LEGISLATIVE COUNCIL

Tuesday 4 December 1990

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Acts Interpretation Act Amendment,
Administration and Probate Act Amendment,
Fences Act Amendment,
Landlord and Tenant Act Amendment,
Motor Vehicles Act Amendment (No. 2),
Road Traffic Act Amendment (No. 3),
Rural Industry Adjustment (Ratification of Agreement),
Soil Conservation and Land Care Act Amendment,
Statute Law Revision (No. 2),
Statutes Amendment (Shop Trading Hours and Landlord and Tenant),
Summary Offences Act Amendment (No. 2),
University of South Australia.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 63 to 75 and 80.

STATE LIBRARY LENDING SERVICE

63. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government: Further to the Minister's answer to my question on State Library Lending Services, 6 November—

1. What is the subject matter of the two reports the Minister is to receive in the next fortnight?
2. When will the reports be received?
3. Does the Minister intend to release one or both reports for public comment?
4. Were the reports prepared by consultants and, if so, with whom and at what cost?

The Hon. ANNE LEVY: The replies are as follows:

1. The reports referred to are the report on the proposed arrangements for the South Australian Library and Information Service, and the report on the organisational arrangements and budget for the establishment of the Bureau of Local Government Services.
2. The first report will be presented to the Libraries Board on 26 November 1990 by the Chief Executive Officer of the Department of Local Government and then to the Minister of Local Government. The second report is currently the subject of negotiations between the Chief Executive Officer, staff and the Public Service Association.
3. The first report will be released for public comment. The second report will be available publicly for information.
4. The reports were not prepared by consultants.

64. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government: In relation to the report being prepared by the Director of Local Government, Ms Dunn, on the future of the State Library's Lending Service—

1. Will finalisation of the report be dependent upon advice that the Adelaide City Council is prepared to accept some responsibility for adult lending services?
2. If the Adelaide City Council does not agree to accept any responsibility for adult lending services, will the Government continue to fund the full range of the State Library's services as is the practice at present?

The Hon. ANNE LEVY: Discussions are continuing with the Corporation of the City of Adelaide on the size, type, location and funding of a central public library service to replace the State Library Lending Service. I expect these discussions to be finalised in the next few weeks and an announcement will then be made.

CARRICK HILL

65. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts: Does the Minister wish and/or is she seeking to transfer responsibility for the administration of Carrick Hill from the Department for the Arts, and is the option of transferring administrative responsibility to the Department of Environment and Planning being considered and/or pursued?

The Hon. ANNE LEVY: At this stage there is no proposal to transfer responsibility for the administration of Carrick Hill from the Department for the Arts to the Department of Environment and Planning.

STA TICKETS

66. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government: In relation to the sale of STA bus, train and tram tickets from suburban newsagents, delicatessens, video shops and pharmacies—

1. How were the businesses selected for licensing as an outlet to sell tickets?
2. Is a fee required to obtain a licence and, if so, how much, or does the STA pay the licensee to conduct the business?
3. What are the terms and conditions associated with gaining a licence?
4. Is the proposal to license 200 businesses by the end of the year, the maximum number of licences that the STA proposes to issue?
5. What proportion of tickets sold are currently sold through Australia post offices?

The Hon. ANNE LEVY: The replies are as follows:

1. Selection of Licensed Ticket Vendors (LTVs) is done in the field by a team of STA employees who target sites based on selection criteria which include nature of business, hours of operation, proximity to public transport stops and routes, location and other factors.
2. No fee is paid to the STA or paid by the STA to the LTV for the issue of a licence.
3. A copy of the Licensed Ticket Vendor Agreement detailing terms and conditions will be provided to the honourable member.
4. There is an initial target of 200 LTVs. Following an evaluation period after implementation of the network the number of outlets can be adjusted to cater for changes in demand from the public.
5. Approximately 21 per cent of ticket sales revenue is from tickets sold through post offices.

BUS KNEELING FACILITY

67. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government: In relation to the pilot scheme to test the public reaction to the operation of the three 'kneeling buses' purchased under the Australian Bicentennial Road Development Fund:

1. Has an assessment been made of the pilot scheme and, if so, what was the outcome?

2. What is the additional cost per bus purchased of incorporating a 'kneeling capacity'?

3. Will all of the 300 new buses ordered by STA have a 'kneeling capacity'?

The Hon. ANNE LEVY: The replies are as follows:

1. A kneeling facility is fitted to the three midibuses. Drivers use the kneeling facility on 25 per cent to 50 per cent of stops, depending on the number of passengers boarding and/or alighting.

2. The cost of the kneeling equipment on a midibus is approximately $800.

3. A kneeling facility has been included in the tender specifications for all 307 new buses.

STA BUS DEPOTS

68. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government: In respect of each bus depot operated by the State Transport Authority:

1. What were the operating costs and receipts last financial year?

2. What are the projected operating costs and receipts for 1990-91?

3. If such statements are not available, why not?

The Hon. ANNE LEVY: The replies are as follows:

Depot	Operating Cost $000's 1989-90 Actual	Operating Receipts $000's 1989-90 Actual
Adelaide	10 083	1 477
Hackney	24 286	6 261
Morphettville	21 324	7 289
Port Adelaide	11 627	3 789
Glengowrie	4 734	1 220
Elizabeth	11 398	4 334
St Agnes	15 491	5 683
Lonsdale	7 545	1 477
Aldgate	2 817	578
	$109 305	$32 108

Depot	Operating Cost $000's 1990-91 Projected	Operating Receipts $000's 1990-91 Projected
Adelaide	10 610	1 386
Hackney	22 872	5 876
Morphettville	22 496	6 840
Port Adelaide	12 473	3 556
Glengowrie	4 925	1 145
Elizabeth	12 014	4 068
St Agnes	18 409	5 333
Lonsdale	8 069	1 386
Aldgate	3 059	542
	$114 927	$30 132

Receipts are not normally allocated to depots; however, estimates based on boardings have geen used in this instance.

3. Not applicable.

TRAIN MAINTENANCE

69. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government:

1. Why does the State Transport Authority require that maintenance on trains be undertaken during the day and not at night?

2. Have any studies been conducted to determine the cost advantages of undertaking maintenance of trains at night, compared with the capital and interest costs associated with purchasing additional trains to ensure the availablity of sufficient engines and carriages for day time services, particularly peak hour services, and, if so, what is the outcome of such studies?

The Hon. ANNE LEVY: The replies are as follows:

1. Maintenance on trains is done predominantly during the day but some maintenance is also done during the night. The reasons for concentrating most of the maintenance in the daytime are:

(a) supervision and technical support is more readily available;

(b) labour rates paid to maintenance staff do not attract the same penalties that night time work does;

(c) general lighting conditions are better in the day time which promotes a safer working environment;

(d) spare parts support and availability of overhauled components is more readily available;

(e) productivity of the work force is higher during the daytime than at night.

2. Reviews of how maintenance of trains is performed are undertaken regularly. The majority of the service types undertaken on railcars can be performed between the two daily peak periods.

Additionally, the afternoon peak requires less vehicles in operation than the morning peak and therefore most longer services can be performed without additional spare vehicles being required to maintain service levels. For those services which are longer these take more than one shift to complete and therefore whether the service is performed during the night or day the requirements for spare vehicles are identical.

As the afternoon peak requires less railcars in service than the morning peak, a limited number of railcars, which require more time to undertake particular maintenance, can be serviced during the afternoon peak and early evening. Therefore, no reduction in spare railcar requirements would be achieved by the introduction of all night servicing.

RAILCAR REFUELLING

70. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government:

1. Is it correct that a maximum of 15 railcars only are refuelled per refueller on the afternoon shift and that each railcar takes an average of 20 minutes to refuel?

2. Is this matter a subject of productivity negotiations between the STA and the relevant union, and, if not, why not?

The Hon. ANNE LEVY: The replies are as follows:

1. No, it is not correct. A railcar can take between 3 minutes and 6 minutes to refuel depending on the quantity of fuel required. Checking of oil levels, changing worn brake blocks and other visual checks and adjustments are also undertaken at the same time.

2. The STA has negotiated productivity improvements with staff at the Railcar Depot which, during the last 12 months, has resulted in a reduction of 20 maintenance staff. Negotiations and productivity improvements are regularly

undertaken with staff as maintenance practices and procedures are constantly reviewed, reliability of vehicles is increased and new technology is introduced.

STA RAIL STAFF

71. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government: What is the average turnover of STA railway staff compared with staff engaged on both the buses and the trams, and how does the STA account for the difference?

The Hon. ANNE LEVY: The average turnover of STA railway staff compared with staff engaged on both the buses and trams is:

Rail:	1.90 per cent per annum.
Bus and Tram:	5.16 per cent per annum.

Bus operators tend to have more marketable skills throughout the public transport industry generally and move from organisation to organisation at a higher rate than train crews are able to.

RAILWAY STATION TICKET SYSTEM

72. **The Hon. DIANA LAIDLAW** asked the Minister of Local Government:

When the Crouzet ticketing system was ordered—

1. Was consideration given to the purchase and installation of a turnstile type entry and exit ticket validating system at the Adelaide Railway Station and other suburban railway stations?

2. If so, what was the cost of such an initiative at both the Adelaide station and at other suburban stations?

3. Does the Minister now consider the installation of such a system would have merit in the efficient operation of our train system, in helping to combat fraud and in planning for service delivery by providing an accurate gauge of passenger demand?

The Hon. ANNE LEVY: The replies are as follows:

1. At the time of awarding a contract to Crouzet Pty Ltd for the supply of a new ticketing system in March 1985 there was no consideration given to the installation of a turnstile type entry and exit validating system at the Adelaide Railway Station or other suburban railway stations. However, in June 1988 tenders were called for the installation of automatic turnstiles on the concourse of the Adelaide Railway Station. Based on a tendered price of approximately $600 000, a cost benefit study was undertaken into the potential cost savings and revenue gains from operating such turnstile system. The study concluded that a capital investment of this type could not be justified either at the Adelaide station or other suburban railway stations.

2. Answered in 1.

3. No. Fraud on trains is mainly caused by passengers who deliberately avoid validating tickets on-board railcars. It is considered best to combat this by the use of ticket examiners, who make regular and random ticket checks. These checks are effective as shown by the very low rates of fraud from passengers on trains leaving Adelaide station (averaging less than 1.6 per cent).

TRANSIT AMBASSADOR COURSE

73. The **Hon. DIANA LAIDLAW** asked the Minister of Local Government:

1. What was the cost of conducting the Transit Ambassador Course last year and how many people participated?

2. What is the proposed cost this year and how many people are anticipated to participate?

3. Who is responsible for conducting the course?

4. What assessment has been undertaken to determine the value of the course on a once-off and/or on-going basis?

The Hon. ANNE LEVY: The replies are as follows:

1. Last year the Transit Ambassador Program was only being evaluated by the State Transport Authority (STA). No-one was trained and evaluation costs were approximately $5 000 for 1989.

2. Approximately 960 staff will have completed their respective Transit Ambassador training by the end of this year. The overall cost of the Transit Ambassador Program for 1990 is estimated to be $268 477.

3. The STA's Training and Development Department is responsible for Transit Ambassador training. Fully accredited trainers conducted all training modules.

4. The following evaluations will be undertaken:
   - Participants' reactions to the program.
   - Comparison of customer complaints/commendations pre and post Transit Ambassador training.
   - Comparison of employee turnover pre and post Transit Ambassador training.
   - Comparison of employee sick days pre and post Transit Ambassador training.

Some of the above evaluations will not provide conclusive figures until Transit Ambassador training has been completed throughout the organisation.

FILM AND VIDEO CENTRE REVIEW

74. The **Hon. DIANA LAIDLAW** asked the Minister for the Arts: Further to the Minister's answer to my question without notice on 13 November regarding the release of the review of the South Australian Film and Video Centre Report:

1. Will she inquire why she has not received a copy of the report when the Program Estimates 1990-91 for the Department for the Arts states (p.467) in respect to the Department's achievements for the previous year—'The review of the South Australian Film and Video Centre was completed'?

2. Will the Minister table a copy of the report in the Legislative Council and, if not, why not?

3. Will the Minister advise if she is prepared to accept all the recommendations and, if not, which recommendations has she rejected and why?

The Hon. ANNE LEVY: The replies are as follows:

1. and 3. As an outcome of the 1989-90 budget process, it was resolved to examine the South Australian Film and Video Centre's current programs and the resource implications of those programs. A review committee, comprising officers of the Department for the Arts, Education Department and Department of Local Government was established to undertake this task.

Following an extensive examination of the centre's programs, video library services and expansion of other programs, the review committee concluded that it was necessary for a more detailed staffing analysis of the Video Centre to be undertaken.

The review committee met with the Chair of the South Australian Film Corporation (which is responsible for the South Australian Film and Video Centre) and requested that a detailed examination of the centre's staffing levels be undertaken by the Office of the Government Management

Board. The Government Management Board noted that the staffing resources of the centre had reduced from 24 to 19 over the months leading up to the review and made additional recommendations that further reduction in the staffing numbers to 18 be made. The report of the Government Management Board also recommended that certain changes be made to senior positions at the Centre to ensure these positions better reflected their program responsibilities.

In all, after a comprehensive assessment of the Video Centre's programs and staffing levels, it is pleasing to note that the centre has been able to reduce its infrastructure costs by in excess of $150 000 per annum. This has occurred without any material effect on the range of programs and services provided by the Centre and, in addition, the staffing reductions have been able to be achieved through attritition.

2. Given that the report of the Office of the Government Management Board was in the form of an internal working paper, it is not appropriate that it be released publicly.

SAFIAC REPORT

75. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts: Further to the Minister's answer to my question without notice on 13 November regarding the release of the Report of the South Australian Film Industry Advisory Committee—

1. When did the Minister release the report and to whom?
2. Will she table in the Legislative Council a copy of the report and her press statement accompanying the release of the report, and, if not, why not?
3. Has she agreed to accept all of the committee's recommendations and, if not, which recommendations has she rejected and why?

The Hon. ANNE LEVY: The replies are as follows:

1. The report 'Review of Film Funding Programs in South Australia' was released in late October 1990. It was released to the Board of the South Australian Film Corporation, both outgoing and incoming South Australian Film Industry Advisory Committee Members and upon request to the general public.

2. The Minister for the Arts will table the report and related press statement in Parliament.

3. The report identified three major areas of concern:

- A need to address current financing arrangements to ensure decisions made on investments take into account changing industry and market demands. These have come about due to the move away from tax-based incentives to the direct financing of films through the Australian Film Finance Corporation.
- A need to increase the emphasis placed on the fostering of emerging talented filmmakers.
- The current committee structure, while being successful in establishing an independent film industry in the 1980's, does not have the appropriate skills needed to steer the industry through the 1990's.

Following consideration of the report by the Government, it was felt that in lieu of establishing an expanded administrative funding process (that is through the establishment of a South Australian Film Office), the deficiencies outlined above could equally be overcome by the revamping of the SAFIAC committee.

The appointment of a number of people, all with specialist knowledge of the South Australian film industry, would provide the skills base required to take on the challenges that presently confront the South Australian film industry. The added advantage of this approach is that these changes can be implemented at no additional cost to the Government and will ensure that the current level of Government financial support can continue to be directed to film production and future development.

DIRECTOR, DEPARTMENT FOR THE ARTS

80. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts: Will the Minister confirm that as part of the decision to abolish the Department of Local Government, former C.E.O. Anne Dunn has not been promised or given to understand that she will gain the position of Director of the Department for the Arts when the current Director's term of office is reviewed in June/July 1991?

The Hon. ANNE LEVY: There have been no promises or understandings relating to the position of Chief Executive Officer, Department for the Arts and Ms Anne Dunn, Chief Executive Officer, Department of Local Government.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—

Reports, 1989-90—
- Accounting Standards Review Board;
- Children's Court Advisory Committee;
- National Companies and Securities Commission.

Evidence Act 1929—Report of the Attorney-General relating to Suppression Orders.

Royal Commission into Aboriginal Deaths in Custody—
- Report of the Inquiry into the Death of Joyce Thelma Egan;
- Report of the Inquiry into the Death of Michael Leslie James Gollan.

Regulations under the following Acts—
- Legal Practitioners Act 1981—Fees.
- Local and District Criminal Courts Act 1926—Fees.
- Occupational Health, Safety and Welfare Act 1986—Manual Handling (Amendment).
- Supreme Court Act 1935—
  - Probate Fees.
  - Registry Fees.
- Workers Rehabilitation and Compensation Act 1986—Prescribed Allowances.

Justices Act 1921—Rules—Fees.

By the Minister of Corporate Affairs (Hon. C.J. Sumner)—

Corporations Law—Consolidation of the Corporations Act 1989 and the Corporations Legislation Amendment Bill 1990.

By the Minister of Tourism (Hon. Barbara Wiese)—

South Australian Harness Racing Board—Report, 1989-90.

Electrical Products Act 1988—Regulations—Safety Switches.

South Australian Health Commission Act 1976—Regulations—Compensable Patient Fees.

By the Minister of Local Government (Hon. Anne Levy)—

Reports, 1989-90—
- Coast Protection Board;
- South Australian Local Government Grants Commission;
- 'Jolleys Boathouse'—Memorandum of Lease.

Regulations under the following Acts—
- Clean Air Act 1984—Backyard Burning (Amendment).
- National Parks and Wildlife Act 1972—Fees.

City of Henley and Grange—By-law No. 2—Streets and Public Places.

District Council of Willunga—By-law No. 15—Beach Control.

By the Minister of State Services (Hon. Anne Levy)—

State Clothing Corporation—Report, 1989-90.

QUESTIONS

NATIONAL CRIME AUTHORITY

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

Leave granted.

The Hon. K.T. GRIFFIN: The new Chairman of the NCA, Justice Phillips, recently is reported to have decided, with the concurrence of the Intergovernmental Committee, that the focus of the NCA's activities will change from the present investigations into drug related activities into investigations into white collar crime. In his statement to Parliament on 5 April 1990, the Attorney-General identified operations 'E', 'F', 'H', 'L' and 'O' as operations which have yet to be concluded and which have been deferred since August 1989. These operations relate to four matters referred to in South Australian reference No. 2 and one other—allegations of marijuana cultivation by three persons protected by four police officers, illegal drug dealing by four people, alleged corruption in an unnamed Government department, drug dealing by one person and improper behaviour by a police officer.

My question to the Attorney-General—as Attorney-General and a member of the Intergovernmental Committee, where I understand this change in direction may have been discussed—is as follows: in changing its focus of activity, will the National Crime Authority be terminating the operations to which I have referred? If so, can the Attorney-General indicate who will now investigate them?

The Hon. C.J. SUMNER: Despite the change of directions announced by Mr Justice Phillips following a meeting of the intergovernmental committee in Alice Springs on 23 November 1990, which he announced in a press release of that day, the NCA as a national body will concentrate more in future on what is loosely described as 'white collar' crime, and this will mean that there will be a substantial reduction in direct drug related references and inquiries.

The point that Justice Phillips was making is that the NCA should operate in partnership with other law enforcement agencies in Australia and that it should not be seen to be in competition with them, and he set out a full program and a structure to support that program in the press release which he issued. Should any honourable member want a copy of that press release and attachment, I can provide it to them.

So, those are the general directions for the NCA in the future. However, that does not mean that all other activity being conducted by the NCA will cease; it still has a number of references that are still current. Obviously, at some point in time, the intergovernmental committee, in consultation with the NCA, will have to determine whether and in what form those references are going to continue. One such reference is the South Australian reference No. 2, and that is the one that is currently being examined in South Australia by the NCA office which is being funded as a South Australian operation by the South Australian Government.

It has a reference which it is charged by the intergovernmental committee with carrying out, and until that reference is withdrawn or it is decided by the NCA that there is no point in further examining matters under that reference, and it can provide the Government with a report, the investigations under that reference will continue. When the NCA completes its most immediate inquiry within reference No. 2, which is into serious allegations made by Chris Masters on Channel 10 that public officials, politicians, lawyers and police officers were in corrupt relationships with brothel keepers and subject to being videoed and blackmailed, then obviously the inquiry will continue in relation to outstanding matters.

I think it is fair to say that, while as I understand it priority has been given to this particular allegation—the Masters allegation—since August 1989, following the taking over of the chairmanship by Mr Faris, that is not all that the NCA has been doing. Other matters which may be related to that particular inquiry obviously have still been examined, albeit that priority has been given to the reference relating to corruption of public officials.

So, the South Australian reference No. 2 has not been withdrawn; no decision will be able to be made on when that reference is to be terminated until further discussions have been made with the NCA. However, it is quite clear that at some point in time, the South Australian reference will be terminated, in consultation with the NCA and the Federal Government and from that point the NCA office will operate in South Australia as a federally funded body, more like the NCA offices in Sydney and Melbourne and those in every other State except Tasmania. When that happens, of course, the South Australian Government will have to determine whether it needs to put in place any alternative arrangements to deal with police and public corruption, bearing in mind that there is already in place an anti-corruption branch within the South Australian Police Force, which is oversighted by an independent auditor.

The Hon. K.T. GRIFFIN: As a supplementary question, in light of the answer, does the Attorney-General have any time frame within which the discussions to which he referred may occur?

The Hon. C.J. SUMNER: No, Mr President. The discussions will occur when the particular inquiry under the South Australian reference No. 2 is concluded, and I think that publicity has been given to the fact that it has been given priority and that it is expected shortly.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about the NCA.

Leave granted.

The Hon. R.I. LUCAS: Reports last week indicated that Mr Mark Le Grand, one time member of the NCA responsible for the Adelaide office of the NCA, had been given indemnities to allow him to testify in relation to the NCA. In particular, a front page story in the afternoon *News* of Thursday 29 November, under the heading of 'SA's ex-NCA boss: I'll tell all', stated in the first paragraph that:

> The former head of South Australia's National Crime Authority office, Mr Mark Le Grand, has been given State and Federal indemnities to lift the lid on the unit's in-fighting and investigative scandals.

My questions to the Attorney-General are: who granted the indemnities and when; and what were the terms, if any, of the indemnities that were granted?

The Hon. C.J. SUMNER: The indemnities were granted by the Acting Attorney-General, Mr Crafter, when I was absent. I do not have the indemnity in front of me, but if it is possible to make it public I will return with that information.

The Hon. R.I. Lucas: What was the date?

The Hon. C.J. SUMNER: The date will be obvious from the answer that I bring back once I get a copy of the indemnity, but my recollection is that it was early in September.

AUSTRALIAN RAILWAYS UNION

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to asking the Minister of Local Government, representing the Minister of Transport, a question about the Australian Railways Union strike.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday afternoon the Australian Railways Union (ARU) called a lightning strike which saw all suburban trains come to a halt at 2.30 p.m. Certainly, evening peak hour passengers were left stranded without warning, while people lined up at bus stops outside the city limits were left stranded for considerable lengths of time because buses were packed with city commuters and therefore did not stop as scheduled. This morning trains operated spasmodically, and the STA has been unable to guarantee that services will operate this evening.

ARU members have been able to create such havoc because their award, unlike the award covering members of the Australian Tramways and Motor Omnibus Employees Union, which is another union involved in the STA, does not contain provisions which require notice to be given prior to the imposition of bans, limitations or stoppages. The ATMOEU award requires that the following processes be followed:

1. that, before any ban, limitation or stoppage is initiated, the branch secretary must notify the STA General Manager of a dispute;

2. that within two days (48 hours) of receipt of this notification, the General Manager must set up a compulsory meeting;

3. that at such a meeting the parties in dispute have the option to agree to seek the assistance of a mutually suitable conciliator or a mutually acceptable arbitrator;

4. that, in the event there is no resolution of the matter in dispute or no agreement reached on a mutually acceptable arbitrator, the matter may be referred to the Industrial Relations Commission.

So, we have in that process a delaying strategy which provides 48, if not 56, hours in which people can seek conciliation or arbitration. In any event, there is an additional 72-hour cooling off period after the compulsory conference.

Does the Minister agree that the processes in the ATMOEU, in relation to the union's obligations before imposing a ban, limitation or stoppage, are fair, reasonable and appropriate provisions for a public transport service? If the Minister agrees that they are fair and reasonable provisions, will he undertake to urge the STA management to apply to the Industrial Relations Commission to vary the award as it relates to railway workers to incorporate similar consistent provisions and so limit the ability of members of the ARU to strike without notice in future?

Finally, I understand that rosters for STA workers, both bus and rail, are pinned on the notice board for a two-week period one week before they come into practice. I have been advised today that the ARU would have been aware for at least a week that the STA had not rostered one of the assistant guards on that roster and therefore has possibly been plotting for at least a week to have that strike but has not had the courtesy to inform the public to make other arrangements prior to calling that strike yesterday. I should like confirmation on that matter.

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

FILM FUNDING PROGRAMS

The Hon. ANNE LEVY: I seek leave to table the report 'Review of Film Funding Programs in South Australia' and the press release relating to it, as was requested in a question on notice from an honourable member.

Leave granted.

RAILWAY BOOKINGS

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 about passenger bookings from Crystal Brook.

Leave granted.

The Hon. I. GILFILLAN: Mr David Clarke, Field Officer with the Mines and Energy Department, living in Crystal Brook, last week wished to book to travel as a passenger from Adelaide to Crystal Brook on a train run by Australian National. There used to be a booking office in Crystal Brook but that has been closed for three years, so he then rang the nearest AN office which is in Port Pirie. He was given a 008 number to ring (88 8417 for those who want to check it) and they advised that he could book through the local travel agent in Port Pirie but that he could not book with the AN office.

Mr Clarke rang the travel agent in Port Pirie and was told that he would have to pay for and pick up the ticket in person. As this involved driving 27 km to Port Pirie and 27 km to return, and considering the time this would take, Mr Clarke chose to ring the 008 number. The voice that answered the 008 number said, 'This facility is no longer available to callers from your area.' Determined to travel by train and undaunted by efforts of AN to make it as difficult as possible, Mr Clarke rang the Adelaide AN booking office STD. He was cued, awaiting attention for 6½ minutes. It must indeed be a determined traveller who is going to hang on for 6½ minutes—many would have fallen by the wayside. Eventually the booking was made. The trip taken yesterday was satisfactory in the Whyalla train, which is soon to be closed by AN, in a full carriage of over 70 passengers, in spite of the efforts of AN to discourage patronage by downgrading the facilities and service. My questions to the Minister are:

1. Does the Minister agree that the procedure required to book a passenger seat from Crystal Brook would deter rather than attract passengers?

2. Does the Minister agree that this is further evidence that AN, with no objection from the State Government, is deliberately deterring people from travelling by train in South Australia?

3. What action will the Minister take?

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

SMALL BUSINESS REPORT

The Hon. L.H. DAVIS: My question is directed to the Minister of Small Business. What relevant recommendations of the Beddall Report on Small Business have been implemented by the Bannon Labor Government?

The Hon. BARBARA WIESE: I do not have the list in front of me, but the vast majority of the recommendations included in the Beddall report that relate to actions that can be taken by State Governments have been implemented by the Bannon Labor Government—before the Beddall report

came into existence. So, I believe that we have a very good record in this regard, but I will be happy to provide the specific information to the Hon. Mr Davis.

CONSUMER POLICY

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about consumer protection.

Leave granted.

The Hon. J.C. BURDETT: I raised this question of consumer policy, particularly in regard to consumer claims tribunals, some little time ago. Consumer protection in South Australia relates back originally to a Sir Thomas Playford Bill in 1948 which set up the Prices Branch. Of course, consumer protection has progressed very much since that time. In the *Consumer's Voice* of November-December 1990, the first sentence of an article entitled 'Twenty Years of Consumer Protection in South Australia' states:

> The 3rd of December—

that was yesterday—

> will mark the 20th anniversary of consumer protection in South Australia.

As far as I have seen in the media, there has been no recognition by the Government of that fairly important anniversary. Further on, the article states:

> It must be acknowledged that the availability of legal action by the Commissioner, although little used in practice, seems to have misled the South Australian Government into thinking that there was no need for a general purpose consumer claims tribunal in this State, such as can now be found in every other Australian State.

I repeat: '... such as can now be found in every other Australian State'. The article goes on:

> Specialist tribunals such as the Residential Tenancies Tribunal (for landlord and tenant disputes) and the Commercial Tribunal (for disputes involving licensed occupations) play an important role, but consumers in this State who are forced to take (or defend) their own small legal action still have no choice but to go to the local court. Although lawyers now cannot appear on the actual hearing of matters below $2 000, they can and do prepare documentation and appear in preliminary (interlocutory) matters, and costs are awarded accordingly. In addition, the magistrates hearing such matters are not specialists and tend to be very much steeped in the tradition of the adversarial process, more oriented to the motor accident claims that form the bulk of their lists than the occasional consumer claim a bold consumer may bring.
>
> However, while it is important to take note of the things that still have to be done in this State, that is no reason to gainsay the significance of 3 December 1990, the twentieth anniversary of one of the greatest strides forward South Australian consumers have experienced.

When I last raised this matter, I referred to an article by Mr Anthony Moore, Associate Professor of Law at the University of Adelaide. The Attorney-General interjected to some extent and said that the Associate Professor did not know what he was talking about. I sent Professor Moore a copy of *Hansard* and he has responded. He says that in South Australia we do not have a general purpose consumer claims tribunal. As I said on the last occasion in response to the Attorney-General's interjection, obviously we do have a small claims jurisdiction in the local court.

However, the point made by Professor Moore and by CASA in the *Consumer's Voice* is that that is a court's jurisdiction whereas in all other States there is a general purpose consumer claims tribunal as distinct from the courts. My question is: in the light of the fact that there are such tribunals in every other Australian State, is the Minister examining the possibility of introducing one into South Australia?

