LEGISLATIVE COUNCIL

Wednesday 21 November 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

WILPENA STATION TOURIST FACILITY BILL

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That the sittings of the Council be not suspended during continuation of the conference on the Bill.

Motion carried.

QUESTIONS

NATIONAL CRIME AUTHORITY

The Hon. R.I. LUCAS: My question is to the Attorney-General. Since his ministerial statement to the Council on 5 April this year, which detailed progress to date on NCA investigations in South Australia, has the Government received any further code-named reports from the NCA and, if so, will the Attorney-General indicate the areas of investigation covered by those reports and whether he intends to make those reports, or any sections of them, public?

The Hon. C.J. SUMNER: I do not think that any further reports have been received, but I will check with the Chief Executive Officer of the department to see whether any have been forwarded. It is common knowledge that, for more than 12 months, the NCA has been concentrating on one particular avenue of inquiry, namely, the allegations made in the Masters report on *Page One* on Channel 10, which were referred to also on the ABC's *7.30 Report* in December 1989, the original Masters' allegations having been made in October 1988. Obviously, when that particular avenue of inquiry has been concluded, presumably other reports will be provided to the Government.

OPERATION ARK

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about Operation Ark.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday in another place the Minister of Emergency Services was asked about the revelation in the Stewart Operation Ark report that, of 56 persons identified by the NCA to the South Australian Government on 24 November 1988 for further investigation of alleged involvement in criminal activities including bribery and corruption, 25 were serving officers. The Minister was asked to indicate how many of those officers were still under investigation and whether any of them had been transferred to other duties pending completion of these investigations. In his reply, the Minister did not provide the information sought and handballed the issue to the Attorney-General. He would say only that 'in so far as the NCA reports to the State Government at all on its operations, it reports to the Attorney-General.'

I ask the Attorney-General: in view of the reply given yesterday by the Minister of Emergency Services, can he now reveal how many of the 25 serving police officers identified to the South Australian Government for further investigation by the NCA on 24 November 1988 are still under investigation and, of those officers, how many, if any, have been transferred to other duties pending completion of these investigations?

The Hon. C.J. SUMNER: I cannot answer that question any further at this stage beyond what was contained in the ministerial statement and accompanying documents that I provided to the Council in April this year, and as I recollect it a number of those matters referred to inquiries involving police officers. It should be borne in mind that just because a person's name appears on a list it does not mean that they are guilty of any wrongdoing at all.

The suggestion that every police officer about whom an allegation is made should be asked to stand aside is clearly not a tenable proposition, just as it was absurd for the Opposition to suggest that I should stand aside when the scurrilous allegations were made about me. The stupidity of that is even more brought home by the fact that I would have been standing aside for some 18 months while these matters were examined, and the position would be even more silly seeing that the allegations, in part, arose from the Liberal Party in the first place.

So, just because there are names on a list that does not mean that the officers should necessarily have to stand aside. I provided information in my ministerial statement in April. That was an up-to-date statement at the time. It included reference to a number of inquiries that the NCA was conducting under its South Australian reference. As I said, since that time the authority has been concentrating on one particular matter, namely, the Channel 10 *Page One* Masters' allegations of October 1988 which were repeated in part on Channel 2's *7.30 Report* in December 1989—which themselves involved allegations that police officers were being compromised by being blackmailed by brothel keepers and, therefore, were not being sufficiently diligent in their pursuit of corruption.

Members will recall that one of those officers was specifically named on the *7.30 Report* as former Police Commissioner J.B. Giles. The clear implication of the *7.30 Report* was that Police Commissioner Giles had an improper, if not corrupt, relationship with a brothel keeper. So, allegations relating to police officers are obviously a part of that inquiry as well as the allegation that public officials, politicians and lawyers were involved in this particular practice of blackmail which was alleged by Mr Chris Masters in the Channel 10 *Page One* story. As to the specific questions, I can only examine them to see whether any further information can be provided.

OUTBACK TOURISM

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about outback tourism.

Leave granted.

The Hon. DIANA LAIDLAW: I have received a letter sent to the Minister on 8 November by the management committee of the Flinders Ranges and Outback of South Australia Regional Tourist Association. The committee expresses 'extreme concern' about a proposal by tourism operators in Coober Pedy to establish their own regional tourist association. The letter alleges that Tourism South Australia has played an active role in undermining their organisation, without any clear indication of whether such a move will prove to be of any benefit to the industry in the area.

They also argue that a new association will undermine the Government's policy adopted some three years ago to

reduce the number of regional tourism areas in South Australia, thus allowing the limited funds available for tourism promotion to be used more efficiently and effectively. The management committee notes:

> There now appears to be a great deal of confusion concerning the role of the Regional Manager for the Flinders Ranges and Outback area, and the role of our Marketing Officer that has just been appointed.
>
> We now have the ridiculous situation of having two marketing officers working in the same area, one responsible for both areas and the other apparently responsible for one.

I understand that the proposal to form a separate association is to be debated at the first annual general meeting of outback operators on 29 November, and the Minister will be addressing that annual general meeting. Also, since the formation of the separate Outback Tourist Association was endorsed at a public meeting in April, the interim committee has been busy in gaining sponsorship from various companies to produce maps, motivational brochures and marketing campaigns to be launched next year. Therefore, my questions to the Minister, arising from the concerns amongst tourism operators throughout the whole of the region, are as follows:

1. Is it the Government's policy to retain or to increase the current number of regional tourist associations?

2. If the Outback Tourist Association is formally established at a meeting on 28 November, will Tourism South Australia be providing the funds that the association has sought toward establishment costs (I understand that is some $5 000) and to assist with the funding for motivational brochures (some $18 000)?

3. If so, will these funds be coming from the existing limit of funds for regional tourist operations this financial year—the overall basket of funds—thereby depriving all regional tourist associations in South Australia of some funds already earmarked for the Flinders Ranges and Outback of South Australia Regional Tourist Association—because they would not be covering such a broad area—or from a new source of funds?

The Hon. BARBARA WIESE: My view about the formation of regional tourist associations is that, to the extent possible, we ought to restrict the number but have an organisation of regional tourist associations that meets the needs of industry members in the various localities of the State. As the honourable member would be aware, in the mid-1980s a review into regional tourism in South Australia recommended a reduction in regions from 12, as then existed, to six. There was considerable resistance to that move from some sectors of the industry. However, over time there was an acceptance of the idea that this plan should be tried, with in fact the six regions, in some cases with subregions, which reflected the old structure, being set in place.

Since that time the regional associations have become much stronger than they were previously. Members of the industry have started to work together in a much more cooperative and productive way than was the case, certainly when I first became Minister of Tourism, some five years ago, and at various times regional tourist associations and groups of people within the industry come forward with ideas about ways in which they feel variations should take place in the way they operate and which would, in their view, be in their interests as operators and those of the industry as a whole.

I have taken the view over the past two or three years that we ought to take a reasonably flexible approach to this issue because not every part of the State is alike and not all groups of operators in various regions have exactly the same level of sophistication or resources at their disposal to do the things that they wish to promote the industry in their regions. So, there are opportunities for us to vary what seemed in the mid 1980s to be a blueprint for organisation, so that we can accommodate the differences that exist in various parts of the State.

For example, it was proposed at one stage that we should provide in one particular region not staff but financial resources for marketing purposes so that they would be able to recruit their own staff and use a Tourism South Australia subsidy for marketing purposes. In other areas, they prefer to have staff rather than marketing funds. In recent times, it has become very clear that operators in the outback region of the State, for a range of reasons, feel that their interests are not best served by being associated in a formal way with the operators in the Flinders region.

The operators met and decided that they wanted to pursue the idea of forming their own outback association. As I understand it, there was overwhelming agreement to that move by the vast majority of operators in the outback region, and an approach was made to me some months ago about this matter. I explored the options with the people concerned and discussed with them particularly the question of resources. I do not want to see Tourism South Australia resources dissipated or used—

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: —or other regions being disadvantaged by what might be termed by some as breakaway groups. So, we discussed this issue. I was informed by the proponents of this proposal that they expected to be able to raise sufficient money to employ their own marketing officer on a consultancy basis without financial support from Tourism South Australia. They believed that, by attracting sponsorship and other activities, they would be able to pursue promotion of the outback in a more effective way than they felt the existing structure was able to do for them.

I respect the views of people in the industry in these matters. The group putting forward these ideas certainly seemed to have some strong views about their capacity to help themselves, which is, of course, what we are attempting to encourage. The Government should not be here to run the business of tourism operators: we are here to support but not to take over the role.

This proposal has gained momentum and, as the honourable member indicates, there will be a meeting next week when the Outback Tourist Association is likely to get under way. As I understand it, some members of the outback association have retained their membership of the Flinders association and, as I understand it also, the people who are sponsoring this proposal for the separation of the two associations believe that there ought to be close contact and that the two regions should continue to work together where appropriate in promoting tourism. I strongly support that move and I will encourage it.

Tourism South Australia will provide a seeding grant, if I can call it that, of $5 000 to assist the Outback Association in its establishment costs, such as preparing a constitution and other matters. As to any future funding, that matter will have to be discussed at a later time. I do not want to see other regions disadvantaged as a result of the formation of this association but, if this association is able to achieve the level of sponsorship and the increased commitment of the operators in the region that it expects will follow its formation, I will be surprised if a large commitment of resources will be requested by that association.

It should be borne in mind that the promotion of outback tourism has changed a great deal since the regional review in the mid-1980s. The Stuart Highway has been sealed, a wide range of new tourism products have been developed

and circumstances have changed. It may very well be that the plans of the outback operators will mean that the outback will be better promoted. If they continue to work closely with the Flinders operators, the interests of the tourism industry in this State as a whole will benefit.

DISTINGUISHED VISITOR

The PRESIDENT: Order! I acknowledge the presence in the gallery of Congressman Jim Sensenbrenner, his wife Cheryl and their two sons, who are visiting South Australia. We wish them a pleasant visit.

HONORIFICS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Local Government a question on the subject of honorifics.

Leave granted.

The Hon. CAROLYN PICKLES: This morning, the new Editor-in-Chief of the *News* (Mr Tony Baker) was interviewed on Keith Conlon's program on ABC radio. He talked about the paper's new policy, which he has instituted, of banning the honorific 'Ms' for women. He has decreed that every woman named in the paper must be titled according to her marital status, that is, Miss or Mrs. In today's editorial, Mr Baker (or should I call him Master Baker) said that the word 'Ms' is contrived and offensive to the ear, while at the same time saying that one of the glories of the English language is the way in which it changes. As the Minister is often quoted in that newspaper, what is her reaction to this measure?

The Hon. ANNE LEVY: My attention has been drawn to this change, instituted by the new Editor of the *News*. Today's *News* carries an article regarding a speech I made at a launch, and my name is mentioned four times, each time with the honorific 'Miss'. I also had my attention drawn to the editorial by Master Baker. The Editor spoke a great deal about the beautiful language of the Bible in the version authorised by King James. I assure him that I use the honorific 'Master' in the sense used by Shakespeare, and he can check *A Midsummer Night's Dream* if he wishes. I am sure that he would approve of the tradition of language used by that master of the English language, William Shakespeare.

The word 'Ms' was introduced a number of years ago as a way of indicating gender without indicating marital status, in the same way as 'Miss' and 'Mrs' indicate marital status. In this respect 'Ms' is equivalent to 'Mr', which indicates gender but not marital status. I point out that neither 'Ms' nor 'Mrs' is adequate for indicating my marital status. As a widow, to call me 'Mrs' would be inaccurate. 'Mrs Levy' certainly would indicate that I was, or had been, married to a 'Mr Levy' which is not the case. 'Miss' would also be inaccurate in indicating my marital status, as I have been married, and 'Miss' indicates that the particular individual has never been married, if one is using the traditional use of the word 'Mrs' and 'Miss'. So, to call me either 'Mrs Levy' or 'Miss Levy' is inaccurate in indicating my marital status.

However, I think the important point is that 'Ms' is now an accepted English word. It appears in dictionaries. I have the definition of 'Ms' as it appears in the *Macquarie Dictionary*, which is used as a standard by many newspapers in this country, which defines the title 'Ms' as:

A title prefixed to the name of a woman, used to avoid reference to marital status.

The *Collins Australian Dictionary*, also used by many sections of the media in this country, defines 'Ms' as:

A title used for both married and unmarried women; the feminine of Mr.

I suggest that the *News* will now be the only newspaper in Australia, perhaps in the rest of the English speaking world, that does not allow a choice of the three honorifics for women, all of which appear in the dictionary, that is, 'Mrs', 'Miss' or 'Ms'.

I am sure many people would have noticed when filling out forms, whether they be forms for the public sector or the private sector, that they have the choice of indicating whether they prefer the honorific 'Mrs', 'Miss' or 'Ms'. Certainly, the State Government allows women the choice of which of the three honorifics they wish to be known. I cannot understand why Master Baker is playing the autocrat and denying women this choice, which is available in many areas in both the public and private sector.

Just for the record, I certainly prefer the honorific title 'Ms'. I guess the *News* could compromise in my case and call me 'Minister Levy' whenever they wished to refer to me. However, that hardly helps the vast number of women in this country who are often named in the *News*. I cannot understand why they should be autocratically denied the right of their choice between the three standard female honorifics which are found in the best dictionaries. They should be able to choose for themselves. In the future I certainly hope that Master Baker does not hypocritically express great concerns for freedom for the individual.

GLENELG TRAM SERVICE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Transport, a question relating to the Glenelg tram service.

Leave granted.

The Hon. I. GILFILLAN: The Glenelg tram first came into operation in 1873, and has become a recognisable part of the character of Adelaide, used extensively by thousands of ordinary people every week. It is the sole remaining tramline in service in this city, but is in desperate need of upgrading. When the Bannon Government first came to power in 1982, it gave an undertaking to refurbish existing rolling stock used on the line and to undertake other mechanical and electrical modifications.

At the time, the Government pledged to refurbish seven tramcars per year, but, to date, only four cars have been completed in eight years and only two of the four refurbished cars are in regular service. Although there is an undisputed heritage value to retaining the old and much loved tramcars, the bigger issue is the updating of rolling stock to provide a move efficient and usable service to the public. The current rolling stock is at least 60 years old and refurbishment costs per car run to approximately $250 000. The life expectancy per refurbished vehicle is only eight to 10 years and therefore the value of such a program must be questioned.

A study undertaken by the State branch of the Australian Electric Traction Association has recommended that new rolling stock be purchased for regular daily operation, while retaining several heritage vehicles for preservation and operation on special occasions. The report states that new rolling stock could be purchased on a cost-effective basis through a production program currently under way in Melbourne, thereby avoiding the tooling-up costs associated with starting a new program in this State. The purchase of new rolling

stock would ensure a more cost-effective maintenance program, longer life for cars than can be expected from the refurbishment of old cars, lower operating costs and a much more efficient service capable of carrying significantly more passengers in quicker time.

The report makes two significant recommendations for the future of the tram service: it calls on the Government to undertake an extension of the line, first, to Adelaide Railway Station, with an additional stop at the King William/Currie Street corner and, secondly, a further extension taking the line to North Adelaide. I ask the Minister:

1. What happened to the Government's election promise of 1982 to refurbish seven tramcars per year?

2. With the current situation of new tramcar production in Melbourne offering the most propitious circumstances for South Australia, will the Minister now consider purchasing new rolling stock as recommended by the prestigious Australian Electric Traction Association?

3. What is the Government's long-term plan for the Glenelg tram service and will it consider extending the line to Adelaide Railway Station and then on to North Adelaide?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

STATE LIBRARY

The Hon. J.C. IRWIN: Will the Minister of Local Government inform the Council of the arrangements that the Government proposes for the administration of the State Library following its decision to abolish the Department of Local Government? Will she explain why the State Librarian has been transferred to the position of Director of State Records and Information Policy in the Department of State Services? Will she give an assurance and a guarantee that a criterion for any new senior appointment to the State Library will have the appropriate librarian qualifications?

The Hon. ANNE LEVY: It has already been indicated that the State Library on North Terrace will become part of the Department for the Arts or that there will be an amalgamation between that section of the old Department of Local Government and the Department for the Arts when the Department of Local Government is abolished. Obviously, the administration of the State Library will be arranged as part of its new home with the Department for the Arts.

The State Librarian, Euan Miller, was not transferred to the Department of State Services. As is well known, there was a transfer of the old Public Records Office to be part of State Services, where it is now known as State Records. Mr Miller was available and wished to take the newly created position of Director of Public Records and Information Policy, which was created at the time of the transfer of the Public Records Office to become State Records.

The role of State Records will be considerably enhanced compared with the previous role of the Public Records Office. Whilst State Records will, of course, have the archival role which the Public Records Office had, in addition it will have responsibility for the general management of Government records not only in the Public Records Office but in Government agencies. The importance of this is evident when one thinks of the legislation that will soon be introduced regarding freedom of information. The proper management of Government records will be extremely important in the light of the freedom of information legislation in terms of storage, ready retrieval and so on.

Mr Miller has accepted this position, and I am sure that he will make a most significant contribution to the control and management of Government records in his new position. I have congratulated him most heartily on his new appointment—which he has not fully taken up at this stage. At the moment, he is dividing his time between the State Library and State Records and will finally transfer on a full-time basis to his new position in early December.

In terms of the State Library, the proper procedure will be followed to appoint a replacement for Mr Miller. I am sure that the normal and appropriate procedures set out in the GME Act will be followed in appointing Mr Miller's replacement to the State Library on North Terrace.

The Hon. J.C. IRWIN: As a supplementary question: under the GME Act, will the person appointed to the position of State Librarian have appropriate librarian qualifications?

The Hon. ANNE LEVY: The procedure for appointment to any position in the Public Service is set out in the GME Act. I am quite sure that, when a new State Librarian is appointed, the proper procedures will be followed. I will not be involved in the appointment of a replacement for Mr Miller—that is not a position in which ministerial involvement occurs at all, but the proper procedures will be followed through. If it is deemed necessary to have librarian qualifications, I am sure that will be evident in the advertisement for the position. If it is not, that will be the decision of the people responsible for appointing Mr Miller's replacement. I assure members that I will undertake to speak to those people who will be concerned with the appointment to ensure that the proper procedures for the replacement of Mr Miller are followed most meticulously.

COORONG

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Agriculture, a question about water diversions to the Coorong.

Leave granted.

The Hon. M.J. ELLIOTT: This question might also need to be referred to the Minister for Environment and Planning. There are two problems: one in the Coorong and one in the lands adjacent. They are unrelated, but some solutions to these problems are being offered at the moment. The Coorong itself is in a great deal of ecological strife because natural surface water flows that used to flow into the southern end of it have been diverted via drains direct to the sea, and the Murray River which used to periodically flood is now so controlled that very little fresh water comes into the Coorong compared with what historically occurred.

The Coorong has a number of species of plants which evolved to tolerate both hyper and hypo saline conditions. The fish—the famous Coorong mullet—and much of the bird life are very dependent on that particular environment. Also, problems in the nearby farmlands are being created by the rising watertable which has been caused by the removal of trees, and this rising watertable is bringing salt to the surface. Already a significant amount of land is being lost to salinisation. It is a process that is expected to accelerate and will lose tens of thousands, and eventually hundreds of thousands, of hectares of land to salt early in the next century if we are not careful.

I am aware that there is a proposal at this stage to dig interception drains that will intercept the watertable and carry water through what used to be wetlands, fill those again, and then eventually into the southern end of the Coorong. The proposal as outlined to me offers two benefits: first, it may protect farmland; and, secondly, if the waters

are controlled we may be able to mimic the natural conditions that occurred in the Coorong in terms of the variability of salinity. My questions are:

1. Has either the Minister of Agriculture or the Minister for Environment and Planning been involved at this stage in any discussions about this proposal?

2. What is the Government's view at this stage about this proposal?

The Hon. BARBARA WIESE: I will refer those questions to my colleague in another place and bring back a reply.

HOUSING TRUST

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the Minister of Housing and Construction a question about the South Australian Housing Trust.

Leave granted.

The Hon. J.F. STEFANI: The South Australian Housing Trust has recently circulated its financial report for the year ended 30 June 1990, and this report shows an operating deficit of $11.5 million. In addition, the trust was forced to reverse its previously declared profit of $4.871 million because the sale of its administrative premises had fallen through, and the paper profits appearing in its 1988-89 financial report have not eventuated. Amongst its major cost increases the trust has listed an increase of $6.2 million in management expenses. The total amount of management expenses for 1990 is shown as $61.587 million, of which $40.8 million has been identified as management expenses described as salaries and related costs such as payroll tax, long services leave, annual leave, staff superannuation, workers compensation and other provisions. In its accounts the trust has also created a provision of $10.557 million to meet the known workers compensation claims to be settled, as well as an unknown amount for unreported claims as at balance date. My questions are:

1. Will the Minister provide a full breakdown of the $6.2 million increase in management expenses?

2. How many employees who sustained injury prior to 30 June 1990 have since lodged claims for compensation?

3. Will the Minister provide a full breakdown of the personal injury claims that are expected to cost $10.5 million?

4. How many common law liability claims are still outstanding resulting from workers compensation claims?

5. Will the Minister make the Price Waterhouse review available to Parliament as three months ago it was indicated that such review was in its final stages?

The Hon. BARBARA WIESE: I will refer those questions to my colleague in another place and bring back a reply.

CHILDREN'S SERVICES OFFICE

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Children's Services, a question about the Children's Services Office.

Leave granted.

The Hon. BERNICE PFITZNER: A submission has been sent or is about to be sent to the Government Agency Review Group from the Children's Services Office. The CSO coordinates all types of early childhood services, such as preschool or kindergarten services and child-care services. There are certain areas of interest in the report that I would like to raise and then follow up with some relevant questions.

First, I refer to the overlap and duplication of State and Commonwealth Governments in the areas of family day care since 1975 (that is, a child being looked after in a family situation), long day care centres since 1983 (that is, child-care centres), occasional care services and out-of-school hours care/vacation care. The fragmented state of these services causes delay and confusion for the community—mostly for young parents who, in the main, are the users of these services. It is suggested that a collocation of staff for the State office of the Commonwealth Department of Community Services and Health and the Children's Services Office would be rational and efficient.

Secondly, it is suggested that there are some early childhood services that have goals and activities similar to those undertaken by the Children's Services Office and that perhaps a rationalisation across these services would be opportune. Some suggested strategies for rationalisation are: an amalgamation with the Child, Adolescent and Family Health Service (CAFHS), which is under the umbrella of the South Australian Health Commission and which involves children in the 0-12 year age group in the area of health, education and welfare; integration with the Remote and Isolated Children's Exercise (RICE), which is under the umbrella of the Education Department and which was established in 1976 in Port Augusta to assist families with small children in the Outback of South Australia; the integration with the administrative section of the child-parent centre, which is very similar to the Children's Services Office kindergartens; and the relocation of resources of the Intellectually Disabled Services Council (IDSC), the early childhood intervention section.

Thirdly, a rationalisation and increased efficiency of assessment and early intervention services for children with special needs is urgently called for. Effort will be needed to coordinate parts of the Children's Services Office special services, the Child, Adolescent and Family Health Service special services and the Intellectually Disabled Early Childhood intervention section into an integrated plan for a comprehensive assessment unit. At present these services are reported to be conflicting and confusing, and they are providing duplication and conflicting advice and are lacking an acceptance of responsibility. My questions are:

1. Will the State Government accept and initiate the collocation of the State and Commonwealth Government staff in the areas of overlap and duplication? Will there be an attempt to describe the roles and functions of these collocated staff in order to identify possible further duplication?

2. Will the Government investigate further the amalgamation and integration of these similar early childhood services, or will it go into the 'too hard' basket?

3. Will the Government set a high priority to rationalise and integrate early childhood assessment and intervention services so that parents with possibly disabled children will be able to seek a more satisfactory assessment procedure resulting in a more appropriate outcome for their child?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

FITNESS CLUBS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about the failure of fitness clubs.

Leave granted.

The Hon. L.H. DAVIS: My attention has been drawn to the fact that in the past 18 months seven gymnasiums/fitness clubs/health clubs—call them what you will—have failed. Furthermore, I understand that some of these fitness clubs have been the subject of investigation in other States and have been subject to business failure in other States, and that the Minister of Recreation and Sport, if not the Minister of Consumer Affairs, was warned some time ago—in fact, in 1989—by representatives of the Fitness Industry Association in South Australia of the risk of financial loss to clients of these fitness groups.

The most recent failure has been SMB Gymnasium, at 29 Hindley Street, which closed its door without warning last month. SMB, I understand, stands for Skeletal Muscle Building. Other groups that have failed in recent times include Nautilus and Atlantis. Far from enhancing muscular skeletal appearance, it is quite obvious that hundreds of people have had the fitness of their financial affairs severely depleted. Whereas in New South Wales and Victoria life memberships in health clubs are prohibited, I understand, by legislation, it is still possible to entice consumers to take out life memberships in clubs such as Nautilus and Atlantis. In fact, my information is that some of these groups were procuring life memberships the day before they closed. Certainly, SMB Gymnasium in Hindley Street was recruiting life members for the payment of $100, although, of course, a monthly maintenance fee was associated with that.

The Nautilus group went bankrupt a few months ago, with hundreds of people out of pocket. Nautilus had advertised, for example, back in March 1989 that Nautilus and Lady Nautilus were releasing a strictly limited number of life memberships at only $595. It was described as a once in a lifetime chance to become a full life member at Adelaide's premier health and fitness centre. This was 'once in a lifetime' because Nautilus has now folded. However, the interesting thing was that, although the Nautilus group folded, and presumably Lady Nautilus with it, Lady's Choice still operates. Lady's Choice is in the same premises, using the same equipment and the same staff as Lady Nautilus. So, Lady's Choice in fact, for all purposes, appears to be related closely to Lady Nautilus. In fact, Mr Robert Ward, who was a director of Lady Nautilus, is also a director of Lady's Choice.

The same is true of the Atlantis group, which operated three centres in Glenelg, Largs Bay and Plympton Park. That group closed in the early months of 1990. The Atlantis Centre, for example, was in the process of refurbishing premises at Largs Bay, was soliciting memberships for that operation, but it never opened. So, quite clearly it has been a problem. A lot of people have been left lamenting, notwithstanding the fact that a warning has been given to the Government by the Fitness Industry Association of South Australia. My questions to the Minister are:

1. Is the Minister aware of the warnings given by the Fitness Industry Association of the rip-offs associated with some of the less scrupulous operators in the industry?

2. What action, if any, was taken by the Department of Public and Consumer Affairs to limit these rip-offs?

3. Is the Minister aware that as a result of these failures it has damaged reputable health clubs, gyms and fitness centres which have been operating for some time in South Australia?

The Hon. BARBARA WIESE: I am certainly very aware of some of the problems that have existed in the health and fitness industry. In fact, as the honourable member would know if he had followed media reports, some months ago I indicated publicly that, as a result of numerous complaints to the Commissioner of Consumer Affairs concerning health and fitness organisations in South Australia, work was being undertaken with the industry in the preparation of a code of practice for the industry, to overcome some of the poor business conduct that exists in some parts of the industry.

Considerable progress has been made during the past few months in the preparation of such a code of conduct and, in fact, once there is final agreement on it, it will become a mandatory code. The reputable members of the industry fully support this move, although I understand that one of the reasons why the matter has not been finalised is that some late issues have been drawn to the attention of the Department of Public and Consumer Affairs which, in the meantime, are being negotiated.

I am not able to comment specifically on all the matters or companies to which the honourable member has referred. However, there is something that I am able to say about Nautilus, namely, that when that company failed the Department of Public and Consumer Affairs was very active in making alternative arrangements for those people who had membership of that organisation. Alternative arrangements were made with other companies for all the people who were involved. So, as I understand it, their membership rights have been taken up and carried on with other firms.

As to Lady Nautilus, my information is that that company was separate from the Olney company, which was the principal of Nautilus, and therefore should not be associated with it. In brief, the matter is in hand, and I certainly hope that it will not be very long before this code of conduct can be put in place and the less reputable parts of the industry either lift their standards or get out.

PASTORAL RENTAL

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Lands a question about pastoral rental.

Leave granted.

The Hon. PETER DUNN: Ten days ago, at a meeting in the Whyalla area of the Pastoral Board and some pastoralists, an attendant from the Valuer-General's Department was present. At that meeting questions were raised as to how the rentals were being set in the pastoral industry today and, after some discussion and argument, one of the officers—in fact, the Chairman of the board—said that the pastoralists need not worry about it because they would not understand it. I find that highly insulting, but I can recall, when the Pastoral Bill went through this Council, the long debate and argument as to how we arrive at a rental for pastoralists. The Hon. Mike Elliott had a point of view, we had a point of view and the Government had a point of view. However, nobody seems to know what point of view is being used today.

The Government says that it involves a fair market rental, but we are informed that that was based on two subleases, one of which, I understand now, did not even come out of the pastoral industry. In fact, the sublease was not in the pastoral industry but in perpetual lease country, the other being in the pastoral industry. However, one of those lessees has subsequently become bankrupt so, if that was taken into account in the establishment of the sublease, some further questions need to be asked. Will the Minister explain to this Council exactly how pastoral leases are set and how they are arrived at?

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

SCHOOL TEACHERS

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

That this Council condemns the State Government's announced intention to dramatically reduce the number of teachers in South Australian public schools.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

COUNTRY RAIL SERVICES

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council—

1. Deplores the decision by the Commonwealth Minister for Land Transport to close South Australia's regional rail passenger services by the end of the year;

2. Believes the decision to be in breach of section 7 and section 9 of the Rail Transfer Agreement 1975;

3. Seeks clarification from the Commonwealth Government about the fate of our regional rail freight services;

4. Calls on the State Government—

(a) to employ all possible legal avenues to ensure South Australia is not reduced to being the only mainland State without regional rail services; and

(b) to investigate and confirm the long term options for ensuring regional and rural areas of South Australia have access to efficient and effective passenger and freight transportation services in the future.

When the Railways (Transfer Agreement) Bill was debated in this Parliament in June 1975, the Liberal Party rejected outright the deal reached between the Whitlam Federal and Dunstan State Labor Governments to sell South Australia's regional railway system. The then Leader of the Opposition, (Hon. Bruce Eastick) in the other place, said on 11 June 1975:

I accept that in the short term there may be a benefit to our economy, but I stress that it is only in the immediate short term. When the overall ramifications are considered, the loss to South Australia of administration and control of our country rail services will be of the gravest proportions.

Other speakers echoed similar sentiments. For instance, the member for Mitcham, Mr Millhouse, now Justice Millhouse, said:

. . . there is no reason whatever to think that merely because the railways or any other activity is handed over to the Commonwealth Government things will be better. All it will mean is that we will no longer be able effectively to influence what happens. We will lose control. I admit that it is hard enough now to control and influence what happens with the railways, but it will be one step harder in future.

At that time, Dr Eastick challenged the Dunstan Government to put the issue of the sale of our country railways to the test—to call an early election. The challenge was accepted. As members would recall, the Liberal Party won the majority of votes in the July 1975 election, but failed to win Government.

Today, some 15 years later, the Liberal Party's misgivings and warnings have proven to be sound forecasts. Today it gives Liberal members of this Parliament no pleasure now to say to the Government, 'I told you so'. Yet it is a fact that, in exchange for a 'lump of gold', figuratively speaking, the then Dunstan State Government negotiated an agreement that at first glance looked attractive, but in practice has proven to be a toothless tiger. The so-called safeguards built into the agreement have proven to be illusory because the agreement did not spell out long term issues or contain any legal sanctions. The agreement has proven to be a politically expedient arrangement with short-term financial benefits only for the State.

Thus, some 15 years later, we are now confronted with a statement issued by the Commonwealth Minister for Land Transport last Thursday that all our non-metropolitan rail services will be closed by the end of the year—some six weeks away. The services to be closed are the Bluebird to Mount Gambier, the Silver City to Peterborough and Broken Hill, and the Iron Triangle to Port Pirie, Port Augusta and Whyalla.

This is a deplorable situation. It is a situation that will leave South Australia as the only mainland State without intrastate or regional passenger services. It is a situation that will force more buses and cars onto our roads without any account being taken of road safety or environment considerations. It is a situation that ignores the repercussions of the Federal Government's decision, as outlined in the August budget papers, to cut road funds to the State over the next three years. It is a situation that breaches sections 7 and 9 of the schedule of the Railways Transfer Agreement, which provide:

7. The non-metropolitan railways shall be operated, on and after the commencement date, in accordance with standards in all respects at least equal to those obtaining at the date of this agreement, and the commission will pursue a program of improvements which it considers to be economically desirable to ensure standards of service and facilities at least equivalent, in general, to those at any time current in respect of the remainder of the Australian National Railways and the railways of States other than South Australia.

9. (1) The Australian Minister will obtain the prior agreement of the State Minister to—

(a) any proposal for the closure of a railway line of the non-metropolitan railways; or

(b) the reduction in the level of effectively demanded services on the non-metropolitan railways,

and failing agreement on any of these matters the dispute shall be determined by arbitration.

(2) The arbitrator shall, in addition to the factors referred to in subclause (2) of clause 23, take into account the level of public demand and the need for the railway line and services referred to in subclause (1) of this clause.

