LEGISLATIVE COUNCIL

Thursday 6 December 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

SITTINGS AND BUSINESS

The Hon. C.J. SUMNER (Attorney-General): I move:

That Standing Orders be so far suspended as to enable Question Time to be postponed to a later time this day and to be taken on motion.

Motion carried.

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. J.C. IRWIN: When is it envisaged that the Act will be proclaimed?

The Hon. C.J. SUMNER: As soon as possible.

The Hon. J.C. IRWIN: Can the Minister say if the amendments before us were discussed by the Correctional Services Advisory Council, and does the Minister believe that that council would be a competent body to advise the Minister on the matters before us in these amendments?

The Hon. C.J. SUMNER: I understand they were not discussed with the Correctional Services Advisory Council.

Clause passed.

Clause 3—'Interpretation.'

The Hon. I. GILFILLAN: I move:

Page 1, lines 17 to 24—Leave out all words in these lines.

Earlier, in my second reading speech, I expressed concern about an attempt to define 'Aboriginal people' and 'Aborigine'. My amendment is to delete those words. I do not consider that these definitions are required in this respect. I believe my views are in accordance with those expressed by the Aboriginal Legal Rights Movement. I suggest that, if the department wishes to encourage applications for release on home detention by Aboriginal people, the result could be accomplished quite simply by an amendment to section 37a (3) of the principal Act by inserting after the words 'at the prisoner's residence' the words 'or such other place or places as may be specified by the Chief Executive Officer' and inserting after the words 'not to leave the residence' the words 'or other specified place or places'.

The Hon. C.J. SUMNER: I responded to this in the second reading debate response. The proposed definitions in fact 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 be confined to a residential address. The intent of this section is to make it quite clear that Aboriginal people who live in traditional communities in remote parts of the State should be eligible for home detention in a way that is sympathetic to and understands the manner in which they live; that is, that the concept of a traditional fixed abode is inappropriate in these cases but, rather, the person lives in a larger community and home detention would be applied where another person of that community was prepared to provide appropriate support and care for that person.

The Hon. J.C. IRWIN: I accept the Attorney-General's explanation, in which case we will not support the amendment.

Amendment negatived; clause passed.

Clause 4—'Community service committees.'

The Hon. I. GILFILLAN: I move:

Page 1, lines 28 to 31 and page 2, lines 1 to 4—Leave out all words in these lines and insert 'by inserting in paragraph *(a)* of subsection (2) "or justice of the peace" after "magistrate" '.

This amendment relates to comments that I made in my second reading speech. The Democrats are opposed to a reduction in the number of community service committees related to community service orders; we recognise that there could be a practical problem in having a magistrate on each committee, and this amendment allows for a committee to be established with a justice of the peace and removes the mandatory requirement for a magistrate to be on such a committee. Prisoners' Advocacy Incorporated commented on this matter as follows:

We have some concerns that increased centralisation of community service committees will make it more difficult for them to keep in proper and sufficient contact with the communities they are to serve. It seems rather glib for the report accompanying the Bill to say that a single committee located at Marla or Port Augusta can conveniently undertake responsibility for the nothern region of this State.

This is a concern that I, Prisoners' Advocacy Incorporated and others have. Community service orders are a sensitive area of the penal system. Although I thoroughly endorse this punishment initiative, we cannot risk not having adequate and consistent supervision of those orders. For that reason it seems undesirable to allow for a reduction of the committees. I have moved the amendment principally so that the committees can be established without the requirement to have a magistrate on them at all times.

The Hon. J.C. IRWIN: I have covered some points in the second reading on this subject of community service committees. I would still like some guidance from the Attorney-General regarding the establishment of the community service committees, because I cannot understand why the Minister does not have the power, anyway, under section 17a where:

(1) The Minister may, by notice published in the *Gazette*, declare any premises to be a community service centre.

(2) The Minister may, by notice published in the *Gazette*, revoke or vary a declaration under this section.

(3) Community service centres are under the control of the Minister.

Section 17c (1) provides:

The Minister will establish a community service committee for each community service centre.

We are in some dilemma in discussing this whole area of community service centres, because we accept the explanation that, for 12 Aboriginal communities in the Pitjantjatjara area, it may well be best to have one centre based at Marla or Port Augusta, and there seems to be some confusion. We are told that premises have already been allocated and procured at Marla, but it seems that Port Augusta has already been discussed. I assume it will be at Marla. I accept the prospect that those 12 communities can best be served by the one centre at Marla.

I cannot understand why the Minister cannot designate a centre such as Marla for those 12 communities and do the same all around the State. In other words, there does not need to be a community service centre at Prospect and one at Enfield; I imagine in the urban areas there would be some amalgamation of areas to make a centre. Similarly at Naracoorte in the South-East or Mount Gambier, that centre would serve areas around it, not just Naracoorte or Mount Gambier. I ask why the Minister does not have the power

to do what he wants and why we need this amendment. We accept the prospect of the 12 Aboriginal communities using the one centre, and I cannot see why that is not already available now in the Act.

The Hon. C.J. SUMNER: The amendment is there to give greater flexibility to the establishment of community service committees and in this case to reduce the number that are needed in the northern areas.

The Hon. J.C. IRWIN: We have already indicated that we are concerned that in the cost cutting measures within the department (and I think it has already been signalled to the Minister by the department itself) there could be one community service centre for the whole of South Australia. That has been argued at some length already and we are opposed to it; there should be a number of community service centres throughout South Australia. I know there is a problem with magistrates, but I do not accept that there are problems with the United Trades and Labor Council committee members who are supposed to be on the committees or some of the other people who are required for that committee. So, we are opposed to the concept of one committee for the whole State.

It seems to be a nonsense that there may be a centre at Marla and one for the rest of the State, so there could be at least two centres. The Opposition is opposed to this clause as it stands, but we are inclined to support the Democrats' amendment outlined by Mr Gilfillan. Will the Minister indicate whether the closing down of some community service centres is being discussed?

The Hon. C.J. SUMNER: No decision has been taken on that matter. It will be a matter for decision by the Minister and the Government in due course. Members are aware of the so-called GARG exercise. If cost savings need to be made, they will just have to be made and that is all there is to it.

The Hon. J.C. IRWIN: Are community service orders as well as gaol sentences still an option for Aboriginal offenders?

The Hon. C.J. SUMNER: Yes. The Government has no objection to the amendment moved by the Hon. Mr Gilfillan.

Amendment carried; clause as amended passed.

Clause 5—'Correctional institutions to be under the control of the Minister.'

The Hon. I. GILFILLAN: It was my intention to persuade the Council to refer this Bill to the select committee, but unfortunately that motion was lost. However, I repeat that a lot of these matters could have benefited from wider consultation and discussion before being presented to this place in the form of a Bill. Some comments in relation to clause 5 were sent to me by the Prisoners' Advocacy Group, and I would like to share them as follows:

> Removal of reference to designated parts of correctional institutions.
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> This amendment may allow the department to impose regimes which closely approximate segregation for particular prisoners or groups of prisoners without being required to comply with the present section 36 requirements for segregation. The existence of the old section 19 (2) at least provided some small protection for prisoners against being arbitrarily placed in a special regime although this possible protection has not been invoked to date.

Members will realise that the old section 19 (2) referred to in that document is to be deleted under the Government's Bill.

Clause passed.

Clause 6—'Correctional institutions must be inspected on a regular basis.'

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

Page 2—

Lines 8 and 9—Leave out all words in these lines after 'is amended' and insert '—

(a) by striking out "justices of the peace as";'.

After line 9—Insert word and paragraph as follows:

and

(b) by inserting after subsection (2) the following subsection:

(2a) A person is not eligible for appointment as an inspector unless he or she—

(a) is a person who has retired from judicial or magisterial office;

(b) is a legal practitioner;

or

(c) is a justice of the peace.

This amendment was canvassed during my second reading speech. As the Minister outlined in his second reading speech, the 'other person' referred to in clause 6 ought to be a qualified person or ought to have some standing that is recognisable. The Opposition's amendment seeks to spell that out.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. I. GILFILLAN: I believe it is a constructive amendment. Unfortunately, I have not had time to study it in detail, certainly not in its amended form but, because I believe it is a reasonable caution, I support the amendment.

Amendment carried; clause as amended passed.

Clauses 7 and 8 passed.

Clause 9—'Chief Executive Officer has custody of prisoners.'

The Hon. I. GILFILLAN: I move:

Page 2—

Line 26—Leave out 'or prisoner of a particular class'.

Lines 29 and 30—Leave out 'or prisoner of a particular class,'.

I am concerned about the openness of the effect of the wording of this clause, particularly about the words 'of a particular class' which are not defined. Will the Attorney-General ascertain from his officers the intention in relation to this matter so that we have more detail.

I ask a general question which the Attorney-General may also answer: Mr Eric Anderson, a recognised world authority in prison management and penal reform, was recently in South Australia for some weeks, at the invitation of the Minister and of the department. Was Mr Anderson involved at any time in discussions on either the Bill itself or issues which are canvassed by it? If so, can the Attorney-General give the Committee any indication of Mr Anderson's attitude to the Bill or the individual ingredients of it?

I now refer to the opinion that was sent to me from the Prisoners' Advocacy Group in respect of clause 9—one of the reasons why I moved this amendment, as follows:

> This section is expressed so widely that it could even be argued that it wipes out protections for prisoners contained in the present section 36. In other words, the Chief Executive Officer could conceivably place a prisoner in extremely restrictive conditions—even more restrictive than those contemplated by the present section 36—and justify his action quite legitimately under new section 24. Using this section, the Chief Executive Officer could effectively segregate a class of prisoners for as long and in such conditions as seem expedient to the Chief Executive Officer without any redress being available to the prisoners. The criticisms of the operations of the department by the courts this year raise the distinct danger involved with giving the Chief Executive Officer 'absolute discretion' to establish special regimes 'for work, recreation, contact with other prisoners or any other aspect of the day-to-day life of prisoners' and not providing for any kind of review of that discretion by the courts.
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> Two Supreme Court judges have criticised both departmental policy and review procedures this year. Olsson J. in *Bromley v SA* (1990) 53 SASR 408 at 413 said that the implementation of a new scheme of personal allowances for prisoners 'places a very real weapon of oppression in the hands of management with no practical means of oversight of its implementation. In short what has been attempted is unworthy of a responsible Government department.'
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> In the other case Duggan J. in dealing with a segregation order under the present s.36, found the order to be invalid because the

Segregation Review Committee did not give adequate reasons for a segregation extension. He said that the grounds stated by the committee were 'vague and ambiguous' and did not comply with s.36. Duggan J. referred to the provisions of (the present) s.36. 'All these requirements [that is, to give reasons, to give notice in writing] are safeguards which ensure that the serious decision involved is made carefully and justifiably.' [*Bromley v SA* judgment No. 2279 23.4.90].

The statement in the report on the Bill that 'the section does not empower the Chief Executive Officer to keep a prisoner separate and apart from all other prisoners in a particular institution' is quite wrong. The plain wording of the proposed amendment clearly countenances such a power being placed in the Chief Executive Officer's hands.

That opinion comes from Prisoners' Advocacy. The Attorney-General might like to comment particularly on the last paragraph, which is a matter of concern to me and to others in that it appears to empower the Chief Executive Officer to keep a prisoner in solitary confinement.

The Hon. C.J. SUMNER: My advice is that section 24 as amended will not override section 36.

The Hon. I. GILFILLAN: There was another question about Mr Anderson.

The Hon. C.J. SUMNER: No, he was not consulted about the Bill as such.

The Hon. I. GILFILLAN: My other question related to the term 'a particular class'. What has the Government in mind in respect of this term?

The Hon. C.J. SUMNER: There is no definition of 'a particular class', but obviously it could not be a class based on race or grounds of that kind, because that would be contrary to equal opportunity legislation.

The Hon. K.T. Griffin: Security rating.

The Hon. C.J. SUMNER: It could be security rating, such as whether a prisoner is a 'lifer'. That is the sort of thing that is envisaged.

The Hon. J.C. IRWIN: I understand the Hon. Mr Gilfillan's concern, and I have received similar advice from Prisoners' Advocacy and others. I can probably make the same comments in respect of this clause and clauses 10 and 16, that is, that in the end it must be our judgment. It is the Government's judgment, based on its legal advice, as to what is the best way to run the prison system in South Australia, bearing in mind the problems that were experienced throughout the 1970s. I understand that the new correctional services legislation introduced in the early 1980s was landmark legislation for Australia. Now, nearly 10 years later, that legislation is being fine-tuned because some provisions have not worked. In any event, our advice is that some parts of it have not worked.

During his summing up of the second reading debate I think the Attorney-General said in relation to clauses 9, 10 and 16 that an enormous cost had been incurred. There have been legal challenges in respect of how the prisons have been run and how prisoners were being moved about within the prison system. We believe that it should be up to the systems: it should have the ability to manage the prisons sensibly within certain guidelines. It is the Government's judgment, based on strong legal advice, that this Bill can make the legislation, which has been in force for a number of years, work better for prisoners and prison management. I repeat: these decisions should not be based purely on the cost factor—other matters should be considered when making the final decision.

That relates to a number of clauses before us. I have said that before, but the Opposition does not simply say 'Be this on the Government's head. If the amendments don't work it can wear the flak and bear the legal costs.' I do not want to simply say that and run away from the responsibility of looking seriously at the amendments before us. I conclude by saying that the best course we can take, all things considered, is to support the Government on this amendment.

The Hon. I. GILFILLAN: I respect the Hon. Jamie Irwin's position in this. I think it is worthwhile considering it further and I would ask him to take note of my comments. First of all, I make it plain that I do have sympathy with the difficulty in management of the prison. I have been involved in lengthy discussions about how disruptive individuals can be properly handled without infringing what are basic civil rights. In today's enlightened age, and with a Labor Government and with the Attorney-General's previous support, we do have an obligation to see that respect due to all members of this society is still extended to a person who is in our prison. It is a challenge for the manager of a prison to have the power to run the prison properly without the risk of infringing civil liberties. There are checks and balances, and there should be the procedure for review.

The current section 36 has been frustrated, but from the conversations I have had the frustration—I refer this remark particularly to the Hon. Jamie Irwin—has not been from the point of dispute as to whether the manager had or had not the right to make the decision, but because the forms and the procedures, the technical procedures, were not properly complied with. Having listened to that, it seems amazing to me that the management of the system could not improve its performance to the point where these obstructions would virtually be eliminated.

To have to change the legislation in such a way as to avoid the problem where someone does not fill in the right forms or does not comply with particular minor requirements of the Act which, as I understand it, is the main ground for the Supreme Court judgments, is totally opposed to the way I believe we should be viewing this.

I make the point about 'particular class', having heard the Attorney's answer and the exchange across the Chamber: I cannot, in conscience, accept that we can in this day and age define 'particular class', and say that an individual falls within that indeterminate category. The Government has no category in this Bill at all; we have no definition, we have no lead, except the sort of casual response that has been extracted from the officers in the floor of this place, that because of that circumstance then that individual will be without option of appeal, treated under the quite draconian—I don't think that is an inappropriate word—power that is going to be allocated to the Chief Executive Officer through this clause.

I repeat, because it may appear as if I am arguing against the position: I have great sympathy with the management of the prison, and I know of individuals who I believe should be subjected to particular attention from time to time, but I think there should be appropriate reviews. To extend that to a particular class in this way, to me, is just irresponsible legislation and totally against the principle of civil liberties, as I see it, as it should apply to this Act.

The Hon. C.J. SUMNER: The concern is that prison authorities must have adequate powers to manage the prisons and to try to avoid and control any activity in the prison which is inimical to good order. At the present time, under section 36, the fact is that the Chief Executive Officer, the prison authorities, cannot act on information or intelligence they might receive from within the system to shift someone. As I understand it, in the case of the prisoner who was murdered, Stone, that is a circumstance where that applied.

I am advised that the prison authorities did receive certain information about him, but, under the law, they could not shift him. He was in fact moved from G Division back to B Division where he was killed. The prison authorities

tell me that they did not have any power to keep him in G Division because, although they had received certain information—it was intelligence if you like, on which presumably they could not reveal their sources—at law, they could not hold him in that section of the prison in which they wanted to hold him, the segregated section. They had to move him back into B Division and he was killed. We have got to fix that up. It is as simple as that.

The Hon. I. GILFILLAN: That has got nothing to do with 'particular class'. I am not sure whether the Attorney is listening to what I am saying. There is no reason why the Chief Executive Officer cannot make a particular ruling on each prisoner. My amendment is specific: to remove totally the ill-defined global statement 'a particular class'. The Chief Executive Officer, as I understand this clause, can sit down one morning and determine who is going to be in a particular class. By deleting 'a particular class' it still enables the Chief Executive Officer to deal with Stone, or four or five other individuals; but they have to be treated as individuals. You don't say all the prisoners who have not got clean shoes or who did not tidy their cells are going to be carted off *carte blanche* to another area. I am not going to tolerate that sort of general power. It is quite ridiculous, and it has got nothing to do with the Attorney's answer to my amendment.

The Hon. C.J. SUMNER: I am sorry the honourable member is getting agitated about this matter. What I was trying to do was point out to him the commonsense situation, which is that there are—

The Hon. I. Gilfillan: I understand about Stone.

The Hon. C.J. SUMNER: —difficulties in the management of the prisons. It is not a kindergarten; it is not even Parliament House. It is actually worse.

The Hon. K.T. Griffin: The working conditions are probably better.

The Hon. C.J. SUMNER: I should have thought that Parliament would want to ensure that everything possible could be done to ensure the safe, effective, stable management of our prison system. That is what this Bill that we have introduced now is designed to ensure, as far as possible, and of course it is never possible to completely ensure it, as you know. I am pleased that the Opposition is supporting us in that, because they realise the problems that can occur in prisons. Having this clause which deals with 'a particular class' is an added tool to assist in the prison management, which the Government considers essential.

The Hon. J.C. IRWIN: I know we have been ranging around a bit, but I am not now satisfied with the answers to the Hon. Mr Gilfillan's questions from the Attorney. If 'a particular class' is taken out what effect would that have on the stance? I am not satisfied now, from some discussion, that it will have any effect at all.

The Hon. C.J. Sumner: You said you were going to support it.

The Hon. J.C. IRWIN: Yes, but we have had some interchange since then. It is no excuse for the Attorney to say, 'All right, we have got the Opposition, we don't have to explain it.' I now want to know what Mr Gilfillan wants to know. What do you mean by 'a particular class'?

The Hon. C.J. SUMNER: I said before that class could be a security classification, for instance. If you delete this from the legislation we will have no capacity to manage the prison by saying that a particular group in a particular class, that is, of a certain security category—

The Hon. J.C. Irwin: Risk.

The Hon. C.J. SUMNER: Yes, or risk—can be put into a certain part of the prison. That is the rationale for it.

The Hon. J.C. IRWIN: Can the Attorney-General give me a couple of examples of those categories?

The Hon. C.J. SUMNER: There is medium risk and high risk. Another special class of particular importance is what are called 'protectees'—often a group such as child sex offenders who are not very popular in prisons and who I understand are at risk most of the time. This provision gives the department the capacity to deal with those particular categories of prisoners—as the Bill says, as a particular class. It is just an additional management tool. If members are concerned, I can indicate that the Government will subsequently reinsert provisions relating to judicial review; so although we will have greater management flexibility within the system, judicial review will still be available.

The Hon. J.C. IRWIN: I do not have the background yet in the correctional services area to understand some of the matters, and that is why I am following up some of the points raised and asking questions. I know we had a debate about whether or not this matter would be referred to the select committee, and that was lost. Nevertheless, there is a select committee, and it is an area where I hope, as an individual, to be well briefed and to gain experience, through the select committee process, about some of the things we will be talking about today. I indicate that we will not support the Democrats' amendment.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 29, after line 33—Insert new subsections as follows:

(3) A prisoner may apply to a visiting tribunal for review of a decision made in relation to the prisoner under this section.

(4) After reviewing a decision pursuant to an application under subsection (3), the visiting tribunal may, by order—

(a) confirm the decision;

or

(b) revoke the decision and if it thinks it is appropriate to do so, substitute any other decision that could have been made by the Chief Executive Officer in the first instance.

(5) A decision under subsection (2) remains in force notwithstanding that an application for review of the decision has been lodged.

(6) No appeal lies against an order of a visiting tribunal under this section.

I believe that this amendment will put in place a safeguard that, as I have argued elsewhere, should not be ignored in correctional services legislation. This amendment will allow a prisoner, about whom a decision has been made by a Chief Executive Officer under this clause, to have a procedure for review of that decision. Members will realise from my earlier remarks that I regard this right of an inmate as being part of the civil liberties that no-one in South Australia should lose, whether they are in prison or not.

The Hon. C.J. SUMNER: This amendment is strongly opposed, as it would subvert in large measure the administrative flexibility which is sought in the current Bill to provide the Chief Executive Officer with the discretion to place prisoners where he/she sees fit and to apply the appropriate regime to them. The problems associated with the previous inflexibility are the reason why this Bill has been presented to the Council. A further consideration is the substantial administrative costs which would be associated with such a review mechanism which would allow every prisoner to challenge his or her placement upon each transfer. The consequences in relation to costs and cumbersome administration would be enormous.

The Hon. J.C. IRWIN: We do not support the amendment.

Amendment negatived; clause passed.

Clauses 10 to 15 passed.

Clause 16—'Power to keep a prisoner apart from all other prisoners.'

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

Page 4, line 15—Leave out subsection (11).

This amendment will ensure that judicial review remains an option for an aggrieved prisoner.

The Hon. I. GILFILLAN: The Democrats' like amendment to this clause was drafted because of the quite horrendous consequences of having no judicial review in relation to the powers that are vested in the management of the prison through this clause. We wrestled with the proposed new section 36, as outlined in the Bill. This is an attempt to enable the manager of a prison to have a more direct power of intervention in relation to where and how a prisoner may be kept. I repeat that I have sympathy with the management of prisons in this problem.

I do not know what decided the Government to reverse its opinion in relation to proposed subsection (11), but how could the Government have drafted this legislation? This is the sort of stuff that Amnesty International would be interested in—where a person could be incarcerated totally without any appeal to any outside authority because that person fell foul of the management of a prison.

It is alien to the whole character of what I understood the Labor Party to stand for. In previous generations, it had initiated reform in the whole vision of the prison system. There have been Ministers in the past with compassion and caring who have made constructive reforms in the present system, and this is a substantial regressive step. I am particularly concerned, as I repeat, because this matter has been brought in impetuously. It was not referred to Anderson, which I think is remarkable, and the select committee has not been given the courtesy of the opportunity to discuss it, as if suddenly the whole system is in danger of imminent collapse.

The Hon. Carolyn Pickles interjecting:

The Hon. I. GILFILLAN: Yes, we have a research officer and we are looking for things to do. We could study this Bill. I acknowledge that we have had open and frank discussions with people from the department and others who have been involved in prison advocacy and correctional services, and I am far from convinced that the current section 36 is not satisfactory. I repeat that the problems that have surfaced have principally been in conforming with the requirements of procedure. Therefore, I am very suspicious of what is a legislative quick fix for a problem that has hovered around one, two or three individuals who have proved to be difficult to manage in the current prison system. I am not happy with that. I am uneasy that we make legislation for situations that relate to individuals in these circumstances.

Having begun with the idea that the clause itself could be amended—and this is only the second fallback position because principally it should be considered by the select committee—and having dealt with it, recognising that new subsection (11) should be deleted as the very minimum, we believe that the current section in the Act can be worked properly. It is a question of getting the department's act together and there is no justification for this much more draconian measure to be brought in almost overnight while the present section 36, by virtually all opinions other than those advocating the Government's Bill, is satisfactory provided the procedures are complied with properly. I oppose the whole clause.

The Hon. C.J. SUMNER: I do not accept what the Hon. Mr Gilfillan has said regarding calling in Amnesty or whatever. I find that astonishing and totally out of keeping with what is being suggested in this section. I think this section is very good and necessary to manage the prisons—

The Hon. I. Gilfillan: What about new subsection (11)?

The Hon. C.J. SUMNER: We are taking new subsection (11) out.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: So what?

The Hon. I. Gilfillan: What do you mean, so what? That is the whole basis of justice in this State, and you're going to knock it out.

The Hon. C.J. SUMNER: I would have thought the honourable member would be sitting up and congratulating the Government on moving that new subsection (11) be deleted; it is the one he is complaining about. Once we delete that provision and leave the decisions of the Chief Executive Officer open to judicial review, there can be no conceivable problems with the section as it is drafted, and to suggest that prisoners can be left in some situation where their rights are abused is frankly, I put to you, ridiculous.

There are numbers of mechanisms for prisoners to complain. They can complain to the Hon. Mr Gilfillan and we know that if they do he will be here at the earliest possible moment with a question. They can complain to the Correctional Services Advisory Council, to the visiting inspector and to the Ombudsman; the Minister can review the decision of the Chief Executive Officer; and the prisoner can complain to the Minister. This provision applies for a certain limited period; it applies only for a particular period and then it has to be renewed. With the Government's amendment there is the possibility of judicial review over the whole section, anyhow. I fail to see how that constitutes a breach of prisoners' rights.

The Hon. I. GILFILLAN: I would ask the Attorney to indicate to the Committee what is wrong with the current section 36 and why it needs to be amended. While he is taking advice on that, I would like to share with the Committee comments from Prisoners' Advocacy on the amendment in clause 16 as follows:

> We object most strongly to the proposed introduction of solitary confinement previously outlawed here and in most other civilised jurisdictions. Solitary confinement for possibly indefinite periods is clearly a possibility under the amended s. 36. The comments made by Olsson J. and Duggan J. in the cases mentioned above show the kinds of concerns applicable here . . . are typical examples of the kinds of prisoners which the management and staff of prisons all too easily categorise as being 'the enemy', the leaders of the other prisoners, the persons against whom all the forces that prison administration can muster should be pitted.
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> Often because of the adversarial atmosphere generated in prisons (the prison warders versus prisoners mentality), such prisoners gain an apocryphal status, legends in their own time, like Ned Kelly. Like all legends such 'prison folklore' often bears little relation to the facts.
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> The kind of treatment dealt out to [two prisoners are named in the document but I do not intend to read those names into *Hansard*] can only breed an atmosphere of resentment in not only the particular prisoners subjected to it but in all other prisoners as well.
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> The granting of wider discretion to the Chief Executive Officer in the light of [these cases] can only be viewed as a regressive step. This is to be viewed even more seriously given that the amendment seeks to remove the decision to confine a prisoner from the possibility of review by the courts.

I acknowledge here that the Government has now seen the injustice of that and has allowed the amendment to be moved. The comments continue:

> Looking at the proposed section 36 in detail and bearing in mind that we regard the whole section as completely objectionable, we make the following additional points:
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> 1. A direction for solitary confinement under new s. 36 (2) *(a)* may only be made for a period of up to 30 days.
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> The experience has been that whenever a segregation order has been made under the present section on the basis that 'investigation is to be conducted into an offence' alleged against a prisoner that order has always been expressed to be for 30 days even where the investigation could quite clearly be concluded in a much shorter period. There should be some review available of the length of time needed to conduct each investigation, otherwise

prisoners will be kept in solitary for 30 days as a matter of routine simply because that is the period specified in the Act. In fact the Act specifies that period as being the maximum and clearly does not require each confinement to be of that length.

2. The ability to make a direction for solitary confinement under the other subparagraphs of s. 36 (2) is unlimited in time, that is, the direction has effect until it is revoked by the Chief Executive Officer.

It is almost unbelievable that the Government could delegate such an unfettered power to affect the liberty of the subject to the head of a Government department. To go on and expressly exclude such a direction from review by the courts . . .

Perhaps it is as a result of proper consultation and public pressure, albeit at the eleventh hour, that we have now arrived at this situation, but I am happy to support the amended amendment.

The Hon. C.J. SUMNER: The reasons for this amendment have been fully explained in the second reading speech which I gave to introduce the Bill and in my reply.

Amendment carried; clause as amended passed.

Clause 17 passed.

