LEGISLATIVE COUNCIL

Wednesday 14 November 1984

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

QUESTIONS

FINANCE AUTHORITY

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a question about the South Australian Finance Authority.

Leave granted.

The Hon. M.B. CAMERON: Recently, we have seen a considerable advertising campaign by the South Australian Finance Authority. Some of the advertising expresses some surprising notions, and I am sure that some of the notions in it are surprising to some of the larger organisations that have been put under that umbrella, at least in the short term. I will quote from the advertisement:

> Up till recently, all of our South Australian authorities have had to fend for themselves in the highly competitive jostle for finance. Because they each borrowed independently, they were limited in the sources from which they could obtain funds. They often didn't have bargaining power to achieve optimum borrowing rates. But all that is changing. Now our fledgling authorities have a big benevolent bird to do their money hunting for them.

In the advertisement is a big magpie feeding fledglings.

The Hon. K.T. Griffin: Not a vulture?

The Hon. M.B. CAMERON: It might have been in the case of ETSA. I am sure that ETSA and other organisations that have had to now come under this umbrella and have found considerable problems because of this in the net amount that they have to pay out would not appreciate this advertisement.

The Hon. K.T. Griffin: They even put the universities in it at one stage.

The Hon. M.B. CAMERON: Yes, I remember that. The advertisement goes on:

> And the resultant benefits are shared by all South Australians.

I am sure that the people who are now getting their power bills are not too certain about the benefits of this South Australian Finance Authority and the way in which it is operated by this Government.

The most surprising feature about this advertisement is that it appears at all. There seems to be no reason for it, because as a result of it funds will not be raised at a lower rate of interest and extra funds will not be raised. The advertisement seems to be an attempt to sell the organisation to some body. It could be that it is an attempt to sell the organisation to the public, but I do not believe that people are as gullible as the Government thinks.

What are the reasons for the extensive advertising that is taking place concerning the South Australian Financing Authority? All the organisations that are now under that umbrella have to borrow from the Authority whether they like it or not, and no advertisement will make any difference to them. What has been the cost of the Government's extensive newspaper and television advertising campaign promoting the Authority to someone unknown, who supposedly will be impressed by it? Is it true that the borrowing rate obtainable from this 'big benevolent bird' that does the money hunting for South Australian authorities is 12.8 per cent, and is this the lowest rate of interest available on the market to borrowers within the commercial institutions of the local finance world?

The Hon. C.J. SUMNER: I will refer the honourable member's question to the Treasurer and bring back a reply.

FLUORIDE

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about fluoride.

Leave granted.

The Hon. J.C. BURDETT: Yesterday I asked a question on the incidence of fluorosis and whether or not the Government would pay compensation for children who had suffered from this complaint. In his reply, the Minister said, in part:

> First, I sincerely hope that the honourable member is not trying to bring the fluoridation programme into any sort of disrepute. Also I hope that he is not trying to raise levels of anxiety about problems that more than likely do not exist.

I simply asked a question. I certainly was not trying to bring the fluoridation programme into any sort of disrepute. It is patent to anyone, even to the Minister of Health, that the programme has reduced the incidence of dental caries considerably.

The dental profession is to be congratulated upon the role that it took on the introduction of fluoridation. I was not trying to raise levels of anxiety but referring to matters which have been brought to my notice by professional people. One of the Questions on Notice which I asked and which was replied to on 11 September 1984 was: If any such reduction was made (namely, reduction in levels of fluoride) what steps were taken to inform, first, the public and, secondly, the dental profession of the change? The reply to this question was:

> No formal statement has been made as the alteration was regarded as a minor administrative matter designed to allow financial savings with no other consequences of significance.

I should have thought that the dental professional would be informed about any change in fluoridation as it could affect the children being treated. In the reply to the question on 11 September it was stated that a modification to the operational criteria would result in significant savings in operating maintenance and costs, while at the same time maintaining positive public benefits. The emphasis, again, was on costs rather than on patient care. It would appear, therefore, that the saving in money was the motive for reducing the rates of fluoride.

Will the Minister tell the Council the approximate saving of money which was achieved by the reduction in the levels of fluoride in the water supply?

The Hon. J.R. CORNWALL: To put things in perspective, perhaps we should go over the facts again in regard to the reduction referred to by the honourable member. In fact, the previous rate of fluoride added was one part per million and that is being reduced to .9 parts per million, so there has been a reduction since, from memory, October 1983 of .1 parts per million, or one part in 10 million, or 10 per cent.

That was hardly a matter of earth shattering import. It was done as a result of a number of recommendations, one of which concerned the cost. That most certainly was not the sole consideration, but I stress that there has, in fact, been a reduction of 10 per cent from one part per million to .9 parts per million. It was, as the reply to the question stated, considered to be a relatively minor matter. It did not impact on the policy of fluoridating water in order to, as I said yesterday, dramatically reduce the incidence of caries. It is, and has been, documented for some time that, as a result of fluoridation, there is a small degree of what is called hypo-calcification which shows up in the majority

of instances as a very minute mottling in the enamel of teeth and which can be seen only with the assistance of a dental light. In a very small number of cases—and it is remarkable that the Hon. Mr Cameron, farmer, and the Hon. Mr Burdett, retired solicitor—

The Hon. M.B. Cameron: And you, a vet.

The Hon. J.R. CORNWALL: I do not pretend to have any expertise in the area, unlike this remarkable new found expertise of the retired solicitor and the cocky from the South-East. I repeat, that in the majority of cases—

The Hon. M.B. Cameron: I wouldn't have you for a vet.

The Hon. J.R. CORNWALL: But your father did, and he was a much better human being than you will ever be. The fact is that where this occurs, in the great majority of cases, on information I have been given by Dr David Blakie, Director of the South Australian Dental Services, it shows up as a minute mottling of the enamel which can be readily seen only under a dental light. In a small number of cases—and again this is on the advice of the Director of the South Australian Dental Service—there is a more visible change. I repeat what I said yesterday, that I believe it would be a great shame if the allegations made by the Hon. Mr Burdett were to discredit the fluoridation programme, because it has been remarkably successful. We have a new generation of children and young adults in this State who have far better dental health than has ever been known before in the history of this country or, indeed, in the history of the world. Having said all of that, I point out that the specific matter on which the Hon. Mr Burdett asked his question is obviously one to which I do not have an immediate and specific answer, but I shall be delighted to bring back a reply expeditiously.

BILL OF RIGHTS

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about a Bill of Rights.

Leave granted.

The Hon. K.T. GRIFFIN: The Federal Attorney-General, prior to the decision to hold an unnecessary election this year, was trumpeting his grand desire to introduce Federal legislation for what he called an Australian Bill of Rights. Since the election was announced he has become very secretive about it, saying that it was something which was being discussed with Attorneys-General (I presume only Labor Attorneys-General) and that he was not prepared to release it publicly.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: The Attorney-General can make his response later. This means that a plank of the ALP's policy has gone missing and the public will not have an adequate chance to see how centralist the ALP is and how much it wants to have more power in Canberra.

This Bill of Rights will override State laws without necessary consultation with the States. It will impose, essentially, a United Nations International Covenant on Civil and Political Rights (promulgated in 1966) and give responsibility to the Federal Court of Australia to determine which State laws are valid and which are invalid, but one thing we can be sure of is that Canberra will prevail over States like South Australia, particularly with a Premier who is not prepared to take on the Federal Labor Government.

The United Nations covenant is broad and is not drafted with any precision, and therein lies another area of danger. It does not cover what some regard as essential matters such as freedom not to join a union and the private right to own property and not have it confiscated without compensation, and a variety of other matters. My questions are:

1. Will the Attorney-General release a copy of the Bill of Rights that he has received?

2. What steps will he take to ensure that this offensive proposal is not enacted?

The Hon. C.J. SUMNER: It is not for me to release a copy of the Bill of Rights. I understand that a copy has already been released and that a report of it appeared in the *Australian* this morning; that has no doubt given rise to the honourable member's enthusiasm for this topic this afternoon. The question of the human rights procedures to be adopted in Australia has come before the Ministerial Council on Human Rights of which the honourable member was a member when he was Attorney-General.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I am not suggesting that the honourable member did. The committee of that council still meets and human rights matters are referred to it. My recollection is that the question of the Bill of Rights has been discussed in general terms at that meeting and also that I know that the Federal Attorney-General has written to the States and requested comments on a proposed Bill of Rights—comments from the States to indicate what difficulties there would be for the States if the Bill of Rights was passed as an Act of the Federal Parliament—and that process is proceeding. Whether the Bill will be introduced in the Commonwealth Parliament is not a matter for me to say. That is a matter for the Federal Government.

Whether it will be referred back to the Ministerial Council on Human Rights before it is introduced is again a matter for the Commonwealth Attorney-General. I would expect that he would further discuss the matter with the Ministers concerned. That is the situation as I understand it. I am not in a position to release a copy of the Bill of Rights, the proposal or legislation for it—that is a matter for the Commonwealth Attorney-General. As I said before, it appears that it has already been released, so the honourable member should not be unduly bothered about that. Discussions will proceed in the proper forums with the Commonwealth on this proposal.

IN VITRO FERTILISATION

The Hon. R.C. DeGARIS: Has the Attorney-General a reply to a question I asked on 16 August concerning *in vitro* fertilisation?

The Hon. C.J. SUMNER: Senator the Hon. Gareth Evans has advised me that the Medical Research Ethics Committee of the National Health and Medical Research Council (NH & MRC) was constituted in October 1982. One of the terms of reference of the ethics committee requires it to 'establish and maintain dialogue with the Standing Committee of Attorneys-General', among other bodies, 'in order to seek consensus and judgments on the rights and interests of patients, research workers and the community in relation to the expansion of understanding of health problems'.

The Secretary to the ethics committee advises that the committee has been fully stretched examining the difficult topics of foetal research and epidemiological research, and that the occasion for consultation with the standing committee as envisaged in the terms of reference has not yet arisen. However, I am advised that details of reports that the committee has submitted to the NH & MRC may be obtained from the Secretary to the Committee, Department of Health, PO Box 100, Woden, ACT 2606.

TUNA FISHING INDUSTRY

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Fisheries a question concerning the tuna fishing industry.

Leave granted.

The Hon. PETER DUNN: For some time now there has been pressure on the tuna fishing industry in South Australia, particularly the Southern Bluefin tuna fishing industry in the Port Lincoln area. The annual general meeting of the Australian Fishing Industry Council (South Australia Branch) some time ago agreed to a reduction in the quota for tuna. This had a distinct influence on Port Lincoln because most of South Australia's tuna is caught by fishermen based there. There have been changes in the methods of catching this tuna and in the areas in which it is caught; fishermen now have to go farther west. This has continued as the purse seine method is now used for catching this fish to a great degree and it appears that the size of the fish is decreasing. The shishumi market is a very small but highly priced part of the market—perhaps two or three times dearer than ordinary tuna. On page 7 of the annual report, Mr Puglisi, the Chairman of SAFIC, stated:

> On 1 October 1984 . . . Australian Fisheries Council has subsequently endorsed a number of specific management arrangements for the fishery including a 14 500 tonne total quota for the 1984-85 season . . . However, the arrangements at this stage only apply to the purse seine and pole and live bait sectors of the fleet.

My questions are:

1. How will the quotas be policed?

2. Does the Minister believe that the decrease in the size of tuna is due to South Australian fishermen's operations?

3. What measures is the State Government taking to assist the tuna fishing industry outside the purse seine, pole and live bait sectors?

The Hon. FRANK BLEVINS: A great deal of the comment made by the Hon. Mr Dunn concerning this industry is basically accurate. It is an industry that for some time has been in decline due, in the main, to over fishing not only by Australian operators but also by operators from other countries.

The Commonwealth is responsible for the tuna fishery. It is entirely a Commonwealth fishery: no tuna is caught in South Australian waters. It is entirely a Commonwealth-operated fishery. The industry and the Commonwealth along with the South Australian Government, through the Australian Fishing Industry Council, have been grappling for some time with problems that have arisen in the industry due to pressure on this declining resource. A number of measures were introduced and basically agreed within the tuna task force which, as I have stated, consists of the industry, the Commonwealth Government and the State Government.

Measures introduced include the introduction of a much reduced quota from that which applied previously in the fishery; other measures comprise closures and size limits, initially for the previous fishing season. Further refinements were introduced at the last Australian Fishing Industry Council meeting to come into operation for this tuna season, and they include the removal of size limits. That was based on advice from the CSIRO that it was ineffective to have size limits on tuna, and that was based on the nature of the tuna caught, particularly in Western Australia, and the mix of fish in the particular schools. Many fish were being thrown back because they were under size and could not survive. Therefore, small fish were being destroyed anyway and could not be landed, even though they were still being caught (it was claimed inadvertently).

The eventual outcome for the tuna industry is that it will be centred almost entirely within South Australia, and more specifically at Port Lincoln. Already a significant amount of the quota allocated to Western Australian tuna fishermen has been purchased by South Australian-based tuna fishermen to build up their allowable catches of Southern Bluefin. This was entirely predictable and is very desirable. It will mean that the tonnage caught will consist mainly of mature animals which have had an opportunity to breed.

The Hon. R.J. Ritson: You mean fish.

The Hon. Anne Levy: Fish are animals.

The Hon. FRANK BLEVINS: They are, too. I was actually quite correct there, but I will not argue with the honourable member. The more mature fish (which is the term recognised by the general public) will have had an opportunity to breed and, I hope, that will replenish the stocks and I hope will build up stocks to the previous level. The benefits of present tuna management arrangements will come almost entirely to South Australia, to the detriment of the Western Australian industry. Again, that is regrettable. However, the Western Australian tuna fishery operates almost entirely on small fish. The method of operation in that State was certainly detrimental to fish stocks. The sooner the fishery in Western Australia was phased out and the Western Australian fishermen could obtain some financial reward for their efforts in the fishery by selling their quotas and moving into something else, the better. That has happened with tremendous speed. A tremendous amount of the Western Australian quota has already shifted into South Australia. In relation to policing, as I said, it is entirely a Commonwealth fishery and the Commonwealth will be policing the taking of Southern Bluefin tuna.

It has not been expressed to me by anybody in the industry that there will be a great problem in the policing of the tuna quotas. It is not a fish that one sells off the back of the ship to backyarders; it is a very substantial industry, which is processed in a very orderly manner. The fishermen themselves are very responsible people. It is in their long-term interest to be responsible; so I do not see policing as a great problem.

As regards the second question, the main problem in the fishery, as I stated, was over-fishing by Australian fishermen as well as overseas fishermen, but the biggest damage to the immature stocks was done by Western Australian fishermen with small boats who could not get out to the bigger fish as South Australian fishermen can. That caused a very severe depletion in the stocks, but that has been remedied very quickly. It is a credit to the present Minister for Primary Industry that he was prepared to take the hard decisions, which he has done with the full agreement of the industry, with the exception of the Western Australian part of it. I am sure that in years to come the benefits of the management measures that have been taken by the Commonwealth will flow through to South Australia, and certainly the South Australian section of the Southern Bluefin fishing industry supports totally the management measures that the Commonwealth is taking.

SAFA EQUITY LEASING ARRANGEMENTS

The Hon. R.I. LUCAS: Has the Attorney-General an answer to the question that I asked during the debate on the Appropriation Bill on 24 October about SAFA equity leasing arrangements?

The Hon. C.J. SUMNER: SAFA received the funds from the sale of the assets involved in the equity lease transaction by way of a once only payment to SAFA from the Crown for the right to use the assets during the term of the lease. This payment was equal to the sums received from the sale of the assets by the Crown to the lessors. SAFA is responsible for the payment of the rentals on the lease.

The final result is that SAFA has obtained funds (at an attractive, effective interest cost), which now form part of its general pool of funds available for on-lending to authorities or the Government, or for reinvesting until needed. At present, these funds are being used for investment purposes.

The effect on the departments concerned is that they are continuing to enjoy the use of the assets involved and will continue to do so without limitation; there has been no effect, positive or negative, on the finances of these departments.

FLUOROSIS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about fluorosis.

Leave granted.

The Hon. ANNE LEVY: Both yesterday and today, the Hon. Mr Burdett has raised questions regarding fluorosis, apparently suggesting that it is a serious problem in South Australia at the moment. Had the Minister been approached prior to the Hon. Mr Burdett's asking these questions by any of the people involved in dental health in South Australia: the Australian Dental Association, the Dental Practitioners Association, the South Australian Dental Service, the School Dental Service, the Dental Faculty of the University of Adelaide, or any private or individual dentist, with any queries regarding this matter?

The Hon. J.R. CORNWALL: The simple answer is that prior to the Hon. Mr Burdett's raising the matter yesterday I had not been approached by any of those bodies which represent the profession in the State very well. Nor had I been approached by any individual dentist in private practice or public employment. In other words, I have not in the two years in which I have been Minister of Health been approached by any dentist in this State, by the Australian Dental Association, by the South Australian Dental Service, by anybody employed in the School Dental Service, or by anybody from the Dean to any other member of the Faculty of Dentistry at the University of Adelaide. If the condition was as widespread or a matter of public concern to the level that the Hon. Mr Burdett has implied in his questions in the past two days, it would be truly remarkable if none of those bodies nor any individual members of them had at any time in the previous two years drawn those things to my attention.

The only people who consistently campaign against fluoridation in this State are those belonging to the League of Rights. The fact is that anti-fluoridation has been a *cause celebre* for the lunatic right in this country and around the Western world for more than a decade. It disappoints me that the Hon. Mr Burdett, before asking a series of questions which he must have known could have the effect only of tending to raise the matter of fluoridation again as a matter of public controversy and to raise levels of concern of parents in metropolitan Adelaide, did not check his facts with Dr Blaikie, as Director of the South Australian Dental Service or, as far as one can ascertain, with any other reputable dental body. If the Hon. Mr Burdett has any genuine concerns about this, I would offer immediately to make Dr Blaikie available to him for any discussions that he might like to hold.

SINO MEMORABILIA

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question about attempts to poach Sino memorabilia from the South Australian Chinese community.

Leave granted.

The Hon. DIANA LAIDLAW: I have received, both verbally and by letter, advice which I have since confirmed with a number of people, that Mr Don Dunstan is attempting to poach Sino memorabilia from the South Australian Chinese community for the Museum of Chinese-Australian History which is currently being established in Melbourne. As part of these efforts, Mr Dunstan spoke to an invited group of influential members of the Chinese community at the Migrant Resource Centre late last month. Mr Dunstan's actions are causing widespread concern and resentment as it is considered that they could jeopardise both the quality and extent of the material that would be available for our new Museum of Migration and Settlement, which is due to open next year.

It has been proposed that the South Australian Museum of Migration and Settlement would feature a prominent display on the significant contribution that the Chinese have made both to the economic and to the social development of this State. Mr Dunstan's interest in South Australian Sino memorabilia stems from his position as Chairman of the Victorian Tourism Commission. The Commission, together with the Melbourne City Council and the Chinese community in Victoria, is establishing a Museum of Chinese-Australian History as part 2 of a Chinatown action plan.

A recent advertisement, inviting applications for the position of Director and Curator of this museum, states that the museum will focus on the preservation and presentation of material related to the past and present involvement of the Chinese in Australia. In view of the fear that Mr Dunstan's recent discussions in Adelaide could undermine the Chinese component of the Museum of Migration and Settlement, will the Minister reassure the Chinese community in South Australia that the Government is committed to the Museum of Migration and Settlement and that it is keen that the museum feature a prominent display of Sino memorabilia as proposed?

Secondly, will the Minister confirm that the Government does not support Mr Dunstan's efforts to poach our Chinese heritage and that his actions in this respect are not welcome? Thirdly, is the Minister prepared to tell Mr Dunstan of the Government's opinion in this regard?

The Hon. C.J. SUMNER: The Government's position in respect of the Museum of Migration and Settlement in South Australia has been made quite clear: we support the museum, it is proceeding as part of the museum redevelopment and a Curator has been appointed, as the honourable member knows, and has been working actively for some two years on the establishment of the museum. The museum will be housed in the new museum complex that is currently being constructed. A broadly based committee is responsible for the museum as part of the History Trust activities. There can be no doubt about the Government's commitment to the South Australian Museum of Migration and Settlement.

The exhibits to be shown in that museum are still being determined. The concept of the museum and what is available in South Australia to be shown at the museum is still being assessed by the Curator. From time to time there will be special exhibits that may not necessarily be housed permanently in the museum, and they are also being looked at by the Curator at present. The honourable member tended to ask her question in a somewhat emotive manner. I have no direct knowledge of the matter referred to, but from what she has said it would appear that an Australian museum is to be established—

The Hon. M.B. Cameron: In Victoria.

The Hon. C.J. SUMNER: In Victoria, but nevertheless it will be a national museum relating to Chinese immigration and settlement in Australia. I suppose that Melbourne is an appropriate place for such a museum in the light of the—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Wait a minute. Melbourne is an appropriate place in the light of the number of Chinese and the number of Australians of Chinese origin who live

there. I imagine that the number is greater than is the number of such people in South Australia. Therefore, I would have thought that, if a national museum was to be established, we should co-operate with its establishment. It is also important that our own Museum of Migration and Settlement be considered.

The Hon. Diana Laidlaw: Mr Dunstan doesn't appear to be co-operating with you.

The Hon. C.J. SUMNER: I will take up that matter. I will refer the honourable member's question to the Ethnic Affairs Commission and to the Curator of the Museum of Migration and Settlement to find out whether she has had any contact with Mr Dunstan. I am sure that the honourable member would not want to adopt a dog in the manger attitude to these matters. If a national museum relating to Chinese migration and settlement is to be established, it may be that South Australia can co-operate in that venture. But it is also important that our own Museum of Migration and Settlement reflect the migration of all the peoples who came to South Australia, including those of Chinese origin. So while not agreeing with the somewhat emotive language with which the honourable member phrased her question—

Members interjecting:

The Hon. C.J. SUMNER: Well, she talked about poaching and fear. I know that Mr Dunstan has a very high reputation in the Australian Chinese community in South Australia.

The Hon. Diana Laidlaw: That may influence them to send the memorabilia.

The ACTING PRESIDENT (Hon. C.M. Hill): Order!

The Hon. C.J. SUMNER: Mr Dunstan has a very high reputation, as the Hon. Murray Hill would know. However, I will raise the question with the Minister for the Arts, the Curator of the Museum of Migration and Settlement and the Ethnic Affairs Commission to ascertain the situation. If there can be co-operation between Victoria and South Australia on this issue I would think that it would be to the benefit of the whole community. For instance, it may well be that our Museum of Migration and Settlement could be used from time to time to display exhibits from a national museum, if such a museum is established in Victoria, and co-operation of that kind could well be beneficial. However, I take the honourable member's point about the importance of our own museum and ensuring that we have material which will become part of that museum and which reflects all the groups who migrated to South Australia. To that end, I will make inquiries of the Minister.

REST HOMES

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question about rest homes.

Leave granted.

The Hon. R.J. RITSON: As the Minister of Health knows, a task force has been appointed to assess the status of residents of rest homes, because proprietors of rest homes have claimed that the health of people living in them has deteriorated to the point where they need nursing home care and a higher level of nursing and medical care. However, the rest homes tend to be stuck with sick patients because those people cannot be placed in a more appropriate setting, such as a nursing home. I understand that a task force has visited some of the rest homes to make a medical assessment of the medical status of those patients. I emphasise the word 'medical'. Is the Minister aware that in at least one instance the medical assessment was carried out by a physiotherapist and two social workers? Is he aware that in that establishment only 17 of almost 60 patients were thus assessed? Does the Minister really believe that he will get the full picture from a survey carried out in this way?

The Hon. J.R. CORNWALL: First, let me say that any assessment of frail aged people in South Australia, if it is done properly, always involves a multi-disciplinary approach. It is not a medical assessment in isolation. If the Hon. Dr Ritson does not know that, he is badly in need of a lengthy refresher course.

There would be nothing unusual in a physiotherapist, or any number of people from the allied health professions, being involved in an assessment, whether it was an acute or a chronic situation. I repeat that a multi disciplinary approach is acknowledged by gerontologists and by anybody else with any expertise in the field to be the appropriate approach. Secondly, I am happy to be able to tell the Council that the task force that I appointed is running very much on schedule and I expect that its report will be available to me by the end of November, or certainly by early in December. It is being co-ordinated by a number of highly qualified professionals working in the aged project at Marleston.

I had the good fortune to open the ageing project (TAP as it is known) last Friday. That is at this moment involved in a wide-ranging number of projects concerning the aged and ageing in South Australia, involving everything from quality of care in nursing homes through to the best ways in which we can provide home and community care. As to whether I consider that assessing 17 out of 60 people in a particular rest home is adequate, I would have thought that, given that I told this Council before that it was intended that there would be random checks throughout the rest home system (and I stress 'random checks', using the number necessary to get an overall picture) that assessing 17 out of 60 people, or more than 25 per cent of the residents of a rest home, would be more than adequate. I conclude by saying that this particular project is under the chairmanship and direction of Professor Gary Andrews, who is a gerontologist of world class. If Dr Ritson wishes to set his skills in this area against those of Professor Andrews, I would be delighted for him to hold discussions with Gary Andrews at any time he wishes to nominate.

The Hon. C.J. Sumner: A debate on television.

The Hon. J.R. CORNWALL: No, I do not believe that people should be humiliated in public or on the media, and I am not prepared, on that account, to have Dr Ritson go up against Professor Andrews at this time.

INNAMINCKA FILM LOCATION

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Health, representing the Minister for Environment and Planning, a question about the Innamincka film location.

Leave granted.

The Hon. ANNE LEVY: On 12 September a member of this Council asked a question of the Minister of Health relating to the possible damage that could be done by poisoning or flame throwing that it was alleged that a film crew based at Innamincka might be doing in preparing the environment for a film. I am sure that a large number of members of this Council, and indeed of the South Australian public, would be very interested in the reply to those allegations. I gather that the honourable member concerned has not seen fit to obtain his reply. Therefore, can the Minister now give that reply so that we may all benefit from this information?

The Hon. J.R. CORNWALL: To clarify the situation, the Hon. Mr Cameron asked a question on 12 September in relation to concerns he had that the technical people

associated with making the film *Burke and Wills* were considering poisoning and burning vegetation in the area of Innamincka and Cooper Creek. Inquiries made at that time with the film location manager revealed that the company and the producers had no intention of burning any area of Innamincka, or anywhere else, to make the film. Since then I have been supplied with additional information by the Minister for Environment and Planning. I thank Ms Levy for drawing my attention to this matter because I think that members of this Council and the public ought to know these further details.

The film company is now on location. The camp is situated on the Cooper Creek flood plain approximately two miles upstream from Innamincka town, and on the south side of the main river channel. The unit is comprised of some 50 personnel housed in mobile field units, together with approximately 20 horses and camels, which are held in temporary yards and a small fenced night paddock of approximately two hectares. These animals are being fully hand fed, and no vegetation mortality or destruction of significance has occurred at either the camp site, or at the filming locations, which are also on or adjacent to the Cooper flood plain or nearby dunefields.

Appropriate hygiene arrangements have been made to construct a modest common effluent system for camp waste, and the flood plain location will ensure that nature (via the next Cooper flood event) will effectively obliterate all evidence of the operation and restore the hitherto natural vegetation and soil regime and status. The Minister for Environment and Planning tells me he has been assured that the environmental impact of this operation is considerably less than that of an oil exploration drilling rig, crew, and associated contractors of similar proportions.

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, a question about the Innamincka film location.

Leave granted.

The Hon. M.B. CAMERON: The Hon. Anne Levy, obviously in an attempt to embarrass me in some way, raised this matter by asking for an answer to a question I had asked, which is an unusual course of events. It is the first time I have heard of this sort of thing happening in this Council. I have followed this matter with some interest since that time. I think that my information is slightly more up to date than that of the Minister for Environment and Planning, who appears to be a little behind, along with the Hon. Ms Anne Levy and the Minister of Health, because the film crew has left the location. I indicate that full credit must go to them for being very responsible in what they did there following their being alerted to the disagreement to their proposals that would be shown by the South Australian community.

I assure the Minister that his information is not correct, that they were intending to carry out the particular actions indicated by me and actually discussed them with locals. It was not until they received adverse publicity that they changed their minds. I give them full credit for doing that and for taking a responsible attitude to the South Australian environment. Is the Minister aware that the film crew left the location about two weeks ago, that it is back in Melbourne with its camels, and that his answer—perhaps along with Ms Levy's prompting—is a little out of date?

The Hon. J.R. CORNWALL: The Hon. Mr Cameron got to his feet more than a month ago with a horror story about how they were going to use flame throwers, poison vegetation and do goodness knows what. I brought back a prompt reply, which has been in my bag since 2 November. The notice that that answer was available was put on the Hon. Mr Cameron's desk on 2 November, but he did not see fit at any stage to seek the answer to that question. I received an updated version of the answer, which has also been sitting in my bag for some time. Again, the Hon. Mr Cameron has not seen fit to seek the details and so, using the precedent set by the Hon. Mr Lucas some few weeks ago, I today asked my colleague and friend, the Hon. Ms Levy whether she would be interested to know the answers and details relating to that question. As always, in her responsible way, she was. Consequently, she asked me those questions—very sensible it was, too, if I might say so.

PERSONAL EXPLANATIONS: REPLY TO QUESTION

The Hon. M.B. CAMERON (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.B. CAMERON: The Minister attempted to imply that I had been waiting since 2 November for an updated reply to this question.

Members interjecting:

The ACTING PRESIDENT (Hon. C.M. Hill): Order!

The Hon. M.B. CAMERON: The fact is that members have a considerable number of notices of answers to questions sitting on their desks and some honourable members have been waiting for a considerable time for the opportunity to get replies to questions. The problem is that members such as the Minister of Health give a 35-minute or 40-minute answer to questions, and this cuts us out. Information about this updated reply was given to me yesterday and today the Hon. Ms Levy makes it sound as though I am not looking for the reply. In fact, I was within minutes of standing up and asking for that reply. The Hon. Ms Levy attempted to embarrass me but I am not the least bit embarrassed. I was not attempting to avoid the reply. I am not the least bit embarrassed and I find her actions reprehensible.

The Hon. R.I. LUCAS: I seek leave to make a personal explanation.

Leave granted.

The Hon. R.I. LUCAS: I will be brief. The Minister of Health sought to excuse, on the basis of a precedent that he said I established, the disgraceful behaviour of the Hon. Ms Levy today in asking a question. I deny that emphatically. I have established no such precedent in this Chamber.

The Hon. ANNE LEVY: I raise a point of order in regard to Standing Order 193, that no injurious reflection shall be permitted upon any member of the Parliament of this State. The Hon. Mr Lucas and the Hon. Mr Cameron have both just indicated that I acted in a reprehensible manner. That is certainly not true and I take that as an injurious reflection that should be ruled out of order.

The PRESIDENT: I take the point of order.

The Hon. ANNE LEVY: I seek leave to make a personal explanation.

Leave granted.

The Hon. ANNE LEVY: In asking the question that I asked at 3.10 p.m. this afternoon, I did so without any knowledge whatever that the Hon. Mr Cameron had intended to use the remaining five minutes of Question Time to ask for that answer himself. I had no means of knowing that he intended to do so in those remaining minutes. He had since 2.15 p.m. to ask for that answer had he wished to do so.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: There is no way that I could possibly have known that he intended to ask for that answer in the last remaining minutes of Question Time.

The Hon. M.B. Cameron: You concentrate on your own.

The PRESIDENT: Order! The Hon. Mr Cameron will come to order.

The Hon. ANNE LEVY: It is in no way disgraceful for me to ask for that answer. It is a matter of great interest to all honourable members and, I suggest, to many members of the public in this State. The answer was available and I, for one, wished to hear it. I would have presumed that other people also wished to hear it, and that in the remaining minutes of Question Time for me to ask for the information was not in any way inappropriate on my part.

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a personal explanation.

The PRESIDENT: Is leave granted?

An honourable member: No.

The PRESIDENT: Call on the Orders of the Day.

The Hon. J.R. Cornwall: I protest. This is the death of democracy as we know it.

QUESTIONS ON NOTICE

EXEMPT COMPANIES

The Hon. B.A. CHATTERTON (on notice) asked the Minister of Corporate Affairs:

1. How many companies are exempt by the Minister of Corporate Affairs under the Companies Code?
2. How many companies in which the Government has a shareholding are exempt?
3. What are the names of these companies?
4. Is Sagric International Pty Ltd exempt under the Code?
5. *(a)* If so, when was the exemption given?
   (b) For how long was it given?
   (c) For what reason was it given?