The provisions of sections 7 and 9 of the Railways Transfer Agreement are unambiguous and unqualified. The agreement contains specific requirements that the people of South Australia have a right to expect would be honoured. Yet it is now clear that the Federal Government has not honoured the terms of the agreement. It is clear also that the State Government has not insisted that the Federal Government honour the terms of the agreement. The State Government has simply stood by mute while the Federal Government has condoned the pursuit of a deliberate policy by Australian National, as the manager and operator of our non-metropolitan railway services, to run down rather than maintain, let alone improve, our rail services. In these circumstances, the very least members should be demanding from the Bannon Government at this time is that the Government employ every possible legal process to ensure that South Australia does not become the only State without non-metropolitan rail services in the future.

Arbitration is one legal course of action provided for in section 9 of the agreement. I understand that Transport Minister Blevins intends to advise the Federal Minister that he seeks arbitration on the Blue Lake service which travels from Adelaide to Mount Gambier. Apparently, advice from Crown Law to the Minister is that the Minister has the right to seek arbitration on the Blue Lake service only. My advice, however, is that the Minister has the right to seek arbitration on the Adelaide-Broken Hill service, at least as far as Cockburn on the New South Wales border, and on the line between Adelaide and Port Pirie. Passenger services were operated on these broad gauge/standard gauge lines by the South Australian Railways prior to the transfer agreement. Therefore, as far as my advice is concerned, they can and should be addressed under the terms of section 9 of the schedule. I therefore believe that the Legislative Council

should be demanding that Minister Blevins seek arbitration in these services also.

In terms of the legal processes, I believe that the Government should also be pursuing action against the Federal Government for breach of the agreement. Section 9 of the schedule states:

> The Australia Minister will obtain the prior agreement of the State Minister to any proposal for the closure of a railway line of the non-metropolitan railways.

From the answer that Minister Blevins gave to a question asked last Thursday in the other place, it is apparent that no prior agreement was sought by the Australian Minister of our State Minister. The Minister of Transport stated in the other place:

> I was notified by the Federal Minister for Land Transport that he would be making this announcement at one o'clock. He did not actually ask for my approval.

The Minister was speaking at 2 o'clock, one hour later. The question of taking action against the Federal Government is not my suggestion alone. Former Premier Don Dunstan, the man responsible for the rail transfer agreement, identified in a radio interview with Keith Conlon on 5AN last Friday:

> We put in the necessary clauses to protect people in South Australia and, of course, a contract of that kind is actionable.

Therefore, I believe at this time that the Bannon Government should be seeking arbitration in respect of not only the Blue Lake service but also the Adelaide to Port Pirie service and the service from Adelaide through Crystal Brook and Peterborough to the NSW border.

In addition, the Bannon Government should seek action against the Federal Government for breach of contract. The fact that the State Government has failed to insist that the Federal Government honour provisions of section 9 (1) *(b)* of the agreement in terms of the reduction as opposed to the closure of services on our non-metropolitan railways, has allowed the Federal Government to believe that it can now ignore South Australia's interests and its obligations under the agreement, and simply close down these lines. I suggest that, if the State Government does not insist on pursuing all available legal processes at this time in relation to the closure of South Australia's regional passenger rail services, we will see in the very near future the closure of almost all our regional rail freight lines and possibly all our interstate passenger lines.

Such a diabolical prospect is not inconceivable: in fact, it may be imminent. I am advised that, at a meeting of the board of Australian National last week, management presented commissioners with a paper recommending the closure of all regional freight lines with the exception of the Angaston-Gawler broad gauge track, which carries limestone and cement. The commissioners rejected the management's recommendations for the moment, more on the basis of a concern about the perceived insensitivity of any such announcement so closely following the Federal Minister's announcement about the closure of regional passenger services. I appreciate the commissioner's sensitivity because the bad publicity that AN is receiving at present may well compromise negotiations with various State Governments to grant AN the right to manage and operate the proposed National Freight Commission. Members will recall a motion I moved in this place a couple of months ago calling on this Parliament to support AN's becoming the headquarters for the National Freight Commission.

Nevertheless, regional freight lines are to be closed by AN in the near future. Branch lines at Paringa, Galga and Peebinga are to be the first to go. In an interview on 5AN news at 7.45 yesterday morning, the Australian National Chairman, Dr Don Williams, stated:

> During recent negotiations well over the last two years, with grain authorities—and I am talking about CBH (Cooperative Bulk Handling), Wheat Board and Barley Board—they have indicated that they no longer want rail to service silos along these lines. Now that being so, if there is no demand for our services and they only really provide services for grain, really we cannot justify retaining the line. So it is a case of a customer saying he does not want the service any more.

Dr Williams identified that the motivation for the proposed closure by AN of regional freight lines is the fact that grain authorities have said they no longer want to transport grain by rail. However, my discussions yesterday with the mangers of the CBH, the Wheat Board and the Barley Board in South Australia identified that Dr Williams' explanation was not correct.

Each board is prepared to use rail and would do so if rail was a cost competitive option. Each board has a legislative responsibility to maximise net returns to growers. So, particularly at this time when grain growers are suffering severe economic hardships, each board is even more conscious of its obligation when calling for freight tenders to accept the most cost-effective grain path. Each board contends, and I believe justifiably so, that, contrary to Dr Williams' remarks yesterday, AN is seeking to close regional rail lines simply because they are not economical, not because, as he would have the public believe, grain boards are not prepared to use the lines. In fact, they would do so if rail was cost effective. Besides being uneconomical, it is also a fact that AN has encouraged this to be so, because over recent years it has refused to maintain any regional lines and there is considerable concern about the safety of taking carriages across those lines.

In recent years, on average only 28.8 per cent of grain has been transported by rail from sites to shipping terminals for export. The rest is transported by road with 45.7 per cent transported direct from the paddock to the terminal, 17.1 per cent transported from the silo to the terminal, with the remainder being for the domestic market. If our regional rail freight lines are closed in the coming year, as AN management has asked the AN commission to consider, an estimated one million additional tonnes of grain will be transported on our road network, with some 40 000 additional tri-axle trucks on our roads east of Spencer Gulf or somewhat less west of Spencer Gulf, where road trains are permitted to operate.

The motion I have moved today deplores the Federal Government's decision to close our regional passenger services. It also seeks clarification about the fate of our regional freight services. The motion calls on the State Government to employ all possible legal avenues to ensure that South Australia is not reduced to being the only mainland State without any regional rail services, passenger and freight (with the possible exception of the Angaston-Gawler freight line). I hope the arguments I have presented will persuade members of the validity of these parts of the motion. The motion also calls for the State Government to investigate and confirm the long-term options for ensuring that regional and rural areas of South Australia have access to efficient and effective passenger and freight transportation services in the future. This is an important consideration.

My fear for some time has been that neither the Federal nor State Government has any clear, logical plan for the integrated operation of non-metropolitan transport services in South Australia. Instead, what we have is AN charged with a charter to operate rail services and with authority to make decisions in blessed isolation, without any consideration for the consequences or ramifications of those decisions. AN is operating within a confined framework of what it deems to be its best interests. However, a decision taken by AN, in AN's best interests, is not necessarily a decision

in our State's best interests in the short or long term, or in the best interests of regional and rural communities.

This problem of coordination and integration is further emphasised by a decision a couple of years ago by the grain boards to accept tenders for the transportation of grain from silos to terminals on Yorke Peninsula by road and not rail as in the past. Certainly, the tender decision was in the best interests of the respective boards acting in the best interests of grain farmers. But the increased volume of heavy grain vehicles on our roads is cutting up our rural arterial roads, and is proving to be a massive headache for local councils and other road users.

The royal commission into grain storage, handling and transport addressed this very problem in its report of a couple of years ago recommending greater competition be encouraged in the provision of land transport for grain. Recommendation 3.7 of that royal commission report provides:

That schemes be developed in each State to target specific local roads for additional funding.

Recommendation 3.8 of the report provides:

That as an interim measure the Commonwealth Government contribute specific funds jointly with State Governments to road targetting schemes to cover additional road damage arising from implementation of the commission's recommendations.

What has happened since the royal commission took a comprehensive overview perspective of the issue of grain storage, handling and transport is that the Commonwealth Government has selectively accepted the recommendations. It has accepted the recommendations to encourage greater competition in the provision of land transport for grain, but has refused to act, as has the South Australian Government, on the recommendations to contribute additional funds to cover additional road damage arising from the greater volume of grain trucks on our roads. In fact, rather than increase such funds, funds have been cut.

A further issue related to coordination of transport modes, is the fact that the Federal Government is proposing to introduce a mass/distance charge on heavy vehicles. The imposition of such a charge will increase the cost of transporting grain by road, a cost that has been increased further by rises in petrol prices since the Iraqi crisis and may be increased again if Federal Environment Minister Ros Kelly gets her way. Such increases may see rail become a more competitive option for grain authorities in future, especially if rail pursues cost/productivity reforms as has been recommended by numerous reports over numerous years. But the rail option may not be available in the future if AN not only closes freight lines but dismantles tracks as it is doing at present throughout the mid north area.

All the above examples highlight the need in this country and State for a coordinating body or framework to promote discussion, consultation and decision making between Federal, State and local Government and between the various authorities charged with responsibility for our various transport modes. But as we have seen with the recent decisions by the Federal Government in relation to passenger rail services, we do not even have the benefit of decisions being taken jointly by the Federal and State Government. That is so, even though an agreement is in place, which was debated some 15 years ago by members of Parliament both in this State and federally.

Surely in a State as vast as South Australia, subject to the tyranny of distance, it makes little sense for the Federal, State and Local Governments to be operating in isolation, and for rail and road to be operating in isolation. What we need to do is to make each sector as efficient as possible and to make both sectors complementary for total national and State efficiency in our transport sector. The last part of my motion addresses these issues by calling on the State Government to investigate and confirm the long-term options for ensuring regional and rural areas of South Australia have access to efficient and effective passenger and freight transportation services in the future, an option which such areas have not enjoyed in the past and do not now enjoy. However, as we move towards the year 2000 they should be entitled to enjoy that option. At the very least, they should be entitled to enjoy an efficient and effective transport service operating as a coordinated and integrated network. I commend the motion to members.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

Mr D. SKINNER

The Hon. L.H. DAVIS: I move:

That the President convey the resolution of this Council passed on Wednesday 14 November 1990, concerning the seizure by the Commonwealth Development Bank of the stock and plant of Mr Deryck Skinner, proprietor of the Terowie General Store, to the General Manager of the Commonwealth Development Bank.

Motion carried.

SELECT COMMITTEE ON CHILD PROTECTION POLICIES, PRACTICES AND PROCEDURES IN SOUTH AUSTRALIA

The Hon. CAROLYN PICKLES: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 20 February 1991.

Motion carried.

SELECT COMMITTEE ON THE REDEVELOPMENT OF THE MARINELAND COMPLEX AND RELATED MATTERS

The Hon. ANNE LEVY (Minister of Local Government): I move:

That the time for bringing up the report of the select committee be extended until Wednesday 20 February 1991.

Motion carried.

SELECT COMMITTEE ON THE CIRCUMSTANCES RELATED TO THE STIRLING COUNCIL PERTAINING TO AND ARISING FROM THE ASH WEDNESDAY 1980 BUSHFIRES AND RELATED MATTERS

The Hon. ANNE LEVY (Minister of Local Government): I move:

That the time for bringing up the report of the select committee be extended until Wednesday 20 February 1991.

Motion carried.

SELECT COMMITTEE ON THE PENAL SYSTEM IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 20 February 1991.

Motion carried.

SELECT COMMITTEE ON RAIL SERVICES IN SOUTH AUSTRALIA

The Hon. R.R. ROBERTS: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 20 February 1991.

Motion carried.

SCHOOL TEACHERS

Adjourned debate on motion of Hon. M.J. ELLIOTT (resumed on motion):

That this Council condemns the State Government's announced intention to dramatically reduce the number of teachers in South Australian public schools.

(Continued from page 2046.)

The Hon. M.J. ELLIOTT: I move this motion with utmost seriousness. The people administering education in South Australia are either, to put it politely, manipulators of the truth, or incompetent and ignorant as to how our education system works. The decision to axe 795 teachers from South Australian schools is indefensible on the grounds of equity and educational standards. The reasons given by the Government are demonstrably false. The Government knows this to be the case, yet it has set out on a campaign of misinformation. Immediately the decision was taken, three outcomes were certain: subjects would be lost from some schools, class sizes would increase significantly and 'extras' such as work experience, sports competitions, counselling, etc. would be threatened.

On Friday 6 October 1989, just prior to the State election, the Government and the Institute of Teachers signed an historic curriculum guarantee. The guarantee was to last for four years. In November 1990, after being re-elected with that guarantee as part of its platform of promises, the Government broke its side of the bargain by announcing that 795 teaching positions were to be axed for the 1991 school year.

Education Minister Crafter wrote a letter, which was faxed to schools for distribution to children to take home to their parents, which purported to explain that the decision was taken to ensure that South Australian students were given an excellent and affordable education. That was a blatant piece of Party propaganda, nothing more, nothing less. What an interesting notion—excellent and affordable! It has been put to me: does the Government also think that our hospital system would function better if we got rid of 2 000 nurses and that our streets would be safer if hundreds of police jobs went?

It appears that, by asking schools to send out his letter, the Minister has breached administrative instructions issued by his Director-General. Section 71.6.2 of the Administrative Instructions and Guidelines reads:

On occasions, material has been sent to parents via their children, which has been biased towards particular political or industrial causes. Under no circumstances should material of this kind be forwarded to parents via children.

Mr Crafter tells parents in the letter that as a result of the cuts, class sizes will increase by one or two and that teachers will spend more time in the classroom. Many schools have refused to distribute the letter, not because of the instructions from the Director-General but because they have recognised it for the propoganda stunt that it is. Other schools have sent out an extra page explaining to parents exactly what the cuts will mean for their school. One such letter was sent to parents by the Principal of the Renmark High School, a school in which I taught for six years. The letter states:

Cabinet's decision cuts 5.7 salaries from our staffing for 1991. The total reduction from this year to next year will be 7.9 salaries—nearly one fifth of our present staff.

Such a loss must have a significant impact on our school. The late timing of the decision alone means that the preparation of the timetable for next year will be disrupted. Much work already done will have to be done again.

In the junior school, the most obvious effect will be bigger classes. Instead of 6 English or maths classes for a level, there wil be only five classes—each with three, or four or five more students. Some classes in practical subjects will have to increase by two or three students, which may mean that students will have to wait in line for access to equipment.

In the senior school, it is likely that some subjects will disappear from the timetable altogether. We pride ourselves on the range of subjects we offer, but just becasue we have provided a broad range of subjects to cater for different needs and abilities, we do not have four or five classes of the same senior subject which can be amalgamated when teachers are removed. Take out a teacher at senior level and you take out a subject.

We cannot yet say which subjects and which classes will be affected . . . but cuts of this magnitude must have an impact.

That is the reality of the cuts. I believe that, in the Riverland, 12 per cent of teaching positions have been abolished. The truth behind the Government's axing of 795 teaching jobs is not, as Mr Crafter would have us believe, only a matter of one or two more students per class and more time in classrooms for teachers. Along with the teachers, 120 full-time assistants will lose their jobs—the victims of the new staffing formula. So, schools will have less teachers attempting to teach roughly the same number of subjects to the same number of students with less preparation and marking time and less assistance. I cannot agree with Mr Crafter that these measures will ensure an excellent and affordable education service for our children.

The curriculum guarantee says that schools will be staffed so that, on average, no class need be greater than 25 students at the year 11 and 12 level. In Renmark next year, year 11 students will face up to maths classes of 35 students, an accounting class of 37 students and physics and biology classes of 30 students. The Government has trotted out various bureaucrats over the past week in an effort to convince the public that one or two extra kids in a class does not matter and that every child, parent and teacher who thinks otherwise is wrong. The selectively quoted findings of one of its own 'experts' conveniently backs up the Government line that class size does not make a difference. Perhaps it does not when the outcomes of schooling are considered to be adequate measured by pen on paper tests alone. Quality of education, however, and quality of learning certainly is compromised by larger classes.

In Queensland, Professor W. J. Campbell measured 'on task' behaviour of students in classes of various sizes. He found a variation from 75.5 per cent on-task time in classes of 21 to 67.5 per cent in classes of 31 or 32. Over the whole year, such variations in time are significant, representing 24 school days lost. Professor Campbell claimed that in small classes less time was spent on class administration and management and waiting for the teacher's attention or for materials to be distributed.

The Government cannot tell me, and the parents of students at Renmark High school—and the many other schools that are suffering cuts of the same magnitude—that a student will be just as well off in a class of 37 as in a class of 25. Renmark High School is not the only school having those sorts of problems. The majority of high schools must shed between 2.5 and 9 teachers. In an effort to maintain a wide range of subjects, classes in core subjects, such as maths and English, are having to be increased. In many situations, class sizes will not increase at all, but when they do it will be dramatic because of the way school timetables are organised. If a teacher, and therefore a class or subject, disappears from a particular line in a timetable, it means

the children from that class or subject must be absorbed into the other classes on the line. Where a subject disappears completely, they may be spread through several other subjects. However, if it is a core subject, and therefore compulsory—or if not compulsory, most students are taking it—there will be cases of classes doubling in size as two classes become one.

I will illustrate that point with an example. In a line of subjects, students may have a choice between history, technical studies, art, mathematics and one or two other subjects. We find that subjects such as history are applied for usually by a large number of students and that a smaller number may apply for a maths II or an arts class. When working out staffing levels it may be found that 45 students have applied to do history, 10 to do maths II and perhaps 10 to do art, and lesser numbers for the other subjects. If a teacher is removed from that line, the choice then has to be made whether to abolish the maths II or arts classes, which are smaller classes and hard to sustain when pressure is on staffing, or whether to combine the two history classes into one class of 45.

That example illustrates that, although the formula might be that average classes will increase by one or two students, the reality is that schools will be faced with two choices: either to abolish the subject in a line or to amalgamate two classes in the same subject to produce a monster size class. Many classes hardly change in size at all, some disappear and some become much larger. The experts talk about a minor impact of one or two extra students in a class but that really has nothing to do with the real world and what is going to happen in our schools.

This situation will lead to more teachers taking classes outside their areas of expertise as the school attempts to maintain the range of subjects offered. The Education Department seems to be making it plain that it will take on very few new teachers. Cross-year group classes may also be formed for subjects such as music and art. That is one way of maintaining music and art within the school but, from a teaching point of view, having mixed classes of year levels with different curricula working together is not an ideal way to go: it is not an efficient or a proper way to offer education, particularly at the secondary level.

The problem with that is that the curriculum for years 11 and 12 is different and the larger class that is formed will mean less individual attention for each student. The bottom line in many schools, particularly in rural areas, will be that subjects with marginal class sizes will be lost. I have worked on timetables in the past, and I know the decisions that have to be made. I assure members that subjects such as maths II, physics, and chemistry in smaller country schools will disappear because they have relatively small class sizes. In the past there has even been pressure to axe those subjects because there is so much pressure to do other subjects, with often already very large class sizes.

The *Advertiser* reported yesterday that Campbelltown High School has warned parents that dance, drama, French, German and music may have to be abandoned. At Norwood High School a class for students with less academic ability is to be cut. I presume that that means they will be mainstreamed. From my previous experience as a teacher, I can assure members that mainstreaming for some of the less capable students is not doing them a favour unless they are put into small classes, but the pressure that is being put on guarantees that they will not go into small classes.

The Government's social justice ambitions are being compromised for short-term financial expediency with the revelation from many schools that special programs, such as English as a second language support and remedial classes, are threatened. This is the information being given to parents that the Minister yesterday branded 'blatantly untrue'. I suggest it is time he left his plush office and went out into primary and high school land to find out how they really operate and not only look at the numbers. He may just discover that most teachers and principles are not the conniving, lying people he seems to suggest they are.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Have a look at what he said in the paper this morning. He will find that they, along with the parents he is trying hard to alienate them from, are desperately worried about the effects of the cuts and are doing their best to keep parents informed about the changes to their children's classes and subject choices.

It all makes a mockery of the Premier's promises that were made prior to last year's election. In a press release dated 17 November 1990 the Premier said:

> The Bannon Government's $54 million curriculum guarantee will give all country and city students a guaranteed curriculum for the future . . . Students are guaranteed that in 1990 and beyond, the 1989 curriculum is the absolute minimum offering.

Within one year that promise has been broken, that promise has been shattered. Later that month during a 5CK interview, the Director-General of the Education Department, Ken Boston, spoke about schools on the Eyre Peninsula which have experienced significant drops in enrolment. He said:

> The time has come, we believe, to say enough. Let's rule the bottom line. Let's say that the curriculum offered in 1989 is going to be maintained in all of those schools and that we will maintain the staffing for those schools at a level from now on, where that curriculum can be provided.

Might I add that some of those schools are now even facing closure. Undertakings in the curriculum guarantee on the working conditions of teachers have also been breached. The Government's announcement that teachers will need to spend more time teaching in the classroom has been accompanied by some clever misinformation. The wording of the announcement in the letter to parents suggests that time away from the classroom is not 'teaching' as such.

Surely in the 1990s the Education Department bureaucrats realise that teaching is more than standing in front of a group of students imparting knowledge. The cut in time teachers have away from the classroom means a cut in the time they have to discuss and formulate curriculum and policy with their colleagues, plan and prepare lessons, and mark and review work. Reducing the time available for these tasks is a great way to undermine productivity increases in schools—if such a thing can ever be quantified in such a people-oriented service.

The out-of-class tasks are all now vital and integral components of 'teaching', especially since the curriculum and policy development functions have been handed back to schools by the department. The Government's announcement also makes it appear that teachers have hours of time which they could devote to 'real classroom teaching'.

The reality is vastly different. In most high schools teachers, on average, are responsible for six classes—sometimes more. The new formula will mean they will have four one-hour lessons away from the classroom each week, that is, three-quarters of an hour per class per week. As one principal pointed out to me, more often than not one of those so-called free lessons is taken up relieving in a class where another teacher is absent, so the time per class is reduced to half an hour.

Once again, from my experience, the week when you had only one relieving lesson was something of a luxury—one usually had more. This is because the Government has cut the money available for relieving staff. I know from my

years as a science teacher in high schools that this time is too meagre for all the tasks that need to be done in the absence of students. Many of my free lessons were spent setting up science experiments. It is something that cannot be done before school because, quite frequently, the laboratory has been used several times before it is your turn to use it; in fact, the equipment may have been used. Certainly, you can leave instructions for the assistants, but there are still things you need to be intimately involved with. Also it is worth noting that the number of assistants is about to be axed along with the number of teachers.

More often than not, teachers are also involved in organising and running extra programs, such as work experience, sports competitions—and one school I spoke to will cut its sports involvement in half—music and drama performances, which further reduces the amount of time available at the school for each class. According to the guarantee, teachers in high schools are to have 20 per cent non-instructional time and primary school teachers 12 per cent. The announced cutbacks reduce that level to 15 per cent for teachers with years 8 to 11 classes, 17 per cent for those with year 12 classes and 9.5 per cent for primary teachers.

It is worth adding here that those are average figures: the reality is that many teachers have far less non-contact time than that because they give up some of their free time to free up other members of the staff to do things such as counselling and organising sport or work experience. So, they have already lost a lot of that so-called 'free time' which, as I have already argued, is not 'free time' in any event: teachers have given that up unselfishly so that other things in the school may happen.

Rarely in a high school does a teacher teach only year 12s. The different time allocation may look good in a formula devised by a bureaucrat but it is unworkable in a real world where most teachers taking a year 12 class take a variety of other year levels as well. The curriculum guarantee, an election promise of this Government, has not been broken—it has been shattered.

The question asked in many staffrooms this week has been: why 795 teachers? As a rule of thumb, 20 teaching salaries, plus additional costs such as superannuation, cost the Education Department $1 million a year. If it is accepted that the pay rise awarded to teachers left the education budget $23 million short in a full year—and I do not accept the argument that the department was left that far short, but taking for the moment that assumption—that is only equivalent to about 460 teaching salaries. Why then sack 795 teachers? Why sack the other 335 teachers? Why sack the 120 teacher assistants who go with them? Obviously, it is additional savings for the Government. I offer the explanation that large cuts to the teaching staff of the State had been planned prior to teachers being awarded a pay rise. The pay rise was on the books—although there may have been some argument about what size it was going to be—and I believe the Government already had the cuts planned well in advance.

There can be no other explanation, unless of course the education budget was drawn up by totally incompetent people who had no knowledge of what was happening interstate. Although the Government makes much of the fact that teachers in South Australia now earn more than their counterparts interstate—and that is an historical anomaly which I suggest will not last for long—it is worth noting that it is only $200 a year more than several other States; it is not as though it was an enormous increase outside any reasonable expectation.

The awarding of the pay rise followed similar rulings interstate and was on the books for months until it happened. I find it incredible that the Education Department was not prepared for it. In fact, perhaps the one place where the Education Department really blew things is that the increases interstate had in many cases been negotiated and were being phased in. Because the Education Department in South Australia fought it and it was arbitrated, an element of back pay became involved as well.

It should also be asked where the 795 teachers will be taken from. In a memo to school principals dated 12 November, the Director-General of Education said:

> The reduction in staff will be managed by attrition and no staff will be dismissed as a result of the Government's decision.

The *Advertiser* of 13 November reported that non-performers would be targeted. I am not sure how they can achieve that by next year.

That is very clever, Mr Crafter: one message to schools and another for public consumption. This is a clear example of the divide and foster suspicion school of management tactics. The truth is that mostly contract teachers will lose their positions, and students leaving teachers college will not be offered work. I certainly would not like to be a teaching student this year coming out of college. There will virtually be no jobs waiting.

The Institute of Teachers says that natural attrition accounts for somewhere between 450 and 500 positions a year—well short of the 800 targeted by the Government. For every retiree not replaced, a student or contract teacher is denied a full-time position. They, along with the students, the ancillary staff who will lose their jobs and the remaining teachers are the victims of this massive cut-back at a time when student numbers are either steady or rising slightly.

It should be remembered that during the time of the Bannon Government spending on education has dropped. Under the Tonkin Government education spending was around 30 per cent of the State budget. It is now a little more than 20 per cent. In 1989, primary school enrolments increased by 4 916, but teaching staff dropped by 45. This Government must realise that its attempts to cut back on education are not clever and are certainly not in the best interests of our children and the State.

Mr Crafter and Mr Boston, you cannot continue to treat the children of South Australia in this underhanded fashion. You will not get away with this. I will not let you. The teachers will not let you. Most importantly, the parents will not let you. When the enormity of what the Government has done reaches the public, all hell will break loose, and there will be no sympathy for those who perpetrated the deed. I urge all members to support the motion.

The Hon. R.I. LUCAS secured the adjournment of the debate.

SMOKING BAN

Adjourned debate on motion of Hon. M.J. Elliott:

That this Council:

1. endorses the decision of the Joint Parliamentary Service Committee to prohibit smoking in certain areas under its jurisdiction and calls on all members to abide by the terms and spirit of the decision;
2. declares its support for the long-term introduction of a smoke free environment throughout Parliament House; and
3. prohibits smoking in and about the lobbies, corridors and other common areas of Parliament House under its jurisdiction.

(Continued from 14 November. Page 1805.)

The Hon. CAROLYN PICKLES: I support the motion moved by the Hon. Mr Elliott. Clearly, in recent years the question whether or not smoking should be permitted in

the workplace has been a contentious issue, but it is now very well documented that there is very little support for people smoking in the workplace. I can assure members opposite that Government members will be supporting this motion.

The Hon. R.I. Lucas: What about ministerial cars?

The Hon. CAROLYN PICKLES: I am talking about the workplace, Mr Lucas. I do not want to go into great depth in this debate, but I do want to put on the record some facts about passive smoking. It is a fact that non-smokers sharing space with smokers in cars, pubs, meetings etc, do a significant amount of passive smoking. In addition to discomfort, occasional allergic reactions, and nasal and conjunctival irritation, a small but real health risk appears to be another potential consequence.

In a study of 2 100 workers it was found that the non-smokers chronically exposed to cigarette smoke at their places of work had reduced lung function (small airways dysfunction) compared with non-smokers who did not work close to smokers.

Members interjecting:

The Hon. CAROLYN PICKLES: One thing is for sure, Mr President: there is a lot of hot air in this place.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: In fact, the apparent damage to the passive smokers was similar to the levels of light smokers and smokers who did not inhale. The authors of this study concluded that 'chronic exposure to tobacco smoke in the environment is deleterious to the non-smoker and significantly reduces small-airways function'.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: I will cover that issue in a moment, Mr Lucas. The health risk involved in smoking is one that smokers are prepared to take many times a day. Though the risk of passive smoking may be minor compared with active smoking, it is a risk that many non-smokers wish to avoid. Many non-smokers may well wish to have the choice between breathing clean air and air polluted by tobacco smoke.

I have been a smoker and I have managed to give up twice, but I imagine that my lungs are probably not improved from being a smoker. However, I do think that people who do not wish to smoke should have a choice of having some clean and fresh air in their working environment.

The Hon. L.H. Davis interjecting:

The Hon. CAROLYN PICKLES: If smokers do not believe that their smoking is injurious to them, they are not likely to accept that the smoke from their cigarette is bad for one. They may accept that one does not like it, or that it affects one's asthma, or maybe it gives one a headache. They may also accept that one has a genuine concern for them but they are likely to believe that whether they smoke or not is really none of one's business.

A person's right to smoke is not a simple issue, as the smoke and smell from their smoking may invade the personal territory of non-smokers. You may be in a situation where you can state territories: personal areas, communal areas etc, and whether it is permitted to smoke in these. The smoker will also need a territory in which it is their right to smoke.

The Hon. Peter Dunn: Have you ever smoked, Carolyn?

The Hon. CAROLYN PICKLES: I have just confessed my crime: that I have been a smoker. I have given it up twice and I have seen the light.

The Hon. Mr Lucas referred to the matter of litigation. A working party at the National Health and Medical Research Council (NHMRC) has recently concluded that passive smoking exposure is substantially higher at work than in many other situations. It found a consistent pattern of increase in lung cancer risk in passive smokers and a substantial risk for active smokers. Its report says passive smoking decreases babies' birth weights and increases infant mortality soon after birth.

The report recommends development of regulations or laws to restrict or prohibit smoking within the work environment and enclosed public spaces such as hospitals, restaurants and public transport. The report states:

> An atmosphere free of tobacco smoke should be regarded as the workplace norm. Employers should be reminded of obligations to provide a safe working environment.

At common law an employer is obliged to provide a safe workplace and can be sued for negligence for failing in this respect. What constitutes negligence has changed over the years as courts have faced new situations and attitudes as to what constitutes reasonable care in an industrial situation have shifted. The working conditions of last century may have been acceptable then but would be considered actionable today. Certainly, the courts were prepared to find an employee had 'voluntarily assumed' the risk of certain workplace accidents in situations where they would not today.

However, an employer is not liable for negligence in failing to guard against a workplace risk not recognised as a risk at the time. Before the risks associated with industrial exposure to asbestos became known, employers might say they were adopting acceptable workplace procedures. The report continues:

> After medical evidence emerged linking cancer and other diseases with industrial exposure to asbestos, an employer could not continue to permit an acknowledged dangerous working environment.
>
> An employer permitting passive smoking to continue in a workplace could risk litigation claiming employer negligence. A passive smoker cannot be seen as consenting to run the risk if there is no real choice.
>
> Now the medical evidence is public, an employer who does not take steps to ban workplace smoking or to isolate smokers, runs a real increasing risk of being found negligent regarding smoke-related illnesses.

It is quite clear that the present situation regarding smoking in the environment of Parliament House has become unacceptable to an increasing number of people. For this reason, I support the motion.

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

GLENELG BY-LAW: VEHICLE MOVEMENT

Order of the Day, Private Business, No. 8: Hon. M.S. Feleppa to move:

That the Corporation of the City of Glenelg By-law No. 3 concerning vehicle movement, made on 30 August 1990 and laid on the table of this Council on 4 September 1990, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

GLENELG BY-LAW: STREETS AND PUBLIC PLACES

Order of the Day, Other Business, No. 9: Hon. M.S. Feleppa to move:

That the Corporation of the City of Glenelg By-law No. 4 concerning streets and public places, made on 30 August 1990 and laid on the table of this Council on 4 September 1990, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

COUNCIL AMALGAMATIONS

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

That this Council condemns the Minister of Local Government for the damage she has done to the process of the examination of council amalgamation proposals in South Australia and calls on the Minister to suspend all amalgamation proposals before the Local Government Advisory Commission to allow negotiation with the Local Government Association on a new set of procedures to ensure that decisions relating to local government boundaries are not dictated by the Minister and are subject to parliamentary review.

(Continued from 7 November. Page 1562.)

The Hon. I. GILFILLAN: In speaking briefly to this motion, I indicate that the Democrats oppose it. Our opposition does not mean that the matter is not a serious and vital issue to local government. However, our opposition is principally in the presentation of the motion and in the appropriateness or otherwise of making this a motion on the Notice Paper at this time.

I would be disappointed indeed, and I would be prepared to critcise the Minister, if she did not have sympathy with the underlying call of this motion, which is to review the method of amalgamation proposals and, in general, to have meaningful discussions and negotiations with the Local Government Association. My understanding is that, to a large extent, that has taken place. I am not standing as a defender of the Minister but certainly I do not regard the current situation as justifying a motion of condemnation.

