LEGISLATIVE COUNCIL

Wednesday 9 October 1985

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

PETITION: PORT AUGUSTA BOTANIC GARDEN

A petition signed by 112 residents of South Australia praying that the Council urge the Government to establish at Port Augusta the first arid lands botanic garden was presented by the Hon. B.A. Chatterton.

Petition received.

QUESTIONS

OLYMPIC SPORTS FIELD

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General about legal questions relating to the Olympic Sports Field.

Leave granted.

The Hon. K.T. GRIFFIN: The Minister of Recreation and Sport has written to the Mayor of Burnside in relation to the Olympic Sports Field track. The letter, written on 27 September 1985, states:

Following our recent discussions on the resurfacing of the Olympic Sports Field track, and advice on the present lease agreements from the Crown Solicitor, Government is firm in its intent to have the track built and control placed with a board of management.

Government is prepared to announce on 1 October 1985 that it will proceed with the letting of the tender if, at your council meeting on 30 September, council resolves to:

- instruct its officers and solicitors to arrange the appropriate procedures to constitute a board of management consisting of members from the City of Burnside, Department of Recreation and Sport, Athletic Association of South Australia, South Australian Little Athletics Association, Adelaide City Soccer Club, Independent Schools Association and Government schools.
- write to the AASA immediately advising them of the action to be taken.

If the AASA were to challenge the new management and leasing arrangement then the Government will meet half of any legal costs incurred by the council.

I, as Minister of Recreation and Sport, in a press release on 1 October 1985, will acknowledge the support of the Burnside council and indicate what arrangements have been agreed.

Yours sincerely, Jack Slater, Minister of Recreation and Sport.

Apart from the matters of public policy and the involvement of the Government in attacking a voluntary and amateur association, there are two serious legal questions.

The Hon. C.J. Sumner: In doing what?

The Hon. K.T. GRIFFIN: In attacking a voluntary and amateur association. I am sure that the Attorney-General will be aware of the common law crime and maintenance and champerty. This involves the commitment of a person to pay the legal costs of another person so that the other person may take legal action. On the basis of the letter, the Minister appears to be guilty of that crime.

The Attorney-General should also be aware of the tort of inducing a party to a contract to break that contract. Any person who induces the breach of a contract commits a tortious act which exposes that person to a claim for damages. Clearly, the Minister in his letter is inducing the council to break its 10-year lease with the Amateur Athletic Association and that must expose the Minister and the Government to a liability for damages. My questions are as follows:

1. Does the Attorney-General agree that the letter from the Minister of Recreation and Sport exposes the Minister to a charge of maintenance and champerty?
2. Does the Attorney-General agree that the Minister and Government are exposed to a civil liability for an inducement to the council to break its contract?
3. Will the Attorney-General investigate the matter urgently and report back to the Parliament?

The Hon. C.J. SUMNER: With respect to the first question, it is most unlikely that the situation outlined by the honourable member would constitute maintenance or champerty or a criminal offence, or, indeed, a tort. The honourable member has raised certain matters; I have no direct knowledge of the issue, but I will make some inquiries.

BUILDING BANS

The Hon. M.B. CAMERON: I seek leave to make a statement before directing a question to the Minister of Labour on the subject of building bans.

Leave granted.

The Hon. M.B. CAMERON: In the suburb of St Peters there is a black ban on a building site by the Building Workers Industrial Union that is causing very grave difficulties to a subcontractor. The subcontractor has had his site black banned by this union when, in fact, it would appear that the people working on the site are unionists. Clearly an attempt is being made to force subcontractors within the building industry to join the union. That is completely contrary to what has been the normal practice and is certainly a situation that I would imagine the Government would not support.

The subcontractor, Mr Pele Trotta, is one of the largest subcontractors in Adelaide, and the union claims that Mr Trotta's employees are not being fairly treated; however, on investigation by the Opposition it has been discovered that, in fact, they are being treated well and do not support the union's ban on the site.

The problem that has arisen is that no injunction can be obtained at this stage, even though this subcontractor is being very severely disadvantaged by this black ban. In fact, in the words of the subcontractor, the attempt is being made to put him out of business.

Members will recall that when a Bill affecting this industry was last before the Council the Government took out the clause that allowed injunctions to be taken to prevent actions that would be detrimental to subcontractors. Members will recall that the Opposition opposed this removal but, unfortunately, the Australian Democrats supported the Government, and this method of preventing damage from disputes was taken out of the industrial legislation.

Now, this person has to wait until the dispute is completed before he can obtain any redress for any damage that he may suffer, and by that stage it may be too late. This dispute has been going on for some time. It was first drawn to the attention of the Government on 22 August in another place, but nothing has happened and now the situation is becoming very serious indeed. I believe that Mr Trotta's employees are now facing very real difficulties: the union is demanding that Mr Trotta give to the union $1 000 joining fee, a share of the subcontractors' earnings and the right to determine which subcontractors will get work.

A letter from the Building Workers Industrial Union says that the builder will need to obtain a clearance from the organisation, which will be an umbrella organisation of subcontractors, before obtaining a bricklaying contractor who is not in this group. So, he will be in a situation where he cannot engage anybody unless he gets permission from

the union. With every tender called, a bill of quantities must be supplied with the relevant drawings, so before one can go ahead and start to obtain subcontractors one has to provide that information, and there is a whole list of information.

Will the Minister of Labour take action in this dispute and, in particular, will he visit the building site at St Peters that is the subject of this black ban and determine whether or not there are justifiable grounds for the black ban—and I am sure that he will find that there are not—and then support the subcontractor working at the site against the union threats, which are clearly designed to close down his business?

The Hon. FRANK BLEVINS: On the first question of whether I will take action, I am not sure what action the honourable member expects me to take. If he has any suggestions I would welcome them, but I have not heard from either him or the Leader of the Opposition today precisely what action they wish the Government to take.

The Hon. M.B. Cameron: Just give an indication of support by going there: that would be a big help.

The Hon. FRANK BLEVINS: That is all the action that the honourable member can suggest? There is not a great deal that the State Government can do. I will give the Council a little more information about Mr Trotta.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: I certainly will not give all the information I have about Mr Trotta because some of it is the subject of court proceedings. Certainly, we on this side do not enter into debate about anything that is before the courts; I can only recommend that course of action to the Opposition. It would be an increase in the standards of the Opposition if it took the same approach. My information is that Mr Pellegrine Trotta is a principal in a company called Hammerock. He holds a bricklayers licence, which entitles him to subcontract and organise bricklayers. He is not entitled to do any general building work. His company is not registered with the Builders Licensing Board.

About 18 months ago Mr Trotta was declared bankrupt after failing to make various payments to the Long Service Leave Building Fund, and other payments. He immediately formed his current company Hammerock. The present dispute is over the fact that it is alleged that once again Mr Trotta has fallen behind with his payments to the Building Union Superannuation Scheme and the Long Service Leave Fund for his employees. My information is that the Building Trades Federation has placed a ban on the site at Payneham Road in an attempt to get Mr Trotta off the site as he is deemed a bad employer.

I suppose that one of the things that I can and will do is send some inspectors to the site to check the allegations of non-payment to ascertain whether they can be verified. The information I have is only preliminary that we can do that as there are State awards in operation involving some of his employees. If that is not the case, then I am afraid that even that limited avenue may not be open to us.

The matter of the letter purporting to request payment, or to join some kind of a group is a matter for the Trade Practices Commission. I understand from an *Advertiser* article a couple of months or so ago (I cannot remember the date) that the Trade Practices Commission is looking at this arrangement (and that is the body that should be looking at it). I will certainly see whether I can get inspectors on to that site and verify whether or not these claims of non-payment are correct. In relation to my going to the site, I am not into media stunts and I cannot see any useful purpose in my going to the site. It might even inflame the dispute—I do not know. I will certainly have my inspectors go to the site and see whether there is anything that we can do to assist in checking whether certain payments have or have not been made.

CYSTIC FIBROSIS

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

Leave granted.

The Hon. J.C. BURDETT: I refer to the article in this morning's *Advertiser* by Barry Hailstone concerning this distressing disease. As he has stated, until the early 1970s most children with the condition died early, but the establishment of a special clinic at the Adelaide Children's Hospital, in the first place, 12 years ago now ensures that cystic fibrosis sufferers survive into young adulthood. He goes on to say that because of improved survival there is now an increasing number of adult cystic fibrosis patients but there is no appropriate service which caters specifically for these young people.

The article says that Dr R.D. McEvoy, a specialist in thoracic medicine at the Royal Adelaide Hospital, said that he and four other specialists at the hospital have submitted a proposal to the Health Commission for a cystic fibrosis clinic for adults at the Royal Adelaide Hospital run along the same lines as the Adelaide Children's Hospital clinic. Dr McEvoy is quoted as saying, 'The submission has not met with any response.'

The President of the Cystic Fibrosis Association, Mr Pinyon, is quoted as saying 'The Health Commmission has denied any direct support for the clinic, which will cost nearly $500 000 to establish.' The Chairman of the Health Commission stated that the earliest that the proposal could be looked at in a practical sense is next financial year. The matter was raised in the budget Estimates Committee and Dr Kearney, the Administrator of the Royal Adelaide Hospital, gave details of that hospital having accepted about 10 patients who would be adult patients with cystic fibrosis in recent times.

When will the Minister respond to Dr McEvoy's submission? Dr Kearney stated that the Cystic Fibrosis Association had recently sought a meeting with the Minister to discuss its requirements. Has this meeting yet taken place, and, if not, when will it take place? If it has taken place, what was the outcome?

The Hon. J.R. CORNWALL: I am pleased that the Hon. Mr Burdett has raised this matter. He does not have much of a grasp of his shadow portfolio, but on this occasion he has raised—

Members interjecting:

The Hon. J.R. CORNWALL: Mr one per cent, they call him. On this occasion he has raised a matter of substantial moment. The headline in this morning's *Advertiser* was very misleading. It said that adult patients were being 'dumped', but nowhere in the substance of the article could I find anyone being directly quoted to suggest that any patients were being dumped. Of course, they are not, and that was a misrepresentation.

To say that the submission has not met with any response is not true. To deny, in terms of my office, that there has been no direct response is also untrue. As to Dr McEvoy's submissions, I am happy to place on record that I do not think the way he has gone about the matter by using patients and their parents is an ideal or a terribly ethical way in which to push a cause.

Nevertheless, having said that, there is no question that cystic fibrosis patients, because of very much improved treatment regimens, are living a good deal longer, I am happy to say. That has meant that they are going well past

their 18th birthday. The previous and present situation is that they are treated as patients at the Adelaide Children's Hospital up to the age of 18 years. It has been the case that 10 patients, as the article correctly (I think) identified, have been admitted to the Royal Adelaide Hospital after their 18th birthday as adult patients for treatment.

The fact also is that the treatment is very expensive. In addition to other matters, the Adelaide Children's Hospital estimates that it costs them, in terms of drugs and additional support, $25 000 per patient per year. The Royal Adelaide Hospital has estimated that, because of the increased life expectancy and the improved life spans, it could mean up to 35 patients being in the hospital with cystic fibrosis at any one time by 1988. That means a significant amount of money—approaching $500 000.

The hospital's response was that it did not immediately have that money. As I understand it—and I make clear that I was not privy to this decision; the decision was taken by the hospital, and the Hon. Mr Burdett is the first to tell us that hospitals should have their autonomy (he is still bounding around the country talking about autonomy for hospitals)—the hospital took the decision to place a moratorium when it reached 10 patients, subject to additional specific funding being made available by the Health Commission. Professor Andrews and Dr Kearney both responded specifically to questions about cystic fibrosis during the budget Estimates Committee hearing in this Chamber. Dr Kearney said:

> During the last two years the Royal Adelaide Hospital has accepted about 10 patients who would be adult patients with cystic fibrosis from the Children's Hospital. Before the Children's Hospital was able to manage all of the cystic fibrosis patients for the State—

that is, before this present time—

> The management of these patients is complex and extremely expensive, and with increasing survival there is a significant demand being placed on the hospital system. The Royal Adelaide Hospital has been able to accept that number so far, but the implications for the future will be that if there are to be larger numbers accepted for treatment, an adult centre will be required.
> I am aware that the Cystic Fibrosis Association has recently sought a meeting with the Minister to discuss their requirements and we will be meeting with them in the near future.

In fact, that meeting is set down for later this month, I think, on 25 October. It is not true to say that those patients are being dumped. No patient has been dumped—let me make that absolutely clear.

The Hon. J.C. Burdett: That is not so.

The Hon. J.R. CORNWALL: There is no need for you to be sensitive about it, I am not suggesting that the Hon. Mr Burdett said that. No patient has been dumped—I want to make that clear. As I said, this matter could have been handled more ethically; I always deplore a situation where patients are used as potential pawns in any sort of lobbying activity. We would be very sympathetic to the cause, naturally. The Leader of the Opposition sits opposite and laughs. The fact is that as a Government we have increased funding to the major public hospitals by a figure in excess of $10 million over three successive budgets.

The Hon. M.B. Cameron: In Opposition you—

The Hon. J.R. CORNWALL: In Government—the Hon. Mr Cameron has never had the experience of being in Government. When he was—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: He was not considered by the previous Liberal Premier to be front bench material. I must say that Dr Tonkin—

The PRESIDENT: Order! There must be some relevance—

The Hon. J.R. CORNWALL: I am talking about Dr Tonkin, who is a medical practitioner.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: In that respect Dr Tonkin was a far better judge of character and ability than the present Leader, Mr Olsen. I am seeing these people. We have made a budget of $108 million available to Royal Adelaide Hospital this year. That is a huge amount of money; it is an excellent hospital—the very best. God knows what would happen to it if there was a return to the cutting, axing and slashing days of 1979 to 1982. Let us be clear—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Let us be clear: it is the avowed intention of the Opposition—the alternative Government of this State—to cut and slash the public sector. Let us be clear that the health area, as one of the largest spenders and rightly so, will be one of the areas to be hardest and first hit. Let us not have this cant and hypocrisy about what we may have failed to do.

As I said, we have injected more than $10 million into the public hospital system since we have been back in government. In the case of Royal Adelaide Hospital we have increased specifically its budget in real terms by more than 3 per cent—in real dollars, by more than $3 million.

The Hon. J.C. BURDETT: I rise on a point of order, Mr President. In terms of Standing Orders and particularly in terms of your directive issued yesterday, you indicated that Ministers' replies ought to be confined to replying to the question asked. The Minister has trespassed far beyond that and is talking about general budgetary things, Dr Tonkin and all the rest of it. I suggest that he is out of order and should be asked to come back to replying to the question.

The PRESIDENT: Many of the replies are much longer than I would wish them to be. As I pointed out previously, a Minister's reply is outside my jurisdiction, except that it must be relevant.

The Hon. J.R. CORNWALL: It is relevant: I just want the people of South Australia to know what the real alternative is. It is a return to the cutting, slashing and axing of 1979-82. The real problem—

Members interjecting:

The PRESIDENT: Order! Perhaps this would be more appropriate—

The Hon. J.R. CORNWALL: In a pre-election situation?

The PRESIDENT: It is that.

The Hon. J.R. CORNWALL: We are exactly in a pre-election situation now. I want the people of South Australia to know, and I am entitled to use the forum of this Parliament.

The PRESIDENT: Order! The Minister can easily ask leave of the Council to make such a statement. That is not in reply to the question.

The Hon. J.R. CORNWALL: I have always been impressed by your impartiality as a Chairman, and you know that, Sir. It is on record many times. But sometimes I wonder. I want it on the record (and, frankly, I will persist in this, because it must be put on the record) that in those three years of the Tonkin interregnum—

The Hon. J.C. BURDETT: I rise on a point of order. This has nothing to do with the question, which was about the disease cystic fibrosis and what the Government proposes to do about it. The Minister's remarks have nothing to do with that and, in accordance with the statement that you, Mr President, made yesterday and with Standing Orders, I believe that what the Minister is proposing to say is entirely outside Standing Orders and I submit that you, Sir, should not allow him to do so.

The PRESIDENT: I ask the Minister to reply to the question and not comment.

The Hon. J.R. CORNWALL: I am attempting to do that, Mr President. If you, Sir, did not keep interrupting, I would

finish it off. I point out again that the global budget allocation for the Royal Adelaide Hospital this year is about $108 million. My arithmetic suggests to me that the total allocation to the Royal Adelaide Hospital is 18 per cent of the total health budget in this State. In those circumstances, it seemed reasonable in the first instance to say to that hospital, 'We believe that you should be able to find that money from your own resources.' When they came back with a reasoned response and said that they were not able to do so, the matter was raised with the Health Commission, which has been asked to find that additional funding as initiative money—as new money.

That matter is currently under investigation. It will be difficult—and I stress that. We have been a generous Government in funding the health area—very generous indeed—and there will be more figures in that regard later in relation to more relevant areas (since the Parliament, it seems, is no longer a relevant place in which to tell the people of South Australia, on your ruling, Sir, what we have done in the health area).

The PRESIDENT: Order! The Minister is doing his best to pick a fight with the Chair, and I take exception to that. All I asked the Minister to do was to show some relevance in his answer to the points raised. There is plenty of room under Parliamentary procedures for the Minister to make a personal statement or to ask leave of the Council to tell South Australia whatever he likes, but clearly this has no relevance whatsoever.

The Hon. R.J. Ritson interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I hope that you, Sir, and everyone else has got the message that we have been a generous Government in our health funding. I am pleased that you, Sir, at least have got the message. I conclude by saying (and this is directly relevant, as has been the great majority of my comments—and I have spent some time on the reply, because I think it is a very important matter of principle) that the RAH was initially asked to find this additional money from its very generous budget allocation. I made the point that it had been given additional funding in real dollars of more than $3 million over the previous three years. I further made the point that the hospital said (and this is the current situation) that it did not believe it could find that money from its budget, and this is a matter for ongoing negotiation. I will see the Cystic Fibrosis Association (I believe on 25 October).

In the meantime—and I want to make this point very clearly—I personally rang Dr Kearney, the acting hospital administrator, this morning and had an amicable discussion with him. I asked that, pending any further decision from the Health Commission, any adult cystic fibrosis patient who is appropriately referred to that hospital should be admitted and afforded treatment. So I must say that the matter is well in hand.

MOANA SANDHILLS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Environment and Planning, a question about archeological sites in the Moana area.

Leave granted.

The Hon. I. GILFILLAN: The Anthropological Society of South Australia has long been interested in the significance of the Moana sandhills as one area where the various facets of Aboriginal life are still richly illustrated even after decades of devegetation and erosion. The association has taken the trouble to make several recommendations to the Government regarding preserving this area, including the planting of frontal dunes, erection of protective barriers around stratified paths, and the fencing of a small campsite that is suffering a blowout aggravated by people walking to and fro over the area.

The dunes continue to attract tourists and serious students of archeology at all levels. With the pending construction of the Tjilbruke walking trail, this attraction will increase. The society has made further recommendations regarding that walking trail, that is, that a boardwalk be erected following the eastern margin of the coastal dunes and that an information board be erected so that people are fully aware of their responsibilities and the interest and the fragility of the area.

Because I have been informed by the Anthropological Society that no Government plan has been formulated yet, why has the Government not formulated a management plan for the Moana sandhills reserve? Will the Government prepare a management plan and, if so, when will it be available for public scrutiny? What allowance has been or will be made in the plan for the Tjilbruke walking trail for the archeological sites situated in the Moana sandhills and for the sandhills themselves?

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

SCHOOL CANTEENS

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

Leave granted.

The Hon. ANNE LEVY: Last week all members of Parliament received a copy of the annual report of the South Australian Dental Service for the last financial year. On looking at this annual report, I noted that the evaluation unit of the dental service has been conducting surveys on the quality of the menus offered in school canteens around South Australia. I know that there has been considerable discussion on the question of the quality of the food available in school canteens, particularly regarding its effect on dental health.

Although this matter was given certain attention in the 1970s, reputedly a lack of interest was shown in this regard once Dr Fanning from the University of Adelaide retired, as she had played a very prominent role in encouraging healthy diets, from a dental point of view, in relation to school canteens. Is the Minister aware of the results of any surveys that the dental service is now undertaking into school canteen menus, and has he any information on this matter that he can give the Council regarding what I understand is an ongoing program?

The Hon. J.R. CORNWALL: It gives me some pleasure to inform the Hon. Ms Levy and the Council that the survey conducted by SADS, which was referred to in the annual report, indicates that at last it seems that canteen menus in primary schools are beginning to improve, albeit rather more slowly than some of us would wish. In 1981, after eight years of continued deterioration, only 1.7 per cent of primary school canteens were considered to be offering children menus that could be called acceptable in the nutritional sense.

Indeed, at that time 73 per cent of the canteens surveyed made no effort whatsoever to offer the children healthy food. Those canteens were little more than local delis located on school grounds in terms of what they offered. Of course, such a situation was a matter of considerable concern for parents and health educators alike. School canteens, as everyone knows, are a central part of a school's health policy

and children inevitably come to believe that the food offered to them by a school canteen must be good.

In an attempt to reverse the trend, in 1983 the South Australian Dental Service offered a dental therapist to the Education Department to act specifically as a canteen liaison officer. Over the past 2½ years that therapist has conducted workshops for school canteen staff, parent organisations and teachers aimed at encouraging schools to offer their children better food.

I am pleased to be able to inform members that these efforts appear to be bearing fruit. There has been nearly a fourfold increase in the number of primary schools offering their children acceptable menus, while the number making no effort at all has fallen from 73 per cent to 64 per cent.

The Hon. R.J. Ritson: You could have got leave to make a ministerial statement. You're destroying Question Time.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Those achievements are only modest but they are at least encouraging.

The Hon. R.J. RITSON: On a point of order, Mr President. The Minister made an obscene gesture with the digit. Perhaps you did not see it, but I ask for an apology.

The PRESIDENT: I did not see it.

The Hon. J.R. CORNWALL: I withdraw my gesture. I have my hands in my pockets. I am told that, in body language, when your thumbs protrude from your coat pockets you are feeling on top of things; if you keep your hands in, you are all right.

Much more needs to be done for school canteens (as well as for the Hon. Dr Ritson). I can assure the honourable member that resources will continue to be directed towards encouraging school canteens to accept their responsibility in the health education of children. Unfortunately, this does not seem to be of much interest to the Hon. Dr Ritson.

CAR PARKING

The Hon. C.M. HILL: Has the Attorney-General a reply to my question asked previously on the subject of car parking at the Festival Centre?

The Hon. C.J. SUMNER: I have been provided with the following answer: It is clear that all the car spaces required to meet maximum attendance at the Festival Centre have not in the past and will not be provided on site.

Festival Centre patrons will benefit from the new car parking associated with the ASER development. These 1 219 spaces will be available to patrons of the ASER facilities and the Festival Centre. It is unlikely that the venues will all be seeking car parking at the same time. In addition, public transport, taxis, other car parks and street parking can be used to attend the Festival Centre.

Finally, the question of how much car parking is needed in this section of the city has not been determined and the Government will be continuing its discussions with the Adelaide City Council on this matter. In relation to the Festival of Arts next year, there will be 550 car spaces available as from November/December this year and the Casino will be the only ASER venue operating.

SBS

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation prior to directing my question to the Minister of Ethnic Affairs on the question of the SBS television station.

Leave granted.

The Hon. M.S. FELEPPA: Various non-English language newspapers, the SBS television station and 5EBI FM radio have, over the past couple of weeks, reported that the Commonwealth Government may intend to amalgamate the SBS television station with the ABC. It should be pointed out to this Council that the Premiers of New South Wales and Victoria, Mr Wran and Mr Cain, have already opposed the move of the Federal Government to this amalgamation. Given the Bannon Government support for the SBS establishment in South Australia and the personal interest of our Ministers in this place, will the Minister make any move to oppose this proposal? What is the stand of the South Australian Government on this issue?

The Hon. C.J. SUMNER: First, I do not know that it is clear that the Commonwealth Government intends to amalgamate the Special Broadcasting Service (SBS) with the ABC. However, there have certainly been suggestions of that kind in the press and the media. As a result of the speculation, the South Australian Government made its view clear to the Prime Minister in a telex last week from the Acting Premier (Dr Hopgood) to the Prime Minister (Mr Hawke), indicating that the South Australian Government did not support any amalgamation of SBS with the ABC and, in particular, asserted that SBS should be retained as an independent multicultural broadcasting station.

Over the past two years, or longer, members of the South Australian Government have pressed for the introduction of SBS Channel 0/28 to Adelaide and, of course, that has now occurred. I appeared before the Connor committee on the future of SBS when it had its hearings in Adelaide some two years ago. I appeared and put the view of the South Australian Government that SBS should not be combined with the ABC but should be retained as an independent television station, an independent channel. That position was largely accepted, at least for the time being, by the Connor committee—that was the committee chaired by former Judge Xavier Connor, set up by the Federal Government to inquire into multicultural broadcasting in Australia. I repeat that the view I put was that SBS should retain its independence, and that is the position that has been reaffirmed once again by the Government of South Australia to the Federal Government.

DECEASED ESTATES

The Hon. PETER DUNN: I seek leave to make a brief explanation prior to asking the Attorney-General a question about the State Bank levy on deceased estates.

Leave granted.

The Hon. PETER DUNN: The State Bank has introduced a $10 fee for closing deceased customers' accounts. The fee of $10 will be charged where accounts are closed following the death of a customer. This is a selective practice applying only to accounts closed when a customer has died and is not a practice adopted by other major banks in Adelaide. A newspaper report today outlines the levy arrangement in more detail, as follows:

> The State Bank has introduced a $10 fee for closing deceased customers' accounts. Only one fee will be charged regardless of the number of accounts involved in an estate. The charge would apply if the account or accounts were closed on a claim by the next of kin, or letter of administration.
>
> State Bank chief manager (branch banking), Mr Ian Tucker, said the introduction of the charge was regretted, however, the bank had to ensure remuneration for services rendered was commensurate with costs incurred.
>
> 'Often there are quite a number of accounts and there is quite a lot of work involved in closing each account,' Mr Tucker said. 'We don't charge a fee if the value of the account is less than $200, and we do not charge an account closure fee which some banks do charge, on all accounts even if the holder is not deceased.'
>
> The State Bank is the only major bank in Adelaide to charge a fee for the closure of such accounts. The ANZ Bank, Westpac, National Australia and Commonwealth banks do not debit any

charges against the closure of accounts except where there are outstanding charges payable.

A spokesman for the National Australia Bank said there were 'little differences between the closure of deceased and a living person's account'. 'If banks are going to charge a deceased estate, to close an account, it should really apply to all accounts because there is the same amount of work involved" he said.

It is extraordinary that, when the State Bank has made a $28.1 million profit in the last financial year, it is forced to act in such a selective way, as this is quite contrary to the practice of all other major banks in South Australia. Will the Attorney-General approach the Premier, asking him to make representations to the Board of the State Bank to review its decision to impose this levy on grief?

The Hon. C.J. SUMNER: As the honourable member knows, although the State Bank is owned by the South Australian Government (in other words, by the South Australian community) it is a commercial operation and is not subject to directions by the State Government. It operates in a commercial environment in the same way as the other private banks operate in South Australia. So, the Government is not in a position to direct that the State Bank do anything with respect to this charge that it is making. That is a commercial decision that it makes, just as it makes other commercial decisions in the environment of competing for business in this community. There is nothing that the Government can do as far as directions to the State Bank are concerned: I am sure that the honourable member understands that. However, I will refer the honourable member's question to the Premier for any action that he might consider appropriate.

'STRANGER DANGER' CAMPAIGN

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about the 'Stranger Danger' campaign.