The Hon. BARBARA WIESE: I thank the honourable member for drawing the attention of the Council to the fact that this week is the twentieth anniversary of consumer protection in South Australia. It is not an anniversary that I or the Government have overlooked in any way; in fact, tomorrow I will host a function which is designed to draw attention to the fact that very extensive work has been done in this State during the past 20 years to protect the interests of consumers.

Tomorrow, I will have the opportunity to list specifically all of those measures that have taken place during the course of the past 20 years that have provided extensive protection where previously there was none. When one looks back over that time, it is interesting to remember some of the extraordinary problems that people used to suffer because no action had been taken by previous Governments in the interests of consumers and people who were not in a position to protect themselves.

Consumer protection began primarily with legislation concerning secondhand motor vehicles. Many members here would remember the very serious problems that used to exist for people buying used cars in this State. Of course, from time to time, there are still problems in that area, but there is by no means the range and level of problems that once existed. Numerous other pieces of legislation that were pioneered in the 1970s—and I am proud to say, by a Labor Government—have been extended into the 1980s. Measures that are currently being taken and measures that are on the drawing board to be taken by way of legislative change in the near future will extend that very fine tradition that has developed in South Australia in the interests of consumer protection.

The honourable member raised a question recently relating to criticisms by a writer of the situation that exists in this State. Quite rightly, my colleague the Attorney-General interjected during the course of that question to point out to the honourable member that, whilst there is not a general consumer tribunal as such in this State, or a tribunal named in that way, in fact, we have the same sort of coverage for consumers in South Australia by way of the protections that are provided to people under the Commercial Tribunal and also the Small Claims Court. I remind the honourable member that the Small Claims Court is a place where consumers can go and where the procedures are designed specifically to be very informal, so the environment is not unduly threatening to people who have a complaint to bring.

For all intents and purposes the service provided there is similar to the sort of service that would be provided by the consumer tribunals that exist in other places, as referred to by the honourable member. I would also point out that there is currently a review of the courts systems taking place and, no doubt, a review of the work of the Small Claims Court and other areas of the law will be included in that review, and should it be considered desirable that there be any changes made that may affect this area, or may be in the interests of consumers by one means or another, I am sure those changes will be considered very seriously by the Government.

However, I would strongly argue that the protections for consumers that are available in South Australia, by way of the structures that have already been established here, are equal to and in many cases superior to those services that are available in other parts of Australia. We have led the way in consumer protection in this State and we still lead the way.

TEACHING QUALITY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Education, a question about education cuts.

Leave granted.

The Hon. M.J. ELLIOTT: Since the Government's intention to axe 795 teaching positions was announced I have received daily telephone calls about the effect the move will have on South Australian schools. Many of the calls have been about the effect of the cutbacks on Permanent Against Temporary (PAT) teachers, and contract teachers. PAT teachers are permanent teachers in temporary positions. Previously they were people just entering the teaching force or teachers who had in some cases chosen to take on temporary positions rather than a permanent placement.

However, many teachers who are currently holding full-time positions within schools are facing displacement and will become PAT teachers. The South Australian Institute of Teachers estimates there will be up to 900 PAT teachers in the South Australian education system next year, and half of them will be changing shcools at least once a term. 450 teachers changing schools once a term, it has been argued to me, leads to a lack of continuity and instability within the staff at many schools and must undoubtedly affect students.

A large proportion of the 795 teaching positions to go will be contract positions. As an example of the sorts of problems it may create, I understand that in English as a Second Language 20 per cent of the State's ESL teachers are on contract, which it appears will not be renewed. So those teachers will lose their jobs. ESL is a relatively new field, and many teachers who have been teaching ESL in contract positions for several years, have obtained a relatively high level of experience, certainly in relation to the experience that can be gained at this time.

The number of ESL positions themselves will not be altered for next year, while the number of students eligible for the classes will increase. What we will see is that teachers without that level of expertise will need to take ESL classes of a larger size than have previously been held. To illustrate the point further, I spoke with one woman last night who has been involved in both curriculum development and training for ESL teachers, on contract, and she has no idea whether or not she will have a job next year.

My question to the Minister is: how does the Government believe the quality of teaching can be maintained when:

(a) up to 450 teachers will be changing schools and classes each term, against their wishes—teachers who had been in permanent positions within fixed schools; and

(b) specialist areas such as ESL are losing a sizeable proportion of experienced staff and those positions will be filled by teachers with little or no expertise in that specialty?

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

NATIONAL CRIME AUTHORITY

The Hon. C.J. SUMNER: Earlier, the Hon. Mr Lucas asked me a question about the indemnification of Mr Le Grand. I seek leave to table a copy of the letter of indemnification signed by Mr G. Crafter, Acting Attorney-General, 4 September 1990, and the letter of transmission of a copy of that indemnity from Mr Kym Kelly, Chief Executive Officer, Attorney-General's Department, to Mr E.J. Lindsay, Chairman, Joint Committee on the National Crime Authority, also dated 4 September 1990.

Leave granted.

CHILD ASSESSMENT CLINICS

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister of Tourism, representing the Minister of Health, a question about the future of child assessment clinics.

Leave granted.

The Hon. BERNICE PFITZNER: It is a concern of mine that the present child assessment clinics are being disbanded, have staffing difficulties or have long waiting lists. These clinics assess children usually between the age of nought to five years and are the only clinics in the State that give a specialised and comprehensive assessment of children, particularly in the age range of 0-2 years. There are other services but they give only a partial assessment and are therefore fragmented and poorly coordinated.

The assessment is to identify and provide intervention programs for children with physical abnormalities, developmental delays and mental disabilities. The assessment is complex and needs a multidisciplinary health team of a specialist doctor, psychologist, physiotherapist, speech therapist, occupational therapist and social worker. Parents who have children with these handicaps (that is, physical, developmental and/or mental) have not infrequently been given confusing and conflicting advice when they have consulted with persons trained in only one of these health disciplines.

There are three main child assessment clinics in the State, as follows:

1. The Child Development Unit at Adelaide Children's Hospital, which serves the central area, and this unit has a long waiting list.

2. The Developmental Paediatric Unit at Lyell McEwin Hospital. This serves the northern area, and has staffing problems with their nurse coordinator, their specialist doctor and the lack of a psychologist.

3. The Child Assessment Team at Flinders Medical Centre. This serves the southern area, and has been disbanded.

My questions are:

1. Who will continue the service of these handicapped children in the southern part of the metropolitan region now that the Child Assessment Team at the Flinders Medical Centre has been disbanded?

2. Why is such a low priority given to these child assessment clinics, which are essential for proper identification and intervention of these handicapped children?

3. It has been reported that being attached to a hospital may be part of the difficulty—in which case, will the Minister of Health look into establishing an independent child assessment clinic?

It must be remembered that the earlier a defect is identified and treated the better will be the outcome for the child.

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

IMMIGRATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister representing the

Minister of Ethnic Affairs a question about the State Government's immigration program.

Leave granted.

The Hon. J.F. STEFANI: Recently in his speech to the National Immigration Outlook Conference the Minister of Industry, Trade and Technology and Minister of Ethnic Affairs (Hon. Lynn Arnold) said that the State Government was planning to double its annual immigrant intake. I have been advised that a migrant settlement and promotion unit is operating within the Department of Industry, Trade and Technology. My questions are:

1. How many full-time employees have been engaged by this unit to develop immigration and settlement strategies which are designed to attract more migrants to South Australia and which are in line with Government policy?

2. What amount has been allocated in the 1990-91 budget to achieve this objective?

3. What are the detailed plans and strategies that have been developed by the new unit?

4. What increase has been achieved in the migrant intake so far?

5. Will the Minister advise when the Government is expected to achieve its objective of doubling the present migration intake?

6. Will the Minister advise why he has transferred the function of developing immigration and settlement strategies from the South Australian Multicultural and Ethnic Affairs Commission to the Department of Industry, Trade and Technology?

The Hon. C.J. SUMNER: I will refer those questions to my colleague and bring back a reply.

PARLIAMENT HOUSE INNER LOBBIES

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking a question of you, Mr President, about strangers in the inner lobbies of Parliament House.

Leave granted.

The Hon. R.J. RITSON: Mr President, first, I wish to thank you for the support you have shown—

The Hon. T.G. Roberts: Flattery will get you everywhere.

The Hon. R.J. RITSON: Yes, I know. Mr President, I thank you for your support in defending members' privacy in the inner lobbies and for your letter and your conjoint letter sent to all members reminding them of the rules of the House both in relation to guests and to strangers.

Unfortunately, amongst the worst offenders are public servants. Sometimes the House is so crowded with them (and they are not known to a lot of members) that the inner lobbies might as well be a public place. They are not specifically in the building as guests of members or of the Parliament but as aides to Ministers and, by and large, should confine their activities and presence to their Minister's office or the public corridors and, in cases where they have to enter the Chamber to advise a Minister and have to enter necessarily through the space at the back of the Chamber, it matters a lot whether they expend the extra 10 paces of pedal power to go around the outer lobby or continue to use the private lounge room as a corridor.

I am asking you, Sir, whether you would consider writing further to the Ministers as Ministers instead of merely as members of Parliament, so that that information is officially recorded and filed in all the departments for the edification of the public servants and in the further defence of members' privacy.

The PRESIDENT: Because the honourable member is addressing his remarks to me as President of the Council I am happy to comply with his request. This matter has concerned me: in fact individual members have been approached at various times to curtail their movement and that of their guests in the inner lobbies. I believe that it is not too onerous to ask members or Ministers to make sure that anyone with whom they have dealings uses the public access. Also, advisers to Ministers should come down through that corridor. I am happy to use my office, as President of the Legislative Council, to convey this to the Ministers, and I will get that under way.

MISLEADING LABELLING

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about misleading labelling.

Leave granted.

The Hon. PETER DUNN: In the light of the Minister's recent statement about consumer affairs and her concern for the public, I thought that it would be appropriate to bring to her notice now a matter that was brought to my attention a little while ago. I do so in light of the problem about orange juice concentrate being brought in from Brazil and, because it is mixed with water in Australia, it can legitimately be called an Australian product.

We have another case here. A person travelling to Eyre Peninsula some time ago picked up some confectionery. His eye was taken by the SA Great logo on the confectionery bag, and he turned it over and noticed that the bag also had stated on it 'Product of Australia'. He purchased the sweets and proceeded on his way. He opened the bag and was eating a sweet, which was unusually wrapped, when he noticed on the label of this Vienna bonbon 'Made in Yugoslavia'. However, the bag distinctly refers to 'SA Great' and 'Product of Australia'.

Maybe the container is the product of Australia, and maybe that is all. Can the Minister say whether it is legitimate to use the SA Great label in this case, or whether it is legitimate to have the words 'Product of Australia' written on the back of the bag—and I notice the expiry date is November 1991—when its contents are made elsewhere?

The Hon. BARBARA WIESE: This certainly seems to be a case that is very similar to the problem that has emerged recently with respect to citrus products in that, as I understand it, the Federal Government legislation governing this area currently allows for a product to be labelled 'Produce of Australia' if it contains a certain percentage of Australian-made produce. So, it is possible, under current legislation, as I understand it, for some foreign product to be included in a package that will be labelled 'Produce of Australia'.

With the problems that have emerged recently with respect to citrus products, measures have now been mooted by both pressure from State Governments, including this Government, and responses made by the Federal Government that these matters will be examined and hopefully rectified so that consumers will know exactly what it is they are purchasing when they buy a product that is labelled 'Produce of Australia'.

As to the case to which the honourable member refers specifically, I will need to seek a report whether or not the labelling in that case falls within the current law. Certainly, it would appear to me that at the very least the labelling is misleading and ought to be investigated, and I will do that. On the question of the SA Great label, that is not a matter on which I can comment. The SA Great organisation is a private organisation, and I do not know the rules under

which it operates in allowing companies or other community organisations to use its logo. However, I am sure it would be as concerned as I am to ensure that anything that is labelled 'SA Great' is in fact a product that emanates from this State, otherwise it makes a mockery of the label and the objectives of the SA Great organisation.

I shall be happy to study the matter that the honourable member has raised and I will bring back a report on that as soon as I am able to do so. I would certainly like to see the evidence, if the honourable member can provide it to me, and I promise not to eat it.

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

The Hon. CAROLYN PICKLES: I move:

That it be an instruction to the select committee that its terms of reference be amended by inserting paragraph (5) as follows:

Should the committee determine not to disclose or publish any evidence taken by the committee, the Council will not require such evidence to be tabled in the Council.

This motion has been unanimously supported by all the members on the select committee and they will make their brief contributions to this motion. The select committee considers that this motion is necessary to protect the confidentiality of some witnesses. We have found that the question of child protection in this State is a very sensitive issue in many areas, and it has involved witnesses giving some very personal and often confidential information. There is also the question of identification of children involved, and the committee wishes at all times to protect innocent victims who have been involved in some rather serious cases. A precedent has been set in recent times by a select committee on the Christies Beach women's shelter. I understand that there is general support for this motion, and I commend this motion to the Council.

The Hon. J.C. BURDETT: I support the motion. As the Hon. Carolyn Pickles said, there is a precedent in regard to the Christies Beach women's shelter select committee. In that case, the motion was moved by you, Mr President, and that was for the same reason, namely, to protect confidentiality. That is the only reason why it is being done in this case. I think these sorts of things should happen select committee by select committee but, as the mover of the motion said, in this case there was evidence which the select committee believed it ought to have but which would not have been available unless the people who wished to give it were protected in regard to their confidentiality and, as was said, especially to the confidentiality of the children.

It was a unanimous decision of the committee. I have been in this place for 17 years and have sat on literally dozens of select committees, and I do not believe that there would be any kind of abuse of this motion if it were carried. I am quite certain that if the motion is carried it will be used only for the purpose of protecting people in a special situation. The motion has not been motivated by any idea of giving general protection, but because it arose in a particular case, and that is the way that I believe these unusual motions ought to be approached, as this one was. I have pleasure in supporting the motion.

The Hon. M.J. ELLIOTT: On behalf of the Democrats I support the motion. The motion is somewhat unusual, although it is not so very long ago that we passed a similar motion about another select committee. I believe this is necessary. Essentially, it seeks to protect the identity of innocent people involved in some quite serious matters. So, I think we are offering a reasonable protection; the identity of such people has no relevance to and is not important for the determinations of the committee. Thus, we have no problem in supporting the motion.

Motion carried.

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 21 November. Page 2078.)

The Hon. C.J. SUMNER (Attorney-General): The first issue to reply to is the question of the referral of this matter to a select committee. I do not believe this Bill should be referred to a select committee; it will delay necessary and indeed essential changes to the system. In June this year the Crown Solicitor in a minute to the Chief Executive Officer of the Department of Correctional Services expressed his concern regarding some of the provisions in the Act and, in particular, section 36 thereof. He advised that he had one to 1½ officers working full time on judicial review applications, that the annual cost to Government in tying up the resources of the Supreme Court, his office, the Legal Services Commission and the Department of Correctional Services must be considerably more than $250 000, and that the costs would increase. He pointed out that these actions and the costs might be justified if they had any effect in stabilising the situation within the prisons, but such was not the result. No long-term benefits have flowed to either the prisons or the department. In fact, the contrary applies. For example, one prisoner who this year was successful in achieving his release from segregation very soon afterwards was able to take part with other prisoners in the seizing of hostages at knife point, and has been committed for trial on the charge of riot.

The Crown Solicitor expressed the view that, 'The department cannot comply with [section] 36 and at the same time properly administer (Yatala Labour) Prison.' The department feels that further challenges will soon be mounted by prisoners who by their past actions have demonstrated their ability to coerce and intimidate other prisoners into disrupting the administration at Yatala Labour Prison by *inter alia* the carrying out of life threatening acts of sabotage in the industrial complex. The department fears a further outbreak of the prisoner power struggle in the prison, which almost certainly led to the stabbing murder of prisoner A.W. Stone in late 1989.

I refer to F Division in Yatala Labour Prison. Early next year the department hopes to commission F Division, which would help to alleviate the current overcrowding crisis by providing another 90 beds. However, the Crown Solicitor in his abovementioned minute stated that if further applications for judicial review were made, 'such proceedings may result in judgments that will prevent F Division from operating as intended'.

Regarding the capacity to control prisoners, the department fears that if it is denied the statutory power to lawfully place prisoners within institutions according to demands, the safety of both prisoners and staff and the proper administration of the prison and to apply proper regimes to different parts of the prison, the following consequences will occur:

(a) Further acts of industrial sabotage which would again cause the closure of the industrial complex

at Yatala Labour Prison and deny to the majority of well-behaved prisoners the opportunity to work and earn allowances;

(b) A resurgence of the struggle for leadership amongst the prisoners at Yatala Labour Prison with the likelihood of further assaults or worse;

(c) An inability to implement further measures to contain the spread of communicable diseases amongst prisons.

Untold harm could be the effect of delaying the changes proposed by this Bill.

I turn now to home detention, clause 3. The Hon. Mr Gilfillan stated that suspicions exist in relation to the insertion of definitions of 'Aboriginal people' and 'Aborigine' and suggested that definition by race in the Act would lead to a deliberate attempt to target Aborigines over others in specific matters in prison.

The response is that the proposed definitions have been included to benefit Aborigines by permitting suitable Aboriginal offenders released on home detention to be able to serve home detention in their local community and not to be confined to a residential address. The proposed definitions are identical with other definitions which have already been included in such other State legislation as the Pastoral Land Management and Conservation Act, assented to as recently as September 1989.

I turn now to community service committees, clause 4. The Hon. Mr Gilfillan made some criticisms of the Bill in this respect. The answer is that the amendment is designed to remove the need to establish a committee in each locality and to operate the program in the North West area with one committee. This is a practical necessity as each committee consists of five members, including a magistrate. It has been found difficult to constitute a number of committees; for example, in remote areas the magistrate visits the courts on circuit, and in the North West would have difficulty in meeting the commitment to one committee, let alone a number of them. The Chief Magistrate has voiced his concern over the use of magistrates on community service committees due to heavy court commitments.

The Government is aware that retaining local committees can retain a link between the local community and the department. However, abolition of some local committees would make little impact upon the running of the program. It is important to note that the local committees approve work projects, but do not control the disposition of offenders on to particular projects, nor contribute to decisions of an operational nature, nor play any supervisory role.

I deal now with separation of prisoners, clause 16. The Hon. Mr Gilfillan said that 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 any time. The response is that the Hon. Mr Gilfillan is suggesting that the grounds upon which a prisoner may be separated are different from those which previously existed. This is manifestly not the case, as there has been no change to the grounds on which separation of prisoners may occur.

Again on clause 16, the Hon. Mr Gilfillan said that, although disciplinary measures may be accepted, they must not be taken at the expense of eliminating a civil right. The response is that to talk of disciplinary measures and civil rights misses the point altogether as the process of separation is not punitive but an administrative measure to provide for the good order of the institution and the safety of other prisoners and staff. It must be recognised that separation of prisoners is undertaken to ensure that serious problems of disorder do not occur and a range of review mechanisms—Ombudsman, Minister, members of Parliament, visiting inspectors, the Correctional Services Advisory Council and the like—are present to consider any particular grievance which might be raised.

Again on clause 16, a question was raised by the Hon. Ms Cashmore during the Committee proceedings in the House of Assembly on 14 November 1990, as follows:

> Is the Minister telling the Committee that prisoners have challenged successfully through the courts the rights of a Chief Executive Officer to exercise managerial judgment as to how prisoners should be dealt with, that the Legal Services Commission has paid the prisoner's legal expenses and that the judiciary, having in the first instance sentenced some to prison, presumably with the knowledge that the Chief Executive Officer would exercise the necessary management, has upheld the prisoner's right to challenge the way that the prison is run, and, if so, can the Minister give the Committee an indication of how many times this has occurred and what it has cost the taxpayer?

The response, which was given by the Minister at that time and which I will quote for the benefit of the Hon. Mr Gilfillan in particular, is as follows:

> The answer is 'Yes'. I cannot provide the figures at the moment, but when I do the honourable member will be appalled. The answer is 'Yes'; challenges have been taken; 'Yes', the challenges have been successful; and 'Yes', it has cost a small fortune. I do not know exactly how much is involved, but I will get those figures; it will be interesting to find out how much is involved.

The Hon. K.T. Griffin: There is not much information there.

The Hon. C.J. SUMNER: Just a minute; I am now going on to provide it. Statistics which would reveal the exact number of challenges and the total cost to the taxpayers of this State have not been kept. However, in the past few years a number of cases were heard by the Supreme Court, some of which went on appeal to the Full Court. In many of these cases the prisoners were successful in having the court declare that their segregation from the other prisoners in the institution concerned was unlawful. Many other challenges were initiated or threatened but were settled prior to a full hearing in court.

In June this year, following upon another prisoner being successful in the Supreme Court proceedings, and the department facing the threat of a number of other challenges, the Crown Solicitor was moved to write to the department advising that he:

> had one to one-and-a-half officers working full time on judicial review proceedings related to section 36 (of the Correctional Services Act 1982). The cost to Government of these proceedings in court resources, the resources of this office of the Legal Services Commission and of (the Correctional Services) Department must be considerably more than $250 000 per year. This amount will increase.

He went on to add that it is apparent that the department cannot comply with section 36 and at the same time properly administer the prison, and that the section must be amended or repealed.

As will be seen, and as the Hon. Mr Gilfillan will see from this note, the taxpayers of South Australia pay for the imprisonment, pay for the Legal Services Commissioner to act for prisoners, pay for the Crown Solicitor's office to defend the proceedings and pay for the courts to adjudicate on the proceedings. I think that some commonsense needs to be exercised in this area.

I turn to the custody of prisoners, clause 9. The Hon. Mr Gilfillan said:

> 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.

The response is that the Hon. Mr Gilfillan appears to be suggesting that the Chief Executive Officer should not be given the power to place prisoners where he sees fit. It is

this very issue which has caused the problems that this amendment is designed fundamentally to address. It has been demonstrated that some of the problems of the prison system during the past 12 to 18 months can be directly attributed to the difficulties which the department has had in appropriately placing prisoners, using legislation which is not subject to challenge and resultant major difficulties for prison administration. Constant litigation and appeals have made the placement of prisoners in Yatala very difficult, and in this regard the new F Division may be prevented from opening as is intended. The Crown Solicitor has written as follows:

As you are aware, this office has been concerned since 1982 that provisions of the Correctional Services Act 1982 are entirely inappropriate within a prison regime. Those concerns have now become focused on section 36 of the Correctional Services Act. This wholly unnecessary provision has resulted in more litigation over the past two years than the prison system has created over the past century.

He then goes on to repeat that he has one to one-and-a-half officers working full time and that the cost is $250 000 per year. He further says:

This amount will increase. It is expected that all prisoners in unit 1 of B Division will take legal proceedings in the near future. Such proceedings may result in judgments that will prevent F Division from operating as intended.

Mr Gilfillan complains about the lack of a definition of a prisoner of a particular class. I point out that these words have been used in the Act since 1982 and there has been no change whatsoever in this regard.

I now turn to home detention, clause 18. The Hon. Mr Gilfillan has indicated that he will move to oppose paragraph *(a)* given that he believes that the option should be left open for certain prisoners to serve the whole period of sentence on home detention. The response is that Mr Gilfillan is suggesting that prisoners with no non-parole periods should in fact be eligible for immediate release without serving any time in prison. The legislation established by this Government, which clearly recognises the importance of the courts in prescribing non-parole periods, assumes that some period must be spent in prison prior to release on parole, and the current amendments require such prisoners to serve at least one third, subject to meeting the qualifying requirements which have been strictly set out administratively. Only prisoners serving less than 12 months will have no statutory qualifying period. The Hon. Mr Irwin said:

As I understand it, an Aboriginal prisoner released on home detention in the urban areas will still have to abide by the residential provision, but when released to reside on tribal lands or an Aboriginal reserve, such extra areas of land as the Chief Executive Officer may specify in the statement of release will be included . . . I would like to know more about the fine details of how this will work for the benefit of the prisoner and this community into which that prisoner has been released.

The answer is that the Hon. Mr Irwin understands the amendment correctly, in that Aboriginal prisoners released on home detention in the urban areas will still have to abide by the residential provisions. Those prisoners released to reside on tribal lands or on Aboriginal reserves will be treated in accordance with their circumstances.

In evaluating an application for home detention, the department will check whether a community is prepared to accept the prisoner in the area. Then the department will seek cooperation of local community members to assist in the monitoring of the home detention. The Hon. Mr Irwin also said:

The Opposition needs a very strong assurance from the Attorney-General that proper safeguards are available of the extentsion of the home detention scheme before it will support this amendment.

The response is that the department has published a comprehensive set of stringent guidelines for home detention which are applied to the persons under consideration for the scheme. These guidelines will be applied to the persons included as a result of the extension of the scheme.

I turn now to maintenance of prisoners on home detention (clause 20). The Hon. Mr Gilfillan sought an explanation from the Minister in relation to the grounds upon which the Crown is not liable to maintain a prisoner who is serving a period of home detention. The answer is very simple: the home detention program clearly encourages prisoners to seek and obtain employment upon their release onto the program, and a range of social security benefits are available until they are successful.

I turn now to inspectors of prisons (clause 6). The Hon. Mr Griffin said:

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 inspectorate of a correctional institution some background in the law, whether it is a justice of the peace, a lawyer or a retired judge, is important.

The response is that it is the Government's intention to broaden the scope of persons who can be appointed to the position of inspector but not to exclude worthy citizens including former members of Parliament and members of Aboriginal and other communities who may well not wish to become justices of the peace for a variety of reasons. The Opposition's amendments to clause 6 are not supported.

I now turn to appeals from visiting tribunals (clause 24). The Hon. Mr Griffin said:

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.

This matter was dealt with by an amendment. It was raised by members in another place, and the Government accepted the position. An amendment has already been passed in the Bill before it was introduced here. I can only assume that the honourable member overlooked that.

Bill read a second time.

The Hon. I. GILFILLAN: I move:

That this Bill be referred to the Select Committee on the Penal System in South Australia.

I appreciate the answer read by the Attorney-General to some matters raised in the second reading observations which I made on the Bill. However, the fact still remains that we have in place a select committee specifically set up in this Parliament to look at the penal system in South Australia. The first reason I put forward to support this motion is that it is appropriate that, with the committee set up specifically to view the penal system in South Australia, the matters raised in this Bill should be studied and reported on by the committee before this Council makes a final determination on the Bill.

Secondly, there are matters of serious concern regarding several key issues in the Bill. Quite obviously, any piece of legislation requires updating and amendments for proper improvement of its operation. However, there is a key area of concern, namely, the proposed new section 36, which is proposed by the Government on the basis that it will improve the managerial capacity of our prisons and enable a whole lot of flow-on benefits, more efficient use of space (in particular of the new separation wing, F Division). It has been put to me that it will help to alleviate the backlog of people who are currently either not incarcerated in prison because there is no room for them or are inappropriately placed in areas where they should not be.

These are all acceptable comments and reasonable arguments to be put forward. However, in the time frame and context in which it is being brought forward, it is inclined to sweep out of sight the very important issues of what should be the appropriate powers of a prison administration in the disposition of people under the control of the Department of Correctional Services.

I do not intend to canvass in detail the reasons why I have serious misgivings about this provision amending this section. I am in company with people from the Prisoners Advocacy Group and others who have been working in Correctional Services and who believe that the amended section goes too far and infringes civil rights. It has been put to me that it may indeed contravene the United Nations Standard for the Treatment of Prisoners because it does not require medical examination of prisoners before they are placed in solitary confinement. However, it still remains that this is a significant change from the current Act in-so-far as it is moving to give the prison manager power to place a prisoner anywhere in a prison with virtually no redress or appeal. When one realises that that can quite dramatically change the living situation of an inmate, one must also realise that it is not just a question of convenient housekeeping.

When we were given advice from the department and reflecting on the comments by the Attorney-General from the Crown Solicitor that much judicial energy was being put into dealing with appeals and litigation, significantly we were told that almost entirely the basis of the legal action was on a technicality that forms had not been properly filled in or procedures had not been properly complied with.

I am sorry that the Attorney was otherwise distracted when I made that point, because it is important to note this extraordinary use of the legal resources of the Crown Solicitor's Department and the court system. I repeat that, almost without exception, these legal actions have been based on failure to comply with technical details of the Act and have not been concerned with the essence of appropriateness or otherwise of the movement of a prisoner.

It seems to me that it is quite ridiculous not to be able to amend the legislation so that the procedures are simpler to follow and so that the people who are required to comply with these technical requirements are properly trained and supervised. I am not prepared to accept that, because of the extraordinarily high amount of time being spent by the Crown Solicitor's staff on this matter, the Act cannot be amended in the manner proposed.

The Attorney raised the question of CSO committees and further discussion on this matter. I point out that it does not appear to be essential that a magistrate be appointed to a CSO committee, so that matter should be investigated further. I argue that many issues that have come forward in relation to this Bill could benefit from more informed discussion by a select committee and then a report to this place. Very few if any of those issues are so urgent that they have to be passed in this sitting before Christmas. As I said when I moved this motion, considering that we now have in place a competent select committee with the specific task of looking at penal reform in South Australia, it would be irresponsible to deal with this Bill at this stage without first referring it to the select committee, so I urge support for my motion.

The Hon. C.J. SUMNER (Attorney-General): I have already responded to the suggestion that this Bill be referred to the select committee, as foreshadowed by the Hon. Mr Gilfillan in his second reading contribution. I have answered the issues raised by him. There is little doubt that these amendments are necessary for the proper management of the prison system and, in particular, to try, as I said previously, to get a little bit of commonsense back into the position, particularly in relation to prisoners' applications for judicial review and the problems with section 36.