The wording of the motion is unnecessary. With that in mind and recognising the progress that has been made to date (acknowledging that there may have been deficiencies and shortfalls in the past which may occur from time to time and which may be raised in other measures or in questions and statements in this place), the Democrats will oppose the motion, recognising the significance of the matter raised therein but not being prepared to condemn the Minister who we believe has taken some constructive steps, thereby allowing the issue to move towards resolution.

The Hon. J.C. IRWIN: I thank members for their contribution to and consideration of the motion before the Council. I am disappointed that the Democrats have indicated that they will not support it. Nevertheless, I hope that, in a responsible way, I have been able to use the vehicle of a motion to highlight some problems that I see concerning the way in which amalgamation proposals have been handled by the Minister and the Government up until now, and to try to link that to what may happen hereafter.

One needs to recall, and I have mentioned it before, that two motions supporting the independence of the Local Government Advisory Commission have been carried by this Chamber. My motion sought to do two things: first, to reprimand the Minister for damaging the process and independence of the Local Government Advisory Commission; and, secondly, to call for a halt to the amalgamation proposals before the commission until new procedures, including legislative change, are in place. The two are very strongly linked because, if the same style of commission continues under the new processes, however good the new processes may be, there is still potential for political interference. As I have outlined in this debate, that can and will happen.

The commission sent me a copy of the new procedures dated 18 October 1990, which was one day after I moved this motion. I do not see any significance in that, but the date is of some interest because I was not aware of the new procedures when I moved the motion. The procedures closely follow the procedures recommended by the committee of review, except for one important ingredient which I referred to when moving the motion, that the commission remains the same. Why does not the Minister complete the advice given to her by that review committee? In its summary, the review committee stated:

The Local Government Advisory Commission should remain, though there should be some changes to its composition and its location and identity should be separate from that of the Department of Local Government.

The committee supported that recommendation in more detail on page 104 of its report, at point 10.6.5. Under the heading 'Independence of the commission', the report stated:

The committee found some perception within councils and the general community that the Local Government Advisory Commission was not considered to be fully independent of the Government. This view serves to prejudice the confidence in and ultimately the effectiveness of the commission. That view was reinforced by the fact that the offices of the commission were located within the Department of Local Government and that commission staff were officers of that department, accountable to both the department and the commission, and sometimes simultaneously performing duties for both the department and the commission. In one instance, an officer of the department was required to simultaneously be a member of the commission, supervise the work of the secretariat, represent the views of the commission and the Government to councils and the public, and advise the Minister on boundary change matters. These multiple roles do not assist the Commissioner in remaining fully independent, or being seen to be independent of the Government of the day.

Accordingly, the committee recommends that the LGAC should be relocated from the Department of Local Government, that the Department of Local Government nomination on the LGAC should be replaced by a person with extensive experience in local government management and that the secretariat should be solely accountable to the commission, who are accountable through the Chair to the Minister.

It was that Commissioner's advice which was taken by the Minister in relation to Henley and Grange, despite four other Commissioners advising otherwise. I highlighted that matter earlier. However, it is just not a matter of replacing one Commissioner. Under the heading 'Implementation', the review committee report stated:

Notwithstanding the possibility of being able to achieve many of the procedural changes within the existing legislation, the favoured approach to implementation of the new procedures would be to introduce revised legislation which explicitly supports the new process. This legislation should also seek to simplify the existing provisions of the Act which relate to the structure of local government.

The motion clearly calls on the Minister to implement in total the spirit of the review committee's advice, and not just implement one section. The Minister has had since July to draft the appropriate legislation. This is much too important a matter to be allowed to drift on by the Minister while the negotiations to dismantle the Local Government Department proceed. The costs associated in money and confidence terms of setting up and funding a new commission may be small when compared with individual council and community costs for another Mitcham or Henley and Grange type exercise.

Last week, I received a letter from Meredith Crome, Executive Officer of the Southern Region of Councils, enclosing a copy of the region's paper entitled 'Principles and issues for boundary realignment in local government'. Mrs Crome said in her covering letter:

We commend the paper to you and recommend that its contents be discussed with a view to adopting the procedures to facilitate boundary changes.

Without discussing the merits or otherwise of the recommendations of the paper, it illustrates to me that local councils are still discussing and trying to formulate the best policy for achieving amalgamations.

The Hon. Anne Levy: Do you want me to rush in before they finish their discussions?

The Hon. J.C. IRWIN: The motion says very clearly that you freeze everything until they finish their discussions.

The Hon. Anne Levy: A minute ago you were complaining that I have had since July to legislate and I haven't.

The Hon. R.I. Lucas: She's at it again.

The Hon. Anne Levy: He's at it again.

The Hon. R.I. Lucas: He's in order. You're not.

The Hon. J.C. IRWIN: You haven't done any legislation that I know of.

The ACTING PRESIDENT (Hon. R.R. Roberts): Order! All members will come to order. Mr Irwin has the call.

The Hon. Anne Levy: I know I haven't. You were complaining that I haven't.

The ACTING PRESIDENT: Order!

The Hon. J.C. IRWIN: I say again that it is still premature for the Minister to allow the Local Government Advisory Commission to proceed under any sort of procedure until a firm direction has been established by local government itself, in consultation with the Minister, if you like. I will quote a few snippets from the southern region's report, as follows (and the only reason I do not quote in full is for brevity):

> It could be argued that this paper identifies two principles—the good of the community and the good of local government—and then continues to identify the criteria that should be addressed in relation to assessing whether those principles are achieved . . . The proposal in this paper of identifying a 'model' council provides a good, solid foundation from which to consider any boundary realignment. By providing the model, but not identifying specific boundaries, still enables local government to determine its future . . . The identification of the 'model' council should be carried out by a group of experts with expertise in economics, financial management, local government (elected), local government management, union representation and social/physical planning. It is essential that the group of experts is representative of local government with ability to reflect the rural/metropolitan and small/large differences that are part of local government. It could not be carried out by the current LGAC, as that body has been involved with amalgamation proposals and could be seen as biased or tainted.

That supports what I have already said. The report continues:

> Finally, for boundary realignment to be successful local government, as a body, must recognise the need for change, be it major or minor, and provide leadership and the right environment for the proposed changes to be discussed.

I do not judge the merits or otherwise. Local government has not yet recognised the need for change, and that is fairly evident. Certainly the environment is not right for any proposed changes to be discussed, and that is the purpose of my motion, for those who want to listen to it. The Minister's contribution to this debate took three weeks to hatch, and she huffed and puffed her way through a diatribe against me, rather than seriously attempting to refute the matters I raised. Most of us grew up with the saying, 'Sticks and stones may break my bones, but names will never hurt me'. Any objective reading of the Minister's lacklustre speech will show that there were no sticks or stones.

The Minister managed to quote me as saying on 9 August, before I moved this motion, that the 'committee of review advice regarding the best way to achieve amalgamations should be used'. She then said *inter alia*, 'This has already been done. They are already in place.' Some of them may be in place, but the committee's advice regarding the commission itself is not in place, and that is what I have been calling for.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: You have one bit in place but not all of it in place.

The Hon. Anne Levy: Your motion asks for procedures.

The Hon. J.C. IRWIN: There is no record of my saying that on 9 August. I cannot find it anywhere, but I do not resile from it. The final report of the committee was not even tabled until 22 August.

The Minister accuses me of being confused. I am not confused; the Minister is confused. It does not matter one jot what I or the Opposition think about any amalgamation outcome. We are not in Government, and we made none of the decisions, and we have done none of the manipulating. If the Minister thinks we are going to or should applaud her for engineering a decision on an amalgamation proposal by taking one commissioner's advice above that of four other commissioners, she has another think coming. She deserves to be criticised and will be criticised by us if she ever strays down that path again or any other innovative variation of it.

The Minister spent much of her time trotting out her new-found phrase and that of the Government, 'micro-economic reform'. She would not know real world economics were, let alone how to micro-economically reform them. Like the farmer who feels the cold economic wind before most others, local government has already tightened its belt as I hear it—and I do get around local government, despite what the Minister said. If the Minister thinks she and the Government are going to dump all the woes of a wildly over stretched Government on to local government then she and the Government may be in for some surprises.

The motion is relevant. It relates directly to the activities of the Minister of Local Government and the Government on recent amalgamation proposals, and it is relevant in that it calls on the Minister to implement all of the spirit of the committee of review advice regarding the independence of the advisory commission. If this does not happen immediately, the whole process of sorting through proposals will be no further advanced.

The motion is principled because it seeks to restore confidence and ultimate effectiveness in the independent commission, a position already supported by two motions of this Council since October 1989, including one moved by the Hon. Trevor Crothers. I urge members to support the motion.

Motion negatived.

BUILDING SOCIETIES BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the registration, administration and control of building societies; to repeal the Building Societies Act 1975; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to provide for the registration, administration and control of building societies; and to repeal the Building Societies Act 1975. There are five permanent building societies and five Starr Bowkett building societies registered under the Building Societies Act 1975 with total assets of more than $1.9 billion. Group assets are in the order of $2.2 billion.

Building societies are leaders in the provision of innovative housing finance, developing loans in response to consumer needs. By promoting a range of alternative lending products, they have extended the benefits of home

ownership to many families unable to meet the rigid qualifying criteria imposed by other institutuions. Societies hold a significant position in the South Australian financial market with 703 000 savings and investment accounts which represents 12 per cent of the national industry total, against the State's proportionate population of 8.4 per cent of the Australian figure. In addition, there are 42 800 current loan accounts with societies holding in excess of 33 per cent of the total withdrawable household funds held by both building societies and savings banks in this State.

Societies have a significant and important position in the South Australian market as repositories for domestic savings, as major sources of housing finance, and increasingly as providers of an expanding range of competitive financial products and services designed to meet the changing needs of consumers. They are for many South Australians the secure, efficient and preferred alternative to the banking sector. Societies remain committed to providing housing finance for as wide a spectrum as possible of prospective home buyers.

Recognising the impact of deregulation on the financial sector and the resultant increased competition, as well as the changes in corporate structure which have occurred to building societies in other jurisdictions, and having regard to the significant role societies play in the State's capital markets, I approved that the Building Societies Advisory Committee undertake a review of the 1975 Building Societies Act.

The committee recommended legislative changes that are considered necessary to ensure building societies remain viable within the competitive environment. The Bill takes into account the submissions made by building societies and their auditors as well as other interested parties.

The recent crisis in NBFIs particularly in Victoria has highlighted the need for more stringent and uniform prudential standards governing the operations of building societies throughout Australia. In this regard the Bill reflects South Australia's commitment to uniformity. The prudential standards in the Bill are consistent with those to be introduced by New South Wales and supported by all other States and the industry. They will afford appropriate protection for the investing and borrowing public and will promote general stability of building societies. The prudential standards where relevant, are also consistent in all substantial respects with those developed by the Reserve Bank of Australia in its approach to supervision of banks. In summary the standards are:

- First, a risk-based approach to the measurement of capital adequacy. This new approach includes both on-balance sheet and off-balance sheet items of the consolidated group and takes account of differences in the relative riskiness of transactions. Building societies have agreed to maintain a minimum ratio of capital to risk weighted assets of not less than 8 per cent, with at least half of this comprising core capital, essentially permanent share capital and realised reserves.

  This approach caters for societies as they are and as they may develop and acts as a break on high-risk ventures whilst not obtruding into legitimate management decisions, and provides protection for both industry and its clients. The Bill also provides that minimum capital may be increased where a society has failed, for example, to manage its risks.
- Secondly, a net liquidity requirement which will engender community confidence in building societies. The Bill provides for societies to hold at all times a minimum tranche of high quality liquefiable assets, termed prime assets, equivalent to 10 per cent of total liabilities exclusive of capital.
- Thirdly, large exposures of a building society will be regulated by a process of prior notification and other appropriate reporting. If such a transaction is judged to be excessively risky it will attract penalty capital.
- Fourthly, a maximum shareholding of 10 per cent of shares and other prescribed securities has been included. This provision has regard to the cooperative nature of a building society and is designed to prevent market dominance by individuals or their associates.

In addition to Reserve Bank prudential requirements, the Bill provides changes to strengthen the objects of societies to reflect their on-going commitment to provide residential finance to South Australians and has regard to the evolving role of societies specialising in servicing the changing financial needs of the community. The Bill provides for a prime purpose test where a minimum 50 per cent of a society's group assets must be held in the form of residential finance either owner occupied or tenanted.

A major recommendation of the committee was in relation to possible changes in the ownership, control and activities of building societies in South Australia. The Bill provides that conversions to company status may only proceed in an atmosphere of full protection of, and disclosure to building society members, with my approval upon the recommendation of a Restructuring Review Committee. This committee will comprise representatives of the Corporate Affairs Commission, Treasury, Housing and Construction and Industry.

To give greater flexibility in raising funds, the Bill allows societies to borrow in foreign currency, providing that the borrowing is hedged to minimise risks of losses due to adverse movements in the foreign currency.

The Bill adopts regulations similar to that applying to companies under the Companies Code where appropriate to the operations of a building society, for example, a society must issue a disclosure statement not dissimilar to a prospectus, when it issues securities such as permanent shares and prescribed interest. Also permanent shares may be traded on an exempt stock market established under the Securities Industry (South Australia) Code pursuant to a declaration issued by the Ministerial Council for Companies and Securities.

The amounts and audit provisions have been redrafted to be similar to provisions applying to companies including provisions for group accounts and compliance with applicable approved accounting standards. The Commission may inspect a subsidiary of a building society or any other corporation with which a building society has invested its funds. The external auditor in his report to members on the accounts will be required to report on the observance of prudential standards and the effectiveness of the building societies management systems to monitor and control risks.

Interest rates to be charged by societies are set by the societies after consultation between the society and the Government. The committee recommended the removal of interest rate controls from the present legislation. These controls give the Government the opportunity of monitoring the rates charges by societies to ensure that home loans are within the reach of the average home buyer. The Government has determined that the controls should remain in the interests of social justice.

Interstate building societies will be required to be registered as foreign building societies under the Act if they trade in South Australia. To be eligible for such registration they must comply with the prudential standards applying to local building societies. Also interstate societies which do not

comply with the character tests of one member one vote and limitation of shareholding, will not be eligible for registration.

The South Australian Government is supportive of the aim of maintaining a strong and viable building society industry in South Australia. The Government believes that there is a role for cooperative bodies with their ideals of promotion or the well-being of groups of people with the same background and interests in the financial sector.

The proposals contained in the Bill have been discussed at length with the building society industry and they are fully supportive of the Bill proceeding. The Opposition has been alerted over the past few months to the proposals.

In summary, the Bill provides for the right balance between public protection on the one hand, and on the other, the need for freedom of operation and in so doing provides a basis for future directions for building societies in South Australia.

Finally, the Bill is consistent with proposed legislation in New South Wales and will facilitate the adoption of a uniform national regulatory framework. I commend the Bill to the House. 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 for the measure to be brought into operation by proclamation.

Clause 3 sets out definitions of terms used in the measure. Attention is drawn to the definitions of 'residential building' and 'residential development'. 'Residential building' is defined as a building occupied or to be occupied by a person as the person's principal place of residence whether as owner, pursuant to a lease or otherwise and as including:

(a) a building intended to provided accommodation for aged persons, persons with physical or mental disabilities or indigent persons;

(b) a retirement village within the meaning of the Retirement Villages Act 1987 or a residential unit within the meaning of that Act; or

(c) a building of a class declared by regulation to be residential buildings,

but as not including a building that is not situated within South Australia or a building of a class excluded by regulation.

'Residential development' is defined as construction or improvement of a residential building or conversion of a building to a residential building or acquisition or division of land for that purpose.

Clause 4 is an interpretation provision relating to offers or invitations to the public.

Clause 5 is an interpretation provision defining subsidiaries, holding corporations and related corporations in the same way as under the Companies (South Australia) Code but so as to operate in relation to building societies as well as corporations as defined in the code.

Clause 6 provides that a person is to be regarded as an associate of another for the purposes of the measure if—

(a) they are partners;

(b) one is a spouse, parent or child of another;

(c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust;

(d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity;

(e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in five per cent or more of the share capital of the body corporate or other entity;

(f) they are related corporations;

(g) a relationship of a prescribed kind exists between them; or

(h) a chain of relationships can be traced between them under any one or more of the above paragraphs.

The clause allows the Minister to determine by notice that specified persons are not to be treated as associates either generally or for a purpose specified in the notice.

Clause 7 provides that the provisions of the Companies (South Australia) Code, the Companies (Acquisition of Shares) (South Australia) Code and the Securities Industry (South Australia) Code do not apply in relation to a building society or an association except as otherwise provided by or under the measure.

Clause 8 provides that the measure is to apply to Starr-Bowkett societies with such modifications, additions or exclusions as are prescribed by regulation. Part II (comprising clauses 9 to 13) deals with administrative matters.

Clause 9 provides that the Corporate Affairs Commission is, subject to the control and direction of the Minister, responsible for the administration of the measure.

Clause 10 provides for the keeping by the Commission of registers and for their inspection and the inspection of other documents registered by or filed or lodged with the commission. The clause also provides for the issuing by the commission of certified copies or extracts from any such register or of a certificate of incorporation or registration or amalgamation issued under the measure or of documents registered by or filed or lodged with the commission.

Clause 11 provides for annual reports by the commission.

Clause 12 provides for the establishment of the Building Societies Advisory Committee. The committee is under the transitional provisions contained in schedule 1 declared to be the same body as the committee of that name under the current Building Societies Act. The functions of this committee are to make recommendations to the Minister on the more effective operation of building societies, to make recommendations relating to regulations and model rules and maximum rates of interest for building society loans, to keep the legislation relevant to building societies under review and to advise on matters referred to the committee and generally on matters relevant to the administration of the measure.

Clause 13 provides for the inspection powers of the commission.

Part III (comprising clauses 14 to 32) relates to the constitution and basic features of building societies.

Clause 14 provides that it is to be an offence if a person other than a building society or foreign building society carries on business as a building society without being registered as such under the measure. The clause excludes certain activities from the application of this provision and excludes banks, credit unions, friendly societies, co-operatives and any person or body exempted by the Minister.

Clause 15 sets out the objects of building societies. Under the clause a building society must have as a primary object under its rules that the society is to operate as a financial co-operative raising funds by subscription or otherwise and applying those funds, subject to the measure and its rules, in providing loans to its members for the purchase of residential buildings or for residential development. A society

may include in its primary objects that the society is to undertake residential development itself or to provide capital for residential development by making loans to, or acquiring securities issued by, a subsidiary of the building society that has as its object or one of its objects the carrying out of residential development, or that the society is to invest in a property trust established and managed by the building society solely or principally for the purpose of carrying out residential development. The building society may have secondary objects as specified in its rules but subject to any limitations imposed by regulations.

Clause 16 provides for the formation of a building society by any 25 or more persons of full age and capacity.

Clause 17 provides for the registration of new building societies and the qualifications for registration.

Clause 18 provides for the incorporation of building societies on their registration.

Clause 19 sets out the general powers of building societies. In addition to the more usual powers are powers to form or acquire subsidiaries in Australia (but in no other place) and to carry on operations as a building society elsewhere in Australia (but in no other place) and to procure registration or recognition as a building society in another State or Territory for that purpose. The clause provides that the powers of a subsidiary are not limited by the objects of the building society or by limitations on the powers of the building society. The clause makes it clear that a subsidiary of a building society is not prevented from forming or acquiring a body corporate or other entity outside Australia as its subsidiary. Under the clause regulations may be made restricting or withdrawing powers of a building society.

Clause 20 provides for the registration of rules of a building society. Under the clause adequate provision must be made requiring insurance against wrongful acts of officers or employees of the building society and against other insurable risks assumed by the building society.

Clause 21 provides that the rules of the building society bind the society, its members and all persons claiming under them.

Clause 22 requires a building society to provide a copy of its rules to any person on application and payment of the prescribed fee.

Clause 23 provides for the procedure for alteration of the rules of a building society.

Clause 24 empowers the commission to require a building society to alter its rules to achieve compliance with a requirement of the measure or where it considers it necessary in the interests of the members of the building society or in the public interest. Provision is made for an appeal to the Minister against any such requirement of the commission.

Clause 25 provides that the members of the building society are those who sign an application for membership on its formation and those who subsequently hold shares in the society or are otherwise admitted to membership in accordance with the rules of the society.

Clause 26 provides that a minor may be a member of a building society but without a right to vote.

Clause 27 provides for corporate membership of a building society and for the appointment of a person to vote on behalf of a corporate member.

Clause 28 deals with joint membership of a building society and provides that the member whose name first appears in the register of members of the society is to exercise the right to vote on behalf of the joint members.

Clause 29 makes it clear that a member of a building society is not liable by reason of his or her membership to contribute towards the payment of the debts and liabilities of the building society or the costs, charges and expenses of a winding up of the society.

Clause 30 provides for the registered name of a building society.

Clause 31 deals with the registered office of a building society and service of documents on a society by delivery or post addressed to the registered office of the society.

Clause 32 requires a building society to cause its registered name or a name approved by the commission to appear on all business documents and outside every office or place in which its business is carried on.

Part IV (comprising clauses 33 to 101) deals with shares, other securities and charges of building societies.

Clause 33 sets out certain general provisions in relation to shares in a building society. Building society shares may be permanent or withdrawable and in varying classes and nominal values. Preference shares may be issued as a class of permanent or withdrawable shares. Under the clause only permanent shares may be issued otherwise than as fully paid-up and only permanent shares may be issued at a premium. The clause provides that no building society shares may be sold or transferred except with the approval of the board of the society. The clause makes other provision relating to the rights attaching to and conditions applying to building society shares.

Clause 34 requires the rights of holders of preference shares to be set out in the rules of the building society.

Clause 35 places a limitation on shareholding in a building society by a member or a group of associated members. Under the clause the total nominal value of the permanent shares held by a member or group of associated members must not exceed 10 per cent or, if some other percentage is prescribed, that percentage of the total nominal value of all permanent shares in the society. The same provision is made in relation to withdrawable shares. Where this limit is exceeded, the building society must cancel the excess shares or, in the case of permanent shares, forfeit and sell the excess shares.

Clause 36 provides for the establishment by a building society, by special resolution, of a scheme for the conversion of withdrawable share capital to deposits.

Clause 37 deals with the cancellation and forfeiture of building society shares.

Clause 38 provides that a building society has in respect of any debt due from a member or former member a charge on the member's shares, credit balance and any dividend, interest, bonus or rebate payable to the member or former member.

Clause 39 provides that a building society may, in relation to a particular class of shares, distribute profits by way of dividends or bonus shares or pay interest out of its revenue to the holders of the shares. The clause makes it an offence if dividends are paid otherwise than out of profits, or, in the case of permanent shares, out of a share premium account and imposes on any officer who has knowingly caused or permitted such payment liability for satisfying debts due by the building society.

Clause 40 provides for validation by the Supreme Court, on the application of a building society, of shares improperly issued by the society.

Clause 41 requires a building society to register with the commission a disclosure statement relating to securities before making any offer or invitation to the public for subscription or purchase of the securities. This requirement does not apply if a prospectus or statement is registered or required to be registered under the Companies (South Australia) Code in relation to an offer or invitation. Under the clause any such disclosure statement must comply with the

requirements of the regulations as to its form and contents and the reports to be incorporated in it. A disclosure statement may not include any statement by an expert without the prior consent of the expert. The clause contains provisions making it an offence to issue a disclosure statement containing any false or misleading statement.

Clause 42 provides for compensation to be paid by the directors of the building society or any person authorising or causing the issue of a disclosure statement if any information in that statement is false or misleading.

Clause 43 requires a building society that accepts money on deposit or loan following an offer or invitation to the public to issue a document acknowledging or evidencing indebtedness in respect of the deposit or loan.

Clause 44 prohibits a building society from issuing securities at a discount.

Clause 45 prohibits a building society from issuing securities other than permanent shares as partly paid-up and otherwise than in consideration of the payment of cash.

Clause 46 provides for the making of regulations with respect to securities the subject of any public offer, invitation or issue by a building society and the making of any such offer, invitation or issue.

Clause 47 provides for a power of exemption by the commission in relation to the provisions relating to the issue of securities other than the provisions prohibiting the issuing of securities at a discount and the issuing of securities other than permanent shares as partly paid-up or for a non-cash consideration.

Clause 48 provides that subsequent provisions, clauses 49 to 66 (contained in Division III), apply only in relation to permanent shares.

Clause 49 provides that a building society must not accept a non-cash consideration for an allotment of shares without obtaining a report from an expert that contains a valuation of the consideration given.

Clause 50 empowers the commission to exempt a building society conditionally or unconditionally from the requirements of clause 49.

Clause 51 provides for differences in calls and for reserving share capital not already called up for the event of the winding up of the building society.

Clause 52 deals with calls and the effect of non-compliance with calls on shares. A share unpaid at the expiration of 14 days after the day fixed for its payment may under the clause be forfeited by resolution of the board of the building society.

Clause 53 deals with the sale of shares forfeited for non-payment of a call.

Clause 54 allows the person who held a share forfeited for non-payment of a call to redeem the share by payment of all calls due on the share and of costs and expenses incurred in respect of the forfeiture.

Clause 55 prohibits the allotment of shares in respect of which an offer or invitation has been made to the public unless the minimum subscription has been subscribed and the sum payable on application for the shares so subscribed has been received by the society. The clause provides for repayment to applicants for the shares in the event of failure to satisfy the minimum subscription.

Clause 56 requires a building society to lodge with the commission a return relating to any allotment of its shares.

Clause 57 prohibits a building society from applying any of its share or capital money directly or indirectly in payment to a person in consideration of the person's subscribing or procuring subscriptions for shares in the building society.

Clause 58 authorises payments by way of brokerage or commission subject to specified conditions.

Clause 59 provides for the issuing of shares at a premium and for the establishment of a share premium account.

Clause 60 provides for the reduction of share capital in a building society subject to confirmation by the Supreme Court. The provision corresponds to the provision for reduction of company share capital under the Companies (South Australia) Code.

Clauses 61 and 62 deal with the financing by a building society of dealings in its own shares and the consequences of such action. These provisions again correspond to provisions in the Companies (South Australia) Code.

Clause 61 prohibits a building society from providing any direct or indirect financial assistance in connection with the acquisition of shares in the building society. Appropriate exceptions are set out in the clause.

Clause 62 makes contracts or transactions entered into in contravention of clause 61 and related contracts or transactions voidable at the option of the building society concerned. The Supreme Court is empowered under the clause on the application of the building society or any other person who has suffered loss or damage as a result of such a contract or transaction to make orders for the refund of money or property or for the payment of compensation.

Clause 63 prohibits a subsidiary of a building society from acquiring shares in its holding building society.

Clause 64 requires a building society to keep a register of options granted to persons to take up shares in the society.

Clause 65 provides that an option to take up shares in a building society is void after a period of five years has elapsed from the granting of the option. This does not apply to an option granted to debenture holders to take up shares by way of redemption of the debentures.

Clause 66 requires that each share in a building society must be distinguished by an appropriate number.

Clauses 67 to 76 (contained in Division IV) deal with title to and transfer of building society securities.

Clause 67 provides that a certificate issued by a building society specifying shares held by a particular member is *prima facie* evidence of the member's title to the shares.

Clause 68 authorises a building society, subject to its rules, to have a special version of its common seal for use as a share seal or certificate seal.

Clause 69 provides for the issuing of a duplicate certificate or other document of title to shares, debentures or prescribed interests on the loss or destruction of the certificate or document of title previously issued by the building society to the owner of the securities.

Clause 70 requires an instrument of transfer in a standardised form and executed by or on behalf of both the transferor and transferee to be lodged with a building society before the society may register a transfer of permanent shares, debentures or prescribed interests issued by the society. The clause also contains provisions to facilitate the transfer of shares of a deceased member of a building society.

Clause 71 provides for registration of the transfer of a permanent share, debenture or prescribed interest of a building society at the request of the transferor.

Clause 72 requires a building society that refuses to register a transfer of any permanent shares, debentures or prescribed interests to send to the transferee notice of the refusal.

Clause 73 empowers the Supreme Court to make, on the application of a transferee or transmittee under a transfer or transmission which has not been registered by a building society, an order for the registration of the transfer or

transmission or an order providing for the purchase of the shares by a specified member of the society or by the society.

Clause 74 deals with certification of transfers of permanent shares, debentures or prescribed interests by a building society.

Clause 75 provides for the duties of a building society with respect to the issue of certificates evidencing the issue or transfer of permanent shares, debentures or prescribed interests of the society.

Clause 76 empowers the commission to exempt a building society conditionally or unconditionally from a requirement of Division III.

Clauses 77 to 80 (Division IV) deal with stock markets for trade in securities issued by a building society.

Clause 77 provides that a building society or other person must not establish or operate a stock market for trade in securities issued by a building society except in accordance with the regulations and as authorised by the rules of the society. This provision does not apply in relation to trade in building society securities on a stock market of a securities exchange within the meaning of the Securities Industry (South Australia) Code.

Clause 78 provides for the making of regulations with respect to the contents of rules of building societies relating to the establishment and operation of stock markets and any matter relating to the establishment and operation of stock markets by or on behalf of building societies.

Clause 79 empowers the Supreme Court, where a building society or other person contravenes or fails to comply with a provision of this Division or regulations made pursuant to or for the purposes of this Division, to make an order requiring observance of or compliance with those provisions.

Clause 80 provides that Part X and Division 4 of Part IV Securities Industry (South Australia) Code apply with prescribed modifications to and in relation to a stock market operated by or on behalf of a building society. Part V of that code contains provisions creating offences and civil remedies for misconduct in relation to trade in securities on stock markets. Division 4 of Part IV contains provisions designed to enable liability for any such misconduct to be attributed to persons involved in the wrongdoing beyond the immediate and direct participants.

Clauses 81 to 84 (Division V) contain provisions dealing with registers of members of building societies.

Clause 81 requires a building society to keep a register of its members and deals with the contents and evidentiary status of the register.

Clause 82 deals with the public inspection and closing of a building society's register of members.

Clause 83 empowers the Supreme Court to order rectification of a building society's register of members.

Clause 84 provides that a trustee, executor or administrator of the estate of a deceased person, a person appointed to administer the estate of a person incapable of managing his or her affairs through mental or physical infirmity, or the Official Trustee in Bankruptcy may be registered as the holder of a building society share held or beneficially owned by the deceased person, incapable person or bankrupt.

Clauses 85 to 101 (Division VI) deal with the registration of charges over property of a building society. These provisions correspond to the provisions of the Companies (South Australia) Code relating to charges over property of a company.

Clause 85 is an interpretation provision.

Clause 86 sets out the charges that are required to be registered by a building society.

Clause 87 provides for lodgment with the commission of notice of a charge created by a building society.

Clause 88 provides for lodgment with the commission of notice relating to a charge over property acquired by a building society.

Clause 89 requires the commission to keep a register to be known as the Register of Building Society Charges and deals with the entries to be made in the register.

Clause 90 deals with the priority of charges on property of a building society.

Clause 91 provides that failure to give notice as required in respect of a registrable charge on building society property renders the charge void as a security on that property as against the liquidator of the society or an official manager appointed in respect of the society, subject to any order of the Supreme Court extending the period for giving notice in respect of the charge.

Clause 92 provides that a charge on property of a building society in favour of an officer or former officer of the society or a person associated with such an officer or former officer is in certain circumstances void.

Clause 93 requires lodgment with the commission of notice in respect of the assignment or variation of charges on property of the building society.

Clause 94 deals with the action required to be taken on satisfaction of, or the release of property from, a charge on building society property.

Clause 95 deals with the lodgment of notices in respect of charges on building society property and creates offences for failure to lodge such notices.

Clause 96 imposes obligations on building societies to keep certain documents relating to charges and a register relating to charges and provides for the public inspection of the register.

Clause 97 provides for the issuing by the commission of certificates relating to charges registered by the commission.

Clause 98 deals with the interaction between this Division and other legislation relating to charges.

Clause 99 provides for rectification by the Supreme Court of the Register of Building Society Charges kept by the commission.

Clause 100 empowers the commission to grant exemptions from certain requirements of the Division.

Clause 101 provides for the application of the Division to charges existing before the commencement of the Division.

Part V (comprising clauses 102 to 105) sets out provisions governing the financial activities of building societies.

Clause 102 provides that a member of a building society under the age of 18 years is not entitled to obtain a loan from the society unless made jointly to the minor and his or her parent or guardian and unless the minor and his or her parent or guardian are jointly and severally liable on the contract.

Clause 103 authorises the Minister, by notice in the *Gazette*, to fix a maximum rate of interest for building society loans or a class of building society loans.

Clause 104 prohibits a building society from conducting a ballot for loans or in any way making the granting of a loan dependent on any chance or lot. This is to be subject to provisions of the regulations to be made in relation to Starr-Bowkett societies.

Clause 105 provides that a building society may, subject to the other requirements of the measure and its own rules, make a loan to any of its officers or employees who are members of the society.