The Hon. C.J. SUMNER: The Minister has no role in determining the status of a company. An exempt proprietary company is a company where no share is held directly or indirectly by a public company. This status is therefore a question of fact, which is directly related to the beneficial ownership of shares. The principal benefit conferred by exempt status is the option to appoint a registered company auditor to audit the accounts of the company, and in consequence it is exempt from the obligation to lodge those accounts with its annual return. In such a case the registered company auditor is required to give particulars of the opinions which he has formed on those accounts in a comprehensive certificate which forms part of the annual return. The alternative open to an exempt proprietary company is to lodge unaudited accounts in the prescribed form with its annual return, in lieu of appointing an auditor. The Commissioner does not keep statistics on the number of companies which are exempt proprietary companies.

However, it is believed that a very significant proportion of the companies on the register in every Australian jurisdiction are exempt proprietary companies. The Code does not require the Commission to keep an overall record of shareholdings in companies. This information must be obtained by a search of the files of individual companies. In consequence the number and name of companies of exempt or non-exempt status in which the Government holds shares is not a record kept by the Commission. Sagric International Pty Ltd (formerly named Salger Pty Ltd) is an exempt proprietary company, and has had this status since it was incorporated on 21 February 1979. The company has exercised its option to appoint an auditor, and is therefore absolved from lodging accounts on the basis previously referred to herein. Under the Companies (South Australia) Code the Auditor-General is accorded the status of a registered company auditor.

PANALEX LIMITED

The Hon. B.A. CHATTERTON (on notice) asked the Attorney-General:

1. Does the Government hold shares in Panalex Ltd?
2. If so, has the company made a profit over the past three years?
3. Has the company paid a dividend to the Treasury?

The Hon. C.J. SUMNER: The replies are as follows:

1. No. The South Australian Government holds shares through a holding company, South Australasia Pty Ltd, in a company incorporated in Malaysia, Austral-Asia International Developments Sdn. Bhd., and this company in turn holds shares in Panalex Ltd.
2. Not known.
3. No. However, Austral-Asia International Developments Sdn. Bhd. has paid a dividend to South Australasia Pty Ltd.

ENERGY

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

1. That a Select Committee be appointed to inquire into and report upon—
   (a) the current contractual agreements for the pricing of Cooper Basin gas sold to South Australia and New South Wales;
   (b) the desirability of establishing a single price formula giving rise to the same well head price for gas sold ex Moomba to South Australia and New South Wales;
   (c) the role for Government action in the event of large price increases which are relevant to economic stability and growth in the State;
   (d) the determination of a price formula that adequately protects the Electricity Trust of South Australia, the South Australian Gas Company and other major gas consuming industries, present and future;
   (e) the Cooper Basin (Ratification) Act, 1975, which covers the endorsement of the rights of the producers to enter into sales contracts and to report on the continuing obligations of the Government to preserve the agreements for the sale of natural gas endorsed by the Act;
   (f) the impact of Commonwealth powers over gas supplies and sales, natural gas being a petroleum product;
   (g) alternative sources of energy and methods of conserving energy; and
   (h) any other related matters.
2. That in the event of a Select Committee being appointed, it consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the Select Committee to have a deliberative vote only.
3. That this Council permits the Select Committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

The Pipelines Authority of South Australia gas sales contract with the Cooper Basin producers expires on 31 December 1987 and we will get no gas after that under the present arrangements. The Authority also has a Future Requirements Agreement from 1988 to 2006 which, according to the press (*Advertiser*, 12 November 1984), is now being thrashed out between the producers and the Government. The 1985 price is fixed, but prices for 1986 and beyond are being discussed. According to the futures agreement it is understood that the producers are obliged to offer for sale gas that is available

after 1987, and this gas is offerable on or after 1 January 1985.

Therefore, it is of particular concern for the Parliament, representing the people of South Australia, to know what steps, if any, the Government is taking to change the disastrous terms of the agreements that over the past two years have resulted in the price rises, particularly as the new agreement will be for 18 years and possibly longer. The present pricing system has already imposed savage increases in electricity tariffs and in the cost of energy to State industries struggling to compete in local and export markets. The price of $1.62 per gigajoule, to become effective under the sales contract agreement from 1 January 1985—

The PRESIDENT: Order! Could I please have some of the private conversations toned down.

The Hon. K.L. MILNE: —will increase, even more, electricity tariffs and the burden on industry. One should recollect that the price in 1983 was $1.10 per gigajoule; earlier it was as low as 65c per gigajoule—

The PRESIDENT: Order! I ask that the private conversations please be toned down. It seems I cannot arrange that without having to draw a lot of attention to it.

The Hon. K.L. MILNE: I do not think that members know what they are missing, Mr President. As I said, earlier the price for gas was as low as 65c per gigajoule. In 1984 the price for gas is $1.33 per gigajoule, and is about to become $1.62 per gigajoule. It is frightening that the arbitration decision which gave rise to an increase of more than 100 per cent in the price of gas by 1985 was not challengeable by the Government. It did try but was told by its legal advisers that it could not succeed. According to the Hon. Mr Goldsworthy, 'the terms of the contracts are disastrous'. Why then are they not challengeable? If they are not challengeable, this Parliament should know why and it should try harder to make them challengeable.

The massive increases in the price of natural gas at Moomba would appear to be in no way attributable to cost increases in natural gas production. What other factors are priced, and why is not the Electricity Trust directly involved with the Pipelines Authority of South Australia in the current responsible negotiations that are destined to fix the price of natural gas to the year 2006? I understand that the Electricity Trust is involved, to some extent, through a committee appointed as a result of the Stewart Report, but it is not a front runner. Yet, it is taking about two-thirds of this gas.

The indenture agreement in the Cooper Basin (Ratification) Act contains clauses that strictly limit State Government powers in resolving gas supply difficulties and prices. This is the atmosphere in which the present Minister has to negotiate with the producers. It is something that this Government inherited and I do not want to go back over that history. I suggest that Parliament should be told and come to the assistance of the Minister in these matters as they are so vital to the whole of the State. The Cooper Basin (Ratification) Act was presumably a workable development plan agreed some time ago with the Cooper Basin producers to supply gas to New South Wales and South Australia. It is not clear whether after 10 years the plan can still be fulfilled, but New South Wales and South Australia clearly buy gas from Moomba on different terms and the terms favour New South Wales. New South Wales is laughing because it is our competitor in relation to interstate trade and it is not likely to assist us to reduce the price of our gas to the New South Wales price.

Surely it is no longer possible to separate the costs of producing and processing gas supplied to South Australia and New South Wales at the well head. The cost must be exactly the same, yet there is this difference in price. The cost of all gas ex Moomba is the same, but in 1985 South Australia will be paying $1.62 per gigajoule and New South Wales $1.01 per gigajoule, subject to price review. I admit that there will be a price review in New South Wales but it is unlikely that it will come up to $1.62 per gigajoule. The price of gas to South Australia is likely to go beyond that. The Cooper Basin (Ratification) Act under section 10 (2) suggests that the South Australian Government can exercise some right to decide what is 'a reasonable and adequate profit having regard to all economic and relevant factors'. This is about all in the Act which gives the Government any power at all. The profit margin should be fixed at a reasonable level for the producers. Speaking as an accountant, I think there would be at least 10 ways that the Cooper Basin producers could bring out figures to say whether or not there was a profit.

The Hon. C.J. Sumner: Are you still an accountant?

The Hon. K.L. MILNE: I certainly am. I am one of the leading accounting figures in the State.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! Let us proceed.

The Hon. K.L. MILNE: The indenture Act (which was necessary to and did save Santos from bankruptcy and came about at the request of Santos) practically gave away all the powers of the Minister over production and development matters in the Cooper Basin.

However, we are at the mercy of those producers at the moment, and that is why I have moved another motion on the Notice Paper to find an alternative. This situation placed the State virtually in the hands of the producers. I think that is a bad situation and a bad thing for any Government, for the Pipelines Authority, for the committee assisting the Minister and for the Minister himself. I suggest that we establish a Select Committee to examine the whole question of energy, particularly alternative sources of energy such as wind and solar energy, and the conservation of energy. Those things are all vitally important to this State.

Honourable members should not forget that those different methods of obtaining energy would have some effect on the efficiency and the cost of power to South Australia in the future. We must remember that the new power station at Port Augusta will be running on Leigh Creek coal and that that coal is three times as expensive as natural gas, per unit of heat. I cannot see any sense in plugging Leigh Creek coal as hard as we can without paying due attention to alternative energy sources, which are not taken seriously. They are taken seriously in other countries.

The Hon. K.T. Griffin: What about uranium?

The Hon. K.L. MILNE: The honourable member mentions uranium, and I am glad he did. That should be investigated as well. However, I would be surprised if it met the safety requirements and defence safety requirements acceptable to the community. I doubt whether it would be economically viable. That would be covered; do not worry.

The Hon. C.J. Sumner: Do you support uranium mining?

The Hon. K.L. MILNE: No, I do not.

Members interjecting:

The Hon. K.L. MILNE: Honourable members ask me whether a nuclear source of energy will be discussed by this Select Committee: the answer is, 'Yes'. I seek the approval of the Council to examine this very serious matter. That should be done through a Select Committee and nothing less. It has been a source of discomfort both to the community itself in relation to electricity prices and to the commercial and industrial sector of the community. I think it is time we treated the matter very seriously indeed. I hope for and seek the Council's support.

The Hon. BARBARA WIESE secured the adjournment of the debate.

ACCIDENT TOWING ROSTER SCHEME

Order of the Day: Private Business, No. 1: Hon. G.L. Bruce to move:

That regulations under the Motor Vehicles Act, 1959, concerning an Accident Towing Roster Scheme, made on 30 August 1984 and laid on the table of this Council on 11 September 1984, be disallowed.

The Hon. G.L. BRUCE: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

GAS SUPPLIES

Adjourned debate on motion of Hon. K.L. Milne:

That this Council request the Premier to write immediately to—

1. The Prime Minister, and
2. The Leader of the Federal Opposition,

asking that favourable consideration be given to any proposal of the South Australian Government for the building by the Commonwealth Government of a gas pipeline from Melbourne to Adelaide, similar to the pipeline from Moomba to Sydney, to allow South Australia to have an alternative and cheaper service of national gas supply.

(Continued from 31 October. Page 1619.)

The Hon. I. GILFILLAN: In speaking to this motion I will make a couple of points in relation to its significance and importance to South Australia. I think it is interesting that it follows so closely on the Hon. Mr Milne's motion to establish a Select Committee. It is obvious that the pressure in relation to energy pricing is threatening the viability of South Australia as a State. It is extremely obvious how painful the recent increase in the price of electricity is for the community. I am receiving a number of complaints from ordinary private citizens who are feeling the very painful impact of the recent price rise. It is also appropriate because negotiations are currently proceeding in relation to the price of gas. The Minister is the major negotiator on behalf of the people of South Australia—both the citizens and those industries that are or will be established here.

It is of some regret that ETSA, which is a large consumer of gas, is not an up-front negotiator; nor is Sagasco. It is illogical that people who are so vitally concerned with the price of the raw product are not there to make an immediate impact at the negotiating table. Be that as it may, I am sure the Minister is responding to the advice and influence of those organisations. One of the principal benefits arising from this motion, which will make a serious attempt to assess the value of a gas pipeline from Melbourne to Adelaide, will be to strengthen the arm of the Minister in the negotiating process. A negotiator has very little to bargain with if there is only one supplier and that supplier feels his opposition is locked into a position from which they cannot renegue. Therefore, the Minister would start at a disadvantage.

Quite clearly, this motion will give both the gas suppliers and the Minister the awareness that another attractive and viable option is available and is feasible; it also acts as a pressure for the Minister to obtain a better deal in relation to gas prices in the future. Of course, there are alternatives. This resolution does not pretend to be completely comprehensive of all options that could be alternatives to gas from the Moomba field. There is the quite feasible proposition of piping gas from the Mereenie field at Palm Valley in the Northern Territory to Moomba (which is not an extraordinary distance), and then use the Pipelines Authority pipeline to take it to Adelaide. There is also the Jackson field in Queensland. We believe both of those fields are looking for markets. However, the pipeline from Victoria referred to in my colleague's motion has the advantage that it would provide an immediate service to several significant country towns and cities in both Victoria and South Australia. Portland, Mount Gambier, Murray Bridge, and so on are the sorts of centres which could benefit immediately from this pipeline being put into place.

Quite obviously, this motion has been moved because the price of gas is cheaper in Victoria. We believe that that energy source has a lot in its favour. We urge support for the motion so that the first steps can be taken and this option can be looked at seriously and, most importantly, so that Santos and others negotiating with the Minister and the Government on behalf of the people of South Australia realise that all our eggs are not in one basket and that there are other competitive ways of providing gas to this State; and they have to line up and be competitive and consider the proposition that there could be a competitive source which could come into play if the South Australian lemon is squeezed too hard. I urge support for the motion.

The Hon. R.C. DeGARIS: I was very pleased to hear the Hon. Ian Gilfillan's words on this motion: that it is a comprehensive motion and is not restricted to only one option. I understand the Hon. Lance Milne's reasons for moving the motion, and I appreciate his interest in gas supplies and the pricing of gas to consumers in South Australia. I could deliver to this Council a fairly lengthy speech on the history of gas supplies in South Australia, but I do not intend to do that.

As the Hon. Ian Gilfillan has said, at present several options are available to us for future electricity supplies to cater for our needs to the year 2000, and decisions need to be made fairly quickly to ensure those energy requirements. Although the Hon. Ian Gilfillan has made his contribution, my objection to this motion is that it restricts that option to one avenue—a pipeline from Melbourne to Adelaide—but the cost of that pipeline is to be undertaken by the Federal Government.

The reason for increased supplies of gas being required by South Australia is the reliance on it for our electricity generation needs. The options available to us in regard to electricity in this State are, first, nuclear generation; secondly, coal-fired generation; thirdly, gas-fired generation with *in situ* production of gas from coal; fourthly, increased supply of gas from existing fields either in South Australia or adjoining States, particularly the Northern Territory and Queensland; fifthly, gas supply by pipeline from other States, including Victoria; sixthly, new gas field discoveries outside the Cooper Basin; seventhly, importation of LNG from the North-West Shelf by ship.

All of these options need to be fully investigated and decisions made so that the South Australian public is well informed and so that the option decided on gives the South Australian public the best cost result. As I said at the beginning, I appreciate the reasons for this motion, but I cannot support it as it presently stands. If it could be demonstrated to me that the best option available to us is a pipeline from Melbourne to Adelaide, I would strongly support the motion, but I am not convinced that this is the most beneficial option available to us.

The investigations at present being undertaken will lead us probably to the best answer, but some of the options that I have put to the Council today, as far as I know, have not been examined. For example, have we really examined the cost to the consumer of nuclear generation? By the year 2000 the world will probably be using nuclear power for 50 per cent of its power generation and Australia will not be able to have a power generation that is more costly than the rest of the world has. The only means for utilising

nuclear power in Australia is a national grid. I do not see any possibility of one State's entering into nuclear generation.

As far as I know, no examination has yet been made in South Australia of importing LNG by ship from the North-West Shelf. Although I do not have cost figures available on such imports, I am led to believe that such imports could probably be landed in South Australia more cheaply than bringing them by pipeline from Melbourne. At present, as we know, there is a vast export trade from the North-West Shelf to Japan, taken by ship. One thing about the shipping part is that one is not responsible for a very heavy capital debt in the building of pipelines. The Japanese, as I said, are shipping LNG from the North-West Shelf to Japan, at present with success. I do not know that examinations are being made for the *in situ* gasification of coal in South Australia. There have been reports that such a study has been undertaken, but I have no information on the possibility of such a project. As most members would know, I have been a strong advocate of coal gasification *in situ*. While at this stage such conversion may be too costly, unless there are important changes in our energy requirements, coal gasification and liquefaction will develop in Australia.

Again, I appreciate the reasons for the Hon. Lance Milne's motion, but, until such time as we know the options available to us and the costs and benefits to South Australian consumers, I cannot support the motion.

The Hon. B.A. CHATTERTON secured the adjournment of the debate.

ADELAIDE RAILWAY STATION DEVELOPMENT

Adjourned debate on motion of Hon. I. Gilfillan:

That regulations under the Adelaide Railway Station Development Act, 1984, concerning promulgation of a development plan, made on 11 October 1984, and laid on the table of this Council on 16 October 1984, be disallowed.

(Continued from 31 October. Page 1621.)

The Hon. I. GILFILLAN: In concluding my remarks on this motion I emphasise what I believe has been the most shameful part of the proceedings—the duplicity of the statements made by the Premier on behalf of the Government in various areas about respect for the heritage, and about procedures that should take place in planning and arriving at final conditions for building of projects. Such statements have been contradicted by so much of what has happened in relation to the ASER project.

In the second reading explanation on the Adelaide Railway Station Development Bill, some interesting emphasis was placed on the Government's and the Premier's stand. I remind the Council by reading the following paragraph:

The City of Adelaide Development Control Act does not bind the Crown. However, successive Governments have always taken the view that, while the Crown is exempted under the Act, all State Government departments and statutory authorities should act as if bound by it. The principles to be followed in this regard were most recently set out by a Cabinet decision of the previous Government on 17 June 1980 and detailed in Premier's Department Circular No. 39 dated 26 June 1980. These guidelines require that projects by Government departments and statutory authorities should be referred to the City of Adelaide Planning Commission for comment in relation to the Principles of Control and Regulations.

This is where so much of the disapproval and objection has stemmed from; the City of Adelaide Planning Commission claims that it has not had the opportunity to make proper comment on the plan, and the document that was presumably the plan before it was disclaimed as an official document by the Chairman of the committee, Mr Graham Inns. This means that people on the City of Adelaide Planning Commission do not believe that at any stage they have had a chance to scrutinise an official document representing the plan for this project. The second reading explanation further stated:

While this project is not strictly being undertaken by the South Australian Government, it is nevertheless being constructed on property owned by a Government instrumentality. The Government is providing certain incentives by way of concessions, has undertaken to provide financial guarantees, and will be leasing a substantial proportion of the buildings on completion. Consequently, the Government believes that it is appropriate that this project be regarded as a Government development for the purposes of section 5 of the City of Adelaide Development Control Act.

Again, the people concerned are pointing out that the project has not and does not comply with the City of Adelaide Development Control Act. A volume of evidence exists and complaints have been filed: some of this has been referred to in my previous remarks, and it flies in the face of statements made by the Premier at various times.

I quote in this context from a statement in which the Premier strongly proclaims a commitment to protecting the heritage. In the *Advertiser* on 29 September 1984, he is quoted as follows:

'But a strong commitment to heritage does not equate with a lack of development,' he said.

'The essence, of course, is balance. We must ensure that new developments that contribute to economic growth and a better lifestyle do not in any way infringe upon our heritage.'

Thousands of South Australians feel strongly that this project threatens the heritage of the parklands and the railways building. There has been a definite conflict between the performance of the Government and these rather hollow promises made by the Premier from time to time.

The regulations are most unsatisfactory. Anyone who has seen them would be quite devastated to think that they are in fact the definitive, legal definition of what this project is all about. They are very skimpy diagrams of what the project could be with a bit of imagination, and people's imaginations react in horror at the thought of the 23-storey hotel in particular.

What has been rather depressing is that at other stages the Premier has said that nothing will be changed. There is a sort of 'carry on at all costs' type of approach to this project, as if we must not risk putting the venturers who are involved to any disadvantge or discomfort. Unfortunately, that has been at the great cost of the avowed promises of the Government for consultation with the people who care for the heritage of Adelaide.

So it is with great regret that I move so energetically this motion to disallow the regulations of the ASER project. I recognise that considerable aspects must be approved and applauded in the concept. What I am saying does not mean that the project cannot proceed in a modified form: the disallowance of the regulations does not put up the stop sign. However, the timing is important. I had indications that the Government was very eager that the matter be dealt with forthwith, but that is quite ludicrous, because the Subordinate Legislation Committee is currently receiving and considering evidence on that very matter. I have been advised that representatives from the National Trust and the Aurora Heritage Committee (Professor Saunders) have appointments to give evidence on 22 November.

The Hon. Diana Laidlaw: And the Royal Society wishes to give evidence.

The Hon. I. GILFILLAN: I see. A lot of influential people and authorities still wish to contribute to this debate. The matter cannot be rushed. I urge support for my motion.

The Hon. C.M. HILL: In speaking to this motion I am not necessarily supporting it. I will wait for the report to this Council of the Joint Committee on Subordinate Legislation, because that committee, as the previous speaker

said, is considering in great depth these regulations and is receiving submissions and evidence from a large number of interested parties. I believe it is proper, as it always is, for this Council to await the recommendations of that committee, and from my experience the Council usually follows such recommendations. That is where the matter is discussed in great detail, and I intend to wait on that committee's report about these regulations.

However, I speak now because there is one aspect of the whole project that disturbs me very much. I speak as an individual member of the Legislative Council and as one who is very interested indeed in the City of Adelaide. That interest is something that I have developed over a long period. I was a member of the Adelaide City Council for nine years and I was elected to this Chamber from an electorate within metropolitan Adelaide. I have always taken a great interest in the general activities of the Adelaide City Council and of people associated with the city generally. I had the honour of being Minister of Local Government for five years. The City of Adelaide is a very important local government body because of the example it sets to local government, because of its size and because of its central responsibilities within metropolitan Adelaide. As well, I am now a resident of the City of Adelaide.

What worries me about the whole planning proposal is the height of the proposed hotel—23 storeys. In my view it will be detrimental to the character, the aesthetics and the amenity generally of the region of the City of Adelaide in which the overall development is proposed. We are talking about the area between what Colonel Light called South Adelaide and North Adelaide, in other words the city square mile bordered by North Terrace, West Terrace, South Terrace and East Terrace on the one hand and the North Adelaide area as we now know it on the other hand. The North Adelaide area, of course, was originally divided into Lower North Adelaide and North Adelaide proper.

When Colonel Light laid out these areas he saw to it that this large tract of land between those two areas was designated as open space, with the Torrens River running through that region. While the original concept was that the area should remain as open space, evolution has occurred through the history of Adelaide and that area was not retained as open space. Indeed, there was a break away from that principle very early in the city's history when Government House and the old Legislative Council building next door to Parliament House were built. Subsequently, throughout the years many public buildings have filled in this region to some extent, and I refer to the cultural institutions and the other institutions that front North Terrace between Parliament House and going out as far as Hackney Road.

I refer also to other buildings in streets such as Kintore Avenue and in the vicinity of Parliament House, for example the Festival Theatre, the railway station, and so on. Those buildings have tended to fill in this area which is particularly important in regard to the general planning features of the City of Adelaide. The region stretches from North Terrace to that part of North Adelaide that provides general access between Montefiore Hill and Brougham Place—the high land of North Adelaide. One of the extremely important features of the buildings in this region is that they are of medium height. There are one or two exceptions, but generally speaking they have been retained quite properly at medium height.

There is a medium rise building height in this area that one can see when looking down from a high level. There is a bowl effect from North Terrace northwards beyond the Anglican Cathedral. One can well imagine that in the future there will be high rise buildings on the southern side of North Terrace, and one can visualise higher buildings being built along Brougham Place and in areas such as that.

The Hon. I. Gilfillan: How did that building get into Kintore Avenue?

The Hon. C.M. HILL: I will mention that in a moment. Generally speaking, there is this planning vision whereby those who need and want high rise buildings have ample opportunity to erect them south of North Terrace in the commercial area. They would be buildings of a commercial nature. There is also scope to build higher buildings in North Adelaide.

Strenuous efforts have been made by many authorities to retain this extremely important concept. I can recall when a developer wanted to build an office block just north of the Anglican Cathedral and that developer was required by the City of Adelaide to design that building to be of a reasonable height. To my knowledge, it is only three or four storeys high.

In the latter years of the development of the Adelaide Children's Hospital, after a great deal of controversy, the most recent buildings have been erected to conform to this general medium height principle. Members would have no doubt read a few weeks ago an announcement that the completion of the redevelopment of buildings for the Adelaide Children's Hospital includes demolishing the top storeys of the Rieger Building to bring it down to a reasonable height, because it is one of the exceptions to this rule that has been worrying many people involved in planning since it was built. Therefore, a positive, but somewhat costly, move is being made there. Nevertheless, the price that must be paid for these planning costs in the long term is well worth while.

The Hon. Frank Blevins: That is not being reduced in height just for aesthetic reasons.

The Hon. Diana Laidlaw: That is one of the considerations.

The Hon. Frank Blevins: But they are not just doing it for that reason.

The Hon. C.M. HILL: They have found that there is no need for those floors, but there has been great pressure brought to bear on the hospital over the past decade to do something about this problem.

The Hon. B.A. Chatterton: What about the Adelaide College of Advanced Education?

The Hon. C.M. HILL: Now we come to the point being raised by way of interjection—the Adelaide College of Advanced Education. That high rise building in Kintore Avenue was another mistake. From an aesthetic point of view this building is an eyesore.

The Hon. C.J. Sumner: You approved it when you were in Government.

The Hon. C.M. HILL: I was not in Government—the Liberal Party was in Government.

The Hon. C.J. Sumner: You were in the Council.

The Hon. C.M. HILL: This is a typical example of the Labor Party's attitude of just pin pricking and being completely unable to wrestle with the broad, major problems of aesthetics and the character of a city as important as Adelaide. That building was a mistake at the time and, if something can be done about it in the future, then well and good. I know that from time to time the Adelaide City Council has discussed the possibility of demolishing the upper floors of that building. The problem now confronting us is that we see another mistake being made—that is, the plan for this hotel, which will rise completely out of scale with this vision to which I am referring. Whether it is too late to do anything about it, I do not know: I certainly hope that it is not.

This building is contrary to the planning that I have briefly described and is contrary to the major trend in this region of the city, a trend that should be encouraged and

maintained—the trend that has existed over the years. I fail to see how a medium rise building could not be built as a hotel and be successful, indeed as successful as the building the Government proposes.

The Hon. B.A. Chatterton: What do you think would be a reasonable height?

The Hon. C.M. HILL: Between six and eight storeys. The Minister of Ethnic Affairs laughs. I remind him that Singapore interests have just built the most modern hotel in Australia, the Merlin Hotel in Perth, and that is a medium rise building.

The Hon. C.J. Sumner: You think it is aesthetically pleasing do you?

The Hon. C.M. HILL: Yes, compared with the high rise envisaged for this particular site.

The Hon. C.J. Sumner: I think that that Merlin thing is dreadful.

The Hon. C.M. HILL: Beauty is in the eye of the beholder. However, it is evidence of an experienced investor proving that medium rise hotels can be planned and built in today's world.

The Hon. C.J. Sumner: You need a lot more land.

The Hon. C.M. HILL: There is land here: I will come to that point in a moment. In June this year I stayed at the Prince Hotel in Hong Kong, which is a new hotel built within an overall building that houses several hotels on the harbour front in Kowloon. That was only approximately seven storeys high; that is further proof that medium rise hotels can be built and are favoured by experienced developers today. However, down here over the railway lines there is space to retain the number of rooms that the Government hopes will be built—I think it is 400 in the plan—because, of course, they could stretch the building over a much larger site.

The Hon. C.J. Sumner: People are saying that it is park lands that we will be taking.

The Hon. C.M. HILL: I know they are.

The Hon. C.J. Sumner: You don't agree with that?

The Hon. C.M. HILL: I am not raising that point in this argument: I am trying to get it into the Minister's head—

The Hon. K.T. Griffin: There's plenty of room there.

The Hon. C.M. HILL: I do not know. I am having trouble: he is trying to digress and go to other points of criticism, of which there are many, but I am dealing with the question of the major blunder that the Government is making by proceeding with a building of this height in this position. I was mentioning the point that space is available over the railway lines for a lower building. When I mention this matter in discussions or when planners mention it, there is a response asking whether the tourists and occupants will walk the distances involved in a medium rise large hotel as compared with the transport system of lifts available in a high rise hotel.

The answer to that problem is seen in Hong Kong where they have moving walkways within hotel buildings. Tourists seem to favour that feature as part of the medium rise design. The Government is being severely criticised and condemned about this building. It is making a major planning blunder here. It is being told that by planning interests throughout the city, by professionals and by other authorities named today by the Hon. Mr Gilfillan, and I will not name them again. The Government is being told that by a large number of citizens who, as laymen, have a deep interest in this city, its future and its welfare. I am not opposing the overall concept of a casino, hotel, office block and convention centre, but the Government has not consulted sufficiently before proceeding with this project. It is falling into this initial trap of bringing this plan forward that is totally—

The Hon. C.J. Sumner: Have you checked out your idea with someone, an architect or—

The Hon. C.M. HILL: I have had discussions with planners about it, yes. I do not think it needs a great deal of reference to understand the broad concept that I am trying to describe. The space is there and the evidence is there elsewhere—

The Hon. C.J. Sumner: I understand what you are saying. I want to know whether you have checked it out from a professional point of view. You say the space is there, but is there space plus the necessary car parking?

The Hon. C.M. HILL: There is no doubt about that.

The Hon. C.J. Sumner interjecting:

The Hon. C.M. HILL: The space ranges from the bridge to the western facade of the railway station.

The Hon. C.J. Sumner: There are some railway lines there.

The Hon. C.M. HILL: Yes, there are railway lines. All over the world we see hotels built over railway lines.

The Hon. C.J. Sumner: Have you made inquiries about the technical aspects and the additional cost involved?

The Hon. C.M. HILL: I have not costed the project but, if the Attorney is trying to tell me that cost was a factor that caused him to make this blunder, rather than designing a medium-rise hotel—

The Hon. C.J. Sumner: I was trying to ascertain from you whether you have fully investigated all the practical problems relating to your alternative proposal.

The Hon. C.M. HILL: Of course, the initial problems are there, no matter what design one chooses for the hotel. There are problems and they have been facing those of us who have been tossing ideas of redevelopment of the railway area around for 20 years. We know there are problems, especially in regard to exhausts that have to be dissipated from railway vehicles. There are problems of entry and construction in regard to foundations. In regard to car parking, if one is going underground for two or three storeys under a 23-storey hotel, I would think costs would not be a consideration if one could just take one or two storeys down over a much wider area. The question of car parking will still loom as a major problem for the Government because, when we asked the Premier about car parking involving patrons of the Festival Centre, we were given an assurance that everything would be in order. However, I am still doubtful that patrons of the Playhouse, the Space and the Festival Theatre are satisfied, especially when those three venues are open on the one night. I doubt that patrons will be much better off in the future than they are now.

Certainly, if the Attorney wants to hear any complaints from constituents he need only walk in the mud on a wet night towards Morphett Street Bridge after a show at the Festival Centre and talk to people trudging along to get back to their cars. The parking situation is bad now and, from their point of view, I do not think it will be improved. It will be quite in order for tourists who occupy the hotel, because they in effect reserve a car space when they reserve a room. If the Minister wants to pursue the car parking aspect he should look at it closely. There might still be time to correct the mistake—and I believe it is a mistake. Therefore, I plead with the Government to consider the question of redesigning the proposed hotel, not necessarily reducing the number of rooms but reducing its proposed height so that a new height limit can conform to the existing aesthetics and character of this important region of the city of Adelaide.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

CHURCH OF SCIENTOLOGY

Adjourned debate on motion of Hon. J.C. Burdett:

1. That a Select Committee of the Legislative Council be established to inquire into and report upon the activities of the Church of Scientology Incorporated and in particular the method of recruiting used by the church and methods of obtaining payment for the services provided by the church.

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

(Continued from 24 October. Page 1408.)

The Hon. B.A. CHATTERTON: I am concerned about the motion moved by the Hon. Mr Burdett. Certainly, I do not support it in its present form. The motion seeks to set up a Select Committee to inquire into and report upon the activities of the Church of Scientology Incorporated. I do not support the Church of Scientology Incorporated, but neither do I support a very large number of institutions in society. I do not support the Hare Krishnas, the Jehovah's Witnesses, and I could go on with a long list of other people I do not support. I do not see why there should be a far-ranging inquiry into the activities of these organisations just because we do not happen to agree with them or because we do not happen to like their activities. It does not necessarily mean that there should be a Select Committee set up to have a wide-ranging inquiry into those activities. I think that setting up a Select Committee of this type that has already selected (in a sense) its own target is quite wrong. If there is something that needs to be investigated—I do not believe that the evidence put before the Council has been convincing as to the problems that have allegedly arisen—it should be restricted to the recruiting and methods of payment. That is of possible concern to us. It is analogous to other areas where services and so on are provided, and it is perhaps justifiable for us to look at those specific aspects of the Church of Scientology.

