing industry in the area if the investigations indicate that the development will have an adverse effect on the fishing industry? What do we do then? Are we able to tear up the indenture agreement? Of course we are not. It will be passed. The same applies to a number of other concerns, so called, that the Select Committee has acknowledged in its report. That seems to be a very curious way of going about reporting on a Bill of this kind. It has said that it really does not have sufficient information on oil spills, on recreation and shacks, on pollution potential, on the impact on fish and the fishing industry, or on the environmental aspects of the proposed towers.

The Hon. G. L. Bruce: Or housing, in clause 10.

The Hon. C. J. SUMNER: Yes, there may be other issues. Having come to these conclusions, the Select Committee still recommends that the Bill should go ahead without really any knowledge of the aspects I have mentioned. I would like to deal with one or two of these matters in a little more detail. With respect to the question of oil spillage, a proposition was apparently put by some witnesses that oil spills could be contained by a technology which involves the use of a boom which surrounds any ship that may be in the situation of spilling oil. It was accepted by the committee until the evidence of one Captain Carr that that technology for containing oil spills was adequate, yet in his evidence Captain Carr made this statement:

> I am not aware of any boom which can solely contain oil in a flow velocity the excess of one and a half knots. That would be a problem at Stony Point where the flow velocity in some circumstances is in excess of one and a half knots.

Clearly, the technology in relation to oil spills is not adequate, and the Select Committee, rather than investigate that issue further, merely made a passing reference to it in its report. If the evidence of Captain Carr is to be accepted, if there is an oil spill and if there is a flow in the gulf of more than 1.5 knots, the oil spill will not be contained by the technology suggested. It should be remembered that, if there is a spill, there is a one in four chance of its getting into the upper gulf.

Honourable members will recall the tremendous controversy over the Redcliff site, because that was in the upper gulf and, if there had been a spill, it would have been in the upper gulf. Even at this stage, if there is a spill there is a one in four chance of its getting into the upper gulf. If there was no adequate technology to contain the spill potential, we would have a very serious situation. That did not seem to bother the Liberal members on the Select Committee as they gaily proceeded to make the recommendations that we are considering.

The other aspect I would like to mention briefly is the question of the pipeline route. I will not go into that in any great detail, but the proposed route is smack bang across the Flinders Range, and there were suggestions put forward for a pipeline which would not have required traversing the Flinders Range but would have gone around the range. Frankly, I think that the alternative routes suggested by Dr Hopgood and by the Conservation Council should have been considered further, but again they were not because, quite simply, there is insufficient time to consider anything.

The Hon. D. H. Laidlaw: But the pipe is going to be buried.

The Hon. C. J. SUMNER: Yes indeed. Another issue which was raised was the question of the access by the Whyalla community to the beaches in the area and the fact that certain shacks now there will have to be shifted. It appears that there is a possibility that the whole of the Weroona Bay and Point Lowly area will be withdrawn from use for recreational purposes by the people of Whyalla, because it will not be safe for people to use those recreation areas.

The committee received conflicting evidence on this issue, but it needs to be said that there is quite a likelihood that the end result will be that these places will not be available to the people of Whyalla in the future, and the response of the Select Committee to that problem is again to say simply that further consideration needs to be given to it, but nothing more.

Other matters relating to local government rates will be dealt with in more detail by the Hon. Frank Blevins as a member of this Council who lives in Whyalla, but I must confess that, on reading the transcript of evidence of the Select Committee, I was absolutely astonished to see that the Mayor of Whyalla, in her evidence, admitted that she and the council had not even seen the indenture.

The Mayor gave evidence on Monday in support of the project. When asked a question, she stated that she had not even seen the indenture. Quite frankly, I believe that that is absolutely astonishing. Did the Government not give her a copy of the indenture? Did she not bother about it? Did she not think it was worthwhile reading? Surely one would have thought that the clerk of the council or members of the council would have been interested in reading the indenture. The committee was told that the council had not even considered the indenture.

Council members seemed to be able, however, on the basis of what they were told, to enthusiastically support the project. It may be that in their enthusiasm for the project they might have overlooked some important aspects in regard to rates that must be paid by the producers. There is some suggestion that the Whyalla council has virtually sold out the people of Whyalla on the question of rates. However, that argument will be developed by the Hon. Mr Blevins. The final matter to which I draw attention is clause 6 of the Bill, which states:

> (1) The Governor may, with the agreement of the parties to the indenture, make such regulations as are necessary or expedient for the purposes of giving effect to the indenture.
>
> (2) Regulations under subsection (1) may operate to modify any pre-existing law of the State.

I find clause 6 (2) quite surprising in a Bill of this nature, or in any Bill, for that matter. The Bill contains the normal regulation-making power, in regard to regulations that are necessary or expedient for the purposes of giving effect to the indenture, which is the usual formulation, but if those regulations are made and if they are found to be necessary or expedient in regard to giving effect to the indenture, they may operate to modify any pre-existing law of the State, whether common law or statute law.

The Hon. K. T. Griffin: That is not provided in the Cooper Basin Ratification Act.

The Hon. C. J. SUMNER: That may be the case.

The Hon. K. T. Griffin: Your Government passed it.

The Hon. C. J. SUMNER: So what? I am not worried about that. I wonder whether it is desirable to have such a clause in a Bill of this kind or, for that matter, in any other Bill. I was not in the Government in 1975 so the Minister can take his point somewhere else. I question whether this is a desirable clause. I have very serious doubts about it. The clause carries regulation-making power further than I have ever seen in any legislation.

The Hon. K. T. Griffin: Look at the Cooper Basin Ratification Act.

The Hon. C. J. SUMNER: It may be the same.

The Hon. K. T. Griffin: That Act is wider.

The Hon. C. J. SUMNER: I question whether this clause is desirable. By regulation, the pre-existing law of the State can be amended. I do not see how that is consistent with the general concepts of the supremacy of Parliament or why it is necessary in this Bill. In the absence of any satisfactory explanation from the Attorney-General, I intend to move that subclause (2) be deleted, because I believe that an important principle is involved. The general regulation-making power exists, in broad terms, and involves regulations that are necessary or expedient for the purposes of giving effect to the indenture. Surely that is enough. Why should we provide any regulation made in accordance with subclause (1) and then modify any pre-existing law?

The Hon. Frank Blevins: Does it not mean what it says?

The Hon. C. J. SUMNER: No doubt we will hear from the Attorney-General on that point. He, the Premier and the Government generally are not known for their consistency in this or in any other matter. The Attorney talks about the rights of the Parliament and dictatorship of the Executive. The Attorney and Ren DeGaris in those days had quite an alliance, which has now completely ruptured. We do not hear anything from the Attorney about these high principles that he was so used to espousing when he was in Opposition. I would like the Attorney to try to justify this clause, within the basic notions of supremacy of Parliament. Unless that occurs and unless the notion is very satisfactory, I will move an amendment.

In summary, the Opposition supports the development; there is no question about that. However, we object or at least I object, in the strongest possible terms to the way in which the Government has presented to Parliament a *fait accompli*. We have been forced to debate this issue at 12.30 a.m., only having received the Bill the day before. We object to the way in which the Bill was rammed through the House of Assembly.

The Hon. K. L. Milne: Who received the Bill the day before?

The Hon. C. J. SUMNER: The Bill was presented to the House yesterday. The Hon. Mr Milne is quite right. The Bill, with the amendments passed by the House of Assembly, has not even been printed. The fact that the Bill was rammed through the House of Assembly and through the Select Committee and the fact that the Government made a farce of the Select Committee are matters that should be drawn to the attention of the Council. The Select Committee raised a number of significant issues, but then dismissed them as virtually being something that we can consider later, which of course will be too late, because the Bill will have passed and the indenture will be signed, sealed, and delivered. In supporting the project, I object to the way in which Parliament has been treated in regard to the passage of this Bill.

The Hon. FRANK BLEVINS: Before speaking to the second reading, I seek your guidance, Mr President. No Bill has been placed on my file. I have been waiting all day.

The Hon. D. H. Laidlaw: I have had it for two days.

The Hon. FRANK BLEVINS: There is no Bill before the Council. Will you, Mr President, explain how we can consider a Bill that has not been presented to the Council? I would like to clear up that matter first.

The PRESIDENT: I do not have the Bill either. This is the first time I have seen this procedure in the Council. I hope the honourable member has sufficient information to deal with the Bill. I am afraid that I cannot help him. I do not have the Bill.