Clause 106 provides that a building society must not, except with the prior approval of the commission—

(a) invest (whether by way of making of deposits or loans or the acquisition of securities or otherwise) any of its funds—

(i) in any body corporate or other entity formed or acquired outside Australia by a subsidiary of the building society;

(ii) in any subsidiary of the building society that so invests its funds in, or guarantees liabilities (whether existing or contingent) of, a body corporate or other entity formed outside Australia;

(iii) in another building society;

or

(iv) contrary to the regulations;

(b) provide a guarantee of a kind not authorised by the regulations.

Clause 107 provides that a building society must ensure that at all times not less than 50 per cent of the total assets of the building society comprises assets derived from loans and investments made by it in pursuance of its primary objects.

Clause 108 provides that a building society must ensure that at all times it holds prime assets that satisfy the required prime assets ratio. To satisfy this ratio the amount of the building society's prime assets must equal or exceed 10 per cent, or, if some other percentage is prescribed, that percentage, of the difference between the total assets of the society and its defined capital. Prime assets of a building society are the following:

(a) cash at bank (but not including any amount represented by any cheque or bill of exchange drawn or endorsed in favour of the building society but not yet presented for payment);

(b) cash in hand;

(c) deposits in any prescribed bank;

(d) the monetary value of any securities issued or guaranteed by the Treasurer or the Government of this State or of the Commonwealth or any other State or Territory of the Commonwealth;

(e) the monetary value of bills of exchange that have been accepted or endorsed by a prescribed bank and are payable within 200 days;

(f) the monetary value of any loan made by the building society to an authorised dealer in the short term money market;

and

(g) the monetary value of any other prescribed securities or prescribed assets,

but does not include any such funds or investments to the extent of the amount necessary to satisfy any lien or charge (other than a floating charge) over the funds or investments or to satisfy any loan of a prescribed class approved but not yet advanced by the building society.

In determining the amount of the prime assets held at any time by a building society, the following must be disregarded:

(a) any money received by the building society from the Government of the State or the Commonwealth other than money required to be credited directly to depositors' accounts;

and

(b) the monetary value of any security that is not to mature within a period of five years.

A building society's assets are to be as recorded in its accounts subject to any adjustments required by the Minister by notice in the *Gazette*. The defined capital of the building society is to be made up of amounts recorded in the society's accounts that may be brought into account as capital for that purpose as authorised by the Minister by notice in the *Gazette* or as approved by the Commission on the application of the building society.

Clause 109 requires a building society to ensure that at all times its defined capital is not less than 8 per cent or, if some other percentage is prescribed, that percentage, of the total weighted value assets of the society. The defined capital of the building society is again made up of amounts recorded in the society's accounts that may be brought in account as capital as authorized by the Minister by notice in the *Gazette* or as approved by the Commission on the application of the society. The total weighted value assets of the society are assets of the society, or, if the society has as subsidiaries, assets of the society or its subsidiaries, that fall within classes of assets specified by the Minister by notice in the *Gazette*, together with amounts required by such Ministerial notice to be brought into account as assets in respect of off balance-sheet transactions, adjusted, in the case of assets of each class, by a weighting percentage specified by such Ministerial notice.

Clause 110 provides that the commission may, if it is of the opinion that a building society has undertaken excessive risks as a result of financial transactions entered into by the building society or a subsidiary of the society, or that a society has failed to develop and apply adequate systems to monitor and manage risks associated with its financial activities, vary the capital adequacy requirements applying to that society under clause 119. The commission may, by notice in the *Gazette*, require a building society to give advance notice to the commission of any specified transactions of the society or any of its subsidiaries that the commission considers might result in the society undertaking excessive risks. An appeal lies to the Minister against a decision of the commission to vary a building society's capital adequacy requirements or a refusal by the commission to vary or revoke a previous decision with respect to those capital adequacy requirements.

Clause 111 regulates foreign currency transactions by building societies. The clause requires foreign borrowings by a building society to be hedged under arrangements of various kinds specified in the clause or approved by the commission. The clause prohibits a building society from investing any of its funds in foreign currency.

Clause 112 provides that a building society must not engage in transactions of the following kinds:

(a) transactions relating to financial or other futures;

(b) options in futures transactions;

(c) forward interest rate transactions;

(d) interest rate swap transactions;

or

(e) other financial transactions of a kind specified by the Minister by notice published in the *Gazette*,

except as authorized under the clause. The clause allows a society to enter into certain transactions of the above kinds where it does so for the purpose of reducing the risk of adverse variations in interest rates but not otherwise. The transactions that may be entered into for that purpose are:

(a) futures contracts relating to—

(i) securities issued or guaranteed by the Treasurer or the Government of this State or of the Commonwealth or any other State or Territory of the Commonwealth;

or

(ii) bills of exchange that have been accepted or endorsed by a prescribed bank and are payable within 200 days,

but only where made or dealt in or on a futures market of a futures exchange within the meaning of the Futures Industry (South Australia) Code;

(b)—

(i) interest rate swap contracts;

or

(ii) forward interest rate contracts,

to which a bank or other prescribed body is a party;

(c) options in respect of contracts referred to in paragraph *(a)* or *(b)*;

or

(d) other contracts of a prescribed kind approved by the commission.

Clause 113 requires a building society to develop and apply adequate systems to monitor and manage risks associated with its financial activities. A building society must under the clause, in developing and applying systems for that purpose, comply with any directions issued by the Minister by notice in the *Gazette*.

Clause 114 provides that the commission may if of the opinion that it is necessary to do so to ensure the financial stability of a building society or to protect the interest of members of the building society, by notice in writing to the society, prohibit or restrict the raising of funds by the society for a specified period or until further notice. An appeal lies to the Minister against such a prohibition or restriction.

Clause 115 empowers the Treasurer, on the recommendation of the commission, to execute a guarantee in favour of a person for the repayment of an advance made, or to be made, by that person to a building society. The Treasurer may require a society to comply with certain conditions before such a guarantee is given.

Part VI (comprising clauses 116 to 155) deals with the management of building societies.

Clauses 116 to 127 (Division I) deal with directors and other officers of building societies.

Clause 116 requires the business of a building society to be managed by a board of directors comprised of not less than five persons the majority of whom must reside permanently in the State.

Clause 117 validates the acts of a director notwithstanding subsequent discovery of a defect in his or her appointment.

Clause 118 deals with the appointment of directors.

Clause 119 deals with the qualifications for office and vacation of office as a director of a building society.

Clause 120 provides for the disclosure of conflicts of interest by directors.

Clause 121 requires a building society to keep a register of its directors and specified matters relating to the directors that might affect the manner in which they discharge their duties as directors. The clause provides for public inspection of such a register.

Clause 122 requires a director of a building society to notify the society of matters required to be entered in the register provided for under clause 121.

Clause 123 provides that an officer of a building society must not, without the approval of a majority of the directors—

(a) sell any real or personal property to, or act as agent in respect of the sale of any real or personal property to, a member of the building society who proposes to pay for the real or personal property (in whole or in part) out of a loan made by the building society;

(b) undertake the erection of any building for a member of the building society who proposes to pay for the building (in whole or in part) out of a loan made by the building society;

(c) accept as payment (in whole or in part) of any money due to him or her from a member of the building society the whole or part of any loan made by the building society to that member;

or

(d) borrow money from the building society.

For the purposes of this provision, anything done by a proprietary company in which an officer of the building society is a shareholder or director or by a trust where the officer is a trustee or beneficiary under the trust or where the trustee is a body corporate and the officer is a director or other officer of that body, is to be regarded as having been done by the officer.

Clause 124 provides that a director (other than an employee) of a building society must not be paid any remuneration for his or her services as a director other than such fees, concessions and other benefits as may be approved at a general meeting of the building society.

Clause 125 deals with meetings of the board of a building society. Under the clause meetings must be held once every three months. The quorum for a meeting is to be as fixed by the rules of the building society but not in any case less than half of the total number of members of the board.

Clause 126 prohibits a person other than a director or the deputy of a director of a building society from purporting to act as a director of the society. A director of a society must not permit a person other than a director or a deputy of a director to purport to act as a director of the society.

Clause 127 sets out the duties and liabilities of officers and employees of building societies. Under the clause an officer of a society is guilty of an offence unless he or she acts at all times honestly in the exercise of the powers and the discharge of the duties or his or her office. An officer is guilty of an offence unless he or she exercises at all times a reasonable degree of care and diligence in the exercise of the powers and the discharge of the duties of his or her office. An officer or employee, or former officer or employee, of a building society is guilty of an offence if he or she makes improper use of information acquired by virtue of his or her position as such an officer or employee to gain a direct or indirect advantage for himself or herself or for any other person or to cause detriment to the society. Provision is also made for compensation to be ordered against a person who fails to comply with any of these provisions. This compensation can be ordered by a court convicting the person of an offence against any of the provisions or on action in a court of competent jurisdiction.

Clauses 128 to 131 (Division II) deal with meetings of members of a building society and voting.

Clause 128 requires a building society to hold an annual general meeting within five months after the close of the society's financial year or within such further time as may be allowed by the commission. The clause also provides for ordinary and extraordinary members' meetings, the required quorum and notice of members' meetings.

Clause 129 deals with voting at meetings of the building society. Matters to be decided at a meeting must be determined by a majority vote of those members who are entitled to vote and who are present at the meeting either personally or by proxy. Postal voting may be provided for by the rules of a building society on any question other than one to be decided by special resolution. The commission may allow postal voting on a class of questions to be decided by special resolution on application by a building society. No member

of a building society is entitled to more than one vote on any question arising for decision at a meeting of the society.

Clause 130 deals with special resolutions. For the purposes of the measure a special resolution is a resolution passed by not less than two-thirds of the members who are entitled to vote and are present at a meeting either personally or by proxy.

Clause 131 requires a building society to keep full and accurate minutes of every meeting of the board and of every meeting of the members of the society.

Clauses 132 and 133 (Division III) deal with registers and their inspection. Clause 132 requires a building society to keep such registers as are prescribed by regulation.

Clause 133 provides that a building society must keep at its registered office for inspection without fee by members, persons eligible for membership and creditors of the society a copy of the measure and the regulations, the society's rules and its last accounts together with the auditor's report on those accounts. A copy of the society's rules must be kept available for inspection without fee by members at each branch office. The society must on request by any member and without charge furnish the member with particulars of his or her financial position with the society as a member, shareholder, depositor or borrower. The clause also provides that other registers kept by the society pursuant to the measure may, subject to the regulations, be inspected by any person on application and payment of an amount required by the society not exceeding the prescribed amount.

Clauses 134 to 142 (Division IV) deal with accounts of a building society.

Clause 134 provides that the financial year of a building society is 1 July to the following 30 June.

Clause 135 requires a building society to ensure that the financial year of each of its subsidiaries coincides with its own financial year.

Clause 136 provides for the accounting records to be kept by a building society. This clause and the remaining clauses of Division IV correspond to the accounts provisions of the Companies (South Australia) Code.

Clause 137 deals with building society profit and loss accounts, balance-sheets, group accounts and directors' statements.

Clause 138 provides for directors' reports.

Clause 139 provides for the rounding off of amounts in accounts and reports.

Clause 140 requires the directors of a building society to obtain sufficient information from its subsidiaries to enable the proper preparation of group accounts and to ensure the accuracy of statements and reports relating to the group accounts.

Clause 141 requires the building society to cause the accounts and reports to be laid before the annual general meeting of the society.

Clause 142 makes it an offence for a director of a building society to fail to take all reasonable steps to comply with or secure compliance with the provisions of Division IV.

Clause 143 to 152 (Division V) deal with audits of building society accounts. These clauses up to clause 149 correspond to the audit provisions under the Companies (South Australia) Code.

Clause 143 provides for the qualifications of auditors.

Clause 144 provides for the appointment of auditors.

Clause 145 sets out the procedure for nomination of a person or firm as auditor of a building society.

Clause 146 deals with the removal and resignation of building society auditors.

Clause 147 deals with the effect of winding up on the office of a building society auditor.

Clause 148 provides that the reasonable fees and expenses of a building society auditor are payable by the building society.

Clause 149 deals with the powers and duties of auditors with respect to reports on building society accounts. In addition to the requirements corresponding to those in the Companies (South Australia) Code, a building society auditor is also required to furnish to the directors of the society a report in the prescribed form as to the adequacy in the auditor's opinion of the systems adopted by the building society to ensure compliance with the requirements of Part V governing the society's financial activities and of the systems adopted by the society to monitor and manage risks associated with its financial activities. A copy of this report must be forwarded to the commission by the building society.

Clause 150 provides for a final audit on the dissolution of a building society as part of an amalgamation of building societies and on the conversion of a building society to a company, credit union or a friendly society under Part VII.

Clause 151 requires a building society to ensure that the accounts and accounting records of any subsidiary of the society are audited in accordance with Part VI.

Clause 152 makes it an offence if an officer of a building society refuses or fails without lawful excuse to allow an auditor of the society access to all records and registers in the custody or control of the officer or to give information or explanations as and when required, or otherwise hinders, obstructs or delays the auditor. The clause also makes it an offence if an officer or auditor of a subsidiary of a building society is guilty of any similar refusal or failure or similar obstruction in relation to the auditor of the holding building society.

Clauses 153 to 154 (Division VI) provide for the returns to be lodged with the commission by building societies.

Clause 153 provides for the lodging of returns to the commission in accordance with the regulations. The commission is empowered under the clause to require further returns by notice in writing to a building society. The clause makes it clear that the information that may be required in a return or further return may comprise or include information relating to a subsidiary of the society, a body corporate or other entity formed or acquired outside Australia by a subsidiary of the society or a body corporate or other entity (whether within or outside Australia) with which the society, a subsidiary, or a body corporate or other entity as previously referred to, has invested funds.

Clause 154 provides that the time for lodging a return may be extended by the commission on application by a building society.

Clause 155 (Division VII) empowers the commission to relieve a building society or the directors or auditor of a building society from compliance with specified provisions of Division IV or V other than the basic obligation to keep accounts and accounting records.

Part VI (comprising clauses 157 to 174) deals with the restructuring of building societies.

Clauses 156 to 159 (Division I) provide for the establishment and functions of the Restructuring Review Committee.

Clause 156 provides for the establishment of the committee which is to consist of the Commissioner for Corporate Affairs or his or her nominee, a nominee of the Treasurer, a nominee of the Minister of Housing and Construction and a person who is, in the opinion of the Minister, qualified to represent the interests of building societies.

Clause 157 provides for the quorum of the committee and the procedure at its meetings.

Clause 158 ensures the validity of acts of the committee and protects its members from personal liability.

Clause 159 provides that the committee has the functions of examining and making recommendations to the Minister with respect to—

(a) any proposal for the amalgamation of building societies;

(b) any proposal for conversion of a building society to a company, credit union or friendly society; and

(c) any proposal that would result in a member of a building society or a group of associated members holding shares in the building society the total nominal value of which exceeds—

(i) the limit fixed under Part IV;

or

(ii) a limit approved by the Minister under Division IV of this part in relation to that member or group,

that is referred to the committee pursuant to Division IV.

Clauses 160 to 165 (Division II) deal, with amalgamation of building societies.

Clause 160 sets out definitions of terms used in Division II.

Clause 161 provides for the procedure for applications to the commission relating to an amalgamation of building societies. The clause requires the members of each local building society involved in a proposed amalgamation to have approved of the proposed amalgamation by voting in a postal ballot before the application is lodged with the commission. This requirement does not apply however where a proposal for amalgamation is of such a nature that reference to the Restructuring Review Committee under Division IV is not warranted, but, in that case, each of the local building societies must approve the proposal by special resolution. The clause requires each local building society concerned in a proposed amalgamation to send certain specified information to its members before lodging the application with the commission.

Clause 162 deals with the determination by the commission of applications for amalgamation. Where a proposed amalgamation is referred to the Restructuring Review committee under Division IV, the commission may not grant the application unless the Minister has approved the proposed amalgamation. Where a proposed amalgamation involves a foreign building society, the commission must be satisfied that the amalgamation as it affects the foreign building society will proceed as proposed according to the law applying to the foreign building society in its place of incorporation.

Clause 163 provides for the transfer of property, debts and liabilities of a building society dissolved as part of an amalgamation to the building society that is formed or that continues under the amalgamation. The clause provides that no stamp duty is payable in relation to the transfer of such property.

Clause 164 provides for the transfer of members of a building society dissolved as part of an amalgamation.

Clause 165 empowers the commission to exempt a building society conditionally or unconditionally from a provision of Division II.

Clauses 166 and 167 (Division III) provide for the conversion of a building society to a company, credit union or friendly society.

Clause 166 provides that a building society may, unless prohibited from doing so by its rules, lodge with the commission an application for approval of a proposal that it convert to a company, credit union or friendly society. The clause provides for the procedure relating to such applications and the information to be sent by a building society to its members before making such an application. An application may not be made for such conversion unless the proposal has been approved by the members of the society by voting in a postal ballot.

Clause 167 provides that where a proposal by a society for such conversion is approved by the Minister under Division IV, the new company, credit union or friendly society is formed and incorporated and all the conditions of the Minister's approval have been complied with, the property and debts and liabilities of the building society are transferred to the new body and the building society is dissolved and its personality merges in that of the new body. Again no stamp duty is payable in respect of such a transfer.

Clauses 168 to 174 (Division IV) deal with the review of restructuring proposals. Clause 168 provides that the following matters must be referred by the commission to the Restructuring Review Committee:

(a) any proposal for amalgamation in respect of which application has been made under Division II;

(b) any proposal for conversion of a building society to a company, credit union or friendly society in respect of which application has been made under Division III;

(c) any proposal reported by a member of a building society to the commission that would result in the member or a group of associated members holding shares in the building society the total nominal value of which exceeds—

(i) the limit fixed under Part IV;

or

(ii) a limit approved by the Minister under this division in relation to that member or group.

The Commission is not required to refer a proposal for amalgamation to the committee if the proposal is designed to give effect to a direction given by the commission under Part VIII (that is, where the commission considers that the building society is insolvent or in danger of becoming insolvent or has been conducting its affairs in an improper or financially unsound manner) or if the commission has determined that the proposal is of such a nature that reference to the committee is not warranted.

Clause 169 provides for the review of restructuring proposals referred to the committee. The committee is required to examine any such proposal and make a recommendation to the Minister as to whether the Minister should approve it (conditionally or unconditionally) or not approve it. The clause sets out the criteria that the Minister must have regard to in determining whether or not to approve a proposal.

Clause 170 provides that the Minister may, on the recommendation of the Restructuring Review Committee, exempt a building society (conditionally or unconditionally) from a provision of the measure or of its rules to enable it to give effect to a restructuring proposal approved by the Minister.

Clause 171 prohibits a person from issuing advertisements relating to a restructuring proposal without the prior approval of the commission.

Clause 172 controls the lobbying of building society members with respect to a restructuring proposal.

Clause 173 provides that where a proposal that has been referred to the committee under this division has been

approved in a postal ballot, any action required in relation to that proposal by the society concerned does not require approval by resolution or special resolution of the society.

Clause 174 empowers the making of regulations for or with respect to fees and charges payable in connection with the review of proposals under this Division.

Part VIII (comprising clauses 175 and 176) provides for certain special powers of intervention of the commission.

Clause 175 provides that the commission may, if of the opinion that a building society is insolvent or in danger of becoming insolvent or that it has been conducting its affairs in an improper or financially unsound manner, by notice in writing to the society, declare that there is cause for intervention. In that event, the Commission may do one or more of the following:

(a) order an audit of the affairs of the building society by an auditor approved by the Commission at the expense of the building society;

(b) require the building society to correct any practices that in the opinion of the Commission are undesirable or unsound;

(c) prohibit or restrict the raising or lending of funds by the building society or the exercise of any other powers of the building society;

(d) appoint an administrator of the building society;

(e) direct the building society to take all necessary action to amalgamate with another building society in accordance with Part VII, or to sell to another building society all or part of its assets and liabilities, subject, in either case, to the agreement of the other building society, or direct that the building society be wound up;

(f) remove a director of the building society from office;

(g) exempt the building society, by notice in writing addressed to the building society, from all, or any of the provisions of Part V for such period as may be specified in the notice;

(h) stipulate principles in accordance with which the affairs of the building society are to be conducted.

An appeal lies to the Minister against a declaration under the clause or a refusal by the commission to revoke such a declaration.

Clause 176 provides that where the commission appoints an administrator for a building society, the administrator has all the powers of the board of directors of the society. The clause provides for reports to be made to the commission by any such administrator and deals with the remuneration and termination of the appointment of the administrator.

Part XI (comprising clauses 177 to 181) deals with receivers, managers, official management and winding up of building societies.

Clause 177 provides that Parts X and XI of the Companies (South Australia) Code relating to receivers and managers and official management apply in relation to building societies with necessary adaptations and prescribed modifications.

Clause 178 provides that a building society may be wound up voluntarily or by the Supreme Court or pursuant to a direction of the commission under Part VIII or on a certificate of the Commission under this clause. The clause provides that Part XII of the Companies (South Australia) Code (relating to winding up of companies) applies with prescribed modifications in relation to a building society as if it were a company limited by shares. he clause sets out the circumstances in which the commission may issue a certificate for the winding up of a building society. These are—

(a) that the number of members of the building society has fallen below 25;

(b) that the building society has not commenced business within a year of registration or has suspended business for a period of more than six months;

(c) that the registration of the building society has been obtained by mistake or fraud;

(d) that the building society has ceased to have a paid-up share capital of at least $10 000 000, or if some other amount is prescribed, that amount;

(e) that the building society has, after notice by the commission of any breach of or non-compliance with the measure or the rules of the building society, failed, within the time referred to in the notice, to remedy the breach;

(f) that there are, and have been for a period of one month immediately before the date of the commission's certificate, insufficient directors of the building society to constitute a quorum as provided by the rules of the building society;

or

(g) that an inquiry pursuant to the measure into the affairs of a building society or the working and financial condition of a building society discloses that in the interests of members or creditors of the building society, the building society should be wound up.

Clause 179 provides for appointment by the commission of a liquidator where a building society is being wound up voluntarily and a vacancy occurs in the office of liquidator that is in the opinion of the commission unlikely to be filled as provided under the Companies (South Australia) Code.

Clause 180 provides that the remuneration of a liquidator of a building society that is being wound up voluntarily must not exceed the amount fixed by the commission.

Clause 181 provides for cancellation of the registration of a building society on completion of the winding up of the society.

Part X (comprising clauses 182 to 188) deals with foreign building societies.

Clause 182 provides that a body corporate lawfully carrying on business as a building society in another State or Territory of the Commonwealth may apply to the commission to be registered as a foreign building society. The clause sets out the information required in relation to such an application and the criteria for determining the application.

Clause 183 provides that a foreign building society must have a registered office in the State.

Clause 184 deals with the name that may be used by a foreign building society in carrying on business in the State.

Clause 185 requires a foreign building society to notify the commission of changes in its rules or constitution, changes in its directors, the agents of the society or the person appointed to receive notices and legal process, and changes in the address of its registered office in this State or in its place of origin or in its name in its place of origin.

Clause 186 requires a foreign building society to lodge, within six months after the end of each of its financial years, a copy of its balance-sheet for that financial year and all accompanying documents required by the law of the society's place of origin. The clause empowers the commission to require further information if it is not satisfied that the balance-sheet and accompanying documents sufficiently disclose the financial affairs of the foreign building society.

Clause 187 requires a foreign building society to notify the commission if it ceases to carry on business in the State.

Clause 188 provides that if a foreign building society fails to comply with requirements prescribed by regulation, the commission may—

(a) by notice in writing served on the foreign building society—

(i) give a direction prohibiting the foreign building society from issuing advertisements of all kinds or of kinds specified in the direction;

(ii) give a direction prohibiting the foreign building society from issuing any further shares, accepting any further deposits or loan funds or making any further loans;

(b) by notice published in the *Gazette*, cancel the registration of the foreign building society.

An appeal lies to the Minister against any such decision or action of the commission.

Part XI (comprising clauses 189 to 193) deals with associations of building societies.

Clause 189 provides that, subject to the regulations, no building society may be a member of a body whose objects include any of the objects of an association (as set out in clause 190) unless the body is registered as an association under this Part.

Clause 190 provides that an association of building societies may be formed by three or more building societies. The clause provides that the objects of such an association may be such of the following as are authorised by the rules of an association:

(a) to promote the interests of and strengthen cooperation among building societies and associations;

(b) to render services to and act on behalf of its members in such ways as may be specified in, or authorised by, the rules of the association;

(c) to advocate and promote such practices and reforms as may be conducive to any of the objects of the association;

(d) to cooperate with other bodies with similar objects;

(e) to promote the formation of building societies; and

(f) to perform such other functions and do such other things as may be incidental or conducive to the attainment of all or any of the foregoing objects.

191 deals with applications for the registration of associations and the determination of those applications.

Clause 192 deals with meetings of members of an association.

Clause 193 applies the following provisions of the measure to associations with necessary adaptations and prescribed modifications:

(a) Divisions V and VI of Part III (rules and membership);

(b) Division VI of Part IV and Schedule 2 (registration of charges);

(c) Divisions I, III, IV, V, VI and VII of Part VI (directors and officers, registers and inspection, accounts, audits, returns, and relief from specified requirements);

(d) Division II of Part VII (amalgamation);

(e) Part VIII (special powers of intervention of the commission);

(f) Part IX (receivers, managers, official management and winding up);

(g) Part XII (appeals);

(h) Part XIII (miscellaneous).

Part XII (comprising clauses 194 and 195) deals with appeals.

Clause 194 provides that a person aggrieved by the refusal of the commission to register a building society or foreign building society or to register or receive rules or any other document or by any other act, omission or decision of the commission may appeal to the Supreme Court against such act, omission or decision. This right of appeal is subject to any provision excluding such appeal and does not apply where some other right of appeal or review is provided for.

Clause 195 provides for a similar right of appeal against acts, omissions or decisions of a receiver, receiver and manager, official manager or liquidator of a building society.

Part XIII (comprising clauses 196 to 221) deals with miscellaneous matters.

Clause 196 provides that the commission must, on the application of a majority of the members of the board of a building society or of not less than one-tenth of the members of the society, or may, of its own motion, call a special meeting of the society or hold an inquiry into the affairs of the society.

Clause 197 provides that the commission or a building society may require a person who is a member of the society to furnish information as to the person's associates.

Clause 198 imposes restrictions on the initial advertisements of a building society or foreign building society.

Clause 199 confers power on the commission to control the advertising of a building society or foreign building society.

Clause 200 provides that a building society that carries on business for one month or more with less than 25 members or with a paid up share capital of less than $10 million or, if some other amount is prescribed, that amount, is guilty of an offence.

Clause 201 provides that a building society may not, without the prior written approval of the commission, enter into an agreement or arrangement under which the society agrees to perform the whole or a substantial part of its functions in a particular manner or in accordance with the directions of any person or subject to specified restrictions or conditions or under which a person who is not an officer or employee of the society agrees to perform the whole or a substantial part of the functions of the society.

Clause 202 provides for the power of the commission to reject unsatisfactory documents and to require their correction or the lodgment of new or supplementary documents.

Clause 203 regulates the manner in which records required under the measure must be kept.

Clause 204 creates offences relating to false or misleading statements in documents required under the measure or lodged with the commission.

Clause 205 creates offences relating to the furnishing of false information to officers of a building society or foreign building society in relation to the affairs of the society.

Clause 206 confers powers on the Supreme Court to prohibit certain payments or dealings in circumstances where an investigation has commenced in relation to an offence relating to a building society or foreign building society or where a prosecution or civil proceedings have been instituted in relation to a building society or foreign building society. This power corresponds to a power conferred on the court in relation to companies under the Companies (South Australia) Code.

Clause 207 confers power on the Supreme Court to grant injunctions on the application of the commission or any other interested person in relation to any act or failure in

contravention of or non-compliance with the measure. Again this power corresponds to a power conferred on the court in relation to companies under the Companies (South Australia) Code.

Clause 208 provides for compulsory examination by the Supreme Court of persons concerned with building societies or foreign building societies on the application of the commission or an official manager or liquidator or any person authorised by the commission. This provision corresponds to a provision of the Companies (South Australia) Code.

Clause 209 empowers the Supreme Court to make orders for the payment of money or transfer of property to a building society or foreign building society or for the payment of compensation in cases where there has been fraud, negligence, default, breach of trust or breach of duty in relation to the society. These orders may be made on application by the commission or by an official manager or liquidator or other person authorised by the commission. This provision corresponds to a provision of the Companies (South Australia) Code.

Clause 210 provides that any civil proceedings under the measure are not stayed by reason only that the proceedings disclose or arise out of the commission of an offence.

Clause 211 empowers the Supreme Court to grant relief to an officer of a building society or foreign building society where the court is satisfied that the officer ought fairly to be excused for some negligence, default or breach not involving any dishonesty on the part of the officer.

Clause 212 corresponds to a provision in the existing Building Societies Act allowing building societies to act as agents of the Aboriginal Loans Commission.

Clause 213 allows a building society to make payments towards funeral expenses or debts of a deceased member or to the executor or beneficiary under the will of a deceased member prior to the production of probate of the will or letters of administration of the estate of the deceased. A similar power is conferred in relation to a member who becomes of unsound mind. Any such payment must not exceed a maximum prescribed by regulation.

Clause 214 provides that a transaction to which a building society or foreign building society is a party is not invalid by reason of any deficiency in the capacity of the building society unless the other party has actual notice of the deficiency.

Clause 215 abolishes the doctrine of constructive notice in relation to a building society or foreign building society.

Clause 216 is an evidentiary provision.

Clause 217 creates a general offence punishable by a division 6 fine for contravention or non-compliance with a provision for which no penalty is specifically provided or for breach by a building society or foreign building society of any of its rules. The clause provides for continuing offences and for a general offence of failing to furnish a return, information or document required by the commission, the Restructuring Review Committee or any other person under the measure.

Clause 218 provides that where a building society or foreign building society is guilty of an offence, each officer of the society is also guilty of an offence and liable to the same penalty.

Clause 219 creates a general defence that there was no failure on a defendant's part to take reasonable care to avoid commission of the offence in question.

Clause 220 provides that an offence that is not punishable by imprisonment is a summary offence. The clause allows summary proceedings for an indictable offence on application by the prosecution, but in that case limits the punishment that may be imposed. The clause fixes the time within which a prosecution must be commenced.

Clause 221 provides for the making of regulations for the purposes of the measure.

Schedule 1 provides for the repeal of the Building Societies Act 1975 and contains necessary transitional provisions. The schedule also provides for exemptions to be granted by the commission to deal with any transitional problems, but any such exemption is to cease to have effect on the expiration of 18 months from the commencement of the measure.

Schedule 2 contains provisions dealing with the order of priority of registrable charges on the property of building societies. This schedule corresponds to Schedule 5 to the Companies (South Australia) Code.

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

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 1997.)

The Hon. ANNE LEVY (Minister of Local Government): I thank members for their support in general of this legislation during their second reading speeches. I would like to point out a couple of matters raised by members that relate particularly to the amendment foreshadowed by the Hon. Mr Lucas regarding the establishment of a parliamentary committee to investigate universities. The Hon. Mr Lucas said that the committee would have the power only to listen, make judgments, report and advise, but he stressed that his personal view was that he would like the institutions to work out these decisions for themselves.

The tenor of his discussion was that this proposed committee would deal with monitoring the merger and would not just be dealing with the School of Pharmacy. However, the Hon. Dr Pfitzner in her speech addressed herself only to the question of the School of Pharmacy and revealed what I can only presume was the result of Party room discussion, namely, that this proposed committee was only about the proposed Centre for Health Sciences. In winding up her speech, she did in fact say:

> I therefore strongly support the concept of a review committee to encourage and facilitate this Centre for Health Sciences.

She only discussed the committee from the point of view of the proposed Centre for Health Sciences. The Hon. Dr Ritson does seem to have made contradictory statements. He said in his speech:

> It has always been my opinion and that of the Liberal Party that, whatever we might think of mergers or individual parts of merger agreements, the important factor is to allow the institutions to work it out amongst themselves.

He also stated that members on that side of the Council wished to facilitate an agreed Bill and that they did not wish to erode the autonomy of the institutions.

The Hon. R.J. Ritson: That's right.

The Hon. ANNE LEVY: These comments seem to me to contradict the proposal to establish a parliamentary committee which is going to interfere with the autonomy of the different institutions.

The Hon. R.J. Ritson: Not at all; it can't; it has no Executive power. Don't misrepresent the situation.

The ACTING PRESIDENT (Hon. R.R. Roberts): Order! All members have had the opportunity to make their contributions.

The Hon. ANNE LEVY: I feel that there is a mixed message coming from members opposite on this matter, but doubtless we can deal with this in much greater detail in Committee.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. R.I. LUCAS: I apologise in advance to the Minister handling the Bill if the question I am about to ask has already been asked in the other place. However, this is a quite separate and independent Chamber and not dictated to by what occurs in the other place. All members are entitled to place their views on the record in relation to legislation before us. The Government obviously has a very tight program in relation to getting all this through by 1 January. The Liberal Party is happy to try to comply with this as best we can. Should the Bill be passed by the Council and come out of the Parliament today or tomorrow, when does the Minister envisage that the Act will be proclaimed? Is it to be, in effect, 31 December? Can the Minister at this stage also give an indication of the time frame that the institutions and the Government must follow in relation to the whole series of things related to this Bill and the other Bill, concerning appointments, etc., that have to be followed and considerations by Cabinet, for example? What is the timeframe from here through to 31 December?