Clause 18—'Chief Executive Officer may release certain prisoners on home detention.'

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

Page 4—

Line 24—Leave out 'life'.

Line 25—After 'is not' insert '(except where the total term to be served is less than one year)'.

The purpose of these amendments is to clarify the situation in relation to home detention. If these amendments are passed, eligibility to apply for home detention would be as follows:

1. Prisoners sentenced to less than 12 months, no qualifying period.

2. Prisoners, including life sentence prisoners, who have a non-parole period, a qualifying period of one-third of their non-parole period.

3. Prisoners sentenced to more than 12 months, including life sentence prisoners, who do not have a non-parole period ineligible to apply.

Amendments carried.

The Hon. I. GILFILLAN: I move:

Page 4—

Lines 27 to 31—Leave out all words in these lines after 'subsection (2)'.

After line 31—Insert new paragraph as follows:

(ca) by striking out 'and' preceding paragraph *(c)* and 'other' from paragraph *(c)*.

We believe that home detention is a very effective and worthwhile option as an alternative penalty to incarceration in a prison, and that it should be flexible enough to allow an appropriate prisoner to serve the whole of their sentence on home detention. Although on the surface that may sound a really soft option, it is time that we realised that the actual locking up of people in prisons is counter-productive on many counts. Of course, the one that touches practically everyone's nerves is cost. However, if we can be mature enough to go further than that—although it is sometimes difficult—we must also recognise that prisons as they are currently operated do not benefit the inmates in any shape or form and, in many cases, the ability of prisoners to relate to society when released deteriorates.

I hold the opinion—and I know that it is shared by others—that the more we can keep people out of prisons the better for them and for their potential to adapt back into society as reasonable citizens. Therefore, the Democrats feel that it is an unnecessary restriction that a prisoner must serve at least one-third of their non-parole period before being considered for home detention. That is the intention of my amendments. Although they may look a little obscure in the way that they are drafted, I believe that that would be the effect of supporting my amendments: the sentencing authorities would be given the power to actually require an offender to serve the full period of the term of imprisonment on home detention where considered appropriate. This is the key issue: it is the sentencing authority's decision whether an offender should spend part or all of the sentence on home detention. There is nothing to be gained by having some rote or rule book which says that, regardless of the individual, the offence and the circumstances, that person must be shut up in prison. The only justification for that is some mythical feeling that that person, by having to serve a mandatory sentence locked up in a prison, will be better off and that the State will also be better off.

The only possible justification for it is that in some vague way the blood lust of the community and the media will be satisfied because an offender can be shown to have actually been locked up in a prison. If that is the case, why consider home detention at all?

I believe that my amendment is a sensible one. It does not compel a sentencing authority to permit or allocate home detention as the form of punishment for an offence. It just gives the appropriate option for that authority to make the right decision for the individual involved.

The Hon. J.C. IRWIN: I understand what the Hon. Mr Gilfillan is saying, but I am not yet prepared to go to the extent that he and others are advocating in relation to home detention. The Liberal Party will not therefore support this amendment, but we bear in mind very much that it should be a very high priority, when it gets to the select committee stage, for me to look at the whole area of home detention.

I was perplexed by the Minister of Correctional Services mentioning in another place that three months is a maximum period that anyone on home detention can sustain because it is such a rigorous regime. That may well have more to do with a long-term prisoner going out into the wide world for that last part of the sentence, where that three-month period is difficult to sustain and the regime is very strict. But, a prisoner whom Mr Gilfillan talks about, who perhaps has only a very short term in prison, may find it much easier to go through the regime of home detention. I would like to hear from the Attorney-General how difficult it is to be on home detention.

The Hon. C.J. SUMNER: It does not provide a regime where every prisoner will be granted home detention according to a certain formula. Obviously, they will have to be chosen for home detention depending on the existing circumstances and, indeed, most particularly of course on their individual suitability for home detention.

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

Page 4, lines 27 to 31—Leave out paragraph *(c)*.

This amendment is in my name only because at the time it initially came on my colleague, the Hon. Jamie Irwin, was unavoidably absent; it has therefore fallen to me to move it.

There are arguments in favour of home detention, and we have supported them in Opposition. However, I cannot subscribe to the view that it ought to be as flexible as the Hon. Mr Gilfillan is suggesting. I think that, if a court imposes a penalty, one is entitled to expect that at least a substantial part of that penalty will be satisfied.

I have some concerns about giving the Executive arm of Government an open cheque book in relation to alternatives to the penalty which is imposed by a court, particularly where it relates to imprisonment. I have the same criticism in relation to periods of imprisonment fixed in default of payment of fines and the way that they are so easily written off without any period of imprisonment being served.

I am not saying that is the only way to ensure satisfaction of an obligation to the community in default of payment of a fine; I am saying that unless we want the decisions of

courts to become something of a mockery and for offenders to thumb their noses at the courts we must ensure that there are some minimum requirements. It seems to me that with home detention there have to be some minimum requirements. I accept what the Attorney-General says: that prisoners have to be assessed to determine their suitability for home detention. However, I think we must set some mimimum requirements.

So, like my colleague the Hon. Mr Irwin, I would not support the open slather approach which is being proposed by the Hon. Mr Gilfillan. On the other hand, I would want to ensure that it was tightened up and that the *status quo* was maintained, rather than the greater flexibility which is being given by the Bill. That is the reason for my moving the amendment.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Gilfillan's and the Hon. Mr Griffin's amendments. So, on that basis it looks as though the Government will get the clause through.

The Hon. K.T. Griffin's amendment negatived; the Hon. I. Gilfillan's amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 5, line 3—Leave out 'who resides on tribal lands or an Aboriginal reserve'.

This amendment is simple. Our concern is that these terms are not defined. They can be exclusive of an area or a situation where an Aborigine may quite appropriately be given conditions of home detention which recognise the individual's lifestyle and what is recognised as appropriate—although, certainly, the clause does provide 'such area of lands as the Chief Executive Officer may specify in the instrument of release'.

My amendment, by deleting 'on tribal lands or an Aboriginal reserve' enables the clause to function just as satisfactorily as it was intended to. I indicate the Democrats' support for the intention of the clause, but, unless there is to be some effort in the legislation to define the words 'on tribal lands or an Aboriginal reserve', it is better that they be removed from the Bill. It is subjective for determination of 'on tribal lands'. In some people's view, the whole of South Australia is or has been regarded by certain Aboriginal people as their tribal lands. So, I do not think it adds anything to the drafting of the Bill; rather, it causes some confusion.

The clause without those words is totally satisfactory. The Chief Executive Officer has total power to specify an area of land, and we think that that flexibility is desirable. The amendment will remove what we believe are complicating and unnecessary words.

The Hon. K.T. GRIFFIN: We are faced with something of a dilemma. I acknowledge that the term 'tribal lands' is not defined. I suppose that, if one takes the extreme view, any part of South Australia is tribal land. On the other hand, we would feel uncomfortable with deleting the term because it would then mean that an Aborigine could be released to any area of land anywhere in South Australia—it would not matter whether or not it was the residence of the Aborigine. I think that sort of distinction from other persons—

The Hon. I. Gilfillan: Unless you amend the clause as it is, that power is there, anyway.

The Hon. K.T. GRIFFIN: I acknowledge that, and that is why I said that there is a dilemma. If we delete it, there is no reference to any place of residence of an Aborigine. If we leave it in, we are faced with the situation that there is no definition of 'tribal lands' and an argument, I suppose, that the Torrens River in Elder Park will be tribal land for some Aboriginal prisoners.

The Hon. I. Gilfillan: The Chief Executive Officer is the determiner.

The Hon. K.T. GRIFFIN: I acknowledge that. That is why I think, notwithstanding the dilemma, if we leave in the words 'who resides on tribal lands or an Aboriginal reserve', at least that is a better indication to the Chief Executive Officer than deleting them completely. If we leave out those words completely, it will mean that Aboriginal offenders will be treated in a way that is dramatically different from any other prisoner. Any other prisoner, as I recollect it, must be confined in home detention in their residence. I do not think it is appropriate for that distinction to be drawn. So, the dilemma facing us is whether to support or oppose.

I think, on balance, at least there is an indication to a reasonable Chief Executive Officer that, if an Aborigine resides on tribal lands which might be construed to be traditional lands—say, in the North West, at Yalata or on the Aboriginal reserve at Meningie—that is really what the clause intends. So, on balance, I indicate that I prefer to see the words left in rather than their being deleted, notwithstanding that they are not clearly defined.

The Hon. I. GILFILLAN: It is an unhappy situation that Aboriginal inmates in prisons are not availing themselves of home detention. Most of them do not apply for it, and they do not take it up in anything like the proportion of white prisoners who take it up. I think the problem with leaving the words in is that, if an Aboriginal person lives at Davenport (a satellite Aboriginal area near Port Augusta), there would be, at Port Lincoln where there is a considerable number of Aborigines, or even in Adelaide, a constant argument about what are tribal lands—that is, if one can persuade Aborigines to apply for home detention, which is a desirable goal.

Is it reasonable for people who have lived at Davenport to argue that that is tribal land? I do not think that there is any advantage in having these complications in the words of a clause which has an admirable aim and where the Chief Executive Officer still has the absolute power to specify. To my mind, the words make the clause more workable and avoid any scope for problem. I have heard the Hon. Trevor Griffin's concern, but my amendment will reduce the risks rather than increase them in respect of bothersome argument and petty obstruction.

The amendment also allows flexibility for Aborigines to be dealt with while genuinely reflecting the circumstances in which they live and providing what suits them best for home detention. I understand that the Government opposes the amendment, but I am not sure whether the Attorney made that comment. I would be flattered if the Attorney-General could give some indication.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Gilfillan's amendment. I explained the Government's position before, but perhaps the Hon. Mr Gilfillan was not listening.

Amendment negatived; clause as amended passed.

Clause 19 passed.

Clause 20—'Crown not liable to maintain prisoners on home detention.'

The Hon. I. GILFILLAN: I had quite a useful discussion with officers of the department in respect of this matter. I will raise the issue that concerns me. The unanswered question in my mind is whether a prisoner serving home detention who is unable to obtain work can receive unemployment or other social welfare benefits. If not, this clause appears to leave a prisoner destitute, which seems to be contrary to the intention of the home detention scheme. I indicate that the Democrats will oppose the clause if that is the case. I

think it is a reasonable question to raise, and I bring it up again so that an answer to the question is on the record. Does an inmate who is serving time on home detention and who is unable to obtain work receive unemployment or any other social welfare benefits?

The Hon. C.J. SUMNER: Prisoners are eligible for the normal range of social security benefits which are payable, subject to meeting the requirements for those benefits just like any other member of the community. The home detention program clearly encourages prisoners to seek and obtain employment from their release.

The Hon. I. GILFILLAN: I thank the Attorney for that answer. I do not intend to continue to oppose the clause.

Clause passed.

Clause 21—'Release of prisoner from prison or home detention.'

The Hon. J.C. IRWIN: What I am about to say may well be part of an old argument. Why does the clause specify a period of 30 days? The Chief Executive Officer may release a prisoner from home detention on any day during the period of 30 days preceding the day on which the prisoner would have been due to be released. Why does the provision stipulate any day during that 30-day period? What formula or criterion is used to arrive at a particular day?

The Hon. C.J. SUMNER: It can be used for any circumstance, compassionate circumstance being one example, but it can also be used to relieve the question of problems of overcrowding. All the amendment does is to apply the 30 day discretionary release period, not just to those who are still in custody but also to those who are on home detention.

Clause passed.

Clauses 22 and 23 passed.

Clause 24—'Appeals against orders of visiting tribunals.'

The Hon. I. GILFILLAN: I would like to read into *Hansard* some comments made by the Prisoners' Advocacy Incorporated group, as follows:

> Re appeals from visiting justices.
>
> Due to the way visiting justice proceedings are now conducted it is our view that they should be abolished and disciplinary proceedings conducted in the ordinary Magistrates Courts as occurs in Victoria quite successfully. Such proceedings would then be open to the usual appeals available from Magistrates Courts.
>
> The proceedings as a whole would be fairer, more open and prisoners would have more confidence in them. This would reduce the number of appeals. The present section 47 right of appeal is so contrained as to be virtually useless to prisoners aggrieved by decisions of non-legally trained Visiting Justices who are preceived by prisoners to be an extension of management and incapable of giving them an independent hearing.

The question of acceptance by prisoners of visiting justices is one which I know that the department and others have recognised, and I think the comment made by Prisoners' Advocacy is useful. I invite the Attorney-General, if he has an observation from the officers of the department, to respond to that observation made by the Prisoners' Advocacy group to follow the Victorian system.

The Hon. C.J. SUMNER: The Government does not accept this as a problem. We think that the visiting tribunal system is satisfactory and that it should be retained.

Clause passed.

Remaining clauses (25 and 26) and title passed.

Bill read a third time and passed.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November. Page 2173.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to support the Senior Secondary Assessment Board of South Australia (SSABSA) Act Amendment Bill. It is perhaps a sad fact that a short Bill such as this which seeks to institute major changes in our education system has attracted, thus far anyway, very little public and media debate. There are far-reaching implications in the Bill for schools, students and the community generally. The position of the Liberal Party in relation to the changes and to the Bill has been one of general support, although, as with many others, we do have many concerns about the specific detail and also the process of implementation. I will address some comments to some of those concerns during the second reading debate and pursue a good number of them during the Committee stage of the debate.

The major change in the Bill is obviously seeking to implement the new South Australian Certificate of Education. It will be a combination of what we currently know as year 11 and year 12 in the senior secondary years. At the end of this combined two-year study for the South Australian certificate, there will be certification on successful completion of it. The program of study will include some 22 semester length units over the two years. Part of the argument for the two years has been the concern about the pressure and stress on year 12 students in preparation for examinations and assessment, and that examination and assessment is, of course, critical for their future career and job prospects.

One of the stated intentions of the Bill is to try to reduce, at least in some part, the extent of the stress and pressure on students—and I guess also on their families and teachers—during senior secondary years. While that is the stated intention, I suspect that what we might be doing here is, in effect, spreading the load over two years but not in any significant way reducing the level of stress during the year 12 period. It may well be that the level of stress will be marginally reduced in year 12 but significantly increased in year 11.

If that was one of the major stated purposes of the South Australian certificate, I have some doubts as to whether in practice that will eventuate. I suspect that when my children are of the senior secondary age in a number of years they will have a very intense and stressful two-year period for the completion of the South Australian Certificate of Education.

I do not necessarily argue against that. I think that if we are looking at an education system that is going to try to churn out nationally and internationally competitive graduates from our secondary schools, so that eventually we can churn out nationally and internationally competitive graduates from our tertiary institutions, there has to be some measure of competition, assessment and examination through our senior secondary years to ensure that we have quality graduates from the senior secondary years going into our universities.

I do not intend to list all the major components of the South Australian certificate, but it is fair to put on record that there will be a compulsory two units of English which, in the main, will probably be what we know at the moment as year 11 English. I accept that that is a useful inclusion, to have a compulsory English component in the South Australian certificate. There will be a compulsory component of year 11 Australian studies. I have some concern about some elements of that proposal—not only the compulsion but also what, in SSABSA's view, constitutes Australian studies. I will pursue that later in this contribution and also question the Minister about it in Committee.

Another aspect of the South Australian Certificate of Education that we support is the recommendation that students will have to satisfy a literacy requirement before they can complete it. I support that goal, but I will pursue this matter further and ask a number of questions as to whether what is being proposed is, in effect, an acceptable measurement of literacy, as is being publicised by SSABSA, schools and the Government. Whilst not going through all the details of the South Australian certificate.

I indicate that the Liberal Party obviously supports many aspects of the new certificate but has concerns about a number of others and we will pursue those. We will also oppose some aspects of the South Australian certificate as is currently being contemplated by SSABSA. I think that the overlying philosophy of having a certificate can be successful in catering for the widely divergent groups that are currently reaching year 12 level in our schools. While I believe it can be successful, I must say that I have some concern still that the way the South Australian certificate is being introduced may well mean that certain groups going through to year 12 might not be catered for in the best possible way to ensure that they can maximise their own learning potential. Again, I will address some comments to that later.

So, I and others have some general concerns about the South Australian Certificate of Education (SACE). Indeed a number of concerns have been expressed about the Victorian Certificate of Education (VCE), about the laborious process of implementation that has been undertaken in Victoria in the attempt to implement its senior secondary certificate in its schools. The VCE is the Victorian equivalent of what we propose in South Australia, although I hasten to add that I think we have learned from some of the mistakes of the VCE. I am not suggesting that our SACE exactly replicates the Victorian experience.

I want to address some comments to a speech dated 26 March 1990 made by one of Australia's foremost Vice-Chancellors in any university in Australia, Professor David Penington of the Melbourne University which was entitled 'The VCE—Can we make it work?' At page 3 he says:

> What are the positive opportunities?
>
> A fourth principle is an extension of the first; we must recognise that different students have different talents and we must assist all to fulfil their individual potential. This is not to place them in a rank order but it is to recognise that whilst all will be seeking to discover what they wish to do with their lives, not all have the same intentions or capabilities; all should be able to gain satisfaction from striving for appropriate ends. Students in years 11 and 12 will include three categoreis and we should address each in their own right:
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> 1. Those that do not intend to pursue further study thereafter but seek an immediate place in the work force;
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> 2. Those committed to seek higher education, who need studies in years 11 and 12 which will prepare them for this future;
>
> 3. Those uncertain as to whether they wish to follow the first or the second of these courses.

I agree with the argument of Professor Penington that we need to ensure that students with all those backgrounds and with all those reasons for being in years 11 and 12 are able, within our education system, to maximise their own learning potential.

Whilst I accept the argument that our young people who are going on to university should not dictate the curriculum and the assessment procedures in the senior secondary years, equally I believe that they should not be ignored or their concerns significantly downgraded by the introduction of SACE. I note the warning given by Professor Penington earlier in his speech, when he referred to a quote by one of the leading editors in Victoria, Mr Bill Hannon. Professor Penington says:

> The perception of the architects of the VCE that high academic achievement or any element of competition in education is socially undesirable is one of the basic problems. In an article in *VISE News* in 1982, Bill Hannon recounted a quotation 'that there was something about being competitive and something about being academic, and no doubt something about that particular combination of practices, that can be used to keep the common people away from power and influence, away from professors and careers, and worst of all, away from many of the best achievements of their own history and culture. Something, in short, that is profoundly and may be irretrievably undemocratic'. Later in the same article Hannon stated, 'Obviously we still have to work at dismantling the competitive academic curriculum from whose walls we have as yet extracted only a few bricks with which we have built things like group two.'
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> As a way of avoiding competition, he expressed educational achievement as 'completion is an adequate and just criterion for assessment provided that the course is worth completing'. The catchcries of 'equality of outcomes' and 'parity of esteem' between all 'fields of study' came to be guiding principles. There was a commitment to removing incentive for some students to achieve more than others, and a commitment to portraying those 'fields of study' not relevant to higher education as having the same importance for selection to universities as traditionally recognised subjects.

I certainly agree with a number of the comments made by Professor Penington. There are some people in South Australia such as Mr Bill Hannon who want to dismantle the competitive academic curriculum and again, as I said earlier in this contribution, whilst the competitive academic curriculum might not be appropriate or relevant for some of our young people in senior secondary years, we should not necessarily dismantle it so that we cater for those students; we ought to be looking at a system that allows those who want to study a competitive academic curriculum to do so and to those who cannot or do not want to cope with that, perhaps the system should offer an alternative, if we cannot encourage them to look at further education in our TAFE system, for example, or higher education in our university system.

I think it is worth noting that some 60 per cent of our year 12 students make some application to enter our universities and our other higher educational institutions. Of course, not all of those students can get in and not all of them in the end choose to take up those options but it does indicate that a significant percentage, and I suggest it will be an increasingly significant percentage, of year 12 students will want to go on to further education study, whether it be within our TAFE colleges or within our universities.

The last quote I would like to take from Professor Penington's incisive speech is as follows:

> I start from the principle that it is vitally important to our community and to each individual as a person that every student, from whatever social and economic background, should have the opportunity to achieve their full potential; I apply this as the major test to the proposed VCE reforms. I see a system which is seeking to diminish recognition of the achievements of more able students in the hope of bringing greater equity. This is a serious issue at a time when we must, as a society, seek to make the most of the intellectual potential of our young people and give them every opportunity to achieve if we are to protect their standard of living and that of their children.

I again indicate that I share those concerns and especially in relation to one of the dilemmas that will confront our students at what we know as year 11 when, as a result of having a compulsory Australian studies course in that year, they will not be able to do, as they currently may, a full component of Maths I and Maths II at year 11. Those two subjects will be reduced by some 25 per cent for those students who are able and who wish to do both Maths I and Maths II at year 11. I think that is wrong and I believe that SSABSA and the Government need to address those concerns.

The Hon. R.J. Ritson: Will that affect engineering and physics?

The Hon. R.I. LUCAS: The honourable member asks whether this will affect those who might wish to become engineers, physicists or even doctors, perhaps, and the answer is of course 'Yes' and this, with the exception of one member of the mathematics faculty of the University of Adelaide has been opposed by the entire mathematics faculty; by a significant number in the engineering faculty; both at the university and the current Institute of Technology, by a number of physicists; and indeed by many of the academics from the science and science-related disciplines. It is a concern and, as I said, I intend addressing that matter again during this contribution and during the Committee stage and I will also explore some concerns I have with Australian Studies.

These concerns that are being expressed by one of our own most eminent Vice-Chancellors in Australia, Professor Penington, are not just his concerns in relation to the VCE, although I believe some of those do apply, but these concerns have been shared by many involved in education in South Australia in relation to the introduction of SACE. I want to refer to three examples. The first comes from a senior master at the Mount Compass Area School in a letter addressed to me and also a letter addressed to an officer of SSABSA. This is a senior master of physics; this is someone in the real world of teaching physics at years 11 and 12 in our schools at the moment and I quote as follows:

> My major concerns arise in the apparent non-recognition by SSABSA that the current dual course approach of SAS [School Assessed Subjects] and PES [Publicly Examined Subjects] is still viable in the future. It appears that there are major moves to absorb these philosophies into an apparently standardised theme—namely, mediocrity.
>
> I cannot understand how academic students are going to be extended by the proposed courses. In summary, I believe that the Draft Level I ESF [Extended Subject Framework] is not really learning physics, merely experiencing some physics ideas.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[*Sitting suspended from 1 to 2.15 p.m.*]

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

State Transport Authority—Staged Upgrading of the Permanent Way: Noarlunga and Gawler Lines,

Elizabeth Police and Courts Redevelopment.

QUESTIONS

EDUCATION DEPARTMENT NOTICE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about an Education Department notice.

Leave granted.

The Hon. R.I. LUCAS: I have received a copy of an Education Department notice to all cluster D principals in the Mitchell Park area. This notice was sent on 27 November from the cluster adviser at the special education unit at Mitchell Park Primary School. It says:

> There is an excess of temporary relieving teachers (TRT) days for our cluster and it has been decided that they will be reallocated in the following way—five per school, as before, to enable you to use them internally as you see fit. If you do not need them please let me know as another school may well need to use them before the end of the year.

This notice has caused strong objection in some schools. In fact, I received a copy of the notice with a strong protest from a school saying 'This is criminal at this stage of the year.' My questions to the Minister are:

1. Will the Minister investigate the reasons for this 'Christmas offer' from the cluster adviser?

2. Is this normal procedure not only in this area but also in other areas of the Education Department?

3. If the reason for this offer was a concern that the cluster might have received a reduced allocation next year if it did not use this year's allocation, will the Minister consider changes to the procedures to prevent this occurring again?

4. Will the Minister provide details to the Council on how many TRT days were included in this offer and what use was made of them by each school involved in the offer?

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

ELECTORAL ACT FINES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the remission of Electoral Act fines.

Leave granted.

The Hon. K.T. GRIFFIN: It has been drawn to my attention that in the *Government Gazette* of 1 November 1990 there is a notice of pardon and remission of penalty for 113 persons convicted of breaches of section 85 (7) of the State Electoral Act in relation to the 1989 State election. There may have been more pardons and remissions between the election and 1 November 1990 but I must confess that I have not had time to check every *Gazette* in that period. Section 85 (7) provides:

> Every elector who—
>
> *(a)* fails to vote at an election without a valid and sufficient reason for the failure;
>
> *(b)* on receipt of a notice in accordance with subsection (3), fails to fill up, sign and post the form (duly witnessed) which is attached to the notices within the time allowed under subsection (4);
>
> or
>
> *(c)* makes a statement in the form that is, to his knowledge, false or misleading in a material particular,
>
> shall be guilty of an offence.

In the Budget Estimates Committees, the Attorney-General said that, at the 1989 State election, 52 450 electors failed to vote, 34 252 'please explain' notices were sent out, 11 067 expiation notices were posted and 5 418 summonses were issued. He also said that some $20 000 had been received by the Government on expiation notices. On summonses issued, the average fine imposed by the courts was $20 with the following costs: court costs—$43; Criminal Injuries Compensation Fund levy—$20; appearance fee (if a solicitor)—$40; appearance fee (if a law clerk)—$10; making a total of between $93 and $123.

From the information that I have received, it appears that from court summonses the Government may receive about $40 000, less whatever may have been remitted by way of pardons and remissions. If one adds to that the $20 000 received from expiation notices, one has a total of $60 000. According to information from the Electoral Commissioner, the cost of processing the non-voters was $89 614, a net cost to the State of $30 000. One has to ask seriously why it is necessary to waste that money pursuing non-voters, particularly if pardons and remissions of penalties are subsequently granted. My questions are:

1. In view of the pardons and remissions, in view of the net cost to the taxpayer of pursuing non-voters and in view of the principle that electors should have the freedom to choose whether or not to go to a polling booth to exercise their democratic right to vote, will the Government consider removing from the Electoral Act the penalties for failing to vote and move towards voluntary voting? If not, why not?

2. What were the reasons for granting the pardons and remissions of penalties in the *Gazette* notice to which I have referred?

3. How many other pardons and remissions have been granted or are proposed to be granted for failing to vote at the 1989 State election?

The Hon. C.J. SUMNER: I will take the second and third questions on notice and bring back a reply. The first question from the honourable member raises the issue of voluntary voting. That issue has been debated in this Council on quite a number of occasions and the contending arguments are well known to all Parties. This Government believes that compulsory voting is desirable. It is not a matter of compulsory voting being confined just to South Australia or to Australia; there is compulsory voting in a number of other democracies in the world.

I do not believe that whether you have a democracy or freedom depends on whether we have voluntary or compulsory voting. In many respects, if you introduce voluntary voting, Governments may be elected on the votes of a very small proportion of the overall citizenry of a nation. This would tend to discriminate against people in the community in poorer circumstances. Arguments have been canvassed at great length on previous occasions, so I have nothing more to add, but I will obtain the information sought by the honourable member with respect to his second and third questions.

STA INDUSTRIAL DISPUTE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Transport, a question about an STA industrial dispute.

Leave granted.

The Hon. DIANA LAIDLAW: Several months ago the STA made a decision to phase out assistant guards on trains. The Australian Railways Union objected on a number of counts. As a result, a working party was established to look at the issue on the understanding that the *status quo* would remain until the working party had resolved some key issues, including that of security on trains. The working party was due to finalise its deliberations this week.

However, on Monday of this week the Australian Railways Union took exception to the fact that the STA had failed to roster an assistant guard on a three carriage train. A lightning strike was called by the ARU and, as honourable members would be aware, throughout the week passengers have continued to be inconvenienced and frustrated by *ad hoc* cancellations of services. Also, throughout the week the STA has continued to argue that it had no option but to run services without assistant guards because there were no longer enough assistant guards to cover all rosters. I ask the Minister:

1. Did the STA have insufficient assistant guards to cover all train rosters this week, because starting on Monday this week the STA had arranged for 12 assistant guards to commence a bus drivers' training course at the Hackney bus depot?

2. Does the Minister consider that the inconvenience and frustrations endured by train travellers this week could have been averted if the STA had not taken the provocative step to schedule this alternative training program for assistant guards this week, thereby ensuring there were not enough assistant guards to cover all train rosters?