Leave granted.

The Hon. DIANA LAIDLAW: The 1985 'Stranger Danger' campaign was launched by the police crime prevention unit late last month. The annual campaign seeks to alert children to the need to be careful in dealing with strangers and to be alert to the dangers of playing in isolated areas or near public toilets or accepting sweets or lifts. The pamphlets, films and songs on 'Stranger Danger' encourage children to believe that bad things happen only with strangers.

I do not wish to belittle the Police Force in its efforts, but it is a fact well known to authorities, including the police, that over 80 per cent of assaults on children are committed by people whom children do not identify as strangers. They are committed by someone the children know and trust, and usually that person is a family member. Therefore, the common warning 'Don't talk to strangers' will help children only in a minority of cases.

Indeed, child abuse authorities argue that the emphasis on 'Stranger Danger' makes children doubly vulnerable when the assailant is known to the children for, warned against strangers, what do the children do when the assault comes from a father, a grandfather or perhaps the kind man next door? Does the Minister agree: (1) that the emphasis on 'Stranger Danger' alone only smokescreens a terrible problem in our society; and (2) that the campaign would be more constructive and beneficial to children to whom it is directed if it was balanced by a broad based community education program that in part taught children that they have a right to say 'No' not only to strangers but to anyone who makes a sexual approach?

The Hon. C.J. SUMNER: The point that the honourable member makes (namely, that many offences are committed not by strangers but by people familiar to the victim) is very true. That applies with respect to child abuse matters as well as with a number of other offences, in particular, offences of violence. The honourable member, if she examined, for instance, the statistics relating to homicide in the period 1980-81, which are contained in a recent report of the Office of Crime Statistics, would find that a very small proportion of homicides was committed by strangers. In fact—I have not the precise figures in front of me—over 50 per cent were relatives or close friends of the victim.

If we took into account people who were acquainted with the victim, the figure of offenders was well over 50 per cent. Those figures are not mirrored every year, but other statistics that I have seen indicate clearly that even in the area of homicide there is much greater danger from people one knows, either as relatives or as acquaintances, than from strangers. That is often overlooked: it is particularly overlooked in the so-called law and order campaigns that some political Parties attempt to run from time to time. They tend to build up fear in the community on the basis of unsubstantiated evidence and giving incorrect impressions about where the dangers lie.

The honourable member is right that in some offences the danger of being victimised is much greater from people who are relatives or friends than it is from strangers. That applies also to the offence of rape. Again, statistics indicate that more than 50 per cent of rapes are committed by people who are known to the victim. Indeed, if we took into account as well the hidden figures with respect to rape (that is, the unreported rapes—and it is well known that rape is one of those offences that is significantly under-reported) the percentage of rapes that are committed by people who are known to the victim would be even higher.

The honourable member has also referred to child abuse, which is another area where clearly the great majority of cases are committed by people known to the victims. The Government has been concerned about this area, as it is about the area of domestic violence. We have recently announced the establishment of a Domestic Violence Council, which will examine a whole range of issues relating to domestic violence, including legal aspects and services available to victims of domestic violence.

In addition, a child abuse task force, which is working at present under the auspices of my colleague the Minister of Health, will also examine legal aspects. It has already put out a discussion paper, which the honourable member may have seen and which I commend to her attention in the light of the statements that she has made today. I agree in general terms with the proposition that she puts: that, if there is an emphasis on strangers as being the major danger for people who may be victimised, that may in some circumstances give an incorrect impression of where the dangers of victimisation may arise. What she says in relation to certain offences is correct: it is not the strangers, but relatives or acquaintances of the victim who are the greatest danger.

Obviously, in some circumstances there is danger, as well, from strangers. I think that the honourable member certainly did not want to denigrate the campaign that the police are running with respect to strangers—she wished to have a broader based campaign and I think there is some merit in that proposition. I will therefore refer the honourable member's question to my colleague along with the suggestion that she has made.

LEAVE OF ABSENCE: Hon. C.W. CREEDON

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

That one month's leave of absence be granted to the Hon. C.W. Creedon on account of his absence overseas on Commonwealth Parliamentary Association business.

Motion carried.

ENERGY NEEDS

Adjourned debate on motion of Hon. I. Gilfillan:

That a Select Committee be appointed to inquire into and report upon—

1. Present energy decisions regarding future power needs in South Australia.
2. The most economical means of providing South Australia's long-term power needs with due consideration of environmental factors and local employment.
3. The relative advantages of—
   (a) an interstate connection;
   (b) importing interstate black coal;
   (c) development of local coalfields, e.g., Kingston, Lochiel, Sedan, Wintinna;
   (d) Northern Power Station No. 3 and further development at Leigh Creek.
4. The 'Future Energy Action Committee, Coal-field Selection Steering Committee, Final Report' (known as the 'FEAC' Final Report).
5. The advisability of having the portfolios of both Mines and Energy in the one Government department and under the control of one Minister.

(Continued from 18 September. Page 989.)

The Hon. G.L. BRUCE: In addressing this motion I would first like to outline some of the background to the recent decisions in relation to future power needs in South Australia. On coming to office this Government confronted two fundamental issues which were not unrelated, the question of the security of price and supply of natural gas, and the question of the fuel for the State's next increment of baseload power generation capacity. At that time ETSA advised the Government that it would be necessary to commit to a 500 megawatt power station at Wallaroo which would be fuelled with black coal imported from the Eastern States. That advice was predicated on an ETSA load growth forecast of some 6 per cent per annum and concern about the combustion characteristics of South Australia's lignite coals.

The black coal option at Wallaroo was seen as an interim measure as it was anticipated that with further work one of the local lignites would become a feasible future option. However, while it could have been pursued simply for the next two 250 megawatt increments of generation capacity, it is difficult to view a power station which will operate for 30 to 40 years as an interim option. It would be a long-term commitment to black coal, at least for that increment of generating capacity, if its relative technical simplicity did not tempt a commitment to subsequent units. The Goverment was concerned about this prospect for three main reasons.

First, there were the memories of the 1940s when South Australia was dependent on interstate sources of coal with the security of supply problems that that created. Secondly, there was the potential loss of the development and employment opportunities which would be associated with the development of a local coalfield. And thirdly, there was the potential loss of an opportunity to put South Australia at the forefront of world technology in developing lignite coals, a resource of which this State has a vast endowment. The Government responded by establishing the Advisory Committee on Future Electricity Generation Options.

It was directed in the first instance to examine load growth requirements and reported within the time frame which has been indicated by ETSA as necessary for commitment to the black coal fired station at Wallaroo. That initial report indicated that the rate of growth in demand had slackened and was not expected to increase dramatically, given a further period before a commitment to new capacity would be necessary, and allowing time to consider all of the available options.

The Advisory Committee completed its work finishing its main report in April 1984. The Government considered its recommendations and accepted the broad strategy which it had proposed for progressing future power station development. The Government released the committee's findings in four volumes, an executive summary of the main report, the main report dealing with the major power generation options, a volume dealing with the possible alternative energy contribution to electricity supply in South Australia before the mid-1990s, and a volume dealing with the long-term development options for South Australian coals.

These reports contain a veritable mountain of information, based on sound technical and economic assessments of the various options presented in a manner whereby it is possible for the non-technical reader to inform him or herself and gain a real understanding of the problems facing the State in the energy area, and the various alternatives for dealing with them. The committee recommended adopting a flexible approach to implementing its strategy. It recognised that the fundamental issues underpinning all other decisions would be the rate of growth in demand and the future supply and price arrangements for natural gas.

The preferred options for new capital investment to meet future load growth should be developed to the point where a commitment to a particular option and its implementation could be effected as rapidly as possible when it became necessary in the light of load growth and changes in the gas price and supply situation. In this way premature spending on new capital could be avoided with consequent significant savings in financial costs and the State could maintain access to the broad range of options possible and remain in a position to select those which were the most economically advantageous as they became necessary. It is worth reminding honourable members of the committee's recommendations in relation to the major options and it will become immediately apparent as to the progress which the Government has already made in pursuing them.

In the area of natural gas availability and pricing, the committee recommended implementation of gas sharing arrangements with AGL; revision of the PASA Future Requirements Agreement to remove features which could require the State to purchase more gas than it is able to sell and incorporate satisfactory arrangements for long-term supply, pricing and exploration; discussions and investigations to define supply possibilities from Queensland and Bass Strait with respect to both quantities and costs; and continued planning for possible conversion of some of the Torrens Island gas fired plant to burn imported black coal, to the point where tenders could be called for plant if necessary, in the event that satisfactory gas price and supply arrangements cannot be achieved.

In respect of a third unit at the new Northern Power Station the committee recommended that a decision on whether to proceed should be deferred until the second half of 1985 but, in the meantime, boiler design studies and other essential work should be continued so as not to prejudice the adoption of this option. In respect of interconnection with the Victorian system, the committee recommended that agreement should be sought with the relevant authorities in South Australia, Victoria and New South Wales to implement a limited capacity (500 megawatt) interconnection on an opportunity basis between Portland in Victoria and Monbulla in South Australia as soon

as practicable. The Government qualified this recommendation stipulating that it would be operated on an opportunity basis.

In respect of local coal fired power stations the committee recommended that on the basis of the State's present knowledge, its long-term base load electricity supply should be derived from a local lignite based station. However, if the present cost estimates change significantly to make the electricity cost compare unfavourably with costs from black coal stations, this should be reviewed. On the basis of cost data, estimates and other studies and submissions available to the committee, it was unable to recommend the specific deposit at that time. Economic analysis at that stage had favoured Kingston and Lochiel, although there were a number of uncertainties. Combustion properties favoured Sedan, but the overall economics were less favourable on that assessment.

Discussions were still to be held between the licence holders and Bechtel which had been responsible for the review of the various deposits. It was recommended that the results of these discussions and the further evaluation of the deposits should be incorporated in the final selection of the preferred deposit. In respect of the use of imported black coal, the committee recommended that, pending the outcome of the decision on which new South Australian coal was to be selected for long-term base load electricity generation, the work on the development of a black coal power station at Wallaroo should be placed in abeyance. I would like to discuss the work which has followed the recommendations of the Stewart committee and the results which have been achieved by this Government. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

SELECT COMMITTEE ON NATIVE VEGETATION CLEARANCE IN SOUTH AUSTRALIA

Order of the Day: Private Business, No. 7: Hon. B.A. Chatterton to move:

That the report of the Select Committee on Native Vegetation Clearance in South Australia be noted.

The Hon. B.A. CHATTERTON: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

ELECTRICITY TRUST OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 August. Page 577.)

The Hon. B.A. CHATTERTON: In discussing this Bill I refer to clause 5, which provides:

The Trust shall be subject to the direction and control of the Minister.

This provision is identical to a provision contained in the Statutes Amendment (Energy Planning) Bill which is currently before the Council. In this regard I note the Hon. Mr Gilfillan cites as one of his objectives in proposing this measure is his belief that electricity planning and supply is a matter which should not be left entirely to engineers and technical experts. He is certainly correct in that respect, and the Government supports his view.

The Minister of Mines and Energy in another place in introducing the Statutes Amendment (Energy Planning) Bill made the observation that there are:

... increasing instances where the management and boards of these organisations must reconcile a variety of competing objectives, for example, in respect of tariff policies and the implications of competing energy supply options for the economy of the State. These require consideration of broader issues than are the province of the energy supply organisations alone. Resource utilisation, particularly in respect of natural gas, requires a degree of coordination which can only be effected by Government.

The Minister also made it clear that:

... major planning and development decisions must be taken in the context of the Government's energy policies.

Under that legislation and its associated administrative arrangements, ETSA:

... will contribute to a coordinated and comprehensive energy planning process, incorporating broader objectives, such as welfare, environmental protection and economic development in its implementation.

In respect of environmental protection, the Government would include the Hon. Mr Gilfillan's second point in relation to the broader objectives of energy planning, that being conservation.

This is one of those areas where a utility may have a slightly different perspective than the community or government. Utilities have traditionally been concerned with providing for constantly increasing load growth. Maximising the use of available capacity is certainly the prescription for ensuring that the average cost of energy sold is minimised, but if the energy used is not consumed efficiently then non-renewable resources in the form of fuel, no matter how plentiful they appear to be, are wasted. Certainly, since the energy crisis of the 1970s there has been a dramatic change in attitudes on this matter and this change of attitude is evident in the way in which the utilities have approached the question, but it is a matter for government to ensure that policies which adequately reflect the conservation objective are implemented.

It is also worth emphasising here the Government's commitment to ensuring a wide community input into the energy planning process through the establishment of an energy forum consisting of about 20 individuals from a broad range of backgrounds including those taking a welfare, consumer, environmental, energy conservation, industrial, rural, transport or some other perspective on relevant issues. The energy forum will have a chairman who will have access to the Minister of Mines and Energy in advising him of the forum's deliberations so that he may be assisted in the development of the Government's energy policy and have a structured input from those quarters into the exercise of the discretions provided for under the legislation.

I wish to further consider a number of other aspects of this Bill put forward by the Hon. Mr Gilfillan. Therefore, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BLOOD CONTAMINANTS BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to prescribe standards to be observed in relation to blood donated for the purpose of transfusion; to limit the liability of approved suppliers of blood and blood products in relation to diseases transmitted by transfusion; 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 short Bill is to indemnify approved suppliers of blood and blood products in relation to diseases transmitted by transfusion. The May 1985 Australian Health Ministers' Conference received a report from a working party which had been established to examine the implications of AIDS (acquired immune deficiency syndrome) transmitted by blood transfusion. The major issue that the

working party had to consider was advice from the Red Cross Society that it was unlikely to gain liability cover against the transmission of AIDS by blood transfusion. In most States the insurance cover expired at the end of June 1985. The working party proposed that each State and Territory introduce specific legislation, based on a draft Commonwealth ordinance, to provide the Red Cross Society, and others involved in the supply of blood to patients, with immunity from civil or criminal liability under certain circumstances.

The Bill before the Council today therefore provides immunity from liability for the Red Cross Society and other approved suppliers of blood or blood products (for example, a hospital or other body approved by the South Australian Health Commission).

Such immunity, however, will apply only under specific circumstances, namely, where the body or person relying upon it has adhered to procedures established in the Bill. These procedures include—

- making of a declaration by the donor (that is, a declaration as to their suitability to be a blood donor)
- undertaking of specific testing methods (that is, approved by the Health Commission) in relation to blood taken to ascertain the presence or otherwise of a prescribed contaminant (that is, the virus HTLV III or any other prescribed organism or substance)
- issuing of a certificate by the supplier to the effect that the approved blood tests did not indicate the presence of a prescribed contaminant.

The Bill does not, therefore, provide a blanket indemnity to Red Cross (or other approved supplier) and will apply only where the supplier has acted properly and taken the reasonable precautions established by the legislation. The legislation, as I announced some time ago, is to be retrospective to 1 July 1985. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that the measure is deemed to have had effect from the first day of July 1985.

Clause 3 provides the interpretation of expressions used in the measure. Of special significance are the following definitions:

'approved blood test'—a test of blood, using a method and equipment approved by the commission, for the presence of a prescribed contaminant

'approved supplier'—the society or a hospital or other body approved by the commission

'blood product' or 'product'—includes any extract or derivative of blood

'donor'—a person who gives blood for the purposes of transfusion

'prescribed contaminant'—the virus HTLV III or any other substance or organism declared by the commission to be a prescribed contaminant.

For the purposes of the measure, blood is given or taken for the purpose of transfusion if the blood or any product of the blood is to be used for transfusion.

Clause 4. Subclause (1) sets out the steps that an approved supplier must take in relation to blood taken from a person for the purpose of transfusion:

(a) the blood shall not be taken unless the donor has signed a declaration in a form approved by the commission;

(b) the approved blood tests must be conducted as soon as practicable after the blood is taken;

(c) where a test indicates the presence of any prescribed contaminant, the blood and any product of the blood must be disposed of in a manner approved by the commission;

(d) where the tests do not indicate the presence of any prescribed contaminant, the supplier must issue a certificate certifying that the tests did not indicate the presence of any prescribed contaminant.

Subclause (2) provides that an approved supplier shall not supply blood or a blood product for transfusion unless—

(a) the blood was taken from a donor by the supplier or the blood product was manufactured from blood taken from a donor by the supplier;

or

(b) the blood or blood product was acquired from a source approved by the commission.

Under subclause (3) where an approved supplier has reasonable cause to believe that blood or blood product supplied by the supplier may be contaminated by a prescribed contaminant, the supplier must take all reasonable steps to ensure that the blood or blood product is not used for the purpose of transfusion.

Clause 5 provides in subclause (1) that, subject to the clause, where—

(a) a prescribed contaminant, or disease attributable to a prescribed contaminant, is transmitted by reason of the transfusion of blood or blood product;

and

(b) the blood or blood product was supplied for the purpose of transfusion by an approved supplier,

no civil or criminal liability in respect of the transmission of the contaminant or disease attaches to a donor, the supplier or a person who carried out the transfusion.

Subclause (2)—a donor who knowingly makes a false declaration under the measure is not protected by this clause.

Subclause (3)—an approved supplier who fails to observe a requirement of the measure in relation to blood or blood product or blood from which a blood product is manufactured, is not entitled to the protection of this clause in relation to that blood or blood product.

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

MENTAL HEALTH ACT AMENDMENT BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Mental Health Act 1977. 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 for medical or dental procedures performed on mentally ill or mentally handicapped persons. It is intended to clarify the law in four main areas: consent in relation to mentally ill or mentally handicapped minors and adults; consent to psychiatric treatment; consent to sterilisation and termination of pregnancy; and consent to emergency procedures carried out on persons unable to consent.

As members may recall, I introduced a similar Bill into this House in December 1984. Following the second reading debate, I moved that the Bill be referred to a Select Committee, in order that parents and other interested parties may have the opportunity to put their views forward.

Parliament was prorogued on 20 June 1985 but the committee was empowered to sit during the recess and beyond to complete its deliberations. The original Bill, of course,

lapsed due to the prorogation and the committee has recommended that a new Bill incorporating its recommendations be introduced. The Bill before honourable members today fulfils that purpose.

The Bill, as was its forerunner, is based on the recommendations of the Working Party on Consent to Treatment and the Bright Committee on the Law and Persons with Handicaps. Both the Bright Committee and the Working Party on Consent to Treatment noted that there were many situations where a person's mental incapacity meant that he or she was unable to give a valid consent to treatment. In those situations, particularly in the case of adults, there was often no-one else with clear authority to consent on behalf of that person.

Both reports saw the Guardianship Board as playing an important role in clarifying such authorities, and recommended that the board be empowered in some situations to authorise others to consent to treatment on behalf of persons unable to give an informed consent, whether or not such persons were under the guardianship of the board. The Select Committee supported that principle.

Perhaps the most controversial issue involving consent to treatment is sterilisation. It is evident that sterilisation of mentally handicapped persons does occur even though they have no capacity to consent. Those who purport to consent on their behalf have doubtful legal ability to do so in the case of minors, and none at all when they turn 18 years. As the late Sir Charles Bright stated in the introduction to chapter five of the Second Bright Report on the Law and Persons with Handicaps:

> Sterilisation, both of children and adults, certainly appears to have occurred without a clear knowledge of the law relating to sterilisation, which casts doubt on the right of a parent or care-provider to consent to non-therapeutic sterilisation on behalf of another. And it seems clear that such action is often taken to relieve parents or careproviders of concern for the future, rather than for the benefit of the person involved.

This has been a matter of concern to the Guardianship Board, which has been called upon to consider whether persons have the capacity to consent to sterilisation without clear power to make decisions in this area.

Both the Bright committee and the Working Party on Consent to Treatment considered that the board should have clear power in this area, and that it should not be able to delegate such a significant decision. In relation to termination of pregnancy, during drafting of the original Bill, and taking account of Crown Law advice, it was considered that termination of pregnancy should be dealt with in the same manner as sterilisation.

The Select Committee was made aware that some parents of intellectually disabled persons did not fully agree that the Guardianship Board should make decisions regarding sterilisation and termination, and saw it as taking away their rights. In fact, the law at present does not provide them with any clear legal rights in respect of adults. The Select Committee, however, considered that the legal right of a person over 16 to consent to treatment should not be taken away or assumed by another person unless the matter had been considered in an objective, impartial forum.

The Bill therefore provides, as did the original Bill, that sterilisation and termination of pregnancy are not to be carried out without the consent of the Guardianship Board on persons suffering from mental illness or mental handicap, and who are, by reason of that illness or handicap, incapable of giving effective consent. In instances where in the opinion of the board sterilisation is not therapeutically necessary, the board must take a number of specific factors into account before it gives consent. It must be satisfied, for instance, that there is no likelihood of the person acquiring the capacity to give effective consent, that the person is capable of procreation, that no other method of contraception would be effective, and in the case of a woman that there is no other way of dealing with problems associated with menstruation.

In relation to termination of pregnancy, the Board must be satisfied that such termination would not constitute an offence under the Criminal Law Consolidation Act and there is no likelihood of the person gaining the capacity to give effective consent within the time available for the safe carrying out of a termination. It should be noted that the board is unable to delegate power to consent to sterilisation or termination of pregnancy.

The Select Committee was concerned to reassure parents and has recommended several amendments to strengthen the involvement of parents. First, it is made clear that parents can initiate applications to the board. Secondly, parents are given the opportunity to appear before the board when it is determining an application for either a sterilisation or termination procedure. (The earlier Bill had provided this right only in relation to sterilisation.) Some discretion is, however, left with the board in not involving parents where it would be inappropriate in the best interests of the person.

Thirdly, an appeal is made available to parents against decisions of the board concerning sterilisation or termination procedures. The appeal is to the Mental Health Review Tribunal, and is to be made within two working days of the board's determination for a termination procedure and one month for a sterilisation procedure.

The decision of the board will have no force until the expiration of the period during which an appeal may be lodged and, in the case where an appeal has been lodged, until the appeal has been determined. The decision of the tribunal in these two matters may not be appealed against. Both the board and tribunal must deal with matters relating to termination of pregnancy as expeditiously as possible. As was the case in the original Bill, this Bill takes into account the Consent to Medical and Dental Procedures Act 1985. It has application in relation to general medical and dental procedures.

In relation to a person under 16 years of age, the Bill provides that a parent can consent to medical or dental procedures for a mentally ill or mentally handicapped person (except sterilisation or termination of pregnancy for which consent can only be provided by the Guardianship Board). In relation to persons of or above 16 years, the Guardianship Board can provide consent for all medical and dental procedures including sterilisation and termination of pregnancy. Applications may be made by a medical practitioner or dentist proposing to carry out a procedure, a parent of a person or any other person who the board considers has a proper interest in the matter.

There is power for the board to delegate its power of consent (except in relation to sterilisation or termination of pregnancy and except to a person directly involved in carrying out the procedure). It is anticipated that, for example, the person in charge of an institution may carry that delegation for routine procedures. This would ensure that proper consent can be provided for persons in the absence of a Guardianship Board hearing. In relation to emergency situations, the Bill follows the Consent to Medical and Dental Procedures Act 1985 and allows treatment in an emergency where two medical practitioners agree that the procedure is necessary to meet imminent risk to the person's life or health and is not contrary to any clearly stated refusal of treatment.

In relation to psychiatric treatment, the Bill proposes to clarify who can consent to certain psychiatric treatments upon a patient. The present Mental Health Act sets out certain consent procedures for specified categories of psychiatric treatment, for example, psycho-surgery and electro-

convulsive therapy, in relation to patients under detention orders in approved hospitals. This Bill extends the application of the consent procedures to cover any patient anywhere.

In other words, the consent protection will apply whether a person is a detained patient in an approved hospital or whether a person is a voluntary patient in an approved hospital or elsewhere. In addition, the question of who consents to such treatment is rationalised, in light of the proposal to involve the Guardianship Board in this area.

An important inclusion by the Select Committee is the increase in penalties for an indictable offence from $2 000 (or one year imprisonment) to $5 000 (or one year imprisonment). The undertaking of prescribed psychiatric treatment without proper consent constitutes an indictable offence, as does the carrying out of a termination or sterilisation procedure without the consent of the board (except in an emergency). I believe that it is important for the dignity of mentally ill and handicapped persons that the rights of others to make decisions on their behalf be soundly based in law. This Bill achieves that purpose.

I am aware, as I have indicated, that some parents of mentally ill and mentally handicapped people opposed the legislation. In order to afford them the opportunity to express their views and in the hope that the matter would be dealt with in a bipartisan fashion, the Select Committee was set up to consider the implications of the Bill. I believe it has made sound decisions based upon consideration of the many submissions it received from interested persons and groups in the community.

The Select Committee recognised that the Bill enters a new area of legislation. In order to assess the impact of the legislation, a clause has been inserted requiring the Minister of Health to review the operation of Part IVA after the expiration of two years from its commencement and report to Parliament. In addition, I shall ensure that there is a delay of three months before the legislation is brought into force to enable education and preparation for its introduction to occur. I commend the Bill 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

Clauses 1 and 2 are formal. Clause 3 defines 'consent', 'dental procedure', 'medical procedure' and 'parent' in the same terms as the Consent to Medical and Dental Procedures Act passed earlier this year. Other necessary definitions are provided, including a definition of 'sterilisation procedure' as being any procedure that results, or is likely to result, in the patient being infertile.

Clause 4 amends a heading. Clause 5 amends the provision that currently places restrictions on psycho-surgery and shock treatment of patients detained in approved mental hospitals. First, the provision is widened to cover the voluntary patient as well as the detained patient, and is widened to cover patients in any hospital, whether an approved hospital or not. The question of consent to psychiatric treatment must be dealt with in respect of all patients, no matter how their original admission to hospital came about, and no matter which hospital they are being treated in. Secondly, the question of who consents to such treatment is rationalised, in light of the proposal to involve the Guardianship Board in this area. If the person is capable of giving consent (whatever his age), then his consent must be given before the procedure in question can be carried out. If he is not so capable, then a parent's consent must be obtained if the patient is under 16, and the board's consent if he is 16 or more. This provision has effect notwithstanding the later provisions dealing generally with consent to medical treatment. A person who contravenes this section will be guilty of an offence carrying a penalty of a fine not exceeding $5 000 or imprisonment for a term not exceeding one year (see section 49 of the Act).

Clause 6 inserts a new Part that provides a code for the consent to medical and dental treatment of mentally incapacitated persons. New section 28a provides that the Part applies to such persons. New section 28b provides that the consent of a parent is effective in respect of treatment of a mentally incapacitated person under 16 years of age, except that a parent cannot consent to the carrying out of a sterilisation or abortion on his child, no matter what the age of the child is. The consent of the board is effective in respect of sterilisation or abortion, providing the consent is given in accordance with the Act. The consent of the board is similarly effective for all medical and dental procedures carried out on mentally incapacitated adults (i.e. persons of or over 16 years of age).

The board's consent to a procedure may only be sought by the relevant medical practitioner or dentist, a parent or any other person who has a proper interest in the matter. New section 28c creates an indictable offence where a medical practitioner carries out a sterilisation or abortion without the consent of the board (except in situations of emergency). The penalty for such an offence is $5 000 or one years imprisonment.

New section 28d sets out the basic steps to be taken by the board in determining an application for consent to carrying out a sterilisation or abortion. The patient must, if it is practicable to do so, be given an opportunity to be heard. A parent must also be given such an opportunity, except where the parent cannot be found, or where it is not practicable to give the parent such an opportunity or where it would not be in the best interests of the patient to do so. Other persons who satisfy the board that they have a proper interest in the matter must be heard. The wishes of the patient must be considered, and the board must bear in mind the object of keeping interference with the person's rights to a minimum. Applications relating to abortions must be dealt with speedily.