If the honourable member would like a select committee at some time in the future to look into the matters that he has raised in this motion, I am sure that that option is still open to him. However, for the moment I think that the Bill should go to the Committee stage where amendments may be considered. To delay the matter by sending the Bill to a select committee would, in my view, definitely not be in the interests of prison administration, prisoners or, for that matter, the taxpayers of South Australia.

The Hon. K.T. GRIFFIN: In the absence of my colleague, the Hon. Mr Irwin, the shadow Minister of Correctional Services, who has the conduct of this Bill for the Opposition, I take the opportunity to indicate that, although we supported the establishment of the select committee on correctional services and penal matters, we are not prepared to support the reference of this Bill to that committee.

A number of issues in the Bill are of a relatively minor nature. Some have some substance, but we are of the view that they can be dealt with during the Committee stage of consideration of the Bill. Some of these issues are of a relatively pressing nature. Although we have certainly been critical of the Government for wanting to get prisoners back into the community much earlier than we believe they should, on the basis that this is a device to relieve overcrowding in prisons, we are of the view that those matters can be considered adequately during the Committee stage of the Bill. Undoubtedly, if the select committee on penal reform addresses any of these issues that are included in the Bill, there is no reason why recommendation should not be made for changes either to take the amendments in this Bill further or to repeal them when the committee reports. So, overall the Opposition is of the view that it is not necessary to support the reference of this Bill to the select committee.

Motion negatived.

VALUATION OF LAND ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 1990.)

The Hon. L.H. DAVIS: This Bill seeks to amend the Valuation of Land Act 1971. The Act has been the subject of numerous amendments over a period of time, and the Bill now before us seeks to amend it in several respects: the simplification of language; the revision of definitions (in particular, capital and annual value); and the upgrading of fines to recognise that inflation continues to be a mighty tax gatherer in Australia.

There is also provision for the Valuer-General to make valuations of land and charge fees in circumstances where private valuers are unable or unwilling to provide such a service. There is also recognition of the importance of heritage buildings with the merits of heritage buildings being properly reflected in their valuation. A previous anomaly has also been corrected with respect to heritage buildings which will in future give the power to the Minister to recognise heritage buildings which are on the Adelaide City Council heritage list as distinct from the State heritage list. Finally, I understand that, following the passage of this legislation, new regulations will be introduced.

Addressing the first of the matters, namely, the definition clauses, there is an amendment to the definitions of 'annual value' and 'capital value'. It is curious, indeed, that for such a long time there does seem to have been a discrimination against fruit trees. In the original legislation passed in 1971, 'annual value' was defined, subject to the following qualification:

> If the value of the land has been enhanced by trees (other than fruit trees) planted thereon, or trees preserved thereon, or for the purpose of shelter or ornament, the annual value shall be determined as if the value of the land had not been so enhanced.

In simple English, that provision meant that in valuing land no notice should be taken of any planted trees for shelter or ornament whatsoever, except for fruit trees. In other words, the original Act did discriminate as regards fruit trees, in the sense that they were to be taken into account in the valuation of land. Quite clearly, that was anomalous in the sense that there are other trees which are grown for profit, such as pine trees, trees in wood lots and Christmas trees.

The amendments to the Act with respect to both annual value and capital value seek to redress this discrimination. When the principal Act was first passed in 1971 it defined 'capital value' of land to mean:

> ... the capital amount that an unencumbered estate of fee simple in the land might reasonably be expected to realise upon sale—

But it then went on to say:

> ... but if the value of the land has been enhanced by trees (other than fruit trees) planted thereon, or trees preserved thereon for the purpose of shelter or ornament, the capital value shall be determined as if the value of the land had not been so enhanced.

Again, we see not only in respect of the annual value of land but in the definition of 'capital value' of land a discrimination against fruit trees. That discrimination has been redressed in the Bill now before us. Nevertheless, there are questions which the Liberal Party is anxious to take up about this particular matter.

The second reading explanation suggests that this is a minor matter. However, quite clearly where we are seeking to value all trees for capital value or annual value purposes, that will possibly add to the rates which will be payable on land, if the valuer deems the trees to be of value. One could readily see situations where Christmas trees, pine trees or wood-lotting would be taken into account by a valuer in assessing the value of the land for capital valuation purposes. Previously they have been excluded from this definition. As I have said, there has been this discrimination for some extraordinary reason, with fruit trees, which obviously would have particularly advantaged the people in the Riverland. That is my understanding of the purpose of the amendment: to include all trees for valuation purposes. I will be anxious to find out what the economic impact of this proposal is, because I sense somehow that this is rather more than the minor amendment which the Government claims it to be.

The Hon. Peter Dunn interjecting:

The Hon. L.H. DAVIS: My colleague the Hon. Peter Dunn, I sense, is also perhaps contemplating making a contribution on this matter. He is presently making his contribution *sotto voce*. I suspect he might prefer to make a direct contribution to the Council, because his knowledge and experience of these matters is far greater than mine. The second matter is in relation to the amendment of section 22b of the principal Act and that seeks to ensure that valuation of buildings will fully reflect the heritage nature of those buildings and of the land. As I have mentioned, the previous amendment to this section in 1985 did not recognise that in fact there were numerous heritage listed buildings in the city of Adelaide which were not on the State heritage list. So, this amending clause and the regulations which will accompany it will overcome that anomaly.

The next matter relates to the ability of the valuers of the Department of Lands to in future make valuations of land and to charge fees in situations where private valuers are unwilling or unable to make such a valuation. The argument has been put that such valuations may be required from time to time in remote parts of the State, that it is not possible always for private valuers to do this on an economic basis, particularly if it is a one-off trip involving hundreds of kilometres at a great cost to the individual requesting the valuation. Therefore, the proposal is that valuers from within the Department of Lands would be able to provide a service in this situation and to charge fees.

I understand that there has been consultation with both the Australian Institute of Valuers and the Real Estate Institute, and that they are happy with this measure. I again would suggest that there will be questions during the Committee stage with respect to that particular provision. Other amendments recognise that the wording of this Act, which is now 18 years old, was not constructed at a time when computers were such a common part of our society. With valuation of land being on computer, some of the wording in the parent Act is no longer appropriate, and a number of amendments recognise that. The Opposition supports the second reading, but I indicate that amendments will be placed on file.

The Hon. I. GILFILLAN: The Democrats support this Bill. However, I will comment on some observations that were given to me by Mr Ken Cuthbertson of Burra. Although these are not necessarily opinions strongly held by me, I defer to his experience in the area and would ask the Government in due course to comment on the matters I am raising. I believe that some of them echo matters that were raised by the Hon. Legh Davis in his contribution just concluded.

Mr Cuthbertson is concerned about the changed definition of 'capital value' which makes a plantation of trees rateable. He is concerned that people are encouraged to grow trees—and that is widespread and promoted by the Government; it is generally recognised that it is very much a desirable practice for landowners—but taxed on that and also taxed on already existing plantations. Secondly, he is concerned that the Valuer-General is to offer his services to the public. Mr Cuthbertson is concerned that this will be in direct competition with private enterprise. He believes that the legislation should not state that the Valuer-General is available to members of the public who cannot find a valuer. If members of the public cannot find a private valuer he believes that they should be advised to contact the Australian Institute of Valuers not the Valuer-General.

Thirdly, Mr Cuthbertson says that the requirements under the amendment that each private individual is to assess the value of any improvements is discriminatory; that one individual may be aware of the true value of the improvements and put that valuation forward but another person who lacks that knowledge may put forward a totally wrong evaluation. The only way for the accuracy to be checked is for the Valuer-General to send an assessor. Mr Cuthbertson asks what is the point of asking an individual to put forward an estimate in the first place.

I trust that those matters will be discussed if not by the Minister in her second reading reply then during the Committee stage. With my somewhat limited knowledge of the detail of the Bill, I indicate that its general purpose has the Democrats' support.

Bill read a second time.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 21 November. Page 2075.)

The Hon. I. GILFILLAN: The Democrats support the second reading. I do not need to repeat for the members of this Council that we as a Party and I personally have been conspicuous supporters of local government and recognise that the legislation needs review and constant attention. On the eve of a dramatic change in the relationship between the State and local government spheres it is quite an exciting time to be considering local government matters. Some of the issues raised are relatively minor and not world shattering in their consequence. However, it is an important piece of legislation, and we intend to pay particular attention to what may be a significant Committee stage.

We do not have any objections to the clauses of the Bill up to clause 8. We were somewhat confused as to its intention. It provides:

> Where a person who is unable to sign his or her name in writing makes a mark as his or her signature on any voting material, the mark will be taken to be the person's personal signature if it is identifiable as such and is made in the presence of a witness of or above the age of majority.

I think it is reasonable to expect a lay person reading that for the first time to wonder whether it means an 'X', a thumb print, or some other mark. However, on questioning the explanation it apparently applies only to a signature. As members know, many signatures are inscrutable when they stand alone, and the clause, as I am advised, is purely to relate to verification of illegible or somewhat dubious signatures.

Clause 10 is interesting, and I welcome it. It introduces the potential for electronic equipment to be used for recording and counting of votes. Members will be aware that one reason put forward for the reluctance of local government to accept proportional representation as a means of election was what was seen as the considerable extra work involved in counting the votes. I can see that properly drafted programs may very well eliminate that entirely as a problem for proportional representation as a system of voting, and therefore it is an appropriate and timely amendment to be made to the original Act.

Clause 11 deals with the transport of voters to a polling booth. It restricts the provision of transport of electors by candidates to the polling booths. It is a sensible provision that will ensure that the practice of bussing, as happens in the United States and as used to happen in Britain, does not become a practice in this State. It could, on occasions, be used by candidates to provide an unfair advantage during an election. It is particularly relevant to local government because of the voluntary nature of voting in local government, whereas in the State and Federal scenes, because of the legal obligation to attend the polling booth, whether or not one offers a lift is of far less significance to the actual number of people who will be presenting at the polling booth.

Clause 12 relates to possible misconduct of electoral officers and provides:

> An electoral officer must not fail, without proper excuse, to carry out his or her official duties in connection with the conduct of an election or poll.

The penalty is $2 000 or imprisonment for six months. I find that the penalty relating to the failure to carry out the duties in connection with the conduct of an election or poll is a little excessive, particularly having regard to section 126 of the Act, where subsections relate to indictable offences and the more serious offences that an electoral officer could commit. There, the penalty is severe and appropriately so, where there is evidence of deliberate intervention, distortion or obstruction of a proper, fair electoral system. That does not seem to be covered by this subclause, which appears to be a matter of either just indifference or sloth, rather than anything deliberate, and I indicate that I intend to remove the 'six months imprisonment' part of the penalty as being inappropriately excessive.

Clause 18 deals with horse owners and provides for an evidentiary presumption apparently aimed squarely at horse owners who might leave their animal tethered to such things as parking meters. It is not an area where I have had much personal involvement.

The Hon. Diana Laidlaw interjecting:

The Hon. I. GILFILLAN: Well, there are not many parking meters. The honourable member interjects that it may apply on Kangaroo Island; it may very well apply on Kangaroo Island if the wool industry heads down the economic path it is going; people may well resort to getting about on horseback. Unless the council is really strapped for cash, it is unlikely to introduce parking meters and charge the local population for tethering their horses to them. I hope not.

Clauses 20 and 21 deal with owner onus in cases of a motor vehicle offence and I find those amendments acceptable. There may well be some constructive discussion on the detail in the Committee stage, but it certainly appears to us that it is reasonable under the circumstances for the owner of a vehicle to carry the responsibility if there has been some offence or some contravention of by-laws that is attributable to the vehicle that they own.

Clause 22 deals with the expiation of offences. We do have some problems with that, particularly with subclause (1) *(a)*, which provides that 'a prescribed offence against this Act or any other Act' is included. I find that unacceptable. I will move to delete the words 'or any other Act' because, although this provision or something like it has been on the books since 1979, there is no evidence to suggest that any other Act has ever been involved, so it seems to be unnecessary catch-all wording and, in the interests of proper drafting, it should be deleted. On the other hand, subclause (4) *(b)* allows for cost recovery by councils for expenses beyond a council's control, and that is acceptable. The one example put to us is the cost of the search for registration details in the Motor Registration Division. Where an offence has been committed I have no problem with the properly attributed cost being loaded on to the penalty paid by the offender, and I intend to support that.

I will comment briefly on the Liberal Party's foreshadowed amendments and in particular those of the shadow Minister, the Hon. Jamie Irwin. We do have sympathy for the amendments dealing with the register of allowances and benefits for members and the salaries and benefits applied to salaried officers, and for the amendments dealing with the procedures at meetings, where the anomaly of the mayoral vote, compared with the chairman's vote—each having separate value—ought to be sorted out, and I believe that some constructive committee work will be done on that. The full and frank disclosure of details surrounding publicly elected officials is in line with our concerns over freedom of information and, although it could be covered by an FOI Bill, I do not see any reason why it should be left to that. We have waited a long time for effective freedom of information legislation and there is no reason why the reform as foreshadowed by the Hon. Jamie Irwin should not receive support at this stage.

However, as regards the amendments foreshadowed for changing the method of voting, I would indicate the Democrats have no sympathy with that. In our opinion there

are good reasons why the proportional representation option should be encouraged as being the fairest, most effective way of voting in elections and in particular in local government elections. The amendment, in our interpretation, moves towards first-past-the-post, less effective democratic expression of the votes from electors, and therefore it will not find sympathy with us in the Committee stage. However, in summary, the Bill does offer some substantial improvements to particular areas of the Act and we support the second reading.

The Hon. ANNE LEVY (Minister of Local Government): I thank members for their contributions to this debate and for their support for the second reading. The Hon. Mr Irwin raised a number of questions and concerns and, in the interests of perhaps saving some time in Committee, I suggest I respond to them now. In referring to the refinement of the Act's electoral provisions, which has followed the three periodical elections, the honourable member wondered how that process would be handled in future years when the Department of Local Government no longer exists. Certainly, after the 1985 and 1987 local government elections, the then Minister established representative working parties to look at specific aspects of the electoral process. The first looked chiefly at voting systems and the second at systems that might increase turnout.

No such working party was formed by me after the 1989 elections. However, the Local Government Association formed a working party to review certain electoral policy matters. Under the new arrangements, significant policy matters of this kind would be matters for negotiation between State and local government. The 1985 and 1987 working parties also looked at a range of technical and procedural amendments. This year, by agreement, local government and State officers met informally to discuss technical and procedural amendments which had been suggested to me by several councils, candidates and others and which had been circulated to all councils. Technical matters which had been canvassed at the association's working party were also discussed by those officers. I am sure that officers of the proposed bureau of local government services will find it just as easy, if not easier, to work together with the association on suggestions for technical and procedural amendments to the Act.

The first amendment which the Hon. Mr Irwin indicated the Opposition would not support is clause 9a, which would prevent a council changing from the optional preferential to the proportional representation system or *vice versa* unless the system it wished to reject had applied at the last two general elections for that council.

This amendment was suggested by the Corporation of the City of Port Adelaide, which was concerned that newly elected members might want to change the system after each election, creating confusion in the minds of electors and prospective candidates. The Local Government Association provided information which allowed the group of officers to which I have referred to establish that, of the 30 councils which have changed the counting system with which they started out in 1985, five have alternated between the two given systems, changing with each election. Port Adelaide drew attention to the fact that other provisions of the Act, such as those relating to instalment systems for rate payment, require councils to stick with a given system for several years to prevent constant chopping and changing. The vast majority of councils have used the same system for the last two elections and would not be restricted by this amendment if they decided to make a change.

The Hon. Mr Irwin went on to explain that he wishes to increase the options open to councils by adding the majority preferential system to the optional preferential and proportional representation systems currently available. In 1987 the present Leader of the Opposition in another place unsuccessfully introduced a private member's Bill proposing that the optional preferential system be replaced by the majority preferential system. The Government's objections to this system for multi-member electorates were set out in detail at that time. In summary, it strongly favours the party or group ticket often out of all proportion to popular voter support. Worked examples can be provided for the honourable member, but he will recall that the system has not been used for election to this Chamber since 1973, and no one has suggested that it be reinstated for this Council.

Local government already has available to it a system which allows for the preferences of the most popular candidates to carry without the inequity of giving voters for the first elected candidate more than one full value vote. That is the proportional representation system which, in a multi-member electorate, generally operates to ensure that the major interests of the electorate are represented in proportion to popular voter support. In a way, I think it is unfortunate that the majority of councils still use the optional preferential method, which is counted from the bottom up. The Act provides that this system applies unless the council makes a determination to change.

The system was specifically designed to prevent the preferences of the most popular candidates from carrying in response to local government's request at the time that tickets or factions be discouraged. It is designed to produce broad representation and, when people describe it as unrepresentative, undemocratic or defective, they are often referring precisely to the effect that it is designed to achieve and not to some unintended anomaly. For some years the Government has advised those councils whose communities do not think that optional preferential is fair to consider using proportional representation, and the number of councils which do so is increasing.

I do not know what discussions the Opposition has had with the LGA on this subject, but I would be very surprised if it is supportive of the introduction of majority preferential. My understanding is that the LGA's 1989 election review working party, which considered voting systems, recommended not that the voting systems be changed but that the LGA should consider running information courses and an education campaign about the current two electoral systems provided under the Act, so ensuring that those councils which expressed problems with these systems were included in this activity. I believe that recommendation was carried at the recent annual general meeting, and the President of the Local Government Association told me today that he hopes this activity can be undertaken in the near future.

The effect of clauses 5a, 6a and 7 is that it will no longer be a requirement that the record made of the issue of advance votes be in the form of marks on the roll or that a record be made of the receipt of advance votes by ruling through the electors names on the roll. These amendments were suggested by the State Electoral Commissioner. Since 1988 returning officers have been obliged, under section 120, to conduct a scrutiny of all advance voting papers and to reject any envelope from a voter who has voted both by advance vote and by attending at a polling booth on polling day.

The advance votes and the marked rolls indicating votes in booths on election day must be compared for this to occur. This required reconciliation not only does away with

the need to mark advance votes on the rolls used to record votes in booths but also makes it potentially dangerous to do so. Unless the names of advance voters are crossed out in some distinctive way, the fact that the name has been ruled out may be taken to indicate that the person did in fact vote at a polling booth and the advance vote may be rejected quite wrongly.

The suggestion that an advance vote is not secret because it is contained in an envelope with the elector's name on it appears to be more of a fear that people have than a real problem. It is actually quite simple to open those envelopes without revealing the voter's identity. If there is only one advance vote, there may be a problem. Likewise, with two or three advance votes from voters whose sympathies are known, it may be possible for scrutineers and electoral officers to guess which vote belongs to each elector. However, an extra inner envelope would not change that, and would make it impossible for electoral officers to check, as they are required to do, that the envelope does not contain more ballot papers than the voter is entitled to. The 1987 election review working party considered this situation and recommended that the secrecy of the ballot could be reinforced by the specific offence provisions which are now set out in section 132b of the Act.

The Hon. Mr Irwin indicated that clause 10 of the Bill is not acceptable to the Opposition because it allows for regulations prescribing the procedures to be followed if electronic equipment is used for recording and counting votes to override provisions in the Act where there is an inconsistency. The honourable member will find the same wording exactly in section 139 of the Electoral Act 1985, and for the same practical reason. For example, where votes are counted electronically, the words of the Act which describe parcels of ballot papers being physically transferred will obviously not be appropriate. This amendment will allow a system to be set out in regulations which retains every important aspect of the recording and counting procedure but allows for the fact that electronic equipment is being used.

No such regulations are being drafted at present, but the Local Government Association is quite interested in developing some. Some councils have been experimenting with computer programs for counting, and I am sure that we can rely on the Joint Committee on Subordinate Legislation to ensure that these regulations, when produced, are not used to subvert key aspects of the process set out in the Act.

The amendments contained in clause 4, new section 123b in clause 10 and clauses 13 and 14 were developed in response to the case of *Raggatt v. Fletcher and others* in which a Willunga council election was disputed. The Hon. Mr Irwin had requested information as to what gave rise to this amendment. The amendment set out in clause 14 would be of very little benefit in relation to the incident which occurred at Enfield, about which the Hon. Mr Irwin inquired, because the unsuccessful candidate in that case had very slim grounds for a petition to the Court of Disputed Returns.

It would have been very difficult to prove, even on the balance of probabilities, that the result of the election was affected by the fact that the successful candidate received a copy of the marked roll for the previous election and canvassed people who had voted. The unsuccessful candidate had no evidence that these people voted for the successful candidate when they would not otherwise have done so.

This amendment does not provide that costs will be awarded against the council where a mistake has been made by an electoral officer; rather, it provides that costs will be awarded against the council rather than against the originally successful candidate when an electoral officer's mistake affects the election result. Remedies already exist in the Act had the electoral officer at Enfield been attempting dishonestly to influence the election or misuse confidential information for personal gain. The new section 133b will add to the limited remedies available but it is really directed at wilful avoidance of duties or gross negligence, rather than at an honest mistake.

I turn now to the question raised by the Hon. Mr Irwin of candidates offering voters transport to polling booths. This question is one which candidates themselves would like resolved. They are looking for a clear rule one way or the other. Bribery, with a view to influencing the vote is, of course, illegal now under section 125 of the Act. As I explained in introducing this Bill, the facts of each case must be examined in order to determine whether a person who provides transport to a voter commits an offence under this section relating to bribery. This means that candidates can never receive a straightforward answer to the question whether their campaigns should include the offer of transport. Councils and other groups have expressed a whole range of positions, from believing that there should be no restriction on candidates providing transport, through to the belief that it should be allowed on certain conditions and to the proposal that the Returning Officer should be responsible for a pool of vehicles. The majority of respondents, however, favoured prohibiting the practice.

There is a potential in local government elections for organised groups to achieve over-representation in a situation of low turnout characterised by general apathy. Most councils, when consulted, responded that they believed candidates who had the resources to organise transport would have an advantage. The situation, as indicated by the Hon. Mr Irwin, is different under the State Electoral Act, precisely because attendance is compulsory for voters in State elections, and it is argued that how electors get to polling booths is therefore irrelevant.

The question whether the mayor is included for the purposes of calculating the majority at a council meeting is one on which legal opinion is divided. The Crown Solicitor and another distinguished lawyer in local government have provided one interpretation, and a Queen's Counsel has provided a different interpretation of the current provisions of the Act. Not only is the legal situation unclear but also councils are not unanimous as to which way it should be clarified.

There are various legal and policy arguments which could be resolved by providing mayors with a deliberative vote rather than a casting vote, and other amendments to the Act could possibly resolve this question one way or another.

I have had discussions with the Local Government Association regarding this matter. Those consultations are proceeding, and the Local Government Association has suggested that it would like further time to consult on this matter, but it does not feel that the matter is so tremendously urgent that it would have to be resolved now. I have indicated to the Local Government Association that I would be happy to introduce an amendment to clarify the situation following further consultation, but at this stage the association is still undertaking consultation with its constituent bodies and is discussing the legal situation. So, I feel that it would be premature for the Council to decide today on a possible resolution of this problem when the Local Government Association is still undertaking consultation and does not feel that it is a matter of extreme urgency that needs to be resolved in the immediate future.

I turn now to the parking regulation section of this Bill. The Hon. Mr Irwin requested information about the com-

mittee set up to review the parking regulations. The committee that I refer to was established in November 1984 and it reported to the then Minister of Local Government in 1986. It consisted of representatives of the Department of Local Government, the RAA, the Crown Law Office, the Road Traffic Board, the Adelaide City Council, the Local Government Association and Mr Gordon Howie. The committee met on 13 occasions, but its final report was quite short. Although the work of that committee initiated the review of the parking regulations, its specific recommendations have largely been overtaken by time and events. As I also mentioned, Parliamentary Counsel considered it desirable to completely upgrade the regulations and several drafts have since been produced and circulated as other priorities allowed. A final draft will be available for councils and other interested persons very shortly.

I assure the Hon. Mr Irwin that there was only one committee and that Mr Howie was a participant on that committee for as long as it existed. His dissension from the general view of the working party at that time, that the parking regulations did not need to be radically altered in style and arrangement, was scrupulously noted. In fact, he has subsequently inundated me and the Department of Local Government with copious submissions on the existing and proposed parking regulations and on parking matters generally. Mr Howie's submissions have not been ignored, neither have they been considered to outweigh submissions from every other individual organisation with an interest in parking regulations. We will continue to consider anything Mr Howie has to say about the proposed parking regulations. For the most part, the response to consultation about the draft regulations has been very positive.

I will now comment on questions raised by the Hon. Mr Irwin in relation to the rationalisation of legislation and to national uniformity. I am aware of Mr Howie's views that the laws relating to the parking of vehicles on roads should be part of the legislation relating to the driving of vehicles. Traffic and parking legislation has developed differently in different States. In South Australia, prior to 1978, individual councils had power to make by-laws regulating parking within their areas, but variations in procedure between councils made it very hard for motorists to be clear on their obligations.

In 1978, the Local Government Act was amended to set up a completely new scheme in which regulations under the Act would establish uniform procedures, offences and signage. The parliamentary debate on this amendment contains no discussion about whether or not it would be preferable for such a scheme to be set up under the Road Traffic Act. However, there have been numerous discussions over the years as to the appropriate balance of powers between the State Government and local government in matters relating to roads and traffic.

Parts of the Road Traffic Act were originally administered by the Minister of Local Government, and it was not until 1979 that a Department of Local Government was created which was entirely separate from the departments dealing with roads, highways or transport. The review of State-local government relations, which is about to occur, will probably give the best opportunity we have had since then to review the present balance of powers and to consider the legislative framework that will provide the most appropriate expression of any agreement that is reached.

What is at stake here is not whether parking is regulated under the Local Government Act, the Road Traffic Act or some other Act, but whether different administrative arrangements for parking and other traffic matters would be more efficient and reduce total costs to the community. I cannot, of course, guarantee any specific legislative outcome from the review that is about to be undertaken, and I have not taken the position that work on every project should stop because things might change over the next two years. Consequently, in the short term, I am proceeding with this Bill and departmental officers are working on a final draft of the revised parking regulations.

Part II of the National Road Traffic Code, which was first formulated in 1962, deals with stopping and parking vehicles. It uses the categories 'no standing area', 'no parking area' and 'parking area' and sets out general rules for the method of parking vehicles and for prohibited standing places. The main provisions of this code appear almost word for word in the traffic legislation of several States; however, in those States, detailed parking controls are still matters for local government by-laws or resolutions.

In South Australia, the parking regulations first made in 1980 picked up some of the basic provisions of the code, but did not follow the code's framework or language. The proposed new parking regulations still rely on categories and terms that are more familiar to South Australian councils than those in the code and have been developed on the basis of local experience.

I certainly do not want to rule out the possibility that at some stage in the future they will be recast to be more consistent with the code and consolidated with other traffic legislation. However, as I said, in the shorter term we have taken account of the framework which was established in and has operated since 1980. The reality, of course, is that the vast majority of motorists will never read the parking regulations—they get their information from signs and markings. National uniformity is very important in this area of signs and markings and the revised parking regulations will require the phasing in of symbolic parking signs and pavement markings that are specified in Australian Standard 1742.11. These standards are being adopted nationally.

The amendments contained in the Bill will facilitate the making of new parking regulations, but they will also go further to consolidate and reform provisions relating to expiable offences generally. When this is borne in mind, some of the amendments which the Hon. Mr Irwin found confusing will, I think, become less so. At present, the Act and the parking regulations contain various provisions about whether the owner of a vehicle or the owner of an animal is liable for an offence involving the driving, parking or placing of the vehicle or animal.

The existing section 743a deals specifically with bylaw offences; for example, driving a vehicle heavier than permitted on a road or taking an animal on a beach contrary to a bylaw. It provides that it will be presumed, in the absence of evidence to the contrary, the owner of the animal or vehicle concerned committed the offence.

There are a dozen offences set out in the body of the Act itself which concern the use of animals or vehicles; for example, driving across an unsafe bridge or riding a horse on a bicycle track without consent. These provisions generally specify that it is the person committing the offence who is liable. But this is not under a bylaw. Where a vehicle is involved, councils get some assistance from the fact that section 799a makes it the duty of an owner of a vehicle to answer questions which may lead to the identification of a driver. Only in relation to parking offences is there strict owner onus. Regulation (8) provides that:

> If the vehicle is parked or standing contrary to the regulations, the owner is liable, and where the owner is not the driver, each of them are liable.

The amendments in the Bill before us reorganise these provisions about the liability of the owner, so that the

offences involving animals are distinguished from the offences involving motor vehicles. The provisions apply regardless of whether the offence is set out in the Act, comes from the regulations or is found in the bylaws. In other words, there will be consistent treatment, regardless of where the offence is set out.

The amended section 743a, in clause 18, sets out the evidentiary presumption that the owner is the offender where the unlawful riding, etc. of an animal is established. The new section 789b (in clause 21) applies the owner onus principle to all offences involving the driving, standing or parking of vehicles, not just parking offences. However, the clause also contains a new procedure under which the owners of motor vehicles can escape that strict liability by nominating the person who was the driver at the time of the alleged offence. The new definition of 'driver' has application to a range of offences involving vehicles and not just to parking offences. I do not believe that referring to a person as the 'driver' of a vehicle at the time of an alleged parking offence or as the 'driver' of a vehicle parked in breach of the regulations creates any problems of interpretation. This language has been used by the Act and regulations for years. If the phrase in the new section 789a were amended to 'driver or person in charge of the vehicle', this would be a much broader defence than was proposed.