3. Why did the STA commence the training program on Monday, thereby pre-empting the conclusions of the working party which the STA management knew full well would be finalising its deliberations this week?

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

ELECTORAL REFERENDUM

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question relating to the referendum on electoral redistribution.

Leave granted.

The Hon. I. GILFILLAN: With the passage in this place yesterday of the legislation relating to the constitution and the referendum, it is certain now that South Australians will again be going to the polls early next year to vote in a referendum on those amendments. Honourable members know that the Democrats have opposed that measure and have spent considerable time trying to persuade the Council to reduce to 45 the number of members in the House of Assembly, thereby avoiding the need for the referendum.

The fact is that the referendum will now take place. The Government proposes only one question in the referendum and the exercise of resolving that question will be of considerable cost to the taxpayers of South Australia. The estimates I have heard range from $2 million to $3 million. The question proposed is, 'Do you approve of the Constitution Act Amendment Bill 1990 relating to electoral redistributions?' The Government also states that it will require voters to answer 'Yes' or 'No' and that it is expected that explanatory statements will be available to all electors prior to the referendum.

Although we are opposed to that question because it is unnecessary and inappropriate for real electoral reform, it is the Democrats' policy to involve electors in as many decisions as possible that affect our community. I reflect on the situation in Switzerland, where there are frequent referenda. Of equal significance is the system whereby the referenda are undertaken involving electronic resources and updated methodology so that they are not a relatively expensive exercise. The people of that country have—

The Hon. T.G. Roberts interjecting:

The Hon. I. GILFILLAN: The Hon. Terry Roberts says that, because Switzerland is a small country, it therefore should not be taken as a pattern. I challenge that logic. I think we should be wise enough to learn from the procedures of others if they can be of advantage to South Australia, and the explanation to this question is just that: if we are to have this referendum, let us look at ways and means of making it more effective and to use technologies which will be cheaper and which will make referenda more amenable as a means of obtaining an expression of opinion from the people of this State.

So, considering the expense that is to be incurred by holding this referendum, and the relative infrequency of referenda in South Australia, I ask the Attorney-General: would the Government consider allowing a range of questions to be asked in this referendum, using the same 'Yes' or 'No' format? There are issues which come to mind that could be put: for example, the issue of the multifunction

polis, the proposed curfew at Port Augusta and the question of .05 blood alcohol levels. These questions and others could be considered as being included as ancillary questions now that the referendum is to be held.

In relation to providing electors with information relating to yes-no cases prior to the referendum, who will be responsible for providing that information, and how will it be funded? What is the Government's estimation of the total cost to taxpayers of holding the referendum? Will the Government consider, in line with other cost cutting measures, using facilities such as TAB-style equipment in voting procedures for the referendum?

The Hon. C.J. SUMNER: The mechanics of conducting a referendum are a matter for the Electoral Commissioner. If the Hon. Mr Gilfillan thinks that the TAB can assist in the conduct of the referendum, I suggest that he take up that matter with the Electoral Commissioner. I do not have the precise cost of the referendum in front of me, but I think that that information was probably given during the debate on the Bill. However, it is in the vicinity of $2 million.

The Hon. I. Gilfillan: Did you say $2 million?

The Hon. C.J. SUMNER: Yes, $2 million or $2.5 million, but I ask the honourable member not to hold me precisely to that figure. If the honourable member peruses *Hansard* for the day that the Bill was debated, he will find the best estimate of the cost quoted therein. I should point out that, on the matter of whether we should add other questions, the honourable member is a day late because the Bill passed Parliament yesterday.

The Hon. I. Gilfillan: You can never tell. You can't predict anything in this place.

The Hon. C.J. SUMNER: Apparently, the honourable member cannot tell when the Bill went through.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I can assure the honourable member that the Bill passed yesterday. Because there must be two months between the passage of the Bill and the conduct of the referendum, I do not think that there is enough time to amend the Bill to add the questions suggested by the honourable member—and, I might add, questions which we do not even know about at this stage. I really find that a somewhat astonishing proposition, given that the Bill was before Parliament for, I suspect, over a month.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Yes. I can only assume that the honourable member's diligence and devotion to his duties on this occasion were not up to their usual high standard, despite the enormous resources provided to him by the Government—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —resources, I might add, which have not been made available as yet to any other Party in the Council. I think that that is probably sufficient to answer the questions raised by the honourable member. I should also say that the Government proposed that we have just the one question; however, it was not just the Government but also the Opposition, because the Bill passed Parliament with its support. During the month that the Bill was before Parliament I do not recall hearing from the Opposition that it wanted other questions added. In any event, I think on a matter such as this—relating to the basic framework of the electoral structure—it is important that the matter be debated untrammelled by other issues that might arise.

I think it is a serious point because at the last Federal referendum there were questions that people might have agreed with and others with which they would have disagreed. But, in the final wash-up, because there was a dispute about certain questions, people simply voted out the lot for safety's sake. I think that would be unfortunate in this situation, where we are talking about a particular matter relative to the electoral structure. I think it is an important matter that should be debated as an issue on its own.

Whether or not the honourable member wants to turn us into a clone of Switzerland, I am not sure. Obviously, Switzerland has a completely different tradition to South Australia, and it does have a tradition of referenda. I think, given the public's reaction to spending money—and, in particular, even their reaction to the holding of this referendum, which I would have thought was the most important type of referendum one could have in a democracy—it would be highly unlikely that the public of South Australia would support financing a series of referenda on a regular basis on a variety of topics *a la* Switzerland. I do not see that as a practical proposition. Of course, if the honourable member wishes to pursue it, he is perfectly entitled to debate it in the community or indeed introduce a Bill, seeing that he missed out when the Government's Bill was going through.

As to the presentation of yes-no cases, the Electoral Commissioner will prepare a statement explaining the referendum question in objective and neutral terms. It will then be up to the various parties—not political Parties—that have a view about the referendum question to put their cases as they see fit. So, what will go out is the referendum question and information which explains what the amendment does.

The Hon. I. GILFILLAN: I have a supplementary question. Will the Attorney explain in a bit more detail the last point he made, because it is probably the most important—it even overrides the extent of the Democrats' facilities in this place! If I understood him correctly, the yes-no cases will be prepared by the Electoral Commissioner, and that will be the end of that statement. It will not be influenced by either the Government or any other interested party: it will be a statement that comes purely from the Electoral Commissioner. Will other statements be added for distribution from others who wish to put their point of view? Will they be able to forward their material to the Electoral Commissioner for distribution to electors? What was the Attorney's point about other parties being involved?

The Hon. C.J. SUMNER: I did not make any point about other parties being involved. Nor did I say—and I am sorry that on this occasion the honourable member was not being as attentive as he usually is—that there would be yes-no cases. I said that there would be an objective explanation of the referendum question. I also said that the presentation of yes-no cases would be something for the parties or the electorate at large. So, if the Hon. Mr Gilfillan wants to present his, presumably, 'no' case and put it in a full page advertisement on page 4 of the *Advertiser* every day of the referendum campaign—and I am sure that the funds of the Democrats will enable him to do that—

The Hon. I. Gilfillan: I thought you said there would be yes-no cases.

The Hon. C.J. SUMNER: No, I did not say anything about yes-no cases. The honourable member is entitled to publicise his case during the campaign, as are the Liberal Party, the National Party, the Electoral Reform Society and anyone else. Information can be put out pro or con by people who are for and against the question. However, that will be at their own private expense. If honourable members

want to make any submissions to the Government about this, we will be happy to hear them.

No yes-no case will be put out on behalf of the Government as such. The Electoral Commissioner will prepare an objective statement of what the question means. If we look at the question, 'Do you agree to amend section . . .'—whatever it is, without an explanation, it does not make much sense.

An honourable member interjecting:

The Hon. C.J. SUMNER: That's right, because it is the strict question that is put. So, there will be an explanation. That explanation will be prepared by the Electoral Commissioner, and I would expect him to consult me and the Opposition and, if the Hon. Mr Gilfillan would like to be consulted, he will consult him as well.

The Hon. I. Gilfillan: I would like to be consulted.

The Hon. C.J. SUMNER: So that the honourable member can be happy or, if he is not happy in the final analysis, at least he will know that he has had the opportunity of making submissions to the Electoral Commissioner on the appropriate statement. The statement will be an explanation, not a yes-no case as such. That is the current intention of the Government and the Electoral Commissioner. If honourable members opposite and others want to put any other point of view, that is fine; we could certainly have a look at it.

That is as far as we have gone so far. I think that is adequate. The yes-no case can then be put by the differing Parties during the referendum campaign. On a topic like this, it may be more difficult to get an agreed yes-no statement, even if we tried to do that, because of the differing points of view, so the Government feels a simple explanation of what the Bill means is necessary and then let a hundred flowers bloom and we will see what happens.

GOVERNMENT CARS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of State Services a question about Government cars.

Leave granted.

The Hon. T.G. ROBERTS: I was reading the *News* today in the Library, which is my wont, and on page 3 I thought I recognised a smiling face.

The Hon. R.I. Lucas: Didn't have my tie on, though.

The Hon. T.G. ROBERTS: No—very casually dressed, but ready for business. The line the article was adopting was that the use of the Government car was not an official use and therefore somehow was an abuse of the use of the car. In the article the Hon. Mr Lucas defended his position by saying that no guidelines had been issued to him, even though he had asked for guidelines to be given to him on the use of the Government car. If this is the case, the question I ask is: could the Minister explain if the use that was indicated in the article by the *News* of the Hon. Mr Lucas dropping his children off on his way to his parliamentary duties is outside the guidelines of the official use of cars?

The Hon. ANNE LEVY: Cars are provided by the Government to Ministers and to Leaders of the Opposition in both Houses and to the Presiding Officers to enable them to carry out their jobs in the most effective way. That is the reason the cars are provided. I certainly do not regard it as inappropriate for the Hon. Mr Lucas to use his car to drop his children at school on his way to work. I may add, too, that I deplore the invasion of privacy for the Hon. Mr Lucas's children that this article has demonstrated by publishing photographs of the Hon. Mr Lucas's children. That is to be deplored and I would hope that all members would join with me in deploring that invasion of their privacy.

COUNTRY HEALTH SERVICES

The Hon. BERNICE PFITZNER: I seek leave to make an explanation before asking the Minister representing the Minister of Health a question about country health services.

Leave granted.

The Hon. BERNICE PFITZNER: In a recent article from the *South Australian Medical Review* in November 1990, and after speaking to some health professionals in the Riverland and the Mid North, there is a feeling of confusion and despair on the issue of country health services. On the one hand, the South Australian Health Commission has said it would encourage more general practitioners to go to the under-serviced rural areas, while, on the other hand, without consultation with the Australian Medical Association (AMA) or the local rural community, or even the local doctors, the South Australian Health Commission executive has unilaterally allocated all funds for medical services into the hospital global budget.

Previously, the country hospitals were given a budget and the medical service was on a separate line, being paid fee-for-service. These two separate fundings now become the global budget. Treasury has agreed to fund the fee-for-service (that is, the medical service) to the level of last year's actual budget. However, each year the budget has had to be augmented. Treasury has not given an assurance of any augmentation for the year 1990-91, neither has it said it will not augment. By transferring the global budget onto the local hospital boards, the South Australian Health Commission has now transferred the burden of making hard decisions and receiving community anger resulting from decreased medical services onto the local board.

Furthermore, because of competition for funds, there will be conflict between the board, the nurses, other hospital employees, the community and the doctors. If the budget is insufficient, there will be ward closures, long waiting lists, a slow-down of services and a decrease of specialist services. In fact, there might even be no specialist services and a patient would have to go all the way to Adelaide. Making such trips raises a whole host of other economic, social and access issues.

The Chairman of the South Australian Health Commission, Dr W. McCoy, reports that he is aware of Treasury's position and that his best guess is that it might not assist if there is a budget over-run. With those vague instructions—as the article puts so well:

> The difficulty for individual units (hospitals) is to know when to apply the brakes on country hospital activities and by how much. Applied too much or too soon, and if Treasury does augment as in previous years, the hospitals will have caused local acrimony unnecessarily. If applied too little or too late they will have over-run.

It is an administrative nightmare. For example, the Hon. Mr Dunn has supplied me with some letters from Elliston Hospital. The first is a letter from the South Australian Health Commission, dated August 1990, to the Chief Executive Officer, which states:

> I am therefore advising you now that following negotiations with you and your board there may be financial adjustments applied to the budget allocation later in the financial year.

Because of these vague and ambiguous statements, the Hon. Mr Dunn asked in Parliament a question without notice in August 1990. The reply to the question without notice was inadequate and it was arrogant, in that initially it said that this letter—

The Hon. CAROLYN PICKLES: On a point of order, Mr President, the honourable member has used an opinion in her question.

The PRESIDENT: I must say I did not hear it, so I cannot express an opinion about whether it was an opinion. I ask the honourable member to continue, but to watch that she does not express an opinion in her question.

The Hon. BERNICE PFITZNER: I am quoting from the Minister's reply, if I may. The health professionals felt that in the Minister's reply there were no queries raised by any of the Chief Executive Officers of the 60 country hospitals because they were employees of the South Australian Health Commission and, secondly, they understood that it was the intention of the letter to be vague and ambiguous.

Again, the rural community is under pressure. It is having a difficult time at present and now its health services will most certainly be reduced if the Government persists in this uncertain method of funding. It is expected that the South Australian Health Commission executive and, in particular, the country sector executives, will negotiate and help country hospitals and their medical staff to accommodate change—if there is to be change—due to the economic situation. It is widely recognised that services in the country are different from services in the metropolitan area. Because of distances, the widely spread population and sparse services, rural communities need special consideration. It is expected that the South Australian Health Commission Country Sector Director and Deputy Director would have statistics and data to support this.

It was expected that these highly paid South Australian Health Commission country sector executives would have researched a rural practice pattern for these country health services. But this has not been done, so the doctors and the local boards will have to research this themselves to obtain further augmentation of their budget, perhaps. My questions are:

1. If the South Australian Health Commission is going to channel money from Treasury to the local hospital boards and not provide research back-up, policies or take any flak for policies, why do we have the expensive South Australian Health Commission?

2. Would it not be better to disband the South Australian Health Commission rather than the vulnerable country health services?

3. If the South Australian Health Commission is to continue, can we expect it to be more effective, more efficient, and more far-sighted?

4. Would it be better to regionalise the South Australian Health Commission so that it does not occupy an expensive piece of real estate in Hindmarsh Square, with it instead being closer to the community which it serves?

The Hon. ANNE LEVY: On behalf of the Minister of Tourism, I will see that those questions, together with the second reading speech which accompanied it, are referred to our colleague in another place, and bring back a reply.

LOCAL GOVERNMENT DEPARTMENT

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about the reorganisation of the Department of Local Government.

Leave granted.

The Hon. J.C. IRWIN: My question is a follow-up to an answer that the Minister gave on Tuesday to a question that was put on notice by the Hon. Diana Laidlaw. The Minister talked about a report on the organisational arrangements and budget for the establishment of the Bureau of Local Government Services, which is to have an 18 month life to 30 June 1992, as we know, and to be in place by 1 January 1991. I understand from the Minister that negotiations are still taking place, and a report will soon be available publicly for information. As every day passes, it becomes more and more apparent to people inside and outside of local government just how extensive is the range of possible areas for negotiation between the Government and local government.

I expect there to be a great deal of interaction between both teams of negotiators, that is, those representing the Government and local government and those representing the bureau, and that the bureau's range of activities will diminish on the way to 30 June 1992 as some new arrangements are agreed to and put in place. I ask the Minister:

1. Is it intended that the report on the establishment of the bureau will canvass all the areas identified for negotiation?

2. Will the Minister publish as soon as possible details relating to the matters for negotiation between the Government and local government including present funding arrangements?

The Hon. ANNE LEVY: The answer is 'Yes' and 'No'. The report which I am expecting very shortly is a report on the arrangements which will be made for the establishment of the bureau, which is to come into existence on 1 January next year. Discussions are still continuing with regard to staffing of the bureau and its administrative arrangements. I think decisions have been made regarding the finances of the bureau, although I do not have them with me at the moment.

As indicated in that reply to the Hon. Ms Laidlaw, that report, when I receive it, will certainly be released for public information. However, this is only a report about the establishment of the bureau which will be taking over many of the functions of the Local Government Division of the Department of Local Government. The negotiations which are to occur over the next 18 months will be between a negotiating team established by both the Local Government Association and the Government. This is a totally separate exercise from the Bureau of Local Government Services. The items for the agenda of that negotiation are not fully determined. To some extent, I would presume that they will be established by the negotiating teams themselves when they get down to negotiating.

The agendas, the topics and the functions which will be negotiated will themselves be a matter of negotiation, and that is a quite separate arrangement from the setting up of the bureau. Really there is no relationship with it. The bureau will take over the functions, as I say, of the Local Government Division of the Department of Local Government, initially at any rate, and what will ultimately occur with regard to the existence of a bureau, or to what extent it will exist and what its functions will be, will be part of the negotiation process.

However, I understand that the two negotiating teams will be having their first meeting the week after next, initially to establish the processes by which they will operate and some sort of agenda as to which matters it is most urgent to discuss. While I would doubt whether any actual negotiation will occur before the new year, it is hoped that there will be agreement on the processes to be established following the discussions.

The Hon. J.C. IRWIN: I wish to ask a supplementary question. I appreciate the Minister's answer. There seems

to be an intertwining. Will the bureau not be static? Its negotiations must be around the fact that, as arrangements are made through the next 18 months, the bureau will drop a number of matters to which it is attending, because they will be taken over by another Government agency or local government itself will take it on. So, is the Minister saying that, once it is negotiated and the report is out, the bureau will stay the same in function, numbers and arrangements right through to June 1992, or will it start dropping off in its functions as arrangements are made between the Government and local government as to how matters will be dealt with?

The Hon. ANNE LEVY: I do not want to pre-empt any decision that may be made as a result of the negotiation process. Obviously, the future and functions of the bureau will, I imagine, be pretty high on the agenda of matters to be negotiated between the two negotiating teams. The report, which I expect to receive soon, is in regard to the establishment of the bureau, what offices there will be, what will be the administrative procedures for its operation and how it will be organised and financed, and this is to become operative on 1 January. Certainly, as negotiations proceed there may be changes to the bureau or it may be decided that the bureau remains unchanged until 1 July 1992. I make no predictions one way or the other; I would not want anyone to draw any conclusions as to what the future of the bureau or any of its parts may be. That is all up for negotiation. What I will make public as soon as the information is available is what the bureau will look like on 1 January 1991.

SHACK SITES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister for Environment and Planning, a question relating to freeholding of shack sites.

Leave granted.

The Hon. M.J. ELLIOTT: On 5 November 1990 a document called 'Holiday House & Beach Front Management Plan—Blanche Harbor' was submitted to the Department of Lands by the City of Port Augusta. This document seeks to have the Government grant freehold title to some 180 of the 260 leasehold shack sites on the western shoreline of Upper Spencer Gulf.

The Port Augusta council has supported this document in spite of vigorous opposition from the senior officers as evidenced in the front page story of the *Transcontinental* on 24 October 1990. The concerns appear to be as follows: first, no environmental assessment of what effect a permanent population will have on the marine environment has been undertaken or proposed. Secondly, apparently, all effluent is proposed to be disposed of in the shallow shellgrit layer along the entire length of the shoreline, being in excess of 10 kilometres.

(It is proposed that a split system of effluent disposal be installed by each shack owner to minimise marine pollution but expert advice informs that, due to the shallow depth of the shellgrit layer, the closeness of the shacks and the impervious rock and clay base, rapid mixing of the grey and black effluents will occur with consequent marine pollution. This proposal has not been made available for public comment.)

Thirdly, all the usual planning procedures for such a significant freehold development have been dispensed with in that the shack owners will not be required to pay for the infrastructure such as roads, water or sewerage. This burden will apparently be thrust upon all ratepayers of the city. (It is interesting to note that all of the members selected from the public to serve on the council shack committee are shack owners. It is expected that shack values will increase from the present $20 000 to around $50 000 when freeholded with very little capital outlay from the beneficiaries.)

Fourthly, the original management plan was made available for public comment some six years ago but the new document, which is apparently significantly different, is not available to the public. Finally, officers of various Government departments have said that the Minister has advised them that they will not be permitted to comment on the management plan. I ask three questions:

1. Will the Minister insist that an environmental survey be carried out to ensure that this development does not degrade one of this State's most unique aquatic areas?

2. Will the Minister give an assurance that her Department of Environment and Planning will vet this development to ensure that proper planning procedures are adhered to and that other departments, such as Fisheries and Coast Protection, can assess it?

3. Will the Minister make the management plan available for public comment?

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

STATEFLEET

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of State Services a question on the subject of the Statefleet.

Leave granted.

The Hon. L.H. DAVIS: I am well aware that there have been serious discussions regarding the conversion of the Statefleet from petrol or diesel to LP gas. Can the Minister say whether that is correct? Could she also say what cost advantages are expected from this measure and when she expects this measure to be introduced?

The Hon. ANNE LEVY: As I understand it, discussions are occurring on this matter. The discussions involve Statefleet and of course the office of energy planning as well. I understand that discussions are not yet completed, because the matter needs to be looked at very thoroughly in terms of the costs of conversion, the different costs of running and maintenance and, of course, resale values when the vehicles are discarded. Statefleet always operates on a whole-of-life cost of vehicles in calculating the most cost-efficient method of running the State fleet of vehicles. As I say, I understand that these discussions are still continuing and the matter is being investigated very thoroughly in terms of the whole-of-life cost of the vehicles. I can certainly inquire whether the results of the discussions and calculations have yet reached the stage where conclusions can be drawn and a public announcement made.

REPLIES TO QUESTIONS

The Hon. PETER DUNN: I understand the Minister of Local Government has answers to questions asked on 8 November and 15 November and I ask her to incorporate them in *Hansard* without reading them. I understand there are some for the Hon. Diana Laidlaw as well.

The Hon. ANNE LEVY: I seek leave to have the following replies to questions inserted in *Hansard.*

Leave granted.

FIRE CONTROL

In reply to **Hon. PETER DUNN** (8 November).

The Hon. ANNE LEVY: My colleague the Minister for Environment and Planning has advised that the Eyre Peninsula fire referred to by the honourable member burnt over 40 000 hectares of which less than 500 ha (1 per cent) was conservation park.

The fire burnt into the conservation park in its latter stage and it is hard to envisage any protection strategy within that park which could have had an influence on the fire and the overall impact.

The fires within Flinders Chase National Park were contained within the area determined by the early control strategy. The area was large because controllers elected to burn back from an existing break network rather than put heavy earthmoving plant into the remote fire locations, because of the wet soil conditions and the lack of any useful purpose in creating heavy disturbance in those areas.

The need for proper fire protection is readily acknowledged. This could include effective fuel management strategies and planning with local communities and the Country Fire Service. Officers of the National Parks and Wildlife Service are strongly involved in the development of these cooperative strategies.

The Director of the National Parks and Wildlife Service is reviewing the park fire protection strategy in the Kangaroo Island Bushfire Prevention Plan to ensure the most effective fire management approach is taken.

The Director is also participating in a joint meeting of bodies involved in the recent Eyre Peninsula bushfire. The Country Fires Act allows for assumption of control of fires by the Country Fire Service.

PASTORAL BOARD

In reply to **Hon. PETER DUNN** (15 November).

The Hon. ANNE LEVY: The Minister of Lands has advised that the state of the vegetation on a pastoral lease is not a direct factor in setting the rent. However, it can affect the rent in two ways.

If an improvement in the vegetation leads to greater productivity or carrying capacity, this will be reflected in the production figures or stocking figures, and the rent will be increased proportionally, but no higher than the maximum levels set in the Act.

However, the action most likely to achieve an improvement in pasture is a reduced level of stocking, which would cause the overall rent to fall.

I can offer a hypothetical example to illustrate this point. Consider a lease with 10 000 sheep assessed at 70c per head, giving a rental of $7 000. If pasture improvements are achieved, say, through the reduction of stocking levels to 8 000 sheep, the total rent on the reduced flock will be down to $5 600.

Any benefits from higher market value because of good management would accrue to the lessee at the time of sale of the lease and do not affect the rent.

The Pastoral Board is responsible to the Minister of Lands for the administration of the Pastoral Act and it advises the Minister on the policies that should govern the administration of pastoral land.

Thus the Pastoral Board is not able to debate the policies set out in the Act but can discuss how it is administered.

The Minister understands that the references to 'policy' at the meeting at Middleback were intended to explain that the Pastoral Board could not debate the details of the Pastoral Land Management and Conservation Act.

In the context of the questions being raised at the meeting about rents, the board does not set pastoral rents and could not debate the legal basis for the rents nor answer questions in detail on this matter.

As the Valuer-General is responsible for determining the rates payable, one of his staff was invited to the meeting to provide information.

The Minister further understands that the board has sought information to answer the concerns raised by pastoralists at the Middleback meeting and will publish this information about the basis for the rent setting process as soon as possible.

Every lessee has been offered the opportunity to contact the relevant officers in the Department of Lands to discuss the detail of the rent for their individual lease. To date, over 40 lessees have availed themselves of this offer and I believe that the majority have been satisfied with the answers received.

With respect to the Pastoral Board's own administrative policies, I can assure the honourable member that the board plans to publish these policies as they are completed and to make them freely available to the pastoral community. These policies will serve as guidelines for future decision making and will also ensure consistency of interpretation of the provisions of the Act. I understand that the current set of policies will address such activities as:

- public access
- stocking rates
- tourism developments
- lease assessment process
- cropping and harvesting.

PRIVATE CONTRACTORS

In reply to the **Hon. DIANA LAIDLAW** (8 November).

The Hon. ANNE LEVY: The Government Agencies Review Group chaired by the Minister of Finance has not received submissions from most agencies. These submissions contain a wide variety of proposals for reform as the result of what was intended to be a 'brain storming' exercise.

The review group is in the process of considering each submission in detail with a view to making subsequent recommendations to the Government.

Once proposals have been thoroughly assessed, adequate consultation has occurred with staff and unions and the Government has considered the review group's recommendations, it will then be possible to inform the honourable member of specific changes. At that time it will be made clear what arrangements are in place to fund any proposed separations or retirements.

With specific reference to the use of private contractors, the review group's primary goal is the increased efficiency and effectiveness of the public sector. The review is concerned with ensuring the continued financial strength of the public sector, not about wholesale privatisation of functions and assets.

BICYCLE THEFTS

In reply to the **Hon. DIANA LAIDLAW** (25 October).

The Hon. ANNE LEVY: My colleague the Minister of Transport, has advised that the increasing incidence of bicycle theft is of concern. Recent publicity to make the community more aware of bicycle security is to encourage

greater care and attention in this regard has been undertaken by the Police Department.

Any encouragement of cycling must include attention to secure storage areas. This is particularly relevant in the inner city area to cater for the cycling public. I note with interest a current initiative regarding the establishment of a 'City Bicycle Park' in Rosina Street. This parking complex advertises secure undercover parking near Light Square and should be of great assistance to bicycle commuters.

The State Bicycle Committee is well aware of the problem and has consulted recently with the Adelaide City Council on bicycle parking. The Committee has the following initiatives under way:

(i) A bicycle parking information kit is being developed which will be distributed to local councils, architects, planners and State authorities; and

(ii) Information from the recent 'Opportunities for Cycling' seminar in which the end-of-trip facilities was a key subject, is being prepared in the form of a submission to the Adelaide Planning Review.

From this, a range of statutory measures can be developed which will encourage the provision of secure bicycle parking facilities in new and redevelopment projects throughout the metropolitan area.

STATE TRANSPORT AUTHORITY

In reply to the **Hon. DIANA LAIDLAW** (7 November).

The Hon. ANNE LEVY: The Minister of Transport has advised that the STA conducted studies in 1985 and 1988 to determine why people use or do not use public transport. The conclusion of the 1988 study was that compared to the previous year:

- 13 per cent of people said they were using it more often;
- 59 per cent about the same;
- 28 per cent less often.