The Hon. FRANK BLEVINS: It appears to me that not only do honourable members not have a copy of the Bill that allegedly has been passed by the House of Assembly and introduced here, but the Chair does not have a copy of the Bill. That seems to put honourable members at something of a disadvantage: they do not have a copy of the Bill they are supposed to be considering.

The Hon. C. M. Hill interjecting:

The Hon. FRANK BLEVINS: The Hon. Mr Hill is concerned about whether or not we come back on Friday.

The Hon. C. M. Hill: I asked whether you wanted to sit.

The Hon. FRANK BLEVINS: I am not the least concerned about the Hon. Mr Hill wanting to knock off today. Will you, Mr President, advise what Standing Order compels honourable members to debate a Bill that is not before the Council?

The PRESIDENT: Is the honourable member asking that of me? The business is in the hands of the Council. If the Council decides to debate the Bill—

The Hon. FRANK BLEVINS: What Bill?

The PRESIDENT: It is in the hands of members as to what course they desire.

The Hon. FRANK BLEVINS: I would like to make a request of the Government. This is a Bill creating an indenture that is establishing one of the most important projects that has occurred in the past 25 years in this State. I do not have a Bill before me. The Chair does not have a Bill before it. Nobody has got the Bill, nobody has read it and I am expected to deal with it! I find it physically impossible to deal with a Bill of which no-one can give me a copy. If there is supposed to be a Bill before the House, will you please give it to me so that I can deal with it?

The Hon. K. T. Griffin: Give him a copy of the Assembly Bill.

The Hon. FRANK BLEVINS: I do not want the Assembly Bill. There is allegedly a Bill before this Council. Mr President, are we entitled to have a Bill before we consider it?

The Hon. K. T. Griffin: No.

The Hon. FRANK BLEVINS: The Attorney says that we are not.

The Hon. K. T. Griffin: We have a copy of the Assembly Bill. It has been read a first time and now it is being read a second time.

The Hon. FRANK BLEVINS: Show me.

The Hon. K. T. Griffin: Go to the table and get one.

The Hon. FRANK BLEVINS: Let us get clear what this Government is trying to do. Over a period of five or six days it is trying to get through the Parliament without Parliamentary scrutiny a project that is the most significant project that has occurred in this State in 25 years.

The Hon. M. B. Dawkins: The most important for 25 years, and you're trying to hold it up.

The Hon. FRANK BLEVINS: The Hon. Mr Dawkins says it is the most important thing in 25 years and we are trying to hold it up.

The Hon. M. B. Dawkins: You said that.

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: Let me say this; we do support this Bill, although we have not seen it. I have never supported a Bill with greater reluctance than I do this one, not because I do not support the project in principle (I support it strongly indeed) but because I object to having to put my name to legislation that I have not even seen, to endorse virtually a Select Committee report which is one of the thinnest, weakest documents I have ever seen. All it did was raise questions and it got no answers in the Select Committee meetings whatsoever.

I think that the Government and Santos are treating this Parliament with the utmost contempt. To suggest that in two working days a Select Committee, with the best will in the world, can go through a Bill of this nature and importance is absolute nonsense. Of course it cannot; it is impossible for it to do that. The Assembly Bill consists (and I do not even know what it consists of because I have not even had the courtesy of being given a Bill) of 65 pages of a most complicated and technical nature, which honourable members would need a great more time to consider than they have been given.

The Hon. Mr Carnie, who is going to sit here and pass this Bill, has not seen it, neither has the Hon. Mr Dawkins and neither has the Minister. They have not seen it, they have not considered it and they do not know what is in it. It may well be that this Bill is a total disaster for this State. I sincerely hope that it is not, but there is no-one in this Parliament who can tell us that, because nobody has had the Bill long enough to do anything at all about it. This Government should be heartily condemned for doing this. I can imagine if we were in Government and tried a stunt like this, tried to present a Bill of this nature before the Parliament in this way, how the Liberal Party members would act then. They would be outraged, and they would be quite correct in being so outraged.

The Bill had to go to a Select Committee and this is what it produced, a miserable document not worthy of being the report of a Select Committee. I would be ashamed, if I had been on that Select Committee, to put my name to this report—it is an absolute disgrace! I am not reflecting at all on the members of that Select Committee, because they could not do anything other than what they did in the two days that they were allowed. They could not do anything better than to produce this document.

Where does one start on this Bill? Parliamentarians have a fair amount of expertise in dealing with Bills. That is a skill that we develop, but the general public does not have the advantage of going through Bills day after day as we do. The way that the general public has been treated in this matter is absolutely outrageous. How could the Government expect people who are concerned about this project, whether they be for it or against it, to consider the project in the time made available to them? How were they expected to prepare submissions on the project? Of course, they could not. The Government knows that they could not, we know that they could not, and the people knew that they did not have a hope in hell of producing any kind of a considered opinion on this particular Bill because of the short time made available to them.

Apart from the way that the Parliament has been treated and the contempt with which it has been treated, what really scares me about this Bill is what we may have to pick up in the future. We have had no opportunity to review the Bill in any significant way. It may well be that a Bill as technical as this contains some tremendous oversight. It may be that the tremendous resources of this State have been given away to Santos. We do not know, and nobody in the Parliament knows (not one person, because they could not possibly know) about that.

There are a couple of specific queries that have been raised about this Bill. One of those questions relates to royalties. If the State is to derive any benefit from this important and most significant resource, then the question of royalties is one that has to be discussed. Submissions have to be taken on this matter and the amount of time that should be devoted to that is much longer than two days. It is not good enough for a couple of Treasury officials to come into a Select Committee on the first morning and say that everything is okay. That Select Committee has the right, and people should have the right, to test the question of royalties with some 'in depth' authority to see whether the deal is as good as the Government claims it is.

What the Government is doing in this legislation is allowing the State's resources to be developed and the Parliament does not know what it is getting for the people from those resources. It really has no idea. It is taking this Government on trust, and that is something that I do very reluctantly. It is not just this Government, but any Government. There are a couple of things I would like to mention: one is the question of the rates that Santos is going to pay to the City Council of Whyalla, which is my hometown, and has been for 16 years. I know the area extremely well. It was reported in Saturday's *Advertiser* that the Whyalla Town Clerk is happy with the provision for rating that appears in this indenture.

The article was very good. It detailed some of the problems faced by cities in the Iron Triangle. One of the major problems relates to rating. Whyalla, of course, has the B.H.P., but it does not pay any rates at all on its steelmaking operations. It makes an *ex gratia* payment. It has been rumoured that, when the Redcliff petro-chemical plant was considered for Port Augusta, the Dow Chemical Company was prepared to pay the Port Augusta council $1 600 000 a year in rates. The *Advertiser* report in response to that claim from the Whyalla Town Clerk states:

> Whyalla's Town Clerk, despite having heard the story of the $1 600 000, is adamant his city does not need that. He believes it is stupid to saddle industry with such burdens and says Santos and any future Dow chemical plant will be rated on unimproved land value.

The best guess I have been able to obtain is that Santos will pay around $20 000 in rates to the City of Whyalla. That is a trivial amount. I condemn the Whyalla council for selling out the people of Whyalla for such a trivial amount.

The Hon. C. J. Sumner: How does that compare with Port Stanvac?

The Hon. FRANK BLEVINS: Port Stanvac pays about $300 000 for a similar industry. Whyalla has an enormous number of problems. It is a city that has been deprived of finance by B.H.P., which is the major industry in that city. This Parliament passed the B.H.P. Indenture Bill some years ago which exempted B.H.P. from paying rates and from a lot of other things as well. Whyalla has a very real problem in raising ratable income. Whyalla is comprised almost entirely of residential development. Most of that area comprises Housing Trust homes, and I would say that a substantial number of the occupiers of those Housing Trust homes are on reduced rental, which signifies the lack of financial resources amongst Whyalla ratepayers.

I would have thought that the Minister of Housing (who is responsible for the South Australian Housing Trust and local government) would have intervened on behalf of the people of Whyalla to ensure that Santos paid a more substantial sum in rates. I am quite sure that Santos would have been happy to do that. There was no necessity whatsoever to give away significant rating rights for a trivial amount. If the amount had been 10 times more than it will be, it would still have been insignificant to Santos, but it would have been of enormous significance to the people of Whyalla. B.H.P. pays no rates at all and another major industry will probably pay only about $20 000. Whyalla is crying out for ratable income. The Government should be condemned for its actions in this regard.