With respect, I believe that Mr Howie's success in defending himself against a complaint under section 41 of the Road Traffic Act is irrelevant to what is before us. In that particular case, Mr Howie's car was parked at a bus stop at Strathalbyn, which may or may not have been properly constituted. Section 41 of the Road Traffic Act provides that police directions may be given to 'persons driving vehicles'. Mr Howie was standing next to his vehicle when the constable asked him to shift it. The court looked at the precise terms of section 41 and decided that at the time he was spoken to Mr Howie was not within the description of 'persons driving vehicles'. In defence of the officer involved, I would point out that Justice Duggan also said:

> There is no doubt that the police officer was acting reasonably in directing the respondent to move his vehicle, and it is equally obvious that the respondent was most unreasonable in failing to move it at the time of the direction or earlier.

Now, Mr Howie is perfectly entitled to refuse to follow the unlawful directions of public authorities, and he performs a kind of public service in so doing, but I suspect that this may have been lost on the driver of the articulated bus which was prevented from using the bus stop, the drivers who were caught in the resultant traffic congestion, the people who were queuing for the bus and the drivers of other vehicles parked in the street who removed their vehicles when asked to, so that the bus could eventually park. The case does not establish that there is some kind of legal impediment to referring to the driver of a parked car. It merely establishes that, under the relevant part of section 41 of the Road Traffic Act, police cannot give directions to someone who is not engaged in driving at that time.

I am puzzled by the suggestion, apparently from the Local Government Association, that the amended section 743a may cause problems for councils, because it now deals only with animal offences, and councils may be placed in a position of having to prove that a vehicle was parked or placed in a certain position. Members of the public will be relieved to know that no existing or proposed section of the Act gives councils the extraordinary evidentiary aid of being able to claim that a vehicle was wrongly parked or placed without having to offer any proof about where it was.

Both the existing and the proposed section 743a deal only with who is liable for an offence, if in any proceedings the offending activity has been proven. The new sections 789b and 789c deal with who is liable, if the offence relates to the driving, drawing, propelling, parking or standing of a vehicle. Sections 743 and, in respect of offences against the parking regulations, section 475e, contain evidentiary provisions which prevent councils from having to prove that a place is a road or that signs have been erected, etc., in the absence of proof to the contrary. These sections are not affected at all by the Bill before us.

For the purposes of the parking regulations, the definition of 'owner' has for some years included a person who takes the motor vehicle as a bailee, or under a contract for hire. So, this is not new, although placing the definition in section 5 has the effect that it will apply to all provisions in the Act which refer to the owner of a motor vehicle. I have an amendment on file to effect that change.

The present situation with parking offences is that the car and truck hire firms behave in different ways. They remain, of course, the registered owners of their vehicles. Some of them pay the expiation fees for the parking offences committed by their clients and consider this an operating cost. Others provide councils with the name and address of the hirer, and some councils will act on this. However, if it proves to be difficult to obtain the fee from the hirer, the council will pursue the rental company. Under the procedure set out in clause 21, car and truck rental companies who do not wish to pay the fees as the registered owner will supply councils with the name and address of the hirer. The hirer is also, by definition, an owner, so councils will be obliged to invite the hirer to nominate the driver.

I accept that this kind of modification of strict owner-onus is not very popular with councils, but it is fairly standard now in local and interstate legislation and not only in parking matters. I am not aware of any example where this defence is not made available to hire-car companies, or their clients. In other words, we will be falling into line with the rest of Australia.

Incorporated bodies are legal persons who can be prosecuted and it is not a problem if the registered owner is a company. Section 475d of the Act provides for the situation where a vehicle involved in a parking offence is registered in the name of a business. With regard to the definition of 'owner', the Bill as introduced is consistent with the Private Parking Areas Act and not, as the Hon. Mr Irwin suggested, with the Road Traffic Act. I agree that the Road Traffic Act definition is superior as it covers a person with trader's plates; I will move to insert it in this Bill, and the amendment is on file.

The fine of $200 for a breach of the parking regulations has remained unaltered since 1978. This penalty is being upgraded in conjunction with the revision of the regulations. The next standard level is $500, and I do not think it is out of line with the penalties for similar offences. All parking offences are expiable. I agree with the Hon. Mr Irwin's comment that 'inspector' should be replaced by 'authorised person' in section 789a, and will support his amendment to that effect.

What is intended with regard to the prescribed late payment fee is that revised expiation of offences regulations will set out that the late payment fee equals $10, plus the actual cost to the council of one motor vehicle registration search fee. Those words, or similar, will be used—it will not be a figure. The cost of one such search is either $2.15 or $3.20, depending on the system used by the council. Improved technology has all but eliminated the need for manual searches which cost $16. Since the flat $10 fee has not been increased since February 1989, and will be frozen until 1992, I do not think this is unreasonable. However, if it does cause great concern, I would be more disposed to

reducing the $10 flat fee than eliminating the recovery of the council's actual cost to search the registered owner, because the main point of this change is to introduce a system where any future increases in the search fee are automatically reflected in the late payment fee.

I disagree with the advice that the Hon. Mr Irwin has received that clause 22 will enable an authorised officer to issue expiation notices for offences against all sorts of Acts which have nothing to do with local government. Subsection (1) relates only to offences which have been prescribed in regulations under the Local Government Act. The power to prescribe offences set out in other Acts as expiable under Local Government Act regulations may seem curious, but it has been in place since mid 1988. There was no debate about it at the time, and it does date back, as the Hon. Mr Gilfillan said this afternoon, to 1979. I understand it was inserted as a kind of safety net because the Expiation of Offences Act may not necessarily cater for some situations where it is council rather than State officers who are policing legislation. It is certainly proposed that the revised expiation of offences regulations will prescribe local government littering, parking regulation, and certain local government by-law offences.

The major distinction which remains between the Road Traffic Act provisions relating to statutory declarations of the owner and those proposed in this Bill is that under the Road Traffic Act an owner may defend themselves by proving that they do not know who the driver was and that they could not discover the driver's identity with reasonable diligence, and providing a declaration stating why they do not know the driver's identity and the inquiries they made. The recent amendments to the Road Traffic Act tightened up on the previous defence for natural persons under that Act, which simply required a declaration that the name of the driver was not known. That defence was too broad and was not followed when this Bill was drafted.

Instead we followed the Private Parking Areas Act as a model. Now, under the Road Traffic Act, companies and natural persons have to either name the driver, or establish why they cannot name him or her. The way out of declaring why they do not know the driver's identity is not available to owners in clause 21 of this Bill. Section 789d of the Bill already provides that it is a defence to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the owner at the time of the alleged offence.

I am not sure that it is necessary to limit owner onus further in relation to offences under the Local Government Act, given that the penalties are less serious than those for speeding and that council's administrative resources are more limited than those of the police. I hope I have overcome some of the concerns expressed by the Hon. Mr Irwin, and answered all the queries he raised in response to this legislation.

Bill read a second time.

The Hon. DIANA LAIDLAW: I move:

That it be an instruction to the Committee of the whole on the Bill that it have power to consider new clauses relating to the disclosure of salaries of members, officers and employees of councils, minimum rates and procedures at meetings.

The Hon. ANNE LEVY (Minister of Local Government): I rise with reluctance in that it is not customary in this place to prevent members from being able to move or speak in any way that they feel is appropriate. However, I point out to the Council that this Bill has been before this place for four weeks now, and that only yesterday the Hon. Mr Irwin placed amendments on file relating to a wide range of matters which have nothing whatsoever to do with the Bill currently before us. He is attempting to raise matters which were thoroughly debated in this Chamber several years ago and which were resolved at that stage. The membership of this Council has hardly changed since that time.

If the Hon. Mr Irwin really wished to have these matters considered again by the Council I feel that it would have been appropriate for him to move a private member's Bill to deal specifically with those matters. I do not think it is appropriate that they should be raised by him in a Local Government Act Amendment Bill which in no way deals with the types of matters that he wishes to raise. I think this is quite inappropriate, particularly when the Bill has been before the Council for a month and only yesterday the Hon. Mr Irwin gave any indication that he intended to raise these matters.

He knows, as does every other member of the Council, that this Bill needs to pass both Houses of Parliament before we rise for the Christmas break. If the Hon. Mr Irwin wants these matters seriously considered by the Council, as they were only two or three years ago, I suggest he introduce his own Bill to do so rather than try to tack these matters on to a Bill which deals with totally different matters.

The Hon. I. GILFILLAN: I acknowledge the points that the Minister made about introducing new material and that some of the matters were canvassed in this place not long ago. However, it is not extraordinary for matters to be brought before this place with very little notice not only by the Opposition but also by the Government.

An honourable member interjecting:

The Hon. I. GILFILLAN: Well, from time to time with the pressure of business. It is our intention to support the motion. However, I indicate to the Minister that we would expect the matters raised, particularly those that have been considered in this place, to have very rapid treatment. I hope that whoever speaks on these matters for the Opposition during Committee—and I hope it is the Hon. Jamie Irwin—recognises the consideration that we are giving him to raise them. However, I believe that it is appropriate under the circumstances that the matters come forward. I indicate our intention to support the motion and to deal with those amendments as rapidly as possible.

Motion carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I want to use this opportunity to make a few preliminary remarks before we go further into the Committee stage. I will move a number of amendments on behalf of the Liberal Party. They are on file in the name of the Hon. Jamie Irwin, who has been responsible for the analysis of this Bill on behalf of the Liberal Party and also for the preparation of the amendments, and we are indebted to him for that. However, because of a death in his family, he is in Sydney today attending a funeral and cannot be present, and I suspect that that is somewhat disappointing for him, both with regard to his family circumstances and also having put so much time and effort into the consideration of this Bill.

I am not sure that I will necessarily do justice to all his work by coming in at the last minute but, in recognition of the fact that as the Minister noted she wanted this Bill through the Parliament before we rose for Christmas, the Liberal Party is prepared, with me as the guinea pig, to try to steer this Bill through.

I also appreciate the cooperation that members provided a little earlier in enabling the motion to pass without notice so that the number of matters that the Hon. Mr Irwin would like debated at this time can be so debated. We are certainly

keen to cooperate with the Minister in this matter and I hope that she will recognise and appreciate that fact. When did the Minister propose that all or part of the provisions in the Bill at present would be proclaimed?

The Hon. ANNE LEVY: We would expect to have proclaimed as soon as possible after the Bill receives the Governor's assent the parts of the legislation relating to the electoral provisions and those relating to the Levy Park Trust situation. It is important that the electoral provisions are in operation as quickly as possible, given that the local government elections are due in May of next year and obviously councils and the Electoral Commissioner will have to start making preparations several months prior to that. The clauses relating to the parking regulations will not be proclaimed until a little later. A further lot of draft parking regulations has just been circulated to all councils for comment and, depending on the result of that consultation and any further changes to the draft regulations which may result from that discussion, the proclamation of the sections relating to parking may be a bit further down the track.

The Hon. DIANA LAIDLAW: Just to clarify the situation, I understood that if the Minister had plans for two proclamation dates, this would normally be noted in the commencement provision. It would appear from clause 2 that just the one proclamation date is provided for, and I do not know whether the situation the Minister has outlined is actually accommodated in the Act.

The Hon. ANNE LEVY: I am informed that it is, under the provisions of the Acts Interpretation Act.

Clause passed.

Clause 3—'Interpretation.'

The Hon. ANNE LEVY: I move:

Page 1, lines 20 to 29—Leave out the definition of 'owner' and insert the following definition:

'owner', in relation to a motor vehicle, means—

(a) a person registered or recorded as the owner or an owner of the vehicle under the Motor Vehicles Act 1959, or a similar law of the Commonwealth or another State or a Territory of the Commonwealth;

(b) if the vehicle is registered in the name of a business under the Motor Vehicles Act 1959, or a similar law of the Commonwealth or another State or a Territory of the Commonwealth—any person carrying on that business;

or

(c) a person to whom a trader's plate, a permit or other authority has been issued under the Motor Vehicles Act 1959, or a similar law of the Commonwealth or another State or a Territory of the Commonwealth, by virtue of which the vehicle is permitted to be driven on roads,

and includes—

(d) if the ownership of the vehicle has been transferred but the transferee has not yet been registered or recorded as the owner of the vehicle—a person to whom ownership of the vehicle has been transferred;

or

(e) if a person has possession of the vehicle by virtue of the hire or bailment of the vehicle—that person.

This arises from the suggestions made by the Hon. Mr Irwin in his second reading speech and in fact it uses the Road Traffic Act definition of an owner, rather than following what had previously existed, and this will have the effect of making quite clear the situation where a vehicle is registered under a business name, as opposed to being registered in the name of a natural person. A consequential amendment will be moved much further on in the Bill, where the evidentiary provisions relating to vehicles registered in business names will be removed because, by putting this provision under the definition of 'owner', that evidentiary position is then picked up on other provisions already existing in the Local Government Act.

The Hon. DIANA LAIDLAW: The Liberal Party supports the amendment. We are pleased that the Minister has introduced this measure. It was one issue about which I felt very strongly and, had I contributed to the second reading debate, I would have spoken at some length on it. However, I spoke privately to the Minister about some of these matters. I believe that between Acts within this State there is a case for uniformity in terms of definition, and I think the Minister accepts that situation.

There is also a case for uniformity between the States in this matter. The Minister of Tourism would agree that with more and more people using their vehicles on holidays we would hardly wish to upset them by seeing them incur awful parking fines necessarily because they are travelling in this city and unwittingly do something wrong. I incurred a fine in Canberra a few weeks ago, because I did not know that a red band on the kerb meant that it was a no parking area. There were no parking signs, which is interesting in terms of the environmental appearance of the streets, but they have these painted kerbs. I thought that someone had left me the most wonderful spot in the shade under the trees, only to find that was not the case. I am keen to see uniformity, and I was interested in the Minister's comments in summing up the second reading debate. I support this amendment.

The Hon. ANNE LEVY: I might comment to the honourable member that the red line on the kerb is not part of the Australian standard which will be used under our new parking regulations. In the interests of uniformity, I suggest that the ACT needs to change to the Australian standard.

The Hon. Diana Laidlaw: It looks 100 per cent better than signs.

The Hon. ANNE LEVY: But difficult to see at night.

The Hon. Diana Laidlaw: Yes.

Amendment carried; clause as amended passed.

New clause 3a—'Register of allowances and benefits.'

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 29, insert new clause as follows:

3a. The following section is inserted after section 49 of the principal Act:

49a. (1) The Chief Executive Officer of a council must ensure that a record (the 'Register of Allowances') is kept in which is entered, in respect of each member of the council—

(a) his or her full name and position;

(b) details of the annual allowance payable to the member; and

(c) details of any other allowance or benefit paid or payable to, or provided for the benefit of, the member by the council.

(2) The Chief Executive Officer must ensure that an appropriate record is made in the Register of Allowances within 28 days after—

(a) a change in the allowance or a benefit payable to, or provided for the benefit of, a member;

or

(b) the payment or provision of an allowance or benefit not previously recorded in the Register.

(3) A person is entitled to inspect the Register of Allowances at the council's principal office from one hour after the commencement of ordinary office hours to one hour before the close of ordinary office hours.

(4) A person is entitled, on payment of a fee fixed by the council, to a copy of any entry made in the Register of Allowances.

The amendment seeks to encourage a situation where ratepayers and the community at large have greater access to information which the Liberal Party believes is relevant in the community interest, that is, the allowances of members. This has been an issue for quite some time. It has been raised by successive Liberal Party shadow Ministers. I know that members of Parliament, both Federal and State, have their allowances and benefits spread across the front pages of the newspapers every now and again. While I am not

necessarily suggesting that is the proper course or in the community interest, such information is available to the general public. The Liberal Party believes that local government, as the third level of government in this State and country, should be required to provide such information upon request and subject to certain conditions.

We have noted a number of conditions in our amendment: for instance, the hours at which a council's principal office can be attended for the purpose of seeking such information; that is, one hour after the commencement of ordinary office hours to one hour before the close of ordinary office hours. A further condition that we have proposed is that a person who seeks such information must pay a fee to the council for a copy of any entry made in the register of allowances. Essentially, we are asking that Chief Executive Officers shall keep a record, which we have termed a register of allowances, of the name and position of each member of the council with details of their annual or other allowances or benefits paid or payable to or provided for the benefit of the member by the council.

The Hon. ANNE LEVY: I oppose this amendment at this time, not because I am not in complete sympathy with what is desired to be achieved, but because I do not think that this is the time or place to deal with it. It seems to me that these matters could be dealt with under freedom of information legislation. I assure honourable members that freedom of information legislation relating specifically to local government matters will be before this Council in the very near future.

Apart from that, I gave notice today of a Bill which I will introduce tomorrow and which will deal with personnel practices in the local government area. That Bill will be introduced with the aim of its lying on the table over the summer break so that there is an opportunity for further consultation and discussion. It seems to me that that is another piece of legislation in which matters such as these can be considered, although that Bill, as honourable members will determine tomorrow, is one of principle with the detailed guts of it to be drawn up under regulations.

That has been done deliberately, because, in the new era of State and local government relationships, the regulations will be largely drawn up under the auspices of the Local Government Association through the Bureau of Local Government. I feel that is probably a more appropriate way of proceeding. However, I hasten to add that I have no objection whatsoever to the principles expressed in the amendment. I just feel that this is not the best time or place to introduce the regulations. As far as I am aware, there has been no discussion whatsoever with the Local Government Association regarding either the register of allowances or the register of salaries.

I do not mean to suggest that the Parliament must always follow slavishly whatever the Local Government Association may wish, but I think that, particularly in the era of the new relationship between State and local government, this level of government should not suddenly do something to affect local government without at least having consulted it first. It seems to me that it is undesirable to accept this amendment now because there has been no such consultation. I am quite happy to look at this matter both in the context of the freedom of information legislation and the principles of personnel practices which will be before the Council in the very near future and about which discussion and consultation can occur over the summer break.

I also point out the wording of the amendment in section 49a (1) *(b)*, which relates to details of the annual allowance payable to members. I am told that, technically, it is not immediately clear whether the allowances or benefits are to be described in words or whether actual amounts are meant to be recorded. This could be argued and, once again, there may be different legal interpretations as to what is meant.

If it is desired that the actual amounts be indicated, perhaps different wording can be used which does not give rise to legal ambiguities. However, I think that is perhaps a minor point compared to the fact that, while agreeing completely with the principles, I do not think we should introduce this without discussion with the local government sector. There will very shortly be two Bills before the Council, both of which are relevant to this matter, and probably a more appropriate time to discuss the matter is after consultation with the Local Government Association.

The Hon. I. GILFILLAN: The Democrats support this amendment. The Minister said that she doubted whether this was the time or place to discuss these matters. I certainly contend that this is the place for them to be discussed. I appreciate the manner in which she has dealt with the subject. I believe that, from our point of view, the Democrats are obliged to deal with legislation before us. I do not think we can properly make plans about how to react to what might or might not happen. First, I indicate that the principle is sound and we support it both for the members and for the salaried officers. So, in principle, it has our backing 100 per cent.

As to the question of when it is introduced, I do not think that is critical to this debate. However, I would argue with the Minister, in that I believe it is appropriate that it should go into this Bill. I do not believe that these details should have to be the subject of search through freedom of information, and there should be no secrecy or sensitivity about these matters. This is public money that is being spent for public servants—people who serve the public—and it should be readily available. Therefore, we have no qualms about supporting the amendment.

I indicate to the Minister that it may appear worthwhile for us to have discussion on procedure and as to how the matter should be further dealt with in the future, but it is not our fault that we have such a short time in which to deal with the legislation. Although I accepted this matter as coming onto the Notice Paper—

The Hon. Anne Levy: The Bill has been here for a month.

The Hon. I. GILFILLAN: I am not timing when it is debated. If it had been debated a month ago, we would have had six weeks. I am really saying, without being diverted onto details of timing, that, if the Minister feels that there are alternative ways in which it should be dealt with and if certain undertakings are given, I assume the Opposition, as with the Democrats, will be sensible in its approach to it. But, for the time being there is a Bill before us, and this is an appropriate extension. We granted right for it to be moved; it is a new matter. It has the avowed support of the Government, and the sooner it is introduced the better. Therefore, the Democrats support the amendment.

The Hon. DIANA LAIDLAW: Referring to the Minister's remarks about non-consultation with councils, as I indicated earlier I have taken over the passage of the Bill very recently. The Hon. Mr Irwin has served his community for many years as a councillor in the Tatiara area and, with respect, would have to be described by all members here as one of the most cautious members one could possibly find in any matter. I would be very surprised if he had presented such matters to our Party room or given instructions for amendments without discussion with local councils regarding this matter. If that is not so, he can make a personal explanation about it at a later stage, but I believe that would be so.

In relation to waiting, the Minister will recall that, prior to the 1985 election, this Government made a commitment

to introduce freedom of information legislation. Certainly, we have been waiting all this year again, and I believe the issue is particularly important in respect of members of the council—even more so than officers of the council in the lead-up to the next May election. They should be aware that, if they stand at the election, there will be a register of allowances and that it will be available to the public.

I do not believe that there could be any difficulties in respect of any councillor in this regard, because they are serving their community, and one would think that they should be happy to acknowledge all such details. In case there may be an exception in this situation, I believe that they should be alerted prior to the May election, before they nominate, that this will be one of the future procedures and requirements.

The Hon. ANNE LEVY: I can reassure honourable members that notice was given in another place today that freedom of information legislation would be introduced into that House tomorrow—

The Hon. C.J. Sumner: Not tomorrow, next week.

The Hon. ANNE LEVY: Next week—

Members interjecting:

The Hon. ANNE LEVY: —with the idea that it lie on the table. Certainly, there is separate legislation relating to the local government sector. I am not quite sure whether we are discussing clause 3a and 3c or just—

The CHAIRMAN: No, we are just discussing clause 3a. The Committee will put it as a separate amendment.

The Hon. ANNE LEVY: However, I think I should raise a point that applies specifically to clause 3c because, obviously, there is an interrelationship between clauses 3a and 3c. Clause 3a deals with elected members, their benefits and allowances. Of course, upper and lower limits for allowances are already contained in the Local Government Act. There is currently a minimum allowance of $300 and a maximum allowance of $1 680.

I admit that no limits are fixed for mayors, chairpersons, deputy mayors or deputy chairpersons, but the regulations also set out the expenses for which members may currently be reimbursed. One point that I would make is that in relation to employees of the council (under new clause 3c), the amendment put forward by the Hon. Mr Irwin goes a great deal further than the situation that applies to public servants under the Government Management and Employment Act.

With regard to public servants, the information that must be supplied includes the number of employees of each agency, the number of employees at each classification level and the creation, classification and abolition of positions in an agency. Of course, the salaries and ranges of salaries for each classification are also made available, but nowhere are public servants required to have the salary printed alongside their name and made available to the public in as public a way as is proposed here.

It may be that there is no fundamental reason why that situation should not apply, but it is not just providing broad information as to how many inspectors a council may have, who they are and the salary range for each inspector. Actually tying the specific salary to a named person is going much further in relation to local government employees than currently applies to State Government employees. I am interested to know whether the Opposition has considered this point and whether it feels it is desirable that there be this greater exposure of local government employees than State Government employees.

The Hon. DIANA LAIDLAW: I am not aware of the Hon. Jamie Irwin's consultations in this regard, but when he returns I will take up the issue with him. I am sure that he will be able to answer the question again by way of personal explanation or by advising Liberal members in the other place.

New clause inserted.

New clause 3b—'Procedure at meeting.'

The Hon. DIANA LAIDLAW: I move:

3b. Section 60 of the principal Act is amended by striking out from subsection (3) 'votes of the members present at the meeting' and substituting 'votes cast by the members present at the meeting who are entitled to vote'.

This amendment deals with the issue of procedures at meetings, a matter that has generated considerable controversy in recent times and one that has been the subject of questions asked by the Hon. Mr Irwin in this place on 9 and 16 August. These matters were debated at some length in the Hon. Mr Irwin's second reading speech and were canvassed by the Minister in her summing-up. At present, councils with a mayor have a confused situation about whether the mayor has both a deliberative and casting vote. There has been conflicting legal opinion about the interpretation of the words 'all members present'.

I am confident, without qualification, that with respect to this amendment there has been consultation with local government to come up with words that would satisfy its concerns and clarify the situation for the future. It is important that the situation be clarified quickly because councils are dealing with more and more contentious issues that could well be the subject of litigation. When we know there is a problem, as in this case, we should deal with the situation at the first opportunity, and this Bill provides such a platform.

The amendment that I have moved seeks to strike out from subsection (3) the words, 'votes of the members present at the meeting' and to insert the words 'votes cast by the members present at the meeting who are entitled to vote'. Those words 'who are entitled to vote' have been added at the request of local government to the earlier proposal of the Hon. Mr Irwin to clarify the situation by the addition of the words 'votes cast'. The LGA did not consider that to be satisfactory and wanted to add the words 'who are entitled to vote'. So, we have accommodated the LGA and local government in relation to this matter. Whilst we recognise that the Minister has consulted with the LGA, we believe that this is the first opportunity to address this matter and we should now clarify this controversial situation.

The Hon. ANNE LEVY: I oppose this amendment—but not because I do not believe that this matter requires clarification. Quite obviously, clarification is required. So far, I have received two legal opinions in one direction and the LGA has received one legal opinion in the other direction regarding the proper interpretation of this section. The lawyers on both sides insist that their interpretation is the correct one and they are throwing all sorts of insults at the lawyers on the other side. I certainly do not wish to enter into those arguments. I agree that the matter needs clarification; however, I do not think that it is wise to cure one evil by creating another. The amendment proposed by the honourable member will create other problems with regard to voting at local government meetings. There has been considerable argument about this matter.

In the first place, let us look at the magnitude of the problem in which this ambiguity exists. First, there is no problem whatsoever where it is a district council with a chair, not a mayor. A chair has a deliberative and not a casting vote, both in full council and in a committee of the council. So, there is no ambiguity whatsoever. If we, say, take a council with 12 members in total, in a district council of the 12 members one is a chair. In any vote taken, be it

either in council or in committee, the person presiding has a deliberative vote only and no casting vote. If the council happens to be evenly divided, such that there are six votes one way and six votes the other, the chair has had his or her vote, the same as any other member, and in that situation the motion would not pass because there is no majority.

Sixty of the councils in this State are district councils. So, as to the position of the mayor, there is no problem for those district councils. Of the 61 councils with a mayor, only 21 of them have an even number of members, counting the mayor, a situation such as I have described where there are 12 members, one of whom is presiding. So, only in 21 councils in the State is there a mayor with an uneven number of councillors on the floor, there being an even number in totality, counting the mayor.

In this situation, say, of a mayor being one of the 12: a mayor in committee has a deliberative vote and not a casting vote, the same as the chair of a district council, but in full council the mayor does not have a deliberative vote, only as casting vote. If we take the situation where a particular proposition is put in a committee of the council and the vote is six all, where the mayor has a deliberative vote, so that there are 12 votes present and one gets six all, the matter would then not pass. If the same matter is taken to council, which is quite possible—matters do not have to be passed in committee before they can go to full council—it will mean that there is a 6:5 vote and whichever side the mayor is on is then reduced to five. The mayor has no casting vote because there is no equality of numbers. He or she does not have a deliberative vote, either, and yet the council remains equally divided, as it was in committee.

So, unless the mayor is counted as one of the members present who should be taken into consideration in determining whether something has a majority or not, we will arrive at the situation where the matter before the council of 12, being divided six all, would lapse in committee but be passed in council with exactly the same people voting exactly the same way, under the amendment proposed by the Hon. Mr Irwin. This is because his amendment would mean that in council it would be as though the mayor was absent, unless there is an equality of votes on the floor. But if there is an even number in the council, that cannot occur. It is as though the mayor was absent, and the amendment being proposed would result in an inconsistency between council decisions and committee decisions, with exactly the same people voting exactly the same way.

The old reason why mayors were not given a deliberative but only a casting vote was because they were elected at large and councillors came from individual wards. However, these days, of course, more and more councils are abandoning the ward structure and are adopting a proportional representation method of election. So, the distinction between mayors and councillors, in terms of who they represent, is diminishing. Furthermore, of course, aldermen, likewise, are elected at large and are just as representative of the whole as are mayors and yet, as the voting procedures now stand, aldermen are treated differently from the mayor.

I recognise that there is a problem with the interpretation of this particular matter, but it seems to me that there are two ways of solving it, neither of which is the amendment which the Hon. Mr Irwin has put forward. One method is to explicitly say that the mayor must be counted as one of those present, who must be part of the majority. I do in fact have an amendment to that effect drawn up, if anyone would like to see it.

The Hon. Diana Laidlaw: Let us deal with it today.

The Hon. ANNE LEVY: I can certainly put it forward. The other way of solving this problem, of course, would be to change the Act in a quite different section relating to the voting powers of mayors and to say that mayors of corporations, like chairs of district councils, should likewise always have a deliberative but not a casting vote. That is one way of solving the problem. The other way is to have the wording such that it would read:

Subject to this Act, a decision carried by a majority of the members present at a meeting of the council, including the member presiding at the meeting, will be a decision of the council.

That would make it quite clear that the mayor presiding does have to be included in the numbers to achieve a majority and it would avoid the possibility of council and committee decisions being inconsistent. One lawyer I spoke to felt it would make a mockery of decision making by councils. There should be consistency.

Obviously there need not be consistency if people change their mind and vote different ways, but if the same people vote the same way the same result should occur. However, under the Hon. Mr Irwin's amendment it would be possible to have a different result if the same people vote the same way, and that is an inconsistency that would be undesirable.

As I indicated earlier, I have been having discussions with the Local Government Association on this matter, but these discussions are not yet concluded because the association wishes to consult further with its members. Only today I spoke to the President of the Local Government Association who, while he agreed that he wants this matter cleared up, did not feel that there was any enormous urgency to do so. The ambiguity in the Act was only discovered a few months ago, and the provision has remained unaltered for 50 or 55 years.