To have a far-ranging inquiry into the church and all its activities is quite unjustified and I do not believe within the scope of a Select Committee of this Council. Once we set that sort of precedent of looking at the Church of Scientology, as I said before, there would be a whole lot of other groups that we could bring into the net and start investigating in that way. Therefore, I wish to move an amendment to the Hon. Mr Burdett's motion. I move the following amendment to the Hon. Mr Burdett's motion:

Delete all words after 'upon' in the second line of paragraph 1 and insert in lieu thereof the following:

(1) the method of recruitment used by the church of Scientology Incorporated and the methods of obtaining payment for the services provided by the church;

(2) whether any additional consumer protection legislation is necessary or desirable in relation to such activities; and

(3) whether any privacy guidelines should be laid down with respect to such activities.

This amendment restricts the Select Committee to looking at the specific areas of recruitment and payment, and I think that they are the only areas in which we really have a legitimate interest as a Council and which are within the scope of a Select Committee of this Council. As I said earlier, I do not really believe that the evidence put before the Council by members who supported the original motion justified the Select Committee but, if we are to have one, it seems that it should be set up in this way, being more specific in its activities and restricted to those terms of reference.

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

SHOP TRADING HOURS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 August. Page 92.)

The Hon. G.L. BRUCE: The Government is opposed to this Bill presented by the Hon. Martin Cameron and also the similar Bill presented by the Hon. Mr Gilfillan. One of the reasons why the Government opposes these Bills is because the industry has not been able to come to grips with the problem. This Bill is opposed by the Meat and Allied Trades Federation of Australia (one of the employer bodies), and the Australian Meat Industry Employees Union.

The Hon. R.J. Ritson: What about the consumers? Do the consumers oppose it?

The Hon. G.L. BRUCE: I will come to the consumers.

The Hon. M.B. Cameron: What about the producers?

The Hon. G.L. BRUCE: I will come to that. The concern of the Australian Meat Industry Employees Union is very real and relates to the long hours that members will be forced to work if trading hours are further extended. The Government is currently looking at this before it agrees to any extension of shopping hours. Unfortunately, during the hold up time on this Bill presented by the Hon. Mr Cameron there has been no shifting of positions by the parties involved and, rather than being in a position to force on them this Bill, which would not be acceptable at large to the industry and to the consumers because extended trading hours have already been allowed with the option of opening a late night or Saturday morning, it was felt that it would not be in the best interests to proceed. The Government opposes this Bill because extended trading hours will lead only to excessive working hours for the tradesman butcher and increased costs for the retail price of meat due to additional overtime payments. This will go against the best interests of the consumer and the producer if the cost of meat, which is already reasonably high, was forced up any more to the householder.

The Hon. Diana Laidlaw: Have you bought any lamb recently?

The Hon. G.L. BRUCE: Not recently.

The Hon. Diana Laidlaw: Perhaps you could not get to the shops because they are closed.

The Hon. G.L. BRUCE: Fairly cheap, is it? Are you talking about the hours for buying it? As I understand it, the hours are quite reasonable. My wife has not complained, and she does most of the purchasing of meat.

The Hon. Diana Laidlaw: She is probably not in the paid work force.

The Hon. G.L. BRUCE: She has not raised any objections about it. The 1977 report of the Royal Commission into shop trading hours found that butchers in suburban and city butcher shops were working about 46 hours a week and that butchers employed in supermarkets were working 42 hours a week. These hours, if not more, are still regularly being worked in the industry. Any extension of hours would place an intolerable burden on those engaged in the industry unless some protections against excessive hours of work could be provided for in legislation.

The Hon. M.B. Cameron: What happens in chemist shops?

The Hon. G.L. BRUCE: I understand that they are on a 24-hour system and that the cost is passed on to the consumer. If one buys medicine and relates it to the price of what is happening in the real world, it is certainly not cheap. Any extension of trading hours must be met by the increased cost of the product to the consumer. That is indisputable.

The Hon. M.B. Cameron: Do you support Sunday opening for hotels?

The Hon. G.L. BRUCE: That has nothing to do with the red meat issue, as I understand it.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. G.L. BRUCE: Unfortunately, the protections to achieve this, because of the interaction of the awards with State legislation and relating those State awards to the current cost of working overtime and the extra hours in the industry, are very complicated so that the consumer benefits little from extended hours. The push for extended hours is coming from the supermarkets and has no support from the small suburban butcher shops. Extended hours are considered by small butchers to give a trading advantage to supermarkets, with no guarantee of overall increased sales of red meat or any improvement in the general level of service to the public. The possible demise of the small butcher shops was one of the reasons why the Royal Commission in 1977 recommended only a marginal increase in trading hours.

If we look at what has happened in Sydney in relation to increased trading hours, not just in butcher shops but generally, we find, from what I can gather, that it does not mean that more goods are sold; it just involves a distribution of the cost to sell the same amount of goods. It is believed that the same thing will happen in relation to red meat: people would not eat more, but shops will have to be open longer hours to sell the same amount.

The proponents of extended trading hours have organised petitions of consumers to support changes in trading hours. Just as on this occasion there has been an organised campaign to get consumers to support extended trading, the Government received, on the last occasion the matter was debated, a large number of petitions signed by consumers who opposed any extension to trading hours. Clearly, the Government is in a difficult position if it is to be guided by the petitions it has so far received on this issue because of the dissenting views that have been expressed.

The Hon. M.B. Cameron: Have you got some more?

The Hon. G.L. BRUCE: No, previous ones. Even employer groups cannot agree with the RTA favouring extended hours and the Meat and Allied Trades Federation opposing any further change. The Department of Labour inspectorate has reported that the new optional trading hours legislation passed in late 1983 has been working well.

The Department has advised that initially there was some confusion, but this has settled down after the first few weeks of trading. At the retail level butchers are generally happy with the new arrangements. Therefore, we cannot support the Bills moved by the Hon. Martin Cameron and the Hon. Ian Gilfillan. I believe that there was some merit in the case that more red meat would be sold. Perhaps there is something to be fought for for producers in that situation. However, I do not believe that any more red meat will be sold as a result of this legislation. If trading hours are extended I believe that the increased cost of red meat will have to be borne by the public.

I do not believe there is a pressing need for this legislation, although there will be a need for people to use shops if they are open, because they will adapt to that. That has occurred in Sydney. It was found in particular areas of Sydney that people spend more time mooching around and looking than purchasing during extended shopping hours on Saturday afternoons and at night. In fact, I believe there is a move afoot—after Christmas—to reduce extended hours in shopping centres because it has been found that most people do their grocery shopping on a Thursday night and very little money is spent during extended hours on Friday nights or on Saturday afternoons.

The Hon. M.B. Cameron: Will it be a Government move?

The Hon. G.L. BRUCE: I would not think so. We will watch with great interest the experiment in New South Wales, which is not working. Private businesses are making this decision because the money flow is not there. Why we should go into the arena of legislating and extending trading hours for goods that are already available within reasonably flexible trading hours, during late night shopping or on Saturday mornings, is beyond our comprehension. We oppose the Bills and hope that reason will prevail within the Opposition and the Australian Democrats and that they will not proceed with this legislation at this stage.

The Hon. I. GILFILLAN: It is really comic tragedy to hear mature, responsible men and women speaking in defence of a cause that I know full well they have no cheerful heart in. I think this is the real indictment of the Government: it is acting against its better judgment and its own wishes because it is dictated to by a little prickle spur group—the Australian Meatworkers Union and its Secretary in this State. To me, that is a disgrace. I have waited patiently, as I know the Hon. Mr Cameron has, for months for the Government to get its act together, assert a little authority and show the people of South Australia who is actually governing the State. Unfortunately, that has just been revealed today. We now know who is actually governing the State.

Background discussions that I have had with others have made it painfully clear to me that, although efforts have been made to persuade Arthur Tonkin that it is acceptable to extend the trading hours in fresh red meat to a reasonable level, he will not have it. Therefore, the people of South Australia do not have it, the consumers do not have it and the producers do not have a fair market for their product. I repeat: I think it is a disgrace. I think the actual disadvantage suffered by the producers and consumers of fresh red meat, critical though that may be, pales into secondary significance when we follow the track record of how the Government reached its decision. That is the real scandal.

I hope that the Government's reaction to this Bill and my own Bill points out to the people of South Australia that they do not have a Government of elected representatives, but that they have a Government which is dictated to by small minority groups who call the shots. When I consider the issue of whether there are advantages in extending the hours for trading in fresh red meat, I will stress again the point that has been made many times in this Council—unfortunately, not to the outer persuasion of those who are determining this issue, but certainly to most people in South Australia.

The PRESIDENT: Order! It has been brought to my attention that the Hon. Mr Gilfillan has already spoken to this Bill.

The Hon. I. GILFILLAN: That is a pity, Mr President, because I thought I was doing a fair job. I did ask whether I had spoken on it.

The PRESIDENT: I thought the Hon. Mr Gilfillan had spoken to his own Bill which is very similar. Perhaps I am to blame.

The Hon. M.B. CAMERON (Leader of the Opposition): I am summing up this very sad affair. I assure the Council that this is not the last time that it will hear of this subject. It will be back as soon as possible in whatever form is necessary in order to have it debated again. It is absolutely ridiculous that we in this society cannot decide to allow meat to be sold by butcher shops on Saturday mornings and on late shopping nights. Unfortunately, they must choose one or the other. I am very pleased to hear that the Hon. Mr Gilfillan will now get behind this Bill. I am very pleased about that, because that is a step forward. I heard this morning direct from the horse's mouth that we now have a half-way house. Exactly what I predicted has now happened. That is being used as an excuse not to take the extra step.

The Hon. R.I. Lucas: Is that what Arthur Tonkin is saying?

The Hon. M.B. CAMERON: That is exactly right: not to me directly, but to other people. He is saying that we have got late night trading so we do not need to take any further steps. I predicted that that would happen when the Hon. Mr Gilfillan introduced this present ridiculous situation. So, we have lost the pressure point. That is what has happened.

The Hon. R.I. Lucas: Because the Democrats are involved.

The Hon. M.B. CAMERON: That is exactly right. I have worked for 12 months to get some change to this legislation. At every turn we have been frustrated. We had the fiasco last year where I tried to get this matter debated. I recall the Hon. Mr Gilfillan's helping the Government to put my Bill aside. I hope that will not happen again. I believe that will not happen again, and I am pleased that this situation will be resolved. At least the Council will now make up its mind whether to have trading of red meat on both late shopping nights and on Saturday mornings.

Single parents and families who look to late night trading as a convenient and attractive way to make their weekly purchases are being penalised. They have no freedom to choose, because if their butcher shop does not open on Saturday mornings but on late nights they cannot buy on Saturday mornings: it is shut. The other night I visited a supermarket. It was having a birthday party and everything was lit up except one little black spot in the centre—the butcher shop. Honourable members can imagine what producers think when they come to Adelaide and go to a supermarket on their holiday and find everything is open except the place that sells their product.

The Hon. Peter Dunn: They are outraged.

The Hon. M.B. CAMERON: They are. They are absolutely outraged by the situation. I recall the debate on the previous Bill. At that time the Hon. Mr Gilfillan said:

> I am confident that after the experience of having late night trading available the support for further lifting of restrictions will be overwhelming and further reforms will follow . . . I believe the Government is genuine in wanting to begin the relaxation of trading hours, and I am introducing this Bill with that knowledge.

The Hon. R.I. Lucas: When did he say that?

The Hon. M.B. CAMERON: In the Council 12 months ago. The Hon. Mr Gilfillan was politically naive.

Members interjecting:

The PRESIDENT: Order! One speaker at a time is sufficient.

The Hon. M.B. CAMERON: The Government put it over the Hon. Mr Gilfillan. I knew at the time that it put it over him. I think the Hon. Mr Gilfillan was doing a bit of grandstanding, but that is part of politics. He was conned by the Government. That is a pity. Unfortunately, the Government has left the Hon. Mr Gilfillan with egg on his face. I feel sorry for him on that ground. However, I am glad that he is obviously coming around. I remember the Retail Traders Association coming in with petitions. Actually, I think it presented them to the Hon. Mr Gilfillan because it believed that through him it would see change. That has not occurred. The Hon. Mr Gilfillan is quite right: one man is now holding up this measure. Arthur Tonkin is now holding up this measure because almost everyone else in the community wants change. There is one person dictating this situation, along with a few people in the Meat and Allied Trades, but that is irrelevant because the majority of butchers now know that the situation is a nonsense. The majority of butchers now want the change.

Why should one man dictate what happens in an industry? What on earth is wrong with him? Why does he not agree to this change, which is sensible? All this talk about additional cost because of the extra hours that would have to be worked is absolute nonsense! The little additional cost would not add one iota to the cost of the selling of red meat, and certainly sales would go up.

Producers are now spending $7 million a year in Australia to advertise and sell their product, and sales are going down. Yet what happens? One man dictates the situation. I felt for the Hon. Mr Bruce about this matter because he was in an industry in which some people work 16, 18 and 24 hours a day. They have to work on Saturdays, and some on Sundays, and he had to stand up in here and defend a situation in which people will not work from 6 p.m. until 9 p.m. on a late night or on a Saturday morning. I cannot believe that the Hon. Mr Bruce really supports that, coming from the industry from which he comes. I am absolutely certain that he was embarrassed. I feel for him, but I appeal to him for once in his political life to cross the floor and allow the situation to be resolved once and for all.

Once the Government sees one of its number across here it will know that it has trouble in its ranks and has to do something about it. The Hon. Mr Chatterton is a producer; he ought to do the same thing.

The Hon. Diana Laidlaw: What about the Minister?

The Hon. M.B. CAMERON: Why does not the Minister of Agriculture, who represents all these farmers as the Minister, come across and assist us to get this situation resolved?

It is one of the biggest products of South Australia—one of the best, too, I assure the Council. At the moment we are having difficulty with it: sales are going down. Of course, white meat sales are going up: why? Because they are available at this attractive shopping time. People do not stop buying meat; they just buy a different sort. Why does the Government not take this little step? Why does it not tell this union bully to go away and why does it not take over running the State? At the moment he is dictating within the industry. The Hon. Mr Gilfillan was right when he said that that man is absolutely dictating what is happening; he is running the Government on this issue.

The Hon. Diana Laidlaw: Is this a conscience vote for the Labor Party?

The Hon. M.B. CAMERON: I hope that it will be, because the situation is so ridiculous. We have a travesty of shopping hours legislation. Shopping hours legislation is always a bugbear, but this is an abolsute travesty. If one shop can open on Thursday night, why cannot the other one? Nobody can give me a logical explanation for it, and certainly the Hon. Mr Bruce did not. Why can he not see that this situation has to be resolved. If it is not resolved this time it will come back again and again. Let us go to the next election with it: I would be happy with that.

The Hon. R.I. Lucas: Have an election on it.

The Hon. M.B. CAMERON: Yes, let us go to the next election and we will see what the people want. I would be happy with that, I assure the Council, but I would rather have it resolved because it is not the sort of issue that should be the basis of argument at election time because it is so much common sense. Any Government that goes to an election opposing this sort of commonsense proposal will find itself on the outer in the metropolitan areas where the shoppers live, but if that is the way that the Government and its back-benchers want it, so be it. The best of luck to you! I would look forward to putting the case to the people at the next election, which will not be very far away. Then the Government could be on this side while we make the changes. I urge members to support the Bill.

The Council divided on the second reading:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron (teller), R.C. DeGaris, Peter Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (8)—The Hons Frank Blevins, G.L. Bruce (teller), B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, Anne Levy, C.J. Sumner, and Barbara Wiese.

Majority of 3 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

New clauses 1a—'Interpretation', and 1b—'Application of Act'.

The Hon. I. GILFILLAN: I move:

Page 1, after line 14, insert new clauses as follows:

1a. Section 4 of the principal Act is amended—

(a) by striking out paragraph *(g)* of the definition of 'exempt shop' in subsection (1);

and

(b) by striking out the definition of 'meat' in subsection (1).

1b. Section 6 of the principal Act is amended by striking out paragraph *(a)* of subsection (1) and the word 'and' immediately following that paragraph.

I move these amendments because it is obvious that the intention of the Hon. Martin Cameron's Bill and mine are similar and that with a little minor adjustment they could probably be completely on the same track. The unfortunate deficiency of the Bill before us is that it really only does a little bit of patching up—significant patching up, but it still leaves meat in the invidious position of being a companion with outboard motors, fuel and motor oil in terms of shop trading.

Anyone who really cares about giving fresh red meat a fair go will not tolerate that discrimination. Therefore, I am confident that the Hon. Martin Cameron and members of the Opposition who supported this Bill will see the good sense of this amendment and will realise that it improves and expands on what is a very good initiative. That is why the Democrats are so enthusiastic in support. It really puts in place the proper stages of removing the discrimination that has been imposed on fresh red meat with no logic for years and years. At a time when we are so concerned with and diligent in winkling out discrimination in other areas of our society, it is appropriate that the Hon. Martin Cameron and other members who support this move realise that it is time for us to remove discrimination on fresh red meat from the State's legislation. I urge members on this side to consider this amendment seriously.

As I spoke out of order earlier on the matter, I would like to repeat briefly some of the points I made so that my thoughts are recorded in *Hansard*. The real force behind the Government has been a very embarrassing revelation. We have found out who are the real power brokers, those who influence this front of a Government in such decisions. I was taken to task somewhat eloquently and not for the first time by the Leader of the Opposition, the Hon. Martin Cameron, for being naive, but I believe that naivety is not always a fault. I admire people who let hope spring eternal and who are prepared to take others at face value until evidence persuades them to change their mind. If I was gullible, I was gullible in good faith, but I believed that the Government would be persuaded by the majority of its own members that this reform must come and that there is room for discussion and negotiation with the Meatworkers Union and others involved in achieving a proper balance of support. I thought that we would not get support from everyone, but that we would get a lot of people to support the introduction of this reform.

My naivety was not so ill placed, because the Leader took some time to allow this matter to be debated. It was adjourned and adjourned quite merrily. If he did not think that anything productive would come from the adjournment, the Leader would have denied the right to adjourn. Therefore, I feel that I am in quite good company: perhaps the Leader was naive as well and perhaps he also shared some hope that was proved false—that the Government would eventually see reason and that there would be a happy resolution to this problem. Unfortunately, both the Leader and I have been proved wrong in this case.

The Hon. R.I. Lucas: Was he naive, too?

The Hon. I. GILFILLAN: I believe that he allowed the adjournment because he hoped that we would get the Government to see sense. It is cruelly embarrassing to find the Government responding in this way and at this time, because only this morning there was publicity about the dire straits that Samcor is experiencing. I am glad to note that the Minister who is most closely associated with that area is in the Chamber. I am sure that the Minister has felt the pain of Samcor and he must be conscious of the stress on producers of a product that is not getting a fair crack at the market. The timing makes it doubly ironic if not tragic that the Government is refusing to allow proper access to the market of a product that is shrinking in consumption (that was stated in the article this morning) largely because it is not competing fairly blow for blow with its competitors. The Government's response shows a complete indifference to the plight of the Samcor works, the producers, the consumers, and unfortunately to the will and wishes of so many of its own members.

It is quite obvious that this Council has the majority to carry a worthwhile reform, and I believe that those members who support it will be applauded by so many people in South Australia. However, the unfortunate fact of present politics is that the Bill is unlikely to pass in the House of Assembly unless our eloquence persuades members in that place to change their mind. There is always hope: perhaps my naivety will lead me to believe that. I urge the Hon. Martin Cameron and other members who have supported the Bill so far to see the advantage of accepting my amendment as filling out the significance of the Bill and making it first-class legislation, completely removing absolutely unfair discrimination against fresh red meat in South Australia.

The Hon. G.L. BRUCE: The Government will oppose the amendment. This Bill was tabled on 8 August by the Hon. Martin Cameron and the Government had no intention of trying to delay it. We genuinely hoped for solution within the industry. Of course, the name of Arthur Tonkin has been bandied around fairly freely: not only Arthur Tonkin but also smaller retail associations who represent butcher shops and bigger businesses like supermarkets took part in consultation and discussion. The holding up tactics were sought by the Government not to delay but to ascertain whether any compromise could be achieved in the industry. Unfortunately, the sad conclusion to which the Government has come is that no compromise can be reached and on examination there is probably not much to be gained by the consumer to the extent that the system is already working. The Department of Labour has monitored the situation, and it appears that the late night or Saturday morning option is working satisfactorily.

Initially, there might have been confusion, but since 8 August I have had no indication that people are dissatisfied. I have had no representation that consumers feel they have been disadvantaged. Previously there were letters from the industry to members of Parliament, but I have had no indication of dissatisfaction or letters from people in the industry. I have had no indication from consumers that there is a burning demand for these changes. While I recognise that that seems odd, I also realise that there is scope for the consumer to obtain red meat at hours that are convenient to him, that is, on Saturday mornings or on late night shopping nights. People may have to ascertain just where they can buy red meat because of the way in which regulations are presently drafted, but people become aware

and the pattern is established. People know which places operate on late nights or Saturday mornings: it is not a great inconvenience. The Government is opposed to the amendments.

The Hon. R.I. LUCAS: The Hon. Mr Bruce has just indicated that the Department of Labour is happy with the way in which the present arrangements are operating.

The Hon. G.L. Bruce: I didn't say 'happy': I said that the Department monitored them and concluded that there was no disquiet. I do not reflect the views of the Department: I am talking about consumers.

The Hon. R.I. LUCAS: Given that the Hon. Mr Bruce says that the Department of Labour has monitored the situation and that he now says that there is no disquiet (I do not think that they were the words he originally used, but we will use those words now), can he indicate how the Department of Labour has satisfied itself in that regard? Has it spoken to the industry groups or has it gone out and spoken to individual traders? Has there been a survey of the small butchers and has there been a survey of consumers to ascertain whether individual consumers in South Australia are satisfied with the present mish-mash arrangement that has resulted from the Hon. Mr Gilfillan's amendment?

The Hon. G.L. BRUCE: I can only say that I am acting on information from the Minister: the information is that the Department of Labour inspectorate has reported that the new optional trading hours legislation passed in late 1983 has been working well. The Department has advised that initially there was some confusion but that this settled down after the first few weeks.

At the retail level butchers are generally happy with the new arrangements. I do not know how that survey was conducted but, if the member is so concerned that he wants to know, I am sure that a Question on Notice will lead to a satisfactory answer. I imagine that the Department would act in a responsible manner and come back with a report that has been investigated or surveyed to some extent and would not be shooting from the hip when it gave an answer like that.

The Hon. M.B. CAMERON: The Hon. Mr Bruce says that the situation settled down after a few weeks. I suppose it did settle down to the extent that people heard that there was late night shopping for red meat and went down to find the butcher shop closed. They then realised that they had been fooled—that they had had it put over them. They do not know it, of course, but those same butchers can change their minds and the people might go down soon to find that the butcher is closed on Saturday morning. The Hon. Mr Bruce tried to indicate that things are smooth out there in the back blocks. I can assure the honourable member they are not and that there will continue to be pressure for common sense to prevail.

The Hon. R.J. Ritson interjecting:

The Hon. M.B. CAMERON: That is right. As I understand the Hon. Mr Gilfillan's amendment, it would allow butcher shops to open seven days a week, or whenever they want to. It puts them into a new category.

The Hon. Peter Dunn interjecting:

The Hon. M.B. CAMERON: That is another argument. I assure the honourable member that if that subject comes up in relation to shopping hours generally I will look at it in a very positive way, as I am sure every member in this Council will. However, that is another issue altogether. I raised this issue with the United Farmers and Stockowners Association, the producers' body, which indicated quite clearly that it is not seeking that at this stage.

The Hon. I. Gilfillan: They are suffering the same restrictions as under the Shop Trading Hours Act. A shop under a certain size can open.

The Hon. M.B. CAMERON: Yes. That would lead to a lot of confusion. If there was confusion before, there would be utmost confusion then. We have enough problems and trouble now with supermarkets not knowing whether they should divide their stores into separate areas, or whether they should be run by separate companies. I think that that situation has to be resolved some day because it is just beyond control. I am not prepared to support a situation where some butcher shops will be open because they are of a certain size and others will not be able to open because they happen to be in a bigger building, as that would lead to a very confusing situation, indeed. I oppose the amendment, although I have some sympathy with the member's view. I find it surprising that he is now moving further—he took us backwards last time we debated this matter. I think that it is a pity that a situation has arisen where we are trying to lift the thing one more step to allow butchers to open at the same time as other shops in a supermarket area. It is a pity that this enthusiasm to extend the hours was not around last year to the extent it is around now. For that reason the Opposition opposes these amendments.

The Hon. R.C. DeGARIS: I support the Hon. Mr. Gilfillan's amendments, and for very good reasons. This matter has been before the Council on many occasions. As members know, I was on my own in relation to this matter for a long time. The Hon. Ian Gilfillan and the Hon. Lance Milne came along and decided to assist me with this particular call to allow red meat sales. In thanking them for their support with that particular issue I support the Hon. Mr Gilfillan's amendment. We have treated the sale of red meat in an atrocious way for many years and I therefore support the amendments.

The Committee divided on the new clauses:

Ayes (3)—The Hons R.C. DeGaris, I. Gilfillan (teller), and K.L. Milne.

Noes (15)—The Hons Frank Blevins, G.L. Bruce, J.C. Burdett, M.B. Cameron (teller), B.A. Chatterton, J.R. Cornwall, Peter Dunn, M.S. Feleppa, K.T. Griffin, C.M. Hill, Diana Laidlaw, Anne Levy, R.I. Lucas, R.J. Ritson, and Barbara Wiese.

Majority of 12 for the Noes.

New clauses thus negatived.

The CHAIRMAN: The Hon. Mr Gilfillan has a similar amendment to clause 2. I assume he accepts the first decision as a test case.

The Hon. I. GILFILLAN: You presume correctly, Mr Chairman.

Clause 2 and title passed.

Committee's report adopted.

The Hon. M.B. CAMERON (Leader of the Opposition): I move:

That this Bill be now read a third time.

The Hon. I. GILFILLAN: I am not sure whether or not there will be a division, but I indicate our enthusiastic support for the Bill. The Democrats realise that steps forward are worth while. This is a significant step forward. It is not the complete release from discrimination that I was hoping for with my amendment, but we enthusiastically support the Bill.

The Hon. G.L. BRUCE: I indicate that the Government is opposed to the third reading but because of the test vote taken on the second reading we will go along on the voices. We are opposed strongly to the Bill introduced by the Hon. Mr Cameron. We believe that there is no real consensus for it out in the wide world. There has been no pressure put on us as members of Parliament. There has been none put on me since August; I understand that there has been no

pressure put on our members suggesting an urgent or pressing need that this legislation should be enacted. We are strongly opposed to the Bill.

The Hon. M.B. CAMERON: I thank the Hon. Mr Gilfillan for his indication of support. That is much appreciated. I appeal to the Government to go down to their Lower House colleagues and tell them what has happened here. They should tell them that the majority of members in this Chamber—an overwhelming majority—support this change. The Government should stand up to the union and allow this measure to go forward. The Hon. Mr Bruce says there is no overwhelming need for this change. Let me tell him that it is time he went out to country areas and learnt that for country people it is one piece of legislation that they need, that they support and that they hope will pass this Parliament in this session. If by some chance (and I hope this does not happen) the Bill fails in the Lower House, I assure the Government that it will be back and that it will continue to come back until it passes.

Bill read a third time and passed.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER (Attorney-General),** obtained leave and introduced a Bill for an Act to amend the Legal Practitioners Act, 1981. Read a first time.

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER:** I move:

That this Bill be now read a second time.

This amendment to the Legal Practitioners Act, 1981, is the culmination of a considerable period of discussion with the Law Society of South Australia. The amendments are of a varied nature. The principal matters dealt with are as follows: provision is made for the distribution of moneys paid as interest on solicitors' trust accounts. From 1 July 1983 interest has been paid on moneys held in solicitors' trust accounts. This money is not paid to the solicitors themselves but is paid to the Law Society which, following discussions as to the appropriate application of the moneys so received, has agreed to apply 50 per cent of the money to the Legal Services Commission with part of the additional funding being used to give financial aid to community legal centres; 40 per cent to the guarantee fund, and 10 per cent to a law foundation to be established in this State.

This basic agreement with the Law Society has been incorporated into the new section 57a of the Legal Practitioners Act. The percentages to be applied to each area have been fixed as agreed at the outset and it is only possible for the percentages to be altered by agreement between the Society and the Attorney-General. The apportionment of funds as between the Legal Services Commission, on the one hand, and community legal centres on the other, and the conditions on which such funds are applied, is left to the direction of the Attorney-General. Ten per cent of the moneys are to be payable to a person to be applied in or in relation to the provision of legal services to the community or a section of the community or shall be applied for the purposes of legal research and education. It is the intention that this money will be directed to a law foundation which the Law Society intends to establish in this State. The foundation has not yet been constituted. Specific provision has been made to ensure that legal practitioners maintain their trust accounts at banks which will pay interest on the account.

Section 73 of the principal Act provides for confidentiality in relation to the work of the Legal Practitioners Complaints Committee. The Law Society considers that for the smooth running of the Act there should be a proper exchange of information between the Complaints Committee and the Council and inspectors appointed under Part III of Division V. The present section 73 is seen by the Society as a substantial obstacle to a proper flow of information. Section 73 has accordingly been amended to provide that the Complaints Committee may disclose information to the Law Society Council, a person or committee to whom the Council has delegated its power to appoint inspectors and to the inspectors themselves. It has been found, in the course of investigations conducted under the Act that books, accounts, documents or writings relevant to a practitioner whose conduct is under investigation may be in the custody of a wider range of persons than just the practitioner or his employees. Section 76 has been widened to include former employers, employees or partners, the Legal Services Commission or another practitioner who may have instructed the practitioner whose affairs are under investigation and the manager of a bank with whom the practitioner deposited moneys.

Provision is made for the non-renewal of practising certificates of those practitioners who fail to submit an auditor's report as required by the principal Act. The Bill also provides for the Registrar of the Supreme Court to exercise some of the minor powers of the court, subject to any rule, order or direction of the court and subject to appeal to a judge by an aggrieved party. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 adds a new subsection to section 18 of the principal Act. The new provision will mean that a practitioner will not be able to continue in practice until he has submitted a copy of an auditor's report as required by the Act. Clause 4 amends section 29 of the principal Act in order to allow the court's approval to alterations of memorandum and articles of a company that is a legal practitioner to be given by the Registrar. The change will increase the efficiency of the court by reducing the work load of the judges and masters.

Clause 5 amends section 31 of the principal Act by replacing subsection (6) with two new subsections. The new subsections retain the substances of the existing subsection and incorporate a requirement that banks pay interests on trust accounts at or above a level determined by the Law Society. Clause 6 amends section 33 of the principal Act. As with the amendment made by clause 4 this is an extension of the jurisdiction of the court in a straightforward matter to the Registrar. In both cases new subsection (3) provides a right of appeal to a judge against the decision of the Registrar. Clause 7 amends section 35. New subsection (3a) provides that an auditor or inspector may make copies of documents produced as required by the section. It has general application and consequently the specific requirement in subsection (3) as to bank documents is deleted by paragraph *(a)*.

Clause 8 makes an amendment to section 42 of the principal Act which will allow the Registrar of the Supreme Court to tax and settle bills of costs. This ability should improve the efficiency of the court. Once again an appeal lies to a judge against a decision of the Registrar. Clause 9 amends section 52 of the principal Act by inserting a regulation making power in relation to fees payable to the Law Society in respect of the Society's costs of administration. Clause 10 makes minor changes to section 54 of the principal Act. Paragraph *(a)* makes it clear that 'an approved bank' must pay interest at or above the rate determined by the Law Society. New subsection (3) gives the Society explicit power to make and revoke determinations for that purpose.

Clause 11 enacts new section 57a of the principal Act. The amendment made by clause 5 to section 31 (6) will ensure that interest will be paid on solicitors' trust accounts. Section 57a sets out how this interest will be used. Subsection (1) requires the interest to be paid to the Society and subsection (2) provides the manner in which the Society must deal with it. Subsection (3) allows the Attorney-General to vary the conditions upon which money is paid to the recipients referred to in subsection (2) and allows him, with the approval of the Society, to vary the proportions in which the recipients referred to in 2 *(a), (b)* and *(c)* respectively will share the money available. Subsection (4) will allow the Attorney-General to vary the manner in which the money referred to in paragraph 2 *(a)* may be distributed amongst the recipients referred to in that paragraph without the approval of the Law Society. It is proposed that the 10 per centum referred to in paragraph (2) *(c)* will be paid to a law foundation that will be established by the Law Society. As it has not yet been established it is impossible to refer to it by name but subsection (5) limits the purposes for which that money may be applied.