New section 28e deals with consent to sterilisation. If the board is satisfied that the proposed procedure is therapeutically necessary, it may give its consent. If it is not so satisfied, it may give its consent only if it is satisfied that the person is permanently mentally incapacitated, is capable of procreation and is either sexually active and no form of contraception would be workable or, in the case of a woman, cessation of her menstruation would be in her best interests and would be the only viable way of dealing with the problems associated with her menstruation. The board must also have no knowledge of any refusal given by the person in respect of the procedure while the person was capable of giving consent. A consent is suspended until any appeal is determined.

New section 28f deals with consent to termination of pregnancy. If the board is satisfied that the carrying out of the procedure would not constitute an offence under the Criminal Law Consolidation Act, and that the woman is likely to acquire the mental capacity to consent during the period in which she may safely be aborted, then the board may give its consent. Again, the board must have no knowledge of any refusal given by the woman while she had the mental capacity to consent and the board's consent is suspended pending the determination of any appeal to the tribunal.

New section 28g provides for emergency treatment of mentally incapacitated persons. This provision is similar to the relevant provisions in the Consent to Medical and Dental Procedures Act. If there is imminent risk to a person's

life or health in the opinion of two medical practitioners, or of one medical practitioner where it is not practicable to get a second opinion, then the person is deemed to have effectively consented to the carrying out of the procedure. Where the person is under 16 and the procedure is not a sterilisation or abortion, a parent must be contacted if possible, but the procedure can be carried out with impunity despite the refusal or failure of the parent to give consent.

New section 28h enables the board to delegate its power of consent, except in relation to a sterilisation or abortion. A delegation may not be made to a medical practitioner or dentist who is likely to participate in carrying out the medical or dental procedure.

New section 28i provides that the consent of the board or its delegate must be in writing. A document purporting to be a written consent is conclusive proof of the consent and of the validity of the consent, thus protecting the medical practitioner who has no means of ascertaining whether the board has complied with all the provisions of the Act in giving its consent. Provision is also made for evidence of a delegation by the board.

New section 28j provides that the requirements of this Part are in addition to those of any other enactment (e.g. the Transplantation and Anatomy Act). New section 28k requires the Minister to have the operation of this new Part reviewed after two years and to table the resulting report in both Houses of Parliament.

Clause 7 amends the appeal provision. Any determination made by the board on an application for its consent to a sterilisation or abortion may be appealed against by the person on whom the procedure is to be carried out, a parent of the person or any other person who has a proper interest in the matter. An appeal that relates to a proposed abortion must be commenced within two working days of the board making its determination. All other appeals must be lodged within one month. The tribunal must give priority to any appeal relating to an abortion.

Clause 8 provides that a decision of the tribunal on an appeal relating to a sterilisation or abortion may not be appealed against.

Clause 9 increases the penalty for an indictable offence from $2 000 to $5 000. Up to one years imprisonment is, of course, still an available penalty.

The Hon. J.C. BURDETT: I support the second reading of the Bill. As the Minister said, a similar Bill was introduced in the last session and was referred to a Select Committee after being read a second time, because the Minister acknowledged that he had received a number of expressions of concern, on behalf of parents and parent organisations, about the Bill.

As the Minister outlined in his explanation, many of the concerns were based on a misconception. Many parents and parent organisations thought that they already had the legal right, in regard to the mentally ill or mentally handicapped persons over the age of, say 16 or 18 years, to consent to their medical or dental treatment. In fact, they did not and do not have this legal right.

In the past, often *de facto,* their right to give such consent was accepted by medical and dental practitioners. That is what has happened until now. If a mentally handicapped or mentally sick person is not capable for that reason of giving an informed consent, and if the person is over 18 years and living with parents and the parents give consent, the medical profession has accepted that and carried out the procedure. However, there has been no legal right to do that. There is no shadow of doubt about that. The matter of consent has become much more polarised recently.

There has been an increase in the number of actions taken against the medical profession for negligence in the United States and here, and doctors are becoming very conscious of the fact that they should not carry out procedures unless a legally binding consent is given. I must say that the intent of the Bill (and this was made clear during the hearings of the Select Committee) is that as far as possible the mentally sick or the mentally handicapped person, if they are capable of consenting to the procedure, should make up their own mind. I believe that that will occur if the Bill passes into law.

The degree of recognition of all the factors involved will depend on the nature of the procedure. If a bunion is to be cut off a toe or if there is to be a similar procedure, obviously the degree of perception of the nature of the procedure and its consequences will be different from that applying to a kidney transplant or another major procedure. The parent organisations that appeared before the Select Committee, it appeared to me, were reassured by what we told them, that is, that they did not have the legal powers that they thought they had at present and that the intention of the Bill was that in most cases they would be given that legal power.

The Guardianship Board has a fairly heavy workload at present, and this will be an increased burden. In regard to persons who, through reasons of mental illness or mental handicap, are incapable of giving an informed consent, it must in every case either give its consent or delegate that power to someone else. As the Minister said in the second reading explanation, this power may be delegated in all cases except in regard to termination of pregnancy and sterilisation. It would be the intention of the board (and the Select Committee ascertained this in talking to the board) that, because of the workload, in ordinary cases its authority would be delegated. Generally speaking, that authority would be delegated to the parents where the mentally sick or mentally handicapped person was living with the parents or, where that person was institutionalised, to the superintendent of the institution at which the person resided. It became very clear to the Select Committee that, for practical considerations, apart from anything else, this would be done in the ordinary way.

One thing which this Bill does and which the previous Bill did not do is to clarify who can apply to the board for its consent to treatment. This is spelt out and made clear whereas it was unclear previously. There is the preliminary question of capacity. Before the Guardianship Board can decide whether to grant it's consent to sterilisation or termination, it must be satisfied that the person involved cannot give an effective consent in his or her own right. That applies across the board as well. Where the person concerned can give an effective consent or can withhold his or her consent in their own right where they are able to appreciate the nature of the procedures concerned, then they are not in any way deprived of that.

Regarding involvement of parents in decision making, under the present Bill in relation to sterilisation and termination of pregnancy, the parents are to be involved, and involved in the hearings before the Guardianship Board except in cases where the board determines that in the interests of the person concerned it would not be appropriate for the parents to be involved. A provision of this Bill that was not included in the original Bill relates to appeals. The original Bill made no provision for appeal, but this Bill provides a general power of appeal and, in regard to termination of pregnancy, because of the obvious necessities of the case, it is restricted to a period of two working days in which to appeal in the case of sterilisation and in other cases to one month.

I might say that the report is unanimous, but in particular I am pleased to support the provision for appeals. It has been the general attitude of the Liberal Party that, where

there is any kind of court or tribunal hearing, anything that affects the rights of people generally speaking should not be cut off at that point: there should be some ability to appeal. I certainly support the introduction of appeal procedures.

Penalties will be increased from $2 000 (under the previous Bill) to $5 000. I strongly support that, because it is a fairly serious matter for the person concerned and the family if a practitioner carries out a procedure without there being the necessary consent in terms of the Bill. A penalty of $5 000 is not unreasonable.

The Select Committee received a number of submissions in regard to advocacy. It was suggested that the parent is not always the best advocate for a mentally ill or mentally handicapped person. The parent is almost always loving and caring, but there can be occasions where the parents are so close to the situation that they are not really able to judge what is best for the person concerned. It was suggested that independent advocates should be provided for—not necessarily legally qualified advocates but someone who could simply represent the interests of the mentally sick or mentally handicapped person.

There is a great deal of merit in that, but evidence from experts in the field indicates that so far a successful system of advocacy does not prevail anywhere in Australia. It was pointed out (and correctly, I believe) that there is nothing to stop the Guardianship Board from listening to advocates now, nor will there be under this Bill as it stands. If the board is prepared to accept advocates for mentally sick or mentally handicapped persons, it may listen to them. It was thought that, because there is a dearth of such advocates at present (and there is no one particular area from which they come) to provide for them in the Bill would be unwise. This decision was made in the light of the fact that there is no reason why the board cannot listen to such advocates if they come forward in the future, and I hope that they do.

The last matter to which I refer is the provision in the Bill for the review of the legislation, and this provision was not included in the original Bill. The select committee recommended that it should apply, and it does apply in the present Bill. It is recognised that this is a major step forward; it is certainly a major change from the present position. At present there is no provision for the Guardianship Board or anyone else to give legal consent to medical or dental procedures in respect of adults who are not capable of giving legal consent themselves, by reason of mental sickness or mental handicap. This is a great change in the legislation and it was acknowledged—and acknowledged by witnesses before the select committee—that nobody can be sure of exactly how the legislation is going to operate. We believe and hope that it will operate well, and all members of the select committee were of that belief and the Guardianship Board was of that belief. However, it is innovative legislation and you can never be quite sure.

Unlike its predecessor, the present Bill provides a 'high noon' provision that the Minister shall cause a review to be undertaken of the provisions of the Bill within a specified time and lay it before both Houses of Parliament. It is not a sunset provision: I do not think it is necessary to say that the Bill should come to a grinding halt unless it is renewed. However, I think it is necessary, because of the substantial nature of this legislation, that Parliament should be obliged to be informed of how the Bill is going after a specific period so that it can make up its mind as to what it should do after that.

I believe that the Bill in the first place has been greatly improved through the deliberations of the select committee. The variations recommended from the previous Bill are not very many or very great, but I think they are significant (and I have referred to the most significant of them); so I think the Bill has been improved through the committee system, which has often operated effectively in appropriate cases in matters before this Council or the other place.

Secondly, the Bill is a necessary and great step forward. We had reached crisis point where the medical and dental professions were no longer prepared to accept the position which they had accepted before where, although the parents of adult persons in this situation had no legal right to consent, they would accept that *de facto*. However, they are not prepared to do that anymore and one cannot blame them. It has come to the time where it is necessary to see that where there is a question of consent to medical and dental procedures the person who gives that consent has the legal right to give or withhold that consent. I believe that had to be addressed in some way. The Government, on the advice of the working party, was correct in addressing the matter and I believe that this Bill represents the best way of addressing that problem. I support the second reading.

The Hon. ANNE LEVY secured the adjournment of the debate.

DAIRY INDUSTRY ACT AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Dairy Industry Act 1928. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

The Australian dairy industry has experienced two years of declining returns, due to overproduction and depressed export prices. Current marketing arrangements do not provide for production control at a national level. Dairy farms in South Australia are licensed under two Acts: those supplying the metropolitan area are licensed by the Metropolitan Milk Board under the Metropolitan Milk Supply Act (1946) as amended; those outside the metropolitan area, such as the South-East or Port Lincoln, are licensed by the Department of Agriculture under the Dairy Industry Act (1928) as amended.

Dairy industry organisations are concerned that continuing increased milk production in Australia will further depress industry returns and have requested the Minister of Agriculture to restrict the issue of new dairy farm licences under the Dairy Industry Act, on industry economic grounds. At present the Minister can only refuse to issue a dairy farm licence under the Dairy Industry Act if the farm is not suitable for use as a dairy farm, or does not meet regulatory requirements in respect of hygiene and construction.

The amendments to the Dairy Industry Act will allow the Minister, on forming the opinion that the issue of further licences would render dairy farming uneconomic, to direct that no new dairy farm licences be issued. This will allow the Government to help reduce milk production in South Australia and improve the viability of existing dairy farms. The restriction will not apply for renewals of existing licences, the transfer of licences following change of ownership or to a person transferring his licence to a new dairy farm. In proclaiming this legislation time is to be allowed to ensure that individuals who have already committed resources to the development of a diary farm can apply for a licence. In addition the legislation will permit the Minister to revoke a direction previously made. I seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 amends section 7 (2a) of the Act to provide that the issue of a licence for a dairy farm is subject to any direction given by the Minister under section 8 or 8a.

Clause 4 inserts section 8a which provides that the Minister may direct that no further licences be issued for dairy farms when the Minister is of the opinion that the establishment of further dairy farms would result in lower returns to dairy farmers, rendering dairy farming uneconomic. Subsection (2) of the proposed section provides that such a direction shall not affect an application for renewal of a dairy farm licence, transfer of a licence from one person to another, or an application by a holder of a licence to transfer from one property to another. Subsection (3) of the proposed section provides that the Minister may revoke such a direction.

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

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Metropolitan Milk Supply Act 1946. Read a first time.

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

That this Bill be now read a second time.

This Bill accompanies the Bill for amending the Dairy Industry Act and is designed to restrict the issue of new milk producers licences under the Metropolitan Milk Supply Act. The amendments are therefore similar to those proposed for the Dairy Industry Act, thus ensuring uniformity of action under both Acts. This measure will allow the Metropolitan Milk Board to help reduce milk production and improve the viability of existing milk producers. I seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 amends section 29 of the Act to enable the board, on the application of the holder of a milk producers licence, to amend the licence by deleting the reference to the premises in the licence and substituting different premises as requested by the holder of the milk producers licence in the application.

Clause 4 amends section 32 of the Act. Under proposed new subsection (3a), when the Minister forms the opinion that the issue of further milk producers licences would lower returns to milk producers, thus rendering dairy farming uneconomic, the Minister may direct that no further licences be issued. Proposed new subsection (3b) provides that a declaration under proposed new subsection (3a) does not affect an application for a fresh licence where the milk producer holds a current licence at the time of the making of the application.

Proposed new subsection (3c) permits the Minister to revoke a declaration. Proposed new subsection (3d) requires the board to comply with ministerial directions under proposed new subsection (3a).

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

SWINE COMPENSATION ACT AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Swine Compensation Act Amendment Bill 1936. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

The prime purpose of the principal Act, originally, was to pay compensation to owners of pigs that either died or were condemned because of notifiable diseases on the farm or in the slaughterhouse. The use of the compensation fund was broadened in 1968 to provide for an annual allocation for research, and again in 1974, so that funds considered surplus by the Minister could be used for any purpose which was of benefit to the pig industry.

The prime purpose of this Bill is to update the Act in relation to fixed monetary values that have depreciated with the passage of time. Other minor changes designed to simplify the operation of the Act have also been included.

The first change is to provide for an increase in the maximum market value of a pig from $60 to $250 per pig. This upper limit has not been altered since 1965 and is now quite inadequate compensation. The proposed maximum market value of $250 is only marginally greater than the current market value of a large pig. The proposed change provides for the amount, in future, to be prescribed by regulation.

The second change is to make specific provision for the payment into the fund of moneys arising from the sale of property purchased from moneys provided by the fund. The third change provides for an increase in the annual allocation for research and investigation relating to the pig industry from $25 000 to $50 000 per annum. This amount has not been altered since 1974 and the proposed increase is in accordance with inflation over this period. The proposed change provides for the amount in future to be prescribed by regulation.

The final change to the Act is to give formal recognition to the committee advising the Minister in relation to the management of the fund. The Swine Compensation Fund Advisory Committee has in fact been functioning with the proposed terms of reference since 1974. While the committee was not specifically referred to in the Act, its existence was agreed to and recorded in *Hansard* at the time the Act was varied in 1974 to provide for the use of surplus funds for the benefit of the pig industry.

The Bill sets out the constitution, terms and conditions of office of members of the committee and its functions. The primary function of the committee is to advise the Minister in relation to the management of the fund, particularly in relation to the expenditure of surplus funds on projects which benefit the pig industry. It would also advise on future variation of the stamp duty levy on pigs slaughtered and the maximum amount of compensation payable in relation to a pig.

In formulating these amendments, there has been close consultation with the relevant industry organisations: the United Farmers and Stockowners (Pig Section) and the Australian Pig Breeders Society (SA Division). It can be said that the pig industry is supportive of the amendments proposed in this Bill. I seek leave to have the detailed explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1, 2 and 3 are formal.

Clause 4 amends section 4 of the principal Act by inserting a new definition—'the Committee'.

Clause 5 amends section 6 of the principal Act, which provides for the amount of compensation payable in respect of a pig that has died because of disease or has been destroyed because it is suffering from or suspected of suffering from disease. The maximum market value of one pig for the purposes of compensation is increased to $250. The power to vary this amount has been removed from the principal Act and can now be prescribed by regulation.

Clause 6 amends section 12 of the principal Act, which provides for the establishment of the Swine Compensation Fund. Express provision is made for moneys arising from the sale of property, originally purchased by moneys provided by the fund, to be paid back to the fund. Secondly, the amount of moneys allocated annually by the fund for research and investigation relating to the pig industry, is increased to $50 000.

Clause 7 inserts a new Part into the principal Act, establishing the Swine Compensation Fund Advisory Committee and detailing its constitution and advisory functions.

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

LIQUOR LICENSING ACT AMENDMENT BILL (No. 2)

The Hon. C.J. SUMNER (Attorney General) obtained leave and introduced a Bill for an Act to amend the Liquor Licensing Act 1985. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

This Bill inserts new Division IIA into Part X of the Liquor Licensing Act 1985. The new Division changes the operation of the principal Act to liberalise the conditions under which liquor may be sold, supplied and consumed during the week in which a Grand Prix is held.

Because of the expected attendance of large crowds at the Grand Prix, including many visitors from other States and overseas, and because of the festive nature of the occasion, all trading hours limitations for hotel, retail liquor merchants, club and general facility licences will be removed for this period. (The other licence categories already have no trading hour restrictions.) Liquor may still be supplied only from licensed outlets, so that a proper standard of premises and background of those supplying liquor can be assured.

The lifting of these restrictions will mean, for example, that holders of hotel licences will be authorised to conduct 24 hour bar trade, without the need to provide meals during certain hours. The tenor of licences will not be altered. For example, while the trading hours for retail liquor merchants licences will be unrestricted, under those licences liquor may still be sold only in sealed containers for consumption off the licensed premises.

Licences such as restaurant licences may still sell liquor only with or ancillary to meals supplied to diners. However, these licensees may apply individually to the licensing authority for limited licences to enable an expansion of trading rights for the period of the Grand Prix, in which case each application will be treated on its merits.

To protect the rights of persons who reside, work or worship in the vicinity of licensed premises given expanded trading rights under this Bill, authorised members of the Police Force are given power to require activities at those premises to be curbed where undue offence, annoyance, inconvenience or disturbance is caused. The expansion of trading rights applies through the State so that visitors who wish to travel during their stay in South Australia can also be catered for.

The Bill does not oblige licensees to trade during extended hours but will give licensed liquor outlets the flexibility to cater for the many thousands of people who will be in the State for the Grand Prix, and should overcome frustrations which can arise where patrons from other States or overseas encounter trading hours different from those with which they are familiar.

Clause 1 is formal. Clause 2 inserts new Division 11A in Part X of the principal Act. The new Division operates during periods declared under the Act in respect of each Grand Prix. New section 132b sets out the extent to which restrictions are eased in respect of various licences. New section 132c provides for control of noise and offensive behaviour in relation to licensed premises during the Grand Prix.

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

EVIDENCE ACT AMENDMENT BILL (No. 2)

Read a third time and passed.

SUPERANNUATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 October. Page 1095.)

The Hon. L.H. DAVIS: The Opposition supports this amendment to the Superannuation Act. The budget speech made in another place referred to the fact that accounting adjustments were to be made to departmental superannuation provisions. In future, departments will have to account for the cost of superannuation payments for current employees. In the past the share of pension paid to former employees has been the only provision for superannuation required of departments. It is an accounting adjustment.

It means that in future departments will have to more accurately reflect the cost of superannuation for current employees as well as for past employees. The Opposition supports this measure towards realism in accounting for superannuation in Government departments. The implications for the budget are better discussed when that matter is before the Council. I support the second reading.

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

POLICE PENSIONS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 October. Page 1111.)

The Hon. L.H. DAVIS: The Opposition also supports this Bill. As with the matter recently dealt with, the amendment to the Superannuation Act, this amendment was foreshadowed by the Government in the budget speech. There are a number of Government superannuation schemes including the State Public Service Superannuation Scheme administered by the Superannuation Investment Trust which is currently under review; the judges scheme; the Governor's scheme; and, not least, the Parliamentary scheme.

It is important that a proper accounting be made for the cost of these schemes to the respective employers. The current provisions of the Police Pensions Act require that the employer's share of benefits (that is, the Government's share of benefits) should be paid out of moneys provided by Parliament. In departments, superannuation costs are

borne by those departments as I mentioned recently when discussing the Superannuation Act Amendment Bill. Therefore, the Bill before us seeks to bring the Police Pension Scheme into line with the provisions of the Superannuation Act which cover departmental superannuation.

In future, the amendment will enable police benefits to be provided in the Police Pensions Act rather than as a separate line from the Treasurer. I support the proposal and the second reading of the Bill.

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

RURAL INDUSTRY ASSISTANCE (RATIFICATION OF AGREEMENT) BILL

Adjourned debate on second reading.
(Continued from 17 September. Page 915.)

The Hon. PETER DUNN: The background of the Bill is that the new agreement and Commonwealth legislation follows a review of the previous rural industry scheme and an inquiry by the IAC. The Bill is complementary to that action and identifies the three forms of Commonwealth fund assistance, subject to administration by the State agencies, in one consolidated form. Part A provides for concessional loans or interest rate subsidies to assist with farm build-up, farm improvement and debt reconstruction, incorporating qualifying criteria applicable to each. The Bill contains a provision which introduces protective certificates. This area will be useful later and offer some protection to those people who are bordering on bankruptcy or suffering downturn or drought, whichever may be causing them financial hardship.

Part B provides for carry-on assistance in the short term following severe downturn in market prices. Part C is a welfare package designed to minimise hardship and incorporate the terms under which the farmer-family rehabilitation applies. The ratification and consolidation of the Commonwealth-State agreement details under one canopy is consistent with Liberal Party policy, is supported by the industry and welcomed by the administration staff in the department. The United Farmers and Stockowners agrees with this measure. I support the Bill.

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

RURAL INDUSTRY ASSISTANCE BILL

Adjourned debate on second reading.
(Continued from 17 September. Page 915.)

The Hon. PETER DUNN: This Bill proposes to repeal the Rural Industry Assistance (Special Provisions) Act 1971 and the Rural Industry Assistance Act 1977. This measure is designed to enable the Rural Industry Assistance Fund, procedures, ministerial delegation of powers, applicants' certification and broadening of the present definition of 'farmer' (including a sharefarmer), to be consolidated into one Act. The proposal is consistent with the objectives cited in the Liberal Party's 1984-85 policy, except that we undertook to include the consolidation of both the above mentioned Acts and the provision of the Commonwealth-State funding agreement into a single Act, whereas these two principal Acts are still separated under the Government's proposal.

I gather that there is some difficulty in combining the part funded State Acts with the joint Commonwealth-State procedures that are currently and have traditionally been funded entirely by the Commonwealth. However, the Government's proposals, albeit still in two parts, are generally considered to be a vast improvement on the present complex arrangements that have proved so administratively difficult and almost impossible for industry, applicants, accountants, banks, and stock firms to comprehend in recent years. We have contacted industry leaders and the United Farmers and Stockowners, and they welcome the move. I support the Bill.

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

AUSTRALIA ACTS (REQUEST) BILL

Adjourned debate on second reading.
(Continued from 8 October. Page 1098.)

The Hon. C.J. SUMNER (Attorney-General): I thank the Hon. Mr Griffin for his contribution on this important Bill. I thank him for at least his qualified support for it at this stage, and I hope it will become completely enthusiastic and unqualified after I have laid his mind to rest with regard to the difficulties that he outlined in his second reading contribution. Therefore, I will address the questions that the Hon. Mr Griffin raised.

The first question concerned the current position with respect to the same Bills in the State Parliaments. I can advise the honourable member that Victoria introduced its Bill on 19 September and it is in the second reading stage but debate has not resumed since that date. It is intended to resume it next week. Queensland introduced its Bill and had its first reading last week and its debate is resuming today. Tasmania introduced its Bill this week to the first reading stage only, and its second reading stage will be conducted next week or the week following. Western Australia introduced its Bill shortly after this State did so, and it is in the second reading stage.

I understand that the New South Wales Bill has already been passed and received the Royal Assent last Friday. As a result of the last Standing Committee of Attorneys-General meeting in September in Melbourne, it was decided that all States and the Commonwealth should have passed their respective items of legislation in their current parliamentary sessions. A place is reserved in the United Kingdom Parliamentary timetable to enable the introduction of the Bill in that Parliament not later than March 1986.

Secondly, the honourable member asked why the Parliaments and the Governments of the States are to request and consent to the enactment of certain legislation, the point being why it had to be a request from the Governments of the States as well as the Parliaments. Section 4 of the Statute of Westminister, 1931 provides:

> No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.

Then, section 9 (3) goes on to provide:

> In the application of this Act to the Commonwealth of Australia the request and consent referred to in section 4 shall mean the request and consent of the Parliament and Government of the Commonwealth.

The provisions of clauses 3 and 4 of the Bill reflect this situation. Thirdly, the honourable member said that it did not seem possible for the South Australian Parliament to pass this request Bill with a request for federal and United Kingdom legislation, which will seek to override the State's Constitution Act unless the provisions of that Act are complied with.

It is not the Parliament of this State that is enacting legislation which affects section 8 or section 10a of the

Constitution Act. This Bill is a request to other Parliaments by this Parliament. The Bill does not of its own force amend or repeal any provision of the Constitution Act.

In other words, the amendment or repeal of the provisions of our Constitution Act, which are affected by this package, will be done by the United Kingdom Parliament by the paramount force of Imperial Law. That of course arises from the fact that South Australia itself is a colony and, because the Statute of Westminster did not apply to the colonies of Australia, at law the United Kingdom Parliament still can legislate to amend legislation of the South Australian Parliament. That is what will happen with this package.

I point out to the honourable member that clauses 13 and 14, with respect to Queensland and Western Australia respectively, refer to the entrenched provisions in the Constitution Acts of those States, and they have agreed to the same procedure as is being followed by the South Australian Parliament.

The fourth question dealt with appeals to the Privy Council, and the honourable member raised the point that such appeals had quadrupled. I am unable to comment on the number of appeals to the Privy Council from other States. However, the Registrar of the Supreme Court advises me that over the past six years the disposition of appeals to the High Court and the Privy Council is as follows:

	Appeals to High Court from SA	Appeals to Privy Council from SA
1980	11	3
1981	9	3
1982	8	Nil
1983	17	Nil
1984	4 appeals 7 special leave applications	Nil
1985	1 appeal 14 special leave applications	Nil

At least with respect to South Australia the assumption that the honourable member made is incorrect. Whether it is the same in other States, I am not able to say. The fifth question drew attention of the Council to section 478 (6) of the Merchant Shipping Act which requires appeals from State Courts of Marine Inquiry to go to the divisional court in England if the ship concerned is a British ship.

This question has been raised in an article by Mr Justice Zelling in the *Australian Law Journal*. The provisions of clause 3 of the schedule, whereby the Colonial Laws Validity Act will have no application to the laws of the State after the enactment of this legislation, enables appropriate action to be taken.

It may be that, once this legislation is enacted by the State, Commonwealth and United Kingdom Parliaments, if there is some tidying up necessary with respect to some minor areas of redress that may have existed to the United Kingdom courts, that can be done because by that time the South Australian Parliament will have full legislative competence.

In his sixth question, the honourable member asked me to identify the terms and conditions that have been agreed, the form of agreement and the extent to which the States will have access on the question of imperial honours. First, it should be noted that in relation to access to the Queen, Her Majesty will receive advice directly from the Premiers of the respective States. The agreement is manifested in correspondence between the Prime Minister and Her Majesty dated 31 July 1985 and approved by Her Majesty, as signified on the top of the correspondence. In addition, there is correspondence from the Western Australian Solicitor-General on behalf of the States to the Foreign and Commonwealth Office dated 16 August 1985 confirming the States' approval to this course.