The Hon. Diana Laidlaw: It probably changed in 1984.

The Hon. ANNE LEVY: We would have to check whether there was a change in wording. The question of any ambiguity has never arisen before. The President of the association certainly felt that no great damage would be done if an amendment to clarify this matter was put off until February, and this would enable further discussions and consultations to occur. I will be very happy to give an undertaking to the Committee that when we return in the new year I will bring in legislation to clarify this matter after the full ramifications of all possible amendments have been considered.

The Hon. I. GILFILLAN: I am glad that the Hon. Jamie Irwin, through the Hon. Diana Laidlaw, raised this matter. I am reassured by the statement the Minister has now put into *Hansard* that the matter will be addressed in the reasonably near future. In those circumstances it is my intention to oppose the amendment.

New clause negatived.

[*Sitting suspended from 6.4 to 7.45 p.m.*]

New clause 3c—'Register of salary and benefits.'

The Hon. DIANA LAIDLAW: I move:

To insert the following section after section 70 of the principal Act:

70a. (1) The Chief Executive Officer of a council must ensure that a record (the 'Register of Salaries') is kept in which is entered, in respect of each officer or employee of the council—

(a) his or her full name and position;

(b) details of the salary or wage payable to the officer or employee;

and

(c) details of any other allowance or benefit paid or payable to, or provided for the benefit of, the officer or employee by the council.

(2) The Chief Executive Officer must ensure that an appropriate record is made in the Register of Salaries within 28 days after—

(a) a change in the salary or wage, or an allowance or benefit, payable to, or provided for the benefit of, an officer or employee;

or

(b) the payment or provision of an allowance or benefit not previously recorded in the Register.

(3) A person is entitled to inspect the Register of Salaries at the council's principal office from one hour after the commencement of ordinary office hours to one hour before the close of ordinary office hours.

(4) A person is entitled, on payment of a fee fixed by the council, to a copy of any entry made in the Register of Salaries.

This provides for a register of salary and benefits in relation to officers or employees of councils. Essentially, it extends the same provisions as we passed earlier for the establishment of a register of allowances and benefits for each member of the council, so I will not go through those procedures again.

I have pages and pages of press cuttings of examples of difficulties encountered in particular in relation to the Adelaide City Council and the Port Adelaide Council where Chief Executive Officers have been reluctant to provide details of their salaries and remuneration packages. I think that perhaps every honourable member was aghast that the Chief Executive Officer of the Adelaide City Council should stall for 11 months, being reluctant to release such information because it was not stipulated in his contract. The Liberal Party believes that such circumstances are not acceptable for an employee in public office.

The Hon. I. GILFILLAN: The Democrats support the amendment for similar reasons to those advanced in relation to the amendment relating to members. I acknowledge the Minister's constructive criticisms, but my earlier point still stands.

The Hon. ANNE LEVY: I will not go into details as to why the Government does not support this amendment at this stage, although I support the principle behind it. I think that I canvassed that matter when we were discussing the previous amendment.

New clause inserted.

Clause 4 passed.

New clause 4a—'Method of voting at elections.'

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

Page 1, after line 34—Insert new clause as follows:

4a. Section 100 of the principal Act is amended—

(a) by inserting after paragraph (b) of subsection (1) the following paragraph:

(c) where the method of counting votes applying at the election is the method set out in section 121 (4a)—by placing consecutive numbers beginning with the number 1 in the squares opposite the names of candidates in the order of the voter's preference for them until the voter has indicated a vote for all of the candidates;

and

(b) by inserting before paragraph (a) of subsection (3) the following paragraph:

(aa) the method of counting votes applying at the election is the method set out in section 121 (3) or (4);.

Those members who have spent time in this Chamber—the Hon. Mr Gilfillan, the Hon. Ms Levy, a number of others and I—probably recall the debates that we have had about voting systems for local government. Whilst I want to repeat some aspects of past debates, obviously to try to expedite matters it is not appropriate that we repeat *ad nauseam* all the detail of previous debates. As honourable members will be aware, at present there is a choice of two voting systems for local government.

The Committee will also be aware of the long debate and the conference between the Houses in 1984 or 1985 (whenever it was) that resulted in local government having access to alternative voting systems. Members will be aware that in 1984 or 1985 the Liberal Party expressed a view that there was a better alternative for local government, that is, the majority preferential voting system, but that was not supported at that time. At least once since then the Liberal Party in this Chamber again sought—unsuccessfully—to introduce the majority preferential voting system by way of amendment. I do not want to address any remarks at all to the proportional representation voting system.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan will well know from six years ago that he, together with a number of other members, spent a considerable time refining that option to be offered to local government. It was not our preferred option, but it was the preferred option of the Australian Democrats. In the democratic way that this Council and the Parliament operates, it ended up being one of two options.

I do not want in this debate to criticise the proportional representation system. However, I want to refresh the memories of honourable members about the inequity of the system introduced and supported by the Bannon Government. The Hon. Mr Crothers was not here back in 1984 or 1985, as indeed a number of other members on the Government benches were not. I am sure that they will be intrigued—

The Hon. T. Crothers: Did you miss me?

The Hon. R.I. LUCAS: We missed you a lot—to understand the inequity of the system that has been introduced and supported by the Bannon Government, the system known as the 'bottoms up optional preferential voting system'. As a number of members have indicated in previous debates, it is inequitable; it is a system where one can have minorities, in some cases with as little as 5 per cent of the vote or less, being elected, when 95 per cent of people may well hate that person who was elected with a passion or they may hate the policies that that person may stand for or represent.

That is the inequity of this bottoms up optional preferential system that the Bannon Government supports. There may be one popular candidate and, going back over my debates, for some reason I used Graham Cornes as the example at that time. I referred to a person who might be popular and who might drag in considerable support—much more than that person might need to be elected to the local government vacancy.

There may then be a series of other very unpopular candidates opposed by the vast majority of ratepayers in a local government area. In that debate, I instanced the Nazi Party, which could poll considerably less than 5 per cent of the vote.

The Hon. Anne Levy: There's no Party politics in local government.

The Hon. R.I. LUCAS: The 'Nazi organisation' then, if you do not want 'Party'. The views of such a Party or an individual might not be shared by the overwhelming majority of South Australians or ratepayers in a particular area but, through a mere quirk of the voting system that this Government has inflicted on local government, that person could be elected. There could be a combination of those factors. A very impressive and popular person might drag in 60 or 70 per cent of the vote or 80 per cent of the first preferences. Then we could have involved a whole series of ratbag minorities such as the Nazi organisation, a Nazi candidate or the No Self Government Party—the sort of crackpot Parties that we saw in the Australian Capital Territory election. That is the sort of system that the Bannon Government, by way of individuals, inflicts on local government in South Australia.

Everyone laughed at the voting system in the Australian Capital Territory, where the No Self Government Party got one or two votes and an Independent 'this' and an Independent 'that' got one or two. However, in South Australia, through a quirk in the voting system that the Bannon Government has inflicted upon local government, those sorts of minority groups could have representation in local government. I do not support, and have never supported, that system, and I do not believe that it ought to be the case.

Those who are elected to any representative body, such as a local council, should in some way or another have the support of the majority of the voters in that area. It should not happen that, through an accident, if a very popular person drags in, say, 97 per cent of the votes, a candidate who polls 3 or 4 per cent is suddenly elected if the people were given a choice of a second or third vote and told that they could choose between the Nazi candidate and Mrs Freda Smith, the local ratepayers association's candidate and the second preference. They might all like Graham Cornes and want to vote number one for him but, if they had a second choice, would they prefer the Nazi Independent candidate or Mrs Freda Smith? The majority would prefer Mrs Freda Smith, the ratepayers association's candidate, and not the Nazi independent candidate.

Under this Bannon local government system which has been inflicted on local councils, voters cannot make a choice after their first choice. The former Minister of Local Government (Dr John Cornwall) argued six years ago—and the Hon. Ms Levy will argue now—that in some way a majority preferential system with a second or third preference counting is a 'winner takes all' system. I rejected that proposition six years ago and I reject it now. It is not a 'winner takes all' system; it is a system that says, 'You can have your first choice and, if your first choice is unsuccessful, you can have a second choice.' A voter might prefer Graham Cornes but they might like the candidate from the ratepayers association, and they might want to see some balance of power on that local council.

One might like to see some balance perhaps between development and conservation groups that might be contesting positions on a council. One might like to support someone from the development group and then, to balance it, support someone from the conservation group, or indeed any other particular grouping or association that might be contesting a local government election. I reject the argument that the Government will trot out that this is *(a)* a winner-take-all system or *(b)* a system that encourages political Parties to contest local government elections. It does nothing of the sort—

The Hon. Anne Levy: Yes it does.

The Hon. R.I. LUCAS: Well, it does not do anything of the sort. As I said, I do not want to go over the old argument of whether it does or does not. The Government will argue that it introduces political Parties into the system and we will reject the notion, and I guess it will be claim and counter-claim in this Chamber with, in the end, no-one being able to prove it one way or the other.

Certainly, if one looks at the logic of it all, in no greater way than the proportional representation system could it introduce groupings into local government. If there is any system that is likely to introduce groupings of a small or large variety, it is the proportional representation system of voting, whether it be in the Legislative Council, the Senate or in local government elections. Thus I have moved the amendment to introduce a third option for local government. It gives them the option to make the choice of a third system, the majority preferential system. It will ensure that, after they have had their first choice, they can have a second or third choice and, in the example I have used, to choose between, perhaps, the ratepayers' association candidate and a Nazi independent.

We last debated this matter in 1985, and just to refresh the memory of the Hon. Mr Gilfillan, who I am sure has done a lot of research on his previous statements on this matter, I point out that he is reported at page 2907 of *Hansard*, as saying:

> We do not favour an amendment to delete the infamous 'bottoms up' method of voting from the legislation.

That was his word—'infamous'. Further on he said:

> There may be reason to look at amendments at another time, but we are getting very close to the local government election and it is unfair to throw chaos into it. There are decisions being made, with serious attempts to look at proportional representation, which I gather the majority of the Opposition would like local government to use. It would be best to leave the option as it currently is and for the councils to choose. I make no apology for it. I do not have any admiration for the 'bottoms up' method.

The Hon. I. Gilfillan: Beautiful words—simple, powerful.

The Hon. R.I. LUCAS: Yes, very simple, very powerful, as would befit a Democrat. He said that he had no admiration for the 'bottoms up' method and that it was an infamous method of voting. Then there was some interchange, as there occasionally is, between me and the Hon. Mr Gilfillan. I said:

> Yes, the Hon. Mr Gilfillan says 'an infamous system'; the Hon. Mr DeGaris says 'an atrocious system'; and I say that it is 'an iniquitous, disgraceful and outrageous system.'

I think I won on the three adjectives there. The *Hansard* report continues:

> The Democrats are supporting a patently unfair system for the third tier of government.

Then the Hon. Mr Gilfillan interjected, out of order, 'We are not supporting it.' So, in *Hansard* of 27 February 1985 (page 2909) I said 'the Democrats are supporting a patently unfair system for the third tier of government', while the Hon. Mr Gilfillan said that the Democrats were not supporting it, that they were prepared to look at amendments. Indeed, the much older and wiser colleague he had in those days—

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: Not as good a basketballer but much older and wiser than the Hon. Mr Elliott. The Hon. Mr Milne, many of us will remember, said:

> We should not go into the history of it. This is not the occasion to discuss it. I would give an undertaking on our behalf to discuss it at some other time but to confuse the whole issue in amending this Bill properly would not be wise.

The Hon. L.H. Davis: Tonight's the night, Ian.

The Hon. R.I. LUCAS: Yes, tonight's the night; come on down, the Hon. Mr Gilfillan. The price is right. The Hon. Mr Milne was leading the debate and the Hon. Mr Gilfillan took an active role in that discussion, as he well knows. The Hon. Mr Gilfillan said: 'This is infamous, we are not supporting it. I have got no admiration for this voting system. It is all getting too close to the local government elections. Let us do it at another time. We have had a bit of time to think about it. We can look at the ramifications.' What I am suggesting to the Hon. Mr Gilfillan is that we have now had six years to think about it and look at it. It is still as infamous as it was in February 1985. I am sure he would still share the view that he has no admiration for the system.

So, in 1985 the Democrats were not supporting it, or Mr Gilfillan was not supporting it and, indeed, whilst I have differed with the Hon. Mr Gilfillan on many issues, this is one thing where I think his heart has been in the right place: he has been a very keen advocate of fairness in electoral systems and he recognises a brumby system when he sees

one. He identified it very accurately in 1984 and 1985. I am sure that now with another six years under his belt he will recognise it again when he has another look at it—and he has had recalled for him his views of 1984 and 1985. I urge the Hon. Mr Gilfillan, on mature reflection now, to think positively—

The Hon. L.H. Davis: And consistently.

The Hon. R.I. LUCAS: —and consistently about supporting the Liberal Party's amendment on this occasion.

The Hon. ANNE LEVY: The Government opposes this amendment. It is interesting to note that, despite the Hon. Mr Lucas decrying the optional preferential system which is currently in the Act, he makes no attempt whatsoever to remove it. He is content to leave it there, but to add a third system. I point out that the system he is suggesting was rejected by this Parliament, not only in 1984-85 but also in 1987, when the current Leader of the Opposition in another place tried to introduce it, no doubt at the urgings of the Hon. Mr DeGaris, who was no longer in Parliament to do it himself at that time.

Despite the protestations of the Hon. Mr Lucas, the system which he is suggesting as a third alternative—not replacing one of the other two, but as a third alternative—is one which is no longer used in any House of any Parliament in this country. It is the system which used to apply to this Chamber back in the days when there was, for what seemed to be an interminable length of time, the iniquitous 16 to four representation. It is a winner-take-all system. If one has 50 per cent plus one of the population who support a particular slate of candidates, that person will be successful and their entire slate will be elected, leaving the 50 per cent minus one with no representation at all resulting from the election. It certainly is 'winner take all', and it certainly encourages ticketing, grouping and the Party system. Local government, as a whole, is adamant that it does not want a Party system.

I point out to honourable members that, since the Act was changed in 1984-85, increasingly councils are changing to the PR system—the second system available to it under the Act. Those councils that are unhappy—as some obviously are—with the optional preferential system have the PR system available to them and, more and more, they are turning to it. We certainly oppose the reintroduction of that inequitous system, which was eliminated from the local government arena in 1985 and eliminated from our State Parliament in 1973. It has long been dead and buried and I think we should let it rest in peace.

The Hon. I. GILFILLAN: It is gratifying to note that in their powerful oratory neither the Leader of the Opposition nor the Minister saw fit to attack proportional representation. Being in large part the architect of its inclusion in the Act, I hear with great pleasure the acceptance of both the Government and the Opposition that PR is the appropriate and desired method of election in local government. It is absolutely plain that the Democrats have consistently argued that it is the most democratic—the optimum—method of election. The inclusion in clause 10 of procedures that will reduce some of the more cumbersome or onerous obligations of counting through the use of computers and programs will make the system more acceptable.

I certainly do not intend to muddy the waters by even considering including an extra system, although in debate I mentioned the recognition of a capacity to amend. I was rather flattered to find that the Leader of the Opposition decided to fossick through the debates to get the appropriate quotation. The intention of those amendments was, if anything, to rid the legislation of the infamous 'bottoms up' system, and that has not been put forward in this debate, even by the Opposition.

The Hon. R.I. Lucas: Would you support it?

The Hon. I. GILFILLAN: The Leader, looking somewhat mischievous, asks me whether I would support it. I think that the problem with this debate is that there has not been time for us to consider many of the matters that have come forward. It is with some tolerance that we are dealing with these matters, which the honourable member introduced yesterday. I certainly do not intend to be diverted into a debate about whether I would support the removal of the 'bottoms up' system. However, I would shed no tears if, in the fullness of time, that were removed as an option. Local government, itself—quite willingly, given the trend indicated by the Minister—is content with proportional representation as the sole method of election of members to local government.

I do not intend to debate in detail the respective merits of the legislation. Both previous speakers demolished, in turn, the options other than PR which, again, I repeat with some pride, can be attributed to the efforts that I made with other distinguished members of this place, not the least being the Hon. Murray Hill when he was serving in the Council. The Democrats oppose the amendment.

The Hon. DIANA LAIDLAW: I want to make a brief contribution to this debate, and I am prompted to do so after listening to the self-gratification in the Hon. Mr Gilfillan's speech. To get proportional representation into perspective, I would recommend that he look at the document entitled 'Local Government Elections—Discussion Paper and Questionnaire on Major Policy Issues', which was produced by the Local Government Association of South Australia. Section A of that paper refers to voting systems and, under 'Factors for Consideration' in respect of proportional representation, it notes:

1. Proportional representation is specifically designed to ensure that representation on the council is proportional to support in the community and hence is the system most likely to maximise the proportion of voters who have their views represented on the council.
2. It is commonly accepted through its use in State and Federal elections.
3. The Elections Review Working Party of 1986 found that in the 1985 elections a greater percentage of the voters had the candidate of their first preference elected where the proportional representation system was used.

However, the LGA does recognise the following:

4. It is complex to count and not thoroughly understood in the community.
5. The system has not been adequately explained to the community, particularly as it relates to multi-seat electorates in local government.
6. This system by distributing surplus votes, gives support for the use of tickets or multi-candidate voting guides by strong local groups.

There is no question that many of the arguments that the Minister and the Hon. Mr Gilfillan have used to dismiss the majority proportional system that has been moved by my colleague the Hon. Mr Lucas are the very same arguments that the Local Government Association appreciates apply at the current time to the proportional representation system. I make those comments simply to put this debate in some perspective.

The Committee divided on the new clause:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin, Diana Laidlaw, R.I. Lucas (teller), Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner and Barbara Wiese.

Pair—Aye—The Hon. J.C. Irwin. No—The Hon. G. Weatherill.

Majority of 1 for the Noes.

New clause thus negatived.

Clauses 5 and 6 passed.

Clause 7—'Procedures to be followed for advanced voting.'

The Hon. DIANA LAIDLAW: This clause refers to procedures to be followed for advanced voting. The clause differs from section 107 of the Act, which provides that an electoral officer, upon receiving an advanced vote, must rule a line through the voter's name on the voters' roll or, if his or her name does not appear on the roll, make a record of the receipt of the envelope. The Minister referred to the concerns of the Opposition about the deletion of this longstanding provision of an electoral officer ruling the name through on the voters' roll on receipt of an advanced vote.

I continue to have misgivings about the wisdom of deleting that provision and I want those misgivings to be placed on the record. I also note that I find it difficult to accept the Minister's arguments about the secret ballot. It has been the experience of people who have come to see me about this matter that, in local government elections, unlike State and Federal elections, the two envelope system is not used. One's name is written on the outside of the envelope, the envelope is opened and the electoral officer can clearly identify the way in which one has voted, if the officer chooses to compare that envelope with the ballot-paper before crossing off the name of the voter on the electoral roll.

At a time when society is looking at secret ballots for a whole range of things, including local government elections, recognising the value of secret ballots, it is extraordinary that we cannot move to a system of two envelopes in local government elections. I merely register those two misgivings about the proposed amendments to section 107.

The Hon. ANNE LEVY: What is before us in clause 7 has nothing to do with whether there are one or two envelopes but, in terms of advance voting, it will obviously make things much simpler for returning officers. As the Act stands, when returning officers receive an advance vote they have to cross that name off the roll. If a person who has sent an advance vote then turns up at a polling booth to vote, he or she would not be able to do so. The rule is there so that those people do not vote twice.

It is not necessary if a clean roll is used on election day. Anyone who votes has his or her name marked off, and advance votes (which are not opened until after the voting takes place on polling day) are then checked off against the roll to see whether a person has voted on election day, in which case the advance vote is discarded. Otherwise, electoral officers will have to use different ways of marking the roll. They may have one way for ruling out advance votes and a different way for ruling out those who turn up on election day to vote. There will be nothing to prevent an electoral officer continuing, if he or she wishes, to make, say, a red line for one type of vote and a blue line for another, but it will not make it obligatory.

The procedure was suggested by the State Electoral Commissioner after discussion with returning officers in local government as to how their task could be made simpler. With an increasing number of people using advance votes, and some remote or more isolated councils moving entirely to a postal voting system, the work for returning officers from advance voting was felt to be an unnecessary burden, hence the suggestion for this new procedure regarding not having to cross off the name prior to election day but merely checking the advance votes against the electoral roll after voters have voted, to ensure that no-one is voting twice.

Clause 7 does not refer specifically to that point, but one needs to take it in conjunction with clauses 5 *(a)*and 6 *(a)*; the three clauses together simplify the handling of advance votes by the returning officer, to make the procedure much simpler.

The Hon. DIANA LAIDLAW: As regards the Minister's reference to the Electoral Commissioner's concern about the burden on electoral officers because of this procedure, now required under the Act, of crossing off the names of advance voters, I found the argument difficult to follow, mainly because that burden is surely still on the electoral officer.

The Hon. Anne Levy: He does not have to do it twice. Under the old procedure he had to do it whenever he sent it out and he had to do it later to check those which came back.

The Hon. DIANA LAIDLAW: But surely that will have to be done after the poll is closed to ensure that a person has not voted twice. Prior to the count being finalised, they will have to check off the advance votes against the roll anyway to see that people have not voted twice.

The Hon. ANNE LEVY: It is true that that has to be done. The envelopes will have to be checked against the roll of people who voted. That will always have to be done. The current situation is that, if someone applies for an advance vote, their name has to be crossed off the roll even though they may not use the advance vote and may turn up at the polling booth to vote. Their name will be crossed off the roll because they will have been sent an advance vote and at that stage no check will have been made as to whether they have used their advance vote. That does not happen until after the polls close. Therefore, someone's name is crossed off the roll. It may be that one lot of crossing off is done in red and another in blue, but it also means that it is unnecessary work to give the returning officer to cross off those to whom an advance vote has been sent. What is important is from whom an advance vote is received, not whether they have been sent one.

The Hon. DIANA LAIDLAW: We have already passed the issue of advance voting papers. I did not take issue with the point that the Minister was just making, but that point is more relevant to clause 5 than to clause 7. I do not want to labour this point, but the Liberal Party believes that it is a retrograde step. We will follow this with interest, but I am not convinced by any of the Minister's arguments at this stage. I shall certainly be speaking to the Hon. Mr Irwin upon his return and will be considering possible amendments to be moved in the other place.

The Hon. ANNE LEVY: I think that these provisions need to be read in conjunction with section 120 of the Act, which is not being amended in any way, so it does not appear in the Bill. The existing procedure, prior to the amendments before us, is a preventive system to prevent anyone from voting twice by turning up on election day having already sent in an advance vote. The alterations that we are making can be called remedial. Anyone who turns up on election day can get a vote. Subsequently a check is made as to whether they had put in an advance vote and, if they had, the envelope is thrown away unopened.

Both systems ensure that people do not vote twice or that, if they do vote twice, only one vote is counted. The existing system tries to prevent them from voting a second time. The amended system will mean that, if anyone does vote twice, the advance vote is thrown away unopened. Even if they attempt to, they will not be successful in voting twice. It will have the same effect of preventing people from voting twice and will make life a great deal easier for the

returning officers in that they need to handle advance votes only once, not twice.

Clause passed.

Clause 8 passed.

Clause 9—'Statement of certain documents in possession of agencies to be published.'

The Hon. DIANA LAIDLAW: I move:

Page 2, lines 35 to 38—Leave out paragraph *(a)*.

The Liberal Party believes that this amendment is important in respect to the determination of the method of counting at elections. At present the Act provides that, if a council chooses a particular method of counting, it cannot change from that method. This issue was hotly debated in this place in 1984, as I recall. The Minister has proposed in the Bill a slight amendment, indicating that a council can change its determination on the method of counting, but that it cannot do so for at least a period of two general elections. The Liberal Party believes strongly that, if councils have the option as provided in this Bill to choose between various methods of counting votes, a council having made that determination should be able to apply that determination for the next council election.

It is rather interesting that a council be given the option to make such a choice and then find that some council members may retire at the next election with new councillors coming in and perhaps another decision being made. The issue could go on and on. Surely, if a fully constituted council makes a decision to opt for one type of election, it should be able to implement that form of counting of votes at the next election. I move this amendment so that a council can implement the new method without having to wait for two general elections.

The Hon. ANNE LEVY: The Government supports the clause as indicated. Certainly, it is not unusual in the Local Government Act to find that councils cannot keep chopping and changing. This relates to valuation systems. While councils can change from site value to annual value or capital value or back again, there are limitations in the Act as to the frequency with which they can do this. This amendment was proposed by the Port Adelaide council, which received support from other councils for its suggestion.

Since 1985, when councils have been able to choose between the two methods of voting, more than 20 councils have changed their voting systems, the majority rejecting optional preferential in favour of proportional representation. Five councils (not including Port Adelaide) have alternated between the two available systems at each election. It has been suggested that, on the basis that it is potentially very confusing for electors and for candidates that in every election the system is different from the previous one, more stability should be brought into the system. However, I indicate that the Government has no strong feelings about this matter; this amendment was proposed at the suggestion of local government itself.

The Hon. DIANA LAIDLAW: With respect to the five councils that have chopped and changed, since the Act was passed in this place in 1984 and probably came into effect for the 1985 elections, we have had elections in 1985, 1987 and 1989. So, these councils may have started with proportional representation, decided it was far too hard to count the votes and that it was not understood and changed to optional preferential, then decided that 'bottoms up' was no good and have now gone back to a system recognising that PR is the best. That is the way that it may have gone. I do not know the councils to which the Minister refers, but it would seem that there may be a very logical—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, but there may be a very logical explanation. Rather than suggesting that the councils chopped and changed, they may have done this for a very good reason, endeavouring to work out the best system in terms of what was understood by the electorates. I wanted to query whether the Minister knew the background to these situations of change. I think that at this stage most councils have settled on the system that suits them best, and we may see more opting out of the optional preferential system, but not necessarily going back the other way.

The Hon. I. GILFILLAN: The Democrats support this amendment. If a council decides to change its method of voting, and under the current legislation it is enabled to do so, it is not for us to question the reasons. I see no reason arbitrarily to impose this restraint on them.

Amendment carried; clause as amended passed.

Clauses 10 and 11 passed.

Clause 12—'Conduct of officers.'

The Hon. I. GILFILLAN: I move:

Page 4, line 4—Leave out 'or imprisonment for six months'.

In my second reading remarks I indicated that I was concerned that the penalty applying to this situation was excessive, so I have moved to delete the imprisonment factor of the penalty. I also reflected in my second reading remarks that section 126 of the Act provides a very severe penalty of $5 000 or imprisonment for two years. Section 126 provides:

(1) A person who dishonestly exercises, or attempts to exercise, a vote at an election or poll to which he is not entitled shall be guilty of an indictable offence and liable to a penalty not exceeding five thousand dollars or imprisonment for two years.

(2) A person who dishonestly influences or attempts to influence the result of an election or poll shall be guilty of an indictable offence . . .

It seems to me that the sorts of offences which deserve the imprisonment penalty of even six months are those which are done deliberately to influence the result of an election. I cannot sustain a position which allows an electoral officer, even if that person has been totally remiss in carrying out his or her official duties, but without motive to influence the election, to be exposed to a penalty of imprisonment for six months. This amendment leaves the penalty of a $2 000 fine, which I believe is totally appropriate on its own, and deletes the option for imprisonment for six months.

The Hon. ANNE LEVY: The Government opposes this amendment on the basis that the wording of this clause (including the penalty) is identical with that in the State Electoral Act. If the Hon. Mr Gilfillan's amendment is accepted, we would be implying that it was less serious for an electoral officer not to properly carry out their official duties in a local government election than in a State Government election. If we are to take local government seriously, the same offence should have exactly the same penalty, whether it involves a State or local government election.

The Hon. DIANA LAIDLAW: I rather like being in the usual role of the Democrats, having to weigh up all these arguments and then make a decision. It is quite a powerful feeling. However, we are going to support the Government, because on balance I agree with the argument presented by the Government in terms of the consistency.

The Hon. I. GILFILLAN: I think it is a pathetic excuse from the Minister and the honourable member—I am not sure whether she is the shadow Minister in this area. The argument that just because we are dealing with the Local Government Act we do not amend the Local Government Act, because someone has not had the foresight to amend the State Electoral Act, seems to me to be totally illogical and creating a never-ending circle. If we were coming to a

point where we were going to try and amend the penalty in the State Electoral Act—

Members interjecting:

The Hon. I. GILFILLAN: At least their position is worth listening to, unlike the Leader of the Opposition, who is just baying inanely.

Members interjecting:

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

The Hon. I. GILFILLAN: This baying is infectious: it has now been caught by someone else. Returning to my argument: if we are locked into a circle which says we cannot amend one Act because it is inconsistent with another, we are locked into a process of never amending any Act, because we will always use the same argument. I plead with those intelligent members of this place to look at this amendment in its own right.

The Hon. T.G. Roberts: Name them.

The Hon. I. GILFILLAN: It would not take long. I am not going to be drawn into answering that question, on the ground that I might not be able to answer it. I think the amendment is worthy of consideration in its own right, regardless of how it tallies with another Act. In spite of the levity of approach to it, it seems to me to be totally unsatisfactory that an electoral officer can be subject to six months imprisonment as a penalty, and I urge members to reconsider.

Amendment negatived; clause passed.

Clauses 13 and 14 passed.

New clause 14a—'Minimum amount payable by way of rates.'

The Hon. DIANA LAIDLAW: I move:

Page 4, after line 33—Insert new clause as follows:

14a. Section 190 of the principal Act is amended—

(a) by striking out from subsection (3) '1991-1992' and substituting '1992-1993';

and

(b) by striking out from subsection (3) '35 per cent' and substituting '50 per cent'.