Clause 12 amends section 60 so that claims against the guarantee fund may be made in respect of defaults occurring on or after 4 December 1969, instead of 1 January 1975. Recent cases of professional default have shown that such a change is necessary. The date of 4 December 1969 was the day on which the guarantee fund came into existence. Clause 13 amends section 73 to widen the category of persons to whom information acquired by the complaints committee can be divulged. Clause 14 amends section 76 to widen the categories of persons whose documents are subject to inspection.

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

CO-OPERATIVES ACT AMENDMENT BILL

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Co-operatives Act, 1983. Read a first time.

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER:** I move:

That this Bill be now read a second time.

The Co-operatives Act, 1983, has not been proclaimed to come into operation pending the completion of the drafting of regulations. The Government is concerned that this legislation should come into operation as soon as possible. It will regulate an area of business which is of considerable economic importance to the State. Moreover, the Act repeals the Industrial and Provident Societies Act, 1923, which is now totally inconsistent with modern body corporate legislation and commercial practice.

When drafting the regulations the Corporate Affairs Commission formed the view that some minor technical amendments to the Act would allow clearer and more concise regulations. The Bill also contains several provisions, notably a new definition of 'special resolution', which make for an appropriate uniformity with other body corporate legislation.

The provisions of the Bill are non-contentious, and will enhance the legislation previously enacted. Prior to the passing of the Act in 1983, and in the course of drafting the regulations thereunder, the Corporate Affairs Commission has been in regular consultation with representatives of the co-operative movement. This Bill and the Commission's approach to the drafting of the necessary regulations has their support. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 4 of the principal Act in two respects. The first amendment relates to the definition of 'special resolution' and will provide that such a resolution must be passed by a majority of not less than three-quarters of the members present at the meeting where it is proposed or voting by proxy. The present formula is inconsistent with that contained in the Companies (South Australia) Code and does not allow for voting by proxy. The second amendment is inserted to ensure that where a provision of the code is to apply to this Act with such modifications as may be necessary for the particular purpose, it will be possible to provide such additions or exclusions to that provision as may also be necessary.

Clause 3 inserts an additional transitional provision in section 6 that is to apply in relation to the accounts and audit provisions of the principal Act. The Government considers that it is reasonable to allow existing societies a period to adjust to the new Part V and, accordingly, it is intended to provide that that Part not apply until the commencement of the financial year of the co-operative next after the one that is applying at the commencement of the new Act. The provisions of the repealed Act relating to accounts and audit will continue to apply during the transitional period. Clause 4 amends the requirement of the Commission to provide an annual report so that it will be consistent with the requirement contained in the Companies (Administration) Act, 1982 (as amended by the Companies (Administration) Act Amendment Act, 1984).

Clause 5 corrects a slight flaw in section 13 of the principal Act. At various places throughout the Act references are made to either 'co-operatives' or 'registered co-operatives'. The references in section 13 should be to 'registered co-operatives' as it is not intended that the powers conferred by this section be exercisable in relation to bodies that are not registered under the Act. Clause 6 proposes an amendment to section 15 of the principal Act to enable the Commission to reject the name of a co-operative that it considers to be undesirable. A similar power is available in relation to the registration of business names.

Clause 7 provides for the enactment of a new section 16. As section 16 presently stands, it provides that liabilities of a registered co-operative do not attach to, and are not enforceable against, a member or officer of the co-operative. However, this is simply stating the existing law as the decision in *Salomon v Salomon* made it clear that in the area of corporate bodies a creditor deals with the body alone. A co-operative, in the absence of strong evidence to the contrary, will accordingly be taken to be contracting as principal and not as agent for some or all of its members. It is submitted that, if section 16 is to take into account correctly the separate legal personality of a registered co-operative, it should concern itself with the liability of members to the co-operative rather than to a creditor. The new provision attempts to do this.

Clauses 8 and 9 effect similar amendments to sections 17 and 19 of the principal Act that are consistent with the amendment effected to section 15 under clause 6. Clause 10 corrects references in section 20 of the principal Act so that the section will only apply to registered co-operatives. Clause 11 amends section 24 of the principal Act to enable a member of a registered co-operative to restrain the co-operative from carrying out an *ultra vires* transaction. As presently cast, the section only allows a member to obtain an injunction restraining the entering into of a transaction that is *ultra vires*. Clause 12 relates to section 28 of the principal Act. As the section is presently cast, it precludes a director who has a direct or indirect interest in a contract or proposed contract before the committee of management

from taking part in any deliberations of the committee with respect to that contract. This provision is inconsistent with the code in that under that Act a director who has declared his interest may take part in the deliberations, but may not vote. It is therefore proposed to remove the restriction on taking part in such deliberations (subject to complying with the other provisions as to disclosure).

Clause 13 amends section 29 of the principal Act so as to clarify that a person of or over the age of 72 years may be appointed as a director of a registered co-operative provided that the procedures set out in section 226 of the code are complied with (as appropriately modified for the purposes of the principal Act). Clause 14 amends section 31 of the principal Act to facilitate the effective application of provisions of the code under that section. The amendment is required as during the course of preparing regulations that could apply under section 31, it has become apparent that the provision, as presently drafted, presents the Government with a massive task in transposing the relevant 'code' provisions. It is therefore intended to effect an amendment that will provide for consistency with other provisions in the Act that similarly apply code provisions and that will assist in the proper administration of the Act. The result will be that the relevant provisions of the code will be able to apply without much alteration at all by regulations.

Clause 15 effects two amendments to section 37 of the principal Act that are consistent with amendments explained in relation to earlier clauses. Clause 16 amends section 59 of the principal Act in a manner that is similar to that effect to section 31 under clause 14 of the Bill. Clause 17 amends section 61 of the principal Act to provide consistency with other amendments and to link up to the proposed new section 16 in relation to the liability of members to contribute towards the costs, charges and expenses of a registered co-operative in the event that it is wound up. Clause 18 inserts a new section in the principal Act to require a registered co-operative to appoint a secretary. The Act contemplates the appointment of a secretary, but does not make provision for this to occur, and it appears to be prudent to require a co-operative to have the position of secretary constantly occupied. The proposed section is cast in a manner that is similar to section 236 of the code.

Clause 19 amends section 69 of the principal Act to provide consistency with other amendments effected by this Bill in relation to the application of provisions of the code and to facilitate the operation of the section. Clause 20 provides for a new section that will make it an offence to represent falsely that a body is a co-operative registered under this Act. Clause 21 provides for a new section 76 that again is intended to provide consistency in relation to the application of provisions of the code and to facilitate the operation of the section.

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

REAL PROPERTY ACT AMENDMENT BILL

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Real Property Act, 1886. Read a first time.

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER:** I move:

That this Bill be now read a second time.

This Bill amends the Real Property Act in two distinct ways. It provides for the postponement of mortgages. The object of the proposal is, simply, to enable a mortgagee to lodge a document postponing his mortgage to a subsequent mortgage. The Real Property Act gives priority to mortgages according to time of registration. Thus a mortgage registered first in time will be accorded priority over a mortgage registered later in time. The only way in which priorities of mortgages can be altered under the present law is for existing mortgages to be discharged and new mortgages to be registered.

In the ACT, NSW, Tasmania and Victoria as well as in New Zealand, there is a simple procedure to vary the priority between existing mortgages by the lodgment of a memorandum of variation of priority of mortgages, signed by all parties who will be affected by the change. In some States the procedure is also used for varying the priority of encumbrances. A procedure for varying the priority of mortgages and charges similar to the procedure already successfully operating interstate is provided for in this amendment.

The second amendment provided for in the Bill is the incorporation of standard conditions in mortgages. At present all terms and conditions of mortgages must appear in the document itself. The amendment makes provision for standard mortgage conditions and terms to be lodged with the Registrar-General. A mortgage document will be relatively short and will incorporate reference to the terms and conditions lodged with the Registrar-General.

The advantages of such a proposal are the easier and simpler preparation of documents and the production of less bulky documents with the consequent savings in space. The consumer will not be disadvantaged by this proposal as provision has been made requiring that the mortgagor be provided with a copy of the standard terms and conditions to be incorporated into the mortgage. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the provision. Clause 3 inserts new subsections in section 56 of the principal Act. These new provisions will allow the holders of registered mortgages or encumbrances to apply to the Registrar-General for a variation in the order of priority of registration. An application will have to be made by every holder of a mortgage or encumbrance that is to have its priority varied, and with the consent of the holder of any mortgage or encumbrance that may intervene between those mortgages or encumbrances.

Clause 4 proposes that a new section 129a be inserted in the principal Act. This section will allow a person to deposit with the Registrar-General a document containing standard terms and conditions for incorporation in mortgages that are to be lodged by him. Thereafter, a mortgage may provide that those terms or conditions, or those terms and conditions with specified exclusions or amendments, are incorporated in the mortgage and the mortgage may then have effect accordingly. To ensure that a person executing a mortgage that is to incorporate standard terms and conditions is aware of those terms and conditions, the mortgagee will be required to provide him with a copy of the standard terms and conditions before execution of the mortgage. A penalty of $500 is prescribed in the event of non-compliance.

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

BAIL BILL

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to regulate the granting of bail. Read a first time.

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER:** I move:

That this Bill be now read a second time.

In January 1983 this Government authorised a review of the law of bail. To that end, officers of the Attorney-General's Department and the Office of Crime Statistics prepared a report entitled a 'Review of Bail in South Australia', after extensive consultation with the Commissioner of Police, the magistracy and other interested persons. That report was made public in June of this year and made 39 recommendations on the reform of the law of bail. The primary recommendations were to the effect that:

(1) a Bail Act should be enacted in South Australia;
(2) this Act should deal comprehensively with procedures relating to adults in matters of police bail and court bail;
(3) the criteria applied by police officers in relation to bail should be the same as are applied by the courts; and
(4) the Act should provide for bail applications by telephone where a person has been refused bail by a police officer.

Following publication of the report comments and submissions were received from various members of the Judiciary, the Australian Crime Prevention Council (S.A. Branch), the Offenders Aid Rehabilitation Services of S.A. Inc., and others. These comments and submissions enabled adjustments to be made to the approach that the legislation would eventually take. The report had identified a number of possible areas for improvement. In particular it concluded that such areas included:

> Abolition of the use of the custodial remand as a mechanism for delivering compulsory welfare to drunkenness offenders; establishment of a hierarchy of bail options along the lines of the ALRC recommendations; ensuring that defendants unable to obtain sureties have opportunities to apply for an early review of their situation; and encouraging higher criminal courts to remand in custody during the pre-sentence stage only if a custodial penalty is likely.

Earlier, the authors of the report had observed:

> Of all the issues associated with criminal justice, administration of bail must be among the most contentious. On one hand, victims of crime, witnesses and the general public have an undeniable right to be protected from offenders and be assured that individuals charged will be brought to trial. On the other, there is the equally important question of a defendant's right to be presumed innocent until otherwise proven.
>
> In undertaking the current review of the bail system, we have attempted to achieve a balance between these two principles. Some of our recommendations—for example, that the Crown be given rights to apply for the review of decisions, that police officers be given to designating special bail justices—have been prompted by concern for the general public interest. Others, such as endorsement of the Mitchell Committee's views on appropriate bail criteria and suggested implementation of bail hostels or other emergency accommodation, have been oriented toward the rights of the accused.

The Bill now provides a comprehensive and virtually self-contained code on matters pertaining to the bail process. In particular it seeks to deal with:

(a) the authorities to whom applications for bail can be made;
(b) the nature of bail agreements and guarantee (or surety) agreements;
(c) the factors which a bail authority must take into account in determining whether or not an applicant for bail should be released;
(d) the precise nature of conditions that can be imposed on a person released on bail (including bail under the supervision of officers of the Department of Correctional Services);
(e) the procedure on arrest of a person by a police officer;
(f) the review of decisions made by bail authorities, including expeditious reviews to be made to a magistrate by telephone or other telecommunicative means;
(g) the consequences for contravention of a bail agreement; and
(h) other consequential matters.

A major finding of the report was that, by itself, a new Act could not be expected to solve the problems of South Australia's bail system. There was perceived to be a need to back any legislative changes with administrative reforms. To meet that need the Government has established a working party to examine, investigate and report upon all necessary and desirable reforms to existing administrative procedures to ensure that the objects and purposes of the proposed Bail Act, 1984, will be promoted and maintained. It is the intention of the Government that this Act would not be proclaimed to come into effect until the working party has reported and its recommendations are implemented by the departments and authorities affected by them. The administrative issues to be considered in conjunction with implementation of this Bill include:

1. Design of a standard bail application form.
2. Procedures for ensuring that defendants are given bail documents in a language they understand, or that the system is explained in that language.
3. Procedures for informing people of the right to reapply for court bail, should sureties be unavailable, and to ensure they have their cases reconsidered by a court as soon as possible.
4. Feasibility of extending existing emergency accommodation, or introducing bail hostels, for bail applicants who lack suitable accommodation.
5. Procedures for ensuring that the Legal Services Commission is informed promptly whenever an individual is being held in custody because bail or sureties could not be arranged.
6. Procedures for ensuring that every individual remanded in custody has his or her bail status reviewed on a regular basis.
7. The mechanics of telephone reviews.
8. Possible involvement of Probation and Parole Service in supervising persons released on conditional bail.

This Bill is the product of assiduous labour over a considerable period by people, both specialist and lay, who are most concerned to ensure that the law of bail in this State is rationalised in content, accessible in practice and fair in its application.

The Bill is to be read in conjunction with the Bill for the Statutes Amendment (Bail) Act, 1984, which effects necessary amendments to a number of statutes consequential upon the codification exercise that is the intent of this Bill. I commend this Bill to honourable members. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is the short title. Clause 2 provides for the commencement of the measure. Clause 3 sets out the various references that are to be used in the measure. Included are definitions of 'bail authority', 'eligible person' and 'financial condition', which is a condition requiring an applicant for bail to provide security or obtain guarantees, or requiring a guarantor to provide security.

Clause 4 sets out the various persons who are eligible to apply for bail, being either a person who has been taken into custody for an offence but not convicted, a person who

has been convicted but not sentenced, or a person who has been convicted and sentenced but has not exhausted all his rights of appeal or review. (However, it is not expected that bail will be granted pending the lodging of an appeal or the determination of an appeal unless the circumstances are exceptional.)

Clause 5 defines the courts and officers who may act as bail authorities. Included are the Supreme Court and other criminal courts and justices, depending on the offence charged, and where the person is in custody but has not been brought before a court or justice, members of the police force who are of or above the rank of sergeant or who are in charge of a police station. The court or justice issuing a warrant for the arrest of a person may also authorise specified persons to act as bail authorities.

Clause 6 describes the nature, content and form of a bail agreement. Under a bail agreement, a person agrees to be present during all proceedings relating to, or arising from, a charge or conviction. He also agrees to comply with such conditions regulating his conduct as may be specified in the agreement and, if the agreement so provides, relating to the forfeiture of money if he fails to comply with the terms of the agreement. The provision empowers the Supreme Court, and any other court or justice before which a person is bound to appear, to vary the terms or conditions of a bail agreement, or to revoke an agreement. An agreement may therefore be subjected to continual review and revision.

Clause 7 describes the nature, content and form of a guarantee. As has been provided in the preceding provision, the Supreme Court, or any other court or justice before which a person on bail is bound to appear, may, on the application of the guarantor, vary the terms of a guarantee or revokes a guarantee. This will allow the review of a guarantee if the guarantor considers that he cannot fulfil the terms of the guarantee. If a court or justice makes an order under this section, it may also make any consequential order that may be appropriate in relation to the bail agreement.

Clause 8 relates to initial applications for bail. An application must be made in writing and contain prescribed information. A person who has the custody of an eligible person must afford him reasonable assistance to complete the application and, where appropriate, must transmit the application to a bail authority. Proposed new subclause (3) ensures that the same written application may be used upon subsequent applications for bail.

Clause 9 empowers a bail authority to make reasonable inquiries in relation to a bail application. Where the bail authority thinks fit, it can take evidence on oath (provided the authority is not a member of the Police Force). Where a person gives evidence on oath, other parties to the application can examine, cross-examine or re-examine the person.

Clause 10 sets out the various principles that should be taken into account by a bail authority when determining an application for bail. Subsection (1) provides that, in relation to a person who has not yet been convicted of the offence charged, the bail authority should grant bail unless it considers, for reasons specified in the legislation, that the person should not be released. Obviously, matters such as the gravity of the offence and the likelihood that the accused would, if released, abscond or interfere with witnesses would bear considerable examination. Subsection (2) relates to a person who is an applicant for bail after his conviction. Radically different principles must then apply to an application as now the person is no longer to be presumed to be innocent, but is facing the punishment for the crime for which he has been convicted. In such a case, the bail authority has, subject to the other provisions of this Bill (especially clause 20 (2)), an unfettered discretion in relation to the question of bail.

Clause 11 relates to the conditions that may be imposed under a bail agreement. One condition worth noting relates to requiring a person to place himself under the supervision of an officer of the Department of Correctional Services. It is hoped that this will improve the alternatives available to bail authorities, and may become particularly useful if the person is awaiting sentencing. However, the availability of this condition will depend on departmental resources and so will only be possible upon the application, or with the consent, of the Crown. The section also implements the policy that financial conditions should not be imposed unless the bail authority is of the opinion that the object of ensuring that the person complies with bail cannot be otherwise obtained. This will help to ensure that the financially disadvantaged are not prevented from obtaining bail by virtue only of the fact that they are so disadvantaged, and accords with recommendations of the Australian Law Reform Commission. It may also be noted that the new provision will allow police officers who are bail authorities to set conditions that are the same as those that may be imposed by courts, thus providing greater consistency and fairness.

Clause 12 requires a bail authority that has refused bail to make a written record of the reasons for its decision. Clause 13 prescribes the procedures that are to be followed after the arrest of a person (in relation to bail applications). The police will be obliged to take reasonable steps to ensure that the arrested person understands that he is entitled to apply for bail and will be obliged to give him both a standard form statement explaining how, and to what authorities, an application may be made and a standard for bail application. If the arrested person does not obtain bail from the police, he may request to be brought before a justice, and must then be so brought as soon as is reasonably practicable on the next working day, and in any event before noon on that day.

Clause 14 provides that a decision of a bail authority is subject to review. An application for review may be made by the Crown or any other person affected by the decision. (Presently, the Crown has no right to apply for a review of a grant of bail.) Furthermore, a decision of a member of the Police Force or justice (not being a magistrate) will be able to be reviewed by a magistrate. (All other applications for review will be heard by the Supreme Court.) On a review, the reviewing authority will be able to reconsider the application in its entirety, and so the court will not be limited to deciding whether the bail authority reached the correct decision on the basis of information that was available at the time of the initial application. Under subsection (4), a bail authority will have to furnish a reviewing authority with all documentary or other material in its possession that may relate to the application. An application for review will have to be heard as expeditiously as possible.

Clause 15 provides for the review of bail decisions by telephone. This procedure will be available if there is no magistrate in the vicinity available to review bail decisions (but will not apply if the initial application was to a member of the Police Force and the person will be able to be brought before a justice on the next day). The procedure will be particularly useful if a person is arrested in an outlying area or on a weekend. Extensive consultation with the police and magistrates will be undertaken to ensure that a satisfactory system is developed to cater for this new type of application.

Clause 16 provides that where the Crown indicates, at the time that a bail authority decides to grant bail, that an application for a review of the decision will be made, that the release of the person shall be deferred until the review is completed, or for 70 hours, whichever first occurs. The Crown considers that it will be able to proceed quickly with applications for review and it appears to be reasonable that

release should be deferred to enable the matter to be settled by the reviewing authority.

Clause 17 provides that non-compliance with a bail agreement will constitute an offence and result in the person being liable to the same penalties as are prescribed for the principal offence, so long as a term of imprisonment does not exceed three years. Clause 18 will allow a court or justice to cancel a person's right to be at liberty under a bail agreement if it appears that the person has contravened or failed to comply with the agreement. A member of the Police Force will, without a warrant, be able to arrest a defaulting person.

Clause 19 relates to the power of a court or justice before which a person is bound to appear, or any court of summary jurisdiction, to make an order of estreatment in relation to a bail agreement. Clause 20 provides that a bail agreement will, unless the court otherwise determines, terminate upon a conviction for the offence in relation to which bail was granted. Different considerations apply upon the conviction of a person and the Bill recognises that at that time a court must reassess the issue of bail. However, it is not reasonable that bail be discontinued if the person will not, or is unlikely to be, sentenced to imprisonment.

Clause 21 provides for the acceptance of apparently genuine bail agreement or guarantee as evidence. Clause 22 makes it an offence to provide false information in an application for release on bail. Clause 23 provides that proceedings in respect of an offence against the Act will be summary proceedings. Clause 24 preserves the operation of Division VII of Part IV of the Justices Act, 1921 (orders to keep the peace) and the provisions of the Children's Protection and Young Offenders Act, 1979. Clause 25 provides that the Act of the Imperial Parliament 48 Geo. III c. 58 shall have no further force or effect in this State (as recommended by the South Australian Law Reform Committee). Clause 26 is a regulation-making power.

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

STATUTES AMENDMENT (BAIL) BILL

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER (Attorney-General),** obtained leave and introduced a Bill for an Act to amend the Children's Protection and Young Offenders Act, 1979; the Justices Act, 1921; the Local and District Criminal Courts Act, 1926; the Offenders Probation Act, 1913; the Police Offences Act, 1953; and the Supreme Court Act, 1935. Read a first time.

The Hon. Frank Blevins, for the **Hon. C.J. SUMNER:** I move:

That this Bill be now read a second time.

It effects necessary amendments to a number of Statutes that are the consequence of the codification exercise, that is, the Bill for the Bail Act, 1984. The amendments reflect the reformed approach to the bail process in this State and the desire to make, as far as possible and practicable, the Bail Act, 1984, a complete, comprehensive and self-contained code on the law, practice and procedure of bail. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 proposes an amendment to section 43 of the Children's Protection and Young Offenders Act, 1979, to provide for an application by telephone for a review of a decision of a member of the Police Force not to release a child on bail. Such an application will only be made if there is no justice in the vicinity immediately available to hear and determine a further application for bail. The procedures are similar to those prescribed by the proposed new Bail Act. Apart from this amendment, there appears to be no need to change the procedures that presently operate under this Act.

Clause 4 provides extensive amendments to the Justices Act, 1921, in order to provide consistency and cohesion between this Bill and the proposed new Bail Act. One amendment provides for the repeal of section 21, dealing with endorsing warrants with a power to release the person to whom the warrant relates on bail upon his arrest, as clause 5 (2) of the Bail Bill empowers a court or justice issuing a warrant to nominate a person who may grant bail upon an arrest being effected. A further amendment will repeal those sections that deal with recognisances and security, and their enforcement (sections 30 to 41). Other amendments provide for the rationalisation of those provisions relating to preliminary examinations and committal for sentence that contain references to the granting of bail, entering into of recognisances, etc. The repeal of Division IV of Part V is appropriate as that is concerned with the granting of bail under the principal Act. Section 168 may be repealed as it relates to the powers of a special magistrate or justices to grant bail to a person who has appealed under Part VI of the Act. Several other incidental amendments are proposed.

Clause 5 relates to section 337 of the Local and District Criminal Courts Act, 1926. It is proposed to strike out subsection (3) of this section, which provides that where the venue for the trial or sentencing of a person is changed, the Attorney-General may apply to a justice for an order that the person enter into a recognisance with sureties for his due appearance at the new venue. This provision will be adequately dealt with by the new Bail Act.

Clause 6 relates to the Offenders Probation Act, 1913, and is included by reason of the proposed repeal of section 39b of the Justices Act, 1921, which relates to the proof of a recognisance. Clause 7 provides for a revision of section 78 of the Police Offences Act, 1935, dealing with procedures to be followed on arrest without warrant and the repeal of section 80, which relates to the right of an arrested person who does not obtain police bail to apply to a justice for bail.

Clause 8 effects various amendments to the Supreme Court Act, 1935. These are required either because of changes in terminology that are to be adopted with the new Bail Act or, in the case of the repeal of section 61, because of a general power in the proposed new Act to review bail agreements at any time or stage during criminal proceedings.

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

CONSENT TO MEDICAL AND DENTAL PROCEDURES BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to provide for consent to medical and dental procedures; to repeal the Emergency Medical Treatment of Children Act, 1960; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to clarify the law in relation to consent to medical and dental procedures. It is intended to

clarify the law in three main areas—consent in relation to procedures carried out on minors, including emergency situations; emergency medical procedures carried out on persons unable to consent; and protection from criminal or civil liability in respect to procedures carried out with consent.

Consent is an issue which is at the very heart of medical practice. With the increasing array and extent of medical procedures and treatments available, patients are being asked to consider a wide range of options available to them for the treatment or alleviation of their medical conditions. Faced with more sophisticated procedures patients are required to make decisions to enable them to reap the benefits of modern medical practice.

For a consent to be valid the law requires that it must be 'informed', that is to say it must be a reasoned decision to proceed with a treatment after having considered information about the nature and consequences of such treatment. The importance of this principle cannot be underrated. It represents, as Justice Kirby stated in a speech before the 1982 Annual Scientific Meeting of the Association of University Clinical Professors of Australia, a 'recurrent feature of our civilisation [which is] the respect for the autonomy of the individual human being with inherent dignity and value'.

Justice Kirby went on in that speech to stress the importance of informed consent which underlies the introduction of this legislation. He felt that each of us is said to have 'the right to control our lives and our actions by our own choices, at least to the greatest extent compatible with the right of others'. This Bill represents a large step forward in the area of consent. It aims to clarify the existing common law, particularly in relation to consent by minors. It will allow persons to determine and control their own lives in respect of any medical or dental treatment, a right which is not always able to be exercised by certain sections of our community.

In circumstances where the law is not crystal clear, doctors (and dentists) have traditionally been reluctant to act for fear of legal actions for assault or negligence. This fear of legal action is widely held yet I do not believe that the courts have been asked to address the problem on many occasions. Notwithstanding the absence of such a threat, the fear is nonetheless real and I believe that doctors and dentists, when treating such patients, should not be asked to do so in a legal vacuum. After all, we must consider that the paramount consideration is that health care is a right not a privilege in today's society and no-one should be denied the health care they require.

To this end the Government is anxious to secure the passage of this Bill, which attempts to clarify the rights of persons in the community in relation to treatment. This is what I believe Justice Kirby meant when he spoke of 'the respect for the autonomy of the individual'.

This Bill is not controversial in nature; it clarifies the common law situation already in existence. What it does provide is a firm basis upon which a good doctor-patient relationship can be established. It seeks to ensure that a person will be able to receive the treatment he needs, and it provides the doctor or dentist with a much clearer definition of his role as a service provider.

This legislation is based upon recommendations of a Working Party on Consent to Treatment which was established in February 1983. The working party, consisting of medical and legal officers of the Health Commission, reported in December 1983 and recommended that a number of changes be made to the law and policy relating to consent to treatment.

The recommendations of the working party are wide-ranging and I believe it is the first time in Australia that the whole ambit of consent has been tackled in one exercise. As well as recommending important changes to the law, the report called for a re-evaluation of the attitude in the medical profession in relation to the issue of consent. It called for further training for doctors and the dissemination of consumer protection information about the need for informed consent. Under the report's proposals, doctors will be responsible for obtaining informed consent from patients, recognising the need for the patient to be given sufficient information so that he or she can make a reasoned choice.

The report also addressed such important areas as the need for consent forms to be more concise and the need for such forms and information to be available in all major community languages. The working party was asked to look at the area of consent by and on behalf of intellectually handicapped persons. This area will be the subject of a Bill to be introduced later in this session (which I propose to refer to a Select Committee for consideration).

The report stated that a single piece of legislation should be introduced to provide minors, 16 years or over, with the ability to give as effective consent to medical or dental treatment as an adult can give. This recognises the fact that a minor at 16 is usually able to realise the nature and consequences of any proposed treatment for him. Such legislation would embody general practice and would clarify the common law principle which relates the ability to consent to a person's understanding rather than a particular age. The legislation would follow the intent of a previous private member's Bill (the Minors Consent to Medical and Dental Treatment Bill, 1977) introduced by the Hon. Anne Levy, MLC, which was the subject of a Select Committee. It is also similar to legislation already in existence interstate and overseas.

This move would provide clarity for both doctors and patients and would recognise the maturity of 16 year olds in today's society. As the working party rightly pointed out in its report, under existing legislation a minor of that age is able to consent to sexual intercourse, drive a motor vehicle, be employed and undertake most of life's roles and responsibilities. It is right that such self-determination of their own lives be extended to allow them to make a choice about medical and dental care. If a person is mature enough to seek such care, he or she should not be denied treatment solely because of age.

The Bill also seeks to provide that where practicable a minor below the age of 16 should be able to provide informed consent if, in the opinion of the attending doctor or dentist, he or she were capable of understanding the nature and consequences of the proposed procedure. For example, where a child is injured at school, it is not beyond the comprehension of most children to understand that they must receive treatment, say, for a broken limb. In such a situation a child would be able to provide valid consent if required.

It is also appropriate that such legislation repeals and replaces the Emergency Medical Treatment of Children Act, 1960, as a single comprehensive piece of legislation dealing with the medical treatment of children. The working party also recommended that a medical practitioner should be provided with a statutory defence when he renders treatment to save the life of a patient when that patient's consent cannot be obtained.

A commonly held view among members of the medical profession is that, by intervening in such a life threatening situation in the absence of consent, they might render themselves open to litigation. This is particularly relevant in the case of an unconscious patient where the patient's spouse or family object to the particular treatment, for example, a blood transfusion.

At law a third party's consent (that is, a spouse or family member) has no validity. Notwithstanding this principle,

'there have unfortunately been occasions when essential treatment has been withheld at the behest of a spouse or family members and a patient has died as a consequence. Medical practitioners should not be placed in such a position if there is an option to save the patient's life. Such a defence, which already exists in interstate and overseas jurisdictions, would protect them from civil or criminal prosecution for their actions.

For example, a doctor could be faced with the dilemma of having to operate in an emergency upon a person whose family might insist he has some religious or conscientious objection to medical intervention. In the absence of such knowledge directly from the patient, as opposed to information provided by a third party, the doctor acting in good faith should be allowed to provide the patient with the health care he needs.

Such a provision would also allow doctors to provide emergency treatment in situations such as roadside accidents. Fear of litigation if they should interfere and treat an 'unwilling' accident victim has also been a dilemma faced by many doctors. This legislation will allow such doctors to provide necessary emergency treatment, provided that they were not aware of any clear indications to the contrary on the part of the patient, that is, when the doctor acts in good faith to treat such a patient.

I hope that clarification of the law will lead to a greater understanding of the roles of the patient and medical practitioner and enhance a greater appreciation of their respective rights. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the repeal of the Emergency Medical Treatment of Children Act, 1960. Clause 3 provides definitions of expressions used in the measure. 'Consent' is defined as an informed consent given after proper and sufficient explanation of the nature and likely consequences of the medical or dental procedure to which it relates. 'Dental procedure' and 'medical procedure' are defined as including any act done by, or pursuant to directions given by, a dentist or medical practitioner in the course of practice as such. 'Minor' is, of course, a person under 18 years of age. 'Parent' is defined as including a guardian of a minor or a person acting *in loco parentis* in relation to the minor.

Clause 4 provides that the measure is not to apply in relation to a person who is by reason of mental illness or mental handicap incapable of giving an effective consent. The measure is not to affect the operation of the Transplantation and Anatomy Act, 1983, the Natural Death Act, 1983, or any other enactment that relates to the giving, refusal or absence of consent in relation to the carrying out of a medical or dental procedure.

Clause 5 provides, at subclause (1), that the consent, or the refusal or absence of consent, on the part of a minor who is of or above the age of 16 years has effect in relation to the carrying out of a medical or dental procedure as if the person were of full age. That is, refusal or absence of consent to a procedure would have the same effect as that of a person of full age of rendering unlawful the carrying out of the procedure. In addition, under subclause (1), the consent or refusal or absence of consent of such a person will be effective in relation to a procedure carried out on any other person to the extent possible at law: for example, it would have effect in relation to a procedure carried out on a child of the minor.

Subclause (2) provides that the consent of a minor under 16 has effect in relation to the carrying out of a medical or dental procedure if a medical practitioner or dentist is of the opinion, supported by the written opinion of another medical practitioner or dentist, that the minor is capable of understanding the nature and consequences of the procedure and that the procedure is in the best interests of the health and well being of the minor. Subclause (3) is designed to make it clear that the parent of a minor under 16 years of age may give an effective consent in relation to the carrying out of a medical or dental procedure on the minor.