I seek leave to table that documentation—a letter from the Prime Minister of Australia, Mr R.J.L. Hawke, to Her Majesty the Queen dated 31 July 1985 and addressed to 'Your Majesty' and, secondly, a letter from the Solicitor-General of the State of Western Australia, Mr K.H. Parker, QC, addressed to Sir Anthony Ackland, KCMG, KCVO, Permanent Under Secretary of State, Foreign and Commonwealth Office, London, SW1A, 2A, England, addressed 'Dear Sir Anthony' and dated 16 August 1985.

Leave granted.

The Hon. C.J. SUMNER: In his seventh question, the honourable member asked whether I would clarify clause 15(2) of the schedules. He indicated his interpretation of that subclause and I believe that that is the appropriate interpretation. I do not see that the provision, properly understood, compromises the provision under clause 15(1).

Finally, the honourable member said that the point had been made to him by a judge (unnamed) that presently there is a right for judges who are unjustly removed from office by the Parliament to appeal to the Privy Council. First, I am not sure that the honourable member's contention is entirely accurate. Section 75 of our Constitution Act provides for the removal of Supreme Court judges by the Crown on addresses from both Houses of Parliament. In consequence of clause 7 (2) of the schedules, the address will be made to the Governor, who will then have the power of amoval. Under the present law, because of section 4 of the Judiciary Committee Act 1833, the Queen can refer to the Privy Council, for its consideration and advice, any memorial from a colonial Parliament complaining of the conduct of a judge. This is certainly not in the nature of an appeal. It is merely the Crown's right to obtain the best advice available to it.

However, under the Colonial Leave of Absence Act 1782 (called Burke's Act) judges holding office by letters patent may be amoved for neglect of duty or misbehaviour and an appeal lies to the Privy Council, but the original amoval must have been performed by the Governor in Council. This has been described in *Halsbury Laws of England*, volume 5, page 670, as 'an alternative, but obsolete method of removing State judges'. Section 75 of our Constitution Act, of course, contemplates amoval on the addresses of both Houses of Parliament. I would refer the honourable member to the discussion of this topic by Sir Zelman Cowan in an article in the *Australian Law Journal*, volume 26, page 462, and, in particular, to his conclusion at page 467, as follows:

> Even though it could be held that Burke's Act is no longer law, there is sufficient uncertainty to warrant its formal repeal. It no longer has any *raison d'etre*; and it operates to preserve a wholly unjustifiable distinction betwen English and Victorian judges [or English, and South Australian judges]. In any case on the footing that Burke's Act is still law, power to interfere with the judiciary can be claimed only by the Governor in Council. No arguments of any kind can be raised to support such power in the Premier or any Minister or any group of Ministers.

The point is that Burke's Act is obsolete and, although there may be some doubt about it and therefore Sir Zelman Cowen's suggestion that it should be repealed, it does not seem to be a right that is extant at present, certainly in practical terms. It can be argued that judges in South Australia are not appointed by letters patent but are appointed by commissions of—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, they are not appointed by letters patent. It could be argued, therefore, that the original proposition—that Burke's Act, refers to judges holding office by letters patent—may not in fact apply to South Australian judges. The Governor in Council method is an obsolete method of removing judges. Our Constitution provides a means for the removal of judges, and I do not think that judges will be denied any practical extant right by the passage of this legislation.

In any event, if that occurred, it is a matter of policy—a policy about which I would not wish to argue at this stage. The method of amoval of judges is a much broader policy issue and, if it was felt that there should be some change to the procedure, no doubt the Parliament would address that matter in due course. Certainly, in practical terms (and I think that the point of the honourable member's argument was that judges would be deprived of a right by the passage of this legislation) the effect of what I am saying is that that right is not something that is of any practical effect at present, for the reasons I have outlined.

I trust that that answers the honourable member's questions. I understand that in the light of those answers the honourable member will not oppose the second reading. Therefore, I propose that we report progress in Committee after clause 1 is passed to enable the honourable member to consider my responses. Certainly, I would be happy to make available any officers from the Attorney-General's Department or, indeed, the Solicitor-General to consult with the honourable member should there be any outstanding issues.

I would merely say in conclusion that this matter has been debated over a considerable period by many people who are learned in the law in Australia. The means of removing our constitutional and legal links with the United Kingdom has been a matter before the Standing Committee of Attorneys-General in some form for about 10 years.

There have been a number of issues that have hitherto caused difficulties. Two of the issues were the question of advice to the Monarch on imperial honours—if it was wished to recommend imperial honours—and advice to the Monarch on appointment of State Governors. Those two issues have been resolved and the package that is now before the Parliament is a combination of what has been referred to in the past as the external solution (that is, legislation of the United Kingdom Parliament) and the internal solution (the use of section 51 (38) of the Australian Constitution).

At various times during the innumerable discussions on this issue one or other of those propositions was considered the most desirable course to follow. In the end result it has been decided to use both those methods to try to make the action that is being taken as foolproof as possible. I can only indicate to the Council that the matter has been the subject of consideration by Attorneys-General and, more particularly, by Solicitors-General of the States and the Commonwealth for quite a long period. It has finally been agreed that this package does what it purports to do in terms of removing the residual constitutional links that exist between the United Kingdom Parliament and the Parliaments of the Australian States.

The Hon. K.T. Griffin: The drafting is only in the last two or three years. There has not been any fine drafting like this.

The Hon. C.J. SUMNER: There has not been a final Bill until recently but certainly the principles have been debated. I can only indicate to the Parliament that I am as confident as one can be that during that time the difficulties that were seen in this exercise have been resolved. I commend the Bill to the Council.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

PARLIAMENT (JOINT SERVICES) BILL

Adjourned debate on second reading.

(Continued from 19 September. Page 1056.)

The Hon. M.B. CAMERON (Leader of the Opposition): When I last spoke on this matter I forecast that I would look at amending clause 6 of the Bill, which refers particularly to the secretarial assistance to the committee. Clause 6 provides for a special secretary to be appointed who would then take over the position as joint secretary and would take over control of the catering division and as well be the caretaker. I indicated that I thought that this particular clause was an unnecessary provision, and I maintain that view. Therefore, I have put on file some amendments which would alter the situation and provide for the secretary to the committee to be appointed by the Speaker, when the Speaker was Chairman of the committee, and by the President, when the President was Chairman of the committee.

Frankly, I think that this is all that is necessary. I have also provided that the catering manager shall remain in control of his division. Again, I believe that this is all that is needed. I have faith in the present catering manager and I have faith in the committee to provide a person who would be capable of carrying out that task in the future. I do not think it is necessary for us to provide for a special secretary who would take over that particular area as well as being the joint parliamentary secretary.

Last year, or earlier this year, a person came in (I do not know under what disguise) to provide services in the drawing up of this Bill and I have never known so much turmoil within the staff of this Parliament as when that person was present. I found that it was a very difficult situation indeed and people seemed to be extremely worried about the future of the whole thing.

I have been urged by one person in particular to pass this Bill. That person has always seemed to me to be over enthusiastic about the Bill. Frankly, I have some doubt about the necessity for the Bill in the first place and that is why I have very carefully gone through the provisions of the Bill to make certain that there is absolutely nothing in it that takes away the role of this Council, as a separate House of Parliament. That is why I am very wary about this position of secretary and why I have made certain that there is a division of responsibility from year to year between the Houses in the provision of secretarial services. I expect the secretary to just be a minute secretary to the committee: it is the Committee—not the secretary—that will be running the section of the Parliament that is under the joint services, and that is the way it ought to be.

The Hon. K.L. Milne interjecting:

The Hon. M.B. CAMERON: That is right. The next thing is we would have a system where the secretary would become more important and become an executive officer and we would find ourselves in a very difficult position. The present Joint Services Committee has had its problems because there has not been sufficient consultation even within the committee. Many decisions have been made that have not had the support of the Joint Services Committee but have been as a result of the actions of one person, and that is the Chairman of the committee. There has been enough of that. We have to get back to the point where the Joint Services Committee is operated by the two Houses of Parliament on a joint basis and not because of one person's whims of the day.

I will be very forceful in my presentation of the amendments to clause 6. Frankly, if they are not passed, then I want to indicate that as far as I am concerned the Bill can disappear, because I do not think the Bill is that important. I do not believe there have been the great problems that everybody has been talking about; I believe that Parliament has run itself extremely well, apart from some tidying up about who is the employer. However, even then the fear tactics that have been used to try and convince staff that somehow they were not covered by various Acts of Parlia-

ment, or various problems in relation to their employment, I do not accept. Parliament would never divest itself of responsibility to an employee: nor has it ever done so.

The Hon. Peter Dunn: We make the laws for them.

The Hon. M.B. CAMERON: We make the laws and we would cover the staff. That suggestion is an absolute nonsense. However, if this amendment is passed, certainly we would accept the Bill in that form. I have noted the amendment that will be moved by the Hon. Mr Milne and I frankly have not a lot of bother with that. It is an attempt also to tidy up the situation and make sure that this Council remains in control of part of its destiny: I accept that that is a good move. I have no doubt that some other points will be raised during debate, but this whole matter has been the subject of far too many discussions.

Goodness knows how many Bills have been drawn up, all of which in the early stages were designed to take over part of the role of the Legislative Council: I do not accept that and never have. I have passed that message along the line every time a Bill has come to my notice where that has occurred. I am not at all certain that the whole thing is necessary.

However, if it is to pass I will be guided in my attitude to the final Bill very much by whether or not this position of the super-secretary is taken out and the whole matter is resolved in such a way that the secretarial person is a minute secretary, which is as it should be. I trust that that will occur. I will support the second reading with that proviso and will wait to see which way the debate goes and certainly which way the Committee stages go.

The Hon. K.L. MILNE: I support a great deal of what the Hon. Mr Cameron has said, especially about the creation of some person whose career it would be to be a very active secretary. Before we knew where we were, that person would be adviser to the President and the Speaker and would be giving us advice on all sorts of matters that we could well handle ourselves.

For some reason or other the House of Assembly seems to be set on eventually having control of some sort of the administration of the Upper House, but the way things are, and have been for some years, at least 40 per cent of the legislation is introduced in this Council. If we tried to say that we wanted to be able to control the House of Assembly, it would be screaming for mercy. The next thing that we would find is that members there would be saying that we were interfering with them. Why should we not say that we want to control some of their practices which may not be the same as ours and which we may not admire? I can see a situation where we will introduce legislation to control them: why not?

The Hon. R.C. DeGaris: It would pass this Council, all right.

The Hon. K.L. MILNE: Yes. It would be equally unwise and unproductive, so we should get out of our minds the idea that one House should control the other. The whole bicameral system depends on adult, sophisticated, experienced politicians being able to handle their own affairs, to cooperate with each other and to produce an answer that is a compromise or an improvement on legislation: that is what the system is designed for.

It would be easy to amend the Joint House Committee Act so that we could see who the employers are. I do not think that who is employing whom is a very big issue: it never has been an issue and I do not know who is making it one. This Bill is really trying to achieve something that need not be achieved by legislation. The staff are properly employed—and I do not know of any who are complaining—under the Parliamentary Service Act. The Constitution Act says that equivalent staff in each of the Houses will be paid the same.

Other Parliaments in Australia, I understand, do not have an Act of this kind, and do not intend to have one. Victoria has an Act for the Joint Services Committee only. I will talk in Committee about clause 24, where this Act tries to say that this Parliament will not be in a straitjacket from the Equal Opportunities Act, the Superannuation Act and the Conciliation and Arbitration Act. Of those, the one most to beware of would be the Equal Opportunities Act which creates a tribunal.

There are some safeguards in the requirements that the Speaker and the President both agree on certain matters, and there are certain restrictions on inspections of Parliament House, and so on, but my warning is that it would be absolute madness and selling the birthright of Parliament for this Parliament to put itself in the hands of any court, commission, tribunal or other organisation or authority that this Parliament had created.

The Hon. R.I. Lucas: It's a bit like letting the kids run you!

The Hon. K.L. MILNE: That is right: it is mad. We are here to create, control and, if necessary, dispense with them, not them to control us. I for one do not intend to have it. I do not think that we have ever had any real trouble in this administration. My view is the same as the Hon. Mr Cameron's: really: the Bill is not all that necessary.

The Hon. M.B. Cameron: How much time have we spent on it?

The Hon. K.L. MILNE: I do not mind that because a lot of people have taken a great deal of time to think about these things. The mere fact that it has taken so much time means that people are not convinced, but the Houses should remain entirely separate: they have been so for centuries. There have been periods of difficulty, but we have to be very careful in this place, in particular, where on one or two occasions during my relatively short time in Parliament we have taken the short view.

I have had the privilege of living in an older country, among modern people with a very old history. They take a very long view. For example, that is why they have allowed Agents-General to continue. Each State still has representation as well as the Commonwealth: who would do that other than someone taking a very long view? Yet, an independent and very new member in another place has said that the Houses should be closer together. What would he know about it?

What experience would he be speaking from? I do not think that his experience would allow him to carry a great deal of weight. Another prominent member of the Parliament, who I think should know better, has said that both Houses should be together and has tried to persuade people about that matter; I think that is quite extraordinary. I would have thought that a man of the calibre of the man about whom I am speaking, considering the appointments that he has held, would be quite clear about the benefits of the system as it is.

The danger of changing a system that is working is summed up by the old saying, 'Be careful before you destroy one system unless you have something of value to put in its place.' There have been murmurings about the conditions of engagement of the messengers, but messengers in both Houses come under the Messengers Award. In fact, although they may knock off or start at different times, and during different periods, they are all paid the same rates. They all work exactly the same hours each fortnight. That has been the case for a long time.

Looking at the matter in the cold light of day, I do not see the reason for this legislation at all. My suggestion, if I had my way, would be to take note of these recommenda-

tions (because some of them are very good); they should be what we would voluntarily agree to do without passing an Act of Parliament about ourselves. It seems that we are tightening our shoelaces to look nice to the stage where we cannot walk properly.

If we must have this legislation, I will be supporting the Hon. Mr Cameron's amendments regarding secretarial services. I think that they are certainly more sensible and practical than those set out in the Bill. I cannot imagine anything more disruptive, dangerous or irritating than having a highly paid career secretary belting around Parliament House telling us all what to do, because that is what will happen. The more efficient the secretary the more he will become an adviser to both Houses, particularly to the Speaker and the President. He will be advising them because they will be worried about something else and he will become a very powerful person.

The Hon. M.B. Cameron: He or she.

The Hon. K.L. MILNE: He or she will be a very powerful person. I am not prepared to have that here. I repeat my main warning, that it would be absolute madness and selling the birthright of the Parliament for this Parliament to put itself in the hands of any court, commission, tribunal or any other organisation or authority that this Parliament has created. I think that that is a simple, basic truth. Therefore, I am uneasy about clause 24. Subclause (5) states in effect that if the President of the court or commission issues a certificate saying that an inspection of Parliament House is necessary then the President of the Legislative Council and the Speaker of the House of Assembly shall jointly give due weight and consideration to that certificate.

If a powerful person like the President of a commission or a court gives a certificate that they want to look at Parliament House what sort of pressure would that put on the President of this Chamber? Could he resist? I doubt it. Imagine what the press would make of it if there was a request from an arbitration commissioner or somebody else, and the President would not allow that person to come here because he had disagreed with the Speaker, or vice versa? I think that would be a ridiculous situation if it were allowed to happen.

We have enough trouble keeping up the dignity of the Parliament in the eyes of the people, anyway. I think that this provision and subclause (4) place an undue and unfair burden of responsibility on the Speaker and the President. I believe that those decisions should be made by the Parliament itself. I intend, therefore, to move amendments that I have circulated and I hope will be considered so that these decisions are made by both Houses of Parliament.

I am instinctively disturbed about the whole Bill and may still vote against it at the third reading stage. However, we need to come to terms about safeguards where we have a defined procedure for the interlocking of the administration of the two Houses which is pure efficiency and does not interfere with the present system.

In many cases I think what is in the Bill was not intended. Why on earth were the Clerks to be given an opinion on the catering? I think that would be about as much value as the caterer giving an opinion on Parliamentary procedure. Therefore, I treat this Bill with a great deal of care. I support the Bill at this stage, but want to hear a great deal more about the controls before approving it.

The Hon. R.I. LUCAS: I support the second reading. I was disappointed with the detail contained in the report of the Select Committee upon which the Bill was based. I read the scant two or three pages of the report, and it was evident to me that it was written by people who assumed that everybody knew the history of what was going on. I received a telephone complaint from one of the few assiduous readers of *Hansard* who asked what was the background of all this, saying, 'I have read the report, seen the Minister's second reading given in the Lower House, but do not understand the history and background to the Select Committee and what you are going on about.'

It was not until I looked at the Hon. Bruce Eastick's contribution on the noting of the select committee's report that I partially understood the background to this issue. The Hon. Bruce Eastick referred to the experience of a worker's compensation case involving a member of the House staff and to that matter going to court. The learned judge for almost a day and a half took evidence which suggested that he may be precluded from giving consideration to workmen's compensation for an employee because he might be deemed to be interfering with the privilege of Parliament.

He then went on to say that there was an unanswered question of law which made it somewhat difficult to demonstrate that the position was legitimate and that their employment was totally legitimate, as well as a question relating to the benefits that would arise therefrom. In his contribution Dr Eastick went on to give a little more of the history behind this matter. As I have said, that at least partially filled in the background to the matter for me. As a result, I can see the reason behind the Bill now before us.

Clearly, I think that we as members of Parliament accept that, if we are to pass legislation providing entitlements in relation to workers compensation and access to the law with respect to discrimination under equal opportunity legislation, people who work within the bounds of Parliament should be entitled to have the protection of the law in those cases. I know even those who argue that we do not need this Bill accept that argument, and they argue that we as a Parliament and the committees of Parliament would always comply with the laws that are passed.

I have sat on a committee of Parliament where there was a problem with respect to an appointment that was made. An unsuccessful applicant sought solace under the equal opportunity legislation, claiming sexual discrimination. It was a very thorny legal minefield that we as members of the committee had to try and tiptoe through in an attempt to resolve that complaint from the unsuccessful applicant. Once again, all members of the committee argued that, whether or not we are legally required to comply with the equal opportunity legislation, we should comply with its spirit. The committee did all that it could within its own understanding of what it could do to comply with the equal opportunity legislation and had discussions and negotiations with the staff of the Commissioner for Equal Opportunity.

I would have liked the joint select committee to address the question of the relationship between Parliament and the Executive, and in particular the method of funding the services of Parliament. There is an argument as to whether the committee would have been allowed to even comment on the particular matter, although it briefly refers to it in the opening paragraphs of its very short report.

Under our particular system of Government, as all members know, Parliament is responsible for in effect overseeing the activities of the Executive (or the Cabinet). At present I think that many members would agree that Parliament experiences many difficulties in exercising that oversight of the operations of the Executive. In particular, I refer to matters with respect to the funding of the operations of Parliament. Under present funding arrangements, Parliament must go in effect cap in hand to the Executive to receive funding for the operations of Parliament.

The Hon. M.B. Cameron interjecting:

The Hon. R.I. LUCAS: No, and I will go on to that later. The Executive can control the responsibility of Parliament to oversee the operations of the Executive. Even in my short period in Parliament I have seen many examples of

that. I do not make any particular criticism of a particular Government of one persuasion or the other. If we are fair about the matter, Governments and Executives of all persuasions have tended to take, in my view, a very similar stance with respect to increasing the funding and the resources available to Parliament.

I will deal with a number of examples in recent history. One of the most important recent examples is the attempt by the Library to provide extra research and support staff to members of Parliament to undertake their activities as members of Parliament. Frequently in recent years requests have been made to different Governments for an increase in research staff to help the research capability of members of Parliament in their work. However, we have had a singular lack of success over the years in significantly beefing up the research staff in the Library.

One has only to look at the problems that exist in relation to Oppositions or backbenchers gaining access to what should be accepted parts of office equipment, such as photocopiers, collators, word processors and a modern and efficient telephone system. In many cases there is a delay of years before office equipment is delivered, and in many other cases—in relation to word processors and a modern telephone system—the answer from Governments of all political persuasions is 'No'; there is not the money to be provided by the Executive to Parliament.

One has only to look at the issue of modern day computers. If a member wants to look up a particular Statute or to research legislation, one must go to one of only a handful of locations where there are up-to-date Statutes in Parliament House. Those Statutes have been manually annotated by the staff of Parliament House. If one is lucky enough to be Leader of the Opposition (and this is one of the few reasons that I covet the Leader's position), one has access to an updated set of Statutes. There is another set in the Library and there is a set in the Chamber. A member of Parliament does not have a set in his office. If a member wants to look up legislation, he must go running around to find a set of Statutes. Even with the manually updated Statutes, if you look at the consolidated Statute it usually says that it was amended in, say, 1979, 1980, 1982, and 1984, and you then have to go to four different years. You have five volumes, each about 4 inches thick—20 inches of statutes; and you must try to put a complete piece of legislation together and work out what it means and what the amendments mean. That is the ludicrous situation that exists for members of Parliament in South Australia at the moment.

Clearly, sufficient resources should be made available by Governments of both political persuasions to Parliament to ensure that all this information is put on computer so that at the press of a button members can see the updated version of a Statute without having to run around with statutes 20 inches thick and having to put several amending Bills together to form a consolidated version of a particular Statute. Computerised facilities are available in other Parliaments throughout Australia and throughout the world. Computerisation makes a legislator's job in Parliament a lot easier. It is not just easier; it makes the work more efficient and I am sure that many more members of Parliament would take the trouble of tracking down what the law says in particular areas without giving up in despair when faced with the prospect of walking around with Statutes 20 inches thick and having to piece together a consolidated version of a particular Statute.

Those are a handful of examples where there have been proposals by officers, committees or members of Parliament to Governments of both political persuasions which have, on all occasions, met with a stiff 'No', because the extra resources will not be provided by the Executive to the Parliament. It is in that way that the Executive has been able and will continue to be able to exercise control over the efficiency of members of Parliament, and will be able to limit the ability of members of Parliament to oversee the operations of the Executive.

It also makes it easier for the Executive to ram its Bills through the Parliament and to get what it wants with respect to its legislation. Of course, if one is a member of a ministry or of a Government, irrespective of what political colour one is, one wants to see one's programs put into action with the least opposition possible. I suppose that that is a natural reaction. Equally it is a natural reaction from the Parliament and those who are not members of the Executive that they should be provided with the resources and capacity to be able to oversee what the Government and Executive of the day want to push through the Parliament.

In discussions I have had with people more experienced than I on this matter, I was given the ludicrous example on one occasion when the Under Treasurer of the State came to Parliament House to negotiate with officers of the Parliament about the provision of a photocopier worth about $2 000. He tried to convince officers of the Parliament that that particular $2 000 worth of photocopier should not be part of the Estimates for one particular year and should be part of one's bidding for the next financial year.

When it comes to the ludicrous situation that the Under Treasurer of the State spends his good time in coming down here to try to convince the Parliament that it should not have access to a photocopier worth $2 000 for members and staff to enable the Parliament to operate efficiently, then we are truly in a ludicrous situation. I have just given an outline of what I see is occurring in our particular Parliament. It is interesting to see what happens in other Parliaments. A report of the Senate Select Committee on Parliament's Appropriations and Staffing, published in 1981 and chaired by Senator Don Jessop from South Australia (page 8), states:

> For the majority of the members of the Inter Parliamentary Union, parliamentary budgets are not subject to any executive modification; the financial autonomy of these Legislatures is thus guaranteed. The general pattern is that the estimates are drawn up by the directing authority of Parliament, or by a special committee, on the basis of figures prepared by the administrative authorities, and then approved by the Chamber as a whole. As to the involvement of the Executive, typically the Minister for Finance enters the sums required by the Parliament into the national estimates without questioning them or consulting the Government about them.

That is a most important point. This Senate select committee is saying that most of the Parliaments of the Inter Parliamentary Union allow themselves to come up with the global sums that are required for the efficient operation of the particular Parliament, and that the Minister for Finance enters those sums without modification and question into the national Estimates. I seek leave to insert in *Hansard* a table from the publication 'Parliaments of the World 1976' (V. Herman and F. Mendel) which lists countries, and the procedures by which their appropriations are allowed.

Leave granted.

FINANCIAL INDEPENDENCE

Country	Process of Preparation and Modification of Budget	Control of Accounts	Average Expenditure ($ US) of Parliament in Each of Last 5 Years	Major Items of Expenditure in Last 5 Years
Argentina	The Secretariat of each House prepares a draft budget which is submitted by its President to the House for adoption as part of the general budget of the State.	By Congress, the Audit Office of the Nation and the Court of Accounts.	[1]	
Australia	Each administrative department of Parliament prepares its own budget, which is part of the general budget presented by the Treasurer to Parliament for approval.	By each department of Parliament, subject to scrutiny by the Auditor-General.	17 059 854	Members' salaries and allowances, 23 per cent. Administration of the departments of Parliament, 45 per cent.
Austria	The Office of the Director of Parliament prepares the budget which is approved by the President of the National Council in consultation with the Second and Third Presidents.	By the Audit Office.	7 126 882	The main items of expenditure have been: in 1970, the financing of elections (13 per cent of that year's expenditure); in 1972, new Members' salaries and allowances (13 per cent).
Bangladesh	The Secretariat of Parliament prepares the budget, which is not subject to modifications by the Government.	By Parliament.	[2]	[3]
Belgium	House of Representatives—The Accounting Committee establishes the budget in consultation with the Questors and submits it to the House. Senate—The Questors' annual report contains budgetary estimates for the following year.	Representatives: By the Accounting Committee. Senate—The Bureau approves the Questors' report.	Chamber—8 142 750 Senate— 7 757 512 Total—15 900 262	Senate—Members' salaries and allowances, 37 per cent. Administration, 25 per cent.
Brazil	Parliament establishes a draft budget and forwards it to the Minister of Planning for inclusion in the Union Budget. The draft budget is subject to modifications by the Government.	By Parliament and the Audit Office of the Union.		
Bulgaria	The Council of State establishes its own budget and the budget of the National Assembly. The Ministry of Finance may only submit modifications to the Assembly's budget after consultation with the Council of State.	By the Council of State.		
Cameroon	The National Assembly establishes its budget within the total sum allocated to it in the State Budget.	Committee on Finance, Economic Affairs, the Plan and Infrastructure, sitting as Accounting Committee.	1 057 600	Members' salaries and allowances, 68 per cent. Maintenance, 20 per cent.
Canada	Each House prepares and votes its own budget which is not subject to modifications by the Government.	By Parliament.	Senate—5 753 900 House—28 886 040 Library—1 638 280[4] Total—36 278 220[5]	House of Commons Members' salaries and allowances, 41 per cent. Legislative services, 19 per cent. Senate Members' salaries and allowances, 40 per cent. Legislative services, 30 per cent.
Costa Rica	The Secretariat of the Legislative Assembly prepares a draft budget which, with possible modifications, is incorporated by the Ministry of Finance into the national budget and eventually adopted by the Assembly as a law.	By the General Comptroller of the Republic.	1 135 418	Members' salaries and allowances, 55 per cent. Administration, 36 per cent.
Czechoslovakia	The Federal Assembly prepares and votes its own budget, which is not subject to modifications by the Government.	By the Federal Assembly.	4 146 600	Members' salaries and allowances, 48.5 per cent. Administration, 18 per cent.