This amendment deals with the question of minimum rates. The current position is that a council must reduce by 1991-92 the proportion of minimum rates within its council area to 35 per cent. Members will recall the heated debates here and in conference in December 1987 over the Government's proposition that there be total abolition of minimum rates over a two-year period. So, the current position is certainly an improvement on what the Government proposed in 1987. However, it is one that the Liberal Party did not accept at that time, and our reservations have proven to be sound, because a number of councils have made representations to various members of the Liberal Party, including our shadow Minister of Local Government, indicating that they are experiencing difficulties in fulfilling their obligations to reduce the proportion of properties to which a minimum rate applies by the deadline of 1991-92.

Therefore, the Liberal Party proposes that the deadline of 1991-92 be extended by one year to 1992-93 and that the proportion of councils to which the minimum rate applies be lifted from 35 to 50 per cent. We believe that the limit is appropriate, recognising that minimum rates play a most valuable role in assisting councils to maintain services within their respective areas and ensuring that all property owners pay at least a minimum amount towards the maintenance of those services.

The Hon. ANNE LEVY: The Government opposes this amendment. I do not think that we need go through the argument that raged so extensively in 1987 in relation to the minimum rate and the compromise which was reached after many hours of conference, resulting in councils having three years in which to reduce the proportion of assessments with the minimum rate to 35 per cent. The compromise was hammered out after a very lengthy conference and I disagree with the honourable member that that has caused an unfair disadvantage in local government circles. The compromise permitted councils to adopt a completely different system of having an administrative charge that accurately reflects the costs of administration of the council and to divide this as a flat rate between all ratepayers and then to have a progressive rate based on property values above that. If councils have problems with achieving the 35 per cent minimum rate within the statutory time, they have the option of adopting the administrative charge with the rate on top, and quite a number of councils have done that.

Either to change that now in relation to the time by which the 35 per cent must be achieved, or to change the 35 per cent itself, would be most unfair to those councils that have very conscientiously and diligently worked towards achieving what they were given two years ago statutorily to achieve. Councils had three years to reach this point and many have steadily been working towards it.

Councils knew the law and they have adjusted their policies and planning to achieve it in the three year time limit that they were given. It seems to me that to change the percentage would be grossly unfair to the councils that have accepted the legislation and worked conscientiously towards achieving that aim. As I said, if councils have problems, they have another alternative that they can use and, increasingly, many are using it. I do not think any of us would want a repeat of the difficult conference that took place three years ago before the current compromise, which is in the legislation, was achieved.

The Hon. I. GILFILLAN: I took part in that conference and realise the effort that was put into arriving at what was, at that time, an acceptable procedure and formula. I have had no representation from the Local Government Association or the Opposition to reconsider the matter, and even with that I very much doubt whether I would have been persuaded that this new clause should be supported. It certainly is inappropriate for it to be supported at this time, and the Democrats oppose it.

New clause negatived.

Clause 15 passed.

New clause 15a—'Repeal of section 475d.'

New clause 15b—'Evidentiary provisions.'

The Hon. ANNE LEVY: I move:

Page 4, after line 36—Insert new clauses as follows:

15a. Section 475d of the principal Act is repealed.

15b. Section 475e of the principal Act is amended by striking out paragraphs *(b)* and *(c)* of subsection (1).

These amendments are consequential on the amendment to clause 3 concerning the definition of 'owner'. They relate to the deletion of the evidentiary provisions relating to vehicles registered in business names—which definitions are located in the part of the Act dealing with parking offences. This is necessary because we have amended the definition of 'owner', which applies to the whole Act and which takes account of vehicles registered in business names. We do not need to have it twice.

The Hon. DIANA LAIDLAW: The Liberal Party supports the amendments for the reasons outlined by the Minister.

New clauses passed.

Clause 16—'Interpretation.'

The Hon. DIANA LAIDLAW: Earlier I indicated that I had a question on clause 15. I indicate that I am not familiar with this Bill; I took it over at the last minute and have had some difficulty in coming to terms with some of the

provisions. However, I will ensure that the questions are asked in the other place.

The ACTING CHAIRPERSON (Hon. Carolyn Pickles): When the honourable member stood we had already passed clause 15 and had moved on to new clauses 15a and 15b. Clause 11 is to be reconsidered, and, if the honourable member wishes, clause 15 can be reconsidered also.

Clause passed.

The Hon. DIANA LAIDLAW: New clause 16a—'Adoption of by-laws on amalgamation' and new clause 16b—'Powers of council to adopt any model by-laws' were consequential upon amendments in respect of procedures at meetings, which I moved earlier and which failed. Therefore, I will not move to insert these new clauses. However, I hope that the Government will consider these provisions as part of the Minister's commitment, which she made earlier in respect of section 60, that she said that she would look at the matter of procedures at meetings, and that it would possibly be addressed again in January.

Clauses 17 to 19 passed.

Clause 20—'Duty of owner to give information to identify driver.'

The Hon. DIANA LAIDLAW: I move:

Page 5, line 16—After 'amended' insert:

—

(a) by striking out from subsection (1) 'or any inspector or' and substituting ', an authorised person or a'; and

(b) (The remainder of clause 20 becomes paragraph *(b)*).

In summing up the second reading debate, the Minister indicated that she supported this amendment. It simply strikes out reference to 'inspector' and inserts reference to 'authorised person'.

The Hon. ANNE LEVY: I am happy to accept it.

Amendment carried; clause as amended passed.

Clause 21 passed.

Clause 22—'Expiation of offences.'

The Hon. I. GILFILLAN: I move:

Page 6, line 38—Leave out 'or any other Act'.

I have two objections to subsection (1) *(a)* which provides for a person who has 'committed a prescribed offence against this Act or any other Act'. First, it is indefinite, and it virtually gives open slather for whatever other Act can be involved. Secondly, I understand that it has never been of any use in the execution of the Act. Therefore, for the purposes of tidy and precise drafting, on the one hand, and the removal of what I believe are unacceptably indefinite terms, on the other hand, I seek to delete those words.

The Hon. ANNE LEVY: The Government does not feel very strongly about this. This is not the only place in the Local Government Act where reference is made to other Acts. It occurs quite frequently. Although this particular section has not been used since it was inserted in 1979, perhaps out of an excess of zeal, Parliamentary Counsel feels that it could be useful if it were required, particularly as we are currently inclined to put all the expiable offences together rather than have them scattered and treated haphazardly. If the phrase goes and later there is a need to reinsert it for a particular instance, that can be done.

The Hon. DIANA LAIDLAW: The Liberal Party accepts the arguments presented by the Hon. Mr Gilfillan in moving the amendment. The Liberal Party has always had some misgivings about the expiation of offences, and I believe that the caution he expressed in moving the amendment is sound.

Amendment carried.

The Hon. DIANA LAIDLAW: The RAA has written to me and, I understand, to the Minister, expressing concern about search fees and late payment fees. The Minister made some reference to these in summing up the second reading debate. I felt that the RAA put a sound case when it argued as follows:

> We have no objection to councils being able to recoup the costs and expenses incurred in the commencement of proceedings against a vehicle owner who is permitted to make late payment of a parking expiation fee (that is, clause *(a)* of subsection (4a) of section 794d). However, we consider that the requirement to apply a search fee in addition to the late payment fee in proposed clause *(b)* of subsection (4a) of section 794a (4a) is unnecessary. Since a search fee of only $2.15 or $3.20 is almost invariably incurred, would not the existing late payment fee of $10 still more than cover councils' administration costs?

The RAA pursues its argument further, but I have also received correspondence from the Local Government Association, which has expressed concern overall about the costs of these changes to the provisions for expiation fees and owner onus provisions. As I said, the Minister referred to this when summing up the debate. I understood from the Minister's remarks that there was some flexibility in what she was saying. She acknowledged that some case may be presented by the RAA; she recognised the concerns of local government, and she recognised that there may be something we can do to accommodate both concerns, doing something to reduce the late payment fee and increase the search fee but not have both at such high levels.

The Hon. ANNE LEVY: The late payment penalty of $10 has not changed for two years and, in the process, has lost value. Therefore, it is not unreasonable for people who have to pay the penalty, which two years ago was $10, should now pay $12 or $13. That could be regarded merely as inflation from the point of view of the person who is paying. The $10 late payment fee is a penalty; it is not just a recovery of costs to which councils have been subjected. The aim must be to encourage people to pay on time. If they are dilatory in paying, they incur a penalty. They can avoid that penalty at any time by paying within the stated time.

Furthermore, what is proposed is a flat fee of $10 with a single additional cost being that of a search fee. The search fee differs from one council to another. Moreover, the way it is expressed will mean that if search fees changed in six months time—I am not trying to flag that this is being proposed—councils would not be out of pocket as a result until the legislation could be changed, because they would just take their $10 penalty fee and add to it whatever the cost of the search fee is. To have it expressed in any other way would mean that for a time councils would be deprived of income which they had previously until the legislation was amended.

Clause as amended passed.

Clause 23—'Certain prosecutions must be commenced within one year.'

The Hon. DIANA LAIDLAW: I move:

Page 7—

Line 24, after 'amended' insert—

(a) —

After line 25, insert—

and

(b) by striking out 'one year' and substituting 'six months'.

This clause deals with certain prosecutions being commenced within a time limit. The Bill proposes that that time limit be one year. The Liberal Party believes that it is appropriate in the circumstances that the time limit be reduced to a maximum of six months.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. There are occasions when it is difficult for an authority to track down an offender. I see no reason why an offender should avoid the penalty because of that difficulty. It is to everyone's advantage and for justice that those who are guilty of an offence pay the penalty. If, as in some

circumstances, it requires 12 months for that to be properly pursued, I believe that option should be available.

The Hon. ANNE LEVY: I, too, oppose the amendment. In addition to what the Hon. Mr Gilfillan has said, I should point out that the new procedures being brought in, whereby the owner can by statutory declaration indicate the person responsible for the parking violation, will add to the time before a council could be in a position to instigate proceedings. Currently the Adelaide City Council issues about 6 500 expiation notices each week.

In July this year 1 800 summonses were issued and 920 were served that month. The council estimates that about 10 per cent of the summonses are issued more than six months after the date of the offence because of the difficulty of tracking owners who may have moved—chasing addresses, and so on, can be difficult. If this amendment was carried, particularly with the extra delays which our system has been putting in, a much higher proportion would avoid paying the penalty.

Amendments negatived, clause passed.

Clause 24—'Investing of Levi Park in the Corporation of the Town of Walkerville.'

The Hon. DIANA LAIDLAW: This clause deals with Levi Park and the administration of that excellent facility within the Walkerville council area by Walkerville council and a management committee. I was unable to find any suggestion in the Minister's explanation to the clauses, in her second reading explanation or in summing up the second reading debate of exactly what Walkerville council is seeking to do in increasing the size of its management committee. What is the rationale for such a move?

The Hon. ANNE LEVY: As I understand it, Walkerville council has requested that it wishes to extend the membership of the management committee of Levi Park from five to seven members. It is planning a major redevelopment involving Levi Park and wants to have community input into that development. Consequently, it wants to enlarge the management committee to include more community representatives. As I understand the history of Levi Park, originally it had a controlling body set up between two councils—

The Hon. Diana Laidlaw: Enfield and Walkerville councils.

The Hon. ANNE LEVY: Yes, Enfield and Walkerville, and as such its rules, and any change of rules, had to be approved by the Minister. A number of years ago an Act of Parliament changed that situation and vested Levi Park entirely in the hands of Walkerville council, but the situation of the rules having to be approved by the Minister remained, although it was now entirely under the control of one council and that would not be necessary for any other such body set up by a council, which did not involve two councils.

As I say, for good reasons it now wishes to increase the size of the management committee and we felt that, rather than having to apply to the Minister for permission to enlarge it, it should be allowed to manage it in whatever way it thought best, except to abolish it.

The Hon. DIANA LAIDLAW: I thank the Minister for her explanation. I did not have time to check with Walkerville council for an explanation of the background to the change. However, I applaud the move by the Walkerville council and the Government to facilitate more community representatives on the Levi Park management committee. I have met with a number of local residents in the past on a formal and informal basis and they have been increasingly agitated about the increase in damage to their properties that are neighbouring Levi Park, as well as increases in petty theft, damage to cars and so on.

They felt very strongly that they wanted to keep the park facility there, but they wanted closer cooperation with the management so that their concerns as neighbours would be taken into account in the management of the park. They were not against the park; they just wanted closer cooperation, and I am delighted to see that that may be made possible by this Bill.

Clause passed.

Clause 25 passed.

Title passed.

Clause 11—'Transportation'—reconsidered.

The Hon. DIANA LAIDLAW: The Liberal Party believes very strongly that this clause is unacceptable. It provides that a person who is a candidate for election or acting on behalf of such a candidate must not offer to provide transportation to or from a polling booth to any person who desires to vote at the election. In terms of consistency between Acts—and the Minister has argued this point in relation to an amendment moved earlier by the Hon. Mr Gilfillan—it is not acceptable to insert this provision in the Local Government Act. Certainly, it does not apply under the State Electoral Act. We believe that it would be absolutely impossible to administer this clause. I have been involved in local government elections in the past where people have rung the candidate and asked for a lift.

The Hon. I. Gilfillan: It's only if you offer.

The Hon. DIANA LAIDLAW: Yes, but if you accept, then you are offering.

The Hon. Anne Levy: No, if someone asks you that is different from you asking them.

The Hon. DIANA LAIDLAW: Yes, I suppose you can offer them advanced voting facilities. If a candidate goes around knocking on doors. I see no reason why you cannot offer to take a person to a polling booth. At the last by-election within the Adelaide City Council area, I know that people were taken to the polling booths by one of the candidates. Every person in that car voted in a different way, and they said that quite openly. Goodness knows what they did in the polling booth. I do not believe that this is a measure of influence when we have a secret voting system. In terms of its implementation, I think that the Government is in another world to believe that it could actually be enforced.

The Hon. ANNE LEVY: I take it that the honourable member is voting against the clause, which the Government, of course, supports. The current situation is confusing for local government. There is no mention anywhere in the Act of transportation to the polls, but there are clauses relating to bribery or inducing people to vote in a particular way.

After each local government election, questions are asked whether offering to transport someone to the polls is bribery under the meaning of, I think, section 140 of the Act, and arguments have raged as a result. The unanimous opinion of local government was that the matter should be cleared up one way or the other and it was unanimously agreed that a clause should be included saying either that transportation should not be offered or that transportation can be offered. In that case, at least it would be clear.

The Government then asked the Local Government Association which provision it wanted, and discussions raged in the LGA for quite some time with proponents on both sides. The majority view of the LGA was that it was better to prohibit transportation, with the obvious exceptions set out in the Bill, rather than to make it open slather. While I appreciate that this is different from the situation under the State Electoral Act, local government elections do differ

very markedly from State elections in that voting is not compulsory. For local government elections, people do not have to go to the polls, and those who are able to entice people to the polls by offering transport were considered by the Local Government Association to have an advantage over those who were unable to offer that transport. To keep an even playing field, it was felt that it was better to prohibit it with the obvious exceptions. In a situation of compulsory voting, everyone has to go to the polls anyway, so to be able to offer transport can be regarded as much less of an inducement to vote a particular way.

In terms of policing this provision, I am advised that it would not be an offence for a candidate to give a lift to someone to the polls if the voter made the initial request. It would be an offence only if the candidate offered the lift. Obviously, the vetting of all the election material would clearly indicate whether the candidate was offering lifts.

The Hon. Diana Laidlaw: But verbally, when door knocking, for instance?

The Hon. ANNE LEVY: That may be harder to police but, in State elections, certainly the offer is usually made through pamphlets and printed material which is circulated very widely. That sort of thing would be very easy to police. As I have said, there was a unanimous view in the Local Government Association that something must be included, either making it open slather or prohibiting it with sensible exceptions. The majority view was what members now see before them. If clause 11 is removed from the legislation, we will still be in the current situation which is one of utter confusion and which operates with a great deal of bickering and argument after every local government election, because the Opposition is not proposing the reverse.

The Hon. R.I. LUCAS: I also oppose this clause. The Minister really summed it up earlier when she argued, in relation to a previous provision, that there ought to be consistency between the State Electoral Act and the electoral provisions of the Local Government Act.

The Hon. Anne Levy: Shall we bring in compulsory voting?

The Hon. R.I. LUCAS: The Minister argued—

The Hon. Anne Levy: I am happy to make voting compulsory.

The Hon. R.I. LUCAS: The Minister argued that a particular provision was included in the State Electoral Act and it was therefore important that that provision be replicated in the Local Government Act. It is not just a question of replicating: it is also a matter of the direction in which the debates have been going. In the short time that has been available to me I have not been able to turn up the most recent debate on the State Electoral Act. However, we had a debate some time in the past three or four years on the bribery provisions in the State Electoral Act, in relation not just to the offering of transport but as to whether someone could buy a person a drink at the bar or offer them a sausage at the infamous sausage sizzle that Don Farrell gave for the electors and residents of the Adelaide Federal electorate.

Members interjecting:

The Hon. R.I. LUCAS: A slice of bread is all we can afford; we are working-class people. There was the question whether we can offer incidental things like balloons, and things such as that. Regarding debates on the bribery provisions of the Local Government Act, I suspect that the debates on the State Electoral Act in relation to candidates who have contested State elections have been longer and more bitter. So I concede that there has been much debate on the bribery provisions under the State Electoral Act, the Commonwealth Electoral Act for that matter, and also, as I understand from the Minister, the electoral provisions under the Local Government Act.

I would have thought, where there was an area of argument and controversy, with people arguing one way and the other, that it would be better to err on the side of consistency. In the past three to four years in this Chamber we had this argument and decided, in effect, to remove those sections of the State Electoral Act that referred particularly to transportation of electors to polling booths.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Minister keeps interjecting that in some way there is a difference between compulsory voting and voluntary voting. Obviously there is a difference, but not in my view as to whether the bribery provisions in relation to transport of voters come into it. I would have thought that, in terms of whether or not it constitutes bribery, it matters little whether there is a voluntary or a compulsory voting system. The Minister's arguments in relation to people being able to afford to offer transport to a large number of persons, whether under a compulsory or a voluntary voting system, do not make much difference at all; we could make those arguments whether the system was compulsory or voluntary.

What I am saying is that, just recently under the State Electoral Act we decided to move in the other direction. If, as the Minister indicates, there is this differing view in local government bodies, that in effect they are quite happy to resolve it one way or the other, with the majority supporting the Government position—

The Hon. Anne Levy: The Government supports the majority decision.

The Hon. R.I. LUCAS: I would have thought that was the same thing. They are supporting each other's position.

The Hon. Anne Levy: No. We are supporting their position. That is what they wanted.

The Hon. R.I. LUCAS: The Minister interjects. With respect, it matters not a jot whether one is supporting the other or the other is supporting one. They are supporting each other's position, if one wants to be pedantic about it, in this issue. The Minister has already conceded that there is a healthy divergence of views and that, really, what the Local Government Association wants is some resolution of the matter. What I am suggesting is that it really ought to be resolved in a way that is, as far as possible, consistent with the resolution to this same problem under the State Electoral Act.

I would have thought that resolution could be best achieved by the Chamber's removing this particular provision and, perhaps, when we come back in the new year, if there needs to be any further tightening up of the bribery provision of the Local Government Act to make it consistent with the State Electoral Act, we can do so. I am not familiar with the exact wording of the bribery provision of the Local Government Act; I think that the Minister referred to section 140.

The Hon. Anne Levy: Section 125.

The Hon. R.I. LUCAS: The Minister changes that to section 125. I am not familiar with it—whether it is section 125 or 140. I would have thought that the best thing to do at this stage is not, in effect, to move in completely the opposite direction by putting this in. Rather, we ought to oppose it and leave the situation as it is. Then, at another time, we can look at section 125 and, if amendments need to be made, the Liberal Party, the Government and the Democrats can consider their respective positions to see whether each or all of us are prepared to look at changing it to make it consistent with the bribery provisions of the State Electoral Act.

Finally, the Minister may or may not already have had some discussions with the Attorney-General on this matter. However, the Attorney-General spoke at length in Committee outlining the problems that existed in relation to the interpretation of bribery offences under the State Electoral Act. If the Committee were prepared to agree to oppose this provision at this stage, it would be useful if the Attorney-General and the Minister were to have discussions in relation to making the provisions as consistent as possible.

The Hon. ANNE LEVY: The honourable member talks about who is supporting whom. Perhaps he does not realise the history of this provision. The bribery clauses set out in the Local Government Act provide that bribery exists if a material advantage is offered with a view to influencing the vote of a person. As I said, arguments have arisen at every local government election about whether offering someone a ride to a poll, in a system where there is voluntary voting and often very low voter turn-outs, constitutes offering a material advantage with a view to influencing the vote. The local government community requested that this issue be corrected and that transportation not be part of the bribery clause, but have its own clause so that one did not have to do this juggling as to whether or not it came under the bribery clause.

The initial draft that we circulated to every council in the State through the Local Government Association was, in fact, the reverse: it made the situation open slather. It provided that anyone could offer transport to the polls to anyone. That was our initial suggestion, and the reaction from the Local Government Association and local councils prompted us to propose the prohibition clause that is currently before us. This was done as a result of the reaction from the local government community. It was not a question of their supporting us, but very much our supporting them, because they did not like our original suggestion. There is general agreement that we need a clause dealing with transportation. Just to leave it to the bribery clause is too confusing.

This clause came about at the request of local government in the form that it requested it. If this clause is deleted, we will then have no clause regarding transportation, and we will be back with the bribery clause which everyone agrees is unsatisfactory for determining this issue in each case.

The Hon. I. GILFILLAN: I support the clause. There is a distinct difference between what is tolerable in compulsory voting and compulsory attendance at a polling booth. I would like to distinguish the difference: in the State Electoral Act the compulsion is to be registered at the polling booth; it is not compulsory to vote. In the Local Government Act a voluntary system applies at present. So, there is a distinction. The situation should be made quite plain in relation to people who wish to get a lift to a polling booth.

I think no-one would disagree that we want to encourage and make it as easy as possible for people to vote. My interpretation of this clause and any explanation I have heard from the Minister make it quite plain that it is definitely not an offence for those who wish to get to a polling booth to ask for transport. I believe that the clause in the Bill should be supported.

The Hon. DIANA LAIDLAW: The Liberal Party does not have the numbers, so I will not call for a division. I believe that it possibly was an error on my part; perhaps I did not understand the Hon. Mr Irwin's instructions in relation to opposing this clause. Perhaps I should have given the other alternative. I will certainly be recommending to him and my colleagues in the Lower House that such an amendment be moved there by the Liberal Party.

Clause passed.

Clause 15—'Governor may make regulations under this Part'—reconsidered.

The Hon. DIANA LAIDLAW: A number of my colleagues have expressed concern about the very substantial increase from $200 to $500 in the maximum fine, for breaches of the regulations. Inflation certainly has not increased by that amount since the fine was set at $200 some years ago, no matter how one may complain about the economy of this country. Will the Minister explain that situation for the benefit of a number of my colleagues who have raised this matter with me?

The Hon. ANNE LEVY: Partly, the reason for the increase is that we now have standardised penalties, and the penalty after $200 is $500. There is no standardised penalty between those two amounts. Also, the $200 was set in 1978, and there has been a considerable change in the value of money since then.

To leave it at $200 now would devalue the penalty considerably and we should move up to the next level, which is $500. I point out that these are only penalties when people have either offended, when they did not need to do, or have not expiated, which they can always do, and the expiation fee is much less than either the $200 or the $500. In addition, these are maxima, and not obligatory. It is a maximum penalty of $500 and much less could be charged in any particular case.

Clause passed.

Bill read a third time and passed.

RENMARK IRRIGATION TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 1992.)

The Hon. PETER DUNN: The Opposition agrees with this Bill, which seeks to make town blocks or house blocks ineligible for irrigation licences and, therefore, concessional water rates. The Bill increases blocks so affected from .2 to .5 of a hectare (ha). As a result, house blocks or town blocks are not caught up under this legislation. The supply of town water is totally different from the supply of irrigation water. Town water is chlorinated and treated to take out most of the nasties. However, irrigation water is not treated and is used purely for irrigation.

In recent years there has been a proliferation of allotments for residential use, particularly in the Renmark district, many of which are up to .4 ha. As these allotments are larger than the original .2 ha, they are eligible for irrigation licences. I can understand that that has happened because times are tough in that area and people are hiving off small areas, making them into residential blocks and living on them, selling the remainder of the fruit block.

The Renmark Irrigation Trust said that that was not fair and proper; that if it is a house block it should have a house connection and pay the going rate for the supply of normal house water. Furthermore, that water is then treated with chlorine, and so on, so that it does not contain any nasties. In addition, the salt content is monitored and kept to within World Health Organisation standards.

This Bill is not very complex, although, naturally, there has been some objection to it from those people who have blocks of between .2 ha and .4 ha. In the main, the Renmark Irrigation Trust, with whom we have had contact, has agreed that it is right and proper that the Act be changed so that people are not eligible for an irrigation licence unless their

blocks are larger than half a hectare, that is, a little less than one acre. That is a reasonable size of block, and I guess that on one acre you could legitimately say that you could put in a small orchard.

However, over that size in that area where irrigation blocks traditionally have been much larger than one acre, the Government's intention in changing the Act to provide for an irrigation licence only if that block is larger than one acre (or .5 ha) is correct and ought to be implemented. The Opposition agrees with the Bill.

The Hon. M.J. ELLIOTT: As a former resident and former ratepayer to the Renmark Irrigation Trust, I believe that what is proposed here is reasonable. Growers have enough trouble being successful producers with anything less than 10 ha, and anyone operating from .5 ha who claims to be a professional fruit grower is stretching things a bit. About the most they can manage is a bit of grass and a horse running on it, which is in reality what is happening with people with blocks of that size.

There are many of them, and I suppose that, if this acts as one more disincentive to the further spread of the hobby farms into important productive areas, that is a good thing. It is worth noting that the water these people are receiving, even when they have a domestic meter, is of very poor quality and pumped straight out of the river. I would not recommend it for drinking, and we certainly did not drink it. The Bill is reasonable, and the Democrats will support it.

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

CONSTITUTION (ELECTORAL REDISTRIBUTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 1980.)

The Hon. R.I. LUCAS (Leader of the Opposition): It is with much pleasure that I rise to support the second reading of this Bill. At the outset I congratulate all members from another place—I do not always congratulate members from another place, but on this occasion I do—who served on the select committee of the House of Assembly. In particular, I congratulate the Hon. Don Hopgood who, from my understanding, in a peripheral sort of way handled it all with good humour and very astutely, together with the member for Mitcham (Stephen Baker) and the member for Light (Bruce Eastick) who handled the matter for the Liberal Party. There are a couple of others—perhaps not always in the limelight—who ought to be congratulated, and I refer to one of the number crunchers from the centre left, I suppose, and good friend of the Hon. Trevor Crothers and even the Hon. Ron Roberts these days they tell me, Terry Cameron.

Members interjecting:

The Hon. R.I. LUCAS: Yes, the honourable Ron Roberts has changed factions; I understand he has switched from one side to the other. He is a bit like Terry Groom. He saw the writing on the wall. He made the right judgment, though; he saw the centre left rising and hopped on as it rose. Poor old Terry Groom saw the left there at 45 per cent and hopped on just as it started to go down like the *Titanic.*

Members interjecting:

The Hon. R.I. LUCAS: Well, I will not be diverted, Mr President. But, I would like to congratulate Terry Cameron. We have not always had kind words about Terry on other matters, and he probably remembers those; but I am sure now that I have congratulated him he will buy me a beer the next time he sees me in the members' lounge with the Hon. Trevor Crothers. If not, perhaps the Hon. Trevor Crothers might. I also congratulate Nick Minchin, the State Director of the Liberal Party. I think that the two of them are two of the unsung heroes of the debate that we have had on the electoral redistribution question. A lot of work was obviously done, and the bulk of the work was done by members of the select committee. But the Parties had a role in this, and those two gentlemen, Nick Minchin and Terry Cameron, did a lot of good work, in consultation, obviously, between the Parties, and also in the negotiations with the parliamentary members of both the Liberal and Labor Parties.

Whilst I am throwing accolades around, I would also congratulate, obviously in the background, the two Parliamentary leaders, John Bannon and Dale Baker. Obviously, from my side, I would like to place on the record my support for the role that Dale Baker, as the Leader of the Liberal Party, played in this whole difficult question.

The Hon. R.R. Roberts: You're not under a factional attack!

The Hon. R.I. LUCAS: No, we do not have factions in the Liberal Party. As I said, I would like to place on record my support for the role that Dale Baker played in this resolution that we have before us. Finally, in my list of accolades and congratulations, I place on the record my support and congratulations for the role adopted by my colleague the Hon. Trevor Griffin—in various guises over the years, back in the mid 70s as the President of the Liberal Party—

The Hon. R.R. Roberts: Some disguises!

The Hon. R.I. LUCAS: Yes—and more recently as a parliamentary member of the Liberal Party and for his involvement in the debates we have had in this Chamber and also in the background in relation to the resolution we see before us in this amending Bill. I want to address the essential element of this package before us. I see the essential element being at last a recognition by the Parliament and then, once the Bill is passed, by the Electoral Commission, that the essential question of fairness of electoral systems will now have to be addressed, that is, in lay person's terms, under our electoral system a Party or group of candidates which gets 50 per cent of the vote ought to have a reasonable prospect of governing.