The Deputy Premier has argued that it will involve no cost to the State at all and that the whole thing will come about like manna from heaven. That may be so, but I do not know. I defy anyone to say that they do know. Certainly, no member of this Council knows. Certainly, members of the Select Committee could not be absolutely sure about

whether there are any hidden costs, charges or concessions to Santos that we do not know about. Again, as a member of Parliament, I would have liked to investigate that avenue further. For once, I have enjoyed being a member of a House of Review, and I would have enjoyed researching this legislation. This is the only piece of legislation that I have wanted to review since I have been a member of this Chamber, but I cannot do that. Apart from the Roxby Downs indenture it is probably the most significant piece of legislation that I will see in my time as a member. The environmental problems that could occur when this project proceeds are very real. Whilst I support the project in principle, I certainly do not support development at any cost. If some of the environmental problems turn out to be real then this Parliament will have neglected its duty. By going through this shabby process we have grossly neglected our duty.

Some of the environmental problems in the Spencer Gulf area which were referred to by people giving evidence to the Select Committee have received little or no consideration whatsoever. I suspect that most of the fears expressed are groundless, but surely those people deserve sufficient time to prepare submissions and to have those submissions considered. It cannot be said that their submissions have been considered. Parliament has not considered the submissions of anyone who appeared before the Select Committee, because we have not had time. We have not had a Bill, never mind time to consider submissions.

People who gave evidence before the Select Committee have wasted their time, because there was no possibility that the committee could take any notice whatever of what they said, let alone act upon what they said to see whether their fears were justified. Again, it is an absolute sham and an absolute travesty of the Parliamentary processes. This project had almost unanimous support from the people of this State. It certainly had almost unanimous support from Parliament. However, the Government has handled this matter in such a stupid way that it has managed to get almost everyone offside. It has been put to me that the people from Santos are very difficult to get together and that they comprise about 10 groups. I have been told that the individuals concerned are prima donnas who all want their particular viewpoint to hold sway within the consortium. The Government was under some pressure to have this finalised, but if this Government is not competent to deal with situations like that then it has no right to govern.

The last Select Committee set up by this Council was in connection with a water slide at Glenelg. It met on eight occasions, visited the area, and came down with a first-class report. It took several weeks to investigate the water slide and decide whether it should be supported, and the report is a credit to the Minister of Local Government.

The Hon. C. J. Sumner: What was the cost of that development?

The Hon. FRANK BLEVINS: I think it was about $300 000. I remember the Select Committee before that one. The report is on my desk, and it relates to the Levi Park caravan park. How many meetings were held on that, on whether the caravan park should stay in the Enfield council area or whether the Walkerville council, which does not like caravan parks, could manage to contain it within its high-cost boundaries? That Select Committee met far more than did the Select Committee on this project, which is a $750 000 000 project dealing with the resources of this State—four meetings, no notice taken of anyone who came here, and no investigations on the issues raised.

The Select Committee report says that the matter needs further investigation. I will say it does. It wants further investigation by this Parliament, but we are not going to get that. We will not be allowed the time to investigate this matter that the Parliament had to investigate the Glenelg water slide or the Levi Park caravan park. Regarding the Glenelg Select Committee, the Minister and the members of the Select Committee inserted in that report some criticism of the Glenelg council, because the council had pre-empted a decision of the Parliament. What is the difference in this case? A decision of Parliament has been totally pre-empted by Santos and by this Government. In effect, this Government and Santos are holding a gun at the heads of members of Parliament and saying, 'Pass this or else we are up for all kinds of financial penalties.'

Santos has hundreds of kilometres of pipe already. There is no Bill, no indenture, but it has laid out the money and the pipe is lying there waiting to be laid. There is work going on on the site. The Highways Department has been working on the site. No notice has been taken of Parliament, and the project has gone ahead. Parliament has been told at the last minute that this is wanted by 31 December, or else. That is why this Bill will go through tonight.

The Hon. D. H. Laidlaw: They have to order special pipe.

The Hon. FRANK BLEVINS: The Hon. Mr Laidlaw is a well-known industrialist in this State. His only interest, just like Santos, is making money. That is his only interest, that is what he does and how he spends his time, and he is entitled to do that, but as members of Parliament we are representing people who do not have that money. They have citizenship of Australia and residence in South Australia, and we are charged with defending the resources that they own to see that they are developed in a proper way. The Hon. Mr Laidlaw is cheering because the Bill is to go through. Will he defend what this Government has done in giving two working days for a Select Committee to go through this Bill?

The Hon. D. H. Laidlaw: I will defend the royalties it is going to bring.

The Hon. FRANK BLEVINS: Will you defend the way in which the Parliament is being treated? The Hon. Mr Laidlaw will defend the royalties, but not the way in which the Government has handled the Bill. Perhaps the royalties are good—I do not know, and neither does anyone else. We will see in future how right he is, but I would much rather not have to wait to see whether he is right and whether the royalties are right. It is a damn disgrace that this Parliament does not know and has not had the necessary time to investigate whether or not what the Government has done about the royalties is correct. Do you expect us to take your word for that?

The Hon. D. H. Laidlaw: No.

The Hon. FRANK BLEVINS: The people I represent, the people who sent me to Parliament, are not interested in your word: they sent me here to investigate this project and other issues like it, and the Government is denying me the right to do that in any meaningful way.

The Hon. D. H. Laidlaw: You got the *Hansard* pulls eight days ago.

The Hon. FRANK BLEVINS: I am not interested in the *Hansard* pulls and in what someone says under pressure. I cannot seem to get it through his dense skull, because all that is in that dense skull is dollar signs. I am not arguing against the royalties, because they well may be good—but they may not. I do not know, and I am not being permitted to find out to my satisfaction. I am here as a member of Parliament, elected by the people; to go through a Bill of this nature I need time, expertise, opinion from other people, and I need to do some research. I cannot do that in the time allowed. No member of the Select Committee can do that, and that is my complaint. The people in this State are being held in contempt by the likes of Mr Laidlaw and his cohorts who run Santos and who in turn run this Government.

The Hon. D. H. Laidlaw: If you knew what Alan Bond thought of me you would not talk about my cohorts.

The Hon. FRANK BLEVINS: It is absolutely pointless to go on discussing this. There is no point. The Attorney-General thinks it is humorous. He is laughing all over his silly face.

The Hon. M. B. Dawkins: The only face that's silly in this place is yours.

The Hon. FRANK BLEVINS: The Hon. Mr Dawkins is not laughing over his face, because he would not know how to laugh. The Attorney thinks it is amusing that members of Parliament have not had a chance to investigate this project, the most significant project in 25 years. There has been no opportunity to investigate. There is no point in discussing the Bill. I have no idea what is in it. I can say quite openly that I do not know whether or not it is in the interests of the State. I do not believe that anyone here has any idea, either.

The Attorney-General will say everything is great, but this Government is totally and utterly incompetent. If the Government knew that Santos had a deadline (although I think that is a joke, because it is not interested in deadlines with hundreds of kilometres of pipe under way, so it did not see any problem), why was the Bill not brought in a couple of months earlier? It is because the Government is totally and utterly incompetent.

If this procedure had been reversed, if we had been in Government, the Liberal Party, in Opposition, would quite rightly have crucified us for it. That inane editorial in yesterday's *News* gave three cheers that we were getting on with it. That is absolutely incredible to me. Has Murdoch got much money in the area or in Santos? He is probably getting paid off for the way in which he helped this Government before the last election. To suggest that a $750 000 000 project could go through the Parliament with no member of Parliament having any significant opportunity to do anything about it is a disgrace.

I say here and now that I accept no responsibility whatever for what is in the Bill. It is being passed because Santos and the Government have got a gun at our head. I do not know whether it is good or bad. I apologise to the people of this State, because I am prevented from examining this legislation, and I do not know whether I am selling out the people of this State regarding royalties or regarding the environment, or whether I am being involved in the destruction of the gulf. I have no idea, and neither has anyone else.