This indicates a general decline in use. However, the reasons for increased or reduced use are largely independent of public transport services.

The reasons given for using public transport more often were:

	per cent
• not having a car or licence	36
• change in work/education location or circumstance	27
• change in personal circumstances (e.g. age/health)	18
• avoiding parking problems/costs	12
• convenience of public transport	8
• public transport is more relaxing or easier to use	6

The reasons for using public transport less often were:

• greater availability of a car	36
• change in work/education location or circumstance	35
• change in personal circumstances (e.g. age/health)	15
• convenience of a car	11
• fares expensive	10
• services not convenient enough	7

The STA has adopted a positive approach to promoting its entire integrated network of services of which rail contributes about 18 per cent of the total patronage. The STA is currently evaluating customer requirements through the Adelaide Public Transport Network Study (APTRANS). This evaluation should lead to improved service delivery which will be more than adequately promoted.

Since the introduction of the Crouzet ticketing system in September 1987 the STA has implemented a number of initiatives to encourage people to purchase tickets 'off board'. These initiatives which include introduction of multi trip and day tickets at metropolitan post offices have increased 'off board' ticket sales from about 20 per cent in 1987 to approximately 55 per cent in 1990.

In addition to these initiatives, the STA has just completed arrangements to allow ticket sales at some 40 additional outlets with a target of 200 by the end of 1990. These include delicatessens and newsagencies.

The decrease in 'on board' sales means that having both a guard and an assistant guard on a train for the purpose of selling tickets can no longer be justified.

The STA believes that the removal of assistant guards on trains will not jeopardise the safety of the travelling public nor will it lead to increased vandalism and graffiti on trains, at stations and in subways. The Transit Squad is responsible for such matters. It will shortly be increased by a further four constables as a result of concerns on security expressed by train staff.

It is the STA's view that safe working standards on trains will not be lowered by having trains operate with a driver and a guard. Evidence of this is that suburban trains in Sydney and Melbourne, where trains are of a similar length and which carry far greater numbers of passengers, operate only with a driver and a guard.

Any loss of revenue through ticket sales is considered by the STA to be minimal having regard to the current number of 'off board' sales and the anticipated increase when tickets are available at additional outlets. This situation will be closely monitored and ticket examiners will continue to be rostered on 'problem trains' as is current practice.

Whilst the STA is committed to the removal of the assistant guards it does recognise that there would be certain trains and occasions where it would be in the best interest of the travelling public and/or the STA for the guard to have assistance such as a ticket examiner to assist the guard or even a second guard.

An STA/Australian Railways Union working party has been set up to make recommendations on staffing arrangements.

REGIONAL RAIL PASSENGER SERVICES

In reply to **Hon. DIANA LAIDLAW** (27 November).

The Hon. ANNE LEVY: The Minister of Transport has written to the Federal Minister advising that the State Government will take the closure of the Blue Lake rail service to Mount Gambier to arbitration. Advice from the Crown Solicitor indicates that only the Mount Gambier service can be taken to arbitration. The Federal Minister of Transport and the State Minister of Transport will jointly agree on the appointment of an arbitrator. Based on previous arbitration cases, delay is expected to be minimal.

SWIMMING POOL SAFETY LEGISLATION

In reply to **Hon. J.C. IRWIN** (15 November).

The Hon. ANNE LEVY: A six week consultation period was launched with the release of the green paper 'Swimming Pool Safety Fencing' in July 1990.

Followng a media launch and the placement of an advertisement in metropolitan and country newspapers, 465 cop-

ies of the green paper were distributed to the general public, local government, industry groups and safety, community and medical organisations. The closing date for submissions was 17 August 1990.

A total of 100 written submissions were received in response to the green paper. These may be categorised as follows:

- 44 submissions from the general public
- 27 submissions from safety, community and medical organisations
- 21 submissions from local government
- 5 submissions from related industries or industry bodies
- 3 petitions, representing the views of 140 signatories.

The total response shows a wide spectrum of opinion and may be summarised as follows:

- 30 total objections
- 13 qualified objections
- 29 total support
- 28 qualified support.

In addition, discussions were held with key bodies including the Swimming Pool and Spa Association (South Australian Branch), the Department of Public and Consumer Affairs, the Institute of Building Surveyors, the Municipal Officers Association, the Local Government Association and the Injury Surveillance and Control Unit of the South Australian Health Commission.

A draft white paper is being prepared for submission to Cabinet. If approved by Cabinet, the white paper could serve both as a brief for Parliamentary Counsel to draft necessary legislation and a statement of Government policy which could be provided to interested parties. It is expected that the draft white paper will be finalised this year, and discussions are continuing on the most appropriate administrative unit to continue work in this area after the Department of Local Government is abolished.

PARAFIELD AIRPORT

In reply to **Hon. I. GILFILLAN** (6 November).

The Hon. ANNE LEVY: My colleague the Minister for Environment and Planning is not aware of any increase in the number of noise complaints from residents surrounding Parafield Airport, although she understands that there has been an increased number of training flights in and out of Parafield Airport in recent months.

The responsibility for the control of aircraft operations is vested in the Federal Government through the Civil Aviation Authority. The Noise Abatement Branch of the Department of Environment and Planning is unaware of any related noise complaints. However, local residents concerned about noise or low flying aircraft should contact the Environment Manager with the Civil Aviation Authority on telephone number 218 0265.

Although the Noise Abatement Branch is not aware of any significant increase in the amount of noise caused by aircraft at Parafield, the Minister would certainly be prepared to pass any available information on to the Federal Minister should aircraft noise become a problem at any airport under the control of the Civil Aviation Authority.

NATIONAL CRIME AUTHORITY

The Hon. J.C. IRWIN: I understand that the Attorney-General has an answer to a question that I asked on 18 October about the National Crime Authority.

The Hon. C.J. SUMNER: I refer the honourable member to the ministerial statement made by the Minister of Emergency Services in another place on 6 November 1990. The statement is headed 'Operation Noah' and appears on page 1504 of *Hansard* for that day.

LAW AND ORDER

The Hon. J.C. IRWIN: I understand that the Attorney-General has the answer to a question that I asked on 6 November 1990 about law and order.

The Hon. C.J. SUMNER: The Minister of Emergency Services has provided the following information regarding the matters raised by the honourable member:

Problems with answering the '000' and '11444' emergency lines, manifested at the 'changeover' from the 9th floor in Central Headquarters to the new Comcen. Since identifying the problem, nine personnel have been transferred to Comcen as despatch/telephone operators. The problem now appears to have been rectified. As a further control measure, Telecom is currently conducting a survey on Comcen telephone lines to identify workloads and delays, if any. This survey will indicate whether a further rationalisation of personnel is required.

The constituent who made 27 telephone calls in relation to a breaking offence at his house was interviewed by Chief Inspector Peacock on Wednesday 7 November 1990 regarding his house breaking on 1 November 1990. Upon receipt of the report of the break and enter, a patrol attended and took the necessary details and advised the owner not to touch pertinent items until a crime scene examiner attended. Due to a family celebration on the weekend the members of the family found it difficult to move freely about the house without touching items, pending the arrival of the crime scene examiner. With the non-arrival of the crime scene examiner the complainant became frustrated and angry and made calls to '000' and '11444', Para Hills and Elizabeth police stations on at least 18 occasions. His frustration and anger is easily understood and justified.

Due to the onset of the family celebration the owner of the house replaced the various items that were subject to the activities of the offender(s). As a consequence there is no value in the belated attendance of a crime scene examiner. The problem would seem to be a breakdown in communications between the initial patrol persons that attended and the crime scene examiner and the required level of communication with complainant. The end result is not acceptable and apologies have been tendered accordingly. Further efforts are under way to ensure a non-repetition of this type of event.

It is acknowledged that Elizabeth did have a problem with personnel, but this was investigated, and corrected to some degree with the provision of clerical assistance, plus three police officers to assist in the office and cells. The Police Department's Resource Allocation Committee has recommended staff increases in the Elizabeth/Para Hills area. In February 1991, Elizabeth is to get 10 extra patrol personnel, plus three Aboriginal police aides.

It is proposed that in April 1991, Para Hills receive five extra personnel. It is also proposed that in July 1992 Elizabeth is to acquire a further two personnel for office and cell duties. This boost of personnel should solve Elizabeth's current staff shortages.

The Minister has also advised that a project team has been examining the overall issues of adequate staffing of police stations. They have been examining police boundaries, workload and deployment with a view to recommending improvements in these areas. The Police Force operates in a dynamic environment and is always striving for ways to improve delivery of service to the public.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from Page 2406.)

The Hon. R.I. LUCAS (Leader of the Opposition): Prior to the luncheon break, I was addressing some comments to

some concerns that have been expressed by Professor David Penington in relation to the VCE which, I suggested, were applicable in part to the introduction of the South Australian Certificate of Education. I then indicated that those concerns were shared by many in South Australia and I instanced the example of the senior master in physics from the Mount Compass Area School. I now want to give two further examples. I might add that time does not permit me to list all the concerns that have been raised on this point, and I will only use these three examples as a diverse cross-section of educators, people in the field, who are concerned as to *(a)* what is occurring and *(b)* what may well be the result unless SSABSA and the Government heeds the concerns voiced by many in education.

I will now quote from a response by the Curriculum Committee of the Department of Physics and Mathematical Science signed by Professor Tony Thomas of the University of Adelaide. This letter was sent to one of the committees of SSABSA in response to the final draft of stage 1 Extended Subject Framework for Physics. Professor Thomas says on behalf of the physicists and other academics on that committee:

> We have grave misgivings about the future of school physics as outlined in this ESF, because we have seen it all happen before in the United States school system. Long ago in the United States there were similar arguments about a majority of students not being scientifically inclined, so courses had to be made less scientific and more social. These theories have now been imported into Australian education and obviously form the basis of this ESF document. However, the US policy was a disaster, as practically everyone there knows. For several years now, the US Government itself has been commissioning reports on what can be done to reverse the slide. These studies have highlighted the catastrophic situation in high school physical sciences and mathematics. These days, there are very few native Americans studying these subjects in US graduate schools—foreign students dominate! There are similar shortages in trained engineers, technicians and less academically oriented technical trades.

There is further criticism by Professor Tony Thomas. To be fair to those involved in the extended subject framework of physics, Professor Thomas has been a long-time critic of the direction of mathematics and, in particular, physics in our secondary schools. He is not alone; his criticisms are shared by many not only at the University of Adelaide but at many of our other higher education institutions. The last of the three comments from which I wish to quote is from a non-government school. It is in the form of a letter signed by about 12 senior staff of Salesian College. They are teachers of years 11 and 12, and they have been consulted about the extended subject frameworks that are being recommended for the new SACE. I quote from their letter to the Minister of Education as follows:

> We are concerned that many of the courses being introduced are deficient in academic rigour and that many of the objectives are questionable. Most teachers feel that this subject has been trivialised. On the other hand they will have to teach many things that are value loaded and are not appropriate for their subject area. Subjects will no longer offer challenges to the academically able, as concept development, understanding, and accumulation of knowledge are not emphasised or seen as important.

There are many critics of what is being offered in these extended subject frameworks, and I readily concede that there are obviously within the system many who would disagree with those comments from Salesian College, Mount Compass Area School and Professor Tony Thomas. I would readily concede that there is a divergence of opinion about the appropriateness or otherwise of what is being offered. But, as I said earlier, I share the view of Professor David Penington, that we ought not to be trying to offer the same diet to all students in the senior secondary years. We ought to be able to offer academically able students what they, the universities and employers would wish them to study so that they can be nationally and internationally competitive after they graduate from secondary school and, more particularly, from our universities.

Students in years 11 and 12 who do not wish to go on to university ought equally to have their desires and wishes catered for. As I said earlier, we are not suggesting that years 11 and 12 should be geared solely for the purposes of those wishing to enter university. There is a broader group of young people in our years 11 and 12, and we must cater for them all. However, we should not have to make the sacrifice that our year 11 mathematics students will have to make, when they will have to take a 25 per cent reduction in year 11 mathematics because of the recommendations of SSABSA. As I said, that criticism is shared by the majority of academics in our university faculties of mathematics, science and engineering.

If students want to do, and are capable of doing, Maths II during year 11, the education system should not prevent them from studying Maths I and Maths II. I do not share the view of the SSABSA Mathematics Committee, chaired by Professor Jane Pitman from the University of Adelaide, which looked at this question. As I indicated earlier, Professor Pitman is the lone pebble on the beach from the faculty of mathematics at the University of Adelaide. All her colleagues and the teachers disagree with the opinion that she and that committee have arrived at: that in some way our year 11 students can do 100 per cent of the mathematics in 75 per cent of the time if they would just work a bit harder and were just a bit smarter.

The Hon. M.J. Elliott: She hasn't taught in schools.

The Hon. R.I. LUCAS: The Hon. Mr Elliott, as a teacher, makes the very pertinent comment that perhaps she has not taught in schools, and I think that is an important question. Much of the criticism that we are getting is not just coming from university academics; it is coming from teachers who must teach years 11 and 12 and who are concerned about some of what is being offered at this stage under the South Australian Certificate of Education. As I said earlier, if SSABSA and, more particularly, the Government are prepared to address these criticisms and are not intent on rushing them through, perhaps we can test, through the use of pilot programs in schools, whether or not some of these ideas from SSABSA committees will work. If they work, I will be the first to say that all the criticism, including mine, was incorrect and that we should go ahead with a full-scale use of these programs.

In a couple of areas we have been able to pilot test new programs, and new courses in schools but, in the vast majority of cases, because of the politically imposed timetable, we have not been able to do this, and that is a widespread criticism from many people involved in schools: that they have not been able to test some of the new ideas. Some members will know that, over the past 20 years, many a new idea has been tried and, after five or so years, has been found wanting; we have then gone back to the old way or we have developed it and refined it to a better technique or way of doing it. I would have thought that, with such a major change as we are envisaging under the SACE, we ought to hasten slowly, and the Government should listen to the criticisms that are being made about the rushed timetable.

The original timetable for the introduction of the South Australian Certificate of Education was outlined in a number of documents produced by the Senior Secondary Assessment Board of South Australia. One document was released in October 1989 in an information package for SACE. Time does not permit me to go through it in detail but on one

of the pages it says, 'What is the implementation time line?' It then states:

From 1990 there will be, by the end of the year, completion of all stage 1 (or year 11) BFFs (broad field frameworks) and also development and completion of all stage 1 ESFs (extended subject frameworks).

So, the intention in October 1989 was that by the end of this year we would have finished all the broad field frameworks and all the extended subject frameworks. We are speaking of some 46 extended subject frameworks and 10 broad field frameworks for stage 1 (or year 11) to be completed by the end of this year.

In my latest discussions with SSABSA and in other discussions conducted with it, my understanding is that none of the extended subject frameworks (at least as of last week) had yet been finally approved. Many of them were well on the way, and the deadline had now been moved back into 1991. The magical date is now 18 April 1991, and many of the extended subject frameworks (or, in effect, the syllabi for the 46 subjects that might be offered at year 11) will not now be completed until 18 April 1991. That is a slippage of some four months.

Much concern has been expressed by the schools and, again, I have had many complaints, of which I will highlight only three. I refer, first, to the Mount Compass Area School, whose senior master said:

I am certain that the timing of the requested feedback will produce very limited responses.

I interpose there to say that new documents are being sent to schools, and the schools are being told that within the space of a week or two weeks they are to consider the documents and return their responses. Many involve quite fundamental changes in the way that their subjects are to be offered under the SACE. The senior master continued as follows:

Basically, the time line for the introduction of any changes is too rushed. It is not fair to make these changes under times of intense pressure. I would like to believe that it is not too late to defer the introduction of these changes, allowing proper feedback and discussion to take place.

In another letter to an evaluation project officer at SSABSA, the same senior master says:

It leaves one with the feeling of being manipulated by SSABSA to deliberately time the release of the documents at the worst possible time, to gain minimum feedback, hence implementing a devious *fait accompli*. SSABSA should know better than to do this.

That is a criticism from that particular senior master. I know that most honourable members who are interested in education, and certainly in SSABSA, would have read the *Adelaide Review* with growing interest over recent weeks and months. I refer to an article in the *Adelaide Review* by Giacomo Lasch under the heading 'Perverse decisions, perverted process', as follows:

When one views the bewildering flow-charts of work-to-be accomplished and SSABSA's coordinating role in all this (the 1989 annual report of SSABSA has considered desirable a move into three-dimensional flow-charts), one begins to have sympathy for the Catholic secondary schools principals. Their association in May this year urged deferral of the implementation of SACE. Hundreds of teachers in Government and non-government schools would heartily agree. They are being asked to respond, almost mechanically, to a check-list of various levels of approval for each new document, with a turn-around time of one week. SSABSA claims of consultation with education providers and seeking sector responses ring hollow. Frustration with, rather than ownership of, the emerging product is the dominant reaction.

Not only are those views shared by Catholic secondary school principals, but also a number of principals and their representatives in the independent schools have expressed their frustration at the rushed process. Finally, the Institute of Teachers has corresponded with me, and I guess with other honourable members, stating:

The institute's State council resolved that SAIT request that, in the interests of social justice and equity for all, the Government postpone all decisions regarding the South Australian certificate of education until all participants can be fully involved and that it not be implemented until 1993. We communicated this decision to the Minister in late September—

that was before the recent threat by the Institute of Teachers not to work with the Education Department in the implementation of SACE as a result of the industrial dispute with the Government—

with an offer to discuss teacher concerns with him. As yet, we have had no reply. but in the meantime the Minister has introduced a Bill in Parliament to bring about the necessary legislative change and has stated publicly the Government's intention to implement the SACE in 1992. The SAIT decision reflects the widespread disquiet amongst teachers concerning the readiness of SACE proposals for implementation and of schools to implement the SACE. There is genuine concern that to proceed with the 1992 time line would result in the implementation of inadequately tested curricula.

That is certainly a damning criticism: that we may well end up with inadequately tested curricula in our schools; and that the representative body of teachers corresponded with the Minister of Education in September this year but to this date it has had no response from the Minister to its genuine and widespread concerns.

The original concept for the development of these broad field frameworks and extended subject frameworks was explained to me by a former Director of SSABSA and his senior officers, who said that the broad field framework itself would be approved and from that would come the extended subject frameworks. In the example given to me there would be consultation and then approval of the broad field framework for, say, science, and from that would come the extended subject frameworks for component subjects such as physics, chemistry and biology. The argument given to me was that, until the broad field framework had been approved and set in concrete, it was impossible for the extended subject framework working officers to derive their subject frameworks from it. To someone in my position that made a lot of sense, and it obviously made a lot of sense to the former Director and senior officers of SSABSA.

Even under the former Director—and I am not laying a criticism here of the current Director, with whom I have shared good cooperation and consultation—a combination of SSABSA, the Minister of Education and the Education Department decided to collapse this consultation process so that schools were being asked to consult and look at broad field frameworks at the same time as extended subject frameworks. So, we had teachers looking at biology or chemistry frameworks at the same time as others were looking at the overall science framework.

A significant number of teachers from the Government system and the non-government system have complained to me about the changed process and the inappropriate change in the process in which SSABSA and the Government are now engaged, because they knew that, if they stuck to the original time frame and the original proposal, they would not have met the politically imposed deadline of 1992. Concern is still being expressed that the SSABSA time line at the moment is to complete year 11 first and then move on to do the year 12 subjects. There are varying views on this. Some argue that it is appropriate, and others argue that it is inappropriate. At this stage I do not want to enter that debate. However, I place on record that many are arguing this way, as expressed in another article in the *Adelaide Review* this week and in a number of letters that I have received. For example, one of the letters that I quoted earlier from the Mount Compass Area School says:

How does the level one ESF merge with the level two document? I believe that level two is yet to be finalised. If we do not know the level two approach, how can we be certain that the level one approach is appropriate as a prerequisite to level two?

So, there are people who are concerned about the lack of coordination between doing, say, mathematics at year 11 and then doing mathematics at year 12. Genuine concern is expressed in that letter and in many others that the coordination that should have been achieved in the development of these year 11 and year 12 subjects is not there—again, because of the politically imposed timetable by the Government in respect of SSABSA.

As I said earlier, 46 of these extended subject frameworks must be ready by 18 April. Once they are approved we move on to what is known as approval of the teaching programs. Every year 11 teacher, in this case, in the State will need to have a teaching program approved for the subject that he or she is taking up. One of the attractions—although I am not sure whether SSABSA or the department would publicly concede this—is that there will be much greater uniformity in the teaching of year 11 throughout South Australia as a result of the introduction of SACE. I think that Gilding, SSABSA and the department know that, but are reluctant to publicly concede it. It is something that I certainly intend to pursue in Committee. SSABSA is offering exemplary teaching programs (exemplars for short). If I am a year 11 biology teacher at Unley High School, I will have not only an extended subject framework for biology but also an exemplary teaching program for cancer, or whatever the other issue may be, which will provide for me a menu for teaching biology at year 11 at that school.

For a variety of reasons, perhaps because they are exemplary teaching programs and are very good, many teachers will take them up. Perhaps for a fewer number of teachers, if they do not want to go to the extra work of doing their own, they might take it up for administrative convenience as well. For whatever reason, I believe there will be much greater uniformity through our schools in the teaching of year 11 subjects.

These teaching programs, through the second half of 1991, have to be approved by the principals of the schools. Ken Boston, in a letter to me, has confirmed that the approval of the teaching program will be delegated down from him, through the area office, to the level of principal at the local school, and that will certainly be the approach being adopted by the Catholic Education Office and the Independent Schools Board.

In the approval of these teaching programs, there is a small subset of that which refers to the appropriate assessment practice. That assessment practice will not be approved by the principal: it will be approved by SSABSA. I was advised in a briefing by SSABSA that that approval process will not commence until 1992. I expressed my surprise at that with SSABSA. I am not sure whether that is still SSABSA's approach, and I will pursue that with SSABSA. But I would have thought that the question of whether an assessment procedure was appropriate or not may well affect the teaching program of, for example, the biology teachers at Unley High School in 1991, when they are trying to have a teaching program approved by the principal.

I am sure that can be resolved in some way, but I will be seeking from SSABSA, or from the Minister, on the advice of SSABSA, its response to that, and to how teachers can cope with that. There will certainly be a lot of hiccups and problems. For example, what happens in this climate of cutbacks in schools where the year 11 teacher at Unley High School in 1991, who has a teaching program approved, is then transferred under the 10-year rule, loses his or her job, or is transferred for any other reason, and in February of the following year there is a new year 11 biology teacher at Unley High School? I guess it will have to be resolved with sensible discussion with the principal as to whether the existing teaching program will have to be taken up or whether, indeed, the procedures will be flexible enough at the local school level and with SSABSA in relation to the assessment program to ensure that the new biology teacher could, in effect, alter the teaching program.

One of the criticisms that has been levelled at SACE is that, from around about mid-year next year, or certainly into the third term, year 10 students are being advised as to what subjects they ought to take for 1992, when they go into year 11. The course outlines are offered to students and to their parents. They engage in discussions with the school and with their parents and, certainly through that third term of 1991, they are making decisions as to what they might be doing for subject options in 1992.

Certainly, as regards the time frame that we are talking about, whilst I understand that the sectors, that is, Catholic Education, Independent Schools Board and the Education Department, have said they think that this time line can be met, what I am saying is that those out in the field—not necessarily the sector representatives—are expressing concern and do not believe that the time frame can be met in an appropriate way. Of course, any time frame can be met, but whether we do it in an appropriate way and whether we get the appropriate level of the professionalism in the curriculum development and in teaching practice is the critical question. So, I do not accept the response from the Government and SSABSA which says that the sectors are telling us that they think they can cope, because, if there is a politically imposed deadline, then of course they will have to cope, but it is a question of whether it is the best way to introduce such a major change into our schools.

As I said earlier, and I will not repeat again, there has been very little, although I concede some, pilot testing of these new frameworks in schools, and many of the schools are arguing that if we could have pilot testing, then at least some of the concerns could be checked to see whether or not they are correct. Again, I stress that I make no criticism of SSABSA and its senior officers in this contribution in relation to the timetable, because it has been a political decision, a decision taken by the Government and the Minister of Education.

I am on the public record as saying that I believe there should be a 12-month delay in the introduction of the South Australian certificate. I know there is concern at the senior levels of the Education Department: I know there has been some discussion about whether or not they should make the decision to back off now or not, and at the moment they are saying 'No.' There is the faint possibility that, if things really jam up early next year, the decision could be taken then. I know there is discussion of not necessarily delaying SACE completely, but perhaps delaying the introduction of the new year 11 subjects by 12 months, so that in some broad way SACE would still be said to be introduced by 1992 onwards, but the new year 11 subjects would not come into train until 1993. As I said, whilst all of that has been discussed, and I know that, at this stage the decision remains that there will not be a delay.

The Opposition has been asked to amend this Bill to try and institute the delay. I understand the Hon. Mr Elliott may well have some comments on that. Certainly, at this stage we have looked at that and feel, for a variety of reasons, that it would be almost impossible to achieve in the legislation as it is currently drafted. If someone was to propose an amendment, to try and achieve that, we would obviously give it serious consideration but, as I said, at this

stage, whilst we agree with the view, we believe, and our legal advice would seem to indicate this, that it would be very difficult to amend the legislation to bring about the 12 months delay without creating a significant number of other problems and concerns.

It would certainly be my preference that Parliament not be forced into a position of imposing a legislative delay, but that SSABSA—and more importantly the Minister of Education—heed the criticisms which they have heard and which we have outlined in this contribution and, of their own volition, decide in some way or another to delay by some 12 months the introduction of SACE.

The next area I want to address is in relation to the question of the literacy audit and, as I said before, I have some concerns about the literacy audit. It has certainly been publicised by the Government as a significant part of the new South Australian Certificate of Education, and I agree that on the surface it is, but again I think that there is some window-dressing going on in the literacy assessment and it will certainly be something that I intend pursuing at length with the Minister and her adviser during the Committee stage.

I want to indicate briefly some of the concerns at this stage, so that the SSABSA officers can consider some of the matters that I intend to raise. One of the problems with this is that the shadow Minister of Education and the Opposition are not officially privy to the draft documents that SSABSA has been circulating to schools. On a number of occasions we have sought copies, only to be advised that they could not be provided to the shadow Minister of Education. So, we are relying on drafts that are leaked or provided to us by various schools. They do go through changes, which I accept, and I can only address the draft copies that we have. The one I have at the moment for the assessment of reading and writing for stage one of SACE was a draft of April 1990 of this year. I know that at least in one important respect that has been changed—because this draft was talking about six pieces of writing which had to be assessed.

I understand that there has been a change, I think in recent days, so that there will now only be four. Anyway, we can pursue that in Committee. Page 4 of the draft states:

> A 'satisfactory' assessment [of literacy] will not guarantee that a student will be able to read and write successfully every text required of him/her in every subject or other texts of a different level beyond the school situation. A 'satisfactory' assessment will indicate that a student's reading and writing skills are adequate for the demands of schooling at stage 1 of the SACE.
>
> Assessments will be conducted twice a year at the end of each semester. Students classified as non-satisfactory will be able to resubmit for assessment at the end of any or all of the subsequent semesters. They will be given written feedback regarding ways in which their writing has and has not satisfied the criteria. Schools will then address those areas of language use requiring improvement. The assessment will be carried out in the schools by an internally appointed panel of assessors.
>
> Authentication of students' work.
>
> Each subject teacher is required to verify in a signed declaration that the material submitted in the folio is the student's own work. As part of the assessment of writing, any work done under supervision must allow students an opportunity to draft and polish their writing.
>
> Resubmission.
>
> All resubmissions will include the following:
>
> - the first folio (and all others from previous submissions, if relevant)
> - the feedback sheet/s
> - a new folio containing six new pieces of writing.

I understand that that will probably only be four now. The draft continues:

> Assessment of resubmissions will focus only on those specific areas of language use previously identified as requiring improvement. The assessment of resubmitted folios will establish whether these areas have been successfully addressed.

Further, page 7 of the draft states:

> Finally, while the assessment practices described here are rigorous and subject to the necessary external moderation procedures to ensure public accountability, they are positively supportive of students' learning.