Indeed, that is the essential major change introduced by this Bill. The Bill repeals section 83 of the Act and substitutes a new section 83. Subsection (1) provides:

> In making an electoral redistribution the commission must ensure, as far as practicable, that the electoral redistribution is fair to prospective candidates and groups of candidates so that, if candidates of a particular group attract more than 50 per cent of the popular vote (determined by aggregating votes cast throughout the State and allocating preferences to the necessary extent), they will be elected in sufficient numbers to enable a government to be formed.

The history and background in trying to get that provision into the Act goes back a long way. This amendment will mean that that principle will be an overriding principle for Electoral Commissions to consider. They will have to consider a number of other criteria, and I will address comment to those in a while but, in effect, they will have to be subsidiary to this major and overriding criteria of electoral fairness.

It is absolutely fundamental to any notion of a democracy and a fair electoral system that, if a Party or a group of candidates polls 50 per cent plus one of the vote, they ought to have a reasonable chance of governing. What we see before us is not only a tremendous achievement for democ-

racy, but also I see it as a tremendous achievement for the Liberal Party and for members within the Liberal Party who, over 15 years, have fought this argument, whether it be in the Parliament or before various Electoral Commissioners. I can recall in another incarnation back in 1976 when I worked for the Liberal Party, fronting up with the likes of Hugh Hudson and Geoff Virgo—

The Hon. Barbara Wiese: They were the days.

The Hon. R.I. LUCAS: Yes, those were the days, with Hudson and Virgo; Chris Schacht was just a young whippersnapper as I was. A fellow called John Black, who became a Senator for Queensland, then worked for Des Corcoran. There were various other people involved for the Labor Party and the Liberal Party arguing this question in 1976 about whether the Electoral Commission ought to assess the political effect or fairness of its decisions.

I recall having exactly the same argument in 1983. On that occasion, the Liberal Party's submission was led by my learned colleague the Hon. John Burdett. We now put exactly the same argument as we put in 1983 that, if a Party wins 50 per cent of the vote, it ought to have a reasonable prospect of governing. In 1976 and in 1983 we sought to argue this point under the general criterion that, when making an electoral redistribution, the commission must have regard to certain criteria and it may have regard to any other matters which it thinks relevant. We used that provision and any other provision that we could think of to try to put an argument to the commission that what it was talking about in drawing the 47 boundaries was not just equalising numbers but a question of whether there would be a fair electoral result at the end of the process of conducting the electoral redistribution.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Whatever the honourable member's arguments about the old electoral systems—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The honourable member is saying that the Bannon system beat the 'Playmander'.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: It is useful to have that on the record. The Hon. Mr Crothers is putting to Parliament that the 'Bannonmander' was better than the 'Playmander'. I suppose that the honourable member could argue that point. He could certainly argue that at the last election the Liberal Party polled 52 per cent of the two-Party preferred vote but did not get into Government. The Hon. Mr Crothers is frank enough to say that, from the Labor Party's point of view, the Bannon electoral system and the Dunstan electoral system were better than the 'Playmander' system. Certainly, one could interpret the Hon. Mr Crothers' statement in that way, although I do not know whether he would agree with that interpretation.

The Hon. Barbara Wiese: You were quite happy with the system until this time.

The Hon. R.I. LUCAS: The Hon. Barbara Wiese interjects and says, 'You were quite happy with the system until this time.' The point that I have just made is that in 1976 and in 1983, in both the recent Electoral Commission hearings, the Liberal Party argued strongly that the commission ought to look at whether or not a fair election result would be produced. I know for a fact that various calculations done by various officers associated with the State Electoral Commission play around with some voting figures during previous redistributions. Various people associated with the commission may well deny that, but I know for a fact that that is the case.

The problem was that both commissioners in their reports rejected the fact that they should give any consideration to the political ramifications of the drawing of the 47 electoral districts. They said that the Act did not require it and therefore they would not do it, and the eventual electoral result based on the 47 boundaries was not a matter that the Act required them to consider. If one looks at the matter technically, we could adopt the same position as the commissioners adopted. It was not supported by the Liberal Party. We argued, when referring to other matters that the commission felt were relevant, that what was relevant in an electoral redistribution was the fundamental question of whether the whole box and dice was fair and whether a Party that won 50 per cent of the vote would have a reasonable prospect of winning Government.

The Hon. T. Crothers: We won 53 per cent once: you got 20 seats and we got 19.

The Hon. R.I. LUCAS: I do not intend to be diverted by the Hon. Mr Crothers, but I would welcome a contribution from the honourable member dealing with the electoral history of the 1950s and 1960s and whatever particular example he might like to trot out. I would welcome a discussion with the Hon. Mr Crothers on another occasion in relation to that. What we are talking about is the here and now and the system that we have and the system that we are seeking to change.

The Hon. T. Crothers: The Labor Party has acted with celerity.

The Hon. R.I. LUCAS: The Labor Party has acted with what?

The Hon. T. Crothers: With great speed.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I would not agree that the Labor Party has acted with great speed because the point I am making is that it has not. However, to be fair, I have placed on the record that, with the Hon. Don Hopgood in charge of the Lower House—

The Hon. R.R. Roberts: He's a beauty!

The Hon. R.I. LUCAS: He's a centre lefty?

The Hon. R.R. Roberts: He's a beauty!

The Hon. R.I. LUCAS: I have placed on the record that the Labor Party has entered into it with good grace and a preparedness to look at the problem that had been identified and with a preparedness to try to do something about it. I have already placed on the record my congratulations in that respect. We argued this case in 1976 and 1983. My colleague the Hon. Trevor Griffin then took the argument further.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: You wouldn't want to remember 1979—that would be a nightmare! Having been unsuccessful before the Electoral Commissions in 1976 and 1983 we then brought the debate to Parliament and to this Chamber. Many members were in this place at that time—that is, August and September 1989—when my colleague the Hon. Trevor Griffin in effect introduced amendments to section 83 of the Constitution Act to try to achieve fairness in the electoral system. The Hon. Mr Griffin moved an amendment to ensure that, as far as possible, when you won 50 per cent of the vote you would win Government. This was in September 1989. One of the advantages of having a bit of time through the day to check back on previous speeches is that you can certainly add some colour and flavour to the speeches of the evening.

The Hon. R.R. Roberts: A research officer helps!

The Hon. R.I. LUCAS: Yes, a research officer does help, but in relation to that particular debate, just 12 to 15 months ago, the Hon. Mr Griffin moved, with the support of the Liberal Party, to place this fairness provision within the criteria for the making of an electoral redistribution. The

Government's charge was led by the Attorney-General. I think it is fair to say that he was not too rapt in the idea of having this particular provision in the Constitution. In fact, on 27 September 1989, as reported in *Hansard*, he said:

> The Government considers that the inclusion of such a political criterion in the process of electoral redistribution is, in theory, undesirable and, in practice, unachieveable.

That is a fair indication that he was not too rapt in it. He went on:

> Before dealing with the undesirability of the proposal and its practical difficulties, it is important to debunk the justification offered by the Liberal Opposition for the inclusion of this political or voting intention criterion.

Further on, he said:

> Indeed, it is worth noting that in every election since 1977 the Party that has gained over 50 per cent of the vote has formed the Government.

Further on again, he stated:

> Therefore, the practical test of the fairness of the current system is that, in every election held under the present system, the Party gaining more than 50 per cent of the votes has formed the Government.

Further he stated:

> That contrasts starkly with the situation that occurred in this State in the 1950s and 1960s when on more occasions than not the Party gaining the majority of votes did not form the Government.

Certainly, you could buy an argument on that. At a number of elections you could argue that, but certainly not about a majority. The Attorney-General continued:

> Clearly, that system was unfair and led to popular agitation for change. In fact, it led to the 1975 proposals which are currently in the Constitution Act.

The Attorney also said:

> The Leader of the Opposition claims that he needs to gain 52 per cent of the vote to win Government. That claim was dismissed by the well known political analyst, Dean Jaensch, when on 2 August, he said on the *7.30 Report*:
>
> > Any statement that a Party needs a certain proportion of the votes to win government is really based on a misapprehension. There is, for example, a feeling that the Liberal Party needs 52 per cent of the votes to win government. That is based on a misapprehension, and that misapprehension is quite simply: it is based on the assumption of a uniform swing.

That is the end of the Dean Jaensch quote. Then the Attorney said:

> That never happens.

There we have the then Leader of the Opposition, John Olsen, claiming prior to the election that the Liberal Party needed to win 52 per cent of the vote to win government. We had the Attorney and Dean Jaensch, the well known political commentator, saying that that was a lot of nonsense. I guess they were right, in a perverse sort of way. We won 52 per cent of the vote and we did not win government. We needed more than 52 per cent of the vote to win government.

That, of course, was not the suggestion that was being made by Dean Jaensch and by the Attorney-General. The suggestion, of course, was that it was nonsense for the Liberal Party to be suggesting, prior to the election, that the system was unfair and that one could predict the unfairness of the electoral system to a sufficient degree of accuracy to say that we needed 52 per cent of the vote to win government, and that we were saying that for a long time prior to the State election. As it turned out, we polled 52 per cent of the vote and we still could not win government, contrary to the views of Dean Jaensch and the Attorney-General.

I do not want to put the boot into my friend and colleague, Dean Jaensch. I have had many a debate on electoral matters with Dean over the years. He and I have differed on occasions and we have agreed on many others. However, let me say—and he would well know my views on this matter—that on this occasion, and in relation to this issue, I disagree with the views that he put prior to the election and, indeed, subsequent to the election as well.

Before I turn to Dean Jaensch's comments, I want to further quote the Attorney in rounding up his contribution just 12 months ago:

> I believe that the sort of problems I have outlined condemn that proposal as being unrealistic, not tenable in theory and impractical to implement.

I think it is fair to say that he was not, to use a colloquial phrase, rapt in the suggestion that in fact we have before us on this occasion. I again say that I think as a democracy, a Parliament, and a political Party, we are indebted to the fact that Don Hopgood did handle the discussions on behalf of the Government with, in the end, a very good result, we believe, for democracy and, in particular, our electoral system.

I want to address some comments to the contribution of Dean Jaensch to the select committee. Dean, on that occasion said:

> Page two of my written submission summarises the 1989 election results. The interpretation I would make of the results of the South Australian election is that neither the Labor Party for the Liberal Party could claim an absolute majority of the vote after counting to a two-candidate contest.

As I said, I am not sticking the boot into Dean, but I disagree strongly with him on this matter. Just prior to the election, he was arguing that the Liberal Party did not need 52 per cent of the vote to win. Even after the election, when the independent Electoral Commissioner (Andy Becker) went through the figures himself and produced a two-Party preferred vote of Liberal versus Labor which indicated that the Liberal Party got 52 per cent of the vote and did not win, we still had Dean trying to maintain what I believe is an untenable position—one that cannot be defended—that, when one looks at the results of the 1989 election, neither the Labor Party nor the Liberal Party could claim an absolute majority.

That is certainly not a view shared by virtually every other independent electoral commentator or the independent Electoral Commissioner. People such as Andrew Parkin, Malcolm Mackerrass, a number of other independent electoral commentators, most journalists, most members of the media and even the Labor Party—even my friend and colleague the Hon. Trevor Crothers—accept that the Labor Party got 48 per cent and the Liberal Party 52 per cent of the vote at the last election. I have spent a good part of my life—on and off for 17 years—involved in looking at electoral and voting systems, and analysing electoral results. A large part of that time was spent looking at the work over 10 or 20 years of people such as Neal Blewett and Dean Jaensch, who were persistent critics of the Playmander, as they described it.

They used to great effect in books that are now texts for politics students in schools and universities that analysis of the two-Party preferred vote and uniform swings and yet now, when the boot is on the other foot, when criticism can be made of the Labor Party's electoral system, all of a sudden Dean Jaensch and others will seek, in effect, to discredit their whole life's work in relation to the two-Party preferred vote and uniform swings, and say that it might have been relevant when we were talking about the Liberal Party's electoral system, but it is now no longer relevant when we talk about the electoral system of the late 1970s and the 1980s. Indeed, I recall in 1983 having the same argument in relation to the two-Party preferred vote with Don Hopgood at the Electoral Commission hearings.

As I have said, the 50 per cent criteria is, in my view, the fundamental question, but there are a number of other aspects to which I wish to address some comments. First, in relation to the other criteria, it is worth noting that at long last the criteria of existing electoral boundaries will now be withdrawn. I support that view and have supported it for a while. Hopefully, the Parliament will now support it as well. In my view, it is an impediment to the fundamental question of drawing a fair electoral system and that ought to be the overriding criterion. If we can have the protection of the existing boundaries after that, that is well and good but, in my judgment, it ought not to be an end in itself. The other major change in relation to the criteria is the question of now having redistribution after every election.

There are some arguments for and against that. Ten years ago I would not have thought that I would be supporting this provision at this time, but I am persuaded on balance that, if we want to ensure that we have a fair electoral system, and if we want to ensure that to as great an extent as possible we keep electorates almost equal, or at least within the plus or minus 10 per cent tolerance factor, we need to have this provision in the Constitution Act.

There will be some problems with that. Some electors like to know in which electorate they will be and, if they are to be changed around perhaps every four years or so, they will have some genuine concern. But, I think that that is a small price to pay for the greater good, the greater good being a fair electoral system.

The other argument one can make about that is that, by having an electoral redistribution after every election, it is likely that we will minimise the extent of the change. As we are now having an electoral redistribution some eight years after the last one, there will have to be quite significant changes to most boundaries, particularly in electorates like Fisher, where there is an electoral population of around 27 000 or 28 000. Paragraph 9 of the select committee report states:

> It follows from the committee's recommendation (paragraph 7 above) that ideally all electorates should be on quota at the time of the election for which the boundaries have been drawn. This is in line with the committee's reference in paragraph 6 above which places emphasis on the principle of equality of enrolments. It is desirable that the commission in its attempt to realise this aim should use a 10 per cent tolerance as the maximum so as to take into account probable demographic changes.

Members will note that while that is a recommendation of the select committee it has not been reflected in the proposed amendment to the Constitution Act, and that is because the committee, in considering that, rejected amending the Act; it made a conscious decision to refer to it in the report but obviously also made a conscious decision not to include it in the amending Bill.

I am not sure of the reasons for that; I guess there are many possible reasons upon which I cannot really speculate. However, I want to place on the record that I personally do not support the intention of paragraph 9 of the report, that is, I do not support the view that, given that we are to have an electoral redistribution every three to four years, we need to be arguing that ideally all electorates should be on quota at the time of the election for which the boundaries have been drawn.

Not only do I argue that that is not my personal view, I argue that the electoral commissioners, in considering what they have to do, should not feel bound by the recommendation of paragraph 9—and I am sure the commissioners will know that they are guided by what will be in the legislation. However, I certainly do accept the argument that the commissioners, over a period of three to four years, should be seeking to ensure that electoral numbers stay within the bounds of plus or minus 10 per cent.

Our whole electoral redistribution process has been predicated upon the argument that equality of electoral numbers has been interpreted by Parliament on a number of occasions to mean equality within a band of plus or minus 10 per cent. It has never been argued that it means absolute equality at any particular time. That is a provision in the Commonwealth Electoral Act, and argues that, at the mid point of a redistribution, all electoral districts or divisions ought to have equal numbers. That provision has never been in our State Electoral Act and I do not believe that it is a provision that ought to be in that Act or in our Constitution Act. Obviously, the select committee, for whatever reason, must have supported that view in the end for, whilst as I said it is referred to in the report, it is not included in the recommendations.

I believe that the commissioners ought to look at keeping electoral numbers over the three to four years within the plus or minus 10 per cent, but they ought not to feel constrained by having to aim at having all 47 seats at an equality of numbers by the time of the State election. The commissioners really have to be bound only by the overriding criteria of ensuring a plus or minus 10 per cent factor and a 50 per cent plus one factor. Page 4 of the select committee report states:

> Ideally, the enrolments in each electorate should be such as to be equal on the day on which the House of Assembly would expire by the effluxion of time.

My personal view is that the commission should not necessarily be bound by that. Paragraph 11.5 recommends:

> The Electoral Districts Boundaries Commission's attention be drawn to the importance this committee places on the concept of maintaining electorates within quota during the life of the distribution.

As I indicated, I support that provision. There is also a suggestion on page 5 of the report about targeting marginals. I do not want to spend too much time addressing that point, but it is a notion that has been put by our political opponents, that the reason the Liberal Party ended up with 52 per cent of the vote but did not win government was that the Labor Party was better at targeting the marginals. Being frank, I confess that perhaps a decade ago one could have argued that point successfully. However, I reject it, and reject it most strongly, in relation to the 1989 State election. I do not need to go into all the detail of what the Liberal Party did in its marginal seats, but in my view its campaign was as professional and as intense as the campaign conducted by our political opponents.

I make another comment in relation to what is known as the top-up system. I will not go into the background because members who have read the report will be aware of it. The select committee report states:

> The alternative was to give electors a second vote which indicates the Party which they would like to form the Government.

That is not necessarily so. One of the versions of the top-up system is to have a second vote, and that is what happens in the West German electoral system. It is possible to look at a top-up system that does not rely on a second and separate vote. I would like to address a whole range of other matters but, in due deference to my colleagues, I will not go on for too long this evening. I have addressed the major issues and I offer my congratulations to all members on both sides of the political fence who have been involved in getting us to this stage. I indicate strongly my support for the second reading of the Bill.

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

REFERENDUM (ELECTORAL REDISTRIBUTION) BILL

Adjourned debate on second reading.
(Continued from 22 November. Page 2169.)

The Hon. R.I. LUCAS (Leader of the Opposition): This is a companion Bill to the Constitution (Electoral Redistribution) Amendment Bill, and I want to address one matter in relation to the second reading. Obviously, as the Hon. Mr Griffin has indicated, the Liberal Party supports this Bill. The only question I want to address is that of what alternatives there were to this provision. A number have been discussed in another place and in the media, and I want to address some comments to one suggestion that was made by the member for Flinders (Mr Blacker).

That was an argument that we could not support the cost of a referendum early next year because it would cost $2 million to $3 million and that the way of preventing that was to increase the number of members in the House of Assembly and to reduce by four the number of members of the Legislative Council. I have made some public comment on that, but I want to address some brief remarks in this Chamber to this option. I do so, I think, with the support of members of all political Parties in this Chamber—Labor, Democrat and Liberal—to indicate what a foolhardy notion was that suggestion from the member for Flinders. The notion that the Legislative Council could remain an effective Chamber with a reduction of almost 20 per cent in its size is clearly one that I do not personally support; nor did the Government or the Liberal Party in the other place.

I do not want to delay the debate, but I wish to express my strong opposition to this suggestion. As I understand it, the member for Flinders had very little discussion with members of the Liberal Party and, certainly, no discussion at all with members of the Liberal Party in the Legislative Council in relation to the provision. If the Legislative Council was to lose another four members, it would make the operation of this place and its committee system almost impossible.

It is difficult enough at the moment with 22 members of this Chamber to service all the select committees suggested by members of the Legislative Council and, indeed, to do the range of work required of this place. To take another four members from our meagre number would make it almost impossible.

I know that it is not a politically popular position to take (and it never would be) but, if you were going to argue about the size of the Legislative Council, I should have thought that you could make a more persuasive argument for an increase. Certainly, there is no persuasive argument at all for a decrease. The political situation being as it is, neither the Government nor the Liberal Party is arguing for an increase in the number of members of the Legislative Council, but we oppose vehemently the suggestion by the member for Flinders that he should seek to weaken the operation of this Council by reducing by almost 20 per cent the number of members in this place. I support the Bill.

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

BUILDING SOCIETIES BILL

Adjourned debate on second reading.
(Continued from 21 November. Page 2066.)

The Hon. K.T. GRIFFIN: Even though this Bill was introduced on 21 November, a mere two weeks ago, and comprises 151 pages with 221 clauses, the Opposition is prepared to give some consideration to it now. The Bill has been around for a long time in the course of its development, although the final Bill which was introduced contains a number of amendments from earlier drafts, some of which have not yet been fully considered by various building societies that will be affected by it. Notwithstanding that, the Opposition will support the second reading of the Bill, but it will have a number of matters to raise during the Committee stage.

There are five permanent building societies and five Starr Bowkett building societies registered under the Building Societies Act 1975. I gather from the second reading speech that assets exceed $1.9 billion and group assets are approximately $2.2 billion. In an environment of financial deregulation and greater competition, the building societies took the intiative to propose to the Government that there should be a review of the Building Societies Act 1975. The Building Societies Advisory Committee undertook that review, and the Bill results from the report of that committee, submissions by building societies, auditors and other advisers.

I understand that the Bill does not reflect completely the recommendations of the Building Societies Advisory Committee, but discussions with the South Australian Association of Permanent Building Societies indicate that the building societies wish to have the Bill passed by Christmas of this year. They say that some technical matters need attention, but they would not want to hold up the passing of the Bill to deal with those matters. They are confident that, in the light of the consultation with the Government so far in developing the Bill, those matters can be dealt with satisfactorily by an amending Bill in 1991.

I do not necessarily share the view that they can be satisfactorily concluded, but, on the basis that it is the building societies which will be affected by this legislation and they are anxious to have it passed to form the basis for legislation in other States, the Opposition will not stand in the way of that. I understand that if the Bill is passed it may form the basis for legislation throughout Australia, particularly in New South Wales and Queensland, in respect of prudential standards and capital adequacy requirements.

The major change in this legislation from the existing Act relates to the provision of prudential standards and capital adequacy requirements, and much tighter monitoring by the Corporate Affairs Commission. The second reading speech identifies in summary those prudential standards and capital adequacy requirements where it explains in four points the approach which is taken. It states:

> 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 tranactions. 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 apropriate 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 summary, that will form the basis for the significantly improved capital adequacy requirements and prudential standards for building societies in South Australia. That is to be contrasted with the position in Victoria, which I am told is something of a mess and, with the experience of Pyramid Building Society in that State, one can understand why that judgment may be made.

Building societies in South Australia are an important part of the home lending market and also of our financial institutions sector of our State economy. They have expanded as deregulation of the banking sector has moved forward and building societies have filled a niche that banks could not provide. The building societies in this State have never experienced the financial difficulties that have been identified in at least Victoria.

They are stable and reliable and sensitive to market requirements and to consumer needs. The additional requirements of this Bill will ensure that they continue to play an important part in the financial markets and that there is very little prospect of any difficulty occurring with their financial adequacy and, if there were any risks, that they would be detected at a very early stage.

It is hoped that this legislation will form the basis of uniform standards throughout Australia, standards which recognise the unique position of building societies which are, in fact, cooperatives and which are to be distinguished from bodies such as the Pyramid Corporation and Building Society Group in Victoria, which did not reflect the true status and structure of building societies.

The Bill provides for a minimum 50 per cent of a society's group assets to be held in the form of residential finance either owner-occupied or tenanted. There are controls over possible changes in the ownership. Controls on activities of building societies in South Australia and conversions to company status may proceed only upon the recommendation of a committee comprising the Corporate Affairs Commission, the Treasury, the Department of Housing and Construction, and the industry itself with the approval of the Minister of Corporate Affairs.

Building societies will be able to borrow in foreign currency provided that the borrowing is hedged against adverse movements in the foreign currency. In raising funds from the public, a building society must issue a disclosure statement which is not dissimilar to a prospectus. This applies where the building society issues securities such as permanent shares and prescribed interests. Permanent shares may be traded on an exempt stock market. Interstate building societies will be able to be registered as foreign building societies only if they trade in South Australia, comply with the prudential standards applying to local building societies, and comply also with the requirement of one member one vote and the limitation of 10 per cent on shareholding by any person or group.

The only jarring note in the legislation of any significance is the continual or potential control by the Government of interest rates to be charged by building societies. The Bill provides for control over all interest rates by notice given by the Minister in the *Gazette*, whereas under the present Act there is a provision which would allow a regulation to be made by the Government to control interest rates in respect of certain loans on residential premises. The building societies wish to have the constraints on interest rates imposed by the Government in this Bill removed. The societies argue that such potential control by Government over only one sector of the financial institutions sector is unfair and unreasonable and is in conflict with the move towards deregulation and with the prudential or capital adequacy requirements.

In fact, the proposition is—and I think there is some substance in this—that leaving in place a potential for interest rate regulation by Government over non-government agencies conflicts with the duty of the building societies to so manage their affairs that they are competitive in the marketplace and maintain the prudential or capital adequacy requirements in this Bill which are not dissimilar from those which apply in other sectors of the financial institutions sector of the economy.

The Government argues that the potential control over interest rates is retained as a matter of social justice. That is somewhat incongruous in the context of these societies not being governmental agencies. The threat to invoke a regulation has been used by Labor Governments to control interest rates on a number of occasions, particularly prior to State elections. However, as I say, as a matter of principle, such control or threats of control are contrary to what is happening in the area of financial institutions.

The State Bank does not suffer the same threat of interest rate control over loans as is proposed for building societies or even as exists at the moment under the Building Societies Act. The controls do not exist for banks, credit unions, friendly societies or cooperatives. So, it is a proposal of the Opposition that, during consideration of the Bill in Committee, we will be endeavouring to remove that control—not being insensitive to the potential criticism that the Government may seek to make of that and the political position it may choose to adopt, but on the basis that, if in a deregulated financial environment there are these controls of interest rates, it does prejudice the capacity of building societies to act competitively with other financial institutions and, more particularly, potentially compromises the capacity to comply with the prudential standards and capital adequacy requirements.

A number of matters will have to be addressed in the Committee stage of the consideration of the Bill. To enable some notice to be given now of those, I will briefly run through them, for the Minister. The first relates to a number of provisions of the Bill which refer to exemption from or compliance with provisions of the Companies (South Australia) Code, the Companies (Acquisition of Shares) (South Australia) Code and the Securities Industry (South Australia) Code. I have no difficulty with that. It is just that, if the new Commonwealth corporations law does finally come into operation, it is important in my view to ensure that the Companies (South Australia) Code and related legislation to which I have referred applies to building societies, with exemptions from it or variations to it as specified in the Bill, and that the Commonwealth corporations law does not impinge upon building societies. As I understand it, that is certainly not the intention, even of the new Commonwealth corporations law, but in his reply the Minister needs to clarify the status of that law in relation to this Bill.

With respect to clause 9, the commission is subject to the general control and direction of the Minister. In some parts of the Bill, reference is made to an appeal from the commission to the Minister and, where this is provided, there is no right of appeal to the court. In these circumstances, the matter of appeal to the Minister only is of some concern; but the greater concern is when a direction has been given by the Minister to the commission in pursuance of which it has acted in a particular way and then an aggrieved party appeals to the Minister. In these circumstances, it seems to

me that an appeal to the Minister who has already given the earlier direction with which the commission has complied is inappropriate, and such an appeal should be to a court.

Clause 14 provides for registration of building societies. A foreign building society is not to be taken as carrying on business in South Australia by reason only that it holds meetings of directors or shareholders or carries on other activities concerning its internal affairs (subclause (2) *(b)* (ii)). 'Internal affairs' needs to be defined. Probably the best way to deal with this is to delete the reference to carrying on 'other activities concerning its internal affairs'. It seems to me that, if there is a meeting of shareholders or directors which is publicised and which deals with so-called internal affairs, they may extend to offering loans to members of the public, who can then become members and such a loan might then be described as an internal affair.

Clause 14 (2) *(b)* (v) excludes foreign societies from registering where they are soliciting or procuring 'any offer that becomes a binding contract only if such offer is accepted outside the State'. It is my view that it is an open invitation to manipulation and it ought to be deleted. Of course, it is not uncommon for a building society interstate to offer loans in this State and for them to be entered into without the protections of South Australian law and to then be accepted back in the home State or some other State where the building society carries on business. There is no indication in this legislation whether or not the exemption is to apply if the terms and conditions of the loan and the documentation comply with the law of the State in which the builing society is registered. So, it seems to me that this is open to manipulation, and unless there is some persuasive reason as to why it should remain in this clause I will move to delete it.

A building society must have paid-up capital of not less than $10 million or such other amount as may be prescribed. It is my view that this is a matter of such substance that we ought not to allow the variation of this figure to be made by regulation. It is a threshold figure; it goes to the heart of the prerequisites for registration or for a building society to continue in operation. Accordingly, I will seek to remove the power to vary that by regulation.

Clause 24 (4) gives the Corporate Affairs Commission power to make a change to a society's rules unilaterally. I am not persuaded that there is a good reason for that. My recollection is that there was something similar in the Associations Incorporation Act—and I have not had time to look at that yet. However, that was amended when we dealt with that to remove that unilateral amendment to a society's rules. I think that, unless there is a good reason, it ought to be removed.

Minors can be members of a building society. That is covered in clauses 26 and 102. However, I think there needs to be some clarification of what minors who are members may or may not do with their shares. It is not clear that they may transfer them; it is not clear that they may consent to them being cancelled. There is a whole area of consequences which flow from minors participating. Ordinarily, I would suggest that they cannot be bound in contract and that means that they are very much limited in what they can do with their interests, as are building societies in dealing with those minors.

Clause 35 provides for a limitation on shareholding by a member or a group of associated members to 10 per cent or such other percentage as may be prescribed. I propose removing the power to prescribe some variation to that because I think that it is again a threshold question, although I make it clear that I do not intend to override the right of a building society to set its own lesser percentage in its rules.

I have already dealt with clause 103, which fixes the interest rate controls. Under clause 108 the prime assets ratio is relevant to the new prudential requirements. The Bill fixes 10 per cent or another figure which may be prescribed as the holding of prime assets which must equal or exceed the percentage of the difference between the total assets of a society and its defined capital. I think that the right to vary that by regulation ought not to be included, again because that is an important threshold figure.

Clause 108 (5) allows the Minister by notice in the *Gazette* to define classes of capital that may be brought to account as defined capital. I am not sure why that should be by notice in the *Gazette* and not by regulation, and I would like the Minister to explain why it is being dealt with in that way. I would have thought that it is a fairly important question, and if anything it ought to be dealt with by regulation.