The B.H.P. Indenture Act went through this Parliament about 15 years ago. That Act has turned out to be an absolute and total disaster in all respects. It is disgraceful to think that we have not learned a lesson, and that we are possibly repeating the same thing again because the Parliament has not had the opportunity to consider the Bill. I will vote for the Bill. I certainly do not support it in any way, not because there is necessarily anything wrong with it, but, quite frankly, I do not know what is in it or whether or not the clauses are significant. I have had no opportunity to examine this Bill in a meaningful way. If it turns out in years to come that the project destroys the gulf or if the royalties are incorrect, and so on, it will be on the Government's head. The Government may be black-mailing us at this time of the morning. This matter will not be on my head.

The Hon. D. H. LAIDLAW: I want to answer briefly a few of the comments made by the Hon. Frank Blevins.

The Hon. Frank Blevins: I want you to defend the Government.

The Hon. D. H. LAIDLAW: I will refer to the royalties that the Government will receive when and if this indenture is passed and the liquids pipeline is built from Moomba to Stony Point. I received figures in my office in Parliament House on the same day as the Hon. Frank Blevins could have received the second reading explanation that was delivered in the House of Assembly on 2 December—seven days ago. During those seven days, the honourable member would have had the opportunity to check the royalties.

The Hon. C. J. Sumner: When was this bundle of Select Committee evidence tabled?

The Hon. D. H. LAIDLAW: People are quite capable of making their own inquiries without worrying about Select Committees. Earlier in the session, I spoke about the Mining Act Amendment Bill, under which the royalties for minerals, as distinct from royalties from hydro-carbons, had been increased from 2½ per cent of the value of the ore at the minehead to 2½ per cent of the value of the processed minerals. Last year, South Australia received royalties of $6 400 000, and it is anticipated that, for royalties from minerals from the State as a whole, the Crown will receive $9 000 000 this year.

In contrast, when this pipeline begins in 1983, the royalties will be based on 10 per cent of the value at the well head, as distinct from 2½ per cent for minerals. From 1983 to 1988, this would bring in (in regard to the discoveries that are known so far and assuming that no further discoveries are made) in present-day values $20 000 000 a year in oil or liquid royalties. From 1988 to 1992 the Government has the right to renegotiate the royalties. If no agreement is reached, the Government can increase the royalties at the well head to 12½ per cent, and at present-day values that would bring $25 000 000 a year from the pipeline scheme. That sum is compared to the $9 000 000 we expect to get from mineral royalties.

In addition, there will be an annual pipeline licence of $500 000 a year, which will be indexed according to the consumer price index. Also, outward harbour charges, based on $1.50 a tonne for the first 1 000 000 tonnes and after that 70 cents per tonne will apply. The producers agree to guarantee to pay at least $1 500 000 a year to the State for harbour dues. This means that at present-day value this State would receive a minimum of $22 000 000 a year from royalties, compared to the $9 000 000 that is expected from all minerals produced.

From the reading I have done of royalties paid on hydrocarbons, I believe that 10 per cent is regarded as a reasonable royalty charge. In some of the older fields, the charge is less than that. The Minister pointed out in the second reading explanation that the producers will finance this scheme, which involves a pipeline, the treatment plant to extract the ethane and methane at Moomba, the refinery with vessels and storage and the harbour at Stony Point, the cost of which will be about $800 000 000.

As far as I can see, the cost to the State is that the Pipeline Authority is to provide the easement on which the pipeline will be laid and may well have to produce a communication systems along that pipeline. There are other charges for which the State will be reimbursed eventually, such as roads, fencing, and the land at Stony Point.

The Hon. Frank Blevins: I am waiting for you to defend the way in which the Government has handled this Bill.

The Hon. D. H. LAIDLAW: That has nothing to do with it. I defend the fact that the royalty question has been well negotiated. It is a good transaction for the State. I am prepared to say that it is always a pity when Bills are rushed through Parliament. Sometimes it is important or essential to do that. In this case, I believe that it is very important to extend the pipeline to Spencer Gulf. I suspect that, if this decision had not been made and if the producers had realised that there was as much oil coming from the Jackson No. 1 well in Queensland as has occurred, they

would seriously have thought about taking the pipeline to Brisbane and not to Stony Point. It is quite fortuitous that this agreement was reached before the Cooper Basin consortia had a chance to rethink the economic consequences of what they are doing. Sometimes one can be lucky and this time the State has been lucky. I support the Bill.

The Hon. R. C. DeGARIS: I support the Bill. I will not speak at great length because most of the details have been referred to by other speakers. I am sorry that I did not hear what the Hon. Chris Sumner said in his speech.

The Hon. K. T. Griffin: You didn't miss much.

The Hon. R. C. DeGARIS: Quite so. Nevertheless, he might have touched on a point that I intend to raise. I will deal with one point only, and that is clause 6, which allows regulations to modify any other existing State law. I believe that this is called a 'Henry VIII clause', or something along those lines. Recently Dr Pearce, who is the reader in Law at the A.N.U., was speaking at a Commonwealth conference dealing with delegated legislation. Dr Pearce was for five years a Parliamentary draftsman in Canberra. He delivered a paper that was headed 'Grounds For Judicial Review of Delegated Legislation'. Under the subheading 'Inconsistencies', he said:

> A long accepted ground on which the court interferes with delegated legislation is based on the subordinate nature of this form of legislation. The reasoning is that if there is inconsistency between an Act and the delegated legislation it is the delegated legislation which must give way and the Act will be regarded as the primary statement of legislative intent. The regulations may be inconsistent with either the Act under which they are made or with another Act. It matters not in the view of the court with which instrument the regulations conflict. The theory is the same—the regulation is the subordinate instrument. This is however subject to the inclusion in the empowering Act of a provision enabling delegated legislation to override either the parent Act or other Acts—the so called 'Henry VIII clause.' The operation of such clauses is returned to shortly. The task of determining whether there is a conflict between delegated legislation and other legislation is one that the courts are singularly best qualified to resolve and, again, except in the more obvious cases, it is probably appropriate that a Parliamentary committee leave this area of review to the judiciary.

Further on in that particular conference a Mr Robinson of Canberra had something to say about the Northern Pipelines Act in Canada, as follows:

> I want to relate one example. You referred to the Henry VIII clause. I think delegates might find interesting an experience which we recently had in Canada with the Henry VIII clause. That was in relation to a Bill which was passed authorising the construction of a pipeline in Canada. This was the subject of considerable debate in our Parliament and was the final subject debate before the Parliament rose this summer. The sitting of the Parliament was extended for a number of days to consider the question.
>
> The Government, in the Northern Pipelines Act, had a Henry VIII clause which permitted the Government to amend a Schedule to the Act outlining certain terms and conditions for the construction of a pipeline. The pipeline was to go from Alaska down through Canada to the United States. In fact the Government brought in a proposal to amend the Schedule to the Act via the Henry VIII clause to permit the construction of an entirely different pipeline, namely, a pipeline which would go from a Canadian province and would export gas to the United States. It was argued that this constituted a fundamental difference from the original intent of Parliament at the time the original Act was passed. There was heated debate on the subject. In fact, one of the concerns was that the National Energy Board, an administrative body, would have to decide whether certain of those fundamentally altered terms and conditions had been met. There was a great debate on it. I commend to delegates to the Conference the *Hansard* record of the debate on that subject which is a classic example of the problems that can arise from a Henry VIII clause.

At that conference, which was chaired by Senator Alan Missen, Senator Missen said:

> Some delegates reported the apparently increasing use by governments of what are popularly known as 'Henry VIII clauses' in primary legislation, that is, clauses empowering the making of delegated legislation to amend provisions in the statute itself. One of the Queensland delegates presented what might be regarded as an unanswerable objection to the use of such clauses at all, namely, that if a matter is of such lesser importance that it can be amended by regulation it ought to be left to the regulations in the first instance, and if it is of sufficient importance to put in the statute then it ought to be amended only by the statute. It appears, however, that in most jurisdictions statutes have been passed which allow some of their details to be amended by delegated legislation. It was agreed that Parliaments should exercise special vigilance to ensure that 'Henry VIII clauses' are not granted to Governments except where there are cogent reasons for doing so.

Those quotes deal with the attitude of a Reader of Law, a chairman of a conference on delegated legislation and, also, a person who had a direct relationship with a Henry VIII clause in the Pipelines Act in Canada. There are two questions one should ask about this matter. Should the Council pass legislation with regulation-making powers with subordinate legislation which may be used to amend another Act? Secondly, what assurance does the Government have that regulations, if made, may be declared to be ineffective?