The Hon. ANNE LEVY: It is hoped that, if the legislation passes the Parliament this week, the appropriate documents for Cabinet will go to Cabinet on 28 November and the subsequent gazettal of regulations and so on can occur on 13 December. The gazettal will, of course, deal with the allocation of 100 or so staff who will be displaced by the legislation. The 13 December date will enable the arrangements to be in place by 1 January, without crowding too closely on Christmas.

Clause passed.

Clauses 3 to 6 passed.

Clause 7—'Transfer of staff.'

The Hon. R.I. LUCAS: The Liberal Party has received a submission about interpretation of this clause. In particular, I want to outline a certain circumstance. If, for example, a principal librarian was to transfer from Roseworthy Agricultural College to the University of Adelaide and the University of Adelaide was to have the principal librarian position filled already, it is quite clear that remuneration or other emoluments of office, such as leave rights and continuity of service, etc, would have to be protected for that principal librarian from Roseworthy.

The view that has been put to me is that, in effect (and this is a consistent provision all the way through) the accepting institution, in this case the University of Adelaide, should have the right to be able to redesignate the title and duties of, in this case, the principal librarian coming from Roseworthy Agricultural College, so that there would not be two people with the title of 'Principal Librarian' and with the same duties. The person who comes may be redesignated as deputy principal librarian, or some other title, and will be given duties, to answer, perhaps, to the principal librarian from the University of Adelaide. What is the Government's interpretation of this clause, and does it give the University of Adelaide, the power to redesignate titles and duties of particular officers?

The Hon. ANNE LEVY: As I understand it, the question of titles will be a matter for the institution to determine.

The Hon. R.I. Lucas: The University of Adelaide?

The Hon. ANNE LEVY: In this particular case, it will be the University of Adelaide. However, it will be a matter for the institution to determine matters such as titles. An agreement exists between all the merging institutions that any employee who is transferred will be employed on conditions which are no less favourable than those which he or she had previously enjoyed. In consequence, their conditions of employment, their salary—

The Hon. R.I. Lucas: Does that include their job function? Someone is going to be answerable to somebody else. They cannot both be principal librarian.

The Hon. ANNE LEVY: A title is not a condition of employment. The actual title will be for the institution to determine. However, it has been agreed that no-one will be disadvantaged as a result of the mergers. It is exactly analagous to the situation where there are council amalgamations. There is agreement that no-one will be disadvantaged in their employment conditions as a result of the merger.

The Hon. R.I. LUCAS: I can understand that in relation to what I would call financial benefits, if conditions are interpreted in that way, but certainly someone who was the principal librarian at Roseworthy, whilst they might have their financial benefits, their leave entitlements, etc., protected and be no worse off, may well feel disadvantaged if they become the assistant principal librarian and their job function is changed to say that they are no longer the head honcho in the library section and will do as ordered by the principal librarian from the University of Adelaide. Has the Government had advice regarding the interpretation of this subclause in relation to that sort of circumstance?

The Hon. ANNE LEVY: As I understand it, the guarantee is that no conditions of employment will be any less favourable than currently exists. It will be for the new institution to work out the structure of their administration and functions. There may be rewriting of job descriptions, but that will be for the institution itself to work out. The institutions have autonomy, and that is their prerogative. They will be able to work out these things as best suits the function of the merged institution. The terms and conditions of employment of those transferring is guaranteed.

Clause passed.

Clause 8—'Superannuation.'

The Hon. K.T. GRIFFIN: I ask a question in relation to subclause (6). There is a provision that, on the university entering into arrangements with the South Australian Superannuation Board, this section (except for subsection (1)) ceases to have effect. Can the Minister give any details as to what sort of arrangements are contemplated, when they are likely to be entered into and the consequences of those arrangements?

The Hon. ANNE LEVY: As I understand it, the bulk of clause 8 is a transitional arrangement, which will cease when subclause (6) is implemented. So, that is a transitional provision only. The arrangement with the South Australian Superannuation Board needs to be entered into because there are currently members of staff at Roseworthy who, from previous employment arrangements, are members of the South Australian Superannuation Fund. There are employees who are currently members of the South Australian Superannuation Fund.

As I understand it, members of staff at Roseworthy, at one time, were eligible to be members of the South Australian Superannuation Fund, and there are still employees there who have that membership. Currently, existing universities have not had access to the Public Service scheme. So, these transitional arrangements set out in clause 8 are necessary until the arrangement is made with the South Australian Superannuation Fund to protect the rights of these individuals.

The Hon. K.T. GRIFFIN: Do I take it from that that the arrangements relate only to those employees who are currently members of the South Australian Superannuation Fund, or is it intended that there should be an extension of the option for employees of the university to become members of the fund?

The Hon. ANNE LEVY: It is not expected that any current university employees who are not members of the State super scheme will move into the State superannuation scheme. Currently the universities are not able to make arrangements with the South Australian Superannuation Board, because all current university employees belong to the Tertiary Education Superannuation Scheme. This clause is necessary to provide for those members of Roseworthy College who are with the State superannuation scheme. This clause will enable the university to enter into an arrangement with the State super scheme (which currently they do not have the power to do) regarding these—

The Hon. K.T. Griffin: Existing employees.

The Hon. ANNE LEVY: —existing members of Roseworthy College in this case who are members of the State Superannuation scheme. When they become employees of the University of Adelaide, this clause will enable an arrangement to be made between the university and the State superannuation scheme regarding the continuing superannuation of these employees.

Clause passed.

Clause 9—'Transfer of students and courses.'

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

Page 3, After line 44—Insert new subclause as follows:

(5a) In issuing an award in the name of the College under subsection (4) or (5), the University may cause the common seal of the College to be affixed to the award in the presence of such signatories as the Council of the University may appoint for the purpose.

Two significant issues are immediately apparent that will take some time of the Committee, and this is one of them. The other is the question of the parliamentary committee to which the Minister referred earlier.

In handling the significant number of amendments that I have on file, I suggest that we could almost treat this first block of amendments as a test case because they are virtually replicated through the other sections of the Bill. If the Committee either agrees or disagrees to the first block of amendments, I suggest that we should take that as an indication of the Committee's view in relation to the other sections of the Bill. Indeed, throughout all considerations of the Bill until, for good reason, the Government in the House of Assembly moved an amendment to the Roseworthy provision of the Bill, there has been consistent treatment of all these provisions for the transfer of students and courses.

As we see the Bill now, there is a slight inconsistency as a result of that amendment which, as I said, was moved, with good reason, by the Government in another place, but my amendments to this clause and another seek to ensure uniformity in the treatment of students and courses throughout all the provisions of the Bill. When I first undertook my consultation process on the draft Bill as it was introduced into the House of Assembly, the major issue of concern raised with me related to the interpretation of this clause.

It is fair to say that there was considerable disagreement as to how an institution or an individual should interpret the original drafting of this clause. That disagreement was held by a number of institutions, Government advisers, the Minister, myself and Parliamentary Counsel. There was a divergence of views as to how the clause was to be interpreted. Certainly, there was a consistent view amongst everyone that, if there was that divergence of views, we should try to do something about it to ensure that there was some consistency in the interpretation of this clause. I do not intend going over the various versions of what the original Bill might or might not have meant. Rather, I intend to indicate clearly and in some detail the intention of my amendments.

First, clause 9 (4), which has already been amended in another place (but I will be moving similar amendments to other provisions of the Bill that relate to this matter), covers those students who, in effect, have completed their studies at Roseworthy this year and perhaps require a supplementary examination in January next year or may well have the final part of a dissertation or thesis to be completed in January or February next year but who would not enrol in the University of Adelaide. They will either complete their course at Roseworthy this year or complete it in the very early part of next year. In the normal course of events, without a merger, they would have received a Roseworthy degree, diploma or certificate perhaps in May next year.

It is my personal view that students in that situation should receive a Roseworthy degree. Certainly, it is my personal view that to award a student in that position a University of Adelaide degree would be misleading and should not be what we envisage in the legislation. There are varying versions of what the Roseworthy/University of Adelaide merger document provides and, having looked at it and discussed it with those responsible for its drafting, they can see some confusion in, I think, section 20 or section 21 of that document. Nevertheless, Roseworthy students have been told through the latter part of this year that they would have a choice of either a Roseworthy degree or, in some form or another, a degree from the University of Adelaide.

The Liberal Party's position in this case, and in the other case, is that we are prepared to accept a version of that in the awarding of degrees and certificates. If these amendments are accepted, those students in this circumstance will be entitled to receive a Roseworthy degree which, in effect, will be very similar to the current Roseworthy degree, with Roseworthy parchment and the words 'Roseworthy College' at the top of the parchment, indicating that it is for work done at Roseworthy College, with the seal of Roseworthy College at the bottom, and signed by someone nominated by the council of the University of Adelaide. It is my understanding that possibly someone such as the current President of the Roseworthy College Council (Dr Bruce Eastick) may be appointed by the University of Adelaide to act on behalf of the university and sign that degree.

The other option, if the student so chooses, would be to have a certificate or degree in the name of the university and the college. This has been difficult to interpret but, after long discussions with the institutions and Parliamentary Counsel, my understanding of the intention is that the student could obtain a degree which would be headed 'University of Adelaide' and may well include a bracket at the top or just underneath indicating that it is incorporating the former Roseworthy College.

It would indicate work done at Roseworthy and the University of Adelaide, if some work has been done at that university, and it would be signed by the Chancellor of the University of Adelaide with the seal of that university on the parchment. In the end, that decision will be taken by the University of Adelaide. However, my understanding, after discussions, is that something along the lines that I have detailed is envisaged, not only for this area but for other areas.

Clause 9 (5) *(b)* provides that, if a student commences the last semester of the course at the Roseworthy Agricultural College, the university has absolute discretion to give the relevant award in the name of the university, in the name of the university and the college or in the name of the college. There was some concern that some students, not necessarily at Roseworthy college but from one of the colleges, may consciously make a decision to defer the last semester of their course so they could complete that semester with the University of Adelaide and get a University of Adelaide degree. This provision was added to the legislation to ensure that the university has the discretion to say what sort of degree will be awarded to students in that position; that is, a Roseworthy degree, a pure University of Adelaide degree or a degree in the name of the university and the college and, under the provisions of subclause (4), that would be a decision of the university.

Clause 9 (5) *(c)* provides for a more difficult case where a student who successfully completes a course before 31 December 1995—five years hence—is entitled, if he or she so elects, not the University Council, to receive the relevant award. The intent of my amendment is to give students the widest possible option of saying whether they want a Roseworthy degree, a pure University of Adelaide degree or a degree in the name of the university and the college. Concern has been expressed about this provision applying for five years but, in the end, there is support from the institutions, or at least not strong opposition, for the compromise package that I am moving this afternoon.

This first amendment picks up the drafting of a precedent that was established by the merger of the Lincoln Institute of Health Sciences and Latrobe University. It is not exactly the same but it picks up its essential components. In effect, it provides that the seal of the Roseworthy college and, when we move on to the other amendments, the seal of the South Australian College of Advanced Education and the Institute of Technology, can continue for these fixed, certain purposes for making awards and that the University Council will be able to nominate certain signatories to sign these particular awards.

I believe, and I think most members believe, that, in the main, most students will choose to take a degree from the University of Adelaide, Flinders University or the University of South Australia. However, some students may wish to have a degree awarded in the name of the existing institution. For example, wine marketing and wine related courses from Roseworthy college have international recognition and some students may want a Roseworthy degree rather than a University of Adelaide degree. I am also told that graduates from the engineering faculty of the Institute of Technology would much prefer to have a degree in engineering from the institute than a degree from the University of South Australia because of the perceived marketability of that course and its acceptance by many employers for its practical nature.

I am told that the awards of the School of Art from the South Australian college are recognised nationally and perhaps internationally, and some students may wish to have their degree awarded in the name of the college, having studied at the School of Art, rather than in the name of the university. Those decisions will be left to the students but, as I said, in the main I suspect that students will prefer to take university degrees. The amendments I have on file are based on this first amendment.

The Hon. M.J. Elliott: You won't speak this long to all of them, will you?

The Hon. R.I. LUCAS: If the Hon. Mr Elliott was listening, he would know that I said I was speaking to the block of amendments and that I will take this amendment as a test case for the subsequent amendments, and I envisage that there will not be any debate on the other amendments.

The Hon. ANNE LEVY: The Government is happy to accept this amendment and the other amendments as they occur throughout the legislation. This is enabling legislation and these amendments have been requested by the institutions themselves. The Government is happy to comply with the wishes of the institutions.

Amendment carried; clause as amended passed.

Clause 10 passed.

Clause 11—'Transitional provisions.'

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

Page 4—
Line 16—Leave out 'express'.
Line 17—After 'is' insert 'to lapse or is'.

This clause deals with testamentary dispositions. The same clause appears in two places in the Bill. In this instance it relates to the merger of Roseworthy college with the University of Adelaide and, in clause 21, it relates to the merger of the Magill, Underdale and Salisbury campuses with the Institute of Technology to form the University of South Australia. Other provisions in other parts of the Bill also relate to testamentary dispositions.

The reason why I want to move these amendments is that recently we had a select committee to look at the testamentary dispositions to the Adelaide Children's Hospital and to the Queen Victoria Hospital in relation to the merger to form the Adelaide Medical Centre for Women and Children. As a result of the deliberations of the committee, we identified a different form of words that is more appropriate in respect of testamentary dispositions. If we seek to change a testamentary disposition by providing for a beneficiary who may be a successor to the beneficiary specifically provided in a will, it is important to ensure that the intention of the testator is recognised. The concern not only in relation to this clause but also clause 21 in regard to other legislation which seeks to vary the intention of testators is to recognise that where there is an intention to do something different in the event of a body ceasing to exist, effect should be given to that intention.

I propose to delete from subclause (2) the word 'express', but subsection (1) must not then defeat an intention in a testamentary disposition or trustee deed that, should the beneficiary cease to exist, the disposition or trust is to be in favour of some other person or body. There is an omission that in some testamentary dispositions express provision is made for a beneficiary ceasing to exist for the disposition to lapse. It would be inconsistent with the intention of the testator merely to provide that in the context of this Bill that intention is to be overridden.

As I say, the amendments I move are consistent with the recommendations of the select committee in relation to the merger of the Adelaide Children's Hospital and the Queen Victoria Hospital and, I would suggest, are a clarification of what is presently in clause 11 (2). They certainly do not prejudice the intention of that provision.

The Hon. ANNE LEVY: The Government is happy to accept this amendment, which apparently clarifies what the Government intended, anyway.

Amendment carried; clause as amended passed.

Clauses 12 to 15 passed.

Clause 16—'Vesting provision.'

The Hon. K.T. GRIFFIN: This provision is also repeated in other parts of the Bill, but it deals with the vesting of property, rights, interests and liabilities, whether vested or contingent. The scheme is reasonably straightforward, although in relation to liabilities, clause 16 (1) *(d)* provides that the liabilities that are attributable to the general admin-

istration of the college of the South Australian College of Advanced Education are to be assumed by the university. The university, the University of Adelaide and the Flinders University are then to be jointly and severally liable. That means that the three of them are liable for the whole of any liability, and any third party may sue any one of them for the whole. Of course, then the other two may be joined as parties, and the one which is sued may recover a proportion from the other two. Clause 43 provides:

> The universities may enter into arrangements to divide between them any property, rights, interests or liabilities jointly vested in them pursuant to this Act.

That is relevant in relation to subclause (1) *(c)* where paragraph *(c)* deals with personal property held jointly, but it may not be so relevant in relation to paragraph *(d)*.

My question is really a technical one. The fact that in clause 43 there is an authority for universities to enter into arrangements to divide liabilities jointly vested in them, is there a difficulty where the liabilities in clause 16 (1) *(d)* are to be held jointly and severally? It may be that in clause 43 later there may need to be some technical amendment which just ensures that liabilities which are either jointly, or jointly and severally, vested are in fact covered.

The Hon. ANNE LEVY: Clause 16 (1) *(d)* refers to 'the liabilities of the College as are attributable to the general administration of the college', as opposed to the administration of specific institutions which go entirely to the institution resulting from the merger. For instance, everything at Sturt goes to Flinders; everything at Kintore Avenue goes to Adelaide, and so on.

Apparently, agreement has been reached as to the carve-up of the assets from the general administration, the bulk of which obviously goes to the University of South Australia but smaller proportions will go to Flinders University and to the University of Adelaide. Agreement has been reached on the distribution of assets and liabilities that are jointly and severally liable resulting from the general administration of the college.

The Hon. K.T. GRIFFIN: This is not a significant point, so I do not intend to spend a lot of time on it. I just thought that there was some inconsistency with clause 43 and that, if arrangements were to be entered into, clause 43 gives authority for the universities to enter into arrangements to divide any property jointly vested as well as any liabilities jointly vested, but may not extend, of course, to jointly and severally. Under the general powers of these bodies corporate, they can enter into whatever arrangements they like, anyway, so I do not think that we need to waste a lot of time on this point. I appreciate the indication that the institutions have reached some agreement about assets and liabilities attributable to the general administration. This was just a technical matter that I raised, and I do not intend to pursue it further.

The Hon. ANNE LEVY: As I understand, agreement has been reached between the institutions in this regard. We do not expect there to be any problems, but should any problems arise in the future the Government will obviously do whatever is necessary to sort them out.

The Hon. R.I. LUCAS: A draft paper on the distribution of college assets and liabilities was being circulated amongst the institutions to form the basis of this agreement in relation to assets and liabilities. Has that agreement between the institutions been signed?

The Hon. ANNE LEVY: I am not sure whether it has actually been signed, but I understand that it certainly has been agreed to.

Clause passed.

Clauses 17 and 18 passed.

Clause 19—'Transfer of students and courses.'

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

Page 7—

Line 11—After 'College' insert 'or, if the student so elects, in the name of the University and the Institute or the College'.

Line 20—After 'University' insert ', in the name of the University and the Institute or the College'.

After line 25—Insert new subclause as follows:

(5a) In issuing an award in the name of the Institute or the College under subsection (4) or (5), the University may cause the common seal of the Institute or the College (as the case may require) to be affixed to the award in the presence of such signatories as the Council of the University may appoint for the purpose.

The Hon. ANNE LEVY: The amendments are accepted.

Amendments carried; clause as amended passed.

Clause 20 passed.

Clause 21—'Transitional provisions relating to the college.'

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

Page 8—

Line 9—Leave out 'express'.

Line 10—After 'is' insert 'to lapse or is'.

These amendments are similar to the amendments that were successfully moved in relation to clause 11 and deal with gifts made under a testamentary disposition.

The Hon. ANNE LEVY: The amendments are supported.

Amendments carried; clause as amended passed.

Clauses 22 to 28 passed.

Clause 29—'Transfer of students and courses.'

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

Page 11—

Line 3—After 'College' insert 'or, if the student so elects, in the name of the University and the College'.

Line 11—After 'University' insert ', in the name of the University and the College'.

After line 14—Insert new subclause as follows:

(5a) In issuing an award in the name of the College under subsection (4) or (5), the University may cause the common seal of the College to be affixed to the award in the presence of such signatories as the Council of the University may appoint for the purpose.

The Hon. ANNE LEVY: The amendments are accepted.

Amendments carried; clause as amended passed.

Clauses 30 to 36 passed.

Clause 37—'Transfer of students and courses.'

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

Page 14—

Line 8—After 'College' insert 'or, if the student so elects, in the name of the University and the College'.

Line 15—After 'University' insert ', in the name of the University and the College'.

After line 19—Insert new subclause as follows:

(5a) In issuing an award in the name of the College under subsection (4) or (5), the University may cause the common seal of the College to be affixed to the award in the presence of such signatories as the Council of the University may appoint for the purpose.

The Hon. ANNE LEVY: The amendments are accepted.

Amendments carried; clause as amended passed.

Clauses 38 to 44 passed.

The Hon. ANNE LEVY: In view of the time, I suggest that the Committee report progress and have leave to sit again. I also want to correct an answer that I gave earlier regarding the procedure of this Bill once it has passed both Houses. As I understand it, the material for gazettal will not go to the Cabinet on 28 November, but it will have to be prepared for Cabinet by 28 November and it is expected to be considered by Cabinet on 11 December, with gazettal occurring on 14 December.

Progress reported; Committee to sit again.

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

LAND ACQUISITION ACT AMENDMENT BILL

In Committee.

(Continued from 20 November. Page 1983.)

Clause 3—'Payment into court.'

The CHAIRMAN: When the Committee last met the Hon. Mr Burdett had moved an amendment and had spoken to it. The honourable Attorney.

The Hon. C.J. SUMNER: The Government opposes the amendment. The honourable member wants to require the court to invest in authorised trustee investments with a monthly interest being obtained. The Government opposes that. All the moneys currently invested in the courts are invested with a six monthly accrual of interest. I opposed the amendment in the second reading reply. Certainly there would be extra administrative demands on the Supreme Court if this amendment were to be passed, but I think the main problem is that there is no guarantee, and in fact it is quite possible, that the return through the authorised trustee investments would be less than what the Supreme Court currently gets with its investment policies.

Certainly the fact that it is an authorised trustee investment does not guarantee increased return; neither regrettably these days does it necessarily guarantee greater security because the problem with which we will have to deal at some stage in this Council is how we will in the future define 'authorised trustee investments'—by the list system, as it is at the moment, or by some other prudent person approach. Certainly, under this amendment there is no guarantee that there will be a better deal for the people who ultimately receive the money through the proposition put up by the Hon Mr Burdett.

The Hon. J.C. BURDETT: The question is the compounding of the interest. Under the Bill, and under the present system, interest is compounded six monthly; under my amendment it would compound monthly. That makes a very great difference, particularly at this time when interest is so high and interest is so important. The points that I raised yesterday were that the amounts of money involved under the Land Acquisition Act are often very great. I pointed to the fact that in domestic houses it could involve $100 000, $200 000, $500 000 or even more, and then more than that in relation to commercial and industrial premises or broadacres. This involves very large sums of money; it is not peanuts, and often it is even a quite long period of time, say, two years. The compounding makes a great deal of difference. If you only compound every six months as against every month it can make the difference of thousands of dollars.

The Hon. C.J. Sumner: They could accept the offer.

The Hon. J.C. BURDETT: Well, they do not have to accept the offer. We are talking about compulsory acquisition; people may not want to sell their land, it is compulsorily taken from them by the Government, and they should not be discriminated against. They should have justice, and they should have the justice which applies in the marketplace—and the justice which applies in the marketplace is that you can easily invest your money so that it compounds monthly. That, as I say, can amount to—

The Hon. C.J. Sumner: You may not do any better. In fact, in recent circumstances you probably would have done worse.

The Hon. J.C. BURDETT: You almost certainly would do better.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: Mr Chairman, you almost certainly would do better. This has been raised with me by people outside this Chamber; it came through consultation which the Government had not conducted. The Government did not consult with the Real Estate Institute, the Law Society of South Australia, the Land Brokers Association and others, as the Opposition did. The Real Estate Institute in particular raised this question. Its suggestion prompted me to move this amendment. It was considering its clients, of course, because it knew they would do better if the interest was compounded monthly rather than six monthly, which I would have thought any grade seven school student would have known.

The Hon. C.J. Sumner: Depends where it is invested. Don't be so stupid about it, it depends where it is invested.

The PRESIDENT: Order!

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: Let us go through this procedure then. I discussed this question with Parliamentary Counsel when I got the information from the Real Estate Institute. Parliamentary Counsel said that it could be invested at 1 per cent and it therefore recommended this particular amendment to make it trustee securities, which are not at 1 per cent but at a much higher rate.

The Hon. C.J. Sumner: Maybe.

The Hon. J.C. BURDETT: Well, they all are. That is why this amendment has been moved in this form, so that it cannot be a ridiculous amount of interest; so that it will be a reasonable amount of interest, which is the case with all trustee securities. Trustee securities can be invested on terms where the interest compounds monthly. I have only one intention: to get justice for people who have their property compulsorily acquired. At the moment they have not got it. The Real Estate Institute highlighted that. People whose land is compulsorily acquired—involving large amounts of money held for, say, two years, with interest compounded six monthly—should get justice, at a stage like this when interest is so important, when interest rates are so high. It is certain that they will get more if the interest is compounded monthly.

The Hon. C.J. Sumner: Depends where it is invested.

The Hon. J.C. BURDETT: All right, but it is trustee securities, which is a fairly limited area. If it is invested in trustee securities it will be greater; if it is not, why is the Attorney worrying about it? I suspect he is worrying about it because the Government will not be able to get the rake-off which it has in the past.

The Hon. L.H. DAVIS: I had not intended to be drawn into this debate, but I must say that I am persuaded by the merit of my colleague's argument. The Attorney-General is again displaying a penchant for his financial ignorance in his interjections. Certainly, the Attorney—

The Hon. C.J. Sumner: He raised exactly the same point as I. It depends where you—

The Hon. L.H. DAVIS: Certainly, the Attorney is correct—

An honourable member interjecting:

The CHAIRMAN: Order! The Hon. Mr Davis has the floor.

The Hon. L.H. DAVIS: Thank you, Mr Chairman, for protecting me from these violent interjections by the Attorney. Certainly, the Attorney is correct. It depends where you invest it, and it also depends on the interest rate cycle.

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: Be patient, Attorney. I will prove that you are wrong. Certainly, if you had invested for six

months in July 1990 you would have benefited, because interest rates have softened quite significantly over the last few months, compared with investing on a monthly basis. Certainly, of course, the reverse is true, as the Attorney would concede, if interest rates are going up. So it breaks both ways. The Attorney should recognise that. Again, quite clearly, it depends on the nature of the trustee investment as to what is the level of the interest rate and, indeed, the security—

The Hon. C.J. Sumner: And who is prepared to pay the interest monthly.

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: —and what is the security obtaining on those trustee investments. Some trustee investments would, in my judgment, be much more secure than others. But, there are now a number of instruments available for monthly investment, and I think my colleague the Hon. John Burdett is quite correct in saying that in the longer term, quite clearly, a client will benefit from having money compounded on a monthly basis rather than every six months. Certainly, the Attorney should know that he would prefer to have his house loan rates or his overdraft rate, if he has one, for example, adjusted on a daily basis rather than on a monthly or six-monthly basis.

There is a very strong argument to say that deposits compounded monthly over a long period of time will be of greater benefit. I think the Attorney should have consulted. Quite clearly he has not. My colleague the Hon. John Burdett has made that clear. The Real Estate Institute is not without knowledge in this area, because many of them do handle money on a regular basis as landbrokers, investing money on behalf of clients; the Attorney should concede that. He should recognise that his arrogance and his indifference in this matter are not becoming of him.

At the very least, the Government should have consulted and it would be highly appropriate for the Attorney to report progress and actually get some information on this point. It is not a small point, as my colleague the Hon. John Burdett said: we are talking about very large sums of money. There are instruments available where interest is compounded monthly, and I instance bank deposits, which of course are very secure. I think at least one of the trustee companies—it may well be Executor Trustee—has a common fund which is rated as a trustee security under the Attorney-General's own hand, which has interest payable on a monthly basis. Those rates are very competitive, as are the rates of Elders Trustee.

The market is a much different and more sophisticated place than it was one, two or even three years ago. These instruments are available, and the Attorney should be generous and certainly report progress and get some more information on this important point.

The Hon. I. GILFILLAN: I did not intend to get drawn into this debate, but the eloquence of the previous speakers makes it irresistable. My immediate opposition to the wording in the Bill is 'prescribed securities', which really means that it is open to the Government to determine which securities would be acceptable for the depositing of this money.

I am not persuaded by what I have heard yet from the Attorney that there is any substantial reason against the Hon. John Burdett's amendment. The honourable member has argued that there is no great advantage to the depositor, in which case it seems to me, to make the best side of his argument, that it does not really matter much one way or the other. Mr Burdett is making the point that it does offer the best opportunity for the person whose property has been compulsorily acquired to maximise their return on the money involved. Certainly, on the face of the argument that has been presented thus far, the Democrats are inclined to support the amendment.

Amendment carried: clause as amended passed.

Clause 4 and title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 1566.)

The Hon. J.C. IRWIN: The Opposition supports the Bill and generally supports the Local Government Act amendments. We will seek to amend some of the clauses and will move to introduce some other amendments which I will discuss later. Most of the changes proposed by the Government are technical refinements of the existing provisions which have been suggested by local government and State Electoral Department officers, candidates and legal practitioners. In that statement, I refer mainly to the amendments to the electoral provisions in the Local Government Act. It is pleasing to see the work done by the Department of Local Government and local government itself following the biennial local government elections.

This refinement process has been a feature since the new electoral provisions of the Act were first introduced and used in 1984. One wonders how the process will be handled in future years, when the Department of Local Government has gone. The Bill before us is divided into two parts, one part dealing with electoral matters and the other with upgrading the parking regulations, which require complementary amendments to the Act.

The Opposition supports most of the electoral amendments. In clause 9 we accept the technicality that will enable councils to opt out of the method that they chose to count votes at a council election. I guess many thought that that was always an option, but it appears, on advice, that it has not been. However, the Opposition does not support that a council should be shut in for two elections if it has decided that it made the wrong choice in the previous election. By 'previous election' I mean if it has only been in the system for one election. Then, we believe that it should not be shut in there by the amendment from the Government which provides it should be there for two years. We will seek to amend the two years to one year, as suggested. After all, the sooner a council finds its best choice, the better. We believe that it should be a matter of local choice.

Most people in local government would be aware of the rumble that has come from local government with regard to the method of counting votes at elections as provided for currently in the Act. It has died down a bit now because we are nearly two years out from the last local government elections. However, comments will start again as we approach the May 1991 council election time. As members know, one of the present two methods in the Act can be described as optional preferential (or, as it has been sometimes christened, the bottoms up method), where the candidate with the least number of votes is eliminated. It there are preferences, they are distributed.

The other is proportional representation, where preferences are required to be indicated and a complicated counting system like that of the Legislative Council is followed, where candidates are required to reach a quota before gain-

ing election. Surplus votes are transferred to other candidates.

Councils have indicated, as have individuals, that neither option is satisfactory. Some people have tried to devise a scheme whereby electors could vote '1' for each candidate of their choice in multi member wards or no ward situations. In most of the discussions I have had, not only recently but over the past couple of years, I have been asked, how can we vote '1' for each candidate if three are required? We want to be able to vote '1' for each one. If we think it through, it is very difficult to devise a method of voting for three positions out of six candidates, incorporate an element of preferences and, without going back to first past the post, calculate a result which would exactly reflect voters wishes.

I believe that the Local Government Association and the department have been looking at the problems for some time, so it is not in one sense new. In fact, it has been on going for some years. In the method I propose as a third option, an elector fills in every square on the voting paper up to at least the required number of councillors. The candidate with the fewest votes is eliminated and that candidate's vote preferences will flow to the other candidates left, and so on, until one candidate has a majority. If there is more than one position to fill, the one elected candidate's preferences will be distributed through the remaining candidates. If no second candidate has emerged, the candidate with the least votes will be eliminated and that candidate's preferences will be distributed until a second candidate is elected, and so on, until the required number are elected.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: We are putting it forward as a serious option for members of this Council and this Parliament to consider. Hopefully the people can make a choice.

The Hon. Anne Levy interjecting:

The Hon. J.C. IRWIN: If it has any defects, it has exactly the same defects, in another way around, as the existing system. Under clauses 5 and 6, an electoral officer who receives an envelope apparently containing an advanced voting paper will not be requried to rule a line through the voter's name on the roll or to make a comparable record in the roll. I ask the Minister to explain when the voter's roll will be marked following the receipt of an advanced voting paper. If the roll is not marked in time for the election day roll that is available to the poll clerks, how will multiple voting by an unscrupulous elector be detected and thus avoided?

I make a comment in regard to advanced voting, because the advanced vote is far from being a secret vote. With the encouragement for more and more voters to use the advance vote, a greater proportion of votes cast are no longer secret, and an elector's preference in voting is no longer a private matter. A more appropriate way to do this would be to seal a vote in a blank envelope, inside the envelope marked with the voter and witness signature.

Clause 10 is not acceptable to the Opposition. It relates to the use of electronic equipment to count votes, and the power to make detailed regulations prescribing the kind of equipment that must be used. New section 123 *a* (3) provides:

> a provision of a regulation under subsection (2) will, to the extent of any inconsistency, prevail over the provisions of this Part.

We think it unacceptable that any proposed regulations will override the Act and believe it should be the Parliament and the Act which sets out the guidelines for the regulations. In any case, electronic vote counting devices will not come into use over night. There is no reason why the Parliament cannot, through the Act, prevail over the regulations.

In regard to clauses 13 and 14, which related to proceedings before a Court of Disputed Returns, where it is alleged that an election is invalid on account of an act or omission of an electoral officer, I ask the Minister whether the example of the Enfield council, where the returning officer at a by-election showed the previous marked voters' roll to a candidate who was subsequently elected is covered by these new provisions.

The Hon. Anne Levy: The election was not declared invalid.

The Hon. J.C. IRWIN: Okay, I understand that, but I am trying to—

The Hon. Anne Levy: Willunga.