The draft I have been given by the teacher says, 'No! Little or no work under supervision. No rigour at all.' There is certainly strong objection from this particular teacher, anyway. The draft continues:

> The provision of feedback to students whose language competence is not deemed satisfactory on a first submission, together with the opportunity to resubmit at the end of any subsequent semester, are measures specifically designed to include students in senior secondary education rather than exclude them from it.

There are many other aspects of that draft that I will be seeking comment on, in particular: how often this particular work can be resubmitted, how much polishing and refining can be done, and what is meant by this test of, whether the literacy is satisfactory or not, it is intended to include them rather than exclude them.

I would have thought the intention would have been to test whether or not they are literate, not whether it has been designed to include or exclude people. It really ought to be there as it is being publicised, as a literacy requirement. Certainly, if one can go back on half a dozen to a dozen occasions, then sooner or later one would think that a student with refinement and polishing will strike it lucky at one stage or another and satisfy the literary requirement, particularly as that may well be able to be done over two years of the South Australian certificate.

Some will argue, as they have to me, 'Well, isn't that what we are about, that they will be improving their literacy and eventually they will get to the stage where they can satisfy the requirements.' If that were the case, I would certainly agree; but, what I am suggesting is that unless we are careful it may just be a question of letting them have as many goes as possible, and one out of a dozen goes might well be successful and the other 11 might be unsuccessful. This literacy assessment appears to be saying that if they strike it lucky one out of 12 times that will satisfy the assessment.

I will leave to the Committee stage the question of whether assessment at year 11 will be just satisfactory or unsatisfactory or completed. There are some criticisms of that. I will seek answers to questions about what is happening with the entry to higher education formula; there have been a lot of suggestions about that. I will also be referring to some criticisms, both interstate and in South Australia, about an old hobbyhorse of mine—whether or not school assessment as is currently conducted by schools is open to some level of abuse by schools.

A view that I have is that if a child has professional parents and is positively supported in the home and has access to good resources in the home and elsewhere, their chances of doing well in years 11 and 12—and I guess also in other areas of schooling, if we are to be honest—are certainly much improved. It may well be that perhaps there is nothing too much that can be done about this, but it is a concern I have and I intend to raise it with the Minister and his adviser.

Because of the time, the only other issue I want to take up concerns this dilemma that I raised earlier about Australian Studies. I have significant concern, for a number of reasons, about this matter. First, as I have indicated previously, the fact that it is compulsory at year 11 means that our mathematics students will not be able to do the full component. Indeed, why should Australian Studies at year 11 be compulsory? On reading the press releases from the Minister of Education and the department, the idea one

gets is that if a student takes Australian Studies they will be studying some elements of Australian history and learning a bit about the history and settlement of Australia. They will learn about good citizenship and our political systems, and they will also discuss our culture, as well as a variety of other contemporary issues.

There has always been a criticism that people do not know enough about Australian history, geography and our political systems. The argument has been that students should be forced to take Australian Studies to come out with some base level of information about history, geography and our political systems. I have spoken to the SSABSA adviser about the extended subject framework of Australian Studies and while she could not give me a copy of the fourth draft (I have a copy of the second draft) she tells me that there is a significant difference between the fourth and second drafts of the Australian Studies component. One of the exemplars on work has been removed.

However, in the areas I want to address, I do not think there has been significant change—certainly that is the advice in a broad way that I had from the officer. Obviously, there will have been some changes, but I do not want to tie her to that.

When one looks at the draft document one will see that it is possible for students to do Australian Studies at year 11 and not do anything at all in relation to Australian history or geography. So, the question I put to the Minister is: why therefore the compulsion to do Australian Studies at year 11? Why not, as many have suggested, do it at year 10, not as part of the South Australian certificate, when our students are generally around 15 or 16 years? This would avoid inflicting the problem on our maths and other students, possibly our language students, at year 11 by making Australian Studies compulsory at year 11, particularly when it is framed in the way in which SSABSA envisages. In the Education Department for years 8 to 10 we have a document on common knowledge—Guidelines for Programs in Society and Environment for Years 8 to 10.

Within this document, if the department so chose, it would be possible to compel all year 10 students to study Australian history, Australian geography and political systems at the year 10 level, thereby opening up an option at year 11 perhaps in further development along the lines that have been suggested for Australian studies but not making it compulsory for all students in year 11. This document, Common Knowledge, talks on page 9 about it being compulsory as follows:

> Studies in society and environment seek to develop positive attitudes towards other people as well as the understanding of different lifestyles, cultures, belief systems and ways of organising communities; they also provide insights into human achievements and recognise our heritage. Throughout studies in society and environment, there should be a focus on Australian cultures, lifestyles and systems.

Again, I do not have the time to go into the detail that I desire on this document but I would make another comment about page 18, where it states:

> Years 8-10 in relation to years R-12
>
> Australian studies. The courses described in this book provide a basis for stage one SACE (year 11) Australian studies. Students need a background in Australian and world history, geography, social systems and culture before attempting the stage one Australian studies course. The broad coverage of essential learning in 8-10 society and environment will mean that students will have a sound basis for attempting the more demanding issues-based approach of stage one Australian studies. Society and environment courses will also provide the background to many subjects that could be studied in later years including politics, history, geography, legal studies, economics, religion studies and social studies.

What the Education Department is saying to teachers, students and parents is that this document, Common Knowledge, at year 10 in particular will be providing a background in Australian and world history, geography, social systems and culture before a student attempts the stage one Australian studies course of SACE. So, those who want our students to learn about Australian history, our political culture and systems and geography, find the answer—potentially, anyway, if practice follows theory—for year 10 in this Common Knowledge document. It is not to be offered in the year 11 Australian studies course. As the Australian studies adviser told me, if the students do not do it for whatever reason in years 8 to 10 the teacher may well take up one of the options in Australian studies to do a bit of it.

What I am suggesting to the department, the Government and SSABSA is to develop at this year 10 level this Common Knowledge document to ensure there is a knowledge of Australian history, geography, political systems and our cultural background and then make Australian studies at year 11 optional to allow the maths students to do maths I and II at year 11 if they wish.

One of the concerns being expressed by this Australian studies option (as is addressed in this Common Knowledge document as well) is that it will primarily be an issues-based subject. Students will be looking at contemporary political issues. They will not necessarily merely be looking at Australian history, geography and culture. It is based on a concept of process learning or, as I said, issues learning, where the emphasis is on the process rather than the content. I refer to pages 7 and 8 of the Australian studies document, which, under the heading 'Australian Studies Overview', states:

> It is recommended that the Australian studies program include an overview of Australian studies, based on focusing questions in the domains.
>
> The overview should:
>
> - focus on students' perceptions and understandings of contemporary Australia
> - build on students' knowledge and understandings of contemporary Australia
> - explore the links between the Australian environment, heritage, culture and social systems
> - identify a number of issues of importance facing Australian society
> - stimulate students to think about future directions for Australia.

Further, under point 2 on issues-based learning, it states:

> It is recommended that the major approach of the program focus on studying contemporary issues in Australia. An issues based approach will have the benefits of:
>
> - relating students' learning to events current in Australian society
> - enabling students to consider their own relationship to important events occurring in Australian society
> - providing students with a model for inquiring, analysing and acting on important matters in Australian society, that they can continue to develop and apply throughout their lives.

At the bottom, under 'Informed Action' it states:

> It is important that students are able to translate their increasingly sophisticated knowledge and understandings of social issues into effective action. Students should be able to appreciate their own capacity to act and be able to make judgments about appropriate forms of social action for issues in which they have an interest.
>
> Appropriate action should range along a continuum of expression from raising the awareness of their peers to directly influencing the decision-making processes of social groups and systems. It is important that students learn to act within a framework guided by the concept of responsible citizenship.

What we are talking about here is turning out a team of political activists going through the compulsory Australian studies program. The emphasis is on issues-based learning—looking at contemporary issues—and the emphasis is to be on informed action, on taking appropriate forms of social action on issues in which they have an interest and to take action to influence the decision-making processes of social

groups and systems. That is the emphasis of Australian studies; it is to turn out a team of political activists from our schools.

When one looks at the models for program structure on page 9, one sees a model for a teacher to follow, which provides that first of all one looks at the overview (which is in effect the brief introduction and overview of the subject) and then the guts of the course are two issues: a guided issue study, for example, Aboriginal land rights, and then a detailed issue study chosen by the students, which may well be the environment, poverty, or work, which are some of the suggestions made by the Australian studies course writers, and then there is a summary in reflection.

So, the bulk of the work is to be a study of two contemporary issues. The bulk of the work will be such issues as Aboriginal land rights and, in another example, poverty. So a student can be doing Australian studies, and be spending the bulk of their time not learning about Australian history or geography but about a particular contemporary issue such as Aboriginal land rights and another issue. This seeks to turn them into political activists or at least activists in the community in relation to seeking change as a result of the particular subject that they might have studied.

I want to look at the exemplary program for teaching Aboriginal land rights. Remember that teachers will spend about half their time teaching about Aboriginal land rights at the year 11 level in Australian studies. What the Aboriginal land rights program recommended for our year 11 students will do is seek to turn out Aboriginal land rights activists who are prepared to support the position being pushed by those active in the Aboriginal land rights movement, to support that view in the community and to seek change along those lines.

I want to refer to some of the examples that are suggested in this teaching program to see the direction and emphasis of this example. Under the Australian studies exemplary unit for Aboriginal land rights, first of all students are told to understand the issues; what do the students think and feel about land rights and what do the students want for the future of land rights? Then they are asked to investigate the issues and the questions are: what is the connection between the land and the dreaming for Aboriginal people; which land can be claimed or protected; why is particular land being claimed by Aboriginal groups? In researching that, the recommended texts are:

View and discuss films, e.g. 'Ngurunderi: a Ngarrundjeri Dreaming', 'The land my mother'. Research Dreaming stories, e.g. 'Australian Dreaming', 'Flinders Ranges Dreaming'. Compare and contrast maps, e.g. 'South Australian Aboriginal groups', 'Aboriginal lands 1985', 'Aboriginal land and population map'.

What sort of balanced approach is being recommended by SSABSA and the course writers in that case in relation to this issue? The document continues:

Analyse the issue:

- What are different Aboriginal points of view on landrights?
- What are the views on non-Aboriginal people on landrights?
- Who legally and morally owns Australia?
- Contact Aboriginal Legal Rights Movement or other Aboriginal groups involved in landrights issues.
- View and discuss 'Uluru—an Anangu Story'.
- Analyse ANOP research results on community attitudes to landrights.

There is some balance here. The document goes on:

- Contact mining companies to find out their policies regarding Aboriginal landrights.
- Read and discuss the Burnam Burnam declaration of 16 January 1988.

Then students are told to make decisions on the issues:

- What points of view do the students support on landrights?
- What forms of action do the students support on landrights?
- What are some possible consequences of Aboriginal people gaining landrights?

The recommended work:

- 'Protection of Aboriginal land' a role play for students.
- Read and discuss articles 'Aboriginal plea for a treaty enshrined in the constitution', 'WA tribes plan challenge to win back tribal land'
- Discuss the table 'Cultural values'.
- Conduct a consensus building activity to determine the class feeling on action to support landrights.

They are talking about questions of whether they should or should not, but this recommends action to support land rights. On page 23, the document continues:

There will not be the usual 'tests' of what has been learnt. Students should understand the value of the skills they will be developing through research and discussion. Their assessment will reflect their development in these skills.

Highly recommended resources:
People.
Central Land Council.
Aboriginal Lands Trust.
Aboriginal Heritage Branch.

These are the people we should contact to get a balanced view on Aboriginal land rights. The document continues:

Film and video:
Our Land is our Life (Central Land Council).
Munda nyringu (Aboriginal history of the mining towns around Kalgoorlie, WA).
Malbangka country (the attempt by one family to return to their traditional country).
Familiar places (Aboriginal ties to the land).
The new rangers (Aboriginal rangers in Kakadu National Park).
Ningla-a-na (original footage of the Aboriginal Tent Embassy in Canberra, 1972).
Ngurunderi: a Ngarrundjeri Dreaming.
On Sacred Ground (the Noonkanbah incident in WA).
The land my mother (Aboroginal closeness to the land).
Uluru—an Anangu story.
Secret country (Aboriginal dispossession).
Alinta—the flame 1824-1830.
Haydinna—the shadow 1880s.
Nerida Anderson 1939.
Print:
Land Rights News.
Aboriginal Lands and population map.
Aboriginal Sites in South Australia.
Charlesworth, M. *The Aboriginal land rights movement.*
Further resources are listed in the Aboriginal land rights document.

This is the recommendation from SSABSA for a dispassionate review of Australian studies and Aboriginal land rights to be compulsory for our year 11 students if the teacher so selects. If we are talking about Australian studies, in my view we are not talking about turning out Aboriginal land rights activists in a compulsory way from our schools as a result of this sort of document. I will not go through all of the 40 pages, and my colleagues would not wish me to.

The Hon. M.J. Elliott: Why don't you table the damn thing?

The Hon. R.I. LUCAS: Because then you would not hear it and you would not read it.

The Hon. M.J. Elliott: What about all the other people? They all have to read *Hansard.* Just table it and help everyone.

The Hon. R.I. LUCAS: I will not let the Hon. Mr Elliott escape that easily. On page 31, the document says:

Try to find out who owns or leases most of Australian land according to European law, although it is not easy to do. Much pastoral land in Australia is owned or controlled by Americans, the British and Japanese but enormous sections of land are also owned by an extremely wealthy minority of Australians. Discuss this as an equity issue relating to all Australians. What are the vested interests of pastoralists and mining companies? Watch the film *On Sacred Grounds* or *How the West was Lost* and discuss.

What values are being incorporated in our students in a compulsory way by this sort of document? We have the Government, SSABSA and the Education Department saying that it will be compulsory, and that, if the teacher chooses this particular elective of Aboriginal land rights, which is one of the exemplary teacher units recommended by SSABSA, students will be compelled to study Aboriginal land rights in this way with this value base that is being recommended. On page 33, it is stated:

> The students' task is to list the positive, negative and interesting aspects about preservation of sites and to devise an action plan.

What will this action plan be? What are our students being asked to do? On page 34 the document goes on:

> Appropriate social action could follow which could include discussion of the following suggestions.
> Letters to organisations seeking support—

obviously, for Aboriginal land rights—

> Letters to editors of various publications.
> Letters to politicians or Government departments.
> A visual display for a library or shopping centre.
> Discussions with Aboriginal people.
> An article to be written for a local paper.
> A school newsletter or magazine article.
> A play workshopped to educate others.
> Speaking on community radio.
> Posters or badge designs.
> Surveys.
> Action should be delayed until the end of the course. This activity idea can be adapted to a whole range of issues affecting Aboriginal people.

On page 36 it is stated:

> Students should check whether their decisions are consistent with principles of social justice and the development of sustainable lifestyles for the community. Are decisions fair and just to all concerned?
> Step 11—Planning a strategy and tactics before taking action.
> Teachers need to check the school's policy on students being involved in public actions before discussions with students on this section of work.

We are saying that the teachers will have to check with the principal to find out whether it is all right for the students to be involved in public action, clearly supporting, by inference, Aboriginal land rights. The document continues:

> Students should decide as a group:
> What can we do and how could we do it?
> What can we do given the circumstances, bearing in mind the class time available, cost and availability of materials, approval needed by the school, access to publicity facilities?
> What action are we going to take?
> Who is going to do what?

Then there are further examples of action that could include many of the things to which I have referred. That is one example and, to be fair to SSABSA, I think that is the worst example. I am not suggesting that all the documents at year 11 level are of that standard and are of that quality and are so value-based and politically biased as to be misleading—and I want that to be on the record. I have concerns for a whole variety of reasons about compelling our students to do the SSABSA version or the Minister of Education's version of Australian studies at year 11.

It is not as I originally thought and, I suggest, it is not what the majority of schools and the majority in the community would think would be covered in an Australian studies course. I can only urge the senor officers of SSABSA and the Minister of Education to take a good hard look at what is being suggested as exemplary teaching programs in the Australian studies unit and, in particular, the Aboriginal land rights exemplary teaching program. It is value loaded; it is biased; and a balanced view is not being suggested, as I indicated from those resource documents in relation to people to contact. In the end, in those suggestions there was not one that put an alternative point of view to that being pursued by the Aboriginal land rights activists.

With those comments, I support the second reading of the Bill. There will be no other speakers at this stage. I have attempted in some detail and at some length to cover many of the criticisms that have been conveyed to the Opposition about the South Australian certificate, and we intend to pursue those questions and criticisms in some detail in the Committee.

The Hon. T. CROTHERS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. R.I. LUCAS: Has the Hon. Mr Elliott put on file his amendment?

The CHAIRMAN: Yes.

The Hon. R.I. LUCAS: I would like some time to consider it; I have not seen it yet.

The Hon. M.J. Elliott: It has been on your desk for some hours.

The Hon. R.I. LUCAS: I have been speaking for some hours, and I have not had the opportunity even to consider it.

The Hon. Anne Levy: It was there before lunch.

The Hon. R.I. LUCAS: I was speaking before lunch.

The Hon. Anne Levy: You were not speaking between 1 o'clock and 2 o'clock.

The Hon. R.I. LUCAS: A significant amendment has just been dumped on my desk. Late this morning I asked the Hon. Mr Elliott whether he had an amendment. He said 'Yes', but I still did not receive a copy. I have not seen it, considered it or discussed it with my colleagues. Is the Minister prepared to report progress so that we can consider the amendment?

The CHAIRMAN: If the Minister wants to report progress, that is her prerogative.

Clause passed.

Progress reported; Committee to sit again.

BUILDING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 2343.)

The Hon. ANNE LEVY (Minister of Local Government): I thank the Hon. Mr Irwin for his general support for this Bill, particularly his support for facilitating the introduction of the Building Code of Australia and for measures which have the potential to increase the rate at which older buildings can be inspected for fire safety.

The Hon. Mr Irwin suggested that consultation on the Bill has been selective and inadequate, Certainly, owing to our desire to have the Bill dealt with before the Christmas break, time for consultation has been more limited than usual. However, I ask members to bear in mind the origins of this Bill. In the course of working on the draft of the proposed building regulations 1990, which will set out administrative provisions and incorporate, by reference, the technical provisions of the code, Parliamentary Counsel advised that a number of amendments should be made to the Act to provide power for certain regulations and make the proposed regulations and the Act sit well together.

Given that a Bill was being prepared, the opportunity was also taken to implement some of the recommendations of the Review of the Administration of Building Control which was carried out by the Department of Local Government.

The report of the review was sidely circulated and commented on months ago.

The proposals relating to objects, building fire safety committees and the Building Advisory Committee were first canvassed in that report several months ago. Officers of the department met with officers of the Local Government Association on 22 October—more than six weeks ago—and went over a draft of this Bill. The Building Advisory Committee considered the Bill at its meetings in October and November and the Bill was circulated to all councils in early November—more than a month ago. The Local Government Association and several councils have made submissions on the Bill which have been taken into account.

There were two main areas of concern to the Local Government Association and councils. These were the provisions relating to building fire safety committees and proposed new section 9 (2a) in clause 5, which concerns certification. As I explained in introducing the Bill, it provides for a building fire safety committee for an area to authorise persons to conduct inspections on behalf of the committee and so increase the rate at which potentially hazardous situations can be identified. It was intended to make the best available use of staff resources which might be available to each of the agencies represented on the Committee—the Building Control Branch, the local council and the Fire Authority.

Some councils, however, saw this as a kind of devolution of responsibility without power, although there is no compulsion on councils to make any extra staff available, and these councils need to engage in a much larger negotiation about which level of government should take responsibility for this fire safety work and how it should be funded. That negotiation can and will happen in the context of the review of State/local government relations. In addition, some councils and the Metropolitan Fire Service were concerned that inappropriately trained people would be appointed by the committees. Since the council and the fire service make up two of the three positions on each committee, and the fire service had agreed to participate in training sessions for persons being considered for appointment, this concern was a little hard to fathom. However, officers of the department have met officers of the Metropolitan Fire Service and concerned building surveyors and reached a compromise.

I will move to amend the Bill in Committee to specify that only persons qualified to be building surveyors or inspectors, or persons nominated by the Chief Officer of the Metropolitan Fire Service, may be appointed for inspection work by building fire safety committees.

On the question of certification, the Local Government Association has submitted that new section 9 (2a) should be omitted or changed so that it deals specifically with the kinds of certification provided for in the existing building regulations. The LGA is concerned that an extensive private professional certification scheme may be subsequently introduced by way of regulation without sufficient and detailed consultation.

The existing regulations, of which there are many (34.4a, 35.1 (4), 36.5 (3), 36.1, 37.2 (2), 40.2, 41.3, and 43.2), are designed for the situation where building surveyors may have no technical expertise in a particular specialist field and need to rely on someone who does. Depending on who is approved by the local authority, these provisions allow for self-certification by the designer, or independent checking, of certain engineering aspects of building work. However, at present these regulations do not relieve building surveyors and councils from the obligation of checking and accepting or rejecting these certificates.

Existing regulation 8.3 (3) is different in its intention. Building surveyors would have the expertise to check calculations of load factors, stresses and deformations. Regulation 8.3 (3) gives them the option to accept a certificate that these calculations have been independently checked and accord with the regulations. The building surveyor may elect not to check these calculations and, in that case, a quarter of the application fee is remitted.

Councils use the present regulations concerning certification, and it is the intention to incorporate similar systems in the proposed building regulations 1990. Provisions about the checking of calculations will be similar. It is also proposed that the regulations will provide that, for the purposes of section 9 (2a) as it appears in the Bill, council may accept as complying with section B—Structure—or section E—Services and Equipment—of the code, details and so on lodged with an application if an independent practicising engineer (that is, independent from the project) or other person approved by the council has certified that when completed the building or structure will, if erected in accordance with those details, comply with the regulations. The certifier will, as at present, have to set out the basis on which the certificate is given and the material which has been relied on. This will reflect the current system, with the slight improvement that section 9 (2) specifies that acceptance or approval may be given without further examination or consideration by council. The LGA and all councils will be consulted on the draft regulations. They need not be concerned that the regulations will appear without their being consulted on them beforehand.

Councils which feel that approving details on the basis of certification is inherently more risky than approving them on the basis of their own assessment need not do so. I do not think that there is any justification for taking this option away from councils which will want to take advantage of it. However, as I say again, the detail of the proposed regulations will be the subject of consultation.

The options available to councils, as existing and proposed, do not amount to a scheme for private professional certification in building control regulation. As I have assured the Local Government Association, much more work will need to be done on any such proposed scheme in consultation with local government and industry. The Local Government Association has also obtained an assurance from the Director of the Planning Review, that it will be fully involved in the development of any such scheme.

The Hon. Mr Irwin sought assurances that a Building Advisory Committee of six will be better than a committee of 10, and that the committee will include people who work in the building industry. The committee currently has six members, three of whom are private professionals from large and small architectural practices and an engineering consultancy firm. That is 50 per cent of the committee. The idea was to appoint people with specific expertise who were also able to take a global view and balance community and industry interest. This is achieved, we maintain, because, with the exception of the Local Government Association representative, no member is there specifically to represent an industry sector or group.

I can assure the honourable member that a reasonable approach will be taken to the application of access provisions for persons with disabilities. Regulations will make it clear that the upgrading requirements will not be applied to single detached dwellings.

South Australian specification SA05.101, to which the honourable member referred, will in fact be the present specification 16.1a, 'Construction Requirements for Buildings in Bushfire Prone Areas', merely renumbered for consistency with the numbers in the Building Code, and reissued.

In relation to the Hon. Mr Irwin's query about test certificates from the fire service, the draft regulations deal with applications for approval for a building to be equipped with a booster assembly for use by the fire authority or to have a fire alarm system that transmits a signal to a fire station. These will need to be accompanied by a certificate from the fire authority, certifying that the proposed fire fighting and detection facilities comply with the requirements of the fire authority.

The Hon. J.C. Irwin: And produce water at the other end of it.

The Hon. ANNE LEVY: One would imagine that would be one of the requirements.

The Hon. J.C. Irwin: We would hope so.

The Hon. ANNE LEVY: Requirements will also be included to provide that a council must refuse to issue a certificate of classification for the building until it has received a certificate from the fire authority stating that fire service installation is satisfactory.

The class 3 classification to which the Hon. Mr Irwin referred in the context of fire safety has changed significantly over time. It was amended in 1988 specifically so that people offering home accommodation or home hosting could do so without being caught up by the more onerous requirements for class 3 buildings. A limit of five persons was set in 1988, replacing the previous reference to a 'number of unrelated persons'.

Subsequently, the Building Code of Australia established the number of 12 persons as the criterion for placing a building in class 3 instead of class 1. If, for some reason, 12 occupants was considered too high in a particular case (for example, in a two-storey building), the building fire safety committee for the area could impose suitable extra requirements. If this situation is found to happen frequently, I can assure the honourable member that we will introduce a South Australian variation to the code. It is incumbent upon us, however, to promote uniformity, so at this stage we will adopt the code provisions.

A recent research project commissioned by the Australian Uniform Building Regulations Co-ordinating Council (AUBRCC, as it is commonly called), entitled 'Investigation into Emergency Warning and Intercommunication Systems', investigated the extent to which alarm systems should be required in all classes of buildings. From the recommendations in that report it appears likely that there may be a change to the code which will allow a maximum number of 10 occupants without further safety measures being required. I will refer to my colleague the Minister of Emergency Services the Hon. Mr Irwin's concerns about State hospitals, because I think they are more appropriately considered by him rather than by me.

Building fire safety committees have in the past, and will in the future, issue notices in respect of both public and private hospitals. The Government is just as anxious, as is the Hon. Mr Irwin, to see that all hazardous situations are quickly identified, and the provisions in this Bill will assist in that as fire safety inspections will be greatly increased in number.

With respect to the subject of outbuildings and whether or not they are building work, we have had significant input from the Crown Solicitor's office on the claims of Mr Keane. We are satisfied that the ruling given in the case of *Keane v. Kleem* was specific to the transportable igloo or tunnel-type of greenhouse and cannot be extended to structures of a more permanent or fixed nature. Consequently, unless exempted from being building work by the area and height limitations in schedule 1 of the proposed regulations, such outbuildings will be building work.

With respect to the fencing of swimming pools, I will shortly receive a draft white paper which takes account of all the submissions made on the green paper, and makes recommendations. When Government policy on this question has been settled, I intend to make the white paper public and will seek to make or amend legislation as appropriate to reflect it. The debate about pool fencing does not need to occur in relation to this Bill. Whatever the ultimate legislative outcome, I certainly am heartened to see people taking very seriously the message that fencing for swimming pools saves lives, and I would encourage all pool owners to install isolation fencing.

Finally, I turn to the objects which are inserted into the Bill. I think that the Hon. Ms Laidlaw in her comments gave a pretty good definition of cost effectiveness, but I will give an example. The Warren Centre, which is associated with the University of Sydney, carried out an extensive project on fire safety and engineering for the Australian uniform Building Regulations Coodinating Council. The vast majority of fire deaths in buildings occur in dwellings.

A very small percentage of fire deaths occur in non-residential buildings, yet, there is very significant expenditure on fire safety and protection. The project from the Warren Centre has shown that a model can be created which gives a rational assessment of, first, the effectiveness of the various inter-relating fire safety and protection facilities, secondly, the cost of fire protection and losses resulting from a fire and, thirdly, the risk to life safety from fire.

There is evidence from this report that substantial cost savings are possible while maintaining our current fire safety record. As a result, the uniform Building Code reduces fire resistance ratings for many structures and spandrels have been eliminated in buildings which have sprinkler systems. More changes will follow, I am sure, in this and other areas to ensure that the cost of building regulation is the minimum necessary to achieve the objectives. I thank members for the consideration they have given to the legislation before us.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. J.C. IRWIN: I take this opportunity to thank the Minister for her considered reply. A number of matters in her response have now alleviated the need to ask specific questions during Committee. It was fairly evident, from contributions of the Opposition during the second reading stage, that we did not have a great number of problems with the amendments in front of us. However, it gave us the vehicle to raise other matters, some of which were addressed in the amendments before us. However, we did not signal that we were against any of the amendments, but we did put down various positions from local government and other people who had made representations to us.