Subclauses (4) and (5) provide for the emergency medical treatment of a minor under 16 years. Under subclause (4), a medical procedure carried out in prescribed circumstances on such a minor shall be deemed to have been consented to by the minor and the consent shall be deemed to have effect as if the minor were of full age. Subclause (5) provides that prescribed circumstances will exist for the purposes of subclause (4) if the minor is incapable of giving an effective consent for any reason (for example, unconsciousness or inability to understand the nature and consequences of the procedures); no parent of the minor is reasonably available or, being available, the parent, having been requested to consent, has refused or failed to consent; the medical practitioner carrying out the procedure is of the opinion that the procedure is necessary to meet imminent risk to the minor's life or health; and unless it is not reasonably practicable to do so having regard to the imminence of the risk, the opinion of the medical practitioner is supported by the written opinion of another medical practitioner.

Clause 6 provides for emergency medical treatment of a person of or above 16 years of age. The clause provides that a medical procedure carried out by a medical practitioner on such a person will, if prescribed circumstances exist, be deemed to have been consented to by the person. Subclause (2) provides that prescribed circumstances will exist for the purposes of the clause if the person is incapable for any reason of giving an effective consent; the medical practitioner carrying out the procedure is of the opinion that the procedure is necessary to meet imminent risk to the person's life or health and has no knowledge of any refusal on the part of the person to consent to the procedure being a refusal communicated by the person to him or some other medical practitioner; and, unless it is not reasonably practicable to do so having regard to the imminence of the risk, the opinion of the medical practitioner is supported by the written opinion of one other medical practitioner.

Clause 7 provides protection from criminal or civil liability in respect of medical or dental procedures carried out with consent. The clause provides that, notwithstanding any rule of the common law but subject to the provisions of any enactment, the consent of a person to the carrying out of a medical or dental procedure on him is effective whatever the nature of the procedure, provided that it is reasonably appropriate in the circumstances having regard to prevailing medical or dental standards and that no criminal or civil liability will be incurred in respect of a procedure carried out on a person with his consent if the procedure is reasonably appropriate in the circumstances, having regard to prevailing medical or dental standards, and the procedure is carried out in good faith and without negligence. The provision is to operate where the consent is given or deemed to be given by a person of full age.

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

[Sitting suspended from 5.52 to 7.45 p.m.]

NURSES BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to provide for the registration and enrolment of nurses; to regulate nursing for the purpose of maintaining high standards of competence and conduct by nurses in South Australia; to repeal the Nurses Registration Act, 1920; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

It is with considerable pleasure that I introduce this Bill which will reform and update the professional registration of nurses in this State. Proposed changes to the legislation are substantial. The new Act will replace anachronistic legislation first introduced in 1920. The overall aim of the changes is to modernise the legislation consistent with modern trends in the nursing profession. This legislation will again put South Australia in the forefront of comparable authorities in Australia and will enable the Nurses Board to exercise proper control over the profession as well as adequate protection for the community.

The original Act assented to in 1920 was designed to provide for registration of general nurses, mental health nurses and midwives and to regulate the training of nurses which until then had been conducted under the jurisdiction of the Australian Trained Nurses Association and the Royal Nurses Association (South Australian Branch). As well as standardising training, the original legislation addressed the lack of nursing staff in country hospitals and had a strong focus on reducing the incidence of maternal mortality. The registration of midwives was at that time operative in all States, except South Australia, and in most European countries. With the loss of 8 000 maternal lives between 1893 and 1920 in New South Wales alone, registration of midwives was introduced to protect the mother and child.

The original Act has been amended from time to time, specifically in 1954 when the Mothercraft Nurses Roll was established, in 1959 when enrolled nurses were required to register and again in 1964 when the Nurses Board assumed control of dental nursing qualifications. The training of dental assistants is now conducted by the Dental Assistants Association. In June 1940 a register for infant welfare nurses was established and in December 1963 legislation was passed providing for the establishment of a Psychiatric Nurses Register and a Mental Nurse Register. Since Florence Nightingale introduced modern nursing practices to the world, the role of nurses has been continually extended to keep pace with the advances of medical science and technology. Increasingly and particularly in the past 10 years, nurses have assumed responsibility for more complex patient care.

New community activities and expectations, the introduction of highly sophisticated medical technology, changing medical practices and higher educational standards have all created a very different environment from that of the 1920s. The nursing profession is aware of its responsibilities created by a new environment and has responded positively. It has recognised that the current Nurses Act does not take account of these changes and is inconsistent with modern practices in health care. This new Bill is introduced with the co-operation and full support of the Royal Australian Nursing Federation.

The Bill is modelled on other professional registration bodies involved in the delivery of health care. It addresses the present inconsistencies, rationalises the administration and updates the provisions in line with current practices and requirements. The principal provisions provide for the definition of unprofessional conduct and powers to deal with this, competency and capacity, principles governing Board hearings and the powers and functions of the Board.

The proposed new Nurses Bill focuses on the technical competence of individual professionals, professional ethics and maintenance of professional standards in the delivery of health care. It also provides a new complaints mechanism. Under the proposals contained in this Bill the Board's functions are much broader. Its overall charter is to achieve and maintain the highest professional standards of competence and conduct in nursing and to ensure the community is properly provided with nursing care of the highest standard.

The role and function of professional registration boards in monitoring professional qualifications and regulating the practice of a profession has long been established. The setting up of the Nurses Board was an evolutionary process following similar boards for doctors, dentists, opticians, and so on. Originally comprising seven members, increased to 10 in 1966 and 11 in 1970, it is proposed to maintain the Board membership at 11. Nurses will comprise seven out of the 11 members with representatives from the medical profession including a medical practitioner and a psychiatrist and a representative from the South Australian Hospitals Association.

The seven members of the nursing profession represented on the Board are a general nurse nominated by the South Australian Health Commission, a psychiatric nurse elected by psychiatric nurses, a mental deficiency nurse elected by mental deficiency nurses, and four nurses nominated by the Royal Australian Nursing Federation (one of whom is to be an enrolled nurse). Express provision is made for the first time for a lay person. This linkage with the community expresses the recognition by the nursing profession of its responsibilities to the consumers of care and the community in which it practises. For the first time, the legislation specifies that the Chairperson of the Board is to be one of the members who is a registered nurse. In practice, the Chairperson in recent years has been a nurse—the new legislation enshrines that practice.

This Bill also streamlines the administration of the Board and provides for the Board to operate as an independent authority reporting to Parliament. Consistent with the move to self sufficiency of registration boards, the Nurses Board will be able to appoint its own staff and be responsible for its own finances (currently all moneys are paid to Treasury). To ensure proper financial administration all accounts will be audited by the Auditor-General with a formal report to be submitted to Parliament by 30 September each year. The tabling of the annual report in this way better informs the community on the direction of the profession and is an additional mechanism of accountability.

The Bill seeks to simplify and modernise present registration and enrolment requirements. Presently four registers and three rolls are maintained by the Board. These are: General Nurses Register; Midwives Register; Psychiatric Nurses Register; Mental Deficiency Nurses Register; and Rolls of General Nursing, Mothercraft and Dental Nursing. The four registers will be maintained under the Bill, as are the Rolls for General Nursing and Mothercraft Nursing. The Dental Nurses Roll is, however, discontinued, since training in this field is now carried out and recognised through the Australian Dental Association/Dental Assistants Association.

While the mothercraft nurses roll is continued under this Bill in relation to those who were on the roll under the old Act, it should be noted that training in this discipline is no longer carried out in this State. Not only have the existing registration procedures been streamlined, they have also been extended. Limited registration has been allowed and will permit overseas nurses, not normally accepted for registration, to undertake specialised courses to develop their skills. Recognition is also possible in relation to interstate and overseas nursing qualifications for registration in South

Australia. These provisions enable greater mobility for nurses and provide opportunity for upgrading skills. In addition a system of endorsement for the recognition of post registration/enrolment qualifications will be introduced and criteria established to determine standards for these courses.

Another important provision is the requirement for nurses who have not practised for five years to undertake refresher courses before obtaining a practising certificate. This provision applies even where individual registration has been maintained. As well as imposing restrictions and limitations on the provision of care as deemed necessary, the Board can also require a nurse to provide evidence that he/she is physically and mentally fit to continue to practise. Registration obliges practitioners to ensure, and entitles the public to believe, that defined standards of competence will be met and maintained. In this way registration boards provide an interface between the public and the profession. The demands from the community and the community expectations require not only the highest standards but scrutiny of the system which ensures those standards.

The Nurses Board will continue to handle disciplinary matters without the creation of a disciplinary tribunal. Some professions now have separate disciplinary tribunals. However, as most nurses work under supervision and not as self-employed persons dealing with the public without restriction, it is not considered necessary to provide a separate disciplinary tribunal. Nurses, in fact, are held in high regard by the public and most complaints received by the Nurses Board are related to the employer-employee relationship rather than the patient-practitioner relationship. A broader range of sanctions is defined following inquiry into incidents of professional misconduct, including suspension or cancellation, fine of up to $5 000, imposition of conditions, or a reprimand. At present the Board can only cancel, suspend or take no action at all.

Another important consumer protection provision is the power of the Board to investigate complaints relating to the competence of a nurse, and to impose restrictions on the right to practise. The present Act does not allow the Board to take such action where there are concerns about the competence of a nurse. Further, the Board can now proceed to hear a complaint even if a nurse fails to attend. Action can also be taken against fraudulent registration or enrolments. Attention is particularly drawn to the provisions restricting the provision of nursing care by unregistered and unenrolled persons. It is an offence, carrying a penalty of $5 000 or imprisonment for six months, for unregistered or unenrolled persons to hold themselves out as being registered or enrolled. Similarly, it is an offence for another person to hold out an unregistered or unenrolled person.

In relation to the provision of nursing care, no person may recover a fee for providing such care unless the person was registered or enrolled. Hospitals, health services, and nursing homes, will of course, be able to recover fees for nursing care provided by qualified persons or specifically authorised persons. As members would be aware, there are a number of persons working in the nursing home area who are not qualified as nurses. Not all of their duties are nursing in nature, but they do provide basic physical care to residents. To ensure that these services can continue to be provided, it is intended that nurse attendants will be specifically authorised under the relevant provisions of the Act.

In the broadest sense the new legislation provides for community accountability. Patients are entitled to expect that nurses will not stray beyond the boundaries of their own expertise and that professional responsibility for colleagues will be acknowledged. They also expect technical excellence in individual services and effective quality assurance mechanisms. The provisions of this Bill make a significant contribution towards achieving these goals. The health care system in general is under increasing scrutiny by the public. The role of the nurse is integral to the effective operation of the system. The nursing profession has responded enthusiastically to the need to develop its professional status as part of the health care team. I commend the Bill to the Council. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 repeals the Nurses Registration Act, 1920. Clause 4 provides definitions of terms used in the Bill. Subclause (2) provides that the Act will apply to unprofessional conduct committed before its enactment. This is in the nature of a transitional provision. A nurse who is guilty of such conduct cannot be penalised under the old Act after it has been repealed. This provision will ensure that he can be disciplined under the new Act. Paragraph *(b)* of the subclause ensures that a nurse can be disciplined for unprofessional conduct committed outside South Australia. Clause 5 establishes the Nurses Board. Clause 6 provides for the membership of the Board and related matters. Clause 7 provides for the appointment of a chairman of the Board.

Clause 8 provides for procedures at meetings of the Board. Clause 9 ensures the validity of acts of the Board in certain circumstances and gives members immunity from liability in the exercise of their powers and functions under the Act. Clause 10 disqualifies a member who has a personal or pecuniary interest in a matter under consideration by the Board from participating in the Board's decisions on that matter. Clause 11 provides for remuneration and other payments to members of the Board. Clause 12 provides for the appointment of the Registrar and employees of the Board and safeguards the position of employees of the existing Board. Clause 13 will enable the Board to establish committees. Clause 14 sets out functions and powers of the Board. Clause 15 provides for delegation by the Board of its functions and powers to the persons referred to in subclause (2) *(a)* (i) and to a committee of the Board.

Clause 16 sets out powers of the Board when conducting hearings under Part IV or considering an application for registration of re-instatement of registration. Clause 17 frees the Board from the strictures of the rules of evidence and gives it power to decide its own procedure. Clause 18 provides for representation of parties at hearings before the Board. Clause 19 provides for costs in proceedings before the Board. Clause 20 requires the Board to keep proper accounts and provides for the auditing of those accounts. Clause 21 requires the Board to make an annual report on the administration of the Act. The Minister must cause a copy of the report to be laid before each House of Parliament. Clause 22 makes it illegal for an unqualified person to hold himself out, or to be held out by another, as a nurse.

Clause 23 prohibits the recovery of a fee or other charge for the provision of nursing care by an unqualified person. The effect of this is that fees charged by such persons (or by their employers) may be paid but cannot be recovered in a court of law. A 'qualified person' is defined in subclause (4) to be a nurse or a person qualified under an Act to provide the care in question. The limitation against recovering fees or other charges does not apply to persons carrying on the business of a hospital or other related businesses if the care is provided through the instrumentality of a qualified or authorised person. Subsection (3) enables the Minister to authorise a person or class of persons for this purpose. This

provision will cater for the continued employment of nurse attendants in nursing homes.

Clauses 24 to 25 provide for the registration of nurses, psychiatric nurses, mental deficiency nurses and midwives and for limitations on the areas of nursing in which they may practise. Clauses 26 and 27 provide for the enrolment of general nurses (supervised) and mothercraft nurses. In the case of mothercraft nurses only those nurses who were enrolled as mothercraft nurses before the commencement of the new Act will be entitled to be enrolled as mothercraft nurses under the new Act. Clause 28 provides for re-instatement of registration and enrolment. A person whose name has been removed from a register or roll for any reason will not have a right to be automatically reinstated. Before being reinstated he must satisfy the Board that his knowledge, experience and skill are sufficiently up-to-date and that he is still a fit and proper person to be registered or enrolled. The Tribunal may under Part IV suspend a nurse for a maximum of one year or may cancel his registration or enrolment. Subclause (3) of this clause provides that a nurse whose registration or enrolment has been cancelled may not apply for reinstatement before the expiration of two years after the cancellation.

Clause 29 prohibits a nurse who has not practised for five years from commencing practise without the approval of the Board. Before granting its approval the Board may require the nurse to obtain additional qualification and experience. Clause 30 provides for limited registration or enrolment. Registration or enrolment under this clause may be made subject to conditions specified in subclause (3). Subclause (1) will allow graduates, persons seeking reinstatement, other persons requiring experience for full registration or enrolment and person wishing to teach or carry out research or study in South Australia to be registered or enrolled so that they may acquire that experience or undertake those other activities. Subclause (2) gives the Board the option of registering or enrolling a person who is not fit and proper for full registration or enrolment. He may be registered or enrolled subject to conditions that cater for the deficiency. Clause 31 provides for provisional registration or enrolment. Clause 32 provides for the keeping and the publication of the registers and other related matters.

Clause 33 provides for the payment of fees. Clauses 34 and 35 make provisions relating to the register and rolls that are self-explanatory. Clause 36 will enable the Board to obtain information from nurses relating to their employment and practice of nursing. This information is considered important to assist in manpower planning of nursing services for the continued benefit of the community. Clause 37 is a provision which will allow the Board to consider whether a nurse who is the subject of a complaint under the clause has the necessary knowledge, experience and skill to practise in the area of nursing that he has chosen. This important provision will help to ensure that nurses keep up-to-date with latest developments in their practice of nursing. If the matters alleged in the complaint are established the Board will be able to impose conditions on the nurses provision of nursing care. Clause 38 is designed to protect the public where a nurse is suffering a mental or physical incapacity but refuses to abandon or curtail his practice of nursing. In such circumstances the Board may suspend his registration or enrolment or impose conditions on it.

Clause 39 places an obligation on a medical practitioner who is treating a nurse for an illness that is likely to incapacitate his patient to report the matter to the Board. Clause 40 empowers the Board to require a nurse whose mental or physical capacity is in doubt to submit to an examination by a medical practitioner appointed by the Board. Clause 41 provides that a complaint alleging unprofessional conduct by a nurse may be laid before the Board. The orders that can be made against the nurse or former nurse are set out in subclause (3). Clause 42 provides for the variation or revocation of a condition imposed by the Board. Clause 43 makes machinery provisions as to the conduct of inquiries. Clause 44 provides for a problem that can occur where a nurse who is registered or enrolled in South Australia and interstate and has been struck off in the other State continues to practise here during the hearing of proceedings to have him removed from the South Australian register or roll. Experience has shown that these proceedings can be protracted. This provision will enable the Board to suspend him during this process.

Clause 45 provides for appeals to the Supreme Court. An appeal will lie from the refusal of the Board to grant an application for registration or enrolment or reinstatement or imposing a condition on registration or enrolment. Appeals will also lie from orders of the Board under Part IV. Clause 46 allows orders of the Board to be suspended pending an appeal to the Supreme Court. Clause 47 empowers the Supreme Court to vary or revoke a condition that it has imposed on appeal. Clause 48 makes it an offence to contravene or fail to comply with a condition imposed under the Act. Clause 49 provides that, where a nurse is prosecuted for providing nursing care in contravention of the Act or a condition imposed under the Act, it shall be a defence to show that the nursing care was provided in an emergency. Clause 50 provides for the service of notices. Clause 51 provides a penalty for the procurement of registration or enrolment by fraud. Clause 52 provides that where a nurse is guilty of unprofessional conduct by reason of the commission of an offence he may be punished for the offence as well as being disciplined under Part IV. Clause 53 provides for the summary disposal of offences under the Bill. Clause 54 provides for the making of regulations. The schedule sets out transitional provisions.

The Hon. R.J. RITSON secured the adjournment of the debate.

BULK HANDLING OF GRAIN ACT AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Bulk Handling of Grain Act, 1955. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

The purpose of this short Bill is to make a minor amendment to the Bulk Handling of Grain Act, 1955, consequential upon the Wheat Marketing Bill, 1984, that has recently been introduced. The Wheat Marketing Bill, 1984, allows direct grower-to-end-user sales of domestic stockfeed wheat via a permit system administered by the Australian Wheat Board. Wheat sold directly from grower to end user may bypass the storage facilities operated by South Australian Co-operative Bulk Handling Limited. However, section 12 (1) of the Bulk Handling of Grain Act, 1955, grants Co-operative Bulk Handling Limited the sole right of receiving, storing and handling bulk wheat in South Australia. This section is inconsistent with the stockfeed permit system under the Wheat Marketing Bill, 1984. This amendment is intended to rectify that inconsistency.

This Bill has the support of the industry, in particular Co-operative Bulk Handling Limited. The permit scheme for stockfeed wheat sales is a very important innovation in domestic wheat marketing, and I commend this Bill to the House. Clause 1 is formal. Clause 2 amends section 12 of the principal Act by providing that that section is subject to the Wheat Marketing Act, 1984.

The Hon. PETER DUNN secured the adjournment of the debate.

WHEAT MARKETING BILL

Second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I move:

That this Bill be now read a second time.

This Bill gives effect to decisions made by Australian Agricultural Council on new wheat marketing arrangements that will apply for five years from 1 October 1984. The Bill is complementary to the Commonwealth Wheat Marketing Act, 1984. The Bill maintains the basic elements of the wheat marketing scheme that has operated for the past five seasons. Growers net returns will be underwritten at the current 95 per cent level, and a high proportion of this underwritten level will be paid to the grower on delivery of the wheat as a first advance from the Australian Wheat Board. Changes have been made to the basis for calculating the underwritten price to reduce the risk level to the Commonwealth Government.

Export marketing will remain the prerogative of the Board. New pricing arrangements for domestic human consumption wheat have already been given effect by the passage of the Wheat Marketing Act Amendment Act, 1984. Stockfeed wheat will be able to be traded direct between grower and end user via a permit scheme administered by the Board. The powers of the Board have been extended to give it greater commercial flexibility. I now wish to comment on the major components of the Bill:

1. Underwriting—first advance to growers: The Commonwealth Government will continue to underwrite 95 per cent of net wheat returns. This underwritten price is given effect through a guaranteed minimum price paid for Australian standard white wheat. There is, however, a change in the method of calculating the guaranteed minimum price in that the highest priced year has been removed from the averaging formula. The basis will now be the estimated returns from the subject season and the lowest two of the previous three seasons. This avoids the triggering of a Commonwealth underwriting commitment because of a short-term rise in prices, rather than a fall.

A further change is that only the subject season's costs will be underwritten rather than the current three-year moving average. This will ensure that the Government's liability is not increased by unusual circumstances such as occurred in the 1983-84 season with its record crop and high proportion of weather damaged wheat. Once the guaranteed minimum price has been established for Australian standard white wheat, the Bill provides for guaranteed differentials for other specified categories of wheat based on the expected market value of those grades relative to Australian standard white wheat.

Instead of receiving the full guaranteed minimum price payment on delivery, growers will receive a split first advance. The Commonwealth Minister for Primary Industry will determine the interim guaranteed minimum price by 1 October each year. Growers will be paid on delivery of their wheat 90 per cent of the then estimated guaranteed minimum price and any quality differential. Early in the season the Commonwealth Minister will determine the final guaranteed minimum price, at which time the remainder of the first advance will be paid to growers. The Bill provides that the final guaranteed minimum price be determined no later than 1 March. However, it is intended that the final advance payment be made to growers during February.

2. Domestic pricing and marketing: Domestic pricing arrangements for human consumption wheat under the new scheme have already been put in place by the passage of the Wheat Marketing Act Amendment Act, 1984. The Bill enables domestic stockfeed wheat to be traded directly between growers and end users under permits issued by the Board. Permit sales will be outside the normal pooling arrangements. This system will operate under Ministerial guidelines. It is intended that the permit system be introduced in all participating States except New South Wales on 3 December 1984. New South Wales will introduce the system by mid-November 1984. Direct grower to buyer sales through the normal pooling arrangements will continue to be possible.

3. Powers of the Australian Wheat Board: This new marketing plan increases the commercial flexibility of the Board by enabling, for example, it to operate on the United States corn futures market.

These new marketing arrangements have been discussed extensively with all sectors of the wheat industry and have received broad industry support. This complementary Bill is of great importance to the wheat industry and I commend it to the Council. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the proposed Act commences on the commencement of the Commonwealth Act. Clause 3 is an interpretation provision. Of significance is the definition of 'season'—meaning the period of 12 months commencing on 1 July 1984 and the next six succeeding periods of 12 months. Clause 4 provides that the proposed Act shall be construed subject to the Commonwealth Constitution.

Clause 5 specifies the functions and powers of the Australian Wheat Board ('the Board'). The functions include wheat marketing controls and the authority to determine wheat classification and quality standards for delivered wheat after consultation with the authorised receivers. The Board is also allowed to operate on futures and currency markets to help protect itself against adverse variations in the terms of its wheat sales and borrowings. The Board's futures operations include corn futures markets because of interrelationships between corn and feed wheat futures. Subclause 5 (7) provides for the determination of guidelines under the Commonwealth Act for the Board's futures operations. Clause 6 provides that South Australian Co-operative Bulk Handling Limited ('the Company') is an authorised receiver, and makes provision with respect to operation and obligations of authorised receivers.

Clause 7 provides that the Board is subject to the direction of the Commonwealth Minister in the performance and exercise of its functions and powers. Clause 8 requires a person who is in possession of wheat to deliver the wheat (except exempt wheat) to the Board. Upon delivery in accordance with the clause, the wheat becomes the property of the Board absolutely. The exempt wheat is essentially wheat for farm use by the grower, wheat traded under the stockfeed wheat permit system and wheat sold by the Board. Clause 9 provides for the manner of delivery of wheat to the Board and for the furnishing of information by a person delivering the wheat. Clause 10 enables a person to obtain from the Board, in respect of seed wheat or wheat of inferior quality, a declaration that the proposed Act does not apply to the wheat the subject of the declaration. Clause 11 authorises the Board to issue permits for the movement of wheat off-farm:

(a) for gristing so long as the produce of gristing is returned to the farm;

(b) for use on an associated farm where such movement is considered not to affect the orderly marketing of wheat;

(c) for the purpose of feeding stock owned by the grower and which are agisted on another property.

Subclause (6) defines what is meant by an associated farm.

Clause 12 provides for the operation of a stockfeed wheat permit system for sales direct from growers to users outside the normal pooling arrangements. Regular returns are required to be made to the Board, containing details of wheat purchased under permit. Provision is made for Ministerial guidelines concerning operation of the permit system. The permit system will operate under guidelines issued by both the Commonwealth and the State Ministers. Clause 13 enables a wheatgrower to accept, upon being so authorised by the Board, an offer made by a third party to purchase his wheat. Any such sale forms part of the normal pooling arrangements. The price agreed by the grower and buyer is paid to the Board. Clause 14 reinforces the Board's control over the marketing of wheat by detailing circumstances that constitute unauthorised wheat dealings.

Clause 15 provides for the Board to make interim and final advance payments to growers for the five seasons commencing 1 July 1984. Clause 16 provides for the final payment to be made for wheat referred to in proposed section 15. Clause 17 provides for the adjustment of the preliminary allowances in the payments made for wheat referred to in proposed section 15. Clause 18 provides for an early estimated final payment in lieu of the final payment under proposed section 16.

Clause 19 provides for the payment to be made for wheat acquired by the Board, where the wheat is wheat of one of the last two seasons commencing 1 July 1989. Clause 20 makes provision with respect to the rights of persons in relation to money payable by the Board pursuant to proposed sections 15, 16, 17, 18 or 19. Clause 21 generally makes provision for the price at which wheat of various qualities and for various uses shall be sold by the Board for home consumption. Provision is made for an administered domestic price for human consumption wheat determined quarterly on the basis of an averaging of the Board's quoted forward Australian Standard Wheat export prices for the forward and past quarters, plus a margin—set by the Commonwealth Minister. Provision is made for the determination of the prices of wheat for stockfeed and industrial uses.

Clause 22 provides that the Board shall keep a separate account in respect of the allowance made in the price of wheat for the cost of shipment to Tasmania and makes provision with respect to the application of money in that account and certain other money. Clause 23 provides for the appointment of authorised persons for the purpose of various provisions of the proposed Act. Clause 24 empowers the Board to require persons to furnish information in relation to wheat and wheat products. Clause 25 requires a person having possession of wheat which is the property of the Board to take proper care of it. Clause 26 provides that the company shall notify the Board of the proportion of its income by reference to capital expenditure in relation to its facilities as an authorised receiver.

Clause 27 enables authorised persons to have the right of entry to premises where there is wheat which is the property of the Board or which is required to be delivered to the Board or where there are books or documents relating to wheat. This right can be exercised with the consent of the occupier, or without his consent if a justice of the peace issues a warrant. The functions of an authorised person under this section are to search for and inspect wheat and documents. Clause 28 provides for summary proceedings. Clause 29 provides for the making of regulations. Clause 30 repeals the Wheat Marketing Act, 1980, but preserves its operation in certain respects. Clause 31 makes transitional provisions with respect to payments for wheat under the repealed Act.

The Hon. PETER DUNN secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 1 November. Page 1714.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports the Bill—

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: Not because of you. The Bill makes some alterations to the Road Traffic Act relating particularly to random breath testing and it corrects some situations that have occurred where difficulty has arisen in prosecutions. There is no doubt that this legislation needs to be revised and that there are problems that have arisen especially in regard to the choosing of a medical practitioner to conduct a blood test where a person nominates that he or she wants a blood test. In some situations the person who has a negative breathalyser result has asked for a blood test. This request has been made irresponsibly by people wanting to tie up the unit for a period in order to offset problems for people following them. There is absolutely no need for a blood test if a person has not obtained a positive result from the breathalyser unit. Only mischievous people have been doing this, and it is important that this situation is corrected.

The other situation that has occurred is that people have a right to nominate a medical practitioner to take the blood test after a positive reading has been obtained and we have had a situation where people have been caught at Christies Beach for being over the limit and have then nominated a doctor of their own choice at Elizabeth or even further away. I understand that one person nominated a medical practitioner in Mount Gambier. The end result is that the police are placed in a situation where they cannot win. If they say that a nominated practitioner is an unreasonable distance away, what happens (as was shown in a test case) is that, because they have forced the person to go to another doctor, the case has been rejected in court.

So, it is important that this situation be corrected. An amendment has been moved in the Lower House to allow a person to seek a doctor of their own choice within 10 kilometres and within one hour. That situation may be satisfactory, but I use the words 'may be satisfactory' because that problem is being addressed by a Select Committee. While I do not want to go into the deliberations of that Select Committee, because we have been sitting for some time, and we have much evidence and some recommendations, at least for the interim the amendment represents an improvement on the present position. However, after the passage of this Bill the Select Committee will continue to look at the situation and examine the solution that has been arrived at. It will possibly come up with some alteration. I say 'possibly' because I do not want to predicate what may result from that Select Committee. It is possible that there are problems that could arise even in prosecutions under this solution to the problem.

Perhaps I should say that the Select Committee has not had sufficient communication from the Minister of Transport on some of the subjects that are now coming before Parliament. I make no reflection on the Chairman of the Select Committee or on any other person but, if any other legislation is to come before this Council, I hope that the proposed

amendments will be communicated to the Select Committee so that it can at least advance a point of view on such legislation. I do not want to go any further on that subject. My comment is meant as some sort of communication to the Minister of Transport and his officers because, in some of these situations, the Minister is not communicating with the Select Committee as well as he should. We are aware of the problems; we are aware of the great mass of evidence that has come forward; and certainly we would appreciate at least some input because all these subjects are being considered by us as a Select Committee.

I hope that the Bill corrects the situations that have caused problems for the police and will lead to the police having fewer problems with people on the roadsides. It is very important that when people are pulled up at the roadside, if they have a blood alcohol reading over the limit, that police are not tied up for too long with them. The less time that they are, the more effective the RBT unit is. It is my opinion and the opinion of many people in the community that at present we do not have sufficient RBT units to correct the drink driving situation in South Australia. If we allow people to tie up the units capriciously by taking legal points and saying, 'I want the doctor of my choice in Mount Gambier,' or, 'I want the doctor of my choice within 10 kilometres,' in many cases either the unit is tied up for the time it takes that person to be taken away, blood tested and brought back, or another officer is tied up for that time.

That creates a very difficult problem for the police. Although this situation will now be corrected in the interim by not allowing people to make absolutely ridiculous demands, in my opinion the situation has to be very carefully looked at to ensure that we do not allow people to be irresponsible in the way they bring defences before a court or on the roadside. The Opposition supports the Bill but, as I indicated, I will be looking at the matter further in the Select Committee.

The Hon. R.J. RITSON: I support the remarks of the Hon. Mr Cameron. I confess that throughout this year I have been slightly perturbed that the Minister of Transport has been fiddling with the Act whilst a very good Select Committee is receiving probably all the evidence that is before the Minister, and more. It is a problem, as the Hon. Mr Cameron said, of people using it as a device to escape conviction. I thoroughly support attempts to close that loophole. The question of giving people rights to choose a doctor of their own is much more applicable in a situation where a doctor is to be asked to examine a person for impairment if a charge of driving under the influence is being considered. In that case there are matters of subjective clinical assessment and of medical history which are, in many cases, matters of confidence.

It is usual for doctors of an alleged offender, unless it is the offender's choice to decline to attend, because if they do not attend and there is some mitigating medical history they can at least give that, but not be a witness against their own patient, whereas if they attend and find the patient grossly impaired and not suffering from an illness, then they become a witness against their own patient. Nevertheless, there are special circumstances where, I suppose, it is fair to allow a person to be medically examined by a doctor of their own choice but, in the case of taking blood for blood alcohol concentration estimation, all the doctor does is perform a venipuncture, which does not influence the outcome of the test (it is a scientific test carried out on a multi analyser in a laboratory). So, there are far less objections—

The Hon. M.B. Cameron: It is mechanical.

The Hon. R.J. RITSON: It is a mechanical thing and does not depend on any subjective preferences or experiences of the particular doctor. So, there is far less reason to suppose that an alleged offender would suffer any real injustice by being denied the doctor of his choice because his choice was unreasonable. I support the notion of a test of reasonableness. I have some concern that one of the ingredients is a distance of 10 kilometres. My concern is not either the merits of that distance or a question of civil rights, but a question of complicated evidence. Does it mean road kilometres or radial kilometres? Plenty of other laws and regulations deal in radial kilometres from a different point.