The Hon. J.C. IRWIN: Yes, this is Willunga, but in a previous question to the Minister and following discussions with some of her officers, I understood that her department was looking at how to cover the Enfield problem where the voters' roll had been shown but the defeated candidate, because of his financial means, could not take it to a Court of Disputed Returns. I think the Minister was looking at trying to make a provision where the council would bear the cost if it could be shown that the returning officer had erred, as he had. He quite openly confessed to having erred. So, maybe this does not—

The Hon. Anne Levy: No, it is not meant to. It is the Willunga case.

The Hon. J.C. IRWIN: I wish the Minister had had her officers look at the Enfield example so that it was covered. Clause 11 will make it an offence for a candidate or someone acting on behalf of a candidate to offer to an elector transportation other than in certain specified circumstances. We will oppose this clause because it makes a different provision than that applying to the transportation of electors in the State Electoral Act. I thought there was a certain amount of common agreement with regard to trying to keep provisions relating to elections as standard as possible between State and local Government.

The Hon. Anne Levy: We will do it with compulsory voting.

The PRESIDENT: Order!

The Hon. J.C. IRWIN: You will have a chance to answer all that. I am making this contribution after great pain and many hours of slogging away so that you may reply and put your point of view.

The Hon. T.G. Roberts: Who started the question and answer?

The PRESIDENT: Order! The Hon. Mr Irwin has the floor.

The Hon. J.C. IRWIN: I have asked the questions, and that is quite normal. I think it is quite normal to try to signal to the Minister now some of the questions that can be taken away and answered when a chance to finish this debate is given. It may save some of the time of the Committee going over all these things again. I do not mind holding it back until the Committee stage and demanding an answer which I probably would not get.

There is always a certain amount of confusion if there is a wide variation between the provisions relating to Federal and State elections and those used for local government elections. I will move another amendment which will seek to clarify the counting of votes and a majority at a council meeting. For some months now local councils have been in some what of a delemma regarding what is a majority at a council meeting where the Mayor does not have a deliberative vote. As members will recall, I brought this to the attention of the Minister of Local Government following conflicting advice being given to a Burnside residents group. I guess plenty of others have brought it to the Minister's

attention. I just referred to a question that I asked in this place. Advice from two eminent sources, namely, Crown Law and Mr Brian Hayes, QC, had been around for some time—I think as far back as the early 1980s. To my knowledge this matter has never been tested in court. As I understand it, the Minister has acknowledged that there is a problem and has promised Local Government to tidy it up, so I am rather surprised that an amendment similar to mine, supported as it is by local government, has not been introduced within this amending legislation.

The Hon. Anne Levy: I am consulting with local government now.

The Hon. J.C. IRWIN: Good. I turn now to matters in the Bill relating to parking. As the Minister pointed out in the second reading explanation, the parking regulations made pursuant to the Local Government Act were last promulgated way back in 1981. I support the advice that it is about time they were reviewed together with complementary legislation. The Minister refers to a widely representative revision committee which has presented a report recommending the amendments that we now have before us.

I ask the Minister how long that review committee has been meeting. Did it start in 1984? Who were the members of the original committee and who were the members of the final report committee? Will the Minister table that committee's report? We need to be reassured that it was a very thorough review. One person with whom I have consulted, Mr Gordon Howie, a well-known terrier when it comes to parking regulations and traffic problems in general, informs me he was a committee member in 1984 and 1985 and found the meetings a waste of time. He certainly had no knowledge of the report recommendations on which the amendments in this Bill are based.

I understand that Mr Howie would have inundated any committee with an enormous number of complaints regarding the Act and regulations, together with substantial supporting material from his undoubted experience, because I, too, have just received a substantial amount. I will summarise his advice to me by saying that the laws relating to the parking of vehicles on roads should be part of the legislation relating to the driving of vehicles.

The legislation should be completely reviewed with the prime aim being uniformity with other States, particularly Victoria and Western Australia. In both those States, the road traffic codes are largely identical to the national code. We should seek uniformity around Australia and between various Acts in this State. When does the Minister believe that South Australia will move towards adopting regulations which are uniform with the national code? When does the Minister expect Australian Standard A1742-11 to be adopted by the State?

I do not take Mr Howie's advice lightly, and I believe that he made many valid points to me in his submission. Doubtless he made the same points to the Minister and various committees; but they seem to have been largely ignored. In the confines of this Bill, I cannot attempt to draw up amendments to test the will of the Minister and members. However, I will pass on Mr Howie's advice and ask the Minister to explain why certain things are not being addressed or attended to. I have used Mr Howie's advice where possible in relation to the Opposition's stance on the various amendments before us.

Clause 3 inserts a definition of 'driver' to include 'rider'. My simple mind is perplexed about that because it does not mean anything at all to me. What are we talking about? A parked car does not have a driver. A parked motorcycle does not have a rider. I accept that they need a rider and a driver to get them to a parked situation but they are not parked if they are being driven or ridden. I am not sure whether there is a body of evidence from court cases to link a driver to a parked car or a vehicle.

A recent court case involving Mr Howie is of interest. He parked a car in what was marked as a bus stop in Mount Barker and was instructed by the police to move the vehicle. On 27 March 1990 Magistrate Brown concluded:

> In the circumstances, I conclude that at the relevant time Mr Howie was not driving the vehicle. Consequently, it is my view that there was no legal authority for the police officer to give the direction he purported to do.

That was supported on appeal by Justice Duggan on 9 July 1990, who said:

> The learned magistrate was correct in reaching the conclusion that, at the time the direction was given, it had not been established that the respondent was within any category of persons to whom a direction could lawfully be given under this section.

I know that this example was in relation to another Act and it related specifically to a direction given by a police officer in relation to moving a parked car. Nevertheless, I have a nagging suspicion that there may be a signal and some relevance in the conclusion of the case I have cited in regard to the extensive use of the word 'driver' in connection with a parked car in the Act. If there is a clear body of evidence to knock out my suspicion, I would appreciate the Minister's informing me of it. If there is not, I have no doubt that the redoubtable Mr Howie will test it.

I have already spoken about the new definition of 'driver' which means nothing to me. 'Driver' is the noun of 'drive', and the dictionary tells me that 'drive' means to urge or force forward, to direct the movement or course. For the life of me, I cannot understand why, when dealing with parking regulations, the definition of 'driver' is not defined as something like 'the person in charge of the parked vehicle'. I am no doubt legally all over the place with that, but I would like some discussion about it.

Until now, the owner onus provisions have been in the regulations, but the new provisions are to come within the Act after the Bill has passed. As a result, the driver is of paramount importance because the driver may cop any parking penalty. By statutory declaration, the owner may be able to avoid a penalty. The definition of 'owner' is altered to ensure that the owner is a person registered as an owner or a person to whom ownership of a motor vehicle has been transferred or is a person who has possession of a motor vehicle by virtue of hire or bailment, etc. I support the Local Government Association's concern that this will mean that rental car companies are not the owners of vehicles any longer so far as this legislation is concerned. Hence, councils will have to be responsible for discovering the whereabouts of the person who hired the car, many of whom will not reside in South Australia.

Where the vehicle is owned by a company, association, partnership, etc., further difficulties will arise as to who may be responsible. In Western Australia, where a vehicle is owned by more than one person, one of the persons has to be nominated. In that Act, application for registration must have nominated the director or other person who is deemed to be the owner. I can see that councils and hence, the motoring public, will eventually have to pay quite enormous sums for the costs involved in sorting this out. Clause 15 indicates a fairly hefty leap in the penalty for breaching parking regulations from up to $200 to up to $500. Will the Minister advise when the penalty was last increased and justify the increase?

Clause 18 amends section 743a and provides for an evidentiary aid in the prosecution of offences against by-laws. The amendment limits the application of the section to offences involving animals. We agree with the Local Gov-

ernment Association that this may cause problems for councils. It appears that councils may be placed in a position of having to prove that a vehicle was parked or placed in a certain position in some instances. This has the potential to lead to increased courts costs and may be a deterrent to commencing any court action. We will oppose this clause unless the Minister convinces and satisfies us that other owner onus provisions in the Act or regulations adequately cover motor vehicles.

Clause 20 amends section 789a relating to the duty of owners of vehicles to give information to identify the driver. The remainder of the section uses terms such as 'member of the Police Force', and 'any inspector or officer of the council'. We believe 'inspectors' should be removed and the use of 'authorised officers' would be more appropriate, as used elsewhere in the Act. It may also be appropriate to amend the Act in other places if the term 'authorised officer' is accepted. Clause 22 amends section 794a, which deals with the expiation of offences. It also makes clear that the fee prescribed for late payment of an expiation fee may include a component for costs incurred by the council in recovering the expiation fee. When I first considered this amendment, I was inclined to the view that cost recovery in excesss of the current fee of $10 adjusted would not be warranted.

However, I am now convinced that in certain areas, to which I have already alluded, councils will or may incur extensive costs associated with parking notices and discovery of ownership and/or the driver. The RAA is opposed to a $16 manual search fee being a prescribed expense. Will the Minister give some indication of exactly what she has in mind regarding prescribed fees, which will be recoverable by regulation? It is fair enough for councils to recover costs incurred but we must have some idea of the range of the proposed prescribed fee. It cannot be an open cheque book. There must be a balance between the motorists' well-being and proper parking control.

I am advised that clause 22 will enable an authorised officer to issue expiation notices for offences under the following Acts: Road Traffic Act, Motor vehicle Act, National Parks and Wildlife Act, Fisheries Act and Private Parking Act (without an agreement between the owner and the council). In addition, expiation notices could be issued under the by-laws of the Adelaide University, Flinders Medical Centre, other hospitals and colleges of advanced education. Does the Minister agree with this assumption and is it intended to cast such a wide net in areas that have nothing to do with this Act or local government?

We have recently had before us amendments to the Road Traffic Act. I cannot understand why there is not an attempt at uniformity between that Act and the Local Government Act as it relates to parking or vehicle offences. For instance, section 79*b* of the Road Traffic Act provisions applying where certain offences are detected by photographic detection devices has a definition of 'registered owner' which is different from the definition of 'owner' to be inserted in the Local Government Act definitions. Further, the amendment to section 79*b* of the Road Traffic Act goes on to insert new substitute paragraphs *(b)* or *(c)* in subsection (2). The amendment to section 79*b* (2) provides:

> *(b)* that the registered owner, or, if the registered owner is a body corporate, an officer of the body corporate acting with the authority of the body corporate, has furnished to the Commissioner of Police a statutory declaration stating the name and address of some person other than the registered owner who was driving the vehicle at the time;
>
> or
>
> *(c)* that—
>
> (i) if the registered owner is a body corporate—the vehicle was not being driven at the time by any officer of employee of the body corporate acting in the ordinary course of his or her duties as such;
>
> (ii) the registered owner does not know and could not by the exercise of reasonable diligence have ascertained the identity of the person who was driving the vehicle at the time;

The Minister, in his second reading explanation of the Road Traffic Act Amendment Bill, said (page 1355 of *Hansard*):

> However, where the owner is a natural person, a statutory declaration from the owner stating that the name of the driver is now known is all that is required in practice. This new proposal will require a registered owner who is a natural person to state the name of the person who was driving the vehicle at the time.
>
> Changes to the owner onus provisions will include the driver of a company car where that person is not an officer or employee of the company.
>
> However, there will be an 'out' for both natural persons and bodies corporate. In either instance where the identity of the driver is not known a statutory declaration must include a statment . . .

I would appreciate some explanation from the Minister to the matters I have raised. I ask the Minister why the amendments before us to the Local Government Act are so different from the Road Traffic Act in the areas to which I have alluded? Why is liability limited to a 'person' and not to cover also a body corporate, associations, partnerships, etc., a point I made earlier in relation to the consensus expressed by the Local Government Association? I reiterate that the new section 789d refers to 'the owner' and the new definition of 'owner' means 'a person'. Again I ask why the provisions for 'owner onus' are so different in two Acts when the bottom line is the same—the identity of a person or body responsible for a payment in respect of breaking the law.

In conclusion, I have to say that from my limited experience of delving into the realms of parking legislation and regulation—quite apart from my usual annoyance at being caught for parking indiscretions—I find a certain amount of confusion in the administration of parking rules. Certainly, I have a volume of comment and evidence that not all is well throughout that part of the Local Government Act which deals with parking and, indeed, its uniformity with other Acts. We support the second reading of the Bill and will use the Committee stage to debate some matters further.

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

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 20 November. Page 1983.)

The Hon. I. GILFILLAN: The Select Committee on the Penal System in South Australia has been established by this Parliament. It has begun its work and has just today had its time for reporting to Parliament extended. I believe that a good case can be made for a substantial part of this Bill to be referred to that select committee.

The proposed Government amendments are wide-ranging and, while many of them do deal with relatively minor changes, one of the more notable is the inclusion of definitions of 'Aboriginal people' and 'Aborigine', which are of concern. In clause 9 of the Bill there is the phrase 'prisoner of particular class' which also, without being defined, causes me concern. Reference to specific capacities for the man-

agers of prisons to control individual prisoners on the basis of belonging to a particular class obviously requires specific detail in the Bill so that the Act is quite clear about it.

In relation to the definitions of 'Aboriginal people' and 'Aborigine', I have spoken on several occasions to members of the Aboriginal Legal Rights Commission, and it is clear that they are disturbed by the inclusion of definitions based on race. They are suspicious of the Government and the Department of Correctional Services, especially given that the Aboriginal Legal Rights Commission and a number of other Aboriginal groups were not consulted on the matter. Their fear is that definition by race in an Act such as the Correctional Services Act will lead to a deliberate attempt to target Aborigines over others in specific matters in prison. Therefore, they recommend that both definitions be deleted from the amending Bill. It is connected in an indirect way with clause 18 of the Bill, where section 37*a* (6) deals with the issue of home detention, which has a reference to the amendments to 'tribal lands' and 'Aboriginal reserve'.

The Aboriginal Legal Rights Commission has some very real concerns over the application of the home detention scheme because of its involvement in these terms which are, again, loose and ill-defined. The argument in some detail about the home detention scheme is worthwhile, and should be taken up with the Aboriginal community, and will not be adequately addressed in the limited scope of the terms of this Bill.

In relation to the proposed amendment already mentioned, there are concerns about so-called 'urban Aborigines' for areas such as Murray Bridge or Davenport, or other regional centres which are not adjacent to tribal lands. Questions need to be asked in relation to what the Department of Correctional Services itself understands to be 'tribal land' or 'Aboriginal reserve'. In dealing with other amendments, I have consulted people with legal experience for comments and advice on a number of them, and their advice was that the change from the District Court to a court of summary jurisdiction as proposed in a number of amendments is an attempt to speed up the process of dealing with the many appeals against the judgments of visiting tribunals to prisons and, from that point of view, it has some merit. Because there are many more courts of summary jurisdiction available, it should speed up the process and take the load off the single District Court in Adelaide.

I am advised that the Court of Summary Jurisdiction is the lowest level of court to have the power to deal with these cases. A real concern relates to the broad issue of civil rights and the proposed amendment to section 36 of the current Act which virtually repeals that section *in toto* and inserts a new section which deals with the issue of power to keep a prisoner apart from all other prisoners. From my visits to prisons and from discussions with correctional officers I realise that from time to time there are problems with individual inmates and that for the proper management of the prison there needs to be the capacity for segregation.

As I read the Bill, this amendment is wide-ranging and allows the Chief Executive Officer of the prison to separate prisoners on virtually any basis that he or she feels desirable at the time. My legal advice indicates that there is a very serious question of a person's civil rights in action taken against an inmate by authorities during that person's incarceration, so we ought to be careful that legislation that we pass does not remove a basic civil right from an inmate of a prison.

We have accepted in our community that people in prison are entitled to the respect and dignity of being members of the community and, although disciplinary measures may be accepted, they must not be taken at the expense of eliminating a civil right. Another matter in the Bill that I will mention later is directly related to that issue.

The power under this section lies, first, with the Chief Executive Officer of the prison who has the power to review, confirm or revoke a decision. Section 36 (11) provides that:

> A direction or decision under this section is not open to judicial review.

We need to take that point most seriously in relation to the infringement of a civil right. A legal opinion given to me suggests that this is quite clearly an infringement of a person's civil liberties and that no Government or legislature in this country or in this State has the authority to prevent recourse to courts of law by any person when dealing with the issue of a person's living conditions whether in prison or not.

I think it is a reasonable observation of this entire Bill that the amendments are moving more towards a position of policy of the management of prisons rather than an Act of law. When dealing with the administration of Acts by policy, although it is a debatable approach when dealing with an area as sensitive and critical as the rights of prisoners and their personal welfare, I think it is important that the debate as to whether it is, in fact, a policy issue or a legislative issue should be worked through.

As to the issue of the Act meeting its obligation to establish community service centres, the amending Bill seeks to reduce the necessity for a community service committee at each centre. On the face of it, it appears as though it is a rationalisation and an economy of expense and effort. However, as one who supports very strongly the operation of community service as a form of punishment in our community, I see an enhanced value of that if each centre and the nature of the service that is involved and the supervision of that service is as close to the action by competent people as can be arranged.

Bearing in mind that this is a cheaper option than imprisonment and is generally recognised as a more constructive form of punishment than imprisonment, it should not be an area where penny-pinching cost-cutting should reduce its effectiveness and expose it possibly to more abuse. Once that happens, the public's confidence in community service will be shaken and, Governments and the media being what they are, there will be more public criticism and more restrictions imposed on those occasions when community service is accepted as a form of punishment. The Minister stated in her second reading speech:

> It has become apparent that the scheme could be more efficiently managed by a smaller number of community service committees.

I am yet to be persuaded that that is the case. Where community service orders are to be extended to include Aboriginal groups and communities in the Pitjantjatjara lands, I note that it is intended to have a committee in Marla. Bearing in mind that there are 12 separate communities in the Pitjantjatjara lands, I believe that, with that sort of economy and rationalisation, we will finish up with totally inadequate supervision of community service orders being executed in the Pitjantjatjara lands.

Although some amendments appear on the face of it to be acceptable (such as inspections of correctional institutions being widened to include other personnel and deleting the 'designated part' definition), I believe—and this opinion is shared by others with whom I have discussed the Bill—that it would be better to leave the finalisation of this Bill until after the Select Committee on the Penal System in South Australia has had a chance to consider the major amendments that are couched in it. In fact, it would seem to me to be rather disrespectful for this Parliament to

proceed with a Bill of this nature having set up a select committee to investigate the very matters with which the Bill deals.

Looking at the text of the Bill, I indicate to the Minister that, although I have not had amendments drafted by Parliamentary Counsel, I will seek to amend clause 3 which provides for definitions of 'Aboriginal people' and 'Aborigine'. The very thorny ground concerning the definition of 'Aboriginality' has been referred to on other occasions as being perplexing and confusing and, unless the Government can produce definitions acceptable to the Aboriginal community, the Democrats will move to delete those definitions in this clause.

I will seek to amend clause 4 which relates to community service committees, so that it will not be possible for community service orders to be executed away from the close supervision of community service committees. I suggest that there may be a drafting error in clause 8 *(b)* which reads:

by striking out from paragraph *(g)* of subsection (2) 'or part of a prison'.

I believe it should read 'of subsection (3)'. Under clause 9, the Chief Executive Officer has custody of prisoners. Clause 9 provides that:

... the Chief Executive Officer has an absolute discretion—

(a) to place any particular prisoner or prisoner of a particular class in such part of the correctional institution;

and

(b) to establish in respect of any particular prisoner, or prisoner of a particular class, or in respect of prisoners placed in any particular part of the correctional institution, such a regime for work, recreation, contact with other prisoners or any other aspect of the day-to-day life of prisoners.

After my conversation with the manager of several prisons, I have accepted that there are prisoners from time to time for whom paragraph *(b)* is appropriate. However, I find paragraph *(a)* particularly disturbing, and I go back to my earlier comments about 'any particular prisoner or prisoner of a particular class' without that being any further defined in the Bill. If there is no satisfactory discussion about this in Committee, I will move to delete paragraph *(a)*.

Earlier I said that clause 16 caused me profound concern. It spells out the Chief Executive Officer's power to segregate a prisoner. New section 36 (2) provides:

The Chief Executive Officer may direct that a prisoner be kept separately and apart from all other prisoners in the correctional institution if the Chief Executive Officer is of the opinion that it is desirable to do so—

The Bill then provides four wide areas of justification. Then proposed subsection (11) provides:

A direction or decision under this section is not open to judicial review.

I cannot accept this. As I said earlier, for the sake of what may appear on the surface to be the easier management of the prison, we may be dramatically infringing a civil right of a citizen of this State.

I now turn to clause 18. I indicate quite clearly that I support home detention as a form of punishment. It was an admirable step by this Government, which was supported by the Democrats, to introduce home detention. However, I feel that it has been under-utilised because of the restriction of legislation. I still believe that that will apply even if this amending Bill is passed. Clause 18 *(c)* provides:

by striking out paragraphs *(a)* and *(b)* of subsection (2) and substituting the following paragraph:

(a) in the case of a prisoner serving a sentence in respect of which a non-parole period has been fixed, the prisoner has served at least one-third of that non-parole period;.

That provision limits the extent to which a prisoner may be released on home detention. It has been my opinion, since home detention was introduced, that in certain cases a prisoner or a person found guilty of an offence should serve their whole period of punishment on a home detention basis. We have had adequate evidence to show that, in so many cases, the experience in prison is counterproductive for offenders. I have yet to find anyone who has argued that it has been beneficial. I will move to oppose paragraph *(a)*, bearing in mind that I believe we should leave the option that in certain cases a prisoner may be able to serve the whole period of sentence on home detention. As I mentioned earlier, the Act does refer to an Aborigine in certain circumstances being granted home detention. New subsection (6) of section 37a would provide:

In this section, 'the prisoner's residence' includes, if the prisoner is an Aborigine who resides on tribal lands or an Aboriginal reserve, such area of land as the Chief Executive Officer may specify in the instrument of release.

This provision begs the question of what will happen to someone who is recognised as an urban Aborigine. It also begs the question of the well-recognised Aboriginal definition of 'tribal land', which virtually extends over the whole of South Australia. It is only by other interpretations by European residents that we have defined 'tribal land' as certain specified areas of the State. So, we have a dilemma, by not having definitions in the Bill, about what are the meanings of 'tribal lands' and 'Aboriginal reserve' as they are referred to in the Bill. I believe we must address the quite significant problem of how to cater for home detention for Aborigines who are living in relatively urban residential circumstances.

It is important to note that Aborigines as a group are the least represented per capita in home detention. It appears as if they do not apply for it as frequently as non-Aboriginal inmates. I believe that is a question that the select committee should investigate. Certainly, it demands further inquiry before we move to amend the legislation, so that, whatever the obstacles in relation to Aborigines applying for home detention, they are identified and as near as possible overcome, and so that any amending legislation can take that into account. I now turn to clause 20. New section 37e provides:

The Crown is not liable to maintain a prisoner who is serving a period of home detention.

I would ask the Minister to address these queries in his second reading reply. Will this depend on whether there is a proven form of support for an inmate serving home detention, or is there a capacity for a person who does not have independent means of support to be able to take some work if it is available?

I believe that this is a serious dilemma because it may very well be that only those inmates who have independent means or a family situation that is affluent enough to support a non-earning adult will be granted home detention. If not, people will be placed on home detention under enormous financial stress with pressures which may very well lead them to retreat from home detention or to offend in some way purely to survive. Neither of the latter two options are desirable, and I would ask the Minister to assess the matter and perhaps comment on that in his second reading reply if he is able to.

Obviously, there are other clauses in the Bill with which I do not have any quarrel. However, in concluding my second reading observations on the Bill, if we did not have a select committee in place, I would address the matters that have been brought up in this Bill in what, I hope, would be a constructive question and answer situation in the Committee stages. However, I do not believe we can properly address many of the matters in Committee. Many of us have very little, if any, experience of what happens

in our prisons in South Australia. So, I am persuaded to move that, contingent upon its being read a second time: this Bill be referred to the select committee looking at the penal system in South Australia, so that we can benefit from a select committee report on the contentious areas before this Council decides on the legislation.

With those comments, I feel I cannot clearly indicate support or opposition to the Bill as such, because I think that the matters that are raised are important and should be addressed in the proper management of the correctional services in this State. However, I do not believe that it is appropriate for us to conclude our debate and this legislation before it has been referred to the select committee on the penal system in South Australia.

The Hon. K.T. GRIFFIN: I support the remarks of my colleague the Hon. Jamie Irwin on this Bill. I do not wish to deal with many of the matters raised in the Bill, except those which deal with community service committees, with the inspection of correctional institutions, some aspects of home detention and prisoner appeals against orders by visiting tribunals.

In relation to community service committees, I want to express my concern about the amendment proposed in the Bill, because it seems to me that one of the objects of community service orders is to involve the offender in community work, and that means work within a community. It seems to me that the local community must very much be involved in monitoring what is happening with community service orders in its area and in determining the nature of work and making recommendations about the way in which community service should be undertaken.

The very real risk in the amendment is that, although it is intended to deal specifically with the community service committee for Aboriginal lands, or the Pitjantjatjara lands in particular, it can, of course, be applied across South Australia regardless of location. Instead of having a number of community based committees involved with the community service order scheme, you can have just one State-wide committee or even regional committees.

I should think that would be a loss to the operation of the community service order scheme and would detract from the objective which, as I say, is to ensure that the work is community based and that the community has some involvement in it. Of course, it is important not only for the local community but also for the offender, because the offender needs to recognise and feel that he is putting something back into the community against which he has committed the offence.

In relation to the Pitjantjatjara lands, it seems to me that, because of their vastness, merely locating a community service committee at Marla will not necessarily serve the interests of the Aboriginal communities or the Aboriginal offenders.

I would like to ensure that the communities do care for the Aboriginal offenders, in addition to providing community work for them and that not only is something being put back into Aboriginal communities by Aboriginal offenders, but also that some community participation in rehabilitation occurs. So, I express my concern about the move towards limiting the number of community service committees with the potential under this amendment to have one State-wide committee.

The inspection of correctional institutions is an issue of significance. Currently, justices of the peace undertake that inspection, and that is an important task that they perform. However, I am concerned that in the amendment there is no description of the other persons who may be appointed inspectors. The second reading speech does talk about people like retired judges, and it seems to me that if that is to be the case it ought to be specifically provided in the Bill. As the Bill reads at the moment, it would allow anybody to be appointed as an inspector, regardless of qualifications. I think that to be an inspector of a correctional institution some background in the law, whether as justice of the peace, a lawyer or a retired judge, is important.

With respect to home detention, the express intention of the amendment is to widen the opportunity therefor. However, I must say that to relate it to a one-third period of the non-parole period having been served as the basis upon which an offender is then eligible for home detention does cause me concern, because I think that period is very much shorter than it ought to be. If you are talking about one-third of the non-parole period having to be served, you might be talking about a rapist with a nine year non-parole period, or someone—

The Hon. I. Gilfillan: They don't get it automatically.

The Hon. K.T. GRIFFIN: I know that, but, with the current pressure on prisons and the move to get as many offenders out into the community as possible, the very real temptation will be to relax the constraints which presently apply. My concern is that, by lowering the threshold, the temptation is certainly there to get more and more persons out into the community, when in fact, both from a deterrent point of view and also from the point of view of security of the community, that move would be detrimental.

The other area relates to prisoner appeals against orders by visiting tribunals. Under the principal Act, a visiting tribunal is a magistrate or two justices of the peace or a justice of the peace. Whilst there is currently an appeal under section 47 against an order of a visiting tribunal to a district court—and that might be somewhat troublesome—the fact is that it does go to a senior court.

I have a concern that, if a visiting tribunal is constituted of a magistrate, it is inappropriate for a magistrate also to be hearing an appeal from a visiting tribunal constituted by another magistrate. So, I think there needs to be a gradation of appeal jurisdictions, and the way that my colleague, the Hon. Mr Irwin, has suggested in his second reading speech is, I think, an appropriate one.

If the appeal is from a visiting tribunal comprising a magistrate, it goes to the District Court. If it is from a tribunal comprising a justice, it can go to a Magistrates Court. Maybe that does have a certain number of safeguards in it.

Apart from those matters, I can indicate that I support the second reading of the Bill. Certainly, I am comfortable with considering the proposition which the Hon. Mr Gilfillan is proposing about consideration of this issue by the select committee. The only difficulty with it is that there are obviously some aspects of the Bill which it is desirable to have implemented as soon as possible because they do facilitate administration within the prisons without prejudicing the rights or well-being of prisoners.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

STOCK BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1814.)

The Hon. PETER DUNN: The Opposition supports this important Bill, which has a long history. This country has

built much of its export expertise and wealth on the fact that we have always had disease-free products to sell to the rest of the world. That is because we have been able to be free from many of the diseases—terrible equatorial diseases such as foot and mouth, rinderpest and rabies—that occur not very far from us. Those diseases, which are prevalent in all other continents of the world, cause them tremendous trouble and pain. When they break out, export cannot occur from vast areas. They are terrible stock diseases, and several of them, such as rabies, affect human beings, and the implications of those diseases are quite horrendous. However, should they break out in Australia, we would have an even greater problem than that experienced in other countries, purely because of the vast unmanned areas where feral stock are run.

For instance, if rabies broke out in the Northern Territory or in the north-west of Western Australia, controlling that disease would be nigh on impossible, because it is impossible to muster that country clean. We have seen how difficult it has been to clean it out with the TB and brucellosis campaign. Fortunately, TB and brucellosis are not as rampant in the water buffalo stock, but it has been impossible to muster and clean out the water buffalo where they have wanted to. Could members imagine what would happen if foot and mouth disease got into the buffalo herd?

The Hon. T. Crothers: It's bad enough having it in here!

The Hon. PETER DUNN: It is a disease that most politicians suffer from, as my colleague interjects. If it were to break out in the Northern Territory and got into the buffalo or cattle herds—with the number of cattle that cannot be mustered, and there are always rogue animals—there would always be a repository of this disease that would be nigh on impossible to clean up. So, this Bill is our protection against that.

There is no positive protection anywhere, and we have seen, for instance, the number of boat people who come across from Indonesia, including those looking for trochus shell, and those who come across the Indian Ocean to the north-west of Western Australia. Quite often they have pigs and poultry on board their ships, and those animals can carry such diseases, which do occur in our near neighbour countries such as Indonesia. Their control is very difficult, and that is why we spend such huge sums of money patrolling the northern coastline of Australia, trying to control the introduction of these exotic diseases.

If those diseases are introduced here, this Bill is our protection. It may be asked why it is necessary in South Australia, because we will not get the infection here. However, boats offload offal here and, if one looks at the history of countries that have had these diseases introduced, one sees that quite often it can be traced to the boats. With international airports, and so on, people come here from another country in a matter of hours. If they bring in a stick of salami that is infected with foot and mouth, rinderpest or rabies, for instance (and I am not skilled enough to know how it would come in, but I know that the chances of its being introduced in that way are relatively high), this Bill will enable the area to be isolated and for rather draconian action to be taken for rapid intervention. However, I guess that action is very necessary.

A suspected outbreak of foot and mouth disease occurred in Tasmania possibly 10 or more years ago now. It turned out to be a visceral blister disease, not foot and mouth (although it is related), which is highly infectious and which broke out in a herd of pigs and cattle. There was great consternation at the time, but rapid intervention isolated that area. Although samples of the infection were sent to England for identification, it was possible at least to isolate the areas and stop the disease from spreading.

Like all these diseases, they are tiny organisms and cannot be seen by the naked eye. The Bill refers to the types of organisms, and they are bacterium, virus, protozoa, arthropod, or other pathogen or organism that is capable of causing such disease in stock. Because they are not easily seen, it is very difficult to know when they are being transported from one place to another. So, the Bill has rather draconian effects. I would normally say that that is not necessary, but, the fact that we can get these diseases (and the fact that we have not got them) emphasises the necessity to take this very rapid and rather draconian action to stop the spread of the disease.

It is interesting to note the history and development of exotic disease control in Australia. I am certainly no expert, but I remember the great debate that took place about 15 years ago in Canberra as to whether we should introduce live virus, particularly that of foot and mouth disease and rabies, and keep it in a laboratory in Geelong and, indeed, whether we should build the laboratory. The laboratory was very complex in that it had to have negative pressure inside so that the air did not escape, that it was sucked in when people went in and out of airlocks. There was great debate over the building of this multi-million dollar complex, and it was subsequently built.

However, the debate changed from the introduction of live virus because further research has proven that, if live virus is introduced into countries, it often breaks out, and it is very difficult to control. It has been decided that live virus will not be kept in Australia. The reason for keeping live virus is so it can be readily identified. The sample taken from an infected animal is compared on a slide with the live virus. With the rapid transport from Australia to England via jumbo jets, within 24 hours we can transport a sample of material from an animal suspected of being infected to England, where live virus is kept at all times. I do not think that there is any foot and mouth in England at present, but the virus is kept for identification purposes. England has experts, so we do not have to train people, which saves us that cost. In that way, we can learn quickly whether there is an outbreak of the disease in Australia.

It turned out that the money spent on the complex and laboratories in Geelong was unwarranted. However, I felt it was a good exercise at the time and, because technology has developed further and we have not had to introduce live virus, Australia is a safer place from those exotic diseases. The legislation is important because of that measure and its provisions are strengthened. I foreshadow that I will move an amendment for another reason, but the Bill deals principally with exotic diseases.