Country	Process of Preparation and Modification of Budget	Control of Accounts	Average Expenditure ($ US) of Parliament in Each of Last 5 Years	Major Items of Expenditure in Last 5 Years
Democratic Republic of Vietnam	The National Assembly does not have an independent budget. The Secretariat of the Permanent Committee establishes the budget estimates, which are incorporated in the estimates of the general expenditure of the State.	By the National Assembly.		
Denmark	The Folketing prepares and votes its own budget, which is not subject to modifications by the Government.	The accounts of the Folketing are controlled by one or two auditors appointed by the Committee on Procedure, on the recommendation of the Presidium.	4 749 800	Members' salaries and allowances, 50 per cent. Administration, 26 per cent.
Fiji	After consultations with the Speakers of each House and the leaders of the majority and opposition parties, the Clerk of Parliament prepares the budget, which is subject to modifications by the Government.	By the Clerk of Parliament.	206 117	Members' salaries and allowances, 60 per cent. Travel, 23 per cent.
Finland	The Office's Committee of the Eduskunta prepares the budget, which comes under a separate chapter in the State Budget.	The accounts of the Eduskunta are audited by four auditors elected by the Parliamentary Electors and controlled by the State Treasury.	4 690 550	Members' salaries and allowances, 54 per cent. Administration, 18 per cent.
France	A committee composed of the Questors of both Houses and a President of the Audit Office as chairman establishes a draft budget, which is forwarded to the Ministry of Finance for inclusion, without modifications, in the Finance Bill.	By a committee of each House, composed of representatives of each political group, which examines the Questors' report.	Assembly— 53 181 194	
German Democratic Republic	The Presidium of the Chamber of the People prepares and votes on the budget of the Chamber.	By the Presidium of the Chamber of the People.		
Germany (Federal Republic of)	The budget is prepared by the Council of Elders. The Government may submit to the Bundestag its modifications to it in a separate document.	By the Federal Court of Accounts.	58 648 000	Members' and Staff salaries, 65 per cent.
Hungary	The National Assembly prepares and votes its own budget.	By the National Assembly.		
India	The budget estimates are prepared by the Secretariat of each House and approved by their directing authorities. The estimates are forwarded to the Minister of Finance, who can propose modifications to them to the directing authorities of the House.	By Parliament.	House of the People— 2 536 800 Council of States— 1 039 632 Total—3 576 432	House of the People Members' salaries, 14 per cent. Allowances, 38 per cent. Secretariat, 47 per cent. Council of States Members' salaries, 17 per cent. Allowances, 34 per cent. Secretariat, 35 per cent.
Ireland	The Department of Finance prepares the budget of the Parliament.	By the Department of Finance of the Government.		
Israel	The Knesset prepares and votes its own budget.	By the Knesset. At the Speaker's request, accounts are subject to post-audit control by the State Comptroller.	2 449 900	Main items of expenditure are salaries, administration, and maintenance, security and technical services.

Country	Process of Preparation and Modification of Budget	Control of Accounts	Average Expenditure ($ US) of Parliament in Each of Last 5 Years	Major Items of Expenditure in Last 5 Years
Italy	Each House prepares and votes its own budget.	By Parliament.	Chamber—38 193 706 Senate—22 464 003 Total—60 657 709	Chamber of Deputies Members' salaries and allowances, 38 per cent. Administration, 21 per cent. Senate Members' salaries and allowances, 32 per cent. Administration, 23 per cent.
Ivory Coast	The National Assembly prepares and votes its own budget.	By National Assembly, and, at the request of the President of the Assembly, by the Supreme Court.		
Japan	The President of each House prepares the annual estimate of expenditure and sends it to the Cabinet, which includes it as a separate item in the national budget and submits it to the Diet.	By the Board of Audit.	Representatives—41 385 380 Councillors—24 648 060 Total—66 033 440	Representatives Members' salaries, 26 per cent. Administration, 13 per cent. Councillors Members' salaries, 23 per cent. Administration, 11 per cent.
Jordan	The House of Representatives prepares and votes its own budget.	By Parliament.	505 509	Main items of expenditure are Members' salaries, allowances, posts and communication, water, publication, papers, etc.
Kuwait	The budget is prepared by the President of the National Assembly after consultation with the Minister of Finance. The Government may submit modifications to the budget, but they are subject to the approval of the Assembly.	By the National Assembly.	1 914 347	Members' salaries, 88 per cent.
Liechtenstein	The Diet prepares its own budget, which is included in the general budget of the Government and submitted to the Diet for approval.	By the Diet.	16 400	Members' allowances, 55 per cent.
Malawi	The National Assembly prepares and votes its own budget.	By Parliament.	328 126	Main items of expenditure are Members' salaries and allowances, administration, maintenance, travel, post.
Malaysia	The Clerk of Parliament prepares the annual estimates of expenditure which, after examination by the Treasury, are presented to Parliament for approval.	By the Clerk of Parliament and by the Auditor-General.	2 000 000	Main items of expenditure are Members' salaries and allowances and administration.
Malta	The budget, as prepared by the Clerk of the House, is debated in the House of Representatives where it may be modified. Increases in the budget of Parliament may only be recommended by the Government.	By the Clerk of Parliament.	213 730	Members' salaries and allowances, 47 per cent. Administration, 41 per cent.
Monaco	The National Council prepares and votes its own budget.	By the Finance Committee of the National Council and by the Supreme Audit Commission.	95 400	Members' salaries and allowances, 50 per cent. Administration, 13 per cent. Missions etc., 37 per cent.
Netherlands	The draft budget is submitted to each House by its respective Presidium. The Government may submit modifications to the budget. The draft budget is sent, as a heading in the national budget, to the Second Chamber by the Government.	The General Board of Auditors.	First Chamber—800 572. Second Chamber—6 985 282 Joint Sittings—653 728. Total—8 374 214[6]	

Country	Process of Preparation and Modification of Budget	Control of Accounts	Average Expenditure ($ US) of Parliament in Each of Last 5 Years	Major Items of Expenditure in Last 5 Years
New Zealand	The budget is prepared by the Clerk of the House and is subject to modifications by the Government.	By the Clerk of the House.	1 909 800	Members' salaries and allowances, 58 per cent.
Norway	The Storting prepares and votes its own budget.	By the State Audit Office.		
Pakistan	The Secretariats of both Houses prepare budget estimates, which are approved by the Finance Committee of the House concerned. The estimates so approved are included in the budget estimates of the Federal Government without any alteration.	By Parliament.	436 133[7]	Main items of expenditure are Members' salaries and allowances, administration and exchanges of parliamentary delegations.
Poland	The budget is prepared by the Presidium of the Diet and sent to the Minister of Finance, who incorporates it, without modification, in the draft State Budget and submits it to the Diet for adoption.	By the Diet.		Current expenses, 81 per cent.
Republic of Korea	The National Assembly prepares its own budget and submits it to the Government for inclusion in the State Budget for final adoption by the Assembly. The Government can introduce modifications to the budget.	By the National Assembly. Each year the accounts are also audited by the Board of Audit and Inspection established under the President of the Republic.	7 531 695	Construction of New Assembly Hall, 29 per cent.
Republic of Vietnam	Parliament prepares and votes its own budget.	By Parliament.	745 585	Members' salaries, 54 per cent. Administration, 33 per cent.
Romania	The Grand National Assembly prepares and votes its own budget.	By the Grand National Assembly.		Main items of expenditure are Members' salaries, and exchanges of parliamentary delegations.
Senegal	The budget estimates are prepared by the Questors in agreement with the Bureau of the Assembly and the Accounting and Control Committee, and are transmitted to the Minister in charge for incorporation in the Finance Bill.	By the Accounting and Control Committee and by the Supreme Court.		
Sierra Leone	The Office of the Clerk of Parliament prepares a draft estimate, which is forwarded to the Ministry of Finance for scrutiny and incorporation in the national budget which has then to be approved by Parliament.	By the Clerk of Parliament.	550 000	Main items of expenditure are Members' salaries and allowances and the salaries of the staff of Parliament.
South Africa	The budget is prepared by the Secretary of each House under the authority of the respective Presiding Officer. The budget is submitted to the Treasury for approval before inclusion in the main estimates which are presented to Parliament.	By the Speaker of the House and the President of the Senate.	House—2 604 581 Senate—937 607 Total—3 542 188[8]	House Members' salaries, 36 per cent. Administration, 24 per cent. Subsistence and Transport, 33 per cent. Senate Members' salaries, 36 per cent. Administration, 15 per cent. Subsistence and Transport, 24 per cent.
Spain	The Cortes prepares and votes its own budget.	By the Cortes.	3 333 581	Members' salaries and allowances, 45 per cent. Administration, 27 per cent.

Country	Process of Preparation and Modification of Budget	Control of Accounts	Average Expenditure ($ US) of Parliament in Each of Last 5 Years	Major Items of Expenditure in Last 5 Years
Sri Lanka	The Clerk of the National State Assembly prepares the annual estimates of expenditure which, after examination by the appropriate committee of the House, are forwarded to the Government for approval before they are submitted to the Assembly for adoption.	By the Clerk of the Assembly and by the Auditor-General.	691 860	Main items of expenditure are Members' salaries and allowances and administration.
Sweden	The budget is prepared by the Administrative Office of the Riksdag and incorporated by the Government without modifications, into the annual Budget Bill for adoption by the Riksdag.	By the Riksdag.	13 600 000	Members' salaries and allowances, 36 per cent. Administration, 29 per cent.
Switzerland	In collaboration with the Secretary General of the Federal Assembly, the Finance and Customs Department prepares the budget, which is subject to the approval of the Assembly.	By the Audit Office.	National Council—1 104 000 Council of States—118 200 Total—1 222 200[9]	National Council Members' salaries and allowances, 70 per cent. Council of States. Members' salaries and allowances, 90 per cent.
Syrian Arab Republic	The Bureau of the People's Council prepares the budget and forwards it to the Government for approval before it is submitted to the Council for adoption.	By the People's Council.	750 000	Main items of expenditure are Members' salaries and allowances, administration, visits of foreign parliamentary delegations, etc.
Thailand	The Legislative Assembly prepares and votes its own budget, which is subject to modifications by the Government.	By the Legislative Assembly.	357 500[10]	Partial construction cost of new Parliament House, 61 per cent. Salaries and administration, 31 per cent.
Tunisia	The National Assembly prepares its own budget which is subject to modifications made to it by the Government.	By the State Comptroller of Public Expenses.	750 486	Members' salaries and allowances, 66 per cent. Administration, 33 per cent.
USSR	Each House establishes its own budget, which is part of the general budget of the Supreme Soviet approved by the two Houses under the USSR State Budget.	By the Chairmen of the Soviets and the Presidium of the Supreme Soviet.	8 220 000	Members' allowances, 40 per cent. Administration, 25 per cent. Missions, etc., 17 per cent.
United Kingdom	The Clerk of each House prepares the annual estimates of expenditure which, after examination by the appropriate committee, are forwarded to the Treasury for approval (except in so far as they relate to Members' salaries) before their presentation to Parliament.	By Parliament, subject to an annual audit by the Auditor-General.	Commons—10 589 600 Lords—1 384 600 Total—11 974 200	Commons Members' salaries and allowances, 57 per cent. Administration, 21 per cent. Lords Members' salaries and allowances, 36 per cent. Administration, 52 per cent.
United States of America	Each House prepares its own budget and transmits it to the Office of Management and Budget of the Executive Office of the President for inclusion in the annual Federal Budget.	By each House, subject to auditing by the General Accounting Office.	419 831 432	Members' salaries and allowances, 6 per cent. Administrative and clerical assistants to Members, 18 per cent.
Yugoslavia	The Secretary General of the Assembly prepares the draft budget following instructions of the Assembly Presidium. The Presidium submits the draft to each Chamber for adoption.	By the Administrative Committee of the Assembly.	4 879 027	Members' salaries and allowances, 28 per cent. Administration, 26 per cent.
Zaire	The Bureau of the Legislative Council prepares the draft budget and submits it to the Executive.	By the Bureau of the Legislative Council.	8 860 000	Members' salaries and allowances, 69 per cent. Administration, 16 per cent. Secretariat, 15 per cent.

Country	Process of Preparation and Modification of Budget	Control of Accounts	Average Expenditure ($ US) of Parliament in Each of Last 5 Years	Major Items of Expenditure in Last 5 Years
Zambia	The National Assembly prepares its own budget and forwards it to the Ministry of Planning and Finance for incorporation into the national budget.	By the Clerk of the National Assembly.	532 000	Members' salaries and allowances, 45 per cent. Administration and general expenses, 15 per cent.

NOTES TO TABLE 23

1. Argentina	No figures available. The Congress was dissolved from 28 June 1966 to April 1973.
2. Bangladesh	No information is available for the only budget session which has been completed.
3. Bangladesh	See Note 1.
4. Canada	Figures include estimates for 1973-74.
5. Canada	Figures include estimates for 1973-74.
6. Netherlands	Figures include estimates for 1973.
7. Pakistan	Figure is 1973-74 estimate for two Houses. Expenditure in 1971-72 and 1972-73 for one House was $250 900 and $78 900 respectively.
8. South Africa	Salaries for Members of Parliament (for the House of Assembly, $4 664 642 in the five-year period 1967-68 to 1971-72, and for the Senate, $1 686 231) form a direct charge on the Consolidated Revenue Fund in terms of the Payment of Members of Parliament Act, and are not provided for in the Estimates. They are, however, included in the figures here to facilitate comparison.
9. Switzerland	Salaries for the staff of the Secretariat of the Federal Assembly and the expenses for the upkeep of the Federal Palace are included in the budgets of the Federal Chancellery and the Department of the Interior.
10. Thailand	This is the figure which the Legislative Assembly spent during the period 15 December 1972 to 30 September 1973.

The Hon. R.I. LUCAS: The article continues:

In the course of its deliberations, the committee corresponded with the Presiding Officers and staffs of the United Kingdom House of Commons, the Canadian Senate and House of Commons and the United States Senate and House of Representatives to ascertain the staffing and appropriations procedures prevailing in those countries. It is apparent from the following details that the concept of each legislative Chamber independently maintaining control of its own staffing and funding is readily accepted in all three countries. The arrangements are defined by Statute in the United Kingdom and the United States, and by convention in Canada.

In the United States, the Congress had exercised such control for 60 years; in Canada, the Senate and House of Commons have had such control for 114 years; and in the United Kingdom, such control was established with the enactment of the House of Commons (Administration) Act 1978.

The final matter I want to refer to before I talk about—

The Hon. Frank Blevins: Before you talk to the Bill?

The Hon. R.I. LUCAS: Before I refer to the Library Committee. I am referring to the overall provision of services to the Parliament. Page 9 of the article states:

Appropriations:

The legislation in the United Kingdom provides for a real measure of financial and staffing autonomy for the commission in that the estimate for proposed expenditure covered by the House of Commons (Administration) Vote is presented to the House by the Speaker on behalf of the commission, not by a Treasury Minister as is the case for all other Votes. It should also be noted that the estimates do not undergo scrutiny and approval by the Treasury before being presented to the House. This is in direct contrast to the position prior to 1978, when expenditure of the House was subject to direct and detailed Treasury control.

I hope that at some stage in the future a Government of whatever particular political persuasion might at least consider what Herman and Mendel have outlined as being a common practice in many other Parliaments of the world to enable this particular Parliament to have sufficient resources to undertake its activities efficiently. I now want to refer to the Library Committee under the proposal before us today. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 5.55 to 7.45 p.m.]

MENTAL HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1165.)

The Hon. ANNE LEVY: I support the second reading and, in doing so, I indicate that the Bill results from the deliberations of a select committee. I pay tribute to all the members of the select committee who worked very hard and extremely cooperatively in producing the report which was tabled in Parliament earlier this week and which resulted in the Bill now before the Council. The Bill clears up a number of matters that required consideration compared to the Bill that was introduced in the last session.

The select committee worked extremely well in correcting certain deficiencies in the original legislation, and I am sure the Bill has the unanimous support of all members of the select committee. I will not go through the Bill in detail, but I will repeat some of the comments that have been made by previous speakers regarding the mistaken view of a number of people who appeared before the committee that parents could make decisions for their children over 18 years who were not capable of making their own decisions.

That was never the situation in law: it was a grey area where no person could legally give consent. One of the great values of the select committee was that it was able to point out to people appearing before it that the legislation was by no means taking away rights from people that they never had any as rights, anyway, but that it was providing a mechanism whereby a valid consent could be given through the Guardianship Board; and that the board would probably delegate a lot of its power for giving consent to parents or other caregivers, so individuals would in fact have the legal authority for what they have been doing anyway for many years without legal authority.

One change between the first Bill and this Bill concerns the time limits placed on appeals and consideration where termination of pregnancy is concerned. A two-day time limit applies because this is an area where delays are extremely inadvisable for medical, psychological and all sorts of other reasons. As a decision to terminate a pregnancy has to be made swiftly in the interests of the health of the woman concerned, we were keen to ensure that there would not be unacceptable bureaucratic delays, either by going to the Guardianship Board or by appealing—if an appeal was undertaken—to the Mental Health Tribunal. Therefore, a time limit of two days applies; there is insistence that the tribunal must give such an appeal priority over all other

matters; and a general recommendation that the board must act as swiftly as possible to consider such applications before it.

I certainly hope that these bureaucratic procedures will not add more than a few days before a termination is carried out (if that is to be done) compared to what would happen with an individual for whom this procedure was not necessary. I stress our concern that decisions on termination must be made speedily. The whole question of termination of pregnancy and sterilisation arises with certain people who are not capable of making decisions themselves, as indeed do questions of contraception for these people. The modern view is that, simply because a person is not quite capable of making all decisions for themselves, they should not necessarily be prevented from expressing their sexuality and having a sexual life.

Many years ago such questions probably never arose because these individuals were prevented from expressing their sexuality in any way and they were prevented from having contact with members of the opposite sex. These days it is considered that that is an inhuman way to treat people but, for individuals who are not capable of making decisions for themselves, it means that other people then have to take the responsibility for questions such as contraception and sterilisation and, if a slip-up occurs, a question of termination may be considered.

I know that people would never regard these matters lightly but, at the same time, I hope that no-one would say that these questions should never be considered for mentally retarded people, because the only way they could be never considered is to prevent such people having any sexual relationships at all.

That, I hope, is an old-fashioned view that would no longer be found anywhere in the community. I will not canvass further matters: I believe that the Minister and the Hon. John Burdett have already canvassed the main differences between the Bill before us and the original Bill. I reiterate my support for the legislation and for the select committee procedure that resulted in the Bill now before us.

The Hon. R.J. RITSON: I support the Bill, and I concur with the remarks made by the Hon. Ms Levy in that the Bill before us is the product of an extremely useful and fruitful select committee, which performed the dual functions of enabling members of Parliament to inform themselves in depth by interviewing expert witnesses and of enabling members of the public who might have been labouring under misconceptions as to the nature of the Bill to attend the Committee, express their concerns and have the nature of the Bill explained to them. It is a tribute to the functions of this Council that the Bill now comes before the Parliament with wide understanding and bipartisan support.

As I said, the intent of the Bill was misconceived in the community in several ways. One of the misconceptions, though not the most widespread, was that the Bill somehow dealt with the powers of medical certification and guardianship and what could and could not be done to non-voluntary patients in psychiatric institutions. There was evidence from psychiatrists and scientologists on this matter. Of course, the Bill does not deal primarily with that aspect of the Mental Health Act. Whatever may be right or wrong with powers under the Act, the Bill does not really touch on the question of treatments for non-voluntary patients in psychiatric institutions.

In those instances, there is the power to administer treatments to those people for their own good and without their consent but with controls and guidelines. That has been the situation and remains so under this Bill. The Bill considered the question of very large numbers of people who may be suffering from varying grades of mental illness or mental disability or who have developed mental intellectual defect, and who are not under any form of legal compulsion or treatment but who, from time to time, may be unable to comprehend sufficiently the nature and consequences of specific medical treatments and are therefore unable to give legally competent consent.
lem in a report some years ago, pointing out that adults who are not under any medical certification, suffering from psychiatric illness or under guardianship are free agents and, whether or not they have enough understanding of their medical treatment to give informed consent, it is not for anyone else to impose on them such treatment or to claim to have the right to consent on their behalf. These people are adults, they are legally sane and they are not under legal compulsion—no one owns them. Yet these people are often unable to comprehend the nature and consequences of treatment that may be proposed.

This involves the second and most widespread misconception in the community. Without at all being critical of the daily press, I point out that the net effect of the reporting of this Bill when it was first introduced was that numbers of parents wrongly believed that their children, in regard to whom they had always had the power of giving or withholding consent, would no longer be their children in the sense of requiring parental consent and that somehow the Bill was taking away from parents the right to consent on behalf of their children. However, it is worth repeating in the debate (as was said to people who appeared before the committee) that the Bill does not do that. Children below the age of majority will still require parental consent, but adults over the age of majority for whom no-one could give consent can now have that consent given on their behalf by the Guardianship Board or a person delegated by that board to act on their behalf. That is the principal effect of this Bill.

In a sense, and in a very narrow area, there is an intrusion by the State upon parental guidance, and that is in regard to termination of pregnancy for minors. Arguably (but we cannot be sure of this), in the past the parent has given or with held consent for termination of pregnancy for a minor, but the Bill now allows the Guardianship Board to give consent in the case of termination of pregnancy. I suppose it could be argued that people have lost that right. On the other hand, it may be argued that parents did not have that right at common law—depending on whether or not one sees termination of pregnancy, for social reasons, as therapeutic. No one at common law can consent to harmful or non therapeutic invasion of their body.

I guess it is likely that most terminations of pregnancy would be regarded by a court as therapeutic but, whatever the situation (and that matter was argued before the select committee), the matter is now clarified. Lest anyone should be concerned that quite suddenly the Guardianship Board will approve a whole lot of additional terminations of pregnancy for children that were previously not carried out, the whole of the evidence received by the select committee indicated that at present such minors are taken to a doctor by their parents and great pressure can be and is applied on the doctor by the parents for termination to take place.

I believe that most members of the committee would agree that the attitude of the Guardianship Board was very conservative. The members of the board with whom the committee had discussions made it very clear that they saw their role as acting only in the interests of the patient. They stated that they would resist pressure for procedures to be carried out on a patient for the convenience of the people caring for that patient—either in relation to the emotional sensitivities of relatives or to further the peaceful management of institutions. My impression was that, far from

opening the floodgates to greater numbers of terminations of pregnancy, the provision relating to board consent for terminations for minors will ensure that what might previously have involved an emotional demand upon a doctor by an anxious parent or by a person acting alone will now become a very thoughtful, concerned and indepth consideration of the whole situation with the parent present.

The whole deliberation will centre in a scientific way on the wellbeing of the patient. In fact, it may result in fewer procedures being carried out than are carried out at present illegally or legally.

I want to place on record that, if there are any misconceptions that the provision for board approval for termination of minors is going to open a floodgate of new terminations that were not previously occurring, I do not believe that is so and I do not believe that any other member of the committee would have seen it as such.

I wish to raise a query on the appeal periods, although it is not a matter I want dealt with by amendment to this Bill. The committee considered that there should be rights of appeal. With the non-urgent medical procedures that might be proposed to be performed on adults mentally unable to consent, that period of appeal should be one month, but in the case of termination of pregnancy—because any substantial delay could hazard the situation medically—that period of appeal ought to be two days. That assumes that sterilisation, which was one of the procedures with a one-month appeal period, is always an elective non-urgent procedure. However, it is not uncommon in general medical practice that where a contra indication of pregnancy is absolute and where termination of pregnancy is to be performed, simultaneous sterilisation is performed under the same anaesthetic.

Simultaneous sterilisation not only avoids the inconvenience of a second procedure at a later date (thereby increasing the risk of a second anaesthetic) but also avoids the risk of a second pregnancy, resulting in a second termination. It may be that there will be occasions on which the proposal before the board will be for termination of pregnancy and sterilisation and, on one of those occasions, a person with a legitimate interest and desiring to appeal will have only the matter of termination determined and the patient will then be subject to having to wait after the termination until the expiry of the one-month appeal period before the sterilisation can be carried out.

If the patient is of such mental capacity that it is impossible to control the sexual behaviour of that patient during the appeal period, it may require a person, who would not otherwise be required to be kept in close detention, to be kept in close detention just to ensure that the patient did not become pregnant again whilst awaiting the expiration of the appeal period.

However, they are all ifs and buts. I canvassed some of them during the deliberations of the committee and I am not going to ask this Council to amend the legislation merely because of the matter that I raised. I believe it is something the Government of the day will have to look at from time to time to see what is happening in the administration of the Act and, if there are problems, it would perhaps be possible to draft an amendment at a later date to allow for more expeditious appeal provisions—appeal time in the case of sterilisation. Having said that, I commend the Bill to the Council and I will do my part in expediting its passage.

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

PARLIAMENT (JOINT SERVICES) BILL

Adjourned debate on second reading (resumed on motion). (Continued from page 1179.)

The Hon. R.I. LUCAS: I want to refer to the position of the Library Committee of the Parliament in relation to the new Joint Services Committee that will be established by this Bill. In particular, I want to look at the role—whether there is any role—under the new arrangements for the present Library Committee. At present, the Library Committee comprises members of both Houses of Parliament. In the three years that I have been here the practice has been that the Library Committee has appointed the senior staff of the Library, including the Parliamentary Librarian, obviously, and the more junior staff of the Library have been appointed by the Parliamentary Librarian himself.

Looking at the report of the Public Service Board review team of July 1982 on the organisation, staffing and support services to Parliament, I note on page 22 the following comments:

> Senior staff are selected by the Joint Library Committee and junior staff by the Parliamentary Librarian in consultation with the committee chairman. There appears to be no statutory basis for their appointment, although the common law contract of employment would apply. The Public Service Act is followed for recreation, sick and long service leave purposes.

As I said, that would appear to back up my brief understanding of the operations of the committee. What will be the possible options for the role of the Library Committee under this committee? It would appear there might be three general options: first, that the Library Committee has no role at all and should be scrapped. In effect, that report of the Public Service Board envisaged that the Library Committee would be abolished. Certainly, that is one option that has already been canvassed. The second broad option that would be available would be that the Library Committee might continue to exist as a subcommittee of the Joint Parliamentary Services Committee. Clause 5 of the Bill allows the committee to appoint subcommittees. Under this option a Library Committee could continue in that guise.

The Parliamentary Librarian has advised me that a similar situation exists in the Tasmanian Parliament and in the House of Commons. In both cases the staff is not appointed by the Library Committee. In one case staff are seconded from the State Library of Tasmania, and in the other case staff are appointed by the Civil Service Commission.

The third broad option would be that the Library Committee could continue, much as it has in the past, as a separately constituted committee specifically to provide a channel of communication for members with views on the library services. The point that would need to be made there is that, if the Library Committee continues as a separately constituted committee, the Parliamentary librarian would be the only chief officer to have such a committee advising him of the operations of the Parliamentary Library.

The Hon. M.B. Cameron: He'd be lucky.

The Hon. R.I. LUCAS: I suppose it depends on which side of the fence you are looking at. For example, the Catering Manager, if particular amendments are successful and he becomes a chief executive officer (or whatever the phrase is in the Bill), would not have such a similar committee of members advising him of what the members wanted and instituting rules and all sorts of things.