I do not know whether in a case of dispute over a distance we will find surveyors in court giving evidence. Nevertheless, the Government in its wisdom has seen fit to accept an amendment in another place so we will let it live with it and see whether there are any difficulties with it. Certainly, a constraint of reasonableness as to time is very important because of the importance of conserving police officers' time, which is valuable. I support the second reading of the Bill.

The Hon. G.L. BRUCE: I am pleased to hear that the Opposition is supporting this Bill. Where we have extended section 47da to now be 30 June 1985, this in no way reflects on the Select Committee already studying whether random breath testing should be retained. That Select Committee has not been able to receive that evidence in the time involved through no fault of its own, and that is why the date has to be extended. In relation to what the Hon. Mr Cameron raised concerning blood tests by an individual being able to nominate 10 kilometres, this has been raised by the police in evidence before the Select Committee, which is public property and knowledge. The Select Committee is examining this. I do not want to pre-empt one way or the other what way the committee will go, but reinforce what the Hon. Mr Cameron said, that independently of this Bill we will be bringing down a resolution one way or the other that could affect what is said in the Bill before us now. The Bill before us now does not detract from what it has set out to do; it is trying to make the administration of the Act easier. I give it my support.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank honourable members for their contributions. There is no doubt that there is an all Party consensus, and has been for the past five or six years that I can remember, and possibly before that, to see whether something cannot be done to cut the dreadful road toll. I am delighted that the consensus is being maintained in this Bill. The Hon. Martin Cameron made a very fair point when he said that the Select Committee on random breath testing and related matters was sitting and that this Bill pre-empted, to some extent, some of its possible decisions.

We cannot say that it pre-empted its decisions because, obviously, we do not know what those decisions will be. But, there is no doubt that some of the measures in this Bill have made the Select Committee's deliberation more restricted in certain areas. I will draw the honourable member's remarks to the attention of the Minister of Transport, but point out to the Council that there are occasions when Governments have to make policy decisions and implement them during a period when a Select Committee is sitting. This is one of those rare occasions. I certainly would not like to see it become a practice whereby Governments—

The Hon. M.B. Cameron: If requested we could bring in interim reports.

The Hon. FRANK BLEVINS: Yes. I would not like it to become the rule rather than the exception, that while a Select Committee was deliberating on some particular point,

a Government pre-empted any finding that that Select Committee may make.

I think it is pretty well a one-off situation which prompted the Government to introduce this Bill. However, as I stated, I will draw the honourable member's remarks to the attention of the Minister of Transport. He made a fair rather than a frivolous point and one worthy of taking up with the Minister, which I undertake to do. Again, I thank all honourable members who have spoken to the second reading in support of the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Right of person to request blood test.'

The Hon. PETER DUNN: This clause deals with an amendment to limit the distance to 10 kilometres from the place of request. Is that a 10-kilometre radius or is it 10 road kilometres from the relevant point?

The Hon. FRANK BLEVINS: I must apologise to the Hon. Mr Dunn because I cannot answer that question. I concede that it is not clear in the Bill before us. I will request the Minister responsible in this area to clarify this point, and I will bring back his reply to the Hon. Mr Dunn.

The Hon. M.B. CAMERON: I imagine that it is a 10-kilometre radius. In fairness to the Minister, I say that this is an amendment that was arrived at following an agreement between the Opposition and the Government in another place. In raising this question the Hon. Mr Dunn is not attempting to score a political point. I think the Minister made that point earlier, and I repeat it. I appreciate the Minister indicating that he will draw my remarks to the attention of the Minister of Transport.

The Select Committee on random breath testing, as the Minister will recall when he was a member, is very much a bipartisan committee. There is absolutely no problem with the Minister or any other person raising questions with the Select Committee. If there is a particular problem in terms of random breath testing and the Minister of Transport wishes to make an alteration and he brings it to our attention, there is no problem in making an interim report covering any issue. I appreciate that the Minister of Agriculture will raise this matter with the Minister of Transport.

In future, if a matter like this comes up and it is raised with the Select Committee, we will address it as a matter of urgency. I accept that this is a matter of urgency because it was being used more and more as a loophole. The Select Committee was aware of that, and it was one part of our recommendations that we were looking at. That is one part of the problem. A 10-kilometre radius can mean all sorts of things in relation to the distance travelled and it can really cause difficulty. I think these things must be thought through fairly carefully before we jump into them, and that is why the Hon. Mr Dunn raised this question. I am quite certain that the Bill intends it to be a 10-kilometre radius.

The Hon. G.L. BRUCE: I think this is a rather important point. The legislation has been before us before. People have tried to avoid this provision by asking to be tested at a point perhaps on the other side of the city at, say, Elizabeth or even further afield. If we leave it in a state of confusion as to whether it is either 10 kilometres radius or 10 road kilometres, we will be making more rods for our back. We should make it clear whether it is 10 road kilometres or 10 kilometres radius from the place of request. I believe that this can be done by the Committee without regard to Parliamentary Counsel.

I believe what we want should be reflected in the legislation. I would like the Minister to make it clear that it is 10 road kilometres. If it is 10 kilometres radius, around the top of the gulf, it could involve 30 kilometres or more. If we make it clear that it is 10 road kilometres, it puts the matter beyond doubt. I would like the Minister to consider a request that the clause be tidied up to remove any ambiguity or confusion.

The Hon. FRANK BLEVINS: Rather than amending the legislation on the run, as it were, I think the best thing to do is to report progress, and I will have discussions with the Minister and Parliamentary Counsel. It may well be that it is possible that the question raised by the Hon. Mr Dunn is clear and we are simply not reading the clause correctly. Of course, it may well be that the Hon. Mr Dunn has picked up a point that has been overlooked. Quite frankly, I do not know. I think the best way to find out is to report progress.

Progress reported; Committee to sit again.

BUILDING SOCIETIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 1804.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill, which seeks to do a number of things, including several aspects of deregulation. It seeks to transfer formally responsibility for the oversight of building societies from the Registrar of Building Societies to the Corporate Affairs Commission. That has happened on a *de facto* basis since the present Government came to office in November 1982. Although there has been formally a Registrar of Building Societies, a great deal of the support services for that position has been provided by the Corporate Affairs Commission. As the Corporate Affairs Commission has wider responsibilities in the area of corporate affairs, including credit unions, associations and building societies, I think it is desirable that there be formal recognition of the responsibilities of the Commission incorporated in the principal Act.

The building societies expressed some concern to me that they were losing an identifiable person to whom they could refer and had in the past referred matters of concern about building societies, their operations and the operation of the Act, but they have indicated to me that they have an assurance that the Corporate Affairs Commission will provide an identified officer who will be their major point of contact on administrative matters and that the Commission itself will retain ultimate responsibility for policy decisions, subject to governmental decision. If that is the position, as the building societies understand it to be, I certainly have no difficulty with the change proposed in this Bill.

The Bill also allows building societies to provide such advice and services to members as may be for their benefit or assistance. I see no difficulty with that. The building societies have been concerned to maintain at least comparable competitiveness with other financial institutions, particularly banks, in the provision of financial and other services to their members, who cover a wide range of people within the community. They have considered that since the Campbell and Martin Committee reviews of the Australian financial system and with the deregulation of banks they have lost some of that comparable competitiveness. The Bill will enable them to regain some of that competitiveness, particularly in the provision of a wider range of advice and services to members. Such advice and services will obviously include such facilities as travel advisory services, travel consultancy and insurance.

Although some people might be concerned that building societies are moving too dramatically from their traditional role of providing housing finance, this Bill does not make such a dramatic change from that objective as to cause any concern. It is a cautious move towards allowing building

societies to provide a wider range of services. Within the community there are people who deal with building societies who want the convenience of one-stop shopping, with the wide range of services that banks now supply. I see no reason at all for building societies not to be able to provide that sort of service to their members.

Some people would suggest that building societies, because they are not backed by the Government ultimately through the Reserve Bank, are not in such a secure position as banks, but, while that may be theoretically the position, Governments exercise a high level of oversight over the financial affairs of building societies and this Bill does not derogate from that responsibility of the Commission.

Under the Companies and Securities Codes, the Corporate Affairs Commission has developed a considerable body of expertise in the administration and surveillance of companies, that will stand it in good stead in satisfying its responsibilities towards building societies, although I should say in passing that I am not at all keen on having a similar sort of package for building societies to that which presently exists for companies under the Companies and Securities Codes.

The Hon. C.J. Sumner: What do you mean by that?

The Hon. K.T. GRIFFIN: I would move cautiously towards some measure of uniformity in legislation, but I would not be at all keen to see building societies being controlled by any Ministerial or governmental agency outside South Australia; that is, those building societies that are incorporated here and carry on their business here. There are even some concerns about building societies being able to venture outside South Australia other than by some loose arrangement with building societies incorporated in other States because the consequence of that would be that building societies from interstate, being much more powerful, would expect reciprocal rights in South Australia and that would not be in the best interests of the South Australian community. But that is a digression; it may be a matter for debate at some time in the future, but is not particularly relevant to the consideration of this Bill.

The Bill also allows for the objects of building societies to be widened, with the approval of the Corporate Affairs Commission. That suggests a fairly significant policy change. Whilst I do not disagree with building societies being able to widen their range of services and, in consequence of that their objects that might justify that widening of services, there has to be an adequate measure of Ministerial control over that decision. Although the Bill indicates that the responsibility for this will rest with the Corporate Affairs Commission, I have appreciated the opportunity to talk to officers of the Corporate Affairs Commission and I will propose an amendment that would allow for amendment to the objects of building societies to occur only by Ministerial approval of which notice is given in the *Government Gazette* as soon as reasonably practicable after that approval has been given.

The other major area of change that is incorporated in the Bill is to free up the percentage of building society funds to equal 6 per cent of certain assets or liabilities—however one regards it in accounting terms—to allow for capitalisation of corporate subsidiaries. That, too, will allow for a wider range of services, including unsecured lending, personal loans and so on. I had the view at one stage that that would more appropriately be done by the building societies themselves rather than being undertaken through subsidiaries. I can see the merit in having a subsidiary with limited liability to protect deposits, but I have been concerned in the banking area, for example, that banks have always undertaken their personal loans and other similar unsecured lending through subsidiaries—partly in that instance because of the constraints of the then Federal banking laws. I can accept that there are some advantages in allowing building societies to undertake this wider range of services through wholly owned subsidiaries and, for that reason, I am prepared to support this part of the Bill also.

The use of that percentage of funds by way of investment in the subsidiary is to be with the approval of the Corporate Affairs Commission. Again, I accept that there needs to be some measure of control in this case. There is one area to which I will draw attention, though, because of the involvement of the Commission in the approval of the establishment of these subsidiaries, I will not make any fuss about it.

Under the principal Act the investment of funds in purchasing shares in a company or body corporate can be undertaken with the approval of the Registrar where the company or body corporate is engaged in activities incidental or related to those of the society, and the total funds of the society invested in shares of companies or bodies corporate would not in consequence of the investment exceed 1 per cent or such greater percentage as may be prescribed of the total paid up share capital of the society. The share capital of the society is not extensive.

Certainly, my understanding is that it does not include some of the assets that are referred to in this Bill, where the amount is 6 per cent. That is 6 per cent or such other percentage as may be prescribed of the total paid up share capital of the society, the total amount held by the society by way of deposit and the total amount of the principal that the society is liable to repay on loans made to the society except loans secured by mortgage over the business premises of the society. That is a much larger level of funds providing the base for fixing the 6 per cent so that it is not a straight increase from 1 per cent to 6 per cent but it may represent a much larger percentage of those funds.

I am a little concerned because the total amount of the principal that the society is liable to repay on loans made to the society except loans secured by mortgage over the business premises of the society would allow a society to jack up the base upon which it could then calculate the 6 per cent. I realise that the Commission must approve the proposed investment and I presume that it would not do so unless adequate information was presented and there was a reasonable level of liquidity and capacity to repay. However, there is potential in the provision to which I have just referred to jack up the base where in fact no equity is involved. The amount of the loans borrowed will of course be the amount of the liability and so there is no net gain to a society in that, but the application of the 6 per cent can make substantial inroads into the funds of the society, particularly where those funds are used for the purpose of capitalising a subsidiary. It may be that the Attorney-General can give some indication why that amount was included in the base upon which the 6 per cent is to be calculated. That is the only matter about which I would like further information.

I support the Bill because it moves towards deregulation, and while that occurs I understand from the building societies that they will in fact continue discussions in relation to other areas of deregulation. Of course, there has been some deregulation by way of regulation (if that makes sense): the regulations for building societies were amended recently to allow greater flexibility in borrowing and lending in relation to building societies. I am pleased to support the Bill and I hope that this process of cautious deregulation will continue.

The Hon. R.I. LUCAS: I had not intended to speak but I want to ask the Attorney a number of questions and I was not sure to which clause they should be related; therefore, I will ask the questions now and the Attorney may be able to respond in a general way. As the Hon. Mr Griffin has indicated, we support the general principles of the Bill as it

moves towards deregulation in the financial community and it is a welcome complementary move to recent deregulatory actions of the Commonwealth Government, particularly with regard to banking.

I refer first to facilities for consumers of building societies. I am certainly a consumer of building society facilities. One of the major problems from the consumer's point of view is in regard to access to facilities when one travels interstate. When we compare the facilities of building societies with those provided by a national bank we see that one of the major problems is that there is no easy access to building society facilities interstate, whereas the consumer has access to the facilities of, say, the National Australia Bank or the Commonwealth Bank. Will that general problem of consumer access to facilities interstate be assisted in any way by this measure? Are other complementary moves being undertaken by the States and the Commonwealth that will assist building societies in South Australia that want to provide facilities that compete with those provided by banks?

Secondly, I refer to a controversy that has received a little publicity, that is, access of building societies to the cheque clearing facilities to which the banks have access. Do the amendments in any way include solutions from the point of view of the building societies to the problems that they perceive? The final question relates to the ability of building societies to take up initial capital investments in a new bank that may be established in this State. Is there any restriction under the existing Act on what building societies can do with regard to investments in a new bank in South Australia and, if there are restrictions, do the amendments make it any easier for building societies to take up initial capital investments in a new bank. I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their support for the Bill. I will deal with the points raised by the Hon. Mr Griffin in Committee. The Hon. Mr Lucas asked three questions, one relating to the problem faced by building societies in competition with other financial institutions since building societies generally operate in one State only. Certainly, that is a problem from their competitive position. I believe that recently there have been developments in relation to building societies across State boundaries. In some cases there have been arrangements between two building societies, and in other cases there have been suggestions of amalgamations. That trend may well continue because of the sort of financial imperatives that exist now because of deregulation, because of the much more competitive environment and because in general terms in any event it is becoming a much more national market whether in respect to marketing of goods or finance.

That being the case, I think that there will be a tendency and a trend towards building societies becoming more national by one means or another—by co-operative arrangements, in some cases, or possibly by amalgamation in others. The problem that arises there is that the regulatory regime that is established is confined to each individual State. The Hon. Mr Griffin raised this matter earlier tangentially when commenting that he did not want to see, at this stage, any national form of regulation. The problem is that as one moves more towards these organisations, or any other financial institutions operating on a national basis, the more the imperative tends to be to the establishment of national legislation or some kind of national regulation.

With respect to building societies operating interstate, by one means or another, there is also the problem of the prudential controls which exist, and one has to ensure that they are adequate throughout Australia. The trend, undoubtedly, is there, but there is nothing in this Bill that either encourages or discourages that in comparison to the existing position. The Victorian Government commissioned a report into financial co-operatives some 12 months or so ago. In July there was a meeting in Melbourne of Ministers responsible for building societies, credit unions and other housing type co-operatives and that report was presented to that meeting. I can certainly make a copy of that report available to the honourable member should he wish to peruse it. That meeting was told that the sorts of deregulatory measures that we are considering today are occurring in most other States. It also set up a working party to examine the Victorian report in relation to credit unions and building societies and there may be further amendments introduced in due course, depending on the results of the working party's deliberations. There is another meeting of Ministers proposed for Sydney on, I think, 13 December.

The Hon. R.I. Lucas: Are we likely to see a change in credit union control in South Australia?

The Hon. C.J. SUMNER: That is a matter for the credit union industry to make representations on. At the meeting in Melbourne there seemed to be general support from the credit unions and the building societies for the report prepared for the Victorian Government. I understand that since then some credit unions and the South Australian Credit Union Association may not be as keen on the proposals in that report as the person purporting to represent the credit unions at that meeting indicated. The honourable member is probably as well informed as I am about that particular topic; he is well connected in these areas.

Credit union movement representatives in South Australia have expressed concern about the Victorian report and those concerns will be assessed along with the working party's proposals. The Ministerial meeting gave general support for the Victorian report following presentations by representatives at the national level of building societies and credit unions. As I have already said, the first stage of deregulation, in a sense, which does not directly flow from that report but which is a trend occurring throughout Australia, is seen in this legislation. There may be other moves that follow, both with respect to credit unions and building societies following further Ministerial consideration of the report after the report of the working party is presented.

However, the decisions will be taken in consultation with the industry. As far as credit unions are concerned, they do not have quite the same restrictions on their activities that building societies have and therefore are not in the same completely restricted position as building societies are; this legislation tends to loosen that up a bit. With respect to access to the clearing system, the Ministerial meeting gave general support to the application made by building societies for access to the clearing system. I think that that is, again, another aspect of deregulation and trying to ensure that building societies remain competitive.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Approval is not for the Ministers to give but for the Federal Treasurer to give. However, we expressed support for that. I assume that that was communicated to the Federal Treasurer. In answer to the honourable member's final question, I imagine that this Bill will enable some investment in any new bank established in South Australia, or any bank for that matter. Therefore, this Bill will facilitate that process, but only to a limited extent.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Under the existing Act there could be those investments, but I will check that and respond later. I will get further information for the honourable member. This will provide greater opportunity for broader investment than what the building societies have been able to engage in up to date and could include (unless I am corrected before the Committee stage) investment in any

'new bank in South Australia. I suppose that one of the problems with deregulation is that there is a state of flux in the financial markets. Building societies are in a peculiar position in the sense that with deregulation there will presumably be competition from banks for the housing market. If that reduces interest rates it provides a more competitive environment for the consumer and could be a good thing, but it may have an effect on building societies, because up to the present time their niche in the financial world has been the provision of finance for the building of homes and, in more recent times the building of shelter generally. That may be the area where the greatest competition arises from deregulation.

Credit unions, on the other hand, have their niche in the personal loan area and perhaps have some greater nexus between the credit union itself and the depositors. One proposition put is that the credit unions may be in a better position to survive in the more competitive environment because they have that niche, which may be less susceptible to the competition of the major institutions, but that is purely speculative. One really cannot tell at this stage. All we are concerned to do today is loosen up, to some extent, the restrictions that exist on building societies. There may be further deregulation and a further opening up of building societies and credit unions and it will be very much a matter of assessing the situation over a period of time, trying to ensure all the time, of course, that there are prudential requirements that are met to ensure that building societies remain viable and continue to carry out the important task that they have carried out in the past.

But all that to some extent is a matter for the future because, with the deregulation and the additional financial institutions, including foreign banks in Australia, the situation will change probably rapidly, and it is a matter for Governments throughout the country to monitor those changes to ensure that these institutions can remain competitive and ensure that depositors' funds remain protected.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Repeal of ss. 6, 7, 8, 9 and 9a and substitution of new sections and headings.'

The Hon. R.I. LUCAS: I must admit that I have been derelict in my duty in regard to proposed new section 8 which slipped by my eye with regard to reporting provisions. As I have indicated in many previous debates, I take a very strong view about accountability to Parliament, and I see a major problem with respect to the timing of annual reports being tabled in Parliament. Under proposed new section 8 the Commission shall report to the Minister by 31 December and then the Minister shall as soon as practicable table copies of the report before each House of Parliament.

Because of the mechanics of the way we sit, we generally do not sit until February or March and the earliest we are likely to see reports of the Commission is about nine months after the end of the financial year. I will not go into all the detail this evening, but as I have argued previously, I believe that delays of nine months to 12 months in Parliament's receiving reports on authorities or operations of Acts or whatever mean that in most instances the relevance of the information has basically gone. Certainly, I would have wanted to look at the situation where, as I have argued previously, a three month reporting provision in most instances is more than adequate. I would have wanted to look at the situation to see whether there were any special circumstances in this situation requiring a six month period for the Commission to report to the Minister. In regard to new subsection (2), I would have had no compunction in moving an amendment if I had remembered to raise it in the Party room.

The Hon. C.J. Sumner: I thought you were free to do as you liked.

The Hon. R.I. LUCAS: You are, provided you at least give notice to the Party. I would have had no compunction with respect to new subsection (2), that is irrespective of whether it is three months or six months before the report is presented to the Minister. I believe that the reporting provision included in many Acts says that there is a maximum period of up to 14 sitting days within which the Minister shall table the report in Parliament, and 14 sitting days is not an onerous provision. Certainly, it is much more flexible than I personally would agree with, but it is a provision included in about 25 Acts of the South Australian Parliament and gives the Minister plenty of time in which he can look at the report and table it in Parliament.

In regard to proposed new section 8 I have been derelict in my duty. If I had not, I would be intending to move amendments. In regard to proposed new section 9 I make similar comments in regard to other committees and bodies laid down by Statute, for example, the Building Societies Advisory Committee. Here a committee is set out as an advisory committee and the committee's makeup is established specifically under the Statute. We are going quite beyond the pale in regard to the number of advisory committees and advisory panels—

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: Even if it is already there, as the Hon. Mr Griffin points out to me, we are going beyond the pale with the number of advisory committees, panels, tribunals, commissions and the like that we already have laid down by Statute. From a public administration point of view, if the Minister wants or if there is a requirement for an advisory committee, for example, there is nothing to prevent the establishment of an advisory committee for however long it is needed. The problem that I see with regard to laying it down in Statute is that such bodies then continue on virtually in perpetuity and there is not much incentive to wind them up if and when they become redundant or superfluous. An advisory committee established by the Minister or by the body without requirement laid down in Statute is more flexible from a public administration point of view, and certainly I would prefer that sort of administrative arrangement, rather than the one we have before us this evening.

The Hon. C.J. SUMNER: I do not disagree with the honourable member's continual assertion about accountability, but the fact is that in this and other areas 31 December is a reasonable period within which to provide a report. The Corporate Affairs Commission I am advised would have incredible diffficulties in producing a report by 30 September with respect to the audit requirements of the report and, while not wishing to labour the point, it is a problem that the honourable member has not been in Government and when he is one of these days he doubtless will change his mind. He will either change his mind or he will have his officers writing reports and not doing the work that he wants them to do—that is the stark reality with which he will be confronted. I think there should be time limits: six months is a reasonable time limit, but I will not reiterate that debate again.

With respect to advisory committees, that is already in the legislation. The honourable member may be surprised to find that I have some sympathy with his view. True, Governments do not seem to be able to work these days without a whole plethora of advisory committees, and I think there is some merit in what the honourable member says in that, if the Government of the day wants an advisory committee, it should be able to establish an advisory committee. If it does not, it need not have one and it can then take the consequences of its lack of consultation with industry

or the people concerned. That can then become a matter of debate in the community.

The Hon. R.C. DeGaris interjecting:

The Hon. C.J. SUMNER: That is right, it is a very useful adjunct to Government having an advisory committee that one can blame! Almost every report into some activity of Government these days includes a recommendation that there be an advisory committee. One establishes Royal Commissions and they always recommend on a particular problem that there be an advisory committee written into the Act. So, the Government then has the capacity sometimes to hide behind an advisory committee. In principle, I would probably agree with the honourable member that as far as advisory committees are concerned it should be a matter of prerogative for the Government. If it wants to establish them, fine, and if it does not it can take the consequences. I am afraid that we are in the era of advisory committees and the honourable member will also find, as a matter of practice, that people with interests in particular areas, whether it be in social issues or in the business area, tend to want to have their own advisory committee written into Acts of Parliament.

The Hon. K.T. Griffin: It keeps them in touch with what the Government is thinking.

The Hon. C.J. SUMNER: I am saying that I can understand that advantage of it and what the Hon. Mr Lucas says has some merit, that it should be a matter for the Government. If the Government does not consult with the particular people concerned that is a consequence that it takes and has to answer for in Parliament.

The Hon. R.C. DeGaris: Can an advisory committee in a Statute be effective?

The Hon. C.J. SUMNER: I suppose it can, of a sort.

The Hon. K.T. Griffin: It depends on the definition of 'statutory authority'.

The Hon. C.J. SUMNER: It is a statutory authority of a sort. There is no doubt about it.

The Hon. R.C. DeGaris: We may have more than we think.

The Hon. C.J. SUMNER: I am sure that the honourable member could add quite significantly to his list by including all the advisory committees. I will only say to the Hon. Mr Lucas, and I do not want to be patronising at this time of night, that it is just a fact of political and governmental life these days that advisory committees are in vogue. I assure the honourable member that this is not a new initiative.

Clause passed.

Clause 5—'Objects.'

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

Page 4, lines 1 to 3—Leave out paragraph *(c)*.

After line 3—Insert new subsections as follows:

(3) A society may, with the written approval of the Minister, undertake any other activity that is not specifically authorised by this Act, but is approved by the Minister as being an appropriate activity to be undertaken by a society.

(4) The Minister shall cause notice of an approval granted under subsection (3) to be published in the *Gazette*.

This clause relates to section 10 of the Act which sets out the objects of a building society registered under the principal Act. Clause 5 expands that to provide that with the written approval of the Commission the society may provide certain advisory or other services, and conduct agency business. It also provides that a society may undertake any other activity that is not specifically authorised by the Act but is approved by the Commission as being an appropriate activity to be undertaken by a society. That really enables the objects to be widened considerably if deemed advisable by the Commission. My amendment removes proposed paragraph *(c)* so that the Commission still has the responsibility for giving approval to those matters referred to in paragraphs *(a)* and *(b)*, it provides for the Minister to be the person who gives the approval to undertake activity which is not specifically authorised by the Act and for the Minister to cause notice of that approval to be published in the *Gazette*.

It is important that if that widening of the objects of a society is to occur it be done as a matter of Government policy rather than by the Corporate Affairs Commission. It is also appropriate that the approval be notified in the *Gazette*. That need not be the detail of the approval, but at least sufficient information to make the notice understandable. I had some reservations about the clause generally in the sense that where one is, in effect, widening the ambit of legislation, as is the case here, I generally have expressed concern that that be done by an amending Statute. But, I can see that in the context of the operation of builidng societies, that is not really appropriate nor is it appropriate to do it by regulation, which would at least be subject to Parliamentary scrutiny. There probably needs to be some flexibility and the amendment I move is designed to achieve that flexibility yet still make public the decisions that are taken by the Minister as a matter of Government policy in respect of any particular society.

The Hon. C.J. SUMNER: The Government is quite happy to accept this amendment. It gives effect to a principle that if the activities of building societies are to be expanded beyond what is permitted by the Act, that that should be subject to some form of political surveillance on behalf of the public interest and, secondly, it gives effect to the open disclosure of any such extension. On both counts the Government has no objection and fully supports the amendment.

The Hon. R.I. LUCAS: I want to ask a question in respect of subsection (2) *(b)*. Will the Attorney-General indicate whether that will allow building societies to receive payment for electricity and gas accounts, conduct SGIC agency business and a whole range of agency work that banks are already involved in?

The Hon. C.J. SUMNER: Potentially, yes.

Amendment carried; clause as amended passed.

Clauses 6 to 24 passed.

Clause 25—'Investments.'

The Hon. K.T. GRIFFIN: During the second reading debate I raised a question in relation to new subsection (3) *(b)* (iii). I made the point that this provision is not included in the present Act. The amount which is allowed to be invested in companies is 1 per cent of the total paid up share capital. This part of the Bill extends that to include the total amount held by the society by way of deposit, and the total amount of the principal the society is liable to repay on loans made to the society. I made the point that although there is the oversight of the Commission in determining whether or not a particular investment will be approved, it is possible under this provision for a society, if it really wanted to be smart, to jack up the amount upon which the 6 per cent is calculated by taking into account any loans it may have raised outside the share capital and the deposit.

It seems to me to be a bit artificial. It does not necessarily create any more equity. Whatever funds it raises by way of loans in accounting terms would be a liability. Therefore, one would set off against the other, yet the 6 per cent being calculated on that figure would allow a much higher amount to be invested in bodies corporate. Why has that been included? I can understand the share capital and the deposits, but I am at a bit of a loss as to why loans are also included.

The Hon. C.J. SUMNER: I am having a problem in understanding what the honourable member is on about. I can only suggest that the protection exists in proposed new section 40 where, if there was any so-called artificial jacking up, which the honourable member seems to be bothered about, in order to increase the amount of investment beyond the traditional activities, the Corporate Affairs Commission

would not give its approval. If the honourable member wants us to examine the question in more detail, we can provide him with a response.

The Hon. K.T. GRIFFIN: I did not ask the question with a view to being difficult. It was a genuine inability to understand why in the structure of building societies and in the exercise of the power to invest 6 per cent or such other percentages that might be prescribed in capitalising subsidiary corporations, the Government proposes to use as the base the total of paid up share capital, deposits and loans when the Act relates only to share capital. As I understand the financial structure of building societies, amounts that are paid in by way of deposit are recorded in the contributors' passbooks and are in fact subscriptions to share capital. That is by far the bulk of the capital available to a building society for investment purposes and loans by the society to its members for home building or whatever.

A portion of society funds is held on deposit, but it is a fairly small proportion and it mostly relates to deposits paid into a building society by way of trustee investment. The Attorney may recall that over the past few years we have debated whether or not deposits in building societies should be recognised as trustee investments. Not so much here but in the community there has been some misunderstanding as to what is the trustee security or the trustee investment. It has not been the payment into a passbook and contribution to share capital which will rank behind unsecured creditors of a building society if there is liquidation, but a deposit which will rank ahead of the share capital in a winding up.

I have no problems with those two amounts being included as the base, but one also has the loans that are arranged by a building society from other institutions or bodies to that building society except loans secured by mortgage over the business premises of the society. So, there we have the building society going out into the market place, perhaps, borrowing money for its business purposes—perhaps not secured—and then lending it out by way of loan or for other purposes to provide income to the building society. In those circumstances, it is somewhat artificial to use that as part of the base on which the 6 per cent is calculated.

That is the difficulty that I have: it is out of character with the other two amounts that are to be taken into consideration for fixing the 6 per cent. I hope that there can be some clarification of that point. I do not want to hold up the consideration of the Bill because I generally support it; I want to see it passed before Christmas if that is possible, but I am raising an important issue and I would like some further assistance in interpreting what it really means.

The Hon. C.J. SUMNER: This was put in at the request of the building societies to broaden the base of funds that they might use for investment. It is not unprecedented in the sense that a similar formula occurs in section 36 of the principal Act with regard to the determination of the liquidity of the building society, where to determine the liquidity of a society one takes into account the paid-up share capital of the society, just as one does in this case, the total amount held by the society by way of deposit, just as one does in this case, and the total amount of the principal that the society is liable to repay of any loan made to the society except the loan secured by mortgage over the business premises of the society.

All that I can say in response to the honourable member is that if his difficulty with the base of the loan made to the society is of concern in section 40 as a result of this amendment, those concerns presumably would also exist with respect to the liquidity requirements in section 36 that have existed in the Bill since 1975.

The Hon. K.T. GRIFFIN: The provisions of section 36 seem to be somewhat different in relation to calculation of liquid funds. 'Liquid funds' include cash at the bank. Then it sets out a variety of amounts that are included. Then it excludes the amount of any borrowings made by the society by way of bank overdraft. I know that the calculation of liquid funds is made for a different purpose, but it seems in that context that the borrowings made by way of bank overdraft are excluded from the calculation of liquid funds. I am saying here that in calculation of this 6 per cent the contrary is being provided for, and that is that one is including any borrowings. That is why it seems to be just a bit strange.

The Hon. C.J. SUMNER: I am sure that the honourable member's interpretation of section 36 is correct. Section 36 (1) provides a means of calculation of the liquidity that a building society must have before it can make a loan. The basis for calculating that liquidity includes under section 36 (1) *(c)* an amount that has been loaned to it. That is the same formula as is being used to calculate in this case the base from which to calculate the 6 per cent that a building society will be able to invest, subject to the approval of the Commission, outside its traditional activities.

The only reason for it, I understand, is that the industry saw section 36 (1) *(c)* as being an acceptable and traditional method of calculating liquidity and therefore considered that it was an appropriate measuring stick for the calculation of the base in the case of the amount that they may apply to the 6 per cent permissible investment. So, really, the only answer is that there was a precedent for it in section 36 (1) *(c)*, relating to liquidity, and that simply the industry asked for it to be included in section 40 with regard to the 6 per cent investment because it broadens the base, the capacity and the amount of money that a society can invest as part of the 6 per cent. There is no other reason for it but, if the honourable member felt some concerns about it and wanted to remove that part of the base, obviously I would have to report progress and obtain some details from the Association of Permanent Building Societies as to its attitude to that.