The Bill broadens out the provisions in the old Stock Diseases Act, and covers several other things. It deals with artificial insemination of stock and the material that is used in the new process of reproduction in animals, which is very sophisticated. All members are aware of the great advances that have been made with human reproductive technology. With animals, most of the work is done beforehand, and it is important in this Bill to provide controls over diseases which are transmitted via this method of carrying semen, ova and embryos between nations. It was once thought that it was a great idea to transport gene pools from one country with proven stock to another, and it is, but it creates problems, and this Bill deals with the problems that can occur in transmitting reproductive material from one nation to another.

The Bill also includes a definition of 'residue', which was not covered in the old Stock Diseases Act. The Bill provides that residue means:

> A substance remaining in the body tissues or secretions of stock resulting from the use or contact with any metallic compound, pesticide, herbicide, drug or other chemical (whether of the same or of a different kind to nature).

I suspected several years ago that a Bill would be introduced into this Chamber to deal with those matters. I do not exactly agree with what the Bill provides. It places impediments on people using certain pesticides because those pesticides have the ability to remain in animal tissue. The most obvious example of such pesticide is DDT or chlorinated hydrocarbons, and literally millions of gallons of those pesticides were used throughout the world some years ago. They are now banned.

I believe that is the way to go. If chemicals should not be used, they should be banned. When a chemical loses its potency or its use is unacceptable because it is harmful to humans or to the ecology, it should be banned. Recently, chlorinated hydrocarbons such as aldrin, dieldrin and chlordane have been banned, for very specific reasons. I maintain that we should ban them rather than say that, although these chemicals cannot be used, they can be purchased freely from stock firms or other retailers. I will not deal with that issue in detail because it was debated fully in the other place.

Another measure in the Bill, which created most of the debate in the Lower House (and it was interesting to note how many city people became involved), is the question of whether we should or should not dip sheep. Part of the argument concerns the residual pesticides that may be found in sheep meat, which may be consumed by humans or other animals. The chemicals used for dipping sheep have become less and less potent to humans. Chlorinated hydrocarbons were used for dipping sheep for about 20 years. As a sheep farmer, I considered those pesticides to be marvellous because I only had to dip the sheep every two or three months. They did not get flies, ticks, itch mite or ked. However, as was found subsequently, the chemical deposit in the animal fat was very hard to get rid of and, for a number of reasons, some of which I did not think were terribly strong, it was decided to ban the use of those chemicals.

Since that time, a number of chemicals have come on to the market, and they are applied in a different fashion. When I first started dipping sheep, we used arsenical dips or metallic compounds with a dash of rotenone in them to control itch mite. They were very dangerous chemicals and, invariably, the worst job on the farm was dipping sheep. I say that from first-hand experience. Many of our areas had communal dips to which you drove your sheep over two or three miles. You had to wait until the day was warm enough. The sheep could not be dipped on a cold day because if the arsenic was left on the skin of the animal for too long or if it rained, the arsenic would be absorbed and the sheep would be killed. But if it was too hot, there was a similar effect: the arsenic had a scalding effect. Believe you me, having dipped them myself, I got terribly sunburnt.

The Hon. T.G. Roberts: Did you get rid of the itch mite?

The Hon. PETER DUNN: I had no itch mite. Dipping really was a terrible job. After sheep have been thrown in a dip once, they seem to have about 10 legs the second time you went to throw them in. It is an awful job; a terrible job. It is hard work; I got wild and sunburnt. Spray dips were then introduced, which used the same chemicals. That method was easier. The first time they went beautifully and it was easy, but the second time there was always an argument between you and the sheep. Then the chemicals that we have today were introduced. They are much less harmful to human beings—or so I am told—and are much easier to apply.

When dipping sheep was difficult, even though it was compulsory to dip sheep and even though it was compulsory to fill out a dipping form and have it with you on your farm (you did not have to submit it to anyone), there were always people who did not like dipping, as I did not, and they did not dip. As a result, there was always a pool of lousy sheep somewhere, and there is nothing worse than lousy sheep. People do not realise the effect of lice, because by the time it is discovered that the sheep are lousy, when they are leaving wool on the fence, on posts or on a tree, the damage has been done. The animals are irritated so badly by any one of three pests—sheep lice, ked or itchmite, which all affect sheep in a different way—that they spend all day scratching and running, and do not eat. So, by the time the lice are discovered the sheep have usually lost about 10 to 12 kilograms in weight, and have rubbed a portion of their wool off on the fence. Instead of them producing, say, seven kilograms of wool they produce only four to five kilograms of wool.

Even though the experts tell us that dipping is not necessary, my observation is that it is important, otherwise why in the hell did we introduce it in the first place? If it was not found to be necessary, we would not have worried about it. However, my argument is that it was found to be necessary in those early days. I suspect that South Australia has a climate which is very conducive to the reproduction of all of these itching agents that attack sheep. Since they reproduce very rapidly here, it is probably very necessary for us to dip sheep. I will move an amendment which brings in compulsory dipping.

In the old Act it was done by regulation, but in this Bill I will introduce it as a clause. The information that I have is that the old Act was never policed, and I admit that perhaps over the past few years it has not been policed. However, it has still been effective, because dipping today is so much easier than it was years ago. The present method is called 'back lining'. All one does is spray the chemical on the back of the sheep as it goes past. It is very rapid and inexpensive—under 20c in most places to dip a sheep. At shearing time, at least one knows that every one of his sheep is free of lice and ked. Itchmite is another matter.

Another development, which has happened only in the past one or two years, is that the sheep can be treated for itching agents when they are in full wool or nearly in full wool. This method was not available to us until recently, but that is a much more expensive operation. However, it can be done. That is an advance that might mean that later on we will not have to dip sheep. It will be an added cost if we need to do it regularly in their later life. As I pointed out before, by the time the sheep are discovered to be lousy, the harm is usually done. At this time of the year when the weather starts to warm up sheep lice reproduce rapidly. By the time that sheep are found to be lousy, which can take up to six weeks from now, they would have lost weight which cannot be picked up at this time of the year. There is not much green feed at this time of the year in South Australia, unless one lives in the South-East, or unless one is talking about the lucerne in the Mid North. They will maintain their weight on dry feed, but they will not put on weight. So, virtually a third of one's income is lost.

I must admit that once the wool is submitted for sale there is very little effect. The price does not seem to be affected by the lice, although it smells terribly and is full of lice droppings, and it does not look very good. As I pointed out, the sheep cut a lot less wool, so there is a fairly large

economic loss because of that. I wish to introduce compulsory dipping as a clause into the Bill. I think it is important.

Most of the Bill is about what stock inspectors can and cannot do, how they enter into a property, and treat what they suspect are infected areas. Clause 29 refers to the control and destruction of feral animals, birds and insects. I touched on that matter earlier, but I will cite one example. In the north there is an inherent population of dingoes that is impossible to clean out. I was at Moomba about a fortnight ago. About 20 dingoes live around the Moomba village, and just on dusk they all come in and they are quite frightening to a person who is not used to them. You might walk around the corner of a building and find a dingo with its head in a bin. The dingoes have now been fenced out of the built area but they sit just outside the fence and howl. A dingo howl is something else again; it is quite a remarkable sound.

The Hon. T.G. Roberts: Can you give us a howl for *Hansard*?

The Hon. PETER DUNN: No, but we did have an impression of a crow here by the Minister of Local Government a couple of nights ago. Should the dingo be infested with rabies, it would be very difficult to control from thereon because dingoes are gregarious animals and move from pack to pack, and that is how rabies is transmitted, mostly by saliva. Should it get started, it would be a very difficult disease to control. It would make it very dangerous to live and camp out in the bush if it were to get into that population because a rabid dog really is quite incensed. It does not know what it is doing; it runs and bites at all sorts of things. I have not seen this from practical experience, but I have observed it on film. We often talk about someone or something being rabid, and it is a terrible disease when it gets into an animal. Should an infected animal bite a human being, the human being then gets rabies. Although I believe it is treatable in human beings, it is a very long and protracted treatment and not very pleasant at all, so we do not want that.

I notice that the Bill provides for the destruction of native or feral animals, something not in the original legislation. It is important, and I do not think that an ordinary inspector would need to have a lot of advice as to how and when he went about destroying those animals. Certainly, the chief inspector would have to give his consent before we started doing that. I can imagine the outcry from the populous who are a little greener, perhaps, than I am if we started to destroy animals that were seen to be natives of the area who may or may not have an exotic disease.

Generally, the Bill is reasonably sound. It puts into modern day language the modern day principles of disease control within the animal kingdom. Animals form a very important part of Australia's income. Most of the meat we produce tends to be consumed in Australia, but in the past 15 years in particular the live sheep trade was developed to include the Arab nations. One of the reasons for this development was because Australian animals were free of exotic diseases. For other reasons we seem to have lost that trade, albeit not entirely, but it has been reduced, and whilst we keep our stock free of disease we will continue to keep those markets open.

Australia is now free of TB and brucellosis, or near enough to being free of those diseases to allow other countries to import our animals and meat, particularly bovine animals. This has proven to be an enormous cost to the producers of those animals. The long-term benefits are obvious, but there have been other benefits, such as the fencing of station country, that will enable producers to manage their stock much better.

We have seen examples of diseases causing us to lose markets, and we do not want any more. The attempt to eliminate TB and brucellosis has been at enormous cost, and we do not want outbreaks of exotic disease that could be transmitted much more rapidly and with a much worse effect. So, this Bill is important. The Government has been a long time bringing it in—in fact, some years ago, the matter of upgrading the Stock Diseases Act was discussed. This Bill is not before time, and I support it.

Bill read a second time.

In Committee.

Clauses 1 to 26 passed.

The Hon. T. CROTHERS: Mr Chairman, I draw your attention to the state of the Council.

A quorum having been formed:

New clause 26a—'Compulsory treatment of sheep.'

The Hon. PETER DUNN: I move:

Page 14, after line 22—Insert new clause in Division V before clause 27 as follows:

26a (1) Subject to this section, sheep must, after being shorn and before—

(a) being sold, consigned for sale or given away;

or

(b) the expiry of 42 days,

whichever first occurs, be treated with a dipping preparation in accordance with the instructions contained on the label affixed to the container or package containing the preparation.

(2) Subsection (1) does not apply to sheep that are sold for immediate slaughter at an abattoir within 42 days of being shorn.

(3) If sheep are not subjected to treatment in accordance with this section, the owner of the sheep is guilty of an offence.
Penalty: Division 7 fine.

(4) An owner of sheep must keep up-to-date records of prescribed particulars relating to sheep that have been subjected to treatment in accordance with this section.
Penalty: Division 9 fine.

(5) The Chief Inspector may, if satisfied that by reason of drought, shortage of water, weakness of the sheep or any other factor it is unreasonable to require the owner of the sheep to comply with this section, exempt (conditionally or unconditionally) an owner of sheep from compliance with this section in respect of specified sheep for a specified period.

(6) An exemption under subsection (5) must be in writing.

(7) In this section—

'dipping preparation' means a preparation registered under the Stock Medicines Act 1939 as a treatment for the destruction or control of parasites on sheep.

The Liberal Party believes that the compulsory dipping provision should be retained in the Bill. This provision formed part of the regulations of the Stock Diseases Act and I suggest that it should be inserted in this Bill. I have given my reasons at length previously, and the matter of whether this provision should or should not be inserted in the Bill was debated for hours in the other place. It was interesting to note the number of city people who have dipped sheep. It seems to be very interesting entertainment.

On balance I believe that retaining compulsory dipping in its present form is good economics. I emphasise that it does not have to be a jack boot approach; the fact is that it will encourage people to dip their sheep. Dipping is not expensive or hard today, and if it is not done it can cause a very high loss of income. I move the amendment for those reasons.

The Hon. I. Gilfillan: Does the UF&S support this amendment?

The Hon. PETER DUNN: I believe that the UF&S does not support it. I do not know whether or not it has done a lot of research; I think it is going on what it has been told. The fact is that there is no compulsory dipping of sheep in other States. During my second reading contribution I explained at some length that sheep lice, ked and itch mite reproduce in this State much more rapidly because of our climate than they do in other States. In Victoria, where it

is very cold, the reproduction rate is lower because of the cold weather; in very hot climates you see very little lice, either. We seem to be in the latitude where there is a very rapid reproduction of them, so they are a problem.

The Hon. I. GILFILLAN: As I said earlier, I have been a sheep farmer for many years and have some first-hand experience of the situation. Compulsory dipping was often honoured in a very token way, and it was not a particularly reliable or efficient way of ensuring that all sheep were satisfactorily dipped. I believe a reasonable position to take is to monitor the situation and, if a voluntary regime leads to a greater incidence of itch mite, ked, lice or tick then returning to compulsory dipping should be viewed as a high priority by the Government, and the Democrats would support it.

I apologise for my ignorance, but I assume it is still an offence or a regime comes into effect if in fact an owner is found to have lousy sheep. If that is in place, that is where we really do have a community involvement. It would be an unfortunate reputation, but certain farmers would have the reputation of not dipping, of having lousy sheep. They would be identified, an inspector would be informed and supervised dipping would take place.

The Democrats do not support the amendment. However, I urge the Government to ensure that there is adequate monitoring of the situation. If there is an increase in lousy sheep and it is reasonable to attribute it to the fact that there is no longer compulsory dipping, the matter should be reviewed urgently. It may be that this will need to be looked at area by area, but I only pose that as a question.

The Hon. PETER DUNN: I am disappointed that the Democrats will not support the amendment. Being a realist, I understand that I do not have the numbers so I will not be dividing on it. However, I can tell the Committee that there will now be no provision for it to be monitored. All that will monitor it will be the monetary loss or gain by the individual farmer.

The Hon. I. Gilfillan: Will it be an offence?

The Hon. PETER DUNN: No, it won't be an offence.

The Hon. I. Gilfillan: Is there any procedure which takes place if you are found to have lousy sheep?

The Hon. PETER DUNN: I suspect that a stock inspector can come onto a property. Under this Bill, he has the right to ask you to dip, vaccinate, wash or whatever (those terms are used in the Bill). But there is no compulsion to do that. As the Hon. Mr Gilfillan would know, there would be a monetary loss, but after this Bill passes and is proclaimed there will be no compulsion to dip your sheep, even if your neighbour had lice.

The Hon. I. GILFILLAN: I put on the record that I believe, simultaneously with the removal of the compulsion to dip sheep there should not be the removal of a penalty or an obligation by someone who is found to have lice or ked infected sheep to dip before that stock is sold (other than sheep transported directly to an abattoir for slaughter), I urge the Government to look at this matter. Because the UF&S does not insist on compulsory dipping, I think it is reasonable to move along that track. However, if you do have a recalcitrant sheep farmer who steadfastly refuses to cooperate, they become a pest in their own right to a community because sheep stray and it is a very high penalty for someone who has diligently tried to keep their flock clean to have their sheep reinfected, maybe several times, because the offending farmer is not compelled—

The Hon. C.J. Sumner: Have a look at clause 19.

The Hon. I. GILFILLAN: I admit that I have not looked at clause 19; I am going on the advice of my learned colleague, the Hon. Peter Dunn, in assuming that there is no penalty. If clause 19 provides compulsion with a penalty we may be safe.

The Hon. C.J. SUMNER: Also look at clause 24. I am not an expert on this Bill, but clause 19 provides that orders can be made relating to infected or residue affected stock or stock products, and subclause (2) provides for a whole range of orders that can be made, such as the detention of the sheep, the ordering of specified treatment, management in a specified manner, sheep being subjected to specified examinations or tests, and an order restricting or prohibiting their sale or supply.

The Hon. Peter Dunn: It is not an exotic disease, though.

The Hon. C.J. SUMNER: I assume that this is an exotic disease.

The Hon. Peter Dunn: It is an endemic disease.

The Hon. C.J. SUMNER: I assume that it applies to all. Clause 5 (1) provides:

> The Minister may, by notice in the *Gazette*, declare that stock, or stock of a specified class, that are suffering from or affected with a specified disease or a parasite or pest of a specified class are infected.

The Hon. I. Gilfillan: After a cursory look at clauses 20 and 21, I believe you are right.

The Hon. C.J. Sumner: Are they deemed to be an exotic disease?

The Hon. I. GILFILLAN: No, exotic disease is dealt with in clause 21 (2) *(m)*. But clause 21 (1) *(b)* quite specifically talks about stock that are infected. I believe there is a reasonable case to say that there is a penalty; and my particular concerns are allayed.

The Hon. C.J. SUMNER: With clause 24 as well. If orders are not obeyed, there are penalties that apply.

The Hon. I. GILFILLAN: Yes. I have followed what the Attorney has outlined. On my cursory reading of the Bill it does appear that if an offender is identified as having lousy stock and does not comply with instructions to treat that stock, there are penalties in place. That being the case, I do not have the concern that I expressed earlier, that there was no penalty for a deliberate offence against this legislation.

The Hon. C.J. SUMNER: To ensure that that understanding is correct (and from my reading of the Bill it certainly appears to me to be correct), I would suggest that I put the third reading on for tomorrow and I will check with the Minister. If his understanding is as outlined by me and by the Hon. Mr Gilfillan, we can proceed with the third reading. If, however, he believes that what the Hon. Mr Gilfillan and I have said is incorrect, I will be prepared to recommit it at the Committee stage.

The Hon. PETER DUNN: I thank the Minister for doing that. As I read it, clause 5 provides that 'the Minister may by notice in the *Gazette*', and that takes a little while. I should have thought it would be better if the inspector had the right just to go and say to somebody, 'You should dip your sheep; they are lousy and they are infecting animals around you.'

An honourable member: You can do it.

The Hon. PETER DUNN: No, not according to this. Look at clause 5. It has got to be published in the *Gazette*. I can read the signs.

The Hon. C.J. SUMNER: I do not believe it has to be published in the *Gazette*. Perhaps the category of infection does, but I do not think the individual landowner's sheep must, on each occasion, be published in the *Gazette*. As I said, I will check the situation and, if it is a different understanding to that which I have, I will recommit the Bill.

New clause negatived.

Remaining clauses (27 to 39), schedules and title passed.

Bill reported without amendment; Committee's report adopted.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

Received from House of Assembly and read a first time.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

As it has been considered in another place, I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Introduction

The Occupational Health, Safety and Welfare Act has been in operation since 30 November, 1987. The Act introduced a completely new framework to this State for solving occupational health and safety problems in the workplace. The approach is based on consultation and on ensuring the participation of everyone in the work force. After three years of working with this new system, it is now time to streamline some of the administrative procedures under the Act to ensure its continued effective operation.

This Bill was prepared in major part in response to and on the recommendation of the Occupational Health and Safety Commission.

Aims and Objectives

The provisions of this Bill aim to achieve four major objectives: to strengthen the legal status of codes of practice under the Act; to clarify various responsibilities for duty of care under the Act; to improve certain of the administrative procedures and arrangements to make it easier for the Act to be implemented; and finally, to allow certain offences under the Act to be expiated. I propose to deal with each of the broad areas in turn.

Legal Status of Approved Codes of Practice

Under the Act as it currently stands, regulations are couched in general terms and the details are spelt out in codes of practice approved under the Act. At present codes of practice have evidentiary status only in cases where a prosecution is brought against a defendant for a breach of section 19 (1) of the Act, that is, in relation to the employer's duty of care. Because of this limitation, if proceedings occur in respect of a breach of any other section of the Act, then in such cases, although the relevant codes of practice may be highly persuasive, they do not constitute *prima facie* proof of a breach of the Act: that is, they do not have evidentiary status.

The Bill accordingly provides for evidentiary status to be given to all approved codes of practice in legal proceedings for an alleged breach of any section of the Act.

Duties of Care under the Act

This Bill contains provisions which seek to expand the general duty of care in a number of areas:

First, the area of induction training. Time and time again, workers compensation statistics show that the people at work who are most at risk are those who have either just started, or who are beginning a new type of work. Employers must ensure that these employees receive proper training and instruction before they begin new work and that they are then closely supervised until they can do that work safely.

Even though the current obligations on the employer require this, it is an area of such critical importance that it needs to be spelt out—as proposed in the Bill.

Secondly, there is a need to reinforce the notion that managers and supervisors must receive appropriate training in occupational health and safety matters, if there is to be any chance of genuine reforms in workplace health and safety. What is clear at the moment is that the health and safety training needs of this group of employees are often forgotten. This Government is concerned to ensure that managers and supervisors receive adequate training so that they are competent to ensure the safety of the people they supervise. The proposal in the Bill clarifies that the training and education obligations of the Act apply to all employees.

Thirdly, there is recognition of the need for any eating, sleeping, washing or similar accommodation, provided by employers for their employees use in connection with their work, to be kept in a safe and healthy condition.

Under section 20, the Act currently requires employers with five or more employees to provide a health and safety policy. The Government's view is that employers with less than five employees should provide the same level of health and safety as employers of larger numbers of people. Provision of a health and safety policy is the first and most basic step in ensuring this occurs and the requirement should therefore apply to all employers. The amendment contained in the Bill therefore proposed to delete reference to any prescribed number of employees before such a policy is required.

Section 22 of the Act currently places responsibilities on the self-employed. The proposed amendment to this section will allow inspectors a right of entry to places where self-employed people work and so will resolve the current situation where inspectors are legally unable to carry out their duties with regard to section 22. Employers have the right to appeal against notices served by inspectors and it is proposed to extend this right to self-employed persons.

Section 24 of the Act currently places duties on designers of plant for use in the workplace. Many workplace health and safety problems also arise from the design of buildings and structures The Government believes it necessary to place duties on designers of buildings which are to be used as workplaces, to ensure that people who work in, on or around the workplace are safe from injury and risks to health. Similarly, the owners of buildings used as workplaces must take their share of the responsibility for maintaining the workplace in a safe condition.

It is also appropriate that the designers of structures should ensure that their designs minimise risk for those required to erect the structure. The proposed amendments to sections 23 and 24 of the Act will give effect to one of the main objects of the Act—to eliminate risks at their source—by solving long-term health and safety problems at the design stage.

Workplace Health and Safety Arrangements

Sections 26 and 27 of the Act currently deal with the formation of 'designated work groups' and the election of health and safety representatives to represent these groups. The concept of a 'designated work group' has proved extremely difficult to implement in many occupations because of varying work arrangements. For example, in shift work, mobile work and transient work, it is almost impossible to organise work groups according to the Act's current requirements.

The proposed amendment to replace section 27 simply widens the concept of a work group so that they may be formed according to almost any arrangement agreed by the employer, employees and their representatives. The key to

the proposed new concept is that it would introduce flexibility so that the work group can be based on geographical locations, or the type of work performed, or the work arrangements or any other suitable factor. This means that industries such as construction, transport, nursing, and rural would be able to devise work groups along whatever lines suit them best, instead of having to use a single workplace as a base. This in turn would reduce the difficulties encountered under the existing system which led to unsatisfactory work group arrangements.

The Bill addresses several problems with the health and safety representative system. The proposed amendments are designed to improve the current system so that it operates more effectively:

First, it is proposed to extend the term of office for a representative from two to three years to take full advantage of the training they will have received over the first two years.

Secondly, the Bill proposes that each work group will have the right to democratically vote out of office a health and safety representative who is not performing.

Thirdly, the Bill includes provisions to enable an employee's registered association to lodge an appeal on that person's behalf in relation to the formation of work groups or the conduct of an election.

Fourthly, the Bill encourages the appointment of health and safety representatives on health and safety committees.

Fifthly, in lieu of the current onus on employees to ask for their representative to be present at interviews with employers and inspectors it is proposed that this onus be reversed so that the representative will be present unless requested not to be by the employee; and finally, the Bill seeks to clarify the section on provision of information to health and safety representatives to ensure that employers provide health and safety information that they can reasonably obtain as well as information they have in their possession.

One further proposed change to the health and safety representative system involves training entitlements. The Government is committed to the principle that the key to effective health and safety representation is training and this applies equally to representatives in large and small workplaces. The proposed provision will ensure that representatives in small workplaces can attend courses of training approved by the commission in the same way as their counterparts in workplaces with more than 10 employees. Recognising the difficulties that small businesses may encounter in covering an employee's absence, it is proposed that such employers be able to determine in any year the timing of a representative's leave to attend such courses.

Penalties

The prosecution process is expensive and labour intensive. For this reason it is proposed in the Bill to allow certain offences prescribed by regulation to be expiated. It is intended that regulations would list minor offences concerned with administrative or welfare matters to be dealt with in this way.

This will have the effect of reducing the cost and streamlining the extensive procedures which are currently necessary to effectively enforce these provisions of the legislation.

The Commission

The composition of the Occupational Health and Safety Commission currently reflects a broad range of employer and employee interests. Major industry groups such as construction, manufacturing and the rural industry are represented. The Bill proposes two new members of the commission to ensure that the interests of the mining and petroleum industries are also represented. The new members would be nominated following the recommendations of the South Australian Chamber of Mines and Energy and the UTLC.

The remaining amendments contained in this Bill concern minor alterations to administrative procedures, or are consequential on the amendments previously outlined.

Conclusion

In conclusion, the Government is firmly of the view that this Bill will be of benefit in streamlining procedures, allowing greater flexibility in terms of implementation, and in improving the overall effectiveness of the Act's operation.

This Bill is an important part of the Government's strategy to raise the general standard of occupational health and safety and so reduce the unacceptably high number of work-related deaths and injuries in this State. Accordingly, I commend this Bill to the House.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 relates to the definitions used in the principal Act. It is proposed to no longer use the word 'designated' in conjunction with the phrase 'work group' in order to reflect the more flexible arrangements that are to apply in relation to the formation of work groups. The definition of 'workplace' is to be revised so that it will refer to any place where an employee or self-employed person works (the present definition only refers to a place where an employee works).

Clause 4 relates to the membership of the commission. Section 8 of the principal Act presently provides that one of the members of the commission will be the Chairman of the South Australian Health Commission, or his or her nominee. It is proposed to provide that any such nominee must be a person who is experienced in occupational health and one or more areas of public and environmental health. Furthermore, the membership of the commission is to be increased by two; an employer representative nominated after consultation with the South Australian Chamber of Mines and Energy, and another employee representative.

Clause 5 increases a quorum of the commission to eight (as a result of the proposed increase in the size of the commission).

Clause 6 makes a number of amendments to section 19 of the principal Act. Subsection (2) is to be deleted and replaced with a new provision (section 63a) that applies in relation to proceedings for any offence against the Act (not just section 19 (1), as is presently the case). Another amendment will ensure that the specific matters contained in subsection (3) cannot be taken to derogate from the operation of subsection (1). Subsection (3) is to be amended to make specific provision for a number of matters that relate to the responsibilities of employers, especially in the areas of instruction and training, and the safe and healthy maintenance of premises and facilities provided by employers.

Clause 7 relates to the preparation of occupational health, safety and welfare policies under section 20. The section presently applies to employers who fall into classes prescribed by the regulations. It is proposed to apply the section to all employers.

Clause 8 makes specific provision in relation to the duties of persons who design or own buildings that comprise or include workplaces. In particular, the designer of such a building will be required to ensure (so far as is reasonably practicable) that the building is designed so as to be safe for the persons who are required to work in, on or about the workplace, and that the building complies with any relevant prescribed requirements applicable to it. The owner of such a building will be required to ensure (so far as is reasonably practicable) that the building (and any fixtures

or fittings under the owner's control) are maintained in a safe condition, and that the building complies with any relevant prescribed requirements applicable to it.

Clause 9 will amend section 24 of the principal Act to prescribe specific duties that are to apply to the design and erection of any structure that must be put up in the course of any work.

Clause 10 repeals section 27 of the principal Act and replaces it with two new sections relating to the formation of work groups and the election of health and safety representatives. Experience has shown that references in section 27 to the constitution of designated work groups at a workplace have limited the operation of the relevant provisions in certain circumstances. New section 27 will introduce a greater degree of flexibility, while basically retaining the same procedures that are to be followed to constitute appropriate work groups. In conjunction with this initiative, the term 'recognised member' is to be included in the relevant provisions. A 'recognised member' will be a member of a work group who is recognised as a member of the group for the purposes of the election of a health and safety representative to represent the group, and for the purposes of certain other provisions of the Act. This proposal recognises the fact that there may be some employees—expected to be, for example, casual or occasional members of a work group—who cannot sensibly be included in the election of a health and safety representative, or in the resolution of other issues relating to the office of health and safety representative under the Act.

Clause 11 makes several amendments to section 28 of the principal Act that are consequential on the decision to no longer refer to 'designated' work groups, and to include the concept of 'recognised member'.

Clause 12 will amend section 29 of the principal Act so that a deputy health and safety representative will be elected by the recognised members of the relevant work group.

Clause 13 relates to the office of health and safety representative. It is proposed to increase the term of office of such a representative from two to three years. Furthermore, it will be possible for two-thirds of the recognised members of a work group to remove from office the health and safety representative who represents their group on the ground that they consider that the representative is no longer a suitable person to act on their behalf. A majority of the employees who, at any particular time, make up a work group will also be entitled to apply for the disqualification of the health and safety representative who represents their group.

Clause 14 relates to health and safety committees. Section 31 of the principal Act presently assumes that health and safety committees will be constituted at a workplace. This may not be appropriate and so appropriate amendments are proposed. In addition, some guidance is to be given as to how a health and safety committee should be constituted.

Clause 15 will amend section 32 of the principal Act in a manner that is consistent with the proposal to introduce greater flexibility in relation to the constitution of work groups. It is also proposed to amend subsection (1) *(d)* and *(e)* so that a health and safety representative can attend certain inteviews without the need of a request from an employee in his or her group. However, a health and safety representative will not be entitled to attend such an interview if the relevant employee requests that the health and safety representative not be present.

Clause 16 makes two consequential amendments to section 33 of the principal Act.

Clause 17 relates to section 34 of the principal Act. Many of the changes are consequential on amendments to other provisions. An amendment to subsection (3) will provide consistency with sections 37 (3) and 44 of the Act in relation to the payment of a person while he or she is performing the functions of a health and safety representative or attending related courses of training. Another amendment relates to the entitlement of a health and safety representative who is employed by an employer or employs 10 or less employees to take time off work for the purpose of attending courses of training.

Clause 18 relates to the issue of default notices under section 35 of the principal Act. It is appropriate to alter the provision to ensure that a default notice can be addressed to whoever is the most appropriate person in the circumstances (not necessarily being the person who is actually acting in contravention of the Act).

Clause 19 makes a number of consequential amendments to section 36 of the principal Act.

Clause 20 amends section 37 of the principal Act in a manner that is consistent with the proposal that default notices are to be addressed to the persons who are to be required to comply with the notices.

Clause 21 makes a consequential amendment to section 38 of the principal Act.

Clause 22 relates to the issue of improvement notices under section 39 of the principal Act. Again, such a notice will be addressed to the person who is to be required to comply with the notice. That person may not in fact be the person who is taking, or who has taken, action in contravention of the Act.

Clause 23 will amend section 41 of the Act, as it relates to the display of improvement notices or prohibition notices. This section presently presumes that an improvement notice or prohibition notice will be issued to an employee or employers. This may not always be the case. An appropriate amendment is therefore proposed to require the person to whom such a notice is addressed to display the notice.

Clause 24 will amend section 42 of the Act. Again, this section presently presumes that an improvement notice or prohibition notice will only relate to an employer or employee.

Clause 25 makes a consequential amendment to section 43 of the principal Act.

Clause 26 will allow expiation notices to be issued by inspectors in respect of certain offences.

Clause 27 revises section 61 of the principal Act. This section relates to offences against the Act committed by bodies corporate. It introduces the concept of a 'responsible officer'. It has been decided to revamp the provision. Each body corporate carrying on business in the State will be required to appoint one or more responsible officers. A responsible officer will be required to be a member of the governing body of the body corporate resident in the State, or some other appropriate officer. A responsible officer will be required to take reasonable steps to ensure that the body corporate complies with its obligations under the Act.

Clause 28 relates to the use of codes of practice in proceedings for an offence against the Act.

Clause 29 relates to the proof of the contents of an approved code of practice, or a document applied by, or incorporated in, an approved code of practice.

Clause 30 will amend section 66 of the principal Act so that the Chief Inspector will be able to vary a notice that modifies the requirement of a regulation as it applies to a particular occupier or employer.

The Hon. J.F. STEFANI secured the adjournment of the debate.

[*Sitting suspended from 10.3 to 10.25 p.m.*]

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2066.)

New clause 44a—'Parliamentary Committee.'

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

Page 16—After clause 44 insert new clause as follows:

44a. (1) The Universities Parliamentary Review Committee is established.

(2) The duties of the committee are—

(a) to monitor the progress of the various mergers of institutions to which this Act relates;

and

(b) to evaluate the effect those mergers have had on the delivery of higher education in this State.

(3) The committee consists of six members of Parliament, three being appointed by the House of Assembly and three by the Legislative Council.

(4) Of the three members appointed by either House, at least one must be from the group led by the Leader of the Government and at least one must be from the group led by the Leader of the Opposition.

(5) The committee must first be appointed as soon as practicable after the commencement of this Act and thereafter at the commencement of every Parliament.

(6) Subject to subsection (7), the members of the committee hold office until new appointments are made under subsection (5), but a member is eligible for reappointment.