I take this opportunity to record the usual complaint about the amount of work that seems to come in at this time of the year, as we get to the end of a sitting period. The Minister and other Ministers have had 12 months now since the last election to get amendments together. In her department the Minister has eight people in the Building Control Branch, and although they are specifically engaged in many other things one of their tasks would be to prepare amendments.

I concede that, with the resources available to us and because the Bill was only introduced on 14 November, we did have time to consult during the week off. All was well until we received another three pages of amendments that came in at the eleventh hour. Yet I believe on that Tuesday,

in my absence, the Minister had a bit of a whack at me for the late filing of my amendments. Also, we hear the Democrats sometimes complaining about the number of amendments that are filed at the last minute by both sides.

I do not always see that as a bad thing because the bicameral system—the two Houses, the three readings and the time between the two—does give some opportunity for the general public to lobby and to consult both the Government and the Opposition.

Although some of that occurs under 'hothouse' conditions and we complain about it, it is a good process which does allow for legislation to leave both Houses in, one would hope, the best possible shape. So, I can say the same about the Minister's amendments that we will now be considering. I hope that those amendments are well-explained, because we have not had an explanation about why they are required at this eleventh hour. I have now learned to live with the adage, 'There but for the grace of God go I': I do not complain too much because one usually finds that within two days it affects one the other way around. I am quite happy to go through the amendments before us, and I await their explanation with interest.

The Hon. ANNE LEVY: I thank the honourable member for his comments. I pay tribute to the people who have worked long and hard to provide in a very short space of time such detailed explanations which I hope were of assistance to the honourable member. In general terms the amendments before us arise from further consultation with local government and the Metropolitan Fire Service. One in particular relates to a matter raised by the honourable member, so it would have been difficult to provide that amendment at an earlier stage.

Clause passed.

Clauses 3 to 5 passed.

Clause 6—'Approval of temporary buildings and structures.'

The Hon. ANNE LEVY: I move:

Page 2, after line 36—Insert new subsection as follows:

(2) If a condition referred to in subsection (1) *(a)* is not complied with, the owner of the temporary building or structure is guilty of an offence.

Penalty: Division 6 fine.

Clause 6 in effect provides for councils to impose conditions when they are considering granting approval for construction or erection of a temporary building or structure, including conditions regarding the removal of the building. That latter condition has not been available to them previously. Parliamentary Counsel advised that these provisions should be placed in the Act, not in the regulations, to make clear the power of councils in this regard. As a result, clause 6 will enable a council to allow an owner to live in temporary accommodation on a site while building a home, provided that the owner complies with specific conditions for health, time limitations as to when the structure must be removed, and so on.

The amendment, which is at the recommendation of Parliamentary Counsel, will add to the provision that it is an offence not to comply with the conditions on which a temporary building has been approved. Without it, no offence was created and no penalty could be provided.

The Hon. J.C. IRWIN: On another occasion my colleague the Hon. J.F. Stefani might comment further on some of these matters, as he has more experience in the building industry than I have. The Opposition accepts the amendment.

Amendment carried; clause as amended passed.

Clauses 7 to 10 passed.

Clause 11—'Council may require conformity with Act.'

The Hon. ANNE LEVY: I move:

Page 4, after line 4—Insert new subsections as follows:

(5) If a building or structure does not conform with the provisions of this Act or any building work has been performed contrary to the provisions of this Act, the council may recover from the owner of the land on which the building or structure has been erected or constructed, or the building work performed, costs incurred by the council for the purpose of determining whether the building or structure conforms with this Act or whether the building work has been performed contrary to this Act.

(6) The amount of the costs incurred by the council as referred to in subsection (5) may be recovered by the council—

(a) as a debt due by the owner by action in a court of competent jurisdiction;

or

(b) if the owner is found guilty of an offence against this Act in respect of the performance of building work contrary to the provisions of this Act or is found guilty of an offence against subsection (4)—on application to the court hearing the proceedings in respect of that offence.

(7) In any legal proceedings, a document apparently signed by the mayor or chairman or the chief executive officer of the council certifying as to the amount of the costs incurred by the council as referred to in subsection (5) constitutes proof, in the absence of proof to the contrary, of the matter so certified.

The existing section 38 of the Building Act provides councils with the power to insist on conformity with the Act where work has been done without approval or does not comply with the Act. New subsections (1) and (2) in the Bill are new and will allow councils to obtain the information that will enable them to determine that a building or structure does not conform with the Act. The amendment to this clause makes it clear that councils can recover the cost of their work in making this assessment.

The Hon. J.C. IRWIN: We may part company with the Government here. We have not had the chance to consult on it at all, but we are not happy with the clause. Why do the building fees and other fees associated with the Act not cover the council's costs? I imagine that they would be determined on an average basis, anyway, and would have to take into consideration the high costs of some major buildings and the lower costs of ordinary home construction.

The Hon. ANNE LEVY: This clause deals with the situation where no application has been made to a council and consequently no fee has been paid; someone has gone ahead and done building work illegally without making any application. This clause gives councils the power to go and assess that building work that has been done illegally to see whether or not it complies with building regulations. But, as no application has been made, no fee has been paid. The amendment is to enable the councils not only to assess the work that has been done but to recover any costs that they may be involved with. Without that there would be very little incentive for the councils to do this because it would be a cost that they could not recover.

The Hon. J.F. STEFANI: As I read the amendment, it provides some additional cost recovery to the council. Penalties are provided in the original amendments. I would have thought that in the process of applying the Act those penalties would be recoverable: they are set down by regulation. The owner is required either to upgrade the building structure to conform with the provisions of the Act or to remove it altogether. The owner must comply with a direction from the council, and penalties under divisions 6, 7, 10 and 11 as they apply.

The Hon. ANNE LEVY: I realise that penalties are set out in the Act, but there can be situations in which a council may not wish to prosecute. Penalties can be recovered or applied only if a prosecution occurs. The council may be happy merely to assess the building work that has been done to ensure that it is safe work without undertaking

prosecution. Unless prosecution is undertaken it would have no means of recovering the cost of that. The amendment ensures that they will be able to recover the complete cost of their assessment work, and that complete cost will probably be greater than the building application fee that the individuals concerned would have paid had they applied for building approval before doing the work as they should have done.

Consequently, it is likely that there will be a financial penalty to someone who has undertaken building work without approval by getting it assessed for safety after it has been done, the financial penalty being that the cost to the council will be greater than the building application fee would have been had an application been made before the work was done.

The Hon. J.F. STEFANI: I do not want to prolong the debate on this amendment, but as I read the original proposal the Act clearly stipulates that the council can say to an owner who has built without approval, 'Prove to us that the building work you have performed is *(a)* structurally sound and conforms to the Building Act; and *(b)* conforms to the fire regulations.'

I would have thought that that was a very simple process and that the Council has the authority under the Act to tell the owner, who has gone ahead and built without approval, to prove to the council that the building work that has been performed without approval meets the requirements of the Building Act in structure and whatever and, additionally, where required, that it meets the fire regulations. The council does not have to do anything, it can stand on that point and say, 'Do it or the building comes down.'

The Hon. ANNE LEVY: Section 38 (1) provides that the council must satisfy itself that the building is safe and that the fire regulations are met. One way of doing this is for council employees to undertake the work. It will not be obligatory for councils to use their own employees to do this. Some councils would feel much happier if they had their own building inspector to do the work in order to satisfy themselves that the structure is safe and meets the requirements. They will have the power to do this if they wish, and recover the cost of so doing.

The Hon. J.C. IRWIN: The Minister made the point earlier about cost recovery for a penalty being through a court action. Clauses 6 *(a)* and *(b)* and clause 7 relate to court recovery processes as well. So, the amount of costs referred to by the council in proposed new subsection (5) may be recovered by the council as a debt due by the owner by action in a court of competent jurisdiction or if the owner is found guilty of an offence against this Act. New subsection (7) provides that, in any legal proceedings, a document apparently signed by the mayor or chairman as to the costs incurred by the council is part of the evidence. If we accept this amendment we are still putting in place a cost recovery mechanism that will need court action. Although the cost may be different, it is no different from the clause relating to the recovery of a penalty.

The Hon. ANNE LEVY: There is a slight difference. It is not a case of prosecution with penalty, it is a question of cost recovery. The council can do the work, submit a bill to the owner and then only if the owner does not pay can the council then take action through the Small Claims Court. It is very different from proceedings for illegal action with penalties. It is a Small Claims Court procedures to recover costs only if the owner does not pay the bill when it is presented to him. The whole court procedure may, of course, not occur if the owner sends his cheque by return mail.

The Hon. J.F. STEFANI: I am a little perplexed. I understand clearly that this option is available to the council. In the case of the owner of a property who has constructed a structure without a permit, he may first submit to the council structural engineering drawings and whatever else to prove that the structure is sound and meets fire requirements. That is the first option.

The second option is that, if a council is not satisfied with that, it may engage a person to do that, or it may use its own staff or an outside consultant—so that it is totally satisfied—and in that process council may incur certain costs. According to this provision, those costs may be recovered. So that is a second option for councils?

The Hon. ANNE LEVY: Yes.

The Hon. J.F. STEFANI: If we accept that this is an option, I am concerned that it may be abused by councils, as an overall authority pinning down someone and saying that they will do it that way. The second matter that I want to address is that, if we are setting in the legislation that in any legal proceeding a document apparently signed (that seems to be a very loose word to use) by the Mayor, the Chairman or the Chief Executive Officer of the council certifying that the amount of the cost incurred by council as referred to it is the cost that will be recovered, I would have thought that if that were going to court the defending lawyer or lawyers involved would say to the court that it should be provided with proof of cost. That process may involve presentation of invoices or various other relevant backup documents—not necessarily just a document apparently signed by the Mayor; and in fact mayors do change, as we all know—as does the Chairman or the Chief Executive Officer. I find that clause extremely strange.

The Hon. ANNE LEVY: This is not an unusual evidentiary provision; matters like this frequently occur in legislation. If in a particular case someone wished to challenge the costs and say, 'It couldn't possibly have cost that much,' it would be possible to query the costs and seek further evidence. Very often, it is more likely that it would involve not so much invoices but a list of the number of hours that the building supervisor has had to spend on the matter. It avoids calling the CEO, the Mayor or the Chair of the council to the court to say, 'Yes, that is his signature and, yes, that was the number of hours that the building inspector spent on this work.' I am assured that it is not an unusual evidentiary provision. It does not mean that the costs cannot be challenged if they seem to be excessive.

The Hon. J.F. STEFANI: I thank the Minister for that explanation. It is a personal view, but perhaps the phrase should be 'that a certified document, signed by the mayor is required'. I am not being pedantic about it, but if we want this to be a little more clear about what it is meant to do, I would be a bit more comfortable with different words.

The Hon. ANNE LEVY: I am quite happy to refer that comment from the honourable member to Parliamentary Counsel and, if counsel feels it is desirable, an amendment can be moved in another place.

The Hon. J.C. IRWIN: Because of our inability to consult with a number of people on this measure, we are a little uncomfortable with it. I understand that local government is happy with it, so we will accept it. It will mean that councils will be able to recover some costs for a building which is built illegally. However, because I am flying blind, I am a little uncomfortable about this but, before the Bill is debated in the other place, we may have the opportunity to seek advice from other sources.

Amendment carried; clause as amended passed.

Clause 12—'Entry and inspection of buildings.'

The Hon. ANNE LEVY: I move:

Page 4—
Line 7—After 'Committee' insert 'under this section'.
Line 9—Leave out 'and'.
Line 10—After 'Committee' insert 'under this section'.
After line 11—Insert—

(c) by inserting after subsection (2) the following subsection:

(3) A Committee for an area may authorise a person to exercise the powers conferred by subsection (1) if the person—

(a) is, in accordance with the regulations, qualified for appointment as a building surveyor or building inspector;

or

(b) is a person nominated by the Chief Officer.

These amendments represent a safeguard as to the qualifications of the person who can be authorised to act on behalf of the Building Fire Safety Committee. There was never any intention that it would be other than an appropriate person but, out of an excess of caution, the Government is happy to insert such a provision into the Bill to make quite clear that only appropriately qualified people can undertake this work.

The Hon. J.C. IRWIN: I thank the Minister for her explanation. She alluded to it in her reply at the second reading stage, and we appreciate that it has been taken up. It will make some people with whom we have consulted happy that there is no doubt that those people will be properly qualified. I also accept the argument that, given the calibre of people on the committee, they would undoubtedly appoint only qualified people.

Amendments carried; clause as amended passed.

Clause 13—'Notice of defect.'

The Hon. ANNE LEVY: I move:

Page 4, line 14—After 'by the committee' insert 'under section 39e'.

This is consequential on the amendments which the Committee just passed.

Amendment carried; clause as amended passed.

Clause 14 passed.

Clause 15—'Notice to owner of other land or premises affected by building work.'

The Hon. ANNE LEVY: I move:

Page 4, lines 29 to 34—Leave out paragraphs *(b)* and *(c)* and substitute:

(b) if so required by the surveyor or the council prior to approval of the proposed building work, satisfy the council by lodging detailed proposals, prepared and certified as the surveyor or council may require, that the building work includes all such precautions as are reasonably required to prevent or minimise subsidence or other movement affecting the other land or premises;

and

(c) at the request of the owner of the affected land or premises, carry out such building work as is, by reason of the building work to be carried out on the building owner's land, reasonably required to underpin or otherwise strengthen the foundations of any building or structure on the affected land.

The repeal of section 49 and the substitution of new section 49—clause 15—will have minimal effect in most situations. However, altering the scope of the section from its present limitation of adjoining owner to the proposed 'other land or premises affected', will protect the owners of land which is not directly adjoining the building site but which might nonetheless be affected by the zone of influence affected by deep excavation work. It is to cover the situation where it is not just adjoining properties but properties that may be a bit further away but nevertheless affected by work on a building site.

A prime example of this is the new Remm project where, because of the nature of the construction, the possibility of effects on property not just adjacent but further afield resulted in Remm using all sorts of buttressing action to ensure that there was no effect further out. The amendment inserts the nature of the work that can be required by the council or an affected owner. It puts it into the Act rather than having it in the regulations. It is on the advice of Parliamentary Counsel that it is better to have such a provision in the Act than in the regulations.

The Hon. J.F. STEFANI: I thank the Minister for her explanation about the clause, but we have concerns about the request of an owner of affected land or premises to require the builder or proprietor, where a new building has been erected, to strengthen the foundations of any building or structure on the affected land. That is an enormous and wide ranging implication. As the Minister explained, it could affect buildings perhaps half a kilometre or two kilometres from the site. If one is draining or blasting a site, it could affect buildings that far away. At the request of the owner of the site, the builder or the proprietor could be compelled to strengthen the foundations of a building or the structure on the land affected. It is a wide ranging provision.

The Hon. ANNE LEVY: I appreciate the concerns expressed by the Hon. Mr Stefani, but his fears are covered under subsection (2), which provides clearly that, if anyone feels that what a building owner is asking for is unreasonable, it can be put to referees who will say whether or not the work requested is excessive and then they can come back with the response, 'We will do it, but you will have to pay for it.' There is protection for the builder because independent referees will indicate what is reasonable in that situation. If the other building owner in an excess of zeal or caution still insists on it, he will have to pay for it.

The Hon. J.F. STEFANI: I accept the explanation given by the Minister, but I fear that much litigation and differences will result, and I am concerned that a substantial amount of arbitration or litigation will occur because this can have a precautionary umbrella of fear that, if the provision is there, people might as well ask for every precaution to be taken. People could say, 'As the owner of that land, I will ask for my footings to be underpinned,' or whatever. I hope that it does not perhaps bog down projects that are intended to proceed without too much hassle.

The Hon. ANNE LEVY: I appreciate the concerns expressed by the Hon. Mr Stefani, but I think this is a safeguard. One can appreciate the points of view of both parties. Obviously, the builder on a particular development does not want to undertake unnecessary work to protect the neighbouring property, or a contiguous or close property, but equally the owner of the other property can be very concerned that his property is not going to be damaged by the building work. One can understand his concerns.

There may well be differences of opinion as to how much underpinning of footings or something else should be undertaken. It seems that in that situation the fairest thing is to have an independent referee state what he feels is reasonable but then, if the contiguous owner is still fearful and wants extra underpinnings done, he will have to pay for it and it will be up to him to decide whether he does or does not, depending how great is his fear.

It would seem to me that this does provide a mechanism for resolving a situation which otherwise could lead to a great deal of acrimony without any means of resolution, except perhaps expensive court costs.

The Hon. J.F. STEFANI: Will the Minister clarify the definition of 'referee'. I know there are arbitration processes in the building industry. Why is this provision to be incorporated into the legislation in terms of control, and has the

Minister consulted BOMA and some of the building industry operators such as the MBA and the AFCC?

The Hon. ANNE LEVY: The definition of 'referee' is set out in section 20 of the Building Act which, of course, does not form part of the amending Bill before us. It states that a referee 'must be a registered architect, qualified civil engineer, building surveyor or chartered builder; and . . . must not be a member or officer of the council'. So, referees are clearly defined. With regard to consultation, this matter has been considered by the Building Advisory Committee, which of course involves many qualified people who are engaged in the building industry as architects and engineers. I do not think there has been specific consultation with BOMA, but certainly people who are involved in that type of work professionally have considered this matter.

The Hon. J.C. IRWIN: I thought I understood that the Building Advisory Committee, although it was very much involved with the Australian standard and national code and regulations that would flow, did not really have much input into the amendments. I was going to ask where the amendments came from, but Mr Stefani has done that. How long has it been going through the system to suddenly bob up in the eleventh hour as a fairly major amendment coming from the Building Advisory Committee? If the Minister assures the Committee that the advisory committee has considered this for some time before coming up with this amendment in its due process, we would accept that.

The Hon. Anne Levy: It was not generated by the advisory committee.

The Hon. J.C. IRWIN: But it has considered it. I am still missing the time frame in which the affected owners next door or further away can lodge complaints. Does it run out after one year or five years? Although the Minister has moved to address this, how wide is the zone in terms of affected owners around the site of a building that may cause a problem? If I remember some of the early discussion about the Remm site, dewatering was causing problems, because water was drained away from the foundations of other buildings and they dried out. I am not a builder (although I have lived with an architect all my life) but I imagine that underpinning does not overcome that problem anyway. It may not be a matter of strengthening or underpinning, but it may be a matter of getting water back into the soil under the building. I raise those questions relating to the time frame, the area that the amendment embraces and whether paragraph *(c)* includes things other than underpinning and strengthening of the foundations.

The Hon. ANNE LEVY: I am neither a builder nor an architect, but I understand that there are many building techniques other than underpinning or reinforcing that can be used. I presume that civil engineers would know what was appropriate in particular cases. In amending this legislation, the opportunity has been taken to extend it beyond contiguous properties to those which may be further away. It specifically resulted from the Remm project where many owners in the vicinity of Rundle Mall felt that such a major project might well affect their properties unless adequate care was taken, even though they were not contiguous. Without this amendment, they would have had no remedy whatsoever had anything adversely affected their buildings.

The Hon. J.C. IRWIN: Is that radius spelt out, or is it infinity?

The Hon. ANNE LEVY: The formula that determines it is in the regulations. I suppose it depends on the depth: the greater the depth, the greater the width.

The Hon. J.C. IRWIN: The other question concerned the time frame. It may be covered by common law, anyway, but how long can affected owners wait before they find some problem with cracking or with their building structure before they relate it back to that main site?

The Hon. ANNE LEVY: This section of the Act does not refer to damage which may be caused and is found to have been caused later. There is plenty of law on that topic. This is action to be taken before the building commences to ensure that damage does not occur. If damage does occur, people have remedies under law, but many people would prefer that damage did not occur in the first place, rather than having to fix it up and seek compensation thereafter.

The Hon. J.F. STEFANI: I have one final point, again without being pedantic about the wording (although it might be appropriate to refer it to Parliamentary Counsel): that the amendment read 'any reasonable work' required to underpin or otherwise strengthen the foundations of any building or structure on the affected land. It may not be underpinning but it may be other work.

The Hon. ANNE LEVY: The amendment provides 'reasonably required to underpin or otherwise strengthen'. Underpinning is one way to strengthen the foundations.

The Hon. J.F. STEFANI: It may not be just the foundations; it may be other things.

The Hon. ANNE LEVY: This section is only about protecting the foundations of other buildings.

The Hon. J.C. IRWIN: I signal at last our acceptance of the amendment with the same comment as before; that we will use the time between now and the House of Assembly debate to do our own consulting to try to have ourselves better advised—not that I am not accepting the Minister's advice—and to ensure that that advice lines up with the amendments.

Amendment carried; clause as amended passed.

Clause 16 passed.

Clause 17—'Regulations.'

The Hon. ANNE LEVY: I move:

Page 5, line 9—After 'empower' insert 'or require'.

This is a very minor amendment. It covers the situation where it does not just empower, but indeed requires, the council to do it where it is an obligation to do so.

The Hon. J.C. IRWIN: I know it is very small, but it is 'empowering' or 'requiring'. It is not just a choice.

The Hon. ANNE LEVY: At times it is the other way around: 'empowering' because they want to or 'requiring' because it is their duty to do so.

Amendment carried; clause as amended passed.

Remaining clauses (18 and 19), schedule and title passed.

Bill read a third time and passed.

The Hon. ANNE LEVY: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

ABORIGINAL LANDS TRUST

Consideration of the House of Assembly's resolution:

That this House resolves to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act 1966-1975, allotments 93, 97 and 98, town of Oodnadatta, north out of hundreds, out of counties be transferred to the Aboriginal Lands Trust.

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

That the resolution be agreed to.

Of the allotments of land referred to in this resolution, one was formerly a Community Welfare Department reserve, which was used for office and accommodation; the second was formerly a Community Welfare Department reserve, containing a large accommodation hostel for Aboriginal children; and the third had no improvements at all. The

second allotment was to provide room for expansion of the hostel, and it was to be used for recreational purposes. In order to transfer this land to the Aboriginal Lands Trust, the dedication of reserves had to be resumed pursuant to the Crown Lands Act. That has been done. Accordingly, no titles are registered over the land at the moment. The current status is that the Crown land is awaiting the decision of the Houses of Parliament. In consequence, I have pleasure in moving this motion.

The Hon. PETER DUNN: This resolution is unusual because some rather unusual quirks have evolved from it. I have had contact with the people at Oodnadatta, and what the Minister says is quite right: the land did belong to the Department of Community Welfare and this Bill transfers that land to the Aboriginal Lands Trust. It will subsequently be leased by the Dunjiba community council, which is the Aboriginal tribe in that area. It is interesting that lots 93, 97 and 98 are blocks of land opposite the main street in the township and nobody knew where they were until the Department of Lands eventually found a map and was able to identify them.

It is also interesting to note that allotment 97 is in the middle of a watercourse. The local townspeople through their own resources have built a BMX track on that lot. They have spent quite a bit of money and built a quite pleasant little bike track only to find that the land has been given to the Aboriginal Lands Trust. There appears to be no conflict between that group, the Dunjiba community council and the locals. The council does not seem to want the land straight away and is quite happy for the BMX track to remain because I understand a number of their children use it.

It is interesting to note that the Government has allotted the middle of a creek to the Aboriginal Lands Trust. With the next good flood that block of land could be in Lake Eyre or somewhere else. It demonstrates that the Government does not do a lot of homework before it decides to transfer these pieces of land from one group to another. I understand the reason for doing this is that the Aboriginal Community Welfare did not require the land. That organisation now has very little to do and does not have much influence in the area. It is much better that this land be under the control of the Aboriginal Lands Trust, so the Opposition does not have any argument about it.

There is no problem with allotments 93 and 98 which are on the opposite side of the road to the main shops and the pink roadhouse. It is fair and reasonable that the Aboriginal Lands Trust takes on those allotments. The Minister could not show the Opposition in the other place exactly where these blocks were, and it was not until two days ago when this resolution was put through the Lower House that they were identified. So, the Opposition does not object in any way to this message and believes that this action ought to be taken.

Motion carried.

BOATING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 2268.)

The Hon. R.J. RITSON: This is a small Bill and the Opposition is pleased to expedite its passage. Thankfully, in particular, it makes things easier for the boating community in that it provides for an interim permit, which will enable boat owners who purchase a boat on the weekend to use that boat immediately and they must formalise registration or the transfer of registration within 14 days. The other matters in the Bill are largely machinery matters and have been debated in another place, and the Opposition is pleased to commend the Bill to the Council.

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

CITRUS INDUSTRY ORGANISATION ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

In the light of the pressure of business, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The object of this small Bill is to extend by one year the terms of office of the current grower members of the Citrus Board of South Australia, which would otherwise expire on or shortly after 14 February 1991.

As honourable members will be aware, the Government has carried out an extensive review of citrus marketing regulations in South Australia, culminating in the release of the Citrus White Paper in May 1990. The White Paper outlined proposals to restructure the Citrus Board for a strengthened role in developing new markets for citrus fruit and assisting growers in adopting new technology for the production of premium products for export. The policies of the White Paper have the general support of growers, processors and industry organisations.

As a result of this review, the Government will be introducing a Bill for a new Citrus Industry Act and to repeal the Citrus Industry Organisation Act 1965. That Bill will provide for the establishment of a new, restructured board to organise and develop the citrus industry and the marketing of citrus fruit, regulate the movement of citrus fruit from grower to packers and wholesalers, set grade and quality standards for fruit, provide for powers to be used to set prices and terms of payment for processing fruit in the event of market failure and increase the flow of production and marketing information throughout the industry. It is the Government's hope that the Bill will pass in the first parliamentary sittings in 1991 following further consultation with the industry and taking into account any action which might be taken at the national level. It is particularly relevant to review the marketing arrangements for the citrus industry at this time because of the severe fluctuations in world orange juice prices being experienced by the industry and the disruptive effect of these fluctuations on marketing in Australia. The Government is working with the industry in negotiating with the Commonwealth to identify a mechanism for stabilising the import price of frozen concentrated orange juice which would not penalise importers, processors or consumers, and which would not break the rules for trade established under GATT.

It is proposed that the new board will have a broader range of relevant knowledge and skills, particularly in marketing and market development, and will perform functions which are needed to lead the South Australian industry away from being predominantly processing-oriented towards the more profitable fresh fruit export markets.

In view of the imminent introduction of a Bill for a new Act, it is, in the Government's view, eminently sensible for the current grower members of the Citrus Board to continue in office for whatever the transitional period may be, without the need to go through the costly and time-consuming exercise of conducting an election under the terms of the present Act. For this reason, this measure must pass before Parliament rises, as work for a February election would have to start almost immediately.

Clause 1 is formal. Clause 2 inserts a new section at the end of the principal Act to extend by one year the terms of office of the current grower members of the Citrus Board of South Australia. (Should the new board under the new Act come into being before the expiration of that extended term, the old board members must automatically vacate their offices.)

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

MURRAY-DARLING BASIN ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

TRUSTEE COMPANIES ACT AMENDMENT BILL

Returned from the House of Assembly with an amendment.

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

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

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

Clause 6, page 8, lines 26 to 30—Leave out paragraph *(b)* and substitute—

(b) that the alleged contravention or non-compliance was due to reliance on information provided by a person or body to which an inquiry to obtain the information is, in accordance with the regulations, required to be made;

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

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

The matter has been debated in another place and I understand that there is agreement on it.

The Hon. K.T. GRIFFIN: This arises out of an issue that I raised, and it relates to the dependence of land agents, brokers and solicitors relying upon information which they receive from either the land ownership and tenure system or a Government agency which has to be declared on the relevant statement of prescribed encumbrances. I was concerned that, possibly, if the agent did not go behind the information that had been received and check it at its source, there might be an argument that the agent was negligent if it proved that the information provided by the LOT system or the agency was not correct. This amendment picks up the proposition which I discussed at that stage. Although it is not in the same form as the amendment I moved, nevertheless it reflects the essence of my concern, and I am happy to support it.