Whether there ought to be a Library Committee, in effect advising the Librarian, needs to be considered by the Council. The Speaker has indicated to a number of members that he considered that it was always intended by the committee that the Library Committee should continue in existence. I

do not know whether that is the view of the committee, and I would be interested to hear the contributions of other members of the committee from this Council, because I cannot see any mention of that in the report. I have certainly not heard any other member in another place during their contributions to the debate indicate that that was what the committee intended. All we have is one member of the committee's interpretation of what he thinks the committee intended, that is, that it should continue in existance.

The Speaker goes on and says that in his view the committee intended that the Librarian would in the normal course of events appoint staff, subject to appeal to the Joint Committee, the exception being the appointment of the Librarian himself or herself, which the Speaker envisaged would be done at the recommendation of the Library Committee.

The PRESIDENT: The honourable member is quoting from the Speaker's paper to him. It could be interpreted as being something that the Speaker put before Parliament. That is not right, is it?

The Hon. R.I. LUCAS: That is right: if that interpretation was possible from what I have said, thank you for making it clear. This is a view which the Speaker has put to a number of members of the Parliament and which he holds fairly strongly. I indicate that to the Council because it is the view of one member of the committee as to how everything would operate. The committee's report does not say anything at all along those lines. I would be interested to hear what other members of the committee thought the committee intended with respect to the operations of the Library Committee, and I look forward to those contributions.

At this stage I do not see a significant role for the Library Committee, given that we will have this Joint Service Committee. We have a Parliamentary Librarian, who ought to be given the authority to manage the library and to appoint all staff. The Joint Service Committee would have the authority to appoint the Librarian. If there were any problems in the appointment of staff by the Parliamentary Librarian, they ought to be matters for the Joint Service Committee, to which complaints could be lodged.

If there are any problems with respect to penalising members of the Parliament for not adhering to the rules of the Library, that is first the responsibility of the Librarian, but in the event that a member refuses to comply that member would be judged, or the rules would be enforced, by his peers on the Joint Service Committee, whose responsibility it would be to see that the errant member was brought to order. I am still open to being convinced that there is a role for the Library Committee, but at the moment I believe that it ought to be abolished.

The Hon. R.C. DeGaris: It will be.

The Hon. R.I. LUCAS: The Hon. Mr DeGaris says that it will be, but the Speaker has indicated that he believes that the committee intended the Library Committee to continue. My view at this stage is that it ought to be abolished and that, if the Parliamentary Librarian wanted to get feedback from members of Parliament to the range of services that he is providing in the Library, there would be nothing wrong with his consulting with all the Parties represented in the Parliament in an informal way as to the range of services that need to be provided. I intend supporting the second reading of the Bill, and in Committee will indicate my view on the amendments that are being proposed.

The Hon. R.C. DeGARIS: I do not intend to go into the questions raised by the Hon. Mr Lucas, although I would like to because he said some very interesting things on matters that were not directly related to the Bill—nevertheless, they should be put to this Parliament—on the ability of the Parliament to hold the executive responsible.

In the American system the Congress passes its own Bill for appropriations to run the Congress. The Bill goes to the Senate, which introduces by amendment the appropriations to run the Senate. So, the Parliament there has direct control over its own expenditure, which is exactly how it should be. The Bill before us repeals the Joint House Committee Act and introduces a new concept. It establishes a committee entitled the Joint Parliamentary Service Committee, consisting of the President of the Legislative Council, the Speaker in the House of Assembly, two members of the Council and two members of the Assembly. An office of secretary to the committee is established under clause 6, and the secretary shall be the executive officer of the committee.

The Joint Parliamentary Service will be divided into three divisions: the Parliamentary Reporting Division; the Parliamentary Library Division; and the Joint Services Division. Each of these divisions shall have a chief officer, who shall be, in relation to the Parliamentary Reporting Division, the Leader of *Hansard*, and one has no objection to that; in relation to the Library Division, the Parliamentary Librarian, and one has no objection to that; in relation to the Joint Services Division, the secretary to the committee.

Already, one can see a very strange position, where the executive officer—the secretary—is also the chief officer of a division in that committee. Clause 8 provides that the chief officer of a division shall be responsible to the committee for the efficient management of that division. The committee, which holds the chief officers responsible, has an executive officer, who is the chief officer of a division.

The peculiarity in that situation, should not be passed without comment from this Council. The chief officer of a division is also the executive officer of the committee: that is a peculiar situation, which I will comment on.

A further committee is to be established, consisting of the Clerk of the Legislative Council, the Clerk of the House of Assembly, the Leader of *Hansard*, the Parliamentary Librarian and, again, the ubiquitous secretary of the Joint Service Committee—the executive officer—which may make recommendations to the committee, the President or the Speaker, concerning the management of working conditions of the staff of Parliament. It is unnecessary to appoint another committee when each of the proposed members of that committee has a direct representative on the major committee.

Subclause (2) of clause 26 states:

> The committee shall, as it thinks fit, make recommendations to the Joint Parliamentary Service Committee, the President of the Legislative Council or the Speaker of the House of Assembly—

and I emphasise the next words—

> in relation to the management and working conditions of the staff of the Parliament.

The phrase 'staff of the Parliament' is contained in clause 26. I can see no advantage at all in extending the provisions of the Bill beyond the scope of the joint services, covered by the three divisions. The Clerks have direct access to the Speaker or President; the Leader of *Hansard* and the Librarian have direct access to members; and the secretary, once again, has access to everyone, plus an executive role. Further to this, should the Clerks in both Houses have any influence on the provision of joint services? The role of each of the Clerks seems to me to be compromised in such a position. If any member has any complaint it should go through the representative already appointed to a position on the joint committee. I must admit that, on reading some of the speeches in the House of Assembly, I am convinced that this Bill is probably only a first step to further instrusions into the necessary separation of the two Houses. Those

statements seem to me to be partially included in part V. For those reasons I will oppose the whole of part V of the Bill.

I support the establishment of the Joint Parliamentary Service Committee, and support the role of Chief Officers in each of the proposed divisions. Each of those Chief Officers should be directly involved in the services for which they are responsible. The secretary of the committee does not need to have any executive capacity, as the Chairman of the main committee should be able to perform that function with comfort. If it is felt necessary for the secretary to have an executive role, then, at least, an officer directly involved with each of the divisions should be appointed as the Chief Officer of these divisions.

What I am saying, again, is that it seems to me a quite ridiculous position when the Chief Officer of a division is also secretary and the Executive Officer of the committee that controls the Chief Officers. If the secretary to the Committee is an ordinary secretary, as he or she should be, there is certainly a more reasonable cost than appointing an Executive Officer. I have listened with care to the points raised by Hon. Gordon Bruce, who seems in a rather strange way to have a view similar to the one I have expressed, but at the same time, he supports the Bill. I will support the Bill at the second reading, but unless there are amendments I will oppose the third reading. The loss of the Bill would not cause any real upsets, even though pressures have been exerted trying to convince members of the Council that something disastrous may occur unless the Bill is passed.

There are two other questions I will raise, one of which was raised by the Hon. Lance Milne. I will be supporting the view he expressed in relation to clause 24.

The Hon. L.H. Davis: Excellent; it is the right move.

The Hon. R.C. DeGARIS: It may be that it is the right move but I would just as soon see clause 24 out of the Bill, so I would support any change to it. The other matter I mention I think it cannot be amended at this stage relates to part IV. I think it has been taken out of other Acts and included in this Bill. It relates to long service leave. I think that, in all long service leave matters, we should take the view that when a person's long service leave is due at the end of 10 or 15 years it must be taken.

I do not think that it is fair to the tax-paying public that a person should go on accumulating his long service leave until he retires and then, as they have in several Government departments, take about 15 months long service leave on retirement. I think that there should be a provision in all long service leave legislation that, on accumulation of three months long service leave, that leave must be taken.

The Hon. R.I. Lucas: Or paid out.

The Hon. R.C. DeGARIS: I suppose that that means the same thing really. The point I wish to make with regard to other leave forms is that one cannot accumulate one's annual leave, which must be taken each year. I think that that should also apply to long service leave. I make that point in passing because I think it is fairly important when one sees some of the large payments made to people who have accumulated long service leave over a very long period. I support the view expressed by the Hon. Lance Milne with regard to clause 24, as well.

In conclusion, on reading and listening to the contribution to the debate on this Bill in both Houses, whether directly related to the Bill or not, I recalled the Old Testament proverb 'A leopard cannot change his spots nor an Ethiopian his skin'. While I do not think this Bill in itself cuts across principles which I have always held, it may in the longer term undermine those principles: the proverb applies to other matters as well.

The Hon. L.H. DAVIS: The Bill before the House has been canvassed at length. I think that I am right in saying that the matter has been before both Houses of this Parliament for some six years. It says something about the Parliament that it takes so long to get its act together when, in fact, it is passing laws to ensure that other people get their act together. I find it a strange irony to be standing here tonight reflecting on the way in which Parliament conducts its affairs. I must say straight away that I support the Bill and the amendments placed on file by the Hon. Martin Cameron and the Hon. Lance Milne.

The Bill is a considered effort and has resulted from a joint committee which was established some 2½ years ago to inquire into the administration of Parliament and in particular the organisational framework, the conditions of employment and the provision of more effective joint support services and other related matters. Since leaving university some 20 years ago I have spent most of my time in the private sector and have become used to the efficiencies and urgencies of business. It would seem that the Parliament has found otherwise and, in fact, I think that if a private sector management consultant was brought into this Parliament to examine its operation and running he or she probably, if charitable, would come up with a B minus. If I can reflect on some of the instances, and there is a wilderness of single instances—

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: That might be right. I can remember how appalled I was when, after we lost the last election on 6 November 1982, the first act of the new Labor Government was to install a fridge in each members room. I store my *Hansards* in that fridge. It has a useful purpose.

The Hon. C.J. Sumner: Do you know why that happened? It was a carry over order from a previous Government because it knew it was going to lose.

The Hon. K.T. Griffin: We did not order them.

The PRESIDENT: Order!

The Hon. C.J. Sumner: Yes you did; they were ordered by the previous Government. It knew that it was going to lose and it is just that the order arrived late. It was like the photocopier that arrived in my room three days before the election.

The Hon. K.T. Griffin: You ordered the fridges.

The Hon. C.J. Sumner: No; it is the same thing.

The PRESIDENT: Order! I don't care who ordered the fridges. I ask that the member with the call get back to the Bill.

The Hon. L.H. DAVIS: I will not persist with the fridges because it is obvious that if members persist in interjecting about fridges they will be left out in the cold. I just instanced that because it is relevant to what we are dealing with. We are dealing with the administration of Parliament and that was a facet of it. It was a typical example of how decisions are made on the run without any consultation. I did not want a fridge; I had other priorities. I share a room with the Hon. Robert Lucas and I share one sixth of a secretary. I would have thought that that would be a higher priority than a fridge in which to store the tinnies of Labor backbenchers.

However, returning to the Bill, I point out that the principal considerations of the joint committee were to formalise the appointment procedures for those providing services under the direction of the Joint House Committee which, of course, has been restyled; and also to provide for the incorporation of *Hansard* staff in the Parliamentary sphere rather than the situation where they were responsible to and encompassed in the Attorney-General's Department, as a division of the Public Service. That is a sensible provision.

The Act provides for an umbrella committee styled the Joint Parliamentary Service Committee, which consists of

six members: the President of the Legislative Council; the Speaker of the House of Assembly; two members from the Legislative Council; and two members from the House of Assembly. I have no objection with the balance. There are effectively three members from the Lower House and three members from the Upper House. Of course, it means there could well be a polarisation.

The Hon. C.J. Sumner: They all ended up in one jolly little group in the Bill.

The Hon. L.H. DAVIS: The Attorney-General quite properly interjected and said that there was unanimity when it came to the recommendations for this joint committee on the administration of Parliament. However, the fact is that a six member committee could run into problems. I do not propose to have a solution because quite clearly—

The Hon. C.J. Sumner: The solution was not to have a committee. That was my solution.

The Hon. L.H. DAVIS: The Attorney-General is now suggesting that he is not very enthusiastic about his own Bill.

The Hon. C.J. Sumner: I am not enthusiastic about the committee taking 2½ years to do it.

The Hon. L.H. DAVIS: The Attorney-General has weightier matters on his mind, quite clearly. However, I have a small reservation about the equality of numbers. Clearly, with the balance that needs to be preserved between the two Houses, and particularly with this Council not having the numbers and perhaps being more vulnerable to being overrun by another place, it is important that there be equality.

Quite properly, the Joint Select Committee report on the Administration of Parliament observed that Parliament is and must be the supreme law making authority. Page 2 of its report states:

> Without that unquestioned supremacy then the Executive or, for that matter, any number of bodies vested with differing jurisdictions could conceivably challenge the basic wishes of the people.

It further observes:

> It is important that the parliamentary institution maintain its independence and its ability to determine its own course without being responsible to any external bodies.

Of course, that is the attraction of the appropriation of funds for Parliament to maintain its independence in the best sense of the word, and that is carried out in so many other Parliaments around the world. I understand that that is not the subject of the Bill and I do not want to dwell on that fact. However, it is appropriate to mention that in passing, and I support the remarks of the Hon. Robert Lucas in that respect. Clause 33 provides that a report on the administration on the Joint Parliamentary Service be brought down on or before 31 March each year. Of course, that is a responsibility of the Joint Parliamentary Service Committee. That report must also be laid before the respective Houses by the President and Speaker. When the Attorney responds I would like to know whether or not he believes that the annual reporting period should most appropriately be a calendar year or, more properly, a financial year.

The Hon. C.J. Sumner: We will accept financial.

The Hon. L.H. DAVIS: By way of interjection the Attorney-General has suggested that he is quite happy to accept an amendment that will amend the reporting period to a financial year. Accordingly, I intimate that I will immediately have placed on file an amendment to that effect.

The hour is late and I do not want to test the Attorney-General's good nature too far except to say that I hope this new administration and organisation, as enshrined in this Bill, will work for the betterment of Parliament, for the more effective and efficient administration of Parliament, and that applies to both Legislatures. I am delighted that after six years some light is at the end of the tunnel and that this Bill quite clearly, having passed in another place, will, in time, pass into law.

The Hon. M.B. Cameron: That is not necessarily so.

The Hon. L.H. DAVIS: I anticipate that it will pass into law. I support the second reading.

The Hon. K.T. GRIFFIN: Although the Attorney-General is agitated that I want to speak, I was on the select committee—

The Hon. C.J. Sumner: I am agitated that anyone wants to speak about this Bill.

The Hon. K.T. GRIFFIN: I was on the select committee and it is appropriate for me to make several comments about the Bill and the process by which the Bill was developed. It really started in the time of the previous Government—

The Hon. C.J. Sumner: I wish it was finished then.

The Hon. K.T. GRIFFIN: So do I. It started during the time of the previous Government when both the Speaker and President agreed that they would establish a committee to examine the legal difficulties that were then obvious in relation to employees in Parliament House. The President and Speaker agreed that consultants should be engaged, and the Public Service Board was engaged by them as consultants.

A major difficulty in relation to workers compensation was the question of who was the employer of the catering and other staff in the building. Some questions have been raised in the course of workers compensation claims as to who was the employer. That obviously had to be resolved.

The PRESIDENT: I know it is most unusual for a Presiding Officer to interject, but I want to clarify my role in regard to the Bill. It is true that the Speaker and I eventually said, 'Yes', to appease those members who wanted something done, there should be an investigation. That was my role. The design of this Bill is not mine, and I make that clear from the beginning.

The Hon. K.T. GRIFFIN: Notwithstanding what you have said, Mr President, the fact is that at the time the Speaker and the President agreed.

The Hon. C.J. Sumner: It was Dr Eastick.

The Hon. K.T. GRIFFIN: Yes. They agreed at the time that there should be an examination of the difficulties which presented themselves and which had presented themselves in a number of ways, particularly in relation to workers compensation. The other area relates to *Hansard*, which is engaged solely in servicing both Houses of Parliament. However, *Hansard* is responsible to the Attorney-General as part of the Attorney-General's Department and previously the Law Department and the Department of Legal Services as it had been gradually transformed through several changes. It was appropriate to examine whether there was an appropriate mechanism whereby *Hansard* could be transferred to Parliament and taken out of the formal relationship under the Public Service Act.

They were the two major areas of concern that prompted the establishment of the committee by the Speaker and the President. The Public Service Board, acting as consultant, presented a report. Regrettably, the election intervened and subsequently the joint select committee was established by the present Government with the concurrence of both Houses of Parliament. Let me say that, when the matter was being considered in consultation with the Public Service Board, there was never at any stage an intention of overriding or interferring with the independence of either House of Parliament, but it was recognised that there was a need to identify the clear legal retionships between employer and employee. Since that time the joint select committee has given detailed consideration to various propositions.

There have been some undercurrents throughout Parliament in relation to the content of the Bill, but the fact is that, generally speaking, this Bill reflects a moderate and modest proposition for regulating the relationships between the various bodies—other than the two Houses—which provide services to Parliament. They will now be regulated in a way that clearly identifies the relationship between employees and employer. The Bill deals specifically with propositions such as the Industrial Conciliation and Arbitration Act, the Workers Compensation Act and the Equal Opportunity Act in a way that does not impinge upon the privileges of Parliament.

If one looks carefully at the clauses of the Bill, it is clear that Parliament is still supreme and that there will need to be goodwill on both sides, that is, in the case of the Industrial Conciliation and Arbitration Act—the court on the one hand—and the two Houses of Parliament on the other hand. The privileges of Parliament have been preserved, but there is a recognition that not even in Parliament can equal opportunity and proper working conditions be denied and that employees have a right to be covered adequately by workers compensation.

It would be somewhat curious if that were not the case, because Parliament makes the law and expects the community at large to comply with it. However, if there were not special provisions included in the Bill, employees in Parliament House would not be legally entitled to certain rights and privileges that apply to other members of the community, and that would result in Parliament and the two Houses being in a position different from and honouring something less than the terms and conditions that others in the community enjoy. Regardless of what one might consider as appropriate terms and conditions, that is not the argument in this Bill.

Finally, there is no prejudice to either House of Parliament in the Bill. The independence of both Houses is recognised absolutely and, if there is a suggestion that either House's independence is compromised, it is not a proper reading of the Bill. So far as the consultative committee is concerned (it is clause 26, and the Hon. Mr DeGaris has spoken strongly against it), I remind the Council that after all it is only a consultative committee: it only makes recommendations and has no authority. If honourable members decide not to meet, it is not compelled to meet. In my view it is innocuous but it provides a formal consultative forum for the necessary consultations between all those who provide services to Parliament and I see no problem with that part of the Bill.

The Hon. M.B. Cameron: Is the quorum big enough?

The Hon. K.T. GRIFFIN: That is a matter for the Council. A quorum is three out of five. If Council wants to increase the quorum, I have no quarrel with that. That is for others. I am not proposing to make any amendments to the quorum provision. If others want to do so, I have no difficulty with that sort of amendment. In essence, it is a good Bill which resolves the initial legal problems that are still bedevilling the employees in Parliament. It will resolve once and for all the appropriate location of *Hansard* in providing services to both Houses. I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): In summing up this very important debate, I thank honourable members for their various learned contributions and make an admission of my own with respect to the procedure that was adopted in this measure. Today could be described as the day that I lost my innocence. Never again while a member of this Parliament will I propose a joint select committee on any topic whatever. It is now 2½ years since this joint committee was established. It is also worth pointing out, as the Hon. Mr Griffin said, that the matter was considered for about two years before that by the previous Parliament. Therefore, this monumentally important issue has been debated by Parliament for about 4½ years.

Clearly, the course of action that I should have taken was either to have forgotten about it in November 1982, or alternatively, had a Bill drafted by the Government and introduced into Parliament, in which case we would have all been put out of our misery, probably by about May 1983.

However, I made that mistake in all innocence and good faith when I was less experienced than I am now. The other mistake was the establishment of the Joint Select Committee on the Law, Practice and Procedures of Parliament, which has also been subject to filibustering and opposition.

The Hon. M.B. Cameron: It has never sat.

The Hon. C.J. SUMNER: It sat for a while.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Liberal Party in the House of Assembly has still not put forward its proposals to the discussion paper. I had a very important discussion paper prepared which was substantial in terms of its content, but I cannot get a response from the Liberal Party in the House of Assembly.

The Hon. R.C. DeGaris: It was a very good paper, too.

The Hon. C.J. SUMNER: Yes, as the Hon. Mr DeGaris says. It is fair to say that that procedure has proved to be a disaster, particularly with respect to this very important Bill. It probably would have taken anyone with a modicum of goodwill about two weeks to prepare this Bill. I took a fairly optimistic view and thought that the matter could be resolved within two months of the establishment of the committee, believing that it was an opportunity for members of Parliament to make a contribution as to how the Parliament should run, for the staff to put their points of view and for the committee to produce a report within a reasonable time. Given that the Public Service Board had already commented on the management of the Parliament, I believed that the committee should have produced a report within about two months. Of course, that was too much to expect. I should have left it to the Government to prepare the Bill and introduce it rather than leaving it to members of Parliament who, obviously, were not able to cope with the monumental task of preparing this important Bill.

I am disappointed in respect to both these joint select committees which were, in all honesty, set up in good faith. I thought that there might have been a chance for genuine bipartisan communication between members of the House of Assembly and the Legislative Council and the Liberal Party and the Labor Party on these important issues.

The Hon. M.B. Cameron: The ruddy Speaker was at fault.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The honourable member interjects and says that it was the ruddy Speaker.

Members interjecting:

The PRESIDENT: Order! If the honourable member said that, I ask him to withdraw it.

The Hon. M.B. Cameron: I withdraw.

The Hon. C.J. SUMNER: With respect, to which Speaker is the honourable member withdrawing that word? This exercise has outlived two Speakers and, if we do not get it through very shortly, it might well outlive three Speakers. You, Mr President, have been the only solid point.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Hill has made a very good point. There is no doubt about that.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Lucas says that the Hon. Arthur Whyte, when he is Speaker in the House

of Assembly in the next Parliament, might take McRae's line. Mr President, you have probably been one of the few people to be consistently involved in this issue over two Parliaments. As I said, the exercise has continued during the office of two Speakers and a number of other members, and it is most disappointing that eight allegedly sane and sensible members have not resolved this issue in a shorter time than turned out to be the case.

The Hon. G.L. Bruce: I think they did extremely well.

The Hon. C.J. SUMNER: I know that the Hon. Mr Bruce made an important contribution to the deliberations of that committee, as he was a member of it. However, I will certainly be very cynical about joint select committees in the future.

The Hon. R.C. DeGaris: You aren't the first one to come to that conclusion.

The Hon. C.J. SUMNER: Indeed. Nevertheless, we are, as it were, in the final stages of the passage of this important legislation and, despite the fact that there was a joint select committee of eight members including four members from this Council, there is still not agreement on the Bill. Notwithstanding the fact that all this work was done, that the Hon. Mr Griffin, the Hon. Mr Bruce, the Hon. Mr Creedon and you, Mr President, laboured long and hard for 2½ years to produce this Bill, members opposite are still not happy.

The Hon. M.B. Cameron: There are amendments on file to be moved by the Attorney-General.

The Hon. C.J. SUMNER: Members opposite are still dissatisfied.

The Hon. R.I. Lucas: You still haven't made up your mind after 2½ years.

The Hon. C.J. SUMNER: I did not have anything to do with the deliberations of the committee over those 2½ years. If honourable members would like information about the amendment that I will move, I point out that it is to accommodate *Hansard* and I am sure that everyone would want to do that.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It will ensure that the staff of the Parliament, particularly those who are currently in the Public Service, if they come down here, will be able to apply for positions in the Public Service so that their career path is not affected by their being under the authority of the Parliament. I would have thought that that was a very sensible amendment, as opposed to the other amendments proposed by members opposite. It still surprises me that after all that work we are still in a position where amendments are being moved. However, that is the situation and I have to thank members of the joint select committee for the work that they did on this Bill and in particular for the extensive consultations in which they were engaged within South Australia and interstate in arriving at this important document. In Committee I will consider the arguments relating to the amendments.

The PRESIDENT: I point out once again that this is more important than the Attorney says, and I think that he realises that.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Secretary to Committee.'

The Hon. M.B. CAMERON: To put the Attorney out of his misery, I point out that I have no intention of prolonging the Committee debate. I believe that my position in relation to clause 6 and that of the majority of members has been explained adequately.

I oppose clause 6. In a later part of the Bill this executive officer became head of the Joint Services Division, which seemed to be a kick in the face for the present Catering Manager. The Attorney-General said that his amendment was to solve a problem affecting *Hansard*, and my amendment is in the same spirit. Somebody along the line overlooked the position of the Catering Manager. I am certain that there were members of the Select Committee who were not aware of what was taking place with the Catering Manager and the fact that he was being pushed under in this matter.

Another important point is that this office of secretary had the potential to become a monster around this place because there would not be enough work. If he did not become the Catering Manager, what was he going to do? We need a minute secretary for the committee, but what else do we need? There is nothing else around the Parliament that I can think of, so he would wander around looking for something to do, and that would cause turmoil. I do not want to go back to the arguments in relation to that matter, but one person did arrive to help with this committee and before long the whole place was in turmoil.

I do not believe that it is appropriate or necessary to have an office of secretary; there are adequate facilities in the place already to provide a minute secretary to the committee. It is the members of Parliament—the Joint Service Committee—who will do the work. All we need is someone to take down the minutes so that we know what we have done and what the decisions are. As soon as this Bill passed the Lower House there were people scurrying down the corridor looking for somebody to fill the position, and that alerted me to consider the necessity of such a position.

The Hon. R.C. DeGaris: With a university degree.

The Hon. M.B. CAMERON: Yes, a law degree; in fact, a former lawyer. This is one matter that was overlooked by the Select Committee. The position is unnecessary, and not having it will certainly save money for the Government of the day. As I said before, if this sort of money is available for Parliament House, let us spend it sensibly in providing facilities for members of Parliament, particularly Legislative Councillors. I will not detail the number of facilities we need but there are certainly plenty of them. From time to time, the Attorney-General and I have had some discussions about those matters. I ask members to oppose clause 6, as it now stands, and I will then proceed with the further amendment standing in my name.

The Hon. G.L. BRUCE: I could possibly oppose clause 6. The Hon. Mr Cameron has moved a new clause, which provides in part that *(a)* the Clerk of the Legislative Council or a person nominated by that Clerk shall act as secretary of the committee, and *(b)* a person nominated by the Clerk of the House of Assembly shall act as secretary of the committee. What power has that Clerk to nominate a secretary? Would there be any guarantee that the continuance of the job would be the same if the secretary is alternated? Whilst it is a hypothetical question because that new clause has not been carried, the answer would influence what happens.

There are difficulties with the Clerk of the Legislative Council nominating a secretary. I believe there is a role for virtually a full-time secretary to be doing the actual bookwork. If it alternates down to the other House, has that Clerk got the right to dismiss that secretary and employ another one? Have either of the Clerks got the right to employ staff on behalf of the Joint House Committee or has the Joint House Committee got to empower the employment of that secretary? Where does the finance come from? What powers do the Clerks have in engaging clerical staff?

The Hon. M.B CAMERON: I do not anticipate there being any engagement of staff. I do not think that would be necessary, and I would expect that it could alternate between the Houses. I do not see any problem with that because I do not see that the secretary is going to be so

high-powered that he will have to do a tremendous amount of work. In fact, the secretary will be a minute secretary required to keep track of what is happening within the committee, and it is up to the Clerk of the Council to provide that person. If there is a necessity for a person to be agreed between the two Houses, I have no problem with that.