That seems to be the tenor of Dr Pearce's statement that Parliaments may use a Henry VIII clause but that they appear to run the risk of judgments going against their particular use where a subordinate piece of legislation can be used to amend a principal Act. In this particular case we have clause 6, which allows a regulation not to alter the primary Act, which is the Bill before us, but to amend or modify any existing law in the State.

I draw the attention of the Council to this matter. I feel that it may be easy for the Government to be able to handle this matter by regulation, but I do warn the Government that there is a possibility that, if any action is taken in the court, it may well find that the subordinate legislation is not able to amend another Act of Parliament or the law in another Act. That is the opinion that has been expressed. On the other hand, one must realise that there are matters which may need to be brought into the Bill before us in relation to the Indenture Act. It is a very simple matter for the Government to use regulation-making powers, particularly when the Council is not sitting, to overcome any problems that may occur at that time.

I will not oppose the particular clause. I think it is reasonable that the Government should be warned of what can happen with regard to this clause if any action is taken in the court saying that that particular regulation does not, in fact, amend a section that is in another Act. I think that covers the matter, but I would like to hear the Attorney's views on the points I have raised about this clause, because in the opinions I have read to the House there is some doubt whether any action taken under that regulation would stand up if an action was taken in the court to test that regulation. I support the second reading.

The Hon. K. L. MILNE: I move:

That this debate be now adjourned.

The PRESIDENT: Is the motion seconded? As there is no seconder, the motion lapses.

The Hon. K. L. MILNE: We all know that there is no hope of debating this Bill tonight. I have asked for an adjournment and have not got it. Let us make a good note of that, for a start. The fact is that nobody in this Council, except the Attorney-General, had seen this Bill when this debate started.

The Hon. K. T. Griffin: Mr Laidlaw has a copy and Mr Dawkins got a copy—they used their initiative.

The Hon. K. L. MILNE: No member has read the Bill, and they have all admitted that. The Select Committee report is a disgrace and a farce. For such an important project it comprises only 2¼ pages of foolscap. The report refers to six matters which concerned the committee, yet it recommended that the Bill be passed forthwith with two trifling amendments. I cannot debate the Bill because I

have not received an amended copy. I received an unamended copy of the Bill at 12.30 this morning. How can I possibly approve of this Bill? In my position, it is important that I make my decisions based on reasonable information. I do not have that information, I am not going to get it, so I cannot pass any judgment. Based on information I have received I am in favour of this project in principle.

I consider that the Government has treated this Council most discourteously. I have never seen anything like it in my experience and I do not believe it could get any worse. The Government would probably like me to oppose this Bill. I am not going to do that: the Government will have to accept full responsibility. I strongly object to this measure being rammed through Parliament in the dying stages of the session. I have no idea whether the people of Whyalla are properly protected; I have no idea whether the people of South Australia are properly protected; I have no idea whether the environment will be protected; and I have no idea whether the fishing industry is properly protected, although I suspect that it is not. I do not know what security the Government has for the money that will be spent on the producers' behalf if this project should fail. I have not been able to consider the arrangements concerning the land, rates, taxes, imposts, electricity and the provision of water. I could not find any worthwhile information about the road or the pipeline.

I understand that the company will not pay stamp duty in relation to the documents. I cannot understand the arrangement for the security deposit, because I have not had time to study it. The Hon. Mr Laidlaw has assured me that the royalties have been well negotiated: that may be so, but we have not had time to confirm or consider that aspect. The Opposition has violently protested about the lack of information and the fact that it did not get to see the Bill. However, it will allow this Bill to pass tonight. I simply do not understand the Opposition's attitude.

I have been placed in an invidious position. If the Opposition is going to back the Government I am virtually powerless. I will have no influence at all over what happens. In fact, I will play no part in it. I do not see why I should share the responsibility with either the Government or the Opposition by voting in the dark. I have asked that the debate be adjourned, but I have not received that courtesy. I do not intend to share the responsibility for this matter or put my Party in a position where it cannot defend itself. If this project proceeds and faults are found in the indenture, I cannot be blamed, because I have been rendered completely powerless. There is nothing I can do about it, and I am absolutely disgusted. I am therefore leaving the Chamber in protest.

The Hon. K. T. GRIFFIN (Attorney-General): Those members who are complaining about haste are acting like petulant schoolchildren. They cannot bear to see the Government receiving credit for a most important project in this State. In fact, the Hon. Mr Blevins has admitted that it is the most significant thing to happen to South Australia in many years. That is some kind of admission. It is a significant and important project. The draft environmental impact statement was released on 14 July 1981. Public comment was requested between July and October this year and some 64 public submissions were received. A supplement to the e.i.s. was produced, together with the initial volume and released in October 1981. The e.i.s. was assessed both by State and Federal environment departments and the assessment was released on 12 November 1981.

The public of South Australia has had ample opportunity to assess the environmental aspects of this important project. If honourable members were really interested to see what this Bill contained, they could have taken the initiative to obtain a copy from another place. The second reading explanation was available on 1 December. Members could have followed the debate in the House through the *Hansard* pulls, which are ordinarily available on the day following the debate.

The Hon. C. J. Sumner: What about the report of the Select Committee—it became available only yesterday?

The Hon. K. T. GRIFFIN: Certainly, and it has been available since then.

The Hon. D. H. Laidlaw: I could have got you a copy when I obtained mine.

The Hon. K. T. GRIFFIN: I am sure that if the Hon. Mr Laidlaw makes that offer in the future, the Opposition will take it up. I remind the Council that the Santos (Regulation of Shareholders) Bill was introduced in the House of Assembly at a special sitting on one day and it reached the Legislative Council on the same day. We were required to pass that legislation without having previous knowledge of the details of that Bill. So much for prior consultation!

The Hon. C. J. Sumner: That was emergency legislation. Laidlaw voted for it.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. K. T. GRIFFIN: The Opposition was required to deal with the Santos legislation in one day and this Council, without any prior notice, was required to pass it on the same day as it was received in the House of Assembly and passed through that House. In this case, on this important project, the Parliament has had the Bill since 1 December, and it has had the draft environmental impact statement since 14 July, so there has been a very high public awareness of the nature of the project, the sort of thing which was being initiated between the Government and the producers, and what was likely to be included in the indenture.

The matter is urgent and the Government can do nothing but undertake to process the indenture and the Bill as quickly as possible through the Parliament if we are to ensure that this project gets up and is well advanced in the early part of 1982. If we had not passed it this year, it would have waited until 8 February, which would have been a delay of two months. Two months is not a period of time for which either the Government or the producers are prepared to wait. The Hon. Mr Laidlaw said, in his second reading speech, that if the Government had not had the indenture signed and brought into the Parliament for ratification at this stage, who knows what would have happened as a result of the significant strikes in the Jackson field? It may well have been a pipeline to Brisbane, and not to Stony Point. We would have been subject then to much criticism from the Opposition for not having moved quickly.

The Government has acted responsibly and expeditiously in the interests of all South Australians, and all South Australians will see positive results from this project. I will deal quickly with two matters raised by the Opposition and by the Hon. Mr DeGaris. The first is the question of council rates. The producers have not sought any exemption from corporation rates, nor have they been granted any exemption. They are being assessed for Whyalla corporation rates on the same basis as is every other ratepayer in the Whyalla corporation district. They have no control over the rate that is declared. They pay on the same basis as does any other ratepayer in that district. What could be fairer than that? It is reasonable to provide in the indenture that they should not be subject to discriminatory rating because, if they were, then again that is another matter that could well have put the project at risk. Why should they be subject to discriminatory rating when they will bring an industry to

Whyalla which will be a distinct advantage to that city and the whole of South Australia?

The Hon. C. J. Sumner: Why are they paying $20 000 and Port Stanvac $300 000?

The Hon. K. T. GRIFFIN: Check the assessment book, and check the unimproved values on which the rate is imposed. That is a matter within the province of the council and its rating process. One cannot compare Stony Point with Port Stanvac, because they are two different situations. We cannot compare this with B.H.P., because B.H.P.'s rating position is dealt with specifically under its indenture Act, quite differently from the Stony Point project.

The Hon. Mr DeGaris, as well as the Leader of the Opposition, raised the matter of clause 6. The Hon. Mr DeGaris is not here to hear my response, but I hope he will be able to read it in *Hansard* later today. Clause 6 (2) is limited by clause 6 (1). Subclause (1) states:

> The Governor may, with the agreement of the parties to the indenture, make such regulations as are necessary or expedient for the purposes of giving effect to the indenture.