The Hon. K.T. GRIFFIN: I overlooked section 36 (1) *(c)* in my first quick reading of section 36 of the Act, although the definition of 'liquid funds' excludes the amount of any borrowings made by way of bank overdraft.

I can see that the societies might have wanted some consistency and this certainly gives them a broader base and a larger amount to invest by way of capitalisation of bodies corporate, that is, subsidiaries. I do not want to hold up consideration of the Bill: there is generally a bipartisan approach to this matter and, although I do not want to lose control of it, I wonder whether the Attorney could obtain clarification before the Bill is passed in the House of Assembly so that, if there is a major problem that has not been picked up in the drafting of the Bill, the Attorney will have an opportunity to do something about it in the other place. I can see the desirability of getting the Bill through before Christmas to enable the building societies to catch up on lost time, and so I suggest that course of action.

The Hon. C.J. SUMNER: I will consider the issue further and I undertake to provide the honourable member with a reply.

The Hon. R.I. LUCAS: On my reading of the Act the Registrar must approve in writing a proposed investment of funds in purchasing shares in a company or body corporate. New paragraph *(c)* of section 40 (1) refers to 'acquiring shares in a company or other body corporate'. Combining that with new subsection (3) *(a)*, which provides 'the Commission has approved the proposed investment in writing', it appears to be consistent. However, new subsection (1) *(c)* has been extended by providing 'or in making loans (whether secured or unsecured) to a company or other body corporate'. New subsection (3) *(c)* will cover that because it provides:

A society shall not invest funds under subsection (1) *(c)* unless—

(a) the Commission has approved the proposed investment in writing;

I understand the intent of the amendment, but I wonder whether there is an unintended result. If building societies can make loans at present as part of their normal business either secured or unsecured to companies or bodies corporate, will the Commission have to approve such a proposed investment in writing or does that provision not apply in that case? My understanding is that a company or a body corporate can go to a building society to borrow money to build a house, a shelter and so on in the normal course of events: the building society will lend money for that purpose. I would have thought that it was not originally intended that every one of those loans would have to be approved in writing by the Commission. If that is a common practice of building societies they would be forever approaching the Commission for approval in writing in regard to such investment. If that is the case, I would have thought it was an unintended consequence of what is provided in the Bill. If it is unintended, will the Attorney consider amending the Bill?

The Hon. C.J. SUMNER: Section 40 is designed to deal with investments beyond the normal loan arrangements in the provision of finance for housing or shelter. If there is a problem with the Act, it has been a problem since 1975. Section 40 (1) *(c)* provides that the society may invest funds in the following manner in acquiring shares in a company or body corporate. Under the amendment it will read 'in acquiring shares in the company or other body corporate or in making loans (whether secured or unsecured) to a company or other body corporate'. The individual loan will have to be approved. The acquiring of shares in a company or other body corporate or the making of a loan to a company or other body corporate will have to be approved by the Commission.

The Hon. R.I. Lucas: The second part is not contained in the Act.

The Hon. C.J. SUMNER: That is right. It will still require the approval of the Commission under the new Act. The reason is that, if a building society wishes to establish a subsidiary, it may do so by the direct purchase of shares of equity in the subsidiary or it may lend the subsidiary funds and receive interest. Whatever happens, it must be approved by the Corporate Affairs Commission.

The Hon. R.I. Lucas: I understand that, but doesn't the provision also catch what would be a normal business practice of the building society, with respect, because it states 'or in making loans . . . to a company or other body corporate'. It would catch the normal building society lending provision.

The Hon. C.J. SUMNER: The honourable member has raised a point for the Parliamentary Counsel.

The Hon. R.I. Lucas: They will have to get permission every time.

The Hon. C.J. SUMNER: I understand that. We will have to examine the point. Parliamentary Counsel assures me that there is no problem here. He says that section 40 is an investment power and is clearly stated to be so and that section 26 refers to a basic function of a building society, which is to advance moneys on the security of a first mortgage over land, and which is referred to in the heading and marginal note as 'Loans'. Although the point raised by the honourable member on the face of it may cause some concern, there are two distinct functions contained in different Divisions of the Act. Section 40 relates to, and talks about, the investment of funds. It is an investment power that lists a whole number of things that can be done by way of investment.

The Hon. R.I. Lucas: Which is not making a loan—is that what you are saying?

The Hon. C.J. SUMNER: It may be a loan, but not a loan in the sense in which the honourable member would wish to interpret it. A loan, so far as the primary business of a building society is concerned, being 'lending to home purchasers'.

The Hon. R.I. LUCAS: I cannot pursue this matter much further at this stage because I guess the combined legal knowledge of the Attorney-General and Parliamentary Counsel is too much for a non-lawyer, but on the surface I still cannot understand how section 26 of the parent Act alters the meaning. New subsection (3) of section 40 states that a society shall not invest funds unless the Commission has approved the proposed investment in writing, and new subsection (1) *(c)* refers to loans to a company or other body corporate. I understand what the Attorney has said, that is, that there is one particular example of making loans to a company or body corporate that this was intended to catch. What I cannot understand is how that provision, as worded there, even in conjunction with section 26, can distinguish between the making of a loan for the specific provision that the Attorney-General is talking about and the making of a loan that would be the normal loan that a building society would be making to companies and other bodies corporate as part of its normal investment business.

It is too late for me to undertake inquiries with building societies to ascertain what percentage of their business relates to the making of loans to companies or other bodies corporate just as a matter of their ordinary business. My legal knowledge is almost negligible so, if the Attorney-General and Parliamentary Counsel can make that distinction, which on the surface I cannot, then I guess that it rests with the Government. The only other question I have about clause 25 relates to the history of the 6 per centum mentioned in it. Will the Attorney outline where that 6 per centum figure has come from? Is that a figure used interstate? Is it a figure discussed in the Victorian report? I cannot see this figure in the parent Act in any area. The parent Act basically refers to two figures—1 per cent and 10 per cent. Will the Attorney provide a history of where that 6 per cent comes from?

The Hon. C.J. SUMNER: It seemed like a reasonable amount. I think it was considered by the Victorian committee to be a reasonable amount and also by the Ministers who looked at this question of the amount of deregulation that should occur. I guess that there is no particular magic in it. It was considered by the Ministers to be a reasonable figure. I understand that other States are moving in a similar direction. It is acceptable to the industry, so who am I to argue?

The Hon. R.I. Lucas: Are other States using the 6 per cent figure?

The Hon. C.J. SUMNER: I understand that they are moving in that direction, but I cannot guarantee that that is the case. So far as South Australia is concerned, that is acceptable to the industry. I think that a figure of 6 per cent will be used in the other States and was generally agreed on by Ministers as being a reasonable figure. With respect to the honourable member's legal point, perhaps he should take up a new vocation. The honourable member may be able to get before the Supreme Court at a substantial fee on brief to argue the sort of point that he has raised here tonight. It may be that his talents are being wasted. I undertake to look at this point again from the point of view of drafting and, if there is considered to be any problem, I will let the honourable member know of it at the same time as I let the Hon. Mr Griffin know about the other issue that he has raised. If the honourable member would like to take up the matter with Parliamentary Counsel I am sure that he can. If he is still concerned about the matter then, presumably, we can look at some further clarification of it.

Clause passed.

Remaining clauses (26 to 50) and title passed.
Bill read a third time and passed.

CORRECTIONAL SERVICES ACT AMENDMENT BILL

In Committee.
(Continued from 13 November. Page 1803.)

Clause 2 passed.
Clause 3—'Arrangement.'
The Hon. K.T. GRIFFIN: I move:
Page 2, lines 1 to 4—Leave out paragraph *(d)*.
This amendment should be used as an indication as to what will happen to other provisions of the Bill so far as they relate to conditional release. It seems to be a relatively minor amendment on the face of it, because the provision merely changes the name of a heading and, therefore, one might question why we would use it as a test case. However, because it deals with the whole question of conditional release I will canvass briefly the issues that I raised earlier in the second reading speech on the question of conditional release.

The Opposition believes that conditional release ought to stay in the prison system because it provides a measure of constraint upon those who have been convicted of a crime and who have been sentenced to a period of imprisonment so that the sentence imposed by the court really means something and the criminal remains under that constraint until the sentence has expired, either by serving a period in prison and parole, or the whole of it on some other form or combination of penalties.

The illustration that I gave in the second reading debate concerned the person convicted of a crime and sentenced to 12 years imprisonment and a non-parole period of six years. Under the Government's legislation now in effect a period of up to two years is remitted for good behaviour off the non-parole period. So, out of the total 12 years imprisonment four years may be served and, upon release, there is a period of parole and then absolute freedom. I do not subscribe to the view that there ought to be that absolute freedom until the 12 years has expired in one form or another; that is why I believe conditional release ought to remain in the Bill.

If a prisoner is on conditional release it means that if there is another offence committed during the period of conditional release the offender is at least under the threat of being returned to prison to serve the balance of the term of imprisonment, that subsequent offence being not just a minor offence but a serious one carrying a period of imprisonment and, again, not a short period of imprisonment but a period of imprisonment, from my recollection, exceeding three months.

I believe that that is an important part of any prison system—that the prison sentence imposed really means something. There has been much criticism from the community as to the sentence being handed down by the court not really meaning what it says. That is particularly relevant in regard to life imprisonment where 'life' does not really mean life imprisonment: it means something considerably less than that. In relation to prison sentences for other offences those who have been convicted appear to be not serving what the community believes has been an appropriate maximum sentence imposed by the court.

The system of conditional release that I would want to see remain in the Bill goes hand in hand with a different parole system giving the Parole Board much wider discretionary powers. I will address some comments on that later but, if conditional release stays in the Correctional Services Act, then it can operate comfortably in conjunction with the Government's present system of automatic release and non-parole periods. As I said, my amendment seeks to leave out paragraph *(d)*, which relates to conditional release, and I will take the vote on the amendment as a test case for subsequent amendments relating to that feature of the correctional services system.

The Hon. FRANK BLEVINS: I oppose the amendment. I appreciate the points that the Hon. Mr Griffin put, but it is simply a case of disagreeing. The Government believes firmly in the principle of the court and the court alone having the right to state how long a person should stay in gaol. In most parts of the world it is accepted and it is accepted in most parts of Australia. Queensland is the only exception but that, I understand, may change soon also. The principle is widely accepted throughout Australia and overseas. There is something of a misapprehension in what the Hon. Mr Griffin has said. He gave the example of a person sentenced to 12 years imprisonment. The Hon. Mr Griffin suggested that that person should be under some sort of supervision for 12 years—

The Hon. K.T. Griffin: Constraint.

The Hon. FRANK BLEVINS: —some kind of constraint for 12 years. That is the case now. A person with a 12-year head sentence, who is paroled before the end of that 12-year period, is under some kind of supervision and restraint for the whole of that 12 years, which contrasts—

The Hon. K.T. Griffin: But under the breaches of condition, a maximum of three months.

The Hon. FRANK BLEVINS: No. I will come to that in a moment. There is some misunderstanding about these matters. The position under the old parole system was that if somebody was sentenced to 12 years with a third remission, after eight years that person was free and clear without having any supervision or being under any constraint at all: they were released free and clear at the end of eight years. So, as many prisoners are now realising under this system, in effect, they are under supervision longer, and that is the reality. The question of breach of parole is a somewhat different question. The Parole Board can only put people back in prison for a breach of parole conditions and the maximum time that they can imprison someone is three months.

However, if somebody who is on parole breaches the law they go back to the court and are dealt with by the court under the normal court procedures, and sentences will be given according to what the law warrants. If somebody commits an armed robbery and that warrants five years in gaol, they will get five years in gaol or whatever the court thinks is appropriate. So, the fact that the Parole Board can only put somebody back in prison for three months for a breach of parole does not mean that somebody who is on parole can do as he wishes for the rest of the time he is on parole and only get three months imprisonment. That simply is not the case. I think that the Hon. Mr Griffin would agree that that is so.

Of course, the principles that we are discussing have been discussed many times and I agree with the Hon. Mr Griffin that this particular amendment should be taken as a test of the feelings of the Committee on the whole principle. I am pleased that the Hon. Mr Griffin did not go through the entire arguments again in great detail, and I will not do so either. Suffice it to say that the principle is very simple: the Government believes quite strongly that the length of time a person stays in prison should be entirely the business of the court.

I do not accept, and in fact it is incorrect to suggest, that the courts do not understand the new provisions. When the Office of Crime Statistics assesses parole, as soon as it has

sufficient statistics to work on (and after only 12 months there are not many statistics available but already some are being compiled, and they will be analysed) my guess is, and it is no more than a guess, that sentences will appear to have increased because—

The Hon. K.T. Griffin: They haven't.

The Hon. FRANK BLEVINS: Well, we will see. But my guess is, and I put it no higher than that, that sentences will appear to have increased because the courts are taking into account, as obviously they would, the new parole provisions in the way they now compute sentences. A good indication of this are the three recent non-parole periods given for Mr Van Beelen, Mr McBride, and the latest one, Mr Von Einem which, as the Attorney-General announced, even being a 24 year non-parole period, has been appealed against by the Government for the reasons that the Attorney-General outlined. So, the Judiciary is not stupid—

The Hon. K.T. Griffin: I did not suggest that.

The Hon. FRANK BLEVINS: I know, but some others have. It is ensuring that people stay in prison for precisely the time that it wants them to, provided that that person maintains good behaviour. To have outlined the principle behind the Government's parole legislation in a very simple way is sufficient at this stage to test the feeling of the Committee on those very important and fundamental questions.

The Hon. K.T. GRIFFIN: I have not said that the courts do not understand what is going on although there was some confusion in the early days and I recollect a newspaper report suggesting that Mr Justice Wells was in some way going to subpoena the Minister to appear if the matter was not sorted out. That seems to have been resolved and the Minister was not subpoenaed and apparently the matter was resolved to the satisfaction of the judge. But, there was certainly some confusion in the early stages. On that point, we are now getting to a situation where there is a degree of artificiality in the sentencing process where judges are fixing a non-parole period knowing that that non-parole period will be remitted by up to a third for good behaviour. It is more likely that that happens than not.

So, the maximum sentence really does not mean anything except in relation to some aspects of parole, but mostly it is the non-parole period that is now the actual sentence with a remission for good behaviour off that. So there is an area of artificiality. In terms of breaches of conditions of parole, I make the point again and will probably make it later, that those conditions are largely administrative. The fact that there may be a maximum sentence of three months for a breach of parole condition really misses the point that I was trying to make and, that is, that where one has a maximum sentence of say 12 years, but a non-parole period of six years, that for the balance of that six years, whether or not under supervision, under the Government's new parole system the fact is that that person really does not serve any further period for a major offence committed in breach of the parole conditions other than a maximum of three months, and the penalty for that additional offence.

It is not a system of double jeopardy in my view, although the Minister may argue that it is. The fact is that that offender has really been able largely to escape the balance of the first term because of the imposition of a new period of imprisonment for some other offence. That is the concern I have, that there is no cumulative concept involved in that. I understand that what the Minister is expressing is the Government's point of view. It is an issue on which we have had a long debate on other occasions and is one of those matters where there is division between us, and I have to recognise that.

The Hon. FRANK BLEVINS: The Hon. Mr Griffin is not quite correct when he states that somebody who reoffends whilst on parole does not have to do the rest of the sentence; it is added on to that sentence and a new non-parole period computed. Again, it is entirely in the hands of the court. If the court wishes to ensure that the rest of that sentence is served, in prison, that is what it does and it has the power to add on the sentence for the new offence to the sentence that has previously been set.

The Hon. K.T. Griffin: Not if that subsequent offence has a lower maximum period of imprisonment attached to it. Then the balance of the term is to be served with the first offence.

The Hon. FRANK BLEVINS: I understand that the courts can discount the period that is left to serve; for example, if it was a period of three years and the new offence warrants one year. The courts could then say that that is four years and then compute a new non-parole period to suit what the court thinks is appropriate. That power is there with the courts and they are aware that they can do that. There is some dispute about the wording of how they do that, but I will not enter into that debate at this stage because we may be debating it over the next few days. The principle is there. The courts are not arguing that the principle is there. Again, it gets back to the courts: they can add the new sentence to the old sentence if they wish that and think it is appropriate and compute a new non-parole period. That power is with the courts.

The Hon. K.T. GRIFFIN: That is not my understanding of the position. It is not going to affect our respective attitudes to the question of conditional release.

The Hon. Frank Blevins: That is happening in the courts and they are doing it now.

The Hon. K.T. GRIFFIN: It is not my understanding that they are doing it in the context of adding it to the unserved portion of the original sentence which is being served on parole. They are doing it in the context of adjusting the sentence for the subsequent offence and taking into consideration the original offence but not relating it to the original offence. They are taking it into account in fixing a subsequent penalty, but they are not accumulating the balance of the term to be served on the first offence with the prison sentence on the second. That is my understanding of it.

The Hon. FRANK BLEVINS: I do not think we are too far apart. The point I am making is that the courts have the power to do that. We have provided that in the legislation and the courts do have that power. I am not going to tell the courts how to exercise that power, but that power is there. They can use it, they are using it, and it is entirely their prerogative as to how they sentence. We have made the provision available to the courts. As I say, I do not think we are too far apart on it.

The Committee divided on the amendment:

Ayes (7)—The Hons M.B. Cameron R.C. DeGaris, Peter Dunn, K.T. Griffin (Teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (8)—The Hons Frank Blevins (Teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, I. Gilfillan, Anne Levy, and K.L. Milne.

Pairs—Ayes—The Hons J.C. Burdett, L.H. Davis, and C.M. Hill. Noes—The Hons C.W. Creedon, C.J. Sumner and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 4—'Interpretation.'

The Hon. K.T. GRIFFIN: My amendment to this clause is really consequential upon the decision which has just been taken and relates to conditional release. Because I was not successful in my previous amendment I will not move this amendment.

Clause passed.

Clauses 5 to 8 passed.

Clause 9—'Minister shall cause correctional institutions to be inspected on a regular basis.'

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

Page 3, line 21—Leave out 'Minister' and insert 'Governor'.
After line 33—Insert new subsection as follows:—
(4a) An inspector may, in investigating a complaint, be assisted by any other person authorised by the Attorney-General for the purpose.

This relates to inspection of correctional institutions. I made the point earlier about visiting tribunals where a Liberal Government had proposed that a substantial amount of the work of visiting justices should be taken over by magistrates constituting the visiting tribunal and that magistrates acting as such a tribunal would conduct regular inspections of correctional institutions. I also indicated that it was not an issue upon which I would move any amendments or divide, because if the Government is not able to finance the magistracy undertaking these responsibilities, whilst I am disappointed by that, it is really a matter for the Government to make its decision on that matter. It will stand to be judged on that decision by any difficult consequences which may arise from the decision not to involve magistrates to a much larger extent; a decision which is not reflected in the events leading up to the Clarkson Royal Commission in 1980-81. Having said that, there are two matters under this clause which are the subject of amendment. The first is that instead of the Minister appointing justices as inspectors I propose that that be undertaken by the Governor.

Then the whole Ministry has responsibility for that appointment, minimising, therefore, the prospect of any Minister being accused—maybe rightly, maybe wrongly—of using undue influence in the appointment of such justices as inspectors. We recognise that the area of prisons is controversial.

The second amendment relates to assistance that may be given by the Attorney-General to any person who is as an inspector investigating a complaint. The present Act provides for a person authorised by the Attorney-General to give that assistance. It can be a valuable resource in this instance for justices acting as inspectors. Those two amendments are an attempt to improve that section of the Bill.

The Hon. FRANK BLEVINS: I believe that both amendments improve the Bill and I am happy to accept them.

Amendments carried; clause as amended passed.

Clauses 10 to 12 passed.

Clause 13—'Initial and periodic assessment of prisoners.'

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

Page 4, line 23—Leave out 'as soon as practicable after' and insert 'within one month of'.

This clause deals with the assessment of prisoners. Under the principal Act (the Correctional Services Act, 1982), the assessment of prisoners was to be made by a prisoners assessment committee. That committee was to make recommendations to the permanent head, and the permanent head was generally required to carry out the recommendation unless he was of the opinion that special reasons existed for not doing so. This clause, instead of placing the responsibility for assessment on a prisoners assessment committee, places it on the permanent head. I can see that the permanent head probably ought to have that responsibility, but I hope that the Government would, as provided in the Correctional Services Act, establish an assessment committee to assist in the assessing of prisoners.

My first amendment is to place a time constraint on the initial assessment of a prisoner who has been sentenced to a term exceeding six months by requiring that assessment to be made within one month after admission to the correctional institution. In respect of regular intervals where assessments are made of that prisoner from time to time, the amendment is that those regular intervals be periods of not more than one year because there is a need for such regular assessments to be taken at least within that period as the circumstances of prisoners change. In the context of those amendments it is probably appropriate because of the different time constraints that I seek to impose to move the first one.

The Hon. FRANK BLEVINS: I oppose the amendment. I appreciate what the Hon. Mr Griffin is attempting to do. Obviously, by doing it as soon as practicable the assessment is very often made within one month. Where that is practicable, we do it; we do it as soon as we possibly can. The problem that we have (the Hon. Mr Griffin will know that we already have an advisory committee advising the permanent head) with his amendments, if they are carried by the Committee, relates to legal formalities that some prisoners are going through—for example, appeals—and we have to wait until all the legal formalities and appeals are taken care of before we can make any realistic assessment of a particular prisoner.

It would give us a problem in those cases and would not be terribly useful. I can assure the Hon. Mr Griffin and the Committee that we want assessments made as soon as it is practicable to do so. It is in our interests as well as in the interests of the prisoners to have assessments made and prisoners appropriately located and taken care of in other ways. There is certainly no desire on the part of the Department of Correctional Services to in any way delay assessing any prisoner, but we feel that until the legal formalities and appeals are complete, which often takes much longer than a month, it would really not be possible for us to comply with the terms of this amendment in any meaningful way for every prisoner.

Amendment negatived.

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

Page 4, line 27—After 'intervals' insert 'of not more than one year'.

This amendment is to put the maximum time within which regular reviews are conducted at one year.

The Hon. FRANK BLEVINS: This is entirely consistent with what we do. I see no harm at all in spelling it out in legislation and I am happy to support the Hon. Mr Griffin's amendment.

Amendment carried.

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

Page 4, line 35—After 'social' insert ', medical, psychological and vocational'.

The amendment is to include medical, psychological and vocational background in the matters to which the permanent head is to have regard. I presume that it is done anyway, but if it is spelt out it certainly makes it just a little more clear.

The Hon. FRANK BLEVINS: Again, as I stated on the previous amendment, that is entirely consistent with what we do and I am happy to have it in the legislation. The Government supports the Hon. Mr Griffin's amendment.

Amendment carried.

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

Page 4, after line 36—Insert new paragraph as follows:
'*(ab)* the needs of the prisoner in respect of education or training or medical or psychiatric treatment;'.

Again, I presume that that is being done, but the more comprehensive we can make the proposed subsection (3), the more appropriate and the more satisfactory it will be for both the administrators and for prisoners.

The Hon. FRANK BLEVINS: For the reasons stated in relation to the two previous amendments, the Government is happy to support the amendment.

Amendment carried.

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

Page 4, after line 42—Insert new paragraph as follows:

'(da) any submissions made by the Commissioner of Police in respect of the prisoner;'.

This amendment is very important and if the Government is not prepared to accept it I will certainly call for a division. Among the matters to which the permanent head should have regard in assessing a prisoner should be submissions from the Commissioner of Police in regard to that prisoner. A lot of information may not be strictly admissible in a court in determining the innocence or guilt of an accused person, but when a conviction is recorded it becomes relevant for consideration in determining a variety of questions affecting the interests of the prisoner and his associations with people within the prison system. Therefore, I believe it is important that, if the Commissioner of Police has any comment to make in regard to any prisoner, the permanent head should be able to consider it.

The Hon. FRANK BLEVINS: I oppose this amendment. Paragraph *(h)* refers to 'such other matters as the permanent head thinks relevant'. To a great extent the honourable member's concern is addressed, because from time to time the permanent head contacts the police in relation to extradition and so on. Paragraph *(d)* refers to 'the information contained in any file held by a court in respect of the prisoner'. Again, a great deal of information that the police have put before the court is available to the permanent head. There are dangers in the police making submissions or being obliged to make submissions—

The Hon. K.T. Griffin: They are not obliged.

The Hon. FRANK BLEVINS: —or if they wish to do so when assessments are being made, because they could be accused of making subjective judgments or irrelevant comments. I do not feel that the police would want to do that in any case, although I hasten to add that I have not asked the police. There is sufficient relevant information available, particularly as under catch-all paragraph *(h)* the permanent head has the right to acquaint himself with anything else that he thinks is relevant. Through those mechanisms there will be sufficient information for a fair and effective assessment. Reluctantly, I have to oppose this amendment.

The Hon. K.T. GRIFFIN: I do not accept that paragraph *(d)* will cover the submissions made by the Commissioner of Police in regard to the prisoner. It is true that there will be a large amount of information on the court file from the police and from other people relevant to the prosecution, but it will only be information that is strictly admissible according to the laws of evidence. Other matters may be relevant to consideration of the prisoner by the permanent head or the assessment committee.

I digress and say that we have been talking about this issue in relation to the Anti Discrimination Bill in the sense that the tribunal is to inform itself of matters as it sees fit without being bound by any laws of evidence. In that context, it can take in material that is not strictly admissible according to the rules of evidence. Obviously, the same would apply in this case. While paragraph *(h)* might allow the permanent head to consider other matters which he thinks are relevant and although those matters might include information from the police, I do not think that that really goes far enough.

I believe there ought to be a specific provision requiring a permanent head to consider any submissions from the Commissioner of Police in respect of the prisoner. That does not compel the Commissioner to make submissions: it merely ensures that, if the Commissioner makes a submission, the permanent head has regard to it and gives such weight to it as he believes is appropriate. It also makes clear that the Commissioner may make submissions to the permanent head if the Commissioner believes the circumstances are appropriate for that submission to be made. I am disappointed that the Minister and I are not able to agree on this amendment, which I believe is important.

The Hon. FRANK BLEVINS: Paragraph *(h)* is analogous to the provisions of the Anti Discrimination Bill: the permanent head can avail himself of or attempt to ascertain any information that he thinks is relevant whether or not it stands in court. That provision is contained in paragraph *(h)*. The problem is that, if a person is to be assessed on evidence that is not strictly admissible, we will very quickly have correspondence from the Ombudsman. Personally, I welcome correspondence from the Ombudsman and any dealings that the Ombudsman has in the prison system. I have found that that is enormously helpful to me and I am sure that the Department of Correctional Services feels the same way, although the Ombudsman is not always kind to us. If something is not quite right or if something is going wrong in the prison system, I, as the Minister, want someone to bring it to my attention quickly and the Ombudsman is ideally suited to do that. I am not quite sure that the Ombudsman welcomes the attention he gets from time to time from the Minister: I would like him to act in his role all the time to look after all interests in the institutions fairly.

If we were making assessments of prisoners on what may be subjective opinions of the police, I can assure the Committee that the Ombudsman would involve himself very quickly and very properly in any decisions that were made. We believe that the way in which this provision is constructed is fair and that it is safe; it will stand up to any scrutiny. In the days of freedom of information and of very vigorous Ombudsmen, that is the way it ought to be. For those reasons I regret to say that I oppose the amendment moved by the Hon. Mr Griffin.

The Committee divided on the amendment:

Ayes (7)—The Hons M.B. Cameron, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (8)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, I. Gilfillan, Anne Levy, and K.L. Milne.

Pairs—Ayes—The Hons J.C. Burdett, L.H. Davis, and C.M. Hill. Noes—The Hons C.W. Creedon, C.J. Sumner, and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 5, after line 1—Insert new paragraph as follows:

(ga) where relevant, any proposed plans in respect of the release of the prisoner and his social rehabilitation;

This matter is probably already dealt with administratively, but I think it is appropriate to express in the Bill that the permanent head is to have regard to certain matters and should consider, where relevant, any proposed plans in respect of the release of a prisoner and his social rehabilitation.

The Hon. FRANK BLEVINS: As the Hon. Mr Griffin has said, this is already done and is entirely consistent with what we do. I support his amendment.

Amendment carried.

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

Page 5, after line 8—Insert new subsections as follow:

(5) The prisoner may make written representations in respect of his assessment to the Permanent Head or to a committee established pursuant to subsection (2).

(6) After the first assessment of a prisoner has been completed, the Permanent Head shall prepare a programme in relation to the prisoner that contains particulars of any proposals for the education or training or medical or psychiatric treatment of the prisoner, and may, after any subsequent assessment, add to or vary that programme.

New subsection (5) that I seek to include is relevant to the right given by proposed subsection (4) to a prisoner to make representations in person to the permanent head. It may be

that a prisoner prefers to make them in writing and that ought to be clearly expressed. New subsection (6) is designed to require the permanent head to give a programme to a prisoner and to tell the prisoner of any variations or additions to that programme that occur from time to time. I think that that will facilitate the prisoner's appreciation of what is proposed for him or her and I think will assist in the improvement of the administration of the prison system.

The Hon. FRANK BLEVINS: This is what happens at the moment, so there is no difficulty in accepting these amendments. I can assure the Hon. Mr Griffin that prisoners make written representations to the permanent head in respect of their assessments and, frequently, to the Minister—and probably to other persons, as well, whether they are a committee established pursuant to subsection (2) or not. Therefore, we are happy for these amendments to be incorporated in the Bill. New subsection (6) says that a permanent head shall prepare a programme in relation to a prisoner. That is certainly done with every prisoner. The programme for each prisoner is discussed with that prisoner from time to time either personally or in writing, so there is no difficulty about that matter. We are delighted if prisoners co-operate with the programme we suggest. However, they sometimes suggest a different programme altogether. We attempt, in some cases over a period of years, to work out programmes with prisoners both the Department of Correctional Services and the prisoner feel appropriate for that prisoner for that term of imprisonment, so I have no difficulty in supporting the Hon. Mr Griffin's amendment.

Amendment carried.

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

Page 5, after subsection (6)—Insert new subsection as follows:

(7) A prisoner shall be given a copy of a programme prepared in relation to him pursuant to subsection (6), and of any subsequent additions to or variation of that programme.

This new subsection will require that a prisoner be given a copy of a programme and any subsequent additions to or variations of that programme. If the Minister does not support this amendment, I will be interested to know his reasons, because from what he said earlier I presume a prisoner is aware of what is in an assessment and that if a prisoner is so aware I wonder how he becomes aware, other than throught the grapevine, or whether there is some official information imparted to the prisoner. If the Minister gives me that information I will then give the matter further consideration.

The Hon. FRANK BLEVINS: I oppose the amendment basically because of cost. It would create an administrative nightmare for the Department, which makes thousands of assessments each year and, to put them all in writing unnecessarily, would impose an administrative burden that we do not want. If there was some problem in the area of prisoners not being aware of their assessments it may be that the cost would be justified, but there is not a problem with prisoners being aware of their assessments: they are involved in the making of them, where they wish. Unfortunately, some prisoners are just not interested and just want to do the time and do it at the local gaol or where it is handy for them and then wave good-bye at the earliest possible moment. That is fair enough if prisoners wish to serve their sentences in that way—it is entirely up to them.

To my knowledge and that of the Permanent Head there has never been a problem with prisoners knowing about the assessment. At any time they can ask if they are unsure, but that is not a problem. There are problems that they do not agree with the assessment and believe that they should be given lower security than the assessment panel suggests. Often there is disagreement about the assessment and, whilst we regret this disagreement, at times we have to agree to disagree. If we believe it is inappropriate for a person to serve their term in a particular institution for security reasons then that is the decision, but there is never a problem with the prisoner's knowing what assessment has been made about them, because it is made with them if they choose that way. To impose an administrative burden of involving thousands of unnecessary forms—

The Hon. K.T. Griffin: Isn't it in writing now?

The Hon. FRANK BLEVINS: Yes, there is an assessment file and it is on that assessment file but, if we have to give every prisoner a copy of the assessment file and update it on every occasion, it will cause incredible duplication.

The Hon. K.T. Griffin: There is an initial assessment, and the variations are not a redrafting of the original—

The Hon. FRANK BLEVINS: The file is constantly updated. I have seen the assessment files, which are indeed substantial documents for some prisoners, depending on how long they have been there and how often the assessment is made. As they are substantial files, to have to duplicate that whole system of thousands of files every year would be an administrative nightmare.