Motion carried.

BUILDING SOCIETIES BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 2265.)

The Hon. C.J. SUMNER (Attorney-General): In reply on this Bill, I make the following comments. As to clause 3, the Hon. Mr Davis notes that the definition of 'bank' is not wide enough as it does not include other State banks such as the R & I Bank in Western Australia, the State Bank of Victoria or the State Bank of New South Wales. It is agreed that this is the case, and an amendment has been prepared.

As to clause 3—'Definition of Profit or Loss', the Hon. Mr Davis asks why there is a definition of profit or loss and said he will be moving for its deletion. He notes that profit or loss is adequately defined in the Companies Code. The definition of profit or loss is identical to that in the Companies Code. Its purpose is in relation to the preparation of accounts where the profit or loss is to deal with all of the operations of the society or the society and its subsidiaries. It distinguishes between the profit or loss of the building society and the profit or loss of the group. The application of the definition is not inconsistent with the use of the term in the standards set by the Accounting Standards Review Board.

Clause 7 of the Bill provides that the Companies and Securities Industry Codes and Acquisition of Shares do not apply to or in relation to a building society or an association of building societies. The Hon. K.T. Griffin has queried what will occur when the new Commonwealth corporations law comes into operation. He says it is important to ensure that the Companies (South Australia) Code and related legislation to which he refers applies to building societies and the Commonwealth corporations law does not impinge upon building societies.

It is the intention of the commission to recommend to the Government that regulations be made under section 90 of the corporations (South Australia) law to ensure that the corporations law does not apply to building societies in South Australia where it is not appropriate. It should also be noted that building societies are exempt bodies for the purposes of the corporations law—see section 66A.

On clause 9 the Hon. Mr Griffin has queried the question of the commission being subject to the general control and direction of the Minister, whilst in some parts of the Bill an appeal may be made from the commission to the Minister and this is provided there is no right of appeal to the court. He is concerned that the Minister may have made a direction to the commission in pursuance of which it has acted in a particular way and then the agreed party only has a right of appeal to the Minister who made that direction. It is agreed that this is a difficulty and that amendments should be made in these cases only to allow an appeal to the court rather than to the Minister. Parliamentary Counsel is preparing the necessary amendments to clause 194.

Clause 14 deals with the registration of building societies and *inter alia* provides that foreign building societies are not taken to be carrying on business in the State where they hold meetings of their directors or shareholders or carry on other activities concerning their internal affairs. Mr Griffin requests that internal affairs needs to be defined. He suggests that there could be difficulties where there is a meeting of shareholders or directors which is publicised and which deals with so-called internal affairs which 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. It is the commission's view that offering of loans to members of the public cannot be categorised as an internal affair and that it is not necessary to define internal affairs. This provision is consistent with comparable provisions in the Companies Code and the corporations law.

As to clause 14 (2) *(b)* (v), again the Opposition requests for amendment relates to a foreign building society not be taken to be carrying on business in the State by reason only of a particular circumstance. In this case it is 'solicits or procures any offer that becomes a binding contract only if such offer is accepted outside the State'. Mr Griffin contends that 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. He states that 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 building society is registered.

It seems to the Hon. Mr Griffin that this is open to manipulation and unless there is some persuasive reason as to why it should remain in this clause he will move to delete it. The carrying on business definition has been taken from the Companies Code. The Corporate Affairs Commission agrees that this particular provision is open to manipulation and should be removed.

As to clause 17 (4), the Hon. Mr Griffin is seeking to remove the power to vary by regulation the minimum paid-up share capital required to register a building society in this clause. Also, he is seeking to remove the power where the matter relates to minimum paid up share capital in relation to winding up clause 178 and carrying on business with insufficient members or share capital, clause 200.

The regulation power is there for flexibility. It should be noted that the Reserve Bank has been given an even more flexible power in that in many of the cases where the Government is suggesting prescription of amounts in this legislation the Reserve Bank may do so by directions or guidelines. In the financial area it is considered that the Government needs to deal swiftly with changes in the marketplace and this can best be dealt with through a regulation-making power.

Clause 24 (4) deals with the power of the Corporate Affairs Commission to change the rules of a building society unilaterally. The Hon. Mr Griffin thinks that unless there is a good reason the clause ought to be removed. The commission may only exercise its powers under this clause in three circumstances:

(1) to achieve compliance with any requirement of the Act;

(2) in the interests of the members of the building society; and

(3) in the public interest.

The building society may appeal to the Minister in clause 24 (2) and in clause 194 there is an appeal to the court. In these circumstances it is considered reasonable that the commission has these powers. This provision is already contained in the current Act and applies to credit unions.

As to clauses 26 and 102, the Hon. Mr Griffin suggests that there needs to be some clarification of what minors who are members may or may not do with their shares. It is intended that the normal common law applies to minors contracting. As long as building societies and others are aware of this it is difficult to see what clarification is needed as to what minors who are members may or not do with their shares.

As to clause 35, the Hon. Mr Griffin seeks to remove the power to vary by regulation the limitation on shareholding. Again, this is the question of being able to show flexibility in relation to a changing financial situation. These types of provisions are found in companies legislation—for instance, the substantial shareholding provisions of the Companies Code.

On clause 44, the Hon. Legh Davis has raised a concern that there should be circumstances where a building society should not issue securities at a discount but that this could surely be covered by regulation. The definition of securities in clause 3 does allow for this situation by permitting securities of a class to be excluded by regulation from the application of any provision of the Act. There is no need to remove the clause as moved.

As to clause 103—'Interest Rate Controls'—both the Hon. Mr Griffin and the Hon. Mr Davis have stated that the Government should not have the power to limit the ability of building societies to vary their rates of interest. This is Government policy and relates to social justice issues. The Hon. Mr Davis points out that, whilst there are interest rate powers in New South Wales and Queensland, they have never been used. He notes that there are no interest rate controls in Victoria, Western Australia, ACT, Northern Territory and Tasmania. These are correct statements, except for Victoria which does have interest rate control powers but sets them at about one percentage point higher than the market rate.

As to clause 107, the Hon. Mr Griffin will be moving that adjustments to amounts recorded in assets to be taken into consideration for the purpose of calculating the primary objects test be moved from being set by notice in the *Gazette* to regulation. The approach in the Bill is consistent with the approach to be taken by New South Wales. The adjustments to assets may vary more frequently than other financial ratios and gazettal notice is considered appropriate.

As to clause 108 (5), the Hon. Mr Griffin queries why the definition of classes of capital that may be brought to account is to be set by notice in the *Gazette* and not by regulation. The definition of classes of capital may vary even more frequently than other financial ratios that need to be prescribed and thus it was considered that gazettal notice was more appropriate. This approach is consistent with the approach to be taken in New South Wales amending legislation. Again, the Hon. Mr Griffin requests that the power to vary the ratio by regulation be deleted. Again, the reason for the power is flexibility, which again complements the powers given to the Reserve Bank.

As to clause 109—'Prescribed Minimum Capital'—again, this is the question of flexibility to vary a percentage by prescription and define adjustments in a gazettal notice and not in regulations.

Concerning clause 110 and onwards, the Hon. Mr Davis notes that there are occasions where the Commissioner may make final decisions in relation to dealings in financial matters by building societies. He believes these to be draconian, particularly as there is no right of appeal in some of these cases.

The commission considers that in these cases it is necessary for quick and final decisions to be made to ensure that investors in building societies are properly protected. The powers to intervene are the same as those conferred on the Reserve Bank. Also a bank does not have a formal right of appeal against Reserve decisions.

As to clause 110 (2), the Hon. Mr Griffin refers to clause 109 (5) though this appears to be an incorrect reference. He notes that the clause 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. The Hon. Mr Griffin notes that if this is allowed in relation 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. He proposes that we ensure that this sort of notice cannot identify a particular building society in order to avoid that risk. This proposal is appropriate and an amendment has been prepared accordingly.

The Hon. Mr Griffin notes that clause 115 allows the Treasurer to guarantee a person's repayment of an advance made by a society. He notes that there is no reason for this in the second reading explanation and would like some reasons for it. The provision relates to an advance made to a society not by a society. It is there to assist societies if the situation is appropriate.

Clause 119 (4) relates to the age of a director's retirement. After the age of 72 years a director needs to be reappointed on a yearly basis. It is noted by the Hon. Mr Griffin that this may be in conflict with age discrimination legislation and he would like to have that further examined by the Attorney-General. The limit of 72 years carries from current Act requirements. It is wider than the current Act and code. The Attorney-General is required to undertake under age discrimination legislation, a review of all age limitations and this provision will be included in that review. I should add that that review does not mean that automatically all age limitations will be removed from legislation; certainly, they will not be in certain categories.

As to clause 130, the Hon. Mr Griffin notes that the special resolution requirement is dissimilar to that of the Companies Code. This is an error that has carried through from the previous legislation and an amendment has been prepared.

As to clause 133, the Hon. Mr Davis will be moving an amendment such that when a member requests information relating to his or her financial position it will not be without a charge when it is furnished to the member. The Bill currently provides that it must be furnished without charge and this is deemed appropriate as it is to do with the member's own financial position.

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. The Hon. Mr Griffin is of the view that the term for which that committee is appointed ought to be fixed and, secondly, that the Association of Permanent Building Societies ought to be involved in the selection of the suitably qualified person. Amendments have been prepared to reflect those views.

Clause 221 relates to the regulation-making power. The Hon. Mr Griffin notes that it is very wide and that he will have a number of questions about the extent of the regulations which might be proposed under that clause. He intends to raise those questions during the Committee consideration of the Bill. It should be noted that the approach is similar to that taken under the Companies Code and the Credit Unions Act. Regulations will deal with such matters as: schedule of accounts; content of disclosure statements; annual and other returns; application of the Securities Industry Code; stock market regulations; and auditors' reports.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: When is it proposed that the Act will come into operation?

The Hon. C.J. SUMNER: April next year is the target date. The Corporate Affairs Commission would like it in place for the next financial year. I should point out that there are discussions going on with other States and obviously, at some point in time, some amendments may be necessary to fit in with whatever decisions are made about a uniform approach to regulation throughout the nation.

The Hon. K.T. GRIFFIN: Following the indication that there may be amendments to the Bill following the discussions with other States, the South Australian Association of Permanent Building Societies indicated to me that it did welcome the introduction of the Bill and its major thrusts, but it further states that there are various matters of consequence to the efficient operations of societies and the effective administration of the industry which the Bill has not addressed. Rather than hold up the introduction of the Bill, the industry felt it more appropriate to take up these matters with the Corporate Affairs Commission with a view to obtaining consequential amendments early in the new year. These matters included a range of those matters raised in the industry submission of February 1990 and new issues arising from the Bill itself and the move towards national uniformity.

The move towards national uniformity has been addressed by the Attorney-General, but can he indicate whether or not any discussions have been commenced and, if so, can he say what sorts of areas are likely to be the subject of further legislation or whether it is too early for that at this stage, and whether in the period between now and the tentative April date the Government is open to further consultation on matters which the Association of Permanent Building Societies says need to be further addressed?

The Hon. C.J. SUMNER: The Corporate Affairs Commissioner has written to the association and invited it to discuss these issues. However, he is not aware of any matters of great urgency or need in the Bill. Frankly, I would be reluctant to bring the Bill back again early in the new year to have another set of amendments before April. That is fairly unsatisfactory, unless it is actually forced upon one by unavoidable circumstances. It is likely that, at some stage in the future, amendments will be necessary to incorporate decisions from national conferences. If we are to pass this Bill now, it should be passed so that the commission can get on with setting up its regulatory regime. Any additional amendments can be considered following the national consultations which I should say will probably take some time. Those things do not tend to be resolved very quickly. It is a decision from the special Premiers' Conference that States work towards greater uniformity in this area.

I think there is a fair degree of commitment from the States in that regard. The Corporate Affairs Commissioner advises me that in his view the Bill is satisfactory and I am disinclined at this stage to reopen it early next year, given that we will have just passed it, but that does not mean that the association is not fully entitled, indeed invited, to discuss the matter with the commission.

The Hon. K.T. GRIFFIN: All I can say is that from my discussions with the building societies I know that they are certainly not critical of the introduction of this Bill. In fact, rather than hold it up for consideration over the Christmas/New Year period, they are anxious to have it passed. However, I think the concern that was expressed, while it does not go to the major issues of the Bill, resulted from the fact that, although there have been consultations on a number

of matters as the Bill was being developed and then drafted, it was the Bill as introduced which might not have been as fully considered as it might otherwise have been. I am not suggesting that as a criticism, nor are the societies, but it was just the indication that I have received not only from the association but also from several of the societies that matters may arise from the Bill in its final form that might be the subject of further consultation that prompted me to raise that issue of consideration of any amending legislation before April. I do not disagree with what the Attorney-General is saying, that if we pass it we ought to have it implemented as soon as we can, but on the other hand if there are other matters that can be reasonably resolved before that occurs, I would have thought that it was in everyone's interest to see that that was achieved.

The Hon. L.H. DAVIS: I wish to join with my colleague the Hon. Mr Griffin in supporting the view he has expressed. Both he and I made it clear in the second reading stage that we were doing everything we could to facilitate the passage of this legislation—some 150 pages—that was introduced only two weeks ago.

The Hon. C.J. Sumner: It was not our problem.

The Hon. L.H. DAVIS: I am not asking the Attorney-General to react in that fashion: I am simply saying that we have acquiesced in a ready and willing fashion to debate this matter, and the building societies—

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: I do not wish the Attorney to get stroppy after dinner: I am simply asking him to listen to what I thought was a reasoned and reasonable point of view, which was expressed at the second reading stage by the Hon. Trevor Griffin and me, namely, that we can see the merit of getting this legislation into the ring. It accedes to the wishes of the five building societies in South Australia, which are unanimous in their wish to have this Bill passed at the earliest opportunity. One would also have thought that pioneering, pathfinding legislation of this nature was best put into the ring at an earlier rather than a later stage, given the great concern in the community at large about financial institutions. Further, this legislation is not merely for South Australian building societies: it will also be used by other States. If the legislation is in the ring, at least this Government—quite proudly, I would have thought—can take this to other State Governments and say, 'We believe this is a model for you to examine.' Certainly, I would have thought the Victorian Government would be very glad and ready to look at legislation such as this, given the rather turbulent experiences it has had with building societies in recent months. I do not think there is any big deal associated with the fact that there might be some tidying up to do as a result of our passing this legislation in a fairly rapid fashion.

I have no doubts or reservations at all about the quality or the thrust of the legislation, but there could be some tidying up around the edges, which I think could be done quite easily and quite speedily in February or March.

The Hon. C.J. SUMNER: The Government is happy to defer this Bill now to enable anyone who wants to make further submissions on it to make those submissions or to propose further amendments to the Bill and is perfectly happy to debate the Bill when Parliament resumes in February.

I cannot give a guarantee that any amendments that come forward next year will be considered. The only thing I can do is repeat what I have said: namely, the invitation is open to the Building Societies Association to discuss the matters it has raised with the Corporate Affairs Commission, and what flows from that will be determined next year. However, I can certainly give no guarantee of any amending legislation in the early part of next year.

Clause passed.

Clause 3—'Interpretation.'

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

Page 2, lines 1 to 3—Leave out all words in these lines and insert:

'bank' means a body corporate authorised to carry on the business of banking under the Banking Act 1959 of the Commonwealth, as varied from time to time, or under an Act substituted for that Act, and includes the State Bank of South Australia and any body authorised by the law of another State or a Territory of the Commonwealth to carry on the business of banking.

The Attorney indicated that he has accepted the argument that I put forward in relation to the definition of 'bank', and he further indicated that the Government was to move an amendment on this matter. I have not seen that on file. Perhaps the Attorney is prepared to accept my amendment.

The Hon. C.J. SUMNER: The amendment is accepted.

Amendment carried.

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

Page 3, lines 12 to 18—Leave out all words in these lines.

This is not a matter of great moment. I listened with interest to the Attorney-General's explanation and I accept that this definition of 'profit or loss' is similar to that in the Companies Code. I query whether it is necessary. However, I will not persist with my amendment in view of the Attorney's explanation. Accordingly, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

Clause as amended passed.

Clauses 4 to 6 passed.

Clause 7—'Companies and Securities Industries Codes do not apply to building societies or associations.'

The Hon. K.T. GRIFFIN: I would like a clear appreciation of what is proposed. I can accept that the regulations may apply to specified provisions of the codes, that is, the Companies (South Australia) Code, the Companies (Acquisition of Shares) (South Australia) Code and the Securities Industry (South Australia) Code, to building societies with certain modifications. What is the relationship between that provision and, if the corporations law comes into operation, the corporations law? Is it the situation that we will continue to apply the codes or will the corporations law, in some way, be picked up and applied by regulation? I am not advocating that course, but I would like to get it clear.

The Hon. C.J. SUMNER: The Government will, by regulation, incorporate the provisions of the Companies Code.

The Hon. K.T. GRIFFIN: Will they be applied as law in South Australia?

The Hon. C.J. SUMNER: Yes. To be sure that there is no misunderstanding, it should also be said that at the last meeting of the ministerial council when the final agreements were being put in place in relation to the new corporations law, there was considerable discussion about the extent to which non-bank financial institutions would be covered by certain aspects of the Commonwealth corporations law. This applied not only to non-bank financial institutions but also to State Government instrumentalities, the SGIC, banks, etc.

There was a significant difference of opinion. The Commonwealth felt that these organisations should be covered with respect to their fundraising provisions. Some States did not agree and wanted them to be completely excluded from the operation of the corporations law. Because no agreement could be reached, it was decided that the new legislation for corporations law would reflect exactly the current law, whatever that happened to be, because there

was some dispute also as to the exact scope of the existing law.

So, that was the agreement: we would continue the existing law in the new Commonwealth corporations law for the time being to avoid that dispute. However, it was agreed also that the operation of the corporations law in the future in relation to non-bank financial institutions and State statutory authorities and instrumentalities would be reviewed and re-examined at some time next year. That is, I guess, pre-empting the debate—

The Hon. K.T. Griffin: But it is relevant.

The Hon. C.J. SUMNER: It is relevant, but not immediately relevant. I just advise the honourable member of this fact so that he is not under any misapprehension.

The Hon. K.T. GRIFFIN: Pursuing that, it is not expected that there will be any unilateral change to the *status quo* with respect to building societies, for example, *vis-a-vis* the new corporation's law as part of that review to which the Attorney-General has referred.

The Hon. C.J. SUMNER: It is not anticipated that there will be unilateral action. The decision was that it would come back to the ministerial council for further discussion. However, I suppose, theoretically, under the new regime the Commonwealth could act unilaterally in this area. Whether or not it will, I do not know. Certainly, its intention is to consult and to try to reach agreement.

Clause passed.

Clauses 8 to 13 passed.

Clause 14—'Building society must be registered under this Act.'

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

Page 10, lines 15 and 16—Leave out subparagraph (v).

I fully explained this amendment during my second reading reply.

The Hon. K.T. GRIFFIN: As I said previously, I am happy to accept this amendment. It seems to me that, as it stands, this subparagraph has the potential to allow manipulation by a building society from outside South Australia and if it is removed from the Bill, I think that that would be in the interests of potential consumers. I support the amendment.

Amendment carried; clause as amended passed.

Clauses 15 and 16 passed.

Clause 17—'Registration.'

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

Page 13, lines 9 to 11—Leave out all words in these lines and insert '$10 000 000'.

This is one of a number of amendments where particular amounts are specified in the legislation but may be varied by regulation. As I indicated during my second reading contribution, the basic paid-up share capital is, in my view, a threshold matter and, for that reason I believe it is important that, if it is to be varied up or down from $10 million, it ought to be done by statute rather than by regulation, where the matter will get a fairly significant exposure during the course of consideration of any Bill.

The argument whether this ought to be done by regulation or by statute has been explored on a number of occasions in this place, and I do not intend to reiterate it. Suffice for me to move my amendment, which has the effect of specifying that the paid-up share capital must be not less than $10 million, and any change in the future will have to come back to Parliament.

The Hon. C.J. SUMNER: The Government opposes this amendment. The regulation-making power is there for flexibility. It should be noted that the Reserve Bank has been given an even more flexible power in that, in many of the cases where the Government is suggesting prescriptions of amounts in this legislation, the Reserve Bank may do so by directions and guidelines. After our experiences with building societies, it is fairly important that financial regulators have the mechanisms in place to ensure that they are able to operate quickly to deal with any situation.

That comment may not apply particularly to this clause, but there are other clauses in the Bill which Mr Griffin seeks to amend where it would be unfortunate if his amendments were carried. In our view, it would reduce the capacity for Governments to move quickly in areas when concerns and problems arise with a building society.

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate to the Committee the circumstances in which it might be necessary to move quickly to vary the $10 million minimum paid-up share capital? In what circumstances would it be a disadvantage to have that amendment made by statute rather than by regulation?

The Hon. C.J. SUMNER: In this particular case, there are no dramatic consequences, except, I suppose, that a building society might be wanting to set up and can do it only if the legislation in this area is changed or if the limit on the minimum paid-up share capital is changed. If that can be done only by Act of Parliament, there would be delays while a Bill is introduced. I do not think that this particular regulation-making power is as essential or important as it is in some other areas, but the proposal is to have it in that form to enable flexibility. As I said, it accords with powers that the Reserve Bank has.

The Hon. I. GILFILLAN: I am not enthusiastic to be involved in this decision because it is not an area in which I feel competent to make a decision as to whether there should be the capacity for this to be varied by regulation. The Committee is aware that, predictably, we support or initiate moves to oppose regulating powers where we believe matters should be determined by statute.

I have listened as best I can to the Attorney-General's justification for leaving this a more flexible matter than would be the case if it required an amending Bill to change it. I do not find it overwhelmingly persuasive, but I am open to further persuasion that it ought to remain. With that expression of flexibility, and for the sake of continuing the point, if pressed by the Government I indicate that further argument could persuade me but, at this time, I support the amendment.

Amendment carried; clause as amended passed.

Clauses 18 to 23 passed.

Clause 24—'Power of commission to alter rules.'

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

Page 15, lines 27 to 29—Leave out subclause (2).

The effect of this subclause is to allow a building society to appeal against a decision of the commission to a court where the commission orders a building society to alter its rules in a manner specified in the instrument or otherwise in a manner approved by the commission. I am uncomfortable about the order by the commission, which is subject to the general control and direction of the Minister, on an issue as fundamental as the rules of a building society, being able to make an order to amend and then for the building society to be left only with an appeal to the Minister.

It could be that there is a dispute about whether or not the order of the commission is necessary so that the rules will achieve compliance with any requirement of the Act, or that it is in the interests of the members of the society or in the public interest. To some extent the public interest is secondary to the interest of the members, but they are fairly significant matters open to considerable dispute potentially where the commission takes one interpretation

of what is necessary but the building society takes an alternative point of view.

I would have thought that in something as fundamental as this it is proper for the court to be the final body of appeal, rather than the Minister. That then leaves the commission with appropriate power but also the building society with a reasonable right of appeal. It is for that reason that I move the amendment.

The Hon. C.J. SUMNER: There is a misunderstanding. There is an appeal to the Minister in subclause (2) which the honourable member is trying to delete, but I understand that in clause 194 there is also an appeal to the court. I would have thought in respect of the interest of the building society that it would be better for them to have two rights of appeal, even if one of them is only to a Minister. In the final analysis, I am advised that there is an appeal to the court in any event against a decision in a matter such as this. That is my advice and, therefore, I do not see the need for the amendment.

The Hon. K.T. GRIFFIN: I understand that clause 194 does not give a right of appeal from a decision of the Minister. It gives a right of appeal to the court only where there is no other appeal specified in the Bill. Clause 194 (3) provides:

> This section does not apply to—
>
> *(a)* any act, omission or decision of the commission in respect of which any provision in the nature of an appeal or review is expressly provided by this Act;
>
> or
>
> *(b)* any act or decision of the commission that is declared by this Act to be conclusive or final or is embodied in a document declared by this Act to be conclusive evidence of any act, matter or thing.

In those circumstances, it seems to me that, because there is a specific right of appeal to the Minister, the right of appeal to the court is excluded under clause 194 (3). I am happy with an appeal to both the Minister and the court, but I do not think that is what the Bill provides.

The Hon. C.J. SUMNER: The great minds seem to be in dispute, Mr Chairman, to some extent, but I do not think I was correct in saying that there could be an appeal to the Minister and then an appeal from the Minister to the court. However, there is the possibility of an appeal to the court under clause 24 (1) *(a)* and the possibility of an appeal to the Minister under clause 24 (1) *(b)* or *(c)*. If the honourable member wants it all to go to the court, I will not object strenuously.

The Hon. K.T. GRIFFIN: Because the rules govern the building society's activities and those of its members, any order or direction by the commission to amend those rules—because of the nature of that Act and the potential for dispute—ought to be subject to review by the court, rather than, in paragraphs *(b)* and *(c)*, being subject to review by the Minister and thereafter no appeal would lie.

Amendment carried; clause as amended passed.

Clauses 25 to 34 passed.

Clause 35—'Limitation on shareholding.'

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

Page 19, lines 42 to 46 and page 20, lines 1 and 2—Leave out all words in these lines and insert—

> *(a)* in relation to permanent shares—10 per cent, or, if the building society specifies in its rules a lesser percentage to apply instead, that lesser percentage;
>
> or
>
> *(b)* in relation to withdrawable shares—10 per cent, or, if the building society specifies in its rules a lesser percentage to apply instead, that lesser percentage.

In relation to my amendment to clause 17 to remove the power to prescribe by regulation a reduction or increase in minimum share capital, the Attorney-General, in his remarks earlier, said that each prospective change proposed by me should be looked at on its merits. I think that is the way we ought to deal with all the amendments which I have to change either from a regulation-making power to a statute or from ministerial notice in the *Gazette* to a regulation. Clause 35 deals with limitation on shareholding and provides that, in relation to permanent shares, 10 per cent is the maximum percentage of shares which any member or group of associated members may hold, or, if some other percentage is prescribed, then that percentage.

The same applies in relation to withdrawable shares, although the building society itself in its rules may provide for some lesser percentage. Again, I think that this is something that ought to be done by statute. It does relate to members' rights. I suppose one could have a situation where, by regulation, the maximum of 10 per cent is reduced, say, to 5 per cent. But then the question arises as to what happens to those members or groups of associated members who already have 10 per cent between them; are they then required to immediately get rid of the other 5 per cent? I would have preferred that sort of decision to be taken by Act of Parliament rather than by regulation because of the effect it could have on individual member's rights. It is for that reason that I move my amendments removing the power to vary by regulations.

The Hon. C.J. SUMNER: The disclosure provisions in the Companies Code can be amended by regulation, that is, what constitutes a substantial shareholding for disclosure purposes. We think it is not unreasonable in this Bill for there to be the capacity to increase what is the limitation on shareholding by regulation. We may not be sure that 10 per cent is satisfactory; it may be that at 10 per cent someone has managed to get effective control of the society and it may be necessary to act quickly without Parliament being convened. So, the Government would prefer the Bill as introduced.

The Hon. K.T. GRIFFIN: In relation to the Companies Code, I must confess that I did not check that out, but does not it only relate to the percentage above which disclosure must be made? It does not relate to the requirement to sell down or cancel out?

The Hon. C.J. SUMNER: You are correct.

The Hon. K.T. GRIFFIN: So there is a distinction, I would suggest, between the proposition which the Attorney is putting, which relates only to disclosure with no substantive consequences to the substantial shareholder, and this which can have the effect of requiring the cancellation or disposal of shares if the percentage is reduced, say, from 10 per cent to some lower figure. I think there is an important distinction there which would suggest to me that, notwithstanding the argument of the Attorney-General, my amendment is nevertheless a reasonable one.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried; clause as amended passed.

Clauses 36 to 43 passed.

Clause 44—'Issuing of securities at a discount prohibited.'