The regulations are specifically limited by those words. Subclause (2) states:

> Regulations under subsection (1) may operate to modify any pre-existing law of the State.

It is not as though any regulations can be enacted to modify the law of the State as it applies to this project; it is only to the extent that it is necessary or expedient for the purposes of giving effect to the indenture.

Let me draw attention to section 22 of the Cooper Basin Ratification Act, 1975, in the middle of a previous Labor regime, which provided in essence the same provision for regulations in implementing the Cooper Basin indenture. Why should the one now before us be different from the Cooper Basin Ratification Act, 1975? I would suggest that it is quite a proper use of the regulation-making power which will be subject to disallowance by one or both Houses of Parliament and subject to the scrutiny of the Subordinate Legislation Committee. I submit to the Council that there is no reason at all to support the amendment which the Leader of the Opposition will move in due course to delete subclause (2) of clause 6. I believe that this is an important Bill which should be passed to allow this significant project to progress as rapidly as possible.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Interpretation.'

The Hon. C. J. SUMNER: I would like from the Attorney some answers to questions, and I think the Committee should support the proposition that it should know what the Government has in mind in relation to the scrappy three pages that the Select Committee of the House of Assembly called a report. I went through the issues in that report that dealt with matters to which further consideration should be given, and I made the point that the Select Committee did not want to come to grips with any of those issues, such as oil spills, shacks, pollution, fisheries, and the environmental aspects of the towers on the pipeline.

In relation to all of those matters, the committee believed that there should be further consideration. What will the Government do? I want to know what will happen if the Government finds, after this investigation into the fisheries in the Upper Spencer Gulf area, that there is likely to be an adverse effect on the fishing industry as a result of the development in that area? I want to know, if that conclusion is arrived at once the investigations have been carried out, what the Government will do. What arrangements does the Government have with the producers? Is there a provision to amend the agreement?

Will the Government bring back the Bill to Parliament? Will it attempt to override the agreement? What will happen in relation to the recommendations of the Select Committee in regard to pollution problems? What will happen if those things are investigated and it is found that there are difficulties? Will the Bill be amended? What provision is there to amend the Bill? What undertakings has the Government obtained from the producers on any of the matters in the Select Committee report, or are the matters raised in the report merely window dressing, as I suspect they are? What will the Government do about the very serious problem of oil spills, which was raised in the Select Committee by Captain Carr from the Department of Marine and Harbors? Captain Carr pointed out that the so-called improvements in the technology dealing with oil spills were not adequate and that the boom procedure that was apparently relied upon would not be adequate in regard to flows in the seas of 1½ knots. What does clause 5 of the Select Committee report mean in relation to oil spills? What will the Government do if problems arise when investigations are carried out?

Has the Government discussed the Select Committee report with the producers, and, if so, what has been the producers' response to clause 5 (oil spills), clause 6 (shacks), clause 7 (pollution), clause 8 (fisheries), and clause 9 (environmental aspects)? What has been the producers' response to each of those matters? Have the producers undertaken to amend the Bill if problems arise and if investigations reveal that there are difficulties?

The Hon. K. T. GRIFFIN: Clause 78 of the indenture provides that the producers will comply with the laws of the Commonwealth and State in force in the State from time to time relating to the protection of the environment and all standards from time to time set thereunder. The producers commit themselves under the indenture to comply with all of the environmental laws that are in force from time to time. Clause 79 requires the producers to observe the environmental standards, which are contained in the e.i.s. Clause 81 establishes the Stony Point Consultative Group, which consists of representatives of the State, the producers, other major industries, and specialists in environmental matters for the purpose of consultating on matters relating to the protection of the environment in the Stony Point region.

In conjunction with that, as indicated in the Select Committee report, a committee is looking carefully at the variety of matters to which the honourable member referred, such as the question of oil spills, fisheries and so on. The Government expects to receive reports by 1 March next year on the matters raised in the Select Committee report. The producers are aware of the report, they gave evidence on the first and last days of the Select Committee, and the answers are recorded in the evidence of the committee. They are aware of the matters raised by the Select Committee report and, as I interpret it, under the provisions of part 17 of the indenture, they are bound to comply with all standards and requirements of the law in respect to the environment.

While I am not in a position to give answers to hypothetical questions that might arise as a result of the reports that come out in March, I can say that the producers are bound by the law and by the terms of the indenture to comply with all of the environmental protection requirements.

The Hon. C. J. SUMNER: That is hardly a satisfactory reply. First, clause 78 of the indenture refers to environmental requirements. There are other matters in the report that should be considered, such as the fishing industry.

The Hon. K. T. Griffin: That is not environmental.

The Hon. C. J. SUMNER: It may not be. I asked what negotiations had occurred between the Government and the producers in relation to the matters raised by the Select Committee. If the matters had been taken up with the producers, what is the response? Are the producers amenable to amendments to the indenture if that is necessary following investigations?

The Hon. K. T. GRIFFIN: The indenture will not need to be amended. All of the matters referred to in the Select Committee report are covered in the indenture. There are obligations on the producers under the indenture.

The Hon. C. J. Sumner: That is only if laws are passed in relation to these matters.

The Hon. K. T. GRIFFIN: The producers are bound by the standards set in the e.i.s. I understand that that dealt with things such as fisheries and pollution. The producers are bound by any laws of the Commonwealth of Australia or the State from time to time relating to protection of the environment, and all standards set from time to time thereunder. The producers are bound by the standards set in the e.i.s. and by the laws relating to protection of that part of the environment.

The Hon. C. J. SUMNER: The Attorney-General seems to be brushing off the situation without giving serious consideration to the matters raised by the Select Committee report. He is virtually saying that the report reflects the committee's view, but really the matters are covered anyway, there are environmental standards by which the company must abide and they are already covered. That seems to me to make somewhat irrelevant the inquiries that the Select Committee has recommended. I get the impression that the Government will not be very interested in the results of these inquiries, because the end result may be that the law will have to be changed.

What I want to know is whether, if it does not have to be changed, the Government will take action legislatively to ensure that any difficulties that arise out of these so-called investigations suggested in the Select Committee report are dealt with to overcome any problem.

The Hon. K. T. GRIFFIN: I cannot imagine that there will be any need for legislative change. I am not brushing off the questions which the Leader asks. The Select Committee has highlighted certain matters to which it wants to draw particular attention. However, they are all matters that are under review by the consultative committee in any event and the Select Committee report quite clearly indicates that.

The Hon. C. J. Sumner: Not all of them.

The Hon. K. T. GRIFFIN: That committee is going to report in March 1982. That is already covered by the indenture.

The Hon. C. J. Sumner: In clause 6?

The Hon. K. T. GRIFFIN: Clause 6 states that those aspects are being considered by a working group which will report to the Government by 1 March 1982.

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

The Hon. K. T. GRIFFIN: And other matters. Clause 8 relates to fishing and states that these matters will be considered by the working party of the consultative committee. If we look closely at the indenture, Part V deals in more detail with the question of shacks. The matters were referred to by the Select Committee, but they are covered under the terms of the indenture.

The Hon. C. J. SUMNER: That answer is hardly satisfactory. What I want to know from the Government is what it will do once these investigations have been completed. If there are difficulties that are pointed to which require legislative change, will the Government act to change the law, whether it be the Fisheries Act, the Environment Protection Act, or whatever other Acts of Parliament deal with oil spillages? Will the Government undertake to legislate to give effect to any recommendations that arise following the inquiry that the Select Committee has recommended? If the Government is not prepared to give those undertakings, then that further reinforces the argument which I put earlier that, really, the Select Committee's recommendations are a farce. What we have done is raise a whole lot of issues, said virtually that they had not been properly investigated, said that they needed to be looked at further, but then decided to put all those concerns to one side and support the passage of the Bill. If the Government and the Select Committee were really serious about these propositions, then I would have thought that the Government would give an undertaking to the Parliament that once these inquiries have been completed if legislative change is needed, either to the indenture Act (if that is necessary) or to the general law which would bind the parties to the indenture agreement, it will give effect to any recommendations of those committees. Unless the Government is prepared to give that undertaking it seems to me that these inquiries are somewhat pointless.