The Hon. K.T. Griffin: It would be for those already there, but would there be a problem for new prisoners?

The Hon. FRANK BLEVINS: We just start it off and away we go. If there was a problem I would have the cost assessed to see whether the benefits of the suggestion outweighed the problem, but there is no problem. Perhaps the honourable member has been made aware of a problem in this area, but we are not aware of it. There is no difficulty in finding out what one's assessment is but, to have to go through thousands of prisoners' files each year and give them something that they already know and in which they are already involved and about which they have no difficulty in understanding, is unnecessarily bureaucratic without creating any benefit. If any prisoner at any time wants to discuss his assessment with us—and lots of them do with the committee at the prison; they are doing it all the time, debating the point—

The Hon. K.T. Griffin: They are open to the Ombudsman too, I presume?

The Hon. FRANK BLEVINS: They certainly are: the Ombudsman plays a key role in correctional services. If prisoners do not agree with the assessment that has been made they contact me and the Ombudsman, the Permanent Head or members of Parliament and anyone else they think of. It is not to get the information—that is available to them—but they do not agree with the assessment; that is where we agree to differ.

The Hon. K.T. GRIFFIN: I am somewhat reassured by what the Minister has indicated. I am a little concerned, but it is an amendment about which I do not intend to call for a division if I happen to lose on the voices.

Amendment negatived; clause as amended passed.

Clauses 14 to 17 passed.

Clause 18—'Prisoners' mail.'

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

Page 5, lines 31 and 32—Leave out ', with the prior approval of the Minister,'.

This clause relates to the censorship of prisoners' mail. I addressed some remarks at length in the second reading debate on censorship and referred particularly to the Report of the Clarkson Royal Commission into Prisons. I am concerned that the Minister should become involved in determining or approving the opening and perusal of mail in the circumstances set out in present subsection (5) of section 33 of the principal Act. I just do not believe that the Minister ought to be involved in any way and that the manager (as he will be called) of the institution ought to have the responsibility for determining when mail is opened or not opened in accordance with the code. An extensive

code is set down in section 33. Protections exist against mail being opened. Mail to the Ombudsman, a member of Parliament, a visiting tribunal, a legal practitioner at his business address, is not to be opened. Subsection (5) allows mail to be opened when sent to or by a prisoner who, in the opinion of the manager, is likely to attempt to escape from a prison; any letter sent by a prisoner who has previously written or threatened to write a letter that will contravene the section, or any other letter on a random basis sent to or by a prisoner.

It is important that the manager exercises the responsibility for the decision-making, and it would be quite wrong to have the Minister involved in this procedure. The Minister is likely to become involved in an area of controversy and I would have thought that the Minister, because of that, would prefer to leave this decision, along with many other administrative decisions, to the manager of the institution; that is why I strongly believe that my amendment ought to be carried. It removes the requirement for the manager to get the approval of the Minister before censoring mail in circumstances envisaged in subsection (5) of section 33.

The Hon. FRANK BLEVINS: I oppose the amendment moved by the Hon. Mr Griffin with some reluctance. It perhaps would make life a little easier for Ministers if they could delegate to somebody else the more difficult decisions and unpleasant tasks that Ministers quite properly have to assume. Some issues are so important and are perceived to be so important and, occasionally, cause such great disturbance within the prison system that it is quite proper that the Minister make the decision. This is one of those issues. There are questions of privacy concerning the censorship of prisoners' mail. Quite often prisoners write to people outside, as the honourable member and I may have done in past private correspondence, things that they would be uncomfortable with other people reading.

So, it is an area in the prison system of quite high importance. This was recognised as a very sensitive area in the Correctional Services Act brought in by the previous Government. I do not think that the question of using mail for planning escapes or things of that nature is the issue. Obviously, if somebody was planning an escape and mail was censored in the way that some people suggest it should be, then it is very simple to use codes and phrases that make a comment about the weather and may mean, 'I am about to leap over the wall at 9 o'clock on Wednesday morning.' So, it is quite easy to arrange, and people would not be stupid enough to say in their mail, 'I am coming over the wall on Wednesday morning at 9 o'clock.'

Of course, we peruse mail to see that there is no contraband or illegal items included in it. To read it we feel is a pointless exercise. Prisoners are not going to use the mail and do not have to use it in any direct sense to communicate with people outside about illegal activities. There are contact visits where people sit face to face. If one wishes to plan an escape then one can do it very easily face to face with the visitor. The censorship of mail became irrelevant once visits were introduced into the prison system decades, if not centuries, ago.

Where it may be necessary to censor mail—and I concede in certain circumstances that may be the case—it would happen very rarely. I cannot think of a sensible example to put before the Committee. If the Federal Attorney-General wanted a particular prisoner's mail censored because he was suspected of assisting terrorists or something of that nature—I do not know—then I suppose it could happen. I have vague memories of a foot and mouth disease scare emanating from a gaol in Townsville.

Again, in those kind of circumstances I can see that there could be a necessity but, if that is to be done, the Minister has to accept the responsibility for doing it and not hide behind the manager of an institution. This is a very contentious area in an institution, as well as the question of privacy. The manager of an institution should be protected so that there cannot be any claims of victimisation or people looking out of prurient interest or vicarious excitement at what prisoners write to people outside.

Accusations also are very easily and frequently made in the prison system about people who work in it. I admit that I treat most of the accusations that come before me with some scepticism. I am not saying that I do not consider them, but sometimes it seems that some people are fairly paranoid. Again, I can see what the Hon. Mr Griffin is getting at with this amendment. It may make life a little more comfortable for me in the short term, but in the long run, this being such a contentious issue, the Minister should make the decision.

The Hon. K.T. GRIFFIN: I can accept that it may be contentious. I can accept from the prisoners' point of view that they may find it unacceptable. But I have a very strong view that they are prisoners and that they should expect that, being in prison for crimes against society, which requires the deprivation of freedom and some benefits and amenities, their mail may be reviewed on the basis set down in section 33 (5). Whilst that may be a matter that causes prisoners concern, I think that they are in a position where they have no option but to allow the law to be complied with. While I suggested that it may be more comfortable for the Minister if the manager did it, rather than the Minister authorising this censoring, I certainly did not intend to convey that the mere shift of responsibility to the manager was for that reason only.

It is an integral part of the management of an institution that the manager has the responsiblity for the decisions about discipline and behaviour and, provided they are made in accordance with the law, there is no reason for the Minister to intervene. I take a very strong view on this, that the censorship of mail is an important ingredient of prisoner administration and, provided it is carried out in accordance with the code set down here, it does not infringe any so-called basic rights that prisoners may have while they are serving their sentence of imprisonment for the crimes they have committed against society. So, I cannot accept what the Minister is putting in relation to this issue. It should not involve the Minister and it is for that reason I would not want to see Ministerial involvement included in this Bill.

The Hon. I. GILFILLAN: We do not support the amendment. I believe that censorship of mail is a very serious decision for anyone to take anywhere. Prisoners still remain human beings and citizens of society. I think that there are risks in removing rights unless there are distinct advantages in doing that. What concerned me more than anything was the inference that censorship could be used as a sort of disciplinary tool. That is the very thing that makes me oppose the amendment. The actual ability for communication between people wherever they are in my opinion is a basic right.

The Minister has indicated that scrutiny of the mail will ensure that there is no risk of the transportation of dangerous or undesirable material. Where there is a decision for censorship, it is proper that it be made outside of the context of face to face administration and disciplinary measures of an institution. Therefore, I think it is proper that the final and ultimate decision rests with the person ultimately responsible, in this case the Minister. I do not see censorship of mail as an ordinary routine decision to be made by a manager in the course of the day to day running of a prison. It is on that basis and because we see censorship as being outside the normal category of administrative duties within an institution that we feel it is appropriate that a manager

or any other member of the staff who suspect that there are very good reasons for closer scrutiny or censorship should approach the Minister for approval. That appears to be a satisfactory way to proceed.

The Hon. FRANK BLEVINS: I do not think the Hon. Mr Griffin, myself and now the Hon. Mr Gilfillan are too far apart. I understand that the Hon. Mr Griffin is not arguing about the procedures for censoring prisoners' mail as such.

The Hon. K.T. Griffin: I am just saying the Minister shouldn't be involved.

The Hon. FRANK BLEVINS: We are all agreed about the procedure. We are concerned about who has the ultimate responsibility for the procedure and whether it should be the manager of the institution or the Minister. It appears that we are all agreed on the question of censorship. The Hon. Mr Griffin is not attempting to alter what is there as regards the whole procedure, so I suppose with varying degrees of enthusiasm we all basically support the provision. It is really a question of who is responsible. My advice is that this is such a contentious issue that for the principles I have outlined, including the protection of managers against charges of victimisation, and so on, the Minister should be the person to make the decision.

The Hon. R.C. DeGaris interjecting:

The Hon. FRANK BLEVINS: The Minister is answerable here, whereas the manager of an institution is not. If a prisoner gets in touch with members, they can directly confront the Minister during Question Time. I am persuaded by the argument that it is necessary for the Minister to be responsible. As I said earlier, I wish that were not the case because I could unload a lot of unpleasant things onto someone else. However, in this case it is proper that the Minister be responsible. I oppose the amendment.

The Committee divided on the amendment:

Ayes (8)—The Hons M.B. Cameron, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, and K.L. Milne.

Pairs—Ayes—The Hons J.C. Burdett and L.H. Davis. Noes—The Hons C.J. Sumner and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 19 passed.

Clause 20—'Segregation'.

The Hon K.T. GRIFFIN: I move:

Page 6, lines 7 to 37—Leave out paragraphs *(a)* to *(f)* and insert 'by striking out from subsections (1), (3) and (6) the word "superintendent" wherever it occurs and substituting, in each case, the word "manager".'

The amendment leaves present section 36 intact except to change 'superintendent' to 'manager'. The Bill sets up a somewhat different mechanism for what the legislation calls 'separate confinement' and what the Government calls 'segregation'.

The Government's Bill allows segregation for a period not exceeding 30 days. The present Act provides for separate confinement for a period not exceeding seven days where the superintendent thinks fit. Under the Act it is the superintendent who makes the decision; under the Government's Bill it is the permanent head. This sort of decision ought to be taken by the superintendent or the manager (as that person will now be described). It ought to be only for a period of seven days, with a right to extend with the approval of the visiting tribunal.

The Government allows the 30 days to be extended by the visiting tribunal for a period not exceeding one month. In the context of separate confinement or segregation it ought to be for as small a period as possible, with extension only with the approval of the visiting tribunal. That is why I prefer to leave section 36 in the principal Act very largely as it is: it provides certain safeguards and a shorter period than does the Government's Bill. The principal Act gives the responsibilities to the person on the spot rather than to the departmental head.

The Hon. FRANK BLEVINS: I oppose the amendment. Again, the Government considers that the provisions in the Bill are reasonable in the light of our experience of working in this very difficult area of separate confinement. Honourable members will recall that the question of separate confinement was one of the major issues during the Royal Commission. Again, it was an area of great contention. In more recent times there was a case where a prisoner was separately confined. He took a case to the Supreme Court that he had been confined illegally, and the Supreme Court upheld his claim. It was subsequently overturned on appeal, but it was decided there that the permanent head was responsible for the separate confinement, although the legislation did not say that. Now the legislation will.

Again, there will be a certain amount of delegation; for example, if separate confinement is required at 1 a.m. on a Sunday the manager of the institution will have the delegated authority to do that through a departmental instruction and with a reporting back procedure to the permanent head. So, it will not impede the necessary security and discipline within the prison. It makes it clear that the permanent head is the person responsible.

As regards the question of 30 days or seven days, we through our experience have found that administratively it is unnecessary to go through a procedure every seven days. It in no way disadvantages anybody not to. Again, I point out that we are not in the business of capriciously confining people separately. The prison system would break down and would be in a state of disturbance if managers, permanent heads and Ministers capriciously went in and locked people up separately out of the main stream of the prison population. It does not happen and ought not to happen, and the Royal Commission made it perfectly clear that it should not happen. Again, these are administrative arrangements, which we feel are appropriate given the history of legal difficulty that has occurred in this area.

Amendment negatived; clause passed.

Clauses 21 to 24 passed.

Clause 25—'Repeal of s.40.'

The Hon. K.T. GRIFFIN: I oppose this clause, which deals with section 40, relating to a visiting tribunal, and limits the powers of a visiting tribunal that is comprised of two justices of the peace. It is to some extent related to my earlier points about visiting tribunals, but has some greater significance than the previous clauses that we have considered where those clauses relate to visiting tribunals, because section 40 of the Act provides that if the prisoner does not plead guilty to the charge the matter is to be heard by a visiting tribunal comprised of a magistrate.

If there is a plea of guilty the two justices of the peace can still hear it, but if the prisoner pleads guilty and requests that penalty be determined by a visiting tribunal comprised of justices of the peace, that can proceed. If there is no such request it may be heard and determined by a visiting tribunal comprised either of a magistrate or justices of the peace.

The visiting tribunal comprised of justices of the peace, if it is of the opinion that a greater penalty than it is empowered to impose ought to be imposed upon the prisoner, may refer the question of penalty for hearing and determination by a visiting tribunal comprised of a magistrate. I would have thought that the Government could continue to work with that, because it merely sets out the procedures that enable justices of the peace to continue to sit as visiting

tribunals, but in some circumstances it allows magistrates to hear cases. There is nothing in that section that would prejudice the proper administration of justice in the prison system, nor would it add to the costs unnecessarily. As I am presently advised, I believe it is important to leave section 40 in the Act, and so I oppose this clause.

The Hon. FRANK BLEVINS: The best way in which I can respond is to point out what actually happens. The visiting justices deal with breaches of prison regulations only, in relation to which the penalties are in the form of deprivation of privileges and loss of remissions—if the prisoner offends against the prison law. However, if the prisoner commits a criminal offence, he is taken before a magistrate. The matter is put into the hands of the police and, if there is sufficient evidence, the matter goes before a magistrate. If the prisoner is found guilty, the appropriate penalty, perhaps a period of imprisonment, is imposed. In regard to everything other than breaches of prison regulations, a magistrate deals with the case. It seems to me that the present arrangements are fine, and therefore section 40 is not required.

The Hon. K.T. GRIFFIN: I have made my point about this issue. I have been informed by one of the Australian Democrats that he intends to support the Government so, if the Government is able to win on the voices, to save time I will not call for a division.

Clause passed.

Clauses 26 to 33 passed.

Clause 34—'Continuation of the Parole Board.'

The Hon. K.T. GRIFFIN: This is a clause of major significance relating to the continuation and functions of the Parole Board. We have not yet divided on this issue and I would regard this as a test clause for determining the attitude of the Committee to the question of parole. I have made the position of the Liberal Party clear on many occasions: we believe that the Parole Board should be constituted differently from the way that the Government achieved under the amendments that were passed in November and December last year and contained in the Prisons Act. We believe that the Parole Board should have wider powers: it ought not necessarily to include a member of any particular ethnic, Aboriginal or other origin: generally it ought to have power to take into consideration a variety of matters that affect the date of release of the prisoner and the prospects of rehabilitation so that the prisoner can take his or her place in the community without fear of reoffending. I need not canvass those matters again. It is a straight matter of principle on which the Liberal Party holds a particular view and the Government holds a different view. Because it is a matter of principle, I will call for a division on this issue.

The Hon. FRANK BLEVINS: I appreciate that this is the major issue of the Bill, and the Opposition's desire to call for a division is understandable. There is a fundamental difference. Our principle is very simple—we feel that the courts are the only appropriate bodies to determine how long a person stays in gaol. Our proposition is as simple as that. It has been stated on more than one occasion, and I am sure it will be stated again in subsequent years. Therefore, I support the clause.

The Committee divided on the clause:

Ayes (9)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, and K.L. Milne.

Noes (8)—The Hons M.B. Cameron, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons C.J. Sumner and Barbara Wiese. Noes—The Hons J.C. Burdett and L.H. Davis.

Majority of 1 for the Ayes.

Clause thus passed.

Clause 35 passed.

Clause 36—'Proceedings of the Board.'

The Hon. K.T. GRIFFIN: I think that I have largely lost the battle on this matter, which relates to proceedings of the Board. I will call against it but, in the light of the earlier division in which I was unsuccessful, I will not call for a division. I do have a general concern about this matter. However, there is one particular concern, and that is for the Parole Board to be able to sit in separate divisions. I remember that during the debate on the Prisons Act Amendment Bill last year I questioned the desirability of this Board being able to sit in separate divisions because the question arises about who should comprise each division.

The Board, as constituted, must comprise the judge, someone holding judicial office, or someone who has retired from judicial office. It must have on it somebody who has experience in the practice of psychology. There are various other criteria, one being that at least one member of the Board must be a person of Aboriginal descent. Obviously, if the Board is to sit in divisions it cannot have all those interests represented on each division; so, a choice must be made on who sits on one division and who sits on the other. I think that that defeats the objective of having a broadly representative Parole Board, although I suppose I could take some comfort from the fact that the Parole Board does not have significant power, anyway, and can only impose conditions that I do not regard as being particularly onerous. That is a major concern with this Bill, along with the broader concern about the way in which the Parole Board is to operate.

The Hon. FRANK BLEVINS: As the Hon. Mr Griffin has said, this is part of that fundamentally different approach that we have to the questions of imprisonment and parole. Once again, if one accepts the Opposition's point of view, there is some point in the argument. However, we have a fundamental difference with the Opposition about this matter and, therefore, I cannot concede any merit to the argument. The Parole Board does have a significantly different function today from what it had in previous years. It also has a function of interviewing on a regular basis prisoners who are not being released on parole, so there is a much higher volume of work for the Parole Board than there was previously.

Therefore, where it is just making an annual assessment, review or visit by a prisoner to the Parole Board, it is often not necessary for the whole of that Board to be present. If a significant decision was being taken towards the end of the prisoner's sentence, then I would expect the Chairman of the Parole Board to have all the members of the Board operating on that occasion. In the overwhelming majority of cases that happens. The Parole Board has sat in the manner proposed on very few occasions. In fact, it has happened on a trivial number of occasions, so overwhelmingly the Parole Board will continue to sit as a single entity.

Clause passed.

Clause 37—'Reports by the Board.'

The Hon. R.I. LUCAS: I welcome the amendment to section 64, which will place in the Act a definite period within which the report of the Parole Board shall be made to the Minister, rather than as it is in the parent Act 'not later than a day to be fixed by the Minister'. This will insert a definite period of not later than 31 October each year. As the Minister knows, I would have preferred a figure involving September, which is a three-month period, as a reporting provision. Nevertheless, I welcome this amendment to place some certainty in that reporting provision.

Can the Minister say whether there is a requirement on the Minister to table a copy of this annual report of the Parole Board in both Houses of Parliament? I have been

through the Act and amending Acts and cannot see such a requirement for the annual report of the board (not the other reports, which may be requested by the Minister and which are covered under subsections (2), (3) and (4) of section 64 of that Act) to be tabled. I am talking about the annual report of the Parole Board, which talks, amongst other things, about the work of the Board generally in the previous financial year, so it really is, in effect, the Board's annual report.

Most other reporting provisions for bodies like the Parole Board set down two aspects—first, a period within which they must report to the Minister and, secondly, a statement that the Minister must table that report in both Houses of the Parliament. The normal wording used by the Government is 'as soon as practicable'. The words that I have sought to include in a number of Bills are 'within 14 sitting days'. Will the Minister say whether I am incorrect in indicating that there is no requirement for the Minister to table in the Parliament a copy of this report from the Parole Board? If not, why is there not a requirement for the Minister to table the annual report of the Parole Board in Parliament?

The Hon. FRANK BLEVINS: I am advised that the answer is 'No'. There is no requirement to table that report.

The Hon. R.I. LUCAS: I thank the Minister for confirming the position. Why is there not a requirement for him to table the report in Parliament? Does the Minister believe that it is inappropriate for the Parole Board's annual report to be provided to all members of Parliament in both Houses?

The Hon. FRANK BLEVINS: I have no idea why no provision is made for tabling the report in Parliament, but I will give it some thought. I am sure that the Correctional Services Act will be before Parliament for amendment often whilst we are in Parliament.

An honourable member interjecting:

The Hon. FRANK BLEVINS: It is now past midnight, and it would be a pity if the intervention of another honourable member spoilt what has otherwise been an excellent debate. I point out that the Act was introduced during the period of the previous Government and that the problems which we have had with it are many and varied. Frankly, the tabling of the annual report of the Parole Board is not a question that has exercised my mind a great deal over the past few months. I give the Hon. Mr Lucas an undertaking that before this Act is amended again I will have considered the question deeply and I will advise him on my decision.

The Hon. R.I. LUCAS: I suggest to the Minister that, as the Hon. Mr Griffin has more amendments, the provision that I would be seeking to insert would be easy to whip up. Perhaps we could debate this clause at the end of the Committee stage tonight so that the Minister will have an opportunity to consult with his Permanent Head and make a decision. Is the Minister willing to defer consideration of this clause and proceed with other clauses so that, if I can get the amendment drawn up in time, we can then debate it? If not, we will have to accept the Minister's undertaking.

The Hon. FRANK BLEVINS: I am delighted that the Hon. Mr Lucas is willing to accept my undertaking.

The Hon. R.I. Lucas: What does that mean? Are you willing?

The Hon. FRANK BLEVINS: No, we will deal with it, but of course the Committee decides—I will be opposing it. There is absolutely no necessity to postpone consideration of this clause and go through drawing up an amendment, albeit a simple one and have it considered at this stage. As I gave the undertaking to the Hon. Mr Lucas, the next time the Act is open I will make my considerations known to him and give him ample time to draw up an amendment.

Clause passed.

Clause 38—'Court shall fix or extend non-parole periods.'

The Hon. K.T. GRIFFIN: I oppose the clause, which relates to section 65 and deals with the fixing of non-parole periods. Again we have a totally different emphasis between what the Government proposes and what the Liberal Party believes is appropriate in regard to non-parole periods. Where the non-parole period under Liberal legislation is to be fixed by the court as a period before the expiration of which a prisoner may not apply for parole, the Government's proposal is to fix the non-parole period in the court and then provide for automatic release upon the expiration of two-thirds of that non-parole period; that is, up to one-third being remitted for good behaviour. I do not believe that this clause is consequential on any other that has been passed so far but, if the Australian Democrats indicate what they will do, I can decide whether or not I will take up the time of the Committee in dividing on this matter of principle.

The Hon. FRANK BLEVINS: I support the existing clause in the Bill. We have a fundamental difference. The Government along with practically the rest of Australia and most of the Western world, believes that determinate sentences are much better than indeterminate sentences. We also believe that with our parole provisions the court is able to determine precisely how long a person should spend in gaol. We believe that that is an appropriate function of the court. We do not believe it is a function of anyone else to make that decision, however well meaning. If people are being gaoled, if their liberty is to be taken away, we cannot imagine any other body or any other individual better able to assess the length of time for which the liberty of an individual is to be taken away then the court.

We are just at a loss—there is absoslutely no meeting of minds on this. At some other stage, but not tonight, I would welcome the Opposition's telling the citizens of South Australia why it believes the courts are not the appropriate people and why the Parole Board is better able to determine than the courts how long a person should stay in gaol. That question warrants explanation, although I concede that this is not the time to have that debate.

The Hon. I. GILFILLAN: In response to the comments of the Hon. Mr Griffin, I have no hesitation in saying that we support the Government, as we did on the earlier prisons legislation, in having this current form of setting parole periods. I indicate that that is how we will respond—opposing the amendment and supporting the clause.

The Hon. K.T. GRIFFIN: Although I oppose the clause and subsequent clauses I do not intend to divide on them. That applies to clauses 38 to 48. In the light of that intimation, it is obvious that a division will not be carried by the Opposition. I will make one brief response to the Minister about the Liberal Party's position on parole. The courts fix the maximum sentence and there is nothing indeterminate about that, except with life imprisonment.

Under the Liberal policy the courts were required to fix a non-parole period and it was the period between the non-parole period and the end of the maximum sentence fixed by the court in which some discretion was to be exercised as to early release. It was not an indeterminate sentence; it was a fixed sentence. So, I do not have the difficulty with it that the Minister has in the way in which he has discussed this clause. But that, as he says, is a major debate for another day. If he wins on the voices, I will not be dividing in the light of the Democrats' indication.

Clause passed.

Clauses 39 to 48 passed.

Clause 49—'Repeal of Part VII and substitution of new Part.'

The Hon. K.T. GRIFFIN: This clause is in the same category and relates to remission of sentence. The Opposition does not support it but in the light of the intimation by the

Hon. Mr Gilfillan of his support for the Government's proposal, I will not be dividing if the Government is successful on the voices.

Clause passed.

Clause 50—'Managers may make rules.'

The Hon. K.T. GRIFFIN: I made a brief point about this clause because in some respects it is related to clause 52. Although clause 50 deals with the substitution of the word 'manager' for the present word 'superintendent', it also seeks to provide that the Minister is to cause rules made under section 83 of the principal Act to be published for the benefit of prisoners, for those rules to be made known to any prisoner and, where that prisoner is illiterate or the prisoner's language is not the English language, then to ensure that as far as is reasonably practicable those rules are communicated to the prisoner.

Under section 85 of the Act, which is to be repealed by clause 52, the superintendent of a correctional institution shall, upon receiving into the institution any person to be detained therein, furnish that person with a written statement in the form approved by the Minister of the rights, duties and liabilities of that person under this Act, the regulations and rules of the institution. I do not think that it is adequate for the Minister merely to cause rules to be made under section 83 of the Act because they relate only to the mangement of the institution and to make only those rules available and not to give the more extensive statement envisaged by section 85 to the prisoner, that is, a statement of rights, duties and liabilities. For that reason I oppose clause 50 and may divide, depending on what intimation I get from other members, recognising that if I am successful it may be that the clause will have to be recommitted only to deal with substitution of 'manager' for 'superintendent'. But, there is a broader principal involved. Present section 85 should remain in the Act and the mere handing of rules to a prisoner is inadequate. For that reason I oppose clause 50.

The Hon. FRANK BLEVINS: I am not sure that I am totally clear—

The Hon. K.T. Griffin: I will explain it again.

The Hon. FRANK BLEVINS: The honourable member will probably have to. I am not sure that I have got the problem that the honourable member is addressing. It seems to me that the arrangements we are making here, as far as is practicable, make prisoners aware of the rules and regulations of the institution. To attempt to somehow give, if this is what the Hon. Mr Griffin is suggesting, to prisoners their rights and obligations under the law in total would be a massive undertaking.

The Hon. K.T. Griffin: The regulations and the rules of the institution, not at large, but only under the Act.

The Hon. FRANK BLEVINS: I am not sure that interpretations of that are not changing all the time. It scares me somehow that what we will be embarking on is an operation that we could not possibly meet. Those things are dynamic; they are changing all the time. I am not quite sure how we would cope with that operation for the 5 000 or so prisoners that we take in every year. My maths defeats me at the moment; I do not know how many prisoners that is a day. But, there are constant changes occurring in interpretation to the law. Maybe the Hon. Mr Griffin says that it is reasonably static and that we could cope. Perhaps I can be persuaded. At the moment I have an impression, as do my officers, that we would be reprinting almost daily for the thousands of prisoners.

The Hon. K.T. GRIFFIN: I do not want to create an administrative mightmare and I do not think my position will do that. Under section 85 of the Act a person who is received into an institution is to be furnished with a written statement in a form approved by the Minister of the rights, duties and liabilities of that person under the Correctional Services Act, the regulations made under that Act and the rules of the institution. I would not have thought that they were fluid; I would have thought that they were static. The Government's Bill seeks to limit the information that is given to prisoners to the rules of the management of that institution and says nothing about the rights, duties, obligations and liabilities of the prisoner either under the Act or the regulations. So, it seems to me that what the Government is proposing is very much a significant limitation on what the Act, admittedly unproclaimed, presently seeks to provide. That is the area that is causing me some concern.

The Hon. FRANK BLEVINS: Again, I am advised that the repeal of this section is on the advice of the Crown Solicitor. The Crown Solicitor has advised that that provision is impossible for us to maintain. So many Acts of Parliament impinge upon this Act, for example, the Criminal Law Consolidation Act, and every change that occurs in that Act has some impact here.

The Hon. K.T. Griffin: I don't see how that's relevant.

The Hon. FRANK BLEVINS: That is the advice that we have been given by the Crown Solicitor. It is certainly not the Government's desire to lessen the information available to prisoners. However, where there is a provision in legislation which, based on Crown Law advice, is physically impossible for us to comply with because of the constantly changing nature of the law, I think it is pointless to include it. I would be happy to obtain more concrete reasons for the Hon. Mr Griffin at a later date and perhaps develop the argument with other legal minds who have certainly persuaded us that it is not possible for us to comply with this provision.

The Hon. K.T. GRIFFIN: I am surprised at that opinion. I do not want to pursue the matter at any greater length now, but if the Minister can provide some more comprehensive information I would certainly like to have access to it. In view of the hour I do not intend to divide, but I oppose the clause on the basis that I have already indicated.

Clause passed.

Clause 51 passed.

Clause 52—'Repeal of section 85.'

The Hon. K.T. GRIFFIN: I have lost my case in relation to this clause on the basis of the decision on clause 50. While I oppose the repeal of section 85 of the principal Act, I will not divide on it.

Clause passed.

Clause 53—'Insertion of new sections 85a and 85b'.

The Hon. K.T. GRIFFIN: I am in something of a dilemma here. My concern is with proposed new section 85a. I have no quarrel with new section 85b, which deals with confidentiality of information. I support that. I suppose I should have moved to delete lines 15 to 21, which is new section 85a. Proposed section 85a seems to give fairly wide powers to a manager of a correctional institution to remove volunteers from a correctional institution if the manager is of the view that a person is engaged in any activity within an institution or visits a prisoner and is interfering with or is likely to interfere with the good order or security of a correctional institution.

I think volunteers play a very important part in the maintenance of the morale of prisoners within the prison system and provide very valuable services. The thought that a manager can somewhat arbitrarily on the basis of his or her own opinion exclude such a volunteer from the system worries me. Can the Minister provide some background information as to why that provision is proposed?

The Hon. FRANK BLEVINS: The Government does not intend to restrict volunteers or visitors to institutions who do what they are intended to do there within the law and without prejudicing good order in the institutions. In

the past we have had experiences which have given us some cause for concern with a few volunteers whose presence has not been conducive to good order in a prison. There have been occasions where volunteers have taken illicit material or substances into an institution. From time to time, we have suggested to these volunteers that they leave and do not come back. Again, this amendment is based on Crown Law advice.

Crown Law has advised that we were acting on pretty thin legal ground in some of the actions we took against some volunteers (and it involves only a small percentage). I could give the Committee some very colourful examples of wrong doing by some volunteers. I will entertain members with those examples privately on another occasion, because some of them are quite remarkable. This clause is based on Crown Law advice to the effect that the Government should have proper means to deal with the few volunteers who abuse their position within our institutions.

The Hon. K.T. GRIFFIN: It is on the record that I have some concern about new section 85a. I accept what the Minister has said that there is some concern about the behaviour of an isolated number of volunteers. I certainly would not want the good order and security of an institution to be prejudiced in those circumstances. In the light of the Minister's explanation I will not move the amendment which I indicated I might move, because there needs to be some authority within correctional institutions to contain the sort of difficulty to which the Minister referred. However, I will watch with very close interest the way that it is administered, and if it creates a problem we can review it at some later time.

Clause passed.

Clause 54 and title passed.

Bill reported with amendments. Committee's report adopted.

The Hon. FRANK BLEVINS (Minister of Correctional Services): I move:

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: I have spoken at length on the difficulties that the Liberal Opposition sees with the Bill and the matters of principle on which there have been divisions in Committee. I will call for a division on the third reading because the decisions that have been taken in Committee are in some instances not decisions that the Opposition supports.

The Council divided on the third reading:

Ayes (9)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, and K.L. Milne.

Noes (8)—The Hons M.B. Cameron, R.C. DeGaris, Peter Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons C.J. Sumner and Barbara Wiese. Noes—The Hons J.C. Burdett and L.H. Davis.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT AMENDMENT BILL

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

COUNTRY FIRES ACT AMENDMENT BILL (No. 3)

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

FAMILY RELATIONSHIPS ACT AMENDMENT BILL

Returned from the House of Assembly with amendments.

PRICES ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly with an amendment.

MAGISTRATES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.44 a.m. the Council adjourned until Thursday 15 November at 2.15 p.m.