Clause 109 defines 'prescribed minimum capital' as 10 per cent or such other percentage as may be prescribed, and it is my view that the right to vary this by regulation ought to be removed. Clause 109 (5) provides for the commission to give notice in the *Gazette* declaring that if a society enters into a particular transaction it will be treated as having undertaken excessive risks. If this is allowed it seems to me that if it relates to a specific society and it is required to be published in the *Gazette* it could well create an atmosphere for a run on that particular building society. I propose that we ensure that this sort of notice cannot identify a particular building society in order to avoid that risk.

Clause 115 allows the Treasurer to guarantee a person's repayment of an advance made by a society. There is no reason for this in the second reading explanation, and I would like to have some reasons for it. It seems to me that it is an opportunity for the Treasurer to bypass requirements such as the Industries Development Committee where guarantees have to be approved. In addition, I wonder whether this is a money clause, and therefore might need to be left for consideration by the Assembly first.

Clause 119 (4) relates to the age of a director's retirement. It is possible that this may be in conflict with age discrimination legislation, and I would like to have that further examined by the Attorney-General. Special resolutions are dealt with in clause 130, and require two-thirds of the members entitled to vote and present at a meeting personally or by proxy to register votes in favour of a resolution. It is my view that that should be amended to two-thirds of those present and voting, because I think that that would bring it into line with the provisions of the Companies Code.

Clause 156 provides that the restructuring review committee will comprise four people: the Commissioner for Corporate Affairs; a nominee of the Treasurer; a nominee of the Minister of Housing and Construction; and a person who, in the opinion of the Minister, is suitably qualified to represent the interests of building societies.

I have a view that, first, the term for which that committee is appointed ought to be fixed. It can be open to manipulation if the appointment is during the pleasure of the Minister, as the Bill provides. Secondly, the Association of Permanent Building Societies ought to be involved in the selection of that suitably qualified person.

Clause 221, the regulation-making power, is very wide, and I have a number of questions about the extent of the regulations which might be proposed under that clause. I will raise those questions during the Committee consideration of the Bill. With those matters in view, although they

are not an exhaustive summary of the matters which require some clarification or will be the subject of amendment, I indicate that the Opposition supports the second reading of the Bill.

The Hon. L.H. DAVIS: I, too, support the second reading of this most significant Bill. Building societies had their origins in England 200 years ago and, at that time, social and cooperative philosophies combined to bring people together for a common purpose. It is interesting to note that building societies originated in Australia almost 150 years ago. Indeed, some of the building societies in South Australia were formed in the mid-nineteenth century. The Hindmarsh Building Society and the Imperial Building Society, which is now known as the REI Building Society, were creatures of the nineteenth century. The Cooperative Building Society of South Australia was founded in 1900.

I have had a long association with building societies and watched their progress and growth with interest. I have also watched the difficulties and challenges which they have experienced in the rapidly changing capital market in which they operate. In the past 20 years, there have been dramatic changes in building societies. I noted with interest in my file on building societies that, in 1980, there were 140 building societies in Australia. Admittedly, 95 of those societies represented 99 per cent of the business conducted by building societies throughout Australia. At that time, the Cooperative Building Society was the twelfth largest and the Hindmarsh Building Society was the fourteenth largest. In 1980, just a decade ago, South Australia boasted nine building societies. Today, South Australia has only five building societies, and only 58 societies, with assets totalling $22 billion or $23 billion, are active in Australia.

The Hindmarsh Building Society and the Cooperative Building Society of South Australia are both approaching $1 billion each in assets and rank among the top seven building societies in Australia. The other building societies in South Australia, which are much smaller, are the REI Building Society, the Mutual Community Building Society and Manchester Unity-Hibernian Building Society.

Building societies in other States have had significant difficulties, most notably the Farrow group in Victoria. It has been impressive, to say the least, that, notwithstanding the turbulence which has been associated with financial markets over the past two decades, building societies in South Australia have been able to ride out some quite severe financial storms.

I believe that one of the reasons for this is the good management and sensible regulation of building society activities. It is instructive to note that, in looking at building society assets around the nation, Victoria stands out from the other States in terms of the proportion of building society assets that were devoted to loans other than for owner-occupied housing. I believe that one of the essential strengths of building societies, one of the reasons which enabled building societies to grow strongly during the 1970s and particularly during the early 1980s, was their commitment to providing finance for shelter.

So, in South Australia, with approximately $2 billion in assets at the present time, a good 50 per cent of those assets are devoted to loans for owner-occupied housing. That contrasts very sharply with the position in Victoria, where a very large percentage of assets is devoted to loans for development and real estate other than owner-occupied housing. Of course, that was one of the problems that precipitated the collapse of the Pyramid and Farrow groups.

It is important to recognise that in these difficult times the building societies in South Australia have performed very creditably. Certainly, State and Commonwealth legislation has regulated building societies, controlled asset ratios and lending policies, and determined maximum interest rates paid and received by permanent building societies.

Building societies have been required to lodge data with the Reserve Bank and the Australian Bureau of Statistics on a monthly basis. Those details cover transactions, account balances, rates of interest on loans and deposits which, has enabled some monitoring of building society operations. Of course, we have in existence the Building Societies Act 1975. In the legislation before us this evening, with some 220 clauses encompassed in 150 pages, I believe that we have pathfinding legislation, legislation that leads the way for building societies in Australia.

It is important to recognise that in the past few years there has been a dramatic change in the nature of the financial market and the challenges facing the financial market in Australia. First, the deregulation of the banking sector meant that a large number of foreign banks were introduced into Australia. It also meant that the trading and savings banks locally based, which previously had had restrictions on some facets of their operation, were now competitive in every respect with building societies.

Building societies found themselves disadvantaged in the marketplace as banks fought for market share in this new and very competitive environment. It is a tribute to building societies that they have managed to withstand the pressure and meet the challenge. In fact, in some cases they have varied the nature of their operations.

One can reflect, for example, on the Cooperative Building Society of South Australia which now not only offers its traditional shelter finance but also has branched out to provide retirement services. It is now certainly the largest provider of retirement units in South Australia and it has extended its operations into Queensland and it also has a significant presence in the United States. It is also active in offering financial services, investment advice and security services. That strategy of broadening its base to build not only on the pyramid of its traditional shelter finance but in other areas is paying handsome dividends in building a significant base for the last decade of this twentieth century and beyond.

This legislation has been three years in the making, and I think that it reflects great credit on the Building Societies Advisory Committee which undertook to review the Building Societies Act. There has obviously been enormous input from the building societies of South Australia, and the result is a great credit to all concerned. This legislation, as my colleague said, may well be used in time by other States. It is model legislation.

Among the key ingredients of this legislation are the provisions for capital adequacy and prudential standards. There is a recognition by building societies that they must meet financial standards and that they must be prudent in the management of their funds because, as with all financial institutions, their ultimate success is based on good financial management.

The growth of the building societies over the past two decades in particular has necessitated a review of what is required of them. Before detailing some of the more important aspects of this legislation, it is perhaps appropriate to reflect on how quickly they have grown. I looked in my file on building societies and was rather startled to discover a balance sheet from the Cooperative Building Society of South Australia of 1970. At that stage it had total assets of just $28 million.

I also noted that I had an annual report for the Cooperative Building Society for the year 1980, and discovered

that the assets had grown in that decade from just $28 million to $251 million; but, of course, in the last decade the absolute growth has been greatest because we are now looking at a building society tilting at close to $1 billion. That is significant growth. It is a very large financial institution and, of course, it is one of the biggest providers of home finance in South Australia, along with the well established Hindmarsh Building Society.

Along with my colleague the Hon. Trevor Griffin, I accept that the industry is anxious to have this legislation passed before the end of 1990. Inevitably in such a large Bill, several matters require attention, I accept that there are some matters that, in good faith, can perhaps be addressed at a later stage, and I would like to think that the Minister responsible for the passage of this legislation will undertake to examine matters which are raised in Committee and which may be the subject of amendment at a time not too distant.

I want to focus on some of the matters that I believe need attention, because I accept that the Bill is a reflection of what the industry wants and what the Government believes is appropriate for building societies in this State at this time.

Clause 3 includes the following definition:

'bank' means a body corporate authorised under the Banking Act 1959 of the Commonwealth to carry on the business of banking, and includes the State Bank of South Australia.

On my reading of that definition, it does not include other State banks such as the R and I Bank in Western Australia, the State Bank of Victoria or the State Bank of New South Wales. That provision should be amended to recognise banks which may be granted licences under the Reserve Bank Act or which may be granted licences pursuant to State Acts because they are State banks. It is appropriate to examine that definition.

Similarly, the definition of 'profit or loss' is superfluous; it is as follows:

'profit or loss' means—

(a) in relation to a building society—the profit or loss resulting from the operations of the building society;

I am not sure what that means or why we need it, because I believe that 'profit and loss' is adequately defined in the Companies Code.

I turn now to clause 44, which provides:

A building society must not issue any securities at a discount.

That clause is quite inappropriate. Securities issued at a discount could include bills of exchange or promissory notes. Promissory notes, by their very nature, are securities issued at a discount, and those promissory notes might be issued for 90 or 180 days. It is a form of short-term funding and some of the building societies in South Australia have promissory note facilities. They have issued promissory notes; a 90 day promissory note might be issued at $95 to mature at some future date at par of $100. That is a security issued at a discount, yet clause 44 seeks to prohibit that transaction, which is already a common transaction.

Furthermore, clause 44 would forbid building societies issuing zero coupon bonds, another technique of fundraising. For example, those bonds could be issued at $65 and they would mature in, say, eight years at $100. In other words, instead of receiving a regular interest payment, the lender would receive a rolled up amount reflecting both the principal and interest repayments at the end of the period. That is another example of a security issued at a discount.

Clause 108 recognises that the prime assets of a building society may include the monetary value of bills of exchange which have been accepted or endorsed by a prescribed bank and which are payable within 200 days. This clause recognises that bills of exchange may well be prime assets held by a building society; yet, on the other hand, under clause 44, securities cannot be issued at a discount. That clause clearly is a nonsense and should be struck out of the Bill.

It is also true to say that clause 44 conflicts with clause 19 (1) *(b)* which gives building societies the general power to borrow money. I accept that there may be circumstances where a building society should not issue securities at a discount, but that could surely be covered by regulation rather than by this very broad dragnet clause that knocks out every possible type of security issued at a discount.

I turn to clause 103. As my colleague the Hon. Trevor Griffin noted, this is a draconian clause. It seeks to limit the ability of building societies to vary their rates of interest. It provides:

(1) The Minister may, by notice published in the *Gazette*—

(a) fix a maximum rate of interest applicable to loans, or a class of loans, made by building societies to their members;

and

(b) vary or revoke a notice under this subsection.

(2) Subject to this Act, a building society must not charge interest on a loan made by it to a member of the building society at a rate exceeding a maximum fixed under subsection (1) that is applicable to the loan.

What does that mean? It means that the Minister, in this day and age of deregulation, has the power to control the rate of interest charged by a building society. I find that draconian and unacceptable, and quite out of line with the deregulated market place that applies today. It is quite unacceptable that the Government allows the State Bank, the major provider of housing finance in this State, to vary interest rates at the drop of a hat, yet building societies, which in many respects are the State Bank's major competitors, are disadvantaged and rely on the Minister's whim or some predetermined formula before they can vary market interest rates.

We have come a long way from the days of and the debate on the control of interest rates. We are a good deal more sophisticated not only in our attitude towards interest rates but in terms of the range of products that are available giving people a choice as to interest rates. Products are available that allow people to borrow at a fixed interest rate for a period of time, for example, a fixed term home loan for, say, three years at a rate in the prevailing market climate of as low as 13.5 per cent.

Alternatively, one may be more optimistic and prefer to borrow and pay off principal as well as interest, and so accept a variable home loan rate. There are also slow start loans where, to enable homebuyers to get set in the marketplace when they otherwise may not have sufficient earning capacity to meet mortgage loan repayments in the early stages of that loan, they are able to borrow and repay at a lower rate in the early stages and then perhaps at a higher rate in the later years, when they have the capacity to make such repayments. We have come a long way in the past few years.

Therefore, it is grossly inappropriate to saddle the building societies of South Australia with a limitation of the nature contained in clause 103. Just to put this matter into perspective, I have examined the existing regulations State by State for building societies with respect to interest rate controls by Governments. The New South Wales Government has a formal power to regulate interest rates, but that power has never been used. In Victoria, Western Australia, the Australian Capital Territory, the Northern Territory, Tasmania, no interest rate control exists. In Queensland, no maximum rates are prescribed. In other words, in what is in all other respects very pioneering and indeed exciting

legislation, South Australia is being very old fashioned and quite out of step in its approach to interest rate control.

There should be no interest rate control on building societies in my view. The marketplace will put the pressure on building societies if they keep their rates too high, and if their rates are too low, it will show in the bottom line. They must be conscious of the prudential standards which are contained in this legislation, and that in itself will ensure that their judgments on the setting of interest rates will be prudent and appropriate to the market which they are serving.

The other gross anomaly about clause 103 is the fact that, at the moment, interest rate control exists but to a lesser extent. That is, in the 1975 Building Societies Act, there is interest rate control on loans of up to the value of $175 000. Effectively, I am told that interest rate control is limited to loans up to the value of $75 000. That covers a large number of home loans issued by building societies. An amount of $75 000 would be above the limit of the average home loan taken out at the moment. So, in the 1975 Act, building society loan interest rates can be and are regulated by the State Government. But it only represents approximately 60 per cent of the loans currently issued by building societies in South Australia.

This Bill seeks to make that figure 100 per cent. It seeks to control interest rates for housing loans, commercial loans, investment loans and personal loans—all loans whatever their size and their nature—that are issued by building societies. I find that a backward step, an inappropriate step and an extraordinary measure. I oppose it very strongly because, quite clearly, in the marketplace the building societies are disadvantaged.

At a time of rapid interest rate change, such as we have now, it is unfair for the State Bank to be able to move with alacrity. It gives the bank a tremendous advantage in a market that is very sensitive to interest rate movements. Building societies must wait until the Minister gives them the nod. Quite frankly, without casting any aspersions on the Treasurer and/or the Minister of Housing and Construction, in these very tough economic conditions I believe that it is quite inappropriate for such control to exist.

The State Bank of South Australia, like many other financial institutions, is clearly struggling in these very tough economic times. We heard the Treasurer, Mr Keating, admit last week, following the publication of the September quarter gross domestic product figures, that we are in a recession. The Treasurer told us that it was a recession that we all needed. We could have told the Treasurer some time before the issue of those figures that, indeed, we were in a recession.

The banks and other financial institutions are finding that their pips are squeaking just as much as those of a raft of people out there in the private sector—the small businesses, the retailers, the professional businesses, the manufacturers, and so on. However, to give the State Bank a competitive advantage at a time like this is very inappropriate. In fact, the Government could be accused of favouritism. In other words, it is giving the State Bank the ability to move rates down whenever it likes in response to these weakening interest rates that we are noting at the moment, yet the building societies are being forced to trail because the Minister has a control over the interest rate movements of building societies.

It would be very tempting for an unscrupulous Treasurer to use that to the detriment of building societies in an environment such as we have at the moment. I am not saying that would happen now, in 1990, but one can see a scenario where that possibility could be very real. I think it is quite unjust that such a political influence is working against the building societies. To use a much over-worked phrase, there certainly is no level playing field; it is tipped very much in the direction of the State Bank as the major provider of housing finance. I do not think there will be too much debate about this amendment to clause 103. One would certainly hope, on the grounds of social justice—a phrase the Government is quick to use—that this clause should certainly be amended.

I now turn to Part V, Division II, because it is at the core of this very comprehensive legislation. It governs the financial activities of building societies. A building society is required to have not less than 50 per cent of its total assets derived from loans and investments made by it in pursuance of its primary objects. In other words, the building society must focus its investments on providing loans to members for the purchase of residential buildings or for residential investments.

Those primary objects are defined in clause 15 and are given effect in that requirement in clause 107. That, of course, avoids the Pyramid Building Society fiasco where tens of millions of dollars were pumped into speculative development as distinct from residential development.

Division III of Part V deals with the building society being required to ensure that at all times it holds prime assets that satisfy the required prime assets ratio, and that prime assets ratio is defined as follows:

> ... must hold at all times a minimum tranche of high quality liquid assets which are styled prime assets equivalent to 10 per cent of total liabilities exclusive of assets.

There are also provisions for capital adequacy. The 'prescribed minimum capital' means 8 per cent, or some other percentage as prescribed, of the total weighted value assets of the building society; in other words, building societies have to maintain a minimum ratio of capital risk-weighted assets of not less than 8 per cent with at least half of this comprising core capital which is basically permanent share capital and realised reserves.

There are also requirements with respect to foreign currency transactions. Then there are limitations on building societies engaging in certain transactions such as options in futures transactions and forward interest rate transactions. They are exhaustive requirements, and I think they are most satisfactory. They have been well accepted by the building societies as prudential standards and capital adequacy requirements which they believe they must have as safeguards, and I readily accept that.

In clause 110 and onwards, and in some other areas of the Bill, there are what I consider to be perhaps some draconian measures, that where the Commission of Corporate Affairs is of the opinion that a building society, for example, has undertaken excessive risks it may vary the capital adequacy requirements for the building society, and the decision of the Corporate Affairs Commission is final; there is no right of appeal in some of these cases.

Other matters can be canvassed during Committee. I believe that this is a progressive measure, a measure supported by the industry and the Liberal Party in the knowledge that it may be, as I have said, pathfinding legislation for building societies throughout Australia. I want to restate my grave concern, however, about the undue restriction on building societies with respect to interest rate movements. I believe that clause 103, which gives the Minister power to control interest rates set by building societies in South Australia, is wholly inappropriate and should be deleted.

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

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

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

DEBITS TAX BILL

Received from the House of Assembly and read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

On 20 June 1990 the Premier wrote to the Prime Minister suggesting an 11 point program for reform of Commonwealth-State financial relations. One of his suggestions was that the Commonwealth remove the debits tax (with offsetting reductions in State grants) to leave the field of taxation of financial transactions to the States. It was the Government's intention to rationalise the taxes imposed on financial institutions to assist with micro-economic reform. Unfortunately, there was no discussion of this proposal at the Premiers Conference and, without consultation, the Prime Minister announced his intention to transfer the debits tax to the States.

Despite our best efforts to secure consideration of the original and far superior concept, it now seems certain that the Commonwealth will legislate to reduce State grants by the amount of debits tax collected in each State. Discussions have been taking place with the Commonwealth as to the precise start date of the legislation. From that date it will remove its own debits tax but have in place legislation to enable the Australian Taxation Office to collect debits tax on behalf of the States. The choice facing South Australia is simple—

- to take no action and thereby forgo $25 million per annum ($12.5 million in 1990-91) in Commonwealth grants;
- to legislate to impose a State debits tax (collected by the Commonwealth on our behalf) identical to that presently imposed by the Comonwealth;
- to find some other way of raising an extra $25 million per annum (or securing extra expenditure savings of this amount).

The Government has already had to put before Parliament a package of tax measures to compensate for the shortfall in Commonwealth funds. It has also committed itself to finding significant expenditure savings through the Government Agency Review Group between now and the end of the financial year. Given that the Commonwealth will automatically reduce this State's grants by the amount of debits tax collected, the Government has no alternative but to legislate for a State debits tax.

This Bill introduces a tax which exactly replicates the existing Commonwealth tax. Therefore, the overall tax burden on the community will remain unchanged. It is the Government's understanding that all other States and Territories intend to enact similar legislation or take other revenue measures to compensate for the reduced grants from the Commonwealth. The Bill reflects a consultative approach between State Parliamentary Counsel and their Commonwealth counterparts to ensure as far as possible that the precise form of the legislation is uniform across jurisdictions. Consultation with the Australian Bankers Association has occurred and it has advised that, in order for its members to meet the start date, those jurisdictions enacting a State debits tax must have uniform provisions.

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 sets out the definitions required for the purposes of the Act. The 'applied provisions' are the relevant provisions of the Debits Tax Administration Act 1982 of the Commonwealth applied as laws of the State by reason of clause 9 of this Bill. Clause 4 provides that the applied provisions and this Act must be read as one. This is technically necessary in the translation of the Commonwealth legislation.

Clause 5 by subclause (1), mirrors the imposition of tax under the Commonwealth Debits Tax Act 1982. Non-exempt debits are dutiable whether made to a taxable account, ('taxable debits') or to an exempt account, or account kept outside the State if the purpose of the debit is tax avoidance ('eligible debits'). (Avoidance is deemed not to occur if the debit is made in a jurisdiction which imposes the debits tax (subclause (2).) Clause 6 provides that debits tax is imposed at the rates set out in Schedule 1. Clause 7 ensures that a reference in clause 5 to a debit made to an account outside South Australia also includes a reference to certain types of accounts with building societies, credit unions, or similar bodies.

Clause 8 mirrors the Commonwealth legislation to provide that financial institutions' account holders are jointly liable to pay the tax imposed on taxable debits and to provide that the account holder of an account other than a taxable account is liable to pay the tax imposed on an eligible debit made to that account. Clause 9 applies the Commonwealth Debits Tax Administration Act 1982 (other than sections 1, 2, 6 and 8) as law of South Australia, as if the Act contained the amendments set out in Schedule 2.

Clause 10 enables the Commissioner to make arrangements with the Commonwealth Commissioner of Taxation in relation to the administration of the legislation by the Commonwealth. Clause 11 confers the functions and powers of the South Australian Commissioner of the Commonwealth Commissioner of Taxation, subject to any arrangement made pursuant to clause 10. Clause 12 introduces appropriate South Australian offence provisions. Subclause (1) makes it an offence to fail or neglect to furnish returns or information, to refuse or neglect to attend and give evidence when required, or to make a false return. Subclause (2) makes it an offence to refuse without just cause or neglect to produce books as required by the Commissioner. Subclause (3) provides that a person who is convicted of an offence and continues to fail to comply with the relevant requirement is guilty of a further offence. Subclause (4) provides that an offence is deemed to continue after the time for being required to do something has elapsed, for as long as the thing remains undone.

Clause 13 makes it an offence to evade or attempt to evade debits tax. Clause 14 provides for the time for commencing offences. Clause 15 provides that a payment of a penalty does not relieve a person from the liability to pay the tax owed. Clause 16 makes it an offence to obstruct or hinder any person acting in the administration of the Act. Clause 17 relates to offences by bodies corporate. Clause 18 provides that if the Commissioner becomes liable to pay an amount under this Act, that amount is to be paid from the Consolidated Account which is appropriated accordingly.

Clause 19 ensures that a certificate of exemption granted under the Commonwealth legislation continues to be in

force under this legislation until revocation or the expiry date on the certificate. Clause 20 is a technical provision required because of the Commonwealth Taxation Administration Act which provides for Commonwealth reciprocal investigation assistance when requested by a State taxation officer. Accordingly, it is necessary to authorise the Commissioner to perform the functions of a State taxation officer under the relevant Part of the Commonwealth Act.

Clause 21 amends the Taxation (Reciprocal Powers) Act 1989 to include the proposed Act in the definition of a 'State Taxation Act'. Schedule 1 sets out the rates of tax. It mirrors the schedule of rates in the Commonwealth Debits Tax Act 1982. Schedule 2 makes appropriate technical modifications to the Commonwealth Debits Tax Administration Act 1982 to apply its provisions as South Australian law.

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

SUPERANNUATION ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The purpose of this Bill is to make a number of technical changes to the Superannuation Act. The Superannuation Act not only establishes the South Australian Superannuation Fund but also specifies the rules relating to membership of the superannuation scheme for Government employees. The Act also sets out the rules relating to contributions and benefits. The technical amendments contained in the Bill will clarify certain matters relating to the scheme, and overcome some minor problems that have become apparent since the scheme came into operation on 1 July 1988.

In addition to the technical amendments there are several new provisions proposed to be inserted in the Act. These new provisions will either improve the operation of the scheme or are necessary to cater for changed employment conditions. Provision is also made to allow variations to be made to the provisions of the Act where a small public sector scheme is closed and its members transferred to the State scheme. The Bill also seeks to enact a provision that will allow the Governor to make variations to a public sector scheme to ensure that the tax impact on a fully funded scheme is cost neutral to the employer. An amendment that will require the actuary to report on the long-term costs of the scheme is also sought in this Bill.

The proposed amendments to the invalidity provisions of the Act will ensure that the Superannuation Board has greater control in the area of employees applying for ill health benefits. It is also proposed that the approval of the board be obtained before an employer can retire a contributor on the grounds of invalidity. The provisions of the scheme need to be modified to accommodate the new fixed term leadership appointment arrangements introduced into the teaching profession. It is proposed to have the scheme rules relating to these fixed term higher salaried positions prescribed in regulations, and the amendment to section 59 of the Act will make this possible. In general terms, a teacher who serves five years in a higher salaried fixed term position will be able to have that higher salary recognised for superannuation purposes. The Institute of Teachers has agreed to this arrangement.

Within the Government area there are many small superannuation schemes that are closed to new entrants. These schemes continue to grow smaller. The proposed amendment to the Act to include some flexibility in dealing with these small schemes will make it easier for the Government to rationalise the number of schemes and transfer the employees to the main State scheme. In some cases employees covered by these small schemes consider they have slightly better benefits or additional options. Maintaining a right to these better benefits will enable rationalisation to take place and eliminate the relatively high administration costs of these small schemes.

Clauses 1 and 2 are formal. Clause 3 inserts a requirement into section 20 of the principal Act that the trust must prepare financial statements in a form approved by the Treasurer. Clause 4 replaces paragraphs *(a)* and *(b)* of section 21 (4) of the principal Act with new paragraphs that set out more precisely the subject matter of the report under subsection (4). Clause 5 makes a technical amendment to section 22 (6) *(a)* of the principal Act. Clause 6 amends section 23 of the principal Act.

Clause 7 amends section 24 of the Act. Extrapolated contribution points depend upon the number of months between the contributor's age at the time he or she first becomes entitled to benefits and the age of retirement. To avoid an unfair loss of benefits to a contributor it is necessary that part of a month included in the period be treated as a whole month. Clause 8 replaces subsection (2) of section 25 of the principal Act. The existing subsection requires the board to report to the Minister on a proposal to attribute additional contribution points or months to a contributor.

The Government does not believe that it is appropriate that the board should report on such a matter. The subsection is replaced by a provision requiring the board to include details of an attribution of points or months in its annual report. Clause 9 amends section 28 of the principal Act. Clause 10 inserts a provision that will enable the board to require an employer to take measures to rehabilitate a disability pensioner or to find alternative employment for such a pensioner. Clause 11 amends section 31 of the principal Act. Subsections (3) and (4) are replaced as a corollary to new section 30a. After the amendment of employment of a contributor will only be terminated by an employer with the approval of the board or after the procedures in subsection (3) *(b)* have been followed. This will prevent an employer who does not wish to cooperate with the board under section 30a from terminating a contributor's employment on the ground of invalidity.

Clauses 12 and 13 make amendments that correspond to the amendments made by clauses 10 and 11. Clause 14 amends section 39 of the principal Act. Clause 15 amends section 43 of the principal Act. The amendment ensures that a pension that is suspended during a period that takes the place of recreation leave cannot be commuted. New subsection (2) provides that the contributor will be taken to have continued in employment during this period and must contribute as though his or her employment had not terminated. The contributor will be credited with contribution points during this period. Clause 16 amends section 47 of the principal Act. Clause 17 amends section 59 of the principal Act. Clause 18 adds a new clause to schedule 1. Clause 19 inserts new schedule 1a into the principal Act. Clause 1 enables public sector superannuation schemes to be closed and the contributors of those schemes to be bought

into the State scheme. Clause 2 provides for reduction of benefits to offset income tax payable in respect of public sector superannuation schemes.

The Hon. L.H. DAVIS secured the adjournment of the debate.

BOATING ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The Boating Act is an Act designed to promote safety in recreational boating. The Act contains various safety provisions including registration of motor boats, licensing of motor boat operators and breath testing of operators suspected of being affected by alcohol. First, the Bill provides for the issue of temporary motor boat registrations by selected boat dealers. The majority of the 1 500 or so new boats sold each year are delivered by boat dealers and in such cases it is usual for the dealer to initially register the motor boat on behalf of the owner. New motor boats are often sold at times when the department's offices are not open for business (for example, Saturday mornings) presenting a problem if the owner wishes to use the motor boat immediately. The Bill provides for the issue of a temporary motor boat registration by the boat dealer concerned so that the boat may be legally operated for the few days between sale and lodgment of the required application for registration.

The Bill also corrects a minor drafting error evident in the alcohol breath testing provisions of the Act. Apparatus for conducting breath testing must be of a type approved by the Governor, whereas section 30a of the Act incorrectly refers to approval by the Minister of Transport. Lastly, the Bill specifies a penalty for failure to apply for transfer of registration within the required 14 days of sale or disposal. No penalty is currently specified within the Act.

Clause 1 is formal. Clause 2 provides a power for the Director to delegate to motor boat sellers the power to issue temporary permits and registration numbers to purchasers thus enabling them to operate their boats pending registration under the Act. Clause 3 provides a division 9 fine as a penalty for the failure of a transferee to apply for registration of his or her newly acquired motor boat within 14 days of transfer. Clause 4 substitutes the correct reference to the Governor as the person who approves alcotest apparatus under the Road Traffic Act. Clause 5 deletes an incorrect reference to a section in the Road Traffic Act.

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

ADJOURNMENT

At 12 midnight the Council adjourned until Wednesday 5 December at 2.15 p.m.