The Hon. K. T. GRIFFIN: The inquiries are not pointless. They have been established in good faith because the Govenment wants to see that these matters are investigated and that if there are faults they are rectified. It is quite ridiculous to require undertakings with respect to matters that are still under investigation. We do not know what is going to come out of them at this stage, except that there is goodwill on both sides so that if we see there are faults they are remedied.

The Hon. C. J. SUMNER: That answer is unsatisfactory. The Attorney is not prepared to say that the Government will act if the results of these inquiries show that there are problems in the areas that the Select Committee has drawn attention to. I find that quite extraordinary, quite unacceptable and it really does point up the shallowness and farcical nature of the Select Committee's recommendations because the Government is not prepared to say it will, if necessary, act legislatively following the report of the committee.

Clause passed.

Clauses 3 to 5 passed.

Clause 6—'Regulations.'

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

To delete subclause (2).

The Attorney-General's response to the matters raised by me in relation to this clause were totally unconvincing. I said that I was prepared to listen to what he had to say and to consider whether I would move the amendment in the light of what he said. He said that I was going to move the amendment, anyway, and I said I was going to move it if his arguments did not convince me. They certainly did not convince me. In fact, he could give no satisfactory reason why subclause (2) was necessary. I think that, in general principle, that sort of clause is not proper. There may be some exceptional circumstances where it is necessary. The Hon. Mr DeGaris has tried to find such circumstances, but was not very convincing, either, on the point and I am a bit surprised at his attitude, given that he normally wants to restrict the scope of subordinate legislation.

The Hon. R. C. DeGaris: I do not think it matters.

The Hon. C. J. SUMNER: I feel that the courts would read the section in a very strict manner. However, it is there and it must, plainly, mean something. On the plain meaning of the words, it is clear that it can modify a pre-existing law. In other words, it can modify an Act of Parliament. We have a piece of subordinate legislation that can modify an Act of Parliament and the Attorney seems

happy with that. There may be circumstances where that may be necessary, but I cannot think of them at the moment. I do not see that the Attorney has justified the use of such a clause in this Act and, accordingly, I decided to proceed with my amendment.

The Hon. K. T. GRIFFIN: I oppose the amendment. I have already fully explained my opposition. Subclause (2) is limited by the provisions of subclause (1). Subclause (1) allows regulations to be made which are necessary or expedient for the purposes of giving effect to the indenture. One must remember that they are subject to disallowance by either one or both Houses of Parliament, so Parliamentary scrutiny is maintained. This provision is consistent with the 1975 Cooper Basin legislation, where a similar provision is included in respect to regulations.

The Hon. C. J. SUMNER: The Attorney-General is totally unconvincing. He said that subclause (2) is limited by subclause (1). That was the first point that I made when I introduced this topic in the second reading debate. I read the clause and said that subclause (1) is the general regulation-making power, which means that regulations can be made which are necessary or expedient for the purposes of giving effect to the indenture. So far so good. I then said that subclause (2) provides that regulations made under the clause can operate to modify any pre-existing law of the State. When I explained the position I accepted the fact that regulations which modified the law had to come within the criteria of necessity or expediency for the purposes of the Act. Of course it is limited, but that does not overcome the basic problem or my objections.

Subordinate legislation can alter a law, that is, an Act of Parliament. It is all very well to talk about disallowance. Certainly, it can be disallowed by Parliament, but as honourable members know it can be disallowed one day and repromulgated the next. A deadlock could arise and ultimately the Government would win out, because Parliament can only disallow the regulations when it is sitting. When Parliament is not sitting the Government could reintroduce the regulations and they could be enforced. The power of disallowance certainly exists, but it is not an absolute power. To say that that power justifies the clause is not satisfactory. To say that it is limited by subclause (1) is merely to state the obvious. I was looking for a concrete reason in the second reading explanation as to why this particular clause is necessary in this legislation. Who dreamed it up?

The Hon. R. C. DeGaris: Who dreamed it up in the 1975 Bill?

The Hon. C. J. SUMNER: I do not know. That is not the point that I am making. I am asking whether it is desirable. If we are going to put something in an Act of Parliament enabling regulations to over-ride the law and previous Acts of Parliament, there should be some substantial reason for it. It is not sufficient to parrot off the clause and say that regulations can be disallowed. There must be some kind of criteria which determines when these Henry VIII clauses are used. They are not used in every Bill. However, they are in this Bill and they were in the Cooper Basin Bill. I want an answer so I can decide whether to proceed with my amendment. I did not receive a reply in the second reading debate and I have not received a reply this morning. What is special about this particular Bill that it requires a Henry VIII clause? We have passed other Bills today which presumably contain regulation-making powers, but no Henry VIII clause.

The Hon. R. C. DeGARIS: The Hon. Mr Sumner said that he did not understand the view I expressed in the second reading debate. If a regulation is made, as a subordinate piece of legislation, it could amend an Act of Parliament. If that is challenged in the court it may not stand up.

The Hon. C. J. Sumner: You're being as silly as the Government.

The Hon. R. C. DeGARIS: No, not at all. This type of clause was included in the 1975 Cooper Basin legislation. I have very grave doubts about Parliament allowing this type of clause.

The Hon. C. J. Sumner: Take it out.

The Hon. R. C. DeGARIS: No, and I have said why. The precedent exists in the Cooper Basin legislation. If this clause is invalid, and I believe it is, why not let the Government have its way? It may overcome some particular problem. If a problem arises and it can be overcome by regulation and it is not challenged, it will have achieved its purpose.

The Hon. C. J. Sumner: That is against all the attitudes and opinions that you express in this Chamber every day about the supremacy of Parliament.

The Hon. R. C. DeGARIS: No, it is not. Has the Attorney-General taken any advice on the question I raised? It is not a question of powers in the Bill itself; it is the question of a subordinate piece of legislation actually amending an established Act of Parliament. Does the Attorney know whether it will stand up in a court of law?

The Hon. K. T. GRIFFIN: I have not taken any advice on that particular question, because I do not believe that is necessary. The statutory authority is quite clear. If, as the Hon. Mr DeGaris suggests, it is invalid, that will be tested in the future. However, I do not believe that it is invalid. The regulation will obviously deal with any variation to the law which might be necessary as a result of the passing of the Bill, so that the indenture can be implemented without being restricted by a law which is not specifically provided in the indenture. Clause 5 refers to a number of Acts which have been specifically modified by the operation of this Bill. It is quite possible that in implementing the indenture there may be other laws which impinge upon the indenture but which by proper interpretation of the indenture should be varied to ensure that the indenture is given effect according to its terms.

The Hon. C. J. SUMNER: The Attorney has at last had some reason squeezed out of him on the justification for the clause. I would have thought that, if there was any difficulty in that respect, the appropriate course would be to amend the indenture Act and to allow the Parliament to look at what further exemption was being given to the parties to the agreement.

The Hon. K. T. GRIFFIN: It is quite clear what the terms of the agreement are, and that is the mandate for the variation of any law that might impinge upon the proper and effective implementation of the indenture.

The Committee divided on the amendment:

Ayes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Noes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

Pair—Aye—The Hon. N. K. Foster. No—The Hon. L. H. Davis.

The CHAIRMAN: So that the amendment can be further considered, I give my casting vote to the Ayes.

Amendment thus carried; clause as amended passed.

Clause 7, schedules and title passed.

Bill read a third time and passed.

PARKS COMMUNITY CENTRE BILL

Returned from the House of Assembly with amendments.

SOUTH AUSTRALIAN HOUSING TRUST ACT AMENDMENT BILL

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

TEA TREE GULLY (GOLDEN GROVE) DEVELOPMENT ACT AMENDMENT BILL (No. 2)

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

SOUTH AUSTRALIAN COLLEGE OF ADVANCED EDUCATION BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

Consideration in Committee.

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

That the Legislative Council do not insist on its amendments.

I hope that, since debating this matter earlier tonight, my friends opposite might have had second thoughts and might feel that at this late hour they will not insist on the amendments, in the course of expediency and because this is very good legislation.

The Hon. ANNE LEVY: I oppose the motion. I see no reason whatsoever for members on this side to change their minds. It is very important that the highly desirable amendments that have been made to this Bill continue to exist. It is absolutely crucial in the interests of good legislation and for the South Australian College of Advanced Education that the amendments are insisted on, and I urge the Council to insist on the amendments that we moved earlier this evening.