In fact, I changed my amendment from what it originally provided, so that if the Clerks decided one person was satisfactory to them both, who could continue in the job, then fine; that is their decision. The Clerks can nominate a person and the committee can then approach the Government of the day and ask for additional staff; it is within the power of the committee to do that. However, at the moment I do not believe that is necessary and, certainly in the initial stages, where there is going to be some tension, I believe that it is quite proper to have a person nominated from within the staff of either House.

The Hon. G.L. BRUCE: How much teeth does the Clerk have? Is it the committee's role to agree on the appointment of clerical staff? Is it the right of the Clerk to be able to override the committee in the employment of staff? If we are to have a Joint Service Committee, that committee should empower the Clerk to employ staff. The way this amendment reads, the control of the employment of staff is taken away from the Joint Service Committee and given to the Clerk, without answering to the committee. I do not think that the Clerk would want that responsibility.

The Hon. M.B. CAMERON: At least one Clerk would be delighted to have that responsibility. The honourable member is trying to argue back to the original Bill, which is what I am moving away from. What I am moving towards is that, when the President of the Legislative Council is in control, a member of the staff of the Legislative Council will be the secretary of the committee.

The Hon. G.L. Bruce: But it provides that the Clerk nominates somebody to take that place. I do not disagree if you are saying the Clerk is there.

The Hon. M.B. CAMERON: I think the honourable member is getting into unnecessary difficulties. Already, when we have a select committee, the Clerk nominates the secretary of the select committee. It will be exactly the same situation; one of the members of the staff will become the secretary of the committee for the period during which the Chairman or Speaker is alternating as the Chairman of the committee. We are not empowering the Joint Service Committee to have a secretary; that is exactly what the amendment is about.

The Hon. G.L. Bruce: But you are employing—

The Hon. M.B. CAMERON: No, we are not employing him; we are allowing the Clerk to nominate somebody from his staff, if he so wishes.

The CHAIRMAN: What the honourable member has not said in his amendment, of course, is that the nomination has to be one of the Parliamentary staff.

The Hon. M.B. CAMERON: I have not said that quite deliberately, to allow some flexibility. Certainly, I would anticipate, at least in the initial stage, it will come from the staff.

The Hon. J.C. BURDETT: I support the Leader and I oppose clause 6. I have grave doubts whether this Bill was necessary at all, except perhaps from the one point of view of establishing—who is the employer of staff. That is the only thing that justifies the Bill. I support this amendment as being a measure of deregulation, of making the Bill less bureaucratic, and of taking away an expensive and unnecessary secretariat.

I will also support the amendments that have been placed on file by the Hon. Lance Milne and the Hon. Ren DeGaris is doing something of the same thing: making this less bureaucratic and less regulatory and pruning it down to somewhere near the size that it should have been in the first place.

I have found it difficult to understand why this Bill is necessary, except perhaps for the purpose of establishing who is the legal employer of staff. I certainly support this amendment of the Hon. Martin Cameron to delete clause 6, to take away what is potentially a dangerous secretariat—certainly an expensive one—which could affect the privileges of this Council. It is much better to leave the modest task in the hands of the Clerks or their appointees, of one House or the other, according to who the Chairman is for the time being, with a flexibility that, if the Clerk of one House or the other has established some sort of expertise, that could continue. I oppose the clause.

The Hon. C.J. SUMNER: As a strong supporter of the select committees of Parliament—

The Hon. R.C. DeGaris: Even the joint one?

The Hon. C.J. SUMNER: Even if in this case we are dealing with the joint select committee, I feel obliged to oppose the amendment and support the Bill as it was introduced. As I have said, the committee laboured long and hard for 2½ years. It was a bipartisan committee, which had representatives of this Council on it. It has come up with this proposition, which would give more stability and focus to the work of the Joint Parliamentary Service. Therefore, I ask the Council to support the Bill as introduced.

The CHAIRMAN: The Joint Committee did not overlook this matter: it was because it could not reach agreement that this was decided as the best form in which to make the decision. I see that there is quite an amount of indecision here as well.

The Committee divided on the clause:

Ayes (6)—The Hons. G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, Anne Levy, and C.J. Sumner (teller).

Noes (9)—The Hons J.C. Burdett, M.B. Cameron (teller), R.C. DeGaris, Peter Dunn, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Pairs—Ayes—The Hons Frank Blevins, C.W. Creedon, and Barbara Wiese. Noes—The Hons. L.H. Davis, I. Gilfillan and K.T. Griffin.

Majority of 3 for the Noes.

Clause thus negatived.

The Hon. M.B. CAMERON: I move:

Page 4, after line 25—
Insert new clause as follows:
6. Secretarial services shall be provided to the Committee as follows:
(*a*) when the President of the Legislative Council is the chairman of the Committees—the Clerk of the Legislative Council or a person nominated by that Clerk shall act as secretary to the Committee;
(*b*) when the Speaker of the House of Assembly is the chairman of the Committee—the Clerk of the House of Assembly or a person nominated by that Clerk shall act as secretary to the Committee.

New clause inserted.

Clause 7—'Divisions of the parliamentary service'.

The Hon. M.B. CAMERON: I move:

Page 5, lines 3 and 4—
Leave out 'the secretary to the Committee' and insert 'the Catering Manager'.

This is consequential on the previous amendment, but it adds the words 'the Catering Manager'. I argued on behalf of the Catering Manager earlier, that he would have done a reasonable job in the minds of most people. In this case, we do not have anybody left to do the job. I anticipate that the Council will now support the Catering Manager as the chief officer of that division.

The Hon. G.L. BRUCE: I have an amendment along much the same lines. If the Hon. Mr Cameron's amendment

is carried, that will do away with my proceeding with mine. I indicate that my support for the Hon. Mr Cameron's amendment will probably be forthcoming.

The Hon. K.L. MILNE: We should be clear that we are not doing this because we consider that the present Catering Manager has been perhaps overlooked by accident. What we are getting at is that, if the Catering Manager is a capable Catering Manager, he is capable of doing this job. If he is not, he should not be here. The status of the Catering Manager should be the status of someone who can be the chief officer of a division. It is the principle, not the personality.

The Hon. R.C. DeGARIS: Exactly what is the Catering Manager in charge of in this place now if this Bill goes through with that in it?

The Hon. M.B. CAMERON: As I understand it, he is in charge of the staff in the dining room and of the caretakers.

The Hon. R.C. DeGARIS: The Joint Service Committee covers a range of other activities in this Parliament. *Hansard* will cover *Hansard.* The Librarian will cover the Library. Exactly what does the Catering Manager cater for?

The Hon. G.L. BRUCE: I agree that there probably should be a definition, but the word 'catering' puts it into its proper context. He is in charge of catering, and I imagine that it revolves around the issue of food in Parliament House and the catering services associated therewith. If there were any deviation by the catering manager into other areas I am sure that the Joint House Service Committee would bring him, or any head of a department, into gear.

The Hon. M.B. CAMERON: I did ask whether there was a need for a definition and was informed that everybody knew what the catering manager was and therefore we should not worry about it.

The Hon. R.C. DeGARIS: Is the catering officer only responsible to this new committee for catering in the House, or are there other duties that he performs?

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Creation and abolition of offices.'

The Hon. R.I. LUCAS: My question relates to clauses 10, 11 and 12 and some other clauses. Clause 10 (3) states:

> The Committee shall, in accordance with the rules, cause notice of the creation or abolition of an office under this section to be laid before each House of Parliament.

There is similar wording in clause 11, which deals with reclasssification, and in clause 12, which says that notice of appointment of a person to an office is to be laid before each House of the Parliament. Will the Attorney indicate whether anything can be done once they are laid before the Houses of the Parliament? Does that entail the possibility of either House of the Parliament overriding them? When it says 'in accordance with the rules', what rules are we talking about?

The Hon. C.J. Sumner: The rules made under the Bill.

The Hon. R.I. LUCAS: And further rules devised by the committee in the future.

The Hon. C.J. SUMNER: The committee can make rules, but it appears that it has the capacity to create or abolish offices under the various clauses to which the honourable member has referred.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: The honourable member's point is answered by my saying that the Committee has authority to make the rules and to create or abolish offices under the rules and that the Parliament, in the sense of the Houses, does not appear to have authority over the committee. If the honourable member would like something like that put in the Bill, I suppose that that is an option to be considered.

The Hon. R.I. LUCAS: I take it, then, that the only reason for those subclauses in clauses 10, 11 and 12 is, in effect, to give other members of the Parliament notification of what is going on. When we talk about laying regulations before the House we have the power to disallow those regulations, but I take it from what the Attorney-General said that we cannot do that in this case?

The Hon. C.J. SUMNER: I did not have the misfortune to be on this committee, so I cannot answer the honourable member's question as to reason. I assume that what the honourable member says is correct.

The Hon. K.T. GRIFFIN: The only reason for that is that it mirrors the Public Service Act, except that the Public Service Act requires that all officers who are classified be notified in the *Government Gazette.* Instead of these being notified in the *Government Gazette* they are laid before the Parliament. It is just a question of making them open to the public, staff and members of the Parliament. If everybody wants them put in the *Government Gazette,* then that can be done. It is really just a mechanism to ensure there is openness in the way that they are classified.

The Hon. G.L. BRUCE: My understanding was that they would be laid before the Houses so that everybody was aware that positions had been created or abolished and so that there was no thought of the Joint Parliamentary Service Committee acting without the knowledge of both Houses and so that there was nothing hidden or underground: it was to be laid before both Houses so that all members were aware of what the Joint Parliamentary Service Committee had done.

Clause passed.

Clauses 11 to 19 passed.

Clause 20—'Long service leave.'

The Hon. R.C. DeGARIS: Will the Attorney-General reply to the question that I asked during the second reading debate in relation to long service leave? I have raised this matter on a previous occasion. Long service leave can be accumulated throughout the Public Service over a long period. Will the Government examine the question of insisting that long service leave is taken when it is due so that it cannot be accumulated over a long period? It might be a correct step to do that now in a Bill concerning the Parliament. It is an important question that needs to be tackled by any Government.

The Hon. C.J. SUMNER: As I understand, although it has happened in the past that long service leave has been accumulated over long periods, the policy now is that people must take it. I am not aware of the full details, but there has been a policy adopted whereby one cannot accumulate either annual leave or long service leave for any great period.

The Hon. R.C. DeGaris: It does not apply in this Bill, does it?

The Hon. C.J. SUMNER: It does not apply as a matter of law: it is a matter of administrative practice within the Public Service. How it was administered with respect to the parliamentary service would depend on the committee. If the committee insists that people take their long service leave, as I think they probably should, within a reasonable period of its accrual then, of course, there is no problem.

The Hon. R.C. DeGARIS: I am raising the question of whether it should be included in this Bill that the committee, if possible, must insist upon long service leave being taken as that is the policy of the Government, anyway.

The Hon. C.J. SUMNER: If the honourable member wishes to put it in the Bill, I am happy.

Clause passed.

Clauses 21 to 23 passed.

Clause 24—'Application of certain Acts.'

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

Page 13, lines 28 and 29—Leave out all words in these lines and insert 'the approval of both Houses of Parliament'.

Page 14—

Lines 13 to 15—Leave out 'the President of the Legislative Council and the Speaker of the House of Assembly shall jointly give due weight and consideration to that certificate' and insert 'copies of the certificate shall be presented to the President of the Legislative Council and the Speaker of the House of Assembly who shall cause the copies to be laid before their respective Houses as soon as practicable after their receipt'.

Lines 17 and 18—Leave out 'the President of the Legislative Council and the Speaker of the House of Assembly think fit' and insert 'may be determined by both Houses of Parliament'.

I have had time to contemplate my ancestors who were at Culodden and Marston Moor. Most were shot, but some survived, you are sorry to hear.

The Hon. M.B. Cameron: Which side were they on?

The Hon. K.L. MILNE: They were on the King's side. So many people have died, been imprisoned, disadvantaged, or had their estates confiscated, for Parliament to have the privileges it gained from the King over the centuries. We are now about to give those privileges away not to a monarch who was there in the first place but to organisations which we have created ourselves and which we should control. To give away a privilege like that is sheer madness and should not be expected of us. I repeat: it would be absolute madness and would be selling the birth right of Parliament so hard won over the centuries—

The Hon. C.J. Sumner: You were on the King's side, you said.

The Hon. K.L. MILNE: That was a joke—for this Parliament to put itself in the hands of any court, commission, tribunal or any other organisation or authority that it has itself created. I hope that this decision is not left, as I think unfairly, to the Speaker and President, but to their respective Houses of Parliament.

The Hon. C.J. SUMNER: I support the select committee's recommendations on this point. However, in light of the fact that the numbers do not seem to be with me, I will not divide.

Amendments carried; clause as amended passed.

Clause 25—'Special provision for all staff of the Parliament.'

The Hon. R.C. DeGARIS: I oppose all of Part V, being clauses 25 and 26. I spoke about this during my second reading contribution. I believe that Part V should be deleted because it is the only part of the Bill that deals with all the staff of the Parliament. As I pointed our during my second reading contribution, I believe it is the toe in the door of cutting across the concept of the separate role of each particular House. When the Hon. Trevor Griffin spoke he made a very good point: this part has no power and cannot do anything. If that is the case, it should not be included. There are two factors that one should consider: if this provision is of no value it should not be there; and if it has any value or power at all, or is a lead in to any power in the future, it should still be deleted.

I ask that the Council vote against this clause. I cannot see any reason for this committee to be appointed (the Clerk of the Council, the Clerk of the Assembly, the Leader of *Hansard,* the Parliamentary Librarian and now the Catering Officer) if it has no power. We have already passed a clause that deals with this and states:

The chief officers shall together constitute a management panel for the purpose of achieving a consistent and efficient approach to the management of the joint parliamentary service as a whole.

That also applies to the joint service, but this takes it a shade further. As the Hon. Trevor Griffin pointed out, the committee may never meet. On both counts (the fact that this committee is of no value and that it may be a toe in the door) I oppose clauses 25 and 26.

The Hon. M.B. CAMERON: I have some considerable sympathy for the Hon. Mr DeGaris's view, particularly in relation to clause 25 which, I think, arose as a result of the many stories that drifted around the place about how the messengers on one side of the Parliament were working longer hours than the messengers on the other side of the Parliament, and about how certain doors are open when others are not. The scuttlebutt that has been going backwards and forwards about what has been occurring in this place has been somewhat surprising in the time I have been here. When one chases it down, most has been proved to be absolutely inaccurate.

I think that these clauses were included for that reason—to placate certain people who had made allegations or feared that this was taking place. The committee certainly does not do anything because it has no power. It can only make recommendations and, as such, I think it is probably a nonsense. I am inclined, particularly in relation to clause 25, to vote against it.

The Hon. R.I. LUCAS: I admit that I have not had a chance to quickly consult my Leader, but I intend supporting clause 25. I am not clear whether the Hon. Mr Cameron was indicating definitely that he was voting against this clause or whether he was inclined to and was going to keep his mind open to hear further debate on the matter. This Parliament over the years has established hundreds of advisory and consultative committees and one can make the same criticism about them that one is making about this committee; they really can do no more than advise or be consulted. If we are going to delete clause 25 or, as the Hon. Mr DeGaris suggests, clauses 25 and 26, we can take the same approach to the whole range of advisory and consultative committees.

There are good reasons for getting the heads of the sections together to talk about matters in the Parliament. Clause 25(c) refers to achieving efficiencies in the management of the resources of the Parliament as a whole. In the past we have had the ludicrous situation where the Library, the House of Assembly and the Legislative Council wanted to introduce computing facilities—the three separate sections talked about introducing their own facilities. The heads of those sections should get together to do some coordination and buy systems out of their own money that are compatible so that we can use consistent terminals for all the facilities and, in relation to what I mentioned earlier about having the Statutes on computer so at the press of a button one can catch up with things, catch up on reference material from the Library—

The Hon. M.B. Cameron interjecting:

The Hon. R.I. LUCAS: We all live in a dream world. Perhaps I am young enough to still be a dreamer. I am rapidly changing, I know.

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

The Hon. R.I. LUCAS: I am like the Attorney: the innocence is slowly going. I hope that at some stage in the future we can get to that situation. This clause does not compel, but what it does is give the opinion of the members of this Chamber that we would like the heads of these groups to consult; that we would like them to get together and have compatible computing systems and a range of other systems as well. That is only one small example. There are dozens of other examples where the resources of Parliament—

The Hon. C.J. Sumner: If they don't meet you could find out that all the doors are closed and no-one could get in.

The Hon. R.I. LUCAS: That is right, too. There are dozens of other examples where there should be some consultation. While the Hon. Mr Griffin is right that under clause 26 the committee, if it chooses not to meet, does not have to meet, all we are saying here is that we think there is some good sense in members of the committee sitting

down and talking with each other and trying to make the management and resources of the Parliament efficient. As I said, I was not quite sure whether the Hon. Mr Cameron had made up his mind, but I indicate that I will be supporting clause 25.

The Hon. C.J. SUMNER: I concur with the eloquent exposition of the reasons for retention of Part V just advanced by my learned colleague opposite.

Clause passed.

Clause 26—'Certain officers to constitute advisory committee.'

The Hon. M.B. CAMERON: I move:

Page 15, line 8—Leave out paragraph *(e)* and insert new paragraph as follows:

(e) the Catering Manager.

This consequential amendment follows an earlier amendment and I ask the Committee to support it.

Amendment carried; clause as amended passed.

New clause 26a—'Officers may be regarded as members of the Public Service in certain situations.'

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

Page 15, after line 20—Insert new clause as follows:

26a. (1) Notwithstanding the provisions of any other Act, applications may be made in respect of positions in the Public Service, appeals may be made against the nomination of person to positions in the Public Service and vacant positions may be filled in the Public Service as if officers were members of the Public Service.

(2) In this section—

"officer" includes an officer of either House of Parliament or a person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly.

These amendments have been prepared in response to certain submissions made in relation to the ability of parliamentary officers to apply for positions in the Public Service. The Bill addresses this issue by certain amendments to the Public Service Act 1967 contained in the second schedule to the Bill. However, it has been pointed out that amendments would also be required to the Government Management and Employment Bill 1985 presently before the House of Assembly to ensure the preservation of the *status quo.*

Given that the Government Management and Employment Bill is yet to be debated by the Parliament it is appropriate to amend the Parliament (Joint Services) Bill in a manner that will settle the issue once and for all. Accordingly, it is proposed that a new clause be inserted in Part V of the Bill (headed 'Special Provisions for all Staff of Parliament') that provides that for the purposes of applications, appeals and appointments relating to the Public Service, officers of the Parliament are to be regarded as being members of the Public Service. The amendment will thus protect all parliamentary officers without the need for specific provisions being included in the Public Service Act 1967 or the Government Management and Employment Act 1985. A consequential amendment is to be made to the second schedule.

The Hon. M.B. CAMERON: The Opposition supports these amendments. Concern was expressed to me by the *Hansard* staff about their position under the Bill and the Attorney has moved this amendment to cover that position and for the other reasons he has outlined.

New clause inserted.

Part VI—CONTROL AND MANAGEMENT OF JOINT FACILITIES.

The Hon. M.B. CAMERON: I move:

Page 15, line 22—Leave out 'CONTROL AND'.

It has always been clear in the separation of the Houses that certain areas are under the control of the Speaker or the President. I do not think any member would want that situation altered. At the same time, it has been recognised that the management of some of those areas—maintenance, cleaning, and others—is undertaken by with the Joint House Committee. I have no problem about the management of those areas. I seek this change to maintain what is already a clearly understood position.

The Hon. C.J. SUMNER: I support the Bill as it stands but, as I do not have the numbers, I will not divide.

The Hon. R.C. DeGARIS: I still have a problem. The committee shall have control and management of the dining, refreshment and recreation rooms, lounges and garages of Parliament. Who is the chief officer of the garages of Parliament. Who is the chief officer of the lounges of Parliament? No-one has answered these question. Perhaps someone can instruct me.

Amendment carried.

Clause 27—'Premises under control of committee.'

The Hon. M.B. CAMERON: I move:

Page 15, line 23—Leave out 'control and'.

The Hon. R.I. LUCAS: I refer to the question of the library facilities, which are not included along with the other areas. The committee has control of the management of the dining room, the refreshment room, the recreation room, the lounges and the garages. Who is responsible for the management of the library? This relates to the matter I raised earlier about the intended role of the Library Committee and the Joint Services Committee. It was clear from debate earlier on other clauses that the Librarian is subject to the control of the committee. He is the chief officer of a division but why, in the drafting of the Bill, has a large section of Parliament—the Library—not been included in this clause? Is there a particular reason?

The Hon. C.J. SUMNER: Once again, it is not for me to divine what the committee had in mind. I understand that it will be worked out over time through appropriate consultations and discussions by members of Parliament and that after a certain period the matter will be dealt with appropriately.

The Hon. K.T. GRIFFIN: It will be under the joint control of the President and the Speaker, as is the case now. It is not referred to specifically, but the intention was that it would remain under the joint control of the President and the Speaker.

The Hon. R.I. LUCAS: I do not intend prolonging proceedings, but I have heard these responses from the Attorney before and I am not convinced. Basically, there is a conflict of views about what will happen with the Library Committee and who will control the library facilities.

The Hon. C.J. Sumner: The Library Committee can do it.

The Hon. R.I. LUCAS: That depends on whether we still have a Library Committee.

The Hon. C.J. Sumner: We will have it.

The Hon. R.I. LUCAS: I have heard that response before and I am not convinced by it.

The Hon. G.L. BRUCE: The Library Committee has been appointed by Parliament and the only way that it can be disbanded is by the same process. At present Parliament still has a Library Committee. Once the legislation is set up and going there could be a conflict of interests in having a committee separate from the Joint Parliamentary Service Committee appointed by Parliament. I would have thought that after a time the Library Committee would probably disband and come under the wing of the Joint Parliamentary Service Committee as a subcommittee. I do not believe it would be right for a separate committee to operate outside the Joint Parliamentary Service Committee. At present there is a separate committee already functioning that cannot be disbanded by the joint committee—Parliament is the sole body to disband it. Unless it is disbanded, I do not believe the joint services committee can get into the library.

Amendment carried; clause as amended passed.

Clauses 28 to 32 passed.

Clause 33—'Annual report.'

The Hon. R.I. LUCAS: I move:

Page 16—

Line 14—Leave out 'thirty-first day of March' and insert 'thirtieth day of September'.

Line 17—Leave out 'calendar' and insert 'financial'.

I move these amendments on behalf of the Hon. Legh Davis who is otherwise engaged on important parliamentary matters. The honourable member has already explained the reason for the amendments. Quite simply, they change the reporting procedures from a calendar year to a financial year. I have nothing more to add other than that I support the amendments.

Amendments carried; clause as amended passed.

Clause 34 and first schedule passed.

Second schedule.

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

Strike out "and substituting the following paragraph:

(b) 'Officer' includes—

(i) an officer of either House of Parliament or a person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly;

and

(ii) a person holding office under the Parliament (Joint Services) Act, 1985".

This amendment is consequential.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

DAM SAFETY BILL

Adjourned debate on second reading.

(Continued from 8 October. Page 1108.)

The Hon. PETER DUNN: Last night when I sought leave to continue my remarks I was referring to the cost of the authority. To emphasise my point, I will cite an extract from *Hansard* where the Minister was asked a question in another place about the cost of the authority, and he said:

The authority will cost about $180 000 in recurrent costs, which will be borne by the Engineering and Water Supply Department.

We must also take into account the fact that there will be establishment costs and that the authority will require accommodation, field officers and so on. It is reasonable to assume that the authority will cost not less than $250 000 a year. It is ridiculous to spend that sum to control something that has never happened in this State. There has never been a dam burst that has caused loss of life: where dams have burst there has only been damage to property. It is quite ridiculous that we will spend $250 000 year after year for something that is not totally necessary.

The Hon. J.C. Burdett interjecting:

The Hon. PETER DUNN: That is exactly right. They will be small dams and any damage done will be relatively minor. The Minister himself admits that the authority will be very low key. He further said:

Consequently, an authority that will be a low key authority and not a big deal will be set up representing the Local Government Association and including people with knowledge and expertise in the field.

The Minister admits that it will be a small and low key operation and, therefore, of little consequence. That emphasises that it is not necessary. What is the alternative? An independent authority that is directed by the Minister is not necessary: it would be better if local government had authority to ask anyone who builds, alters or demolishes a dam to register with the authority, which could then refer that person to an engineer in the E&WS Department who would have the expertise and necessary qualifications to help design or maintain or advise about what should be done to that dam. We do not need to spend $250 000 every year for something that can be done in a much simpler and civilised way—and I believe that would be accepted by the people who own dams.

The Minister also said that the Crown shall not be bound; therefore, the larger dams will not come under the purview of this authority. The Bill set up an authority to control dams, but the Crown will not be bound. The Australian National Committee on Large Dams has said that it is important that the authority is separated from any political control. In 1972 that committee addressed a document to all Governments in Australia expressing concern at the total lack of dam safety legislation in Australia. ANCOLD specifically proposed that each State legislate for a single controlling authority which should be independent of the existing authorities that engineer and/or own dams. However, this legislation allows the Minister to control the authority. He has direct control, and therefore it is quite senseless.

The Minister has filed an amendment, which provides that the Crown shall be bound; however, the amendment does nothing about the fact that the Minister can still direct the authority. Clause 6 provides that the authority shall comply with any written direction given to it by the Minister. That clause means that the Minister is able to say, 'We are bound but do not take any notice of that.' However, the amendment I have on file deletes clause 6, which would eliminate that problem and make the authority totally independent.

The appeals mechanism is very important so that individual farmers and organisations that own these dams have a mechanism or safety valve whereby they can query judgments that may be made against them by the authority.

I reiterate the fact that this is a very expensive way of controlling an area where control is not totally necessary. History has shown that we have not had any problems because we are not in a geologically unstable area—the land is very flat. The dams that this Bill purports to control are of very little significance when it comes to causing loss of life, loss of property or damage to others. Therefore, I do not support the Bill.

The Hon. K.L. MILNE: I do not support the Bill, either. I cannot think of anything more likely to cause trouble than to have people from one of the departments in the city touring around the country telling experienced farmers what is wrong with their dams or tanks. I feel sure that very frequently the advice would be from people who had never built a dam or handled a shovel in their life, let alone a bulldozer or a team of bullocks. Surely we can see the difficulty that arose on the question of the preservation of the native vegetation when there was a complete difference of training and outlook between the people in the Department of Environment and Planning in the city and the farmers who had to be on the job every day, rain or shine.

It is a great mistake to make an issue of this matter with legislation of this kind. The cost is not enormous but it is just an irritating sort of thing. If somebody in the Agriculture Department in each area could be told to keep their eyes open for things that look dangerous, bring them to somebody's attention and have the fault rectified, that would be my way of doing it. It is a very rare occurrence. Not many people in the city would know how to build a dam or what was wrong with it when it had been built. I think it would be much wiser not to pass this Bill but to think of some other way of the Government's keeping an eye on the rare case that needs attention, if it wishes.

The Hon. K.T. GRIFFIN: I want to address my remarks to a curious aspect of the Bill. It establishes a statutory body, which is an instrumentality of the Crown. As previous speakers have indicated, the Crown is not to be bound by the Bill although the Minister does have an amendment on file to ensure that the Act binds the Crown. However, if the Crown were not bound, then all of the major dams would not be subject to scrutiny and, although the definition of 'prescribed dam' would apply the Bill then to private dams of a particular size, it is conceivable that the regulation would be relevant only to the private sector.