(7) The office of a member becomes vacant—

(a) if the member dies;

(b) if the member resigns by notice in writing addressed—

(i) in the case of a member who is a member of the House of Assembly—to the Speaker of that House or, if the office of Speaker is vacant, to the Clerk of that House;

(ii) in the case of a member who is a member of the Legislative Council—to the President of the Council or, if the office of President is vacant, to the Clerk of that House;

(c) if the member ceases to be a member of Parliament (except pursuant to expiry of his or her term of office as such or on dissolution or expiry of the term of the House of which he or she is a member);

or

(d) if the member is removed from office by resolution of the House of which he or she is a member, on the ground—

(i) that he or she is incompetent to discharge the duties of office of a member of the committee;

(ii) that he or she has been neglectful of those duties;

or

(iii) that he or she is otherwise not a fit and proper person to continue as a member of the committee.

(8) A casual vacancy may be filled by appointment in accordance with this section by the appropriate House of Parliament.

(9) The committee may appoint one of its members to preside at meetings of the committee.

(10) Four members of the committee constitute a quorum, and no business may be transacted at a meeting of the committee unless a quorum is present.

(11) All questions to be decided by the committee at a meeting will be decided by a majority of the votes cast by the members present and voting.

(12) The committee has the powers of a joint committee of the Parliament.

(13) The committee must, no later than 30 September in each year, furnish both Houses of Parliament with a report on the work of the committee carried out during the financial year ending on the preceding 30 June.

(14) The Speaker of the House of Assembly and the President of the Legislative Council will, between them, provide such secretarial assistance to the committee as may reasonably be required for the purpose of carrying out its functions.

(15) This section expires on the third anniversary of the commencement of this Act.

As I indicated this afternoon, there were two significant amendments to be debated during the Committee stage, both of which would take some time, and this is the second matter. The intention of this amendment is to establish a universities parliamentary review committee. The duties of such a committee are to monitor the progress of the various mergers of institutions to which this Act relates and also to evaluate the effect those mergers have had on the delivery of higher education in this State.

It is fair to say that this particular proposal has generated much debate, not only in higher education circles but within Parliament and among all people with an interest in higher education. I have received a number of submissions either supporting or opposing the establishment of such a committee. The council of the University of Adelaide met in session Friday week ago and resolved to support the establishment of a universities parliamentary review committee. I do not intend to read all the letters I have received both for and against this proposal, but I want to indicate the range of views that I have received and the views of the major players or the major institutions in relation to the establishment of the committee.

Although there has not been a council decision from the Roseworthy College of which I am aware, a number of academics from the college support the establishment of such a review committee. The Pharmacy Guild, the Pharmaceutical Society and a number of other bodies also support the establishment of the review committee.

The Hon. M.J. Elliott: What about a list of those who oppose it?

The Hon. R.I. LUCAS: The Hon. Mr Elliott is a little anxious. I indicated openly and frankly that I intended to give a list of those who support it and those who oppose it. We in the Liberal Party are prepared to indicate those for or against any proposition that we put to Parliament.

The Hon. T.G. Roberts: Is that a promise?

The Hon. R.I. LUCAS: That is always a promise.

The Hon. T.G. Roberts: Retrospectively applied?

The Hon. R.I. LUCAS: Retrospectively applied—whatever you would like at this late hour of the night. There has been strong opposition from the representative leaders of the Institute of Technology, the South Australian college and Flinders University. I do not believe that their councils have met to discuss this issue as the University of Adelaide Council has done. However, I believe that the Vice-Chancellor of Flinders University has written expressing his view on behalf of that university, as have the South Australian college and the South Australian Institute of Technology. I also received a fax from Mr Paul Acfield of the Union of Australian College Academics, who would be well known to the Hon. Mr Roberts and other members in this Chamber. That is not a complete summary of all the submissions I have received and, in the end, members will make up their own mind, but it is fair to indicate that it has generated some debate, and I intend to address in some detail the reasons for a universities parliamentary review committee.

The Liberal Party is a Party of diverse views and many of its members support Party decisions for a whole variety of reasons. Contrary to the view of some of my colleagues in another place, this amendment has not been moved solely to look at the question of whether the School of Pharmacy ought to be moved to the University of Adelaide for a centre of health sciences.

The Hon. L.H. Davis: There could be others.

The Hon. R.I. LUCAS: I intend to address a number of questions. It is true that a number of people want that issue to be addressed and, indeed, this is a process by which that

can occur. However, it is not the sole reason for my standing here on behalf of the Liberal Party as the shadow Minister in this area moving this amendment in this Chamber. A whole variety of other decisions could be addressed by such a review committee. Whilst earlier this afternoon the Minister referred to some speeches which highlighted the importance of the pharmacy decision, I noted that she did not make any reference to the speech of the Hon. Diana Laidlaw, who argued eloquently that this procedure could look at the whole question of a centre for performing arts, at what might be named as the Beasley committee recommendations and any other recommendations concerning rationalisation of the performing arts in South Australia. Whilst the Minister obviously sought to make a point, it was unfair of her not to indicate that various members in this Chamber have argued for this committee for a variety of reasons, not just the question of pharmacy.

The Hon. Diana Laidlaw: They haven't even mentioned pharmacy.

The Hon. R.I. LUCAS: Well, if she looked at my speech—

The Hon. Anne Levy: Dr Pfitzner did. She did nothing else.

The Hon. R.I. LUCAS: The Minister said that the Hon. Dr Pfitzner mentioned pharmacy. That is her right, and I support it, as I support the fact that the Hon. Diana Laidlaw spoke about a centre for the performing arts and nothing about pharmacy at all. In this Chamber, we have a lead speaker who handles the Bill and traverses the broad range of areas. We then have supporting speakers who highlight particular matters of interest and concern for them. It does not mean that they do not believe in all the other matters that might have been raised by the lead speaker or their colleagues.

The Hon. L.H. Davis: In sharp contrast to your side, which exhibited very little interest in the Bill.

The Hon. Anne Levy: We don't want to be here until 25 December.

The CHAIRMAN: Order! The Hon. Mr Lucas has the floor.

The Hon. R.I. LUCAS: Thank you, Mr Chairman. One cannot be critical of individual members because they do not seek to put a point of view, while not unduly delaying the Chamber, made by every member and the lead speaker on behalf of the Liberal Party.

If the Minister had looked at my second reading contribution, she would have seen a brief reference to some other possible matters that could have been considered by this committee. I indicated that I would pursue those matters in the Committee stage and I intend to do that. I reject the view that this is just a pharmacy question. I reject the alternative proposition as being developed by the Government, in particular the Minister, and the Australian Democrats which seeks only to address the question of whether there should be a centre or an institute.

The Hon. M.J. Elliott: It doesn't do anything of the sort.

The Hon. R.I. LUCAS: The Hon. Mr Elliott indicates that it does nothing of the sort. There may well have been further negotiations, but certainly I have been privy to some documents that have moved between the Hon. Mr Elliott and other interested players in this matter, and certainly the terms of reference that have been provided to me of the member's discussions with the Minister—

The Hon. M.J. Elliott: The first one didn't even mention the centre.

The Hon. R.I. LUCAS: The heading refers to a health sciences education review, but I will address that matter later. It certainly is in relation to the question of a review of the health sciences, which in effect relates to pharmacy and the related health sciences.

One of the most common criticisms that has been made about the proposal is that this is an example of undue Government interference with the autonomy of higher educational institutions.

The Hon. R.J. Ritson: Not like Mr Dawkins' interference.

The Hon. R.I. LUCAS: No, or, indeed, the interference contemplated by the Bannon Government two or three years ago in white papers which we can debate later in the Committee stage. I believe it is the height of hypocrisy for the Bannon Government to be talking about interference in higher education autonomy in South Australia when one considers the various positions of the Bannon Government in relation to higher education in South Australia with regard to wanting Government and union control over the appointments of vice-chancellors for our universities, as was circulated in the draft white paper before me now. For example, there is a role for the State Government in relation to the development of education profiles, and a whole series of other quite onerous—

The Hon. R.J. Ritson: Atrocious!

The Hon. R.I. LUCAS: 'Atrocious' is a better adjective. They are atrocious restrictions that would have been placed on the autonomy of South Australia's universities. Some of the strongest supporters of the Labor Party within our universities rose up in arms against Premier Bannon and Minister Arnold three years ago, and expressed outrage at the suggestion of the Bannon Government in relation to interference in institutional autonomy in South Australia. It was only after much protest from the Opposition, from members of the academic community, and indeed from a number of other interested parties, that the Bannon Government backed off on that draft white paper which, as I have said, I have in front of me tonight and which I retain as a cherished part of my files on universities and higher education in South Australia. If we want to talk about interference in universities, the Government—

The Hon. Anne Levy: It was never a white paper.

The Hon. R.I. LUCAS: Draft white paper, I said.

The Hon. Anne Levy: It was a draft white paper that never had Government endorsement.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Lucas will address the Chair, and he has the floor.

The Hon. R.I. LUCAS: Indeed, that is right. It did not get to the stage of an official white paper because of the intense opposition that was expressed about that draft white paper. As I have said, I want to look at some of the other matters that might be considered by such a review committee. What is known as the Government white paper but, as I said in my second reading speech, what is in fact a buff-coloured paper—

The Hon. Anne Levy: It was a draft, not a white paper.

The Hon. R.I. LUCAS: The Minister does not know what she is talking about. I am now talking about a paper of July 1988, headed 'Higher Education in South Australia: a discussion paper'. The Minister was chortling with others and was not listening.

The Hon. Anne Levy: Yes, I was.

The Hon. R.I. LUCAS: You weren't, because you got it wrong.

The Hon. Anne Levy: I will give you a reply.

The Hon. R.I. LUCAS: You can give whatever reply you like; I will give you the report. The Government's position paper argued in effect for a two university model for South Australia. As I said in my second reading contribution, the Government's position has changed, and it did so some

time through 1989. The Government argued in that paper, under the heading of 'Elimination of unnecessary duplication and the more effective provision of opportunities in some areas through the rationalisation of activities', as follows:

Over the years it has become clear that in the higher education system in South Australia there are a number of areas where there is at least a *prima facie* case for rationalisation. A number of those areas were discussed in the office of Treasury Education's Occasional Paper No. 88/3 and are referred to again in chapter 2 and appendix B. Such rationalisation brings with it the potential to yield savings which can be used for other activities, savings which arise from *inter alia*—

- more efficient use of human resources (for example, through optimum class sizes); and
- cheaper lower cost structures (for example, through elimination of duplicated teaching positions where appropriate).

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: It depends on the mechanism. Indeed, a number of other documents were circulated on behalf of the Government at this time. Under the heading 'Consolidation of teaching activities', the document contains a compilation of suggestions as to where the Government felt there was duplication, in effect wastage, and there needed to be rationalisation in higher education. In relation to architecture, the document states:

While there may be benefits in consolidating the State's two architecture programs, the nexus between architecture and building course should be considered further. Advice should be sought on these matters from the institutions and the professions.

Under the heading of 'Librarianship and Information Sciences', it is suggested that the higher education effort in librarianship and information sciences be consolidated. In relation to Women's Studies, the paper states:

The Advisory Committee on Women in Tertiary Education and private submissions proposed the consolidation of the women's studies courses, presently at SACAE, Adelaide University and Flinders University, into a women's studies institute . . .While this proposal has merit it needs to be reiterated that it will be essential to the institute to service the needs of all institutions for courses in women's studies.

Under the heading of 'Aboriginal Programs', it states:

It is therefore proposed that an Institute for Aboriginal Studies and Development be established with similar functions and on a similar basis as the South Australian Institute of Languages, to coordinate and promote the activities of institutions in this area.

Further, under the heading of 'Performance Music', the document states:

The present review of higher education structures provides a suitable context in which to bring about the merger of the schools of music currently based in SACAE, Adelaide University and the Department of TAFE to form a new conservatorium of music specialising in music performance.

Indeed, that has been partially taken up by the interim review of the Beasley committee in relation to establishing an academy for performing arts associated with the University of Adelaide. In the area of post-graduate management education, with which I am familiar, there was a 1982 national committee of inquiry, I think known as the Ralph committee. The Government report states:

To this end it is proposed that a post-graduate Institute of Business and Administration be established to incorporate the post-graduate business and administration programs currently offered by SAIT and the MBA program currently based at Adelaide University.

The report contains some discussion about engineering; there is a bit of to-ing and fro-ing, and it states:

There is some ambivalence about whether engineering should remain as two separate schools or whether it should be consolidated.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: That is in combination with the Institute of Technology—there is some coordination there. The report continues:

This needs to be considered further in the light of the findings of the National Review of Engineering [in relation to the health sciences.] . . . However, it is to be hoped that in time, courses in nursing, particularly at the post-basic level, will be increasingly integrated with the training in other health science disciplines.

Indeed, that matter was touched upon by the Hon. Mr Elliott in relation to the Centre for Health Sciences. As he indicated, it is not just a question of whether pharmacy should go to the University of Adelaide or whether other health sciences conducted at the institute, such as, physiotherapy, occupational therapy, radiography and nursing, go together with medicine and dentistry at the University of Adelaide. The report continues:

To that end, training for the health professions currently located in the vicinity of the Royal Adelaide Hospital (SAIT: pharmacy, physiotherapy, occupational therapy, podiatry, medical imaging, medical laboratory science; Adelaide University: medicine and dentistry) could be associated and the health science activities located at the Flinders University and the Sturt campus of SACAE might be linked.

Indeed, that question of whether medicine and nursing ought to be incorporated as part of one particular health science faculty at the new university and the Flinders University has been addressed by the nursing and medical professions at the Flinders University.

I put forward those propositions in addition to the others raised by me and other members as an indication of where this Government, at least in a previous form and according to its position paper, has seriously considered and argued for the need for rationalisation to stop the duplication of courses, the overlapping of courses, and the wastage of resources. The parliamentary universities committee would not only just have to look at the question of health sciences, it could consider a number of the options suggested by Government position papers.

The Hon. Carolyn Pickles: It is a pharmacy committee.

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles says that it is a pharmacy committee. It is not just a pharmacy committee. This particular committee may consider a whole range of other questions, some of which the Government in its position paper of July 1988 argued ought to be considered by way of rationalisation when it then had a policy of a two university model for South Australia. As I said, the Government has shifted ground in relation to its policy on this matter, and I would be interested to know whether it has shifted ground also on the suggestions it has made in its white paper.

I now want to address the question of whether such a committee is an example of undue parliamentary interference in the operations of universities. Let us look at exactly what this committee may do. The committee may review, monitor and advise, but it may not make executive decisions. It cannot make changes to the University of Adelaide Act; it cannot order the institutions to do anything.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Indeed, that is a very good point. But why can members of Parliament not monitor, advise and review?

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: Earlier in her second reading speech, the Hon. Carolyn Pickles said that she chaired a Labor Party committee which looked at the whole question of universities. Why is it all right for the Hon. Carolyn Pickles as a member of Parliament and for other other Labor members of Parliament to monitor, to review and to

give advice? Why is it all right for those members to sit on a committee—

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Lucas has the floor.

The Hon. R.I. LUCAS: —whether it be that committee or a Caucus committee—and to consider, to review, to advise, and to recommend, as a member of Parliament? The Liberal Party formed a committee of its own number to look into higher education. Why is it wrong for members of the Liberal Party—as members of Parliament—to monitor, to review and to advise? I do not know whether the Democrats have a committee, but why cannot members of Parliament monitor, review and advise? Of course, there is no reason why members cannot, because individual members do. They sit on councils, they form their own views, they take submissions from various institutions. They may not make executive decisions, they may monitor, review, and advise, but in the end they cannot make any decisions by themselves to, in effect, order the institutions to do anything or to force the Government to do anything.

So, why is it wrong for the Parliament to establish a committee of six persons to monitor, to review and to advise on behalf of the Parliament? The Federal Senate has been doing this for years. This nonsense is being trotted out by Government members that it is unprecedented that members of Parliament are reviewing, monitoring and advising. Yet, the Federal Senate Committee on employment, education and training, the audit committee and the various estimates committees have been reviewing and monitoring the effects of the Dawkins revolution, as it is known, for a number of years. Those who read the *Australian Higher Education Supplement*—as, I am sure, the Minister's adviser does—would know very well what Minister Dawkins and the Government thinks of the Senate committee which monitors, reviews and advises. He did not much like what Senator Aulich, one of his own number, said in relation to the Dawkins revolution. Senator Aulich was very critical of the Dawkins revolution.

Why is it wrong for the South Australian Parliament to monitor, to review and to advise and how can the Government say that it is unprecedented when the Senate committee led and chaired by Labor members is doing exactly the same thing in relation to university mergers throughout the nation? What is the difference? Let *Hansard* record that there is no response from the Minister—

The Hon. Anne Levy: If I respond, you complain that I'm interjecting.

The Hon. R.I. LUCAS: —or Government members. She's at it again, Mr Chairman. This nonsense and tripe has been trotted out suggesting that it is unprecedented and outrageous that the Parliament of South Australia with a committee of six members should inform itself of what is going on in relation to higher education mergers in South Australia.

The Hon. Mr Elliott indicated some time ago that he would like to consider the idea of having a select committee of the Legislative Council to consider mergers prior to their going ahead. That is a valid point of view for the Hon. Mr Elliott to put if he wanted to proceed with it. Members of Parliament can inform themselves of what is going on in higher education. I will read to the Minister and to the members in this Chamber what the Senate committee found in relation to mergers. The report states:

> The rationale given by the white paper for amalgamations was that there would be administrative savings, and that students and staff would take part in a wider range of subjects and course offerings. It appears the department has no plans to analyse whether either of these predictions is borne out in practice.

There are all these lofty ideals for mergers, many of which we hope will succeed, but the Commonwealth department has no plans to monitor whether in fact it eventuates. These were some of the concerns that the Hon. Mr Elliott expressed before. He expressed some doubts about this whole merger process, and yet we have some opposition to the Parliament even contemplating some sort of monitoring, some sort of review device. The department told the Senate committee:

> . . . the factors used by the department to measure diversity are the range of courses offered by a single institution, and the proportion of the student body enrolled in diploma and associate diploma courses. Because institutions of differing character now operate as one, diversity by these measures is inevitably increased for the amalgamated institution, but represents no real change. . . The department also admitted it 'has not embarked on a cost-benefit analysis' of amalgamations.

One of the reasons in the green paper of December 1987, one of the reasons in the Commonwealth white paper, and one of the reasons in all the papers and stuff churned out by the State Government, was that mergers were going to achieve savings which could be used to increase the supply of graduates in the market, to increase the number of graduates from 88 000 through to 125 000 by early next century, as was part of the Dawkins revolution. Yet, the department and the Commonwealth Government have no procedure, have no intention of considering the cost benefit analysis of these merger proposals. They are prepared to force them, but they are not prepared to have a look at them. The article by David Penington, one of the most respected vice-chancellors in Australia at the moment, goes on:

> The department has no plans to test either of the rationales for amalgamations given in the white paper. Meanwhile, the amalgamations policy is still being pursued. We can only surmise that Mr Dawkins does not want to know the answers.

Professor David Penington is saying: 'We can only assume that Mr Dawkins does not want to know the answers'. I can only surmise that the Bannon Government does not want to know the answers, does not want to have a committee that over a period of time will monitor and review and advise.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: If the Hon. Ms Pickles was awake earlier in my contribution she would know that they oppose it.

The Hon. Carolyn Pickles interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: There is the rationale for a committee. It cannot take executive decision. Let us look at this compromise option for a health sciences review that has been trotted out as an alternative. Whether it has been refined in the last two days, I am not sure, but we are talking about a three or four person independent committee—that is, independent of the various institutions.

The Hon. M.J. Elliott: Perhaps wait till I present it.

The Hon. R.I. LUCAS: I already have a copy of it in front of me.

The Hon. M.J. Elliott: You haven't got the final document.

The Hon. R.I. LUCAS: We are talking about an independent review, and independent of the Parliament as well. So there would be no members of Parliament on the review. Forgetting about the fact that it is only going to consider one issue—although we object to that because we argue that the whole question of the mergers ought to be considered. However, let us just look at the fact that it is going to look at the issue of health sciences. This committee is going to monitor, review and recommend what should happen. Now, it may well come back, after it has done its work, and recommend and advise that there ought to be an institute

for health sciences at the University of Adelaide, as is currently being discussed.

It can recommend that, but what then happens with those recommendations? What happens is that it cannot take the decision itself. The institutions themselves may listen to the advice from the independent committee and choose to take up the option themselves, that is, the institutions themselves would take the decision or the advice of the independent committee, but what happens if the institutions thumb their noses at the independent committee?

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: All that can happen is that the Government and/or the Parliament can take up the decision, the recommendation, and, against the wishes of the institutions, legislate to change the Acts to move the health sciences and related faculties from the University of South Australia to the University of Adelaide. They are the options that lie at the end of the road of the independent committee. Either the institutions can take action or the Government and the Parliament, contrary to the wishes of the instructions, can seek to override the wishes of those institutions.

That is exactly the same position as that which exists with the parliamentary committee. The parliamentary committee cannot take any action of itself. It can recommend, and the institutions can consider the views of the parliamentary committee. They may well say, 'That is a very good idea and, for those reasons, we will do it', as they might consider the recommendations of the independent review, or, as they can do with the independent review, they could thumb their noses at the parliamentary committee as well. They could say, 'Terrific idea, but we're not going to do it'. Then the Government and the Parliament has to make a decision as to whether they want to override the wishes of the University of South Australia in relation to the health sciences faculty.

It is exactly the same position. Yet, we will have the Government, the Democrats and others arguing that the parliamentary committee is causing undue interference in the operations of higher education institutions, while in some way this independent committee is not. Of course, they are exactly the same. The options at the end of the road are exactly the same. Whichever committee it is, the institutions can either accept the decisions or thumb their noses at them, in which case the Parliament and the Government would have to make them. We will all have differing views on that. However, the Parliament and the Government would have to make a decision as to whether they want to go down the step of overriding the wishes and the autonomy of our higher education institutions.

As I said in my second reading—and I do not move from it, and it is my personal view, and there are a variety of personal views amongst my colleagues in this Chamber and in the other place—my personal view is that I wish, as far as it is humanly possible, not to get ourselves into a situation where we, as the Parliament, in the end have to override and interfere in the autonomy of the higher education institutions on this issue. However, in the end, if the argument is persuasive enough, each of us, including me, will have to make our judgment as to whether we want to go down that path. So will the Minister and so will the Hon. Mr Elliott, at the end of the road of his independent committee, if the institutions choose to say that they will not listen to the recommendations of his independent committee or, indeed, the parliamentary committee of the Liberal Party.

So, I do not want to hear any nonsense about this committee being, in effect, an inteference in the autonomy, that this in some way the 'pure as the driven snow' independent committee will not interfere in the operations of the higher education institutions, because, indeed, when you look down the track exactly the same options remain open, whether you go down the parliamentary committee path or you go down the path of the independent committee that is being cooked up by the Minister and the Australian Democrats on this particular issue.

As you would appreciate, I have moved the amendment standing in my name, and I do so with very strong feeling in relation to the need for a parliamentary review committee. I urge members in this Chamber to think again, as to the practical effect, the end result, of their decision on the need for a parliamentary review committee.

The Hon. R.J. RITSON: I will not speak at length because the matter has—

The Hon. Anne Levy: Hooray!

The Hon. R.J. RITSON: I will speak at length. I will not have that sort of rubbish coming from the Minister on a serious subject like this. The Minister has already been quite insulting when, she claimed at the conclusion of the second reading debate that I was contradicting myself because I had resisted the lobby to legislate now to pass that building and laboratory equipment from one institution to the other against the wishes of one of the institutions. I resisted that lobby but supported a committee that can only inform and advise, and the Minister tells me that I am denying the principle of the autonomy of academic institutions. That is the most specious and offensive bit of false argument I have heard in this session of Parliament.

The Minister knows it; it is in fact a catchcry; it is an adoption of almost the very words that were used by the people who lobbied against this, which brings me to the subject of the lobbying against this committee.

The University of Adelaide initially introduced to its council the proposition that the university on the one hand support legislative interference forthwith, and on the other hand that it oppose a proposition of a committee on the grounds that the committee was an interference with tertiary autonomy, whereas the legislative transfer forthwith would not be an interference. The council deliberated on that and did not support the proposition introduced by its administration.

As to other institutions, we really do not know what the deliberations of the collegiates of those institutions would result in if their lobby was submitted to that collegiate. All we know is that we have been lobbied by the administration of those institutions without, due to time constraints, having the opportunity to make an explanation to those bodies.

There are several ways in which one can evaluate a conflict, dispute or argument. The first thing one can do is simply count the arguers and, if one does that in the three university model, there will be one who supports it and two who oppose it. So, if all one does is count the arguers then, clearly, the council will reject this, I believe that the Democrats have already done that, and that it was done on the basis of counting the arguers, rather than evaluating the arguments. I am sorry to bring politics into the Chamber—

The Hon. Anne Levy interjecting:

The Hon. R.J. RITSON: —but sometimes we have to. The micropolitics of universities is a fascinating thing. (I am just trying to keep my ears closed to the cackling from over there.) Another way of dealing with matters such as this is to give way to the loudest argument. Had members on this side of the Committee done so, we would of course be supporting a proposition to interfere legislatively forthwith to give way to the wishes of the pharmacy lobby.

What is not happening from the benches opposite or across is the evaluation of the argument. There is a doctri-

naire, fixed position that, come what may, this committee will be resisted on the ground that it is an interference with autonomy. The white paper and the green paper were not interferences with autonomy; Dawkins has not interfered with autonomy; and the executive Government on that side did not interfere with autonomy when the Government refused to promulgate one of the university's by-laws. No—they are the many examples of conditions of subsidy and not interference with autonomy; but a committee of members of Parliament to observe and inform themselves without any powers to do anything is suddenly, in the view of the Labor Party, an interference with tertiary autonomy.

I really took deep offence at having that corny, specious, transparent, tattered argument held up this evening as an example of my contradicting myself. That is just not so. As I said, the politics of tertiary education is a fascinating thing, with myriads of committees and lots of deals being struck all the time in the democratic process of self regulation.

The Labor Party has faithful members scattered throughout that system. I think that the Labor Party has come in here with no intention of evaluating the argument but with the intention of giving loyal support to their friends scattered throughout that system. The Democrats will merely count the arguers as if they were counting votes in a constituency without themselves evaluating the argument.

I suspect that this committee proposal will be lost, but I want it to be on the record that it will be lost not because the argument has been evaluated but because of commitments to people with fixed positions outside this Chamber and because the Democrats will employ the technique of counting the arguers instead of evaluating the arguments.

Along with my colleague the Hon. Mr Lucas, I do not believe that it is purely the pharmacy committee that is arguing the loudest at the moment. Many matters will crop up, and I believe that the Bill will be back before us for further amendment from time to time in years to come. I am not sure that the problems with vesting the ownership or trusteeship of various bequests and trusts have been dealt with. I do not think they have even been identified, and the universities may require our help with little bits of private legislation to tidy up some of those matters.

I remind the Committee that, if matters emerge which give rise to pressure groups and lobbyists, they can be dealt with in several ways. In the first place, if those matters arise, members of the university, interested parties—be they staff or student associations or administrators—in the normal course of events will seek what executive help they can from the Government of the day but, in the end, they will start to lobby politicians. A broadly-based lobby of backbenchers becomes a very scrappy thing because people have constituency loyalties.

Individual members may adopt the technique of listening to their loudest lobbyist, or they may count their lobbyists, when in fact it needs a dispassionate, objective assessment of the smoothness or otherwise of the merger process, which is just beginning. It does not finish today: it just begins with assent to this Bill. These problems will arise. I submit that it is far better to have a bipartisan, carefully selected group of members of Parliament to receive the lobbies than to have them firing off willy-nilly around town and all around the back benches of both Parties.

Members interjecting:

The CHAIRMAN: Order! I ask members to resume their seat and listen to the debate. If they are not interested, could they hold their discussions behind the Chamber.

The Hon. R.J. RITSON: It may be futile because this debate is probably now determined not by the evaluation of the arguments but by commitments given either to members of the Party faithful scattered throughout the system or by the counting of constituencies. If it is not so, I urge the Democrats to think again.

My final point is that the Government has indicated that it may consider a specialist committee of a few people just to look at the pharmacy question. First of all, members of Parliament would have no access to knowledge of the proceedings of this committee. It would be a committee chosen by the executive branch of Government, and it would be a committee capable of manipulation to give a desired result. As members of Parliament, we would know not the background of that. Indeed, as one very senior member of the University of Adelaide said to me, 'We have been interfered with. We have had our autonomy interfered with all over the place by bureaucrats for years and years, and we can't really talk to them. Wouldn't it be nice to talk to the legislators?'

I am a little anxious. First, we do not need a committee just to look at one issue. Then it truly does become the pharmacy committee. By interjection, the Hon. Ms Pickles was shouting critically across the Chamber that it was just the pharmacy committee. Of course, the Government proposal is to have just the pharmacy committee, whereas we propose a broadly-based and thoughtful committee to be an ongoing recipient of lobbies and suggestions as the problems arise in the continuing merger process which will take some years to smooth out.

However, the Government apparently thinks that a narrow pharmacy committee is the way out of this. The Government thinks that a committee chosen by the Executive is the way out of this. To my knowledge, the Government does not even propose that such a committee report to Parliament, although it may have something more to say about that in due course. What the institutions do not need is to be messed about by small groups appointed by the Executive. They have had too much of that for too long, and too many people think that such committees are capable of careful selection of membership to the point of predicting the outcome. Having said that, I commend our amendment to the Committee and reaffirm my extreme objection to the Minister, who began by saying that I was contradicting myself.

The Hon. ANNE LEVY: The Government opposes this amendment. I will make a very short speech to indicate why, and it will be a lot shorter than the short 16 minute speech just uttered by the Hon. Dr Ritson. First, I must indicate that there is a difference between a green paper and a white paper. For those who are unaware, and if anyone should happen to read the *Hansard* debate on this matter, a green paper is a discussion paper, which has no Government endorsement, but which is merely put out for the purpose of discussion.

The question has been asked: How does one turn a green paper into a white paper? The answer is, it seems to me, that the Opposition puts it through a photocopier and somehow in that process gives it a stature which it does not have. A discussion paper, a green paper, a draft white paper—all are matters which are put out for public discussion and do not have Government or Cabinet endorsement. I hope that point is made clear. The Hon. Mr Lucas implied that the Government had certain policies at certain times, and that is without foundation. There has never been Government endorsement of those papers. They were put out for discussion only.

I turn now to the subject of the amendment. The Government opposes the establishment of the committee as proposed by the Hon. Mr Lucas as it is felt to be enormously

destabilising for the universities at this time. I am quite sure that the universities would not shy away from parliamentary scrutiny, but I reiterate that it does seem that this amendment is directed not as a suitable measure of scrutiny of the mergers of the institutions but rather at making a case for the relocation of the School of Pharmacy. Methinks that the Opposition doth protest too much on this matter.

The Government is happy about the scrutiny measures that operate at the moment in general terms. The Government also respects the integrity and autonomy of the institutions. I stress, if anyone cares to listen, that the Government has an open mind on where the School of Pharmacy should be located and whether or not a centre for health sciences would be a good idea. I stress that we are talking not just of the School of Pharmacy but of health sciences generally, which includes a lot more than just pharmacy.

On behalf of the Government, I give the Committee an absolute assurance that an independent review will be established early in the new year to consider the question of the feasibility of a centre for health sciences. Again, I stress that it is a centre for health sciences, not just pharmacy. Health sciences involves medicine, dentistry, pharmacy, nursing, physiotherapy, occupational therapy and speech therapy, and I am sure the list could be extended. Health sciences is not just pharmacy. The Minister has given that assurance and, on his behalf, I repeat it to the Committee.

I also place on record that the Government is not happy with the process that has taken place to date. Earlier this year, the Minister of Employment and Further Education met with the chief executive officers of all five tertiary institutions in South Australia. At that meeting, it was agreed that the priority would be to set the mergers in place, and only after the mergers had been finalised would there be any dealing on reorganisation or rearrangement issues between the institutions established by the mergers. In other words, it was agreed that the mergers should occur to create the three universities and only after that had been finalised would consideration be given to any reorganisation between the three institutions.

It was further agreed at this meeting with all the tertiary institutions that trying to deal with reorganisations while legislative arrangements were being contemplated would be confusing and destabilising. I point out, too, that reorganisations are not legislatively required. Since that agreement was reached, the University of Adelaide has changed its position and gone back on that agreement. The Minister has expressed his disappointment at the reneging by the University of Adelaide, and the University of Adelaide alone, on that agreement.

In summary, the Government opposes the amendment. It goes against the earlier agreement that the mergers should be finalised and take place and only after that should any reorganisations or rearrangements be considered. The Government maintains an open mind on the question of the arrangements regarding health sciences and promises an inquiry early in the new year once the mergers are complete.

The Hon. R.J. RITSON: I remind the Minister that what she has just said that the Government desires is what the Liberal Party supports.

The Hon. ANNE LEVY: It would appear prudent at this stage to report progress.

Progress reported; Committee to sit again.

ADJOURNMENT

At 11.30 p.m. the Council adjourned until Thursday 22 November at 2.15 p.m.