Motion negatived.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 6)

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

The Hon. K. T. GRIFFIN: 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 deals with a number of miscellaneous matters. First, it brings towtrucks within those provisions of the principal Act under which annual certificates of inspection are issued. This amendment is designed to ensure that towtrucks are kept in a safe and roadworthy condition. The definition of 'alcotest equipment' is amended so as to enable new, much improved, equipment to be introduced by the police. It is envisaged that the new equipment will result in a significant saving in costs. The Bill also deals with the powers of authorised persons at ferries. It enables an authorised person to give directions to pedestrians in relation to the position that they should take up on the ferry. This amendment follows a number of problems that have been experienced in this respect.

The Act as it now stands contains many repetitive provisions relating to the power to grant exemptions from the Act. These provisions are repealed and replaced by one single provision. A regulation power providing for the payment and recovery of fees is included in the Bill. This is principally directed at recovering fees for inspection of vehicles that are subject to a defect notice. The Bill also removes from the Act the evidentiary provision that states that the failure to wear seat belts does not establish negligence or contributory negligence. The State Government Insurance Commission and the Road Traffic Board both believe that it is now well established that the wearing of seat belts contributes to road safety, and that it ought therefore to be open to the courts to take this factor into account in any particular case. Sundry other minor amendments to the Act are included.

Clauses 1 and 2 are formal. Clause 3 amends the definition section of the principal Act. The amendment made to the definition of 'driver's licence' makes it clear that disqualification from holding or obtaining a driver's licence includes disqualification from holding or obtaining a learner's permit. A definition of 'towtruck' is inserted. This definition is required for the purposes of later provisions under which a certificate of inspection is to be required in respect of towtrucks. New subsection (3) provides that a vehicle shall be deemed to be attached to another vehicle if it is drawn by that other vehicle, notwithstanding that the vehicles are not directly attached to each other.

Clause 4 amends the definition of 'alcotest' so as to enable the police to introduce a new, more accurate, piece of equipment which works electrically, and not on a discolouration basis, and which also has hygienic, disposable mouthpieces. Clause 5 deals with the powers of authorised persons at ferries. At present an authorised person may give directions to the driver of a vehicle as to how the vehicle is to be positioned on the ferry. This power is extended to enable him to give directions to pedestrians as to the position they are to occupy on or in the vicinity of the ferry.

Clauses 6, 7, 8 and 9 repeal provisions that provide for the granting of exemptions. Clause 10 deals with the towing of motor vehicles. It provides that a person may not tow another motor vehicle unless he complies with the relevant regulations relating to the towing of vehicles. Clause 11 repeals the provision that states that contravention of the seat belt provisions does not establish or tend to establish negligence or contributory negligence.

Clause 12 amends the section that sets out the information to be marked on certain vehicles. As the section now stands, if a vehicle comes within the ambit of the section, all the information specified in the section must be marked on the vehicle. It is desirable that, for some vehicles, only some of that information should have to be marked on them. The amendment enables the regulations to prescribe different requirements for different classes of vehicle.

Clause 13 inserts a general power of exemption in relation to the provisions of Part III of the principal Act. Clause 14 brings towtrucks within the provisions of the principal Act requiring annual certificates of inspection. Clauses 15 and 16 make it clear that the Central Inspection Authority must decline to issue an inspection certificate where a vehicle is unsafe, whether or not it is 'unsafe for the carriage of passengers'. Clause 17 inserts a new section that makes it clear that, where a person contravenes a permit or exemption, he is guilty of both that offence, and the offence of contravening the provision of the Act from which he was exempted by the permit or exemption, and so can be prosecuted for either offence (but of course not both).

Clauses 18 to 22 are drafting amendments that make the expression 'disqualification from holding or obtaining a driver's licence' uniform throughout the Act, and in accordance with the terminology used in the Motor Vehicles Act. Clause 23 inserts a regulation-making power providing for the fixing and recovery of fees (not to exceed $20) in respect of specified matters. A new regulation-making power is also inserted providing for the granting by the Road Traffic Board of exemptions from any provision of the regulations.

The Hon. FRANK BLEVINS secured the adjournment of the debate.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (No. 3)

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council conference room at 9 a.m. on 10 December, at which it would be represented by the Hons Frank Blevins, G. L. Bruce, K. T. Griffin, D. H. Laidlaw, and C. J. Sumner.

PLANNING BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the House of Assembly conference room at 9 a.m. on 10 December, at which it would be represented by the Hons J. C. Burdett, R. C. DeGaris, Anne Levy, K. L. Milne, and Barbara Wiese.

HARBORS ACT AMENDMENT BILL (No. 2)

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

SEEDS ACT AMENDMENT BILL

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

SOUTH AUSTRALIAN COUNCIL FOR EDUCATIONAL PLANNING AND RESEARCH ACT REPEAL BILL

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

STONY POINT (LIQUIDS PROJECT) RATIFICATION BILL

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

Consideration in Committee.

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That the Legislative Council do not insist on its amendment.

For reasons which have already been clearly stated I have moved that the Council no longer insist on its amendment.

The Hon. C. J. SUMNER: I ask that the Council do insist on its amendment. The debate on this important Bill has been turned into a complete farce by the way the Government has approached the question of giving legislative approval to the indenture. The time that members of Parliament have had to study the Bill has been totally inadequate. I do not wish to canvass those arguments again, but that happens to be the situation. The whole procedure has been quite farcical. Most honourable members have not read the Bill and have not had time to consider it. Here we are at 3.15 a.m., the day after the Select Committee reported to the House of Assembly, still debating this Bill. The regret I have is that it is impossible for the Opposition, or for anyone else, to sensibly debate the substance of the Bill. Really, all we could do was complain about the procedure adopted and point to one or two issues raised in the so-called Select Committee report. This is a genuine regret that I have about the passage of the Bill and the way in which it was handled. The substance of the Bill could not be sensibly debated in the time we had before us.

If the Government has treated the debate on this matter as farcical, its attitude has been nothing compared to that of the Australian Democrat, Mr Milne. If anyone in this State believes that the Australian Democrats are a serious political force, then they ought to have witnessed the events we have witnessed in this place over the last hour or so. What happened was that the Australian Democrat, Mr Milne, got a fit of pique, and got into a huff because we were debating this Bill. I had an amendment to the Bill which was, whatever honourable members might think about it, a serious amendment. It raised a serious point about the supremacy of Parliament and about the role of subordinate legislation. That amendment was debated. During that debate the Democrat, in his huff, disappeared and was not to be seen. He participated not one jot in the debate which proceeded.

A division was called. While the division was proceeding, and while the bells were ringing, what did the Democrat, Mr Milne, do? We spied him up in the gallery and wondered what was going on. We considered that he thought it was a quorum being called and would scoot down the stairs and get in here to vote in the division. However, he turned the proceedings into a farce. He stood up in the gallery and watched the vote, which was 9 all, and you, Mr Chairman, in conformity with your previous rulings, voted in favour of the amendment.

What happened then? The Attorney wondered what he could do, so he sought out the Democrat and said, 'Listen Lance, be a good boy, stop sulking; we have got to fix up this Bill,' so the Democrat reappeared. I imagine that now he is going to vote for the Government's non-insistance on this amendment.

The Hon. J. C. Burdett: You're doing your best to get him to do so.

The Hon. C. J. SUMNER: That may be so. I suspect that the Democrat has no idea what the amendment is. He certainly did not listen to the debate. We have the quite ludicrous situation created whereby about three-quarters of an hour ago this Committee voted in favor of a sensible and serious amendment to be considered by the other place, and now that we have the Democrat, Mr Milne, returning having been collared by the Government, to reverse that decision within the hour. How absurd can you get!

If the Government made a farce of the debate on this issue, it is nothing to what the Democrat's performance was: he sulked, he left the Chamber, came in and watched the division from the gallery and now comes back to try to redeem himself in the eyes of the Government. Less than

an hour ago the Council made a decision on this amendment. I ask that the Council insist on its amendment.

The Committee divided on the motion:

Ayes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Noes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. L. H. Davis. No—The Hon. N. K. Foster.

Majority of 1 for the Ayes.

Motion thus carried.

SOUTH AUSTRALIAN COLLEGE OF ADVANCED EDUCATION BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council committee room at 12 noon on 10 December, at which it would be represented by the Hons. C. M. Hill, D. H. Laidlaw, Anne Levy, K. L. Milne, and Barbara Wiese.

ADJOURNMENT

At 3.40 a.m. the Council adjourned until Thursday 10 December at 2.15 p.m.