Even if the Bill does bind the Crown, we then have the curious position whereby, as an instrumentality of the Crown, the authority would, in fact, inspect the property of the Crown and make a report. If the Minister gave any directions—and the Minister is entitled to give directions under the Bill—then they are to be disclosed in an annual report to the Parliament. It is rather a curious position when one arm of the Crown polices what another arm of the Crown does, and the other arm of the Crown has a capacity to give directions to the inspecting arm of the Crown.

It is really a curious provision, and for that reason I do not believe that it is appropriate to support the Bill. We do not need this statutory authority. Adequate expertise is available in the Engineering and Water Supply Department to monitor dam safety. A concern about a need for some other regulating authority is a reflection on the Engineering and Water Supply Department engineers and staff. If that is being suggested as a deficiency, that is a matter of concern, but that will not be remedied by setting up another statutory body with an additional body of regulatory bureaucrats involved in inspecting dams from time to time.

I think that this requirement in South Australia is irrelevant. I do not believe that the same situation exists as may apply in other countries overseas, where dams may in fact be built by private enterprise and be vested in private enterprise rather than in governments or government authorities. In those circumstances there may well be a need for an independent inspecting authority, but that need does not exist in South Australia. Therefore, I oppose the Bill.

The Hon. M.B. CAMERON (Leader of the Opposition): I wish to speak only briefly on this matter. I fully support the views expressed by the Hons Mr Griffin, Mr Dunn and Mr Milne. It seems to me to be totally unnecessary to set up another statutory authority. While the cost has been estimated at $180 000, knowing the propensity of such authorities to grow at the speed of light, I have no doubt that before it even starts the cost will have risen to $250 000. I think a speaker said that about 100 dams would be affected by this Bill—perhaps even fewer than that. On that figure, the cost involved would be $2 500 per dam per year.

Therefore, the cost really starts to become rather ridiculous, and who will pay it? I would bet that before very long a cost recovery program would be implemented, with every landholder near and far being asked for an amount of money as a cost recovery on something that was unnecessary in the first place. Inspectors would be trotting all over the Hills checking everyone's dams, asking for a fee, saying 'That will be $2 500 please.'

As the Hon. Mr Griffin pointed out, even if the amendment was passed that would not really mean anything, because one authority is answerable to the Crown, and the Crown is then bound. It becomes an in-house thing and there would be nothing to prevent the Government from saying, 'We won't worry about it, and you are not to take any action on our dams.' I suggest that the best thing to do with this Bill would be to reject it at this stage before wasting any further time of the Council.

The Hon. G.L. BRUCE secured the adjournment of the debate.

AUSTRALIA ACTS (REQUEST) BILL

Adjourned debate in Committee (resumed on motion).
(Continued from page 1170.)

Clause 2—'Request for Commonwealth legislation.'

The Hon. K.T. GRIFFIN: Probably this is the appropriate place to raise a number of questions, so I propose to do that now, Mr Chairman, with your concurrence. I appreciated the response that the Attorney-General was able to give in respect of the questions that I raised during the second reading debate. I appreciate that this is a difficult matter. In the short time in which it has really been before the Parliament it has not been easy to get responses from a variety of people on the matter. I do not profess to be an expert on this. It is important, because it is such a fundamental matter, that there be as much opportunity as possible to have the matter fully examined by those who know more about this area of the law than I do.

The first I saw of a draft Bill or even this Bill was when this Bill was introduced into the Parliament. While the Attorney-General is correct in saying that the matter has been around for a number of years, the fact is that the drafting really only started a year or two ago.

The Premiers Conference of June 1982 only dealt with some principles. There were still some areas which were unresolved. Obviously, as the years have passed since then all Governments have been able to resolve outstanding questions. I appreciate that, and I understand that the Federal Labor Government did consult with the Federal Opposition. Whilst I do not want to criticise the State Government, in a sense it is a pity that there was not at least some draft of the Bill available to the Opposition at a much earlier stage with a view to trying to resolve outstanding questions. However, that was not to be and I know that there is some anxiety to get the Bill through.

I hope that we can put a few matters on the record now by way of question and answer. A couple of areas in the second reading explanation are not clear. For example, there is a reference in the Bill to the letters patent currently being drafted. The present letters patent were promulgated in 1900, and amended in 1934 and again in 1938.

But, the present letters patent to constitute the office of Governor deal with a number of matters: including composition of the Executive Council; the quorum of the Executive Council; power of the Governor to constitute and appoint all judges, commissioners, justices of the peace and other necessary officers and Ministers of State as may be lawfully constituted or appointed by the Queen; the granting of a pardon; the removal from office or suspension from the exercise of office of any person who has been appointed under any commission or warrant; and the summoning, proroguing or dissolving of any legislative body.

There is provison for publication of the Governor's commission, which appoints the Governor, and then for provision for the Governor to take the oath of allegiance. In the Governor's instructions there is authority in the Governor to administer certain oaths, to preside at meetings of Executive Council, to be guided by the advice of Executive Council and also, specifically dealing with pardoning or reprieving any offender, it says in this instance in capital cases only 'with the advice of Executive Council'.

I would like to know what sorts of things will be covered by the letters patent and what will be the procedure for developing the letters patent. What level of consultation will be undertaken with all parliamentary parties on the

content of the letters patent, recognising that of course the letters patent are not coming before Parliament for debate, so there will be no opportunity for the Parliament as such to debate the contents of letters patent?

The Hon. C.J. SUMNER: The proposal at present is to have the new letters patent prepared and promulgated prior to the final enactment of the United Kingdom Bill such as to come into effect at the same time as the rest of the legislative package, which is in effect the United Kingdom Bill. The process of preparation of the letters patent will proceed from now on with consultation between the States by way of Solicitors-General and Attorneys-General. The new letters patent will, in general terms, contain a repeal of the earlier ones. The constitution of an Executive Council shall be chosen by the Governor.

The Hon. K.T. Griffin: Executive Council can be chosen by the Governor?

The Hon. C.J. SUMNER: Yes. That is the situation now, in theory. Convention is that he takes the advice of the person who has the majority in the Lower House and who is to be Premier, but in constitutional terms the appointment, as I understand, at the present time is made by the Governor. I do not think that this will constitute any change. These are broad outlines of things currently being considered as part of the new letters patent. It will provide for oath or affirmation of allegiance with respect to the Governor. It will provide for an Acting Governor and will provide that the Governor in Council can amend the letters patent from time to time. It will provide that letters patent and any further letters patent relating to office of Governor shall be published in the *Government Gazette.*

It is basically dealing with those sorts of arrangements. The honourable member has asked what consultations will there be with representatives of other political Parties in South Australia. I have no objection to the honourable member representing the Liberal Party, or anybody else, to be in touch with the Solicitor-General or me about the content of those letters patent during the period of drafting.

The Hon. K.T. GRIFFIN: Whoever is in office, I think that the position ought to be with the letters patent that there ought to be at least consultation with all political Parties. That will ensure that there can be no political objection to any aspect of the letters patent. It presumes, of course, that all will agree with the terms in the letters patent, but I suggest that that will not be a particularly difficult matter to agree.

It would facilitate agreement if there was that consultation. The Attorney-General has mentioned amendment of the letters patent. Could he enunciate the mechanism for amendment of the letters patent that will be promulgated just prior to the proclamation of the Australia Act and the Australia Request and Consent Act?

The Hon. C.J. SUMNER: The proposition is that the Governor in Council in South Australia would amend the letters patent and then seek the approval of the monarch to those amendments. The amendments would be published in the *Government Gazette.*

The Hon. K.T. GRIFFIN: So, in fact, there still will be involvement of the monarch in the amendment of the letters patent, even after this residual constitutional links package comes into effect?

The Hon. C.J. SUMNER: I am not sure about that. The rough draft that we have before us at the present time refers only to the Governor in Council altering or revoking any letters patent. The question is whether or not it goes any further than that, namely, whether the Governor in Council can amend the letters patent in a State without reference to the monarch, but I suppose that, as the letters patent emanate from the monarch, there might be some argument that the monarch should approve the letters patent. On the other hand, it equally could be argued that, as she has delegated all her authority with respect to South Australia to the Governor in Council, it is sufficient for the Governor in Council to amend the letters patent.

The Hon. K.T. GRIFFIN: Whilst on the letters patent, there is a provision in the second reading explanation which relates to subclause 7 (2) of one of the schedules, but I think it is still relevant in the context of the letters patent, and it provides:

> It is not in any way intended to preclude delegation by the Governor in accordance with the letters patent or the laws of the State, nor to preclude legislation by a State Parliament affecting the future exercise of any such power or function.

Does that mean that the State is empowered by legislation of the State Parliament to then amend the letters patent, or to vary any of the powers and functions exercised by the Governor?

The Hon. C.J. SUMNER: I would think that that is the situation. I do not see that, once you have given the Parliament the supreme legislative authority, you can then curtail the authority of the Parliament by reference to some overriding power that the monarch or the Governor might have. Clearly, as far as South Australia is concerned, the Governor and the monarch could be subject to the powers of the South Australian Parliament.

The Hon. K.T. GRIFFIN: How is that to be effected? Is that then to be done by an Act of the State Parliament requiring a simple majority in each House, or is it to be by way of Bill which requires a constitutional majority, or is it by way of a Bill that has to be concurred in by the other States and the Commonwealth? I refer particularly to clause 7 of the schedules which are relevant to this particular exercise of power.

The Hon. C.J. SUMNER: I think that clause 7 merely refers to the powers of the Governor in so far as it says that Her Majesty's representative shall be the Governor and the powers and functions of Her Majesty in respect of the State are exercisable only by the Governor except with respect to the power to appoint and terminate the appointment of the Governor, in which case that is something that the sovereign (the monarch) would exercise on the advice of the Premier of the State.

With respect to any other powers of the Governor, if they are in the Constitution Act and subject to any manner and form provisions in that Act, then they would have to be gone through to alter the powers of the Governor, although I do not believe that any of them are affected by manner and form provisions of the Constitution Act. If the Parliament wishes to alter the powers of the Governor that could be done by the Parliament, as it is supreme.

The Hon. K.T. GRIFFIN: If that is the case, I am concerned that the powers and functions of the Governor can be amended in that way. I do not suppose that there is anything I can do about it now. Certainly, in government, when this goes through, we would want to give serious consideration to entrenching certain provisions in the State Constitution that would prevent amendment of those powers and functions without at least an absolute majority of both Houses.

If it is just by a simple majority, as the Attorney-General is suggesting, it really gives a Government considerable power where it has a majority in both Houses, or at least the power to pressure the Upper House to concur in amendments of the Governor's power. These may be amendments to reserve powers or some other powers. I express my concern about that, if that is, in fact, a correct interpretation of the effect of this legislation.

In his second reading speech and in his reply the Attorney referred to imperial honours, indicating that some drafting was occurring in the United Kingdom to ensure that States have the right to recommend imperial honours if they so wish. The letters that the Attorney tabled refer to the principle

but not the detail. In the letter from Mr Parker Q.C., the Solicitor-General for Western Australia, to Sir Anthony Ackland, in the British Foreign and Commonwealth Office, Mr Parker says:

> With respect to imperial honours the Governments of the States have been pleased to hear through Sir Geoffrey [Yeend] and Dr Griffith [Commonwealth Solicitor-General] of the full cooperation and assurances they received in London. We understand from the Prime Minister that Her Majesty has asked for appropriate amendments to be prepared to the Statutes of the orders, in some cases the warrants to enable recommendations to be made direct to the Queen by the Premiers. This of course has the complete support of the States and fully satisfies our concerns in this respect.

Is the Attorney able to indicate any of the detail of the changes proposed and whether or not there is to be any further consultation with the States about the appropriate form of drafting? If there is to be consultation with the States, will the drafting be available publicly prior to the implementation of the scheme?

The Hon. C.J. SUMNER: I understand that all the Statutes relating to imperial honours have been sent to the appropriate protocol sections in the various States. They are going to put all this material together and work out what alterations are necessary to the Statutes in order to accommodate the new situation whereby advice is provided direct by the Premier to the Sovereign with respect to imperial honours for those States that wish to continue this quite outmoded colonial practice.

The Hon. K.T. GRIFFIN: Notwithstanding the Attorney-General's last comment, there are many Australians who regard imperial honours as significant because they are conferred directly by the monarch.

The Hon. C.J. Sumner: So are the Australian ones.

The Hon. K.T. GRIFFIN: No, they are not. Will the proposed amendments allow any Government to make recommendations as it sees fit, or is there a provision that will enable a Government to prevent a future Government from making awards? Is the option to recommend imperial honours something which continues until the United Kingdom Acts are amended at some time in the future, or is there a mechanism by which a Government may say on behalf of the State of South Australia, that it does not wish to recommend the conferring of imperial honours and thereafter no more shall be conferred?

The Hon. C.J. SUMNER: The situation has been agreed and enshrined in correspondence that I have kindly tabled for the information of honourable members, namely, that the government of the day would be able to recommend imperial honours to Her Majesty the Queen if it felt that this outmoded colonial practice had any validity in the context of modern day Australia.

The Hon. Frank Blevins interjecting:

The Hon. C.J. SUMNER: I will not go into the reasons honours are granted. The only way that there could be a permanent prohibition on advice being given to the monarch on imperial honours would be if legislation were passed by Parliament prohibiting the awarding of imperial honours or prohibiting the Government from recommending imperial honours to the monarch. However, in the absence of legislation, the actions of one Government would not be able to bind its successors in respect of this topic.

The agreement is (and this was debated when the agreement was put together) that those Governments that wish to recommend imperial honours to the sovereign should be free to continue to do so. There was some suggestion that those States that wished to could include in their Bills the prohibition on imperial honours, but in the end that was not proceeded with. Clearly, it would be open to any future Parliament to prohibit imperial honours, but I do not believe it is open to one Government to indicate that in the future no imperial honours should be granted. Even if a Government purported to do that, I doubt that it would be binding on its successor.

The Hon. K.T. GRIFFIN: I refer now to the provisions of our Constitution Act, particularly the reservation provisions under sections 8 and 10a, which require that certain Bills to amend the Constitution Act must be reserved for the signification of Her Majesty and are not to be assented to by the Governor. In one instance, that provision is entrenched. I understand from what the Attorney-General has said that the United Kingdom legislation seeks to put in place permanently the office of Governor and to remove any provision in State law that purports to require any reserve power being exercised by the Queen.

Does that then mean that where our Constitution Act provides for reservation for the signification of the Queen, that provision will remain but instead of the Queen exercising that power the Governor will exercise it? It is a circuitous provision and I would like to have on the record exactly what will happen with those provisions under sections 8 and 10a of our Constitution Act.

The Hon. C.J. SUMNER: It is intended that the Governor will exercise those powers that were specifically reserved for Her Majesty under the current Constitution Act on the basis that clause 7 (2) of the proposed United Kingdom Act provides that all the powers and functions of Her Majesty in respect of a State are exercisable only by the Governor of a State. The combined effect of the Bill is that the Governor can exercise the powers that are currently given to the monarch under the South Australian Constitution Act.

The Hon. K.T. GRIFFIN: I take it that, rather than amending the State Constitution, the Bill provides a roundabout way of eliminating the reservation, because in practice the Bill will be reserved for the Queen's assent and immediately the Governor in Council will assent on her behalf. Is that how it will work?

The Hon. C.J. SUMNER: That is the position.

The Hon. K.T. GRIFFIN: In replying to the second reading debate, the Attorney-General, in answer to the point I raised about section 478 (6) of the Merchant Shipping Act, said that the provisions of clause 3 of the schedule—whereby the Colonial Laws Validity Act will have no application to the laws of the State after the enactment of this legislation—will enable appropriate action to be taken.

Remembering that this provision of the Merchant Shipping Act requires any matter involving a British ship having been dealt with by a State Marine Court of Inquiry then to go on appeal to the Privy Council that would in fact remain in the law of South Australia after the passing of all the various bits of the package. What does the Attorney-General then see as the appropriate action to which he has referred in the answer?

The Hon. C.J. SUMNER: That has not been finally determined, but the State Parliament will then be able to legislate to deal with whatever residual rights may exist. Because there will be no fetter on the South Australian Parliament's capacity to legislate by virtue of the Colonial Laws Validity Act, there will be no difficulty dealing with any of those outstanding questions.

The Hon. K.T. GRIFFIN: So, after the package is passed, until the State Parliament deals with that question, any incident involving a British ship will be considered by a State Court of Marine Inquiry and there will continue to be an appeal to the High Court until the State Parliament legislates to remove that right?

The Hon. C.J. SUMNER: Yes, that is the position, until the State acts to remove it—which it will be able to do once this Bill is passed.

The Hon. K.T. GRIFFIN: Are there any other circumstances where that sort of provision will apply in relation to appeals to imperial courts?

The Hon. C.J. SUMNER: We were aware of this particular one as a result of the research of the Chairman of the Law Reform Committee in an article that I understand he wrote in the *Australian Law Journal.* However, we are not aware of any other examples of such a right to appeal to a United Kingdom court.

The Hon. K.T. GRIFFIN: The only other point that I want to make relates to the basis on which this clause relies. Section 51 (xxxviii) of the Australian Constitution provides that the Federal Parliament will have power to make laws for the peace, order and good government of the Commonwealth with respect to the exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia.

I presume that this clause, relying on that part of the Federal Constitution, is inserted only because some Governments would regard it as the effective way of breaking residual constitutional links, while others believe that the imperial legislation is the only effective way to achieve the severing of those residual constitutional links.

I have never believed that section 51 (xxxviii) of the Federal Constitution has been an appropriate basis upon which to rely for this exercise. Can the Attorney-General identify whether that is the reason for this? If it is, can the Attorney identify the States and/or the Commonwealth which required that to be inserted in this legislation?

The Hon. C.J. SUMNER: Some States felt that the internal solution—that is using section 51 (xxxviii)—was appropriate and valid; other States felt that it would not be sufficient to achieve the purposes set out in the Bill. For that reason, the States and the Commonwealth agreed to do it by both methods: that is, by request to the United Kingdom Parliament and by a section 51 (xxxviii) exercise. Different States had different views on the efficacy of both those solutions.

The Hon. K.T. GRIFFIN: That exhausts the questions that I have on that particular clause. There may well be some other matters that I would like to raise in relation to that clause when we deal with the first schedule.

Clause passed.

Clause 3—'Request and consent to United Kingdom legislation.'

The Hon. K.T. GRIFFIN: During the second reading debate, I raised the question as to why it was the Parliaments and the Governments of the State who made the request and consented to the enactment by the Parliament of the United Kingdom of an Act in the form of the second schedule. Is the Attorney-General able to give a definition of 'Government'. How does the Attorney-General propose that, in the case of South Australia, the Government (however he defines it) will make its request and give its consent?

The Hon. C.J. SUMNER: The Government is the Government. I do not think I can answer it any other way. I am not sure what the honourable member is referring to.

The Hon. K.T. Griffin: It is not defined, is it?

The Hon. C.J. SUMNER: No, it is not defined anywhere, but it is not that it was included; the word 'Government' was, in fact, included in the recent Bill that was passed relating to fixed terms of Parliament, and it was not defined there, either. However, we are picking up the terms of the Statute of Westminster, and it is not defined there, either.

If it is good enough for the mother of Parliaments not to define it in the Statute of Westminster, I suppose it is good enough for us. Without wishing to be flippant, the Government would at least be the Cabinet and, at most, the Governor in Executive Council. I suppose, as a matter of safety, one would ensure that the Governor in Executive Council makes the request.

Clause passed.

Clause 4 passed.

First schedule.

The Hon. K.T. GRIFFIN: I refer to clause 7 of the schedule. Earlier the Attorney-General indicated that he believed that the provisions relating to the powers and functions of the Governor could be amended by an ordinary Act of Parliament. In respect of clause 7 (2) of the schedule, will the Attorney identify how the powers and functions of Her Majesty in respect of the State are to be identified, and whether they can in fact be amended by State legislation?

The Hon. C.J. SUMNER: As they are identified at present, if ever there was a dispute as to the exercise of those powers and functions they would have to be identified by the courts, because to some extent they depend on conventions, reserved powers. In an exercise undertaken recently at the Australian Constitutional Convention we attempted to define some of the conventions of the Constitution. As I recall, some of those related to the powers of the Governor-General. In the system that we have inherited from the United Kingdom, many powers and functions of the head of State rely on imperial law, customary law, and convention. That remains the situation.

If ever there was any dispute about them, I suppose that they would need to be resolved by the courts, if that is the course of action open at present. There is nothing in this legislation in this regard that alters the powers and functions of Her Majesty as they exist at the moment. All it does is to ensure that those powers and functions are exercised on her behalf in South Australia presumably by the Governor in Executive Council, on the advice of the Government of the day.

I have indicated to the honourable member that I thought that the powers and functions of Her Majesty as exercisable by the Governor could be altered by the State Parliament. I would think that that position is consistent with what we are attempting to do with this legislation, although it has now been pointed out to me by Mr Kleinig that clause 15 of the schedule refers to the procedure whereby this Act as passed by the United Kingdom Parliament and the Australian Parliament, cannot be amended without the concurrence of the Parliaments of all the States, and in the manner set out in clause 15.

I am not sure that that would necessarily mean that the powers and functions of Her Majesty could not be altered by an Act of the Parliament of the State because it may be that implicit in clause 7 (2) are the powers and functions of Her Majesty for the time being in force.

There is some query whether those powers and functions can be amended by ordinary legislation of the State Parliament or whether the manner and form provisions of clause 15 would apply also to the powers and functions of Her Majesty, being exercised by the Government in the State of South Australia. However, my personal view is that it would be consistent with the structure of this package for the Parliament of the State to be able to deal with the powers and functions of Her Majesty as they are exercised by the Governor with respect to the State of South Australia. But I concede that clause 15 may offer some support to the alternative view.

The Hon. K.T. GRIFFIN: As I indicated earlier, if there is not adequate protection for the powers and functions of Her Majesty in respect of this State I would certainly want us to look at it at some time in the future to ensure that amendments cannot be made just by a simple majority of each Parliament because that would place under threat the whole office of Governor, not in terms of the establishment of the office but in terms of the powers and functions. If it is possible for the Parliament to strip the Governor of powers and functions yet retain the office, it seems a dangerous and undesirable course. So, I merely put on the

record that if the latter point made by the Attorney-General is not the position—that is, that there is not an adequate safeguard provided by clause 15 of the schedule—I would want to ensure that the Parliament, in the next Parliament, comes to terms with that and enunciates an effective piece of legislation to give adequate protection to the present powers and functions of Her Majesty as exercised by the Governor.

The Hon. R.C. DeGaris: Can you do that outside clause 15?

The Hon. K.T. GRIFFIN: If the Attorney-General is right on his first statement—that it is subject to amendment by the State—yes, one can do it without following clause 15, but if he is wrong, there is no need to worry about any further protections for the powers and functions of Her Majesty.

The Hon. Diana Laidlaw interjecting:

The Hon. K.T. GRIFFIN: I am just saying that there is an area of doubt about it.

The Hon. C.J. SUMNER: I will undertake to refer the matter to the Solicitor-General and let the honourable member have a report in the House of Assembly, if that is satisfactory to him.

The Hon. K.T. GRIFFIN: I am prepared to accept from the Attorney-General that an answer will be provided in the other place on that matter.

The Hon. R.C. DeGARIS: I ask whether at some future date one can, if necessary, change outside clause 15. That clause provides:

That this Act or the Statute of Westminister 1931 must be passed at the request or with the concurrence of the Parliaments of all the States.

The Hon. K.T. GRIFFIN: That was the point on which I tried to seek clarification, in so far as it relates to powers and functions of the Governor. One cannot get rid of the office of Governor unless it is by Commonwealth legislation with the support of all State Parliaments, so that the office of Governor is there unless one gets Governments across Australia all of the one political persuasion and all of whom get support of all Houses of Parliament to abolish the office of Governor. That is how I interpret it, but in so far as powers and functions of Her Majesty in respect of the State which are exercisable by the Governor are concerned, there are two possibilities to which the Attorney-General has referred: one is that they cannot be amended unless they are amended in accordance with clause 15. On the other hand, they can be amended, in which case an ordinary Act of a State Parliament will suffice. That is the area of doubt. The Attorney-General has indicated that he will get an answer as to his and his officers' view for consideration in the House of Assembly.

Clause 8 relates to disallowance and a reference to the operation of an Act being suspended pending the signification of Her Majesty's pleasure. It does not actually address the question of reservation before it becomes an Act of Parliament. The provisions of our Constitution Act do not envisage the Governor assenting and then referring it to the Queen for confirmation, but rather a declining by the Governor to assent and reserving it for the Queen. I wonder whether or not I am interpreting clause 8 correctly or have I missed something? Reservation is not addressed; disallowance and suspension pending signification at Her Majesty's pleasure are addressed. Is there an omission there in that it does not deal with the question of reservation, as such?

The Hon. C.J. SUMNER: I am not sure whether the honourable member is referring to the question of reservation. If he is, it is dealt with in clause 9(2), which provides:

No law or instrument shall be of any force or effect in so far as it purports to require the reservation of any Bill for an Act of a State for the signification of Her Majesty's pleasure thereon.

That answers the question.

First schedule passed.

Second schedule.

The Hon. K.T. GRIFFIN: Clause 16 deals with the State of New South Wales. I have undertaken my own research in relation to clauses 13 and 14 dealing with the Constitution Acts of Queensland and Western Australia, but I would like to know why subclause (3) of clause 16 is in the Bill.

The Hon. C.J. SUMNER: Clause 16 (3) is peculiar to the New South Wales situation. It deals with the position where a money Bill can be assented to by bypassing the Legislative Council, as I understand it. Without that provision in the Bill there may have been some argument that the Parliament of a State (which would normally be comprised of the House of Assembly and the Legislative Council) could, in some circumstances, such as in New South Wales, pass a money Bill through only one House of that Parliament under the Constitution Act of New South Wales. That would be a valid passage of the Bill as the Parliament for the purposes of that Bill is, in fact, one House.

The Hon. K.T. GRIFFIN: The next matter was raised with me by Professor Alex Castles, who has a range of questions on the Bill and its schedules. He pointed out to me that the University of Adelaide is the beneficiary of Letters Patent issued by Queen Victoria. Those Letters provide for recognition of Adelaide University degrees in the United Kingdom. What will be the status of those Letters Patent after this package comes into operation? This is an interesting question, the answer to which will have an important effect on the University of Adelaide.

The Hon. C.J. SUMNER: As I understand it, there is no problem with that. These are Letters Patent issued by Her Majesty in respect of a university in South Australia. As I understand it from what the honourable member has said, they give recognition to Adelaide University degrees in the United Kingdom.

I would have thought that, unless some other action is taken, they remain in force. I dare say that is a United Kingdom matter. I do not believe that that situation is affected by this legislation but, if it is to be affected, it would have to be the subject of discussions with the monarch. If the monarch chooses to issue those sorts of letters patent to a university in South Australia, as she has done, they still would be in place. It is probable that any future such letters patent perhaps would have to be done in a different way. I am not sure what the technicalities are relating to that. In future perhaps they would have to be done by the State Governor exercising the monarch's powers in South Australia.

In summary, those letters patent still would remain in existence; they are not altered by this legislation, but any future letters patent would be promulgated by the Governor in Executive Council. Clearly, we could not promulgate letters patent in South Australia purporting to affect what may happen in another country.

The Hon. K.T. GRIFFIN: Are there any other letters patent which have been issued by the monarch in the United Kingdom and which have any application to South Australia or to South Australian corporations?

The Hon. C.J. SUMNER: Not to the knowledge of the Attorney-General's advisers.

Second schedule passed.

Preamble and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 11.30 p.m. the Council adjourned until Thursday 10 October at 2.15 p.m.