The Hon. L.H. DAVIS: I find the explanation of the Attorney-General quite unsatisfactory. In his summary at the conclusion of the second reading debate, he implicitly accepted the argument that I had advanced, namely, that bills of exchange, promissory notes and zero coupon bonds are securities issued at a discount. Certainly without wanting to prolong the argument, I do have evidence of that, confirming the Commissioner of Taxation regards them as securities at a discount. I certainly have evidence of a recent ruling to that effect. Also, there are texts on this matter from which I could quote if the Attorney so wished.

I do not wish to prolong the debate. I simply want to say to the Attorney that it is a curious argument to say that

securities at a discount can be issued pursuant to another provision of the Act, when in fact clause 44 is a blanket provision wiping out the ability of building societies to issue securities at a discount. It seems a strange way of drafting such a provision to say a building society must not issue any securities at a discount and then drag them in through the back door. I concede that the Attorney-General is not a man of the financial world, but he is a reasonable man in listening to argument about matters such as this. I want to tell him that promissory notes, bills of exchange and zero coupon bonds are every day securities issued by banks and also by building societies.

The Hon. C.J. SUMNER: We agree.

The Hon. L.H. DAVIS: You agree; I rest my case.

The Hon. C.J. SUMNER: No, we agree with your proposition.

The Hon. L.H. DAVIS: So you agree with the amendment?

The Hon. C.J. SUMNER: I would prescribe them out under the definition of securities.

The Hon. L.H. DAVIS: Surely it would be easy to delete clause 44 and prescribe out the securities at a discount which I understand you would wish to prohibit, for example, permanent shares at a discount (and the Attorney may wish to confirm that that is what he is really after).

It is surely far better to prescribe the securities at a discount which he wishes to control, namely, permanent shares issued at a discount through the device which is available to him in clause 46 and exclude clause 44 altogether, otherwise anyone reading clause 44 would get the distinct impression that a building society cannot issue bills of exchange and promissory notes. The legislation should be sensible; it should reflect the accuracy of the real world in which the building societies operate. There is provision, as the Attorney would concede, to allow Governments of the day to limit the nature of the securities at a discount which can be issued by building societies.

The Hon. C.J. SUMNER: The honourable member has frustrated Parliamentary Counsel, because I do not think that the point he is making has any actual substance, in that I believe under the definition of securities certain classes of securities can be excluded by regulation from the application of the securities definition. The point he is making is not a point of substance, but a point of drafting—a point of plain English. I think that if clause 44 is excluded there will be trouble because there are some securities that we do not want a building society to issue at a discount. If the problem is that the honourable member is concerned that someone reading the Act will look at clause 44 and take it at face value without checking the definition point and the regulations made under the Act, then fair enough. Presumably, the people who work with this legislation, however, are familiar with both the Act and the regulations. It strikes me that it is not much more than a drafting point or perhaps a plain English point. I do not think the deletion of clause 44 will get the result that either I or the honourable member wants.

The Hon. L.H. DAVIS: The heading is 'Issuing of securities at a discount prohibited' and that in plain English says to me that building societies are prohibited from issuing bills of exchange, promissory notes and zero coupon bonds. The Attorney should look at the 'securities' definition on page 3 of the Bill, which indicates:

> 'securities' includes shares, debentures, stock, bonds, notes, options, prescribed interests, and documents of any kind evidencing indebtedness, but does not include, in relation to any provision of this Act, securities of a class excluded by regulation from the application of that provision:.

Let me elaborate on this definition. Bills and notes would include bills of exchange and promissory notes; that is, securities issued at a discount. In my judgment, that is the right and broad definition that one would expect in this type of legislation, but then to include clause 44 as we have at present is a direct contradiction. In fact, the definition section confirms that securities of a class can be excluded from the application of that provision if one so wishes.

So, that is the way to go about it; to recognise that in everyday trading, bills of exchange and promissory notes are devices in common use; there is nothing wrong about them. Surely, it is better to exclude by regulation those securities at a discount that one does not want. The Attorney has not yet responded to this point, but presumably those securities that he wishes to exclude by discount are the permanent shares—which I accept, quite willingly, should be excluded by regulation.

The other point I wish to make to the Attorney is that I have taken the trouble to check with the industry on this point and it believes, and I think quite rightly, that clause 44 should not be in the legislation.

The Hon. C.J. SUMNER: That is a remarkable amount of passion to inject into a debate which is essentially a matter of drafting. The honourable member's problem might be overcome if clause 44 (the heading of which would have to be changed) provided as follows:

> A building society may issue securities at a discount except where prescribed by regulation.

The alternative is that the clause would have to be recommitted when those who are paid to draft Bills—as opposed to the Hon. Mr Davis who is not actually paid to do that—get on with the job of redrafting.

The Hon. I. Gilfillan: He is paid to criticise them.

The Hon. C.J. SUMNER: Yes, he is paid to criticise. I move that clause 44 be amended to read:

> A building society must not issue permanent shares or other securities of a prescribed class at a discount.

The Hon. L.H. DAVIS: I accept that.

The Hon. C.J. SUMNER: The heading will be: 'Issuing of certain securities at a discount prohibited.'

The Hon. I. GILFILLAN: How do the Hon. Legh Davis, and his colleague the Hon. Trevor Griffin, ride comfortably with the prescribed factor which religously has been criticised and removed from legislation? It is purely a question of curiosity. I believe it is an inconsistency.

The Hon. L.H. DAVIS: I never thought that I would find the Australian Democrats publicly revealing their financial naivety because, with respect, I think that is what the Hon. Ian Gilfillan is doing. If the honourable member looks at the definition of 'securities' on page 3, he will find that they are very broadly defined and that securities of a class can be excluded by regulation from the application of that provision.

The fact is that, in the world of money markets, securities come and go and new securities are created. It may well be that building societies in the future may find a technique to issue a security to avoid, for instance, the requirement of the prohibition of issuing certain securities at a discount. Such a device may be used in the future. Therefore, rather than coming back to the Parliament to prohibit them, surely it is sensible to have a regulation that can react quickly to that situation. It is not dissimilar, as the Attorney would know, to the requirement in the Trustee Act where regulations can provide that certain securities become trustee securities, and those securities change quite regularly. So, I am quite relaxed about that. I know the principle that the honourable member is driving at, but the world of finance moves on rather more quickly than do Acts of Parliament.

The Hon. C.J. SUMNER: What the honourable member is trying to say is that we should not have any regulations at all. Regulations are always contemplated for Acts of Parliament; it is a matter of where one draws the line.

The Hon. I. GILFILLAN: I am not ashamed to admit my naivety in these areas, and I am prepared to acknowledge that there is a consistency in the way the Opposition has dealt with legislation generally in being rightly wary of leaving to be prescribed by regulation matters which should properly come to this place. I raised that question to make sure that in the rush of blood in the success that the Hon. Legh Davis has had with this motion that he had seen the problem.

The principle is a reasonable one. I think that regulations play a significant role in appropriate areas. It is a convenience for Government to leave matters to regulation, when it is the responsibility of the Parliament to make sure that we do not avoid our responsibilities to determine which matters or securities should or should not be allowed to be issued at a discount. The question has been answered, the authorities have assured me that it is okay, so I rest my case.

Amendment carried; clause as amended passed.

Clauses 45 to 84 passed.

Clause 85—'Interpretation and application of division.'

The Hon. K.T. GRIFFIN: I want to make an observation about clause 85 and, in fact, to the whole of Division VI because I made some reference to this division in the course of my second reading contribution. All I can say in relation to this division is that it is extremely complicated. In the short time that has been available, I have endeavoured to come to grips with the whole question of charges and priorities. I have been informed that it is essentially consistent with the Companies (South Australia) Code where a lot of work was done by members of the legal profession in particular to try to sort out the question of priorities.

On that basis, whilst I certainly cannot vouch for every loophole, if there is any, being closed, I can suggest that as far as I can see I really do not need to take further any possible questions on the division relating to the charges and priorities.

Clause passed.

Clauses 86 to 102 passed.

Clause 103—'Rates of interest on loans to members.'

The Hon. K.T. GRIFFIN: I dealt at length during the second reading stage with this clause, which deals with the question of ministerial power to fix the maximum rate of interest by notice published in the *Gazette*. The point I made was that, in the context of this legislation, where there are much more stringent capital adequacy/prudential requirements, the potential for a Minister to control interest rates, or at least the maximum interest rates applicable to loans or a class of loan, is in direct conflict. It compromises the ability of a building society to manage its affairs in a competitive manner in the marketplace and to ensure that proper attention is given to the capital adequacy and prudential requirements of the legislation. I referred to the fact that the State Bank and all other banks do not have their interest rates subject to any potential control by a Minister—nor do credit unions, for that matter. It seems to me that, as we move forward, 15 years after the present Act was introduced, and as we move forward in a much more deregulated financial environment of significant competition, it would be appropriate no longer to persist with the provisions that Governments have found to be useful in threatening interest rate controls in the sensitive political environment.

Whilst building societies play a very important part in our local economy, they relate to the essential and probably the most significant purchase that a person or a family makes, namely, their home. Nevertheless, so do banks, and particularly the State Bank, and it would seem to me that in the current environment with the move towards more and more competition and less regulation, building societies should not be out on a limb and be the only banking or non-banking financial institutions to have any aspect of their interest rates controlled by a Government. Under this Bill they are subject to a much wider range of scrutiny, powers of inspection, investigation, variation of rules, monitoring and reporting, and it is in that context that, in my view, clause 103 is inappropriate. The Opposition opposes the clause.

The Hon. C.J. SUMNER: I dealt with this in my reply. The Government believes that the capacity to control interest rates should remain. It has not been used in a direct way in the past, but we think that it is not unreasonable to keep the potential for interest rate controls in the Bill.

The Hon. L.H. DAVIS: This provision is strangely at odds with all the other provisions in what is otherwise very far-sighted legislation. The Attorney-General would have Parliament believe that interest rate controls, which currently extend to only 60 per cent of transactions in building societies of South Australia, should now extend to 100 per cent of transactions. In other words, we are regressing with this very important provision. We are turning our face on the real world, on the deregulation of capital markets, which has seen extraordinary and intense competition develop between banks and building societies.

The Attorney-General's sole argument to justify clause 103 is that it is being done on the ground of social justice. What does that mean? I would have thought that there is also such a concept as economic justice, financial justice, not to discriminate between financial institutions in the marketplace. If the Attorney-General wishes to develop that argument, will he stand up and say that the Government is contemplating amending the State Bank Act to give the Government control on the movement of interest rates by the State Bank, because social justice should prevail?

In my view, if the Attorney-General persists in ramming through this provision the Government could well be accused of favouring the State Bank of South Australia, which is the most direct competitor to the building societies in the marketplace, given that the State Bank and the major building societies in South Australia have as one of their core activities the provision of shelter finance. Shelter finance is very sensitive to movements in interest rates. The Attorney-General would know how often the media reflect on what is happening in the marketplace with interest rates. We see it virtually every second or third day, at the moment, as interest rates drift down. We also see it as interest rates drift up.

The Attorney-General said that this measure has not been used by the Government. That is simply untrue. In 1985 and again in 1989, at election time, the Government used that power to hold back movements—

The Hon. C.J. Sumner: It hasn't been directly used. I didn't say that it hasn't been used.

The Hon. L.H. DAVIS: We are playing with words, aren't we?

The Hon. C.J. Sumner: I said that it hasn't been used, that is, by notice published in the *Gazette*.

The Hon. L.H. DAVIS: Okay, but the Attorney-General knows as well as I do that the building societies were dragooned into not moving up interest rates ahead of the 1985 and 1989 State elections. Was that on the ground of

social justice? I think that was on the ground of political opportunism. It is quite inappropriate behaviour in this day and age. It is simply unfair that, when interest rates move up, building societies are unable to adjust their rates upwards until a certain formula has been triggered. That is a fact, and the Attorney-General cannot deny it.

It is simply unfair and means that they not only might lose market share but also it severely impacts on their profitability. It weakens their commercial and financial base. Is that in the interests of the State's economy? I do not think so. My colleague the shadow Attorney-General is absolutely right. Interest rate controls are old hat. What is important in this part of the Bill, which I have described as the nub of the legislation, is the requirement for capital adequacy and prime asset ratios—in the prudential requirements which are set down with the full support of the building societies. That is where we are at now in 1990.

We are not about Governments having the potential to crack the whip under this clause. If the Attorney is true to his argument, he would readily concede the point. He says, 'We never use it.' If we never use it, why have it? That is the answer, is it not? It is absolutely the answer. If we do not need it, we should not have it. There is no case for it. In the other States—

The Hon. C.J. Sumner: Don't talk to me, tell the Democrats.

The Hon. L.H. DAVIS: I am sure that they are listening to the force of the argument, and I hope they respond to the logic of it. Time has passed the Government by on this measure and, and far as I am aware, there is no State in Australia that has or uses this provision. The Attorney can contradict me with respect to Victoria but, goodness knows, Victoria is such an example that I would hesitate to use it with respect to building societies. I do not think that matters any more. I hope that the Attorney will accept—

The Hon. C.J. Sumner: New South Wales and Queensland have them, according to you.

The Hon. L.H. DAVIS: Yes, but New South Wales has never been used, and my understanding is that it will be looking seriously at removing such a provision. As the Committee would know, this legislation will be looked at and, hopefully, adopted by all other States. In Queensland, it is not the same: it is the maximum requirement, and that is a different point. There is a maximum interest rate level there. It is not the same provision that we are talking about here. I hope that the Attorney realises that the social justice argument is a very thin argument indeed. The economic sanity and the financial sense of the argument advanced by my colleague and me should carry the day.

The Hon. I. GILFILLAN: I ask the Attorney: was a similar measure in the previous legislation controlling building societies?

The Hon. C.J. SUMNER: Yes, it is in the current Act.

The Hon. L.H. DAVIS: Perhaps I should embellish the answer and give the Hon. Mr Gilfillan the truth—a full reply.

The Hon. I. Gilfillan: Are you implying that I have not been given the truth?

The Hon. L.H. DAVIS: Absolutely. The truth is that effectively, only 60 per cent of loans from building societies in South Australia were covered by the legislation as it now exists. There was a ceiling limit on the ability of ministerial control of interest rates, so only 60 per cent of loans were affected. Certain commercial loans, and I guess some of the top end of the home loan market from building societies, were not affected, but this provision is broader. It seeks to include all loans from building societies—100 per cent of loans.

The Hon. K.T. GRIFFIN: The other thing is that, although there is provision in the existing Act for some control over interest rates, there is not in the existing legislation the same stringent capital adequacy and prudential requirements, which of course is the key to the extent to which Governments ought to be involved in controlling interest rates. They have their controls in other ways, to ensure that a building society is stable and competitive in a highly competitive financial environment.

The Hon. I. GILFILLAN: This matter is the only one on which I have had any representation from the building society industry itself, and concern was expressed about the effect of this clause. It is important that our attitude to this also reflects our concern about the deregulation that has been extolled as being a great virtue. In fact, we believe that deregulation has been one of the causes of much of the malaise and the chaos that has occurred in the Australian economic structure. It has been brought about, ironically, by a Federal Labor Government as much as by the conservatives in this country. However, that is a different debate. The issue that I see as significant before us is whether this legislation should discriminate on one sphere of the financial industry that is funding home building, whereas another, the State Bank in particular, is left without this control. So, it seems to me that it is reasonable to delete clause 103, and the Democrats will support that move.

Clause negatived.

Clauses 104 to 106 passed.

Clause 107—'Level of assets associated with primary objects.'

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

Page 72, lines 4 and 5—Leave out 'by ministerial notice under this section' and insert 'by the regulations'.

This clause sets the level of assets associated with primary objects, and in subclause (7) we find that references to loans or investments are defined, as are references to assets. However, they are subject to such adjustments (if any) as are required by ministerial notice under this provision.

It seems to me that it is more appropriate that, if there are to be adjustments to the descriptions of loans, investments or assets, that matter should appropriately be dealt with by way of regulation, rather than just by ministerial notice. It is for those reasons that I have moved my amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment fairly strongly, for the reasons that I outlined before, because we believe that it is necessary to have flexibility to act very quickly in this area, and that is why ministerial notice is considered to be more appropriate than by regulation.

The Hon. K.T. GRIFFIN: Can the Attorney indicate the circumstances in which there will need to be quick action to give a notice that would be preferable to the promulgation of a regulation which, in essence, can be done very quickly if one applies one's mind to it?

The Hon. C.J. SUMNER: There are a number of circumstances. In a situation where the assets are held by the society in another organisation where there is substantial exposure of the society and that organisation collapses and gets into difficulty, there is the need to act very quickly. It has been pointed out that, if there is a dramatic collapse in the property market, there is also the need to act quickly. It is a common provision to ensure that Governments have the capacity to protect funds and to protect the building societies. The Reserve Bank has a similar provision. The approach in this Bill is consistent with the approach being taken in New South Wales. The adjustments to assets may

vary more frequently than other financial ratios, and gazettal notice is considered the most appropriate way to go.

The Hon. I. GILFILLAN: I am not concerned about the Bill as it is currently drafted and oppose the amendment.

Amendment negatived; clause passed.

Clause 108—'Prime assets ratio.'

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

Page 72, line 18—Leave out ', or, if some other percentage is prescribed, that percentage,'.

This amendment will leave the figure at 10 per cent. Subclause (2) provides:

A building society does not hold prime assets that satisfy the required prime assets ratio for the purposes of subsection (1) unless the amount of its prime assets equals or exceeds 10 per cent, or, if some other percentage is prescribed, that percentage . . .

Those last few words are the words I want to delete. If the Attorney objects to that, perhaps he could indicate the circumstances which would be necessary to be able to vary that percentage by regulation quickly and for what purposes.

The Hon. C.J. SUMNER: No comment.

Amendment carried.

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

Page 72—

Line 23—Leave out 'by ministerial notice under this section' and insert 'by the regulations'.

Line 26—Leave out 'by ministerial notice under this section' and insert 'by the regulations'.

Page 73, lines 17 to 24—Leave out subclauses (5) and (6).

The amendments deal with the question of ministerial notice in the definitions of 'assets' and 'defined capital'. The two can be taken together, along with the amendment to delete subclauses (5) and (6), because the principle is the same. Under subclause (5), the Minister may:

. . . by notice published in the *Gazette*—

(a) define the classes of capital of a building society that may be brought into account as defined capital;

(b) provide for adjustments that must be made to the value of assets as recorded in the accounts of a building society.

It is a similar argument to the one I advanced earlier in that, where a definition of 'assets' or 'defined capital' or some other term is necessary, it seems to me more appropriate to deal with it by regulation than merely by ministerial notice.

The Hon. C.J. SUMNER: We oppose these amendments with the same argument we used with respect to the previous amendment but one: namely, that the value of assets can change and there is in the Corporate Affairs Commissioner's view a need to be able to act very quickly in this area.

The Hon. I. GILFILLAN: I am sorry: I was not present to hear the distinction, nor why the Attorney has opposed it, and I would appreciate an indication why the Government considers it particularly important in this case.

The Hon. C.J. SUMNER: It is because the argument is basically the same as that which we put up previously when the Hon. Mr Gilfillan agreed to the earlier amendment, including changing the situation by notice in the *Government Gazette.* It relates to the change in the value of assets, which change can occur rapidly, and the need to take action. So, consistent with the honourable member's previous position, I would suggest that he should support the Government.

The Hon. I. GILFILLAN: I believe the Attorney is correct; he has identified a similarity which will draw to the surface the consistency for which the Democrats are well renowned, and we will oppose the amendment.

Amendments carried; clause as amended passed.

Clause 109—'Capital adequacy.'

The Hon. K.T. GRIFFIN: Some of my amendments follow the principle on which I have been defeated and others relate to regulation, so I will not proceed with my amendments to lines 1 and 2 and line 6, because I have been defeated on those principles previously. I now move:

Line 12—Leave out ', or, if some other percentage is prescribed, that percentage.'

I proceed with this amendment because it deals with prescribed minimum capital which, in relation to a building society, means 8 per cent or, if some other percentage is prescribed, that percentage of the total rated value assets of the building society. It seems to me that that is a principle similar to that to which I have referred earlier, where we have been dealing with fixed percentages; although the context of this one is different from some others, I think the principle is the same.

The Hon. I. GILFILLAN: I indicate that, unless there are extraordinary reasons to do otherwise, I will continue the pattern and support this amendment.

The Hon. C.J. SUMNER: This may be all right for the moment, but it might have to be amended after the uniform Act discussions.

Amendment carried.

The Hon. K.T. GRIFFIN: Consistent with my earlier indication, having lost the principle, I will not proceed with amendments to lines 17, 19, 23 and 25 to 39, as these are consequential on the amendment that was defeated earlier.

Clause as amended passed.

Clause 110—'Variation of capital adequacy requirements where excessive risks undertaken.'

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

Page 75, after line 20—Insert new subclause as follows:

(2a) A notice under subsection (2) must relate to building societies and their subsidiaries generally and not to a particular building society and its subsidiaries.

In my second reading speech I indicated that it did not seem to be clear in subclause (2) that it was a reference to a notice by the commission published in the *Gazette* which should not refer to a specific building society. As I understand it, it was intended to be a general application rather than specific. My amendment puts that beyond doubt.

The Hon. C.J. SUMNER: The amendment is accepted.

Amendment carried.

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

Page 75, line 24—Leave out 'subsection (2)' and insert 'this section'.

This is a technical matter.

Amendment carried; clause as amended passed.

Clauses 111 to 114 passed.

The CHAIRMAN: I point out to the Committee that clause 115, being a money clause, is in erased type. Standing Order 278 provides that no question shall be put in Committee upon any such clause. A message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clauses 116 to 128 passed.

Clause 129—'Voting.'

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

Page 86, line 22—Leave out all words in this line and insert 'members who, being entitled to vote and present at the meeting either personally or by proxy, vote on the question'.

This is to clarify the matter of the proportion of members voting at a meeting.

The Hon. C.J. SUMNER: Agreed.

Amendment carried; clause as amended passed.

Clause 130—'Special resolutions.'

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

Page 87, line 10—Leave out 'register their vote in favour of the resolution' and insert 'vote on the resolution'.

This amendment tidies up a matter to which I referred in my second reading speech. The Attorney-General indicated that an error in drafting had been carried forward from the existing Act.

Amendment carried; clause as amended passed.

Clauses 131 and 132 passed.

Clause 133—'Inspection.'

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

Page 88, lines 16 and 17—Leave out 'and without charge'.

I am not clear whether the Attorney-General has accepted this point. I almost felt that he had accepted this suggestion in his summary of the second reading debate, but I do not want to develop the point if he is not going to accept it. While the Attorney is conferring, I make the point with some force, because this is not a small point—that clause 133 (1) and (2) require that a building society must make available a copy of the Act, the rules and the accounts of a building society for members free of charge. There is no problem with clause 133 (1) and (2) as they do that now; however, the problem does arise in clause 133 (3) which provides:

A building society must, on request by a member of the building society and without charge, furnish the member with particulars of his or her financial position with the building society as a member, shareholder, depositor or borrower.

The practical application of this provision is that building societies will be enormously out of pocket. The Attorney should know, if he is interested in a level playing field—and if he is interested, to use his own phrase, in social justice—that banks charge up to $40 an hour for statements of account. Many clients will naturally and not surprisingly lose information and will request additional information for taxation and other purposes. I am told by one of the largest building societies in South Australia that it receives at least 200 requests a month.

The Hon. I. Gilfillan: How regularly do they put out statements free of charge?

The Hon. L.H. DAVIS: Obviously, every customer of banks and building societies gets statements, but it is another thing to get additional or past information which has been lost or which is insufficient.

The Hon. I. Gilfillan interjecting:

The Hon. L.H. DAVIS: My understanding is that they do, and that they operate a passbook facility which means that a statement is automatically provided, which is different from, say, a trading account, which I have had, with a bank where your cheque book does not give you that regular update. My understanding is that building societies do receive requests for back information and that it costs them $20 an hour which is a fair sum. If clause 133 (3) is allowed to stand, it means that building societies cannot charge for this information but that banks can. I think that is unfair.

The Hon. C.J. SUMNER: Under existing legislation, banks can, but credit unions cannot. We were merely trying to align the two cooperative institutions. At present, the Building Societies Act does not contain the provision that the information must be provided without charge.

So, changes can be made at present, but we were trying to say that the cooperative sector—credit unions and building societies—should be put on an equal footing in this respect.

The Hon. I. GILFILLAN: I am a little concerned about this insofar as it does not seem to put any restriction on how many times a person may ask for a copy of the details of his or her financial position with the society. Recognising the Attorney's comment that it would be on parity with the credit unions, that may well be a reasonable point. However, it appears to be a very open-ended situation, where it would expose the building society to virtually an unforeseen and unrestricted expense.

The Hon. C.J. Sumner: No comment.

The Hon. L.H. DAVIS: I accept the point that the Hon. Ian Gilfillan has made. I called him financially naive earlier, and I think I may have been somewhat harsh in my judgment of him, because the comment that he has just made is quite true: it is indeed open-ended. What concerns me particularly is the Attorney-General's admission that building societies can charge now—and I understand at a much lesser rate than banks—and yet the Bill seeks to take that right away from them. One does not have to have a calculator or to be a financially illiterate Attorney-General to recognise that if you have two—

The Hon. C.J. Sumner: There is no need to carry on like that; it is quite stupid.

The Hon. L.H. DAVIS: Well, I am just—

The Hon. C.J. Sumner: How did you go in the stock market crash?

The Hon. L.H. DAVIS: I don't own shares, so there we are.

The Hon. C.J. Sumner: That shows how financially literate you are.

The CHAIRMAN: Order! The Hon. Mr Davis.

The Hon. L.H. DAVIS: It may not; have a look at my registry of interests. The point I was making is that if one building society is getting 200 inquiries a month, at a cost of $20 an hour, one can see that it amounts to tens of thousands of dollars in a year.

The Hon. I. GILFILLAN: I support the amendment. I think that there is an obligation on a building society or a bank—or any financial institution—to provide regularly to its clients, free of direct charge, a statement of position. I am assuming from the Hon. Legh Davis's earlier answer—and I am relying on his information—that in fact that is done.

The Hon. L.H. Davis: Yes, it is.

The Hon. I. GILFILLAN: I have been reassured by the same source that it is being done. Under those circumstances, I support the amendment.

Amendment carried; clause as amended passed.

Clauses 134 to 155 passed.

Clause 156—'The Restructuring Review Committee.'

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

Page 111, lines 13 and 14—Leave out paragraph *(d)* and insert—

(d) one must be a person appointed by the Minister, after consultation with associations, to represent the interests of building societies.

This clause establishes the Restructuring Review Committee, which has some significant responsibilities, under Part VII of the Bill. It can deal with amalgamations and conversions of a building society to a company, credit union or a friendly society, and other matters.

It comprises four persons: the Commissioner for Corporate Affairs or a nominee of the Commissioner, a nominee of the Treasurer, a nominee of the Minister of Housing and Construction and a person who is, in the opinion of the Minister, suitably qualified to represent the interests of building societies. My amendment provides that the fourth person must be a person appointed by the Minister after consultation with associations to represent the interests of building societies. The associations to which the amendment refers are the associations of building societies. It seems to me that that is not an unreasonable proposition.

The Hon. C.J. SUMNER: The Government accepts the amendment.

Amendment carried.

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

Page 11, line 23—Leave out subclause (6) and insert—

(6) a member of the Committee appointed under subsection (2) *(d)*—

(a) must be appointed for a term of office of three years;

(b) is, on the expiration of a term of office, eligible for reappointment;

and

(c) ceases to be a member of the Committee if the member—

(i) is removed from office by the Minister for neglect of duty, dishonourable conduct or mental or physical incapacity;

(ii) resigns by notice in writing addressed to the Minister;

or

(iii) completes a term of office and is not reappointed.

(7) The other members of the Committee hold office at the pleasure of the Minister.

This amendment endeavours to give some stability to the membership of the committee. What I am proposing is that, whilst the Commissioner for Corporate Affairs or a nominee of the Commissioner, the nominee of the Treasurer and the nominee of the Minister of Housing and Construction hold office at the pleasure of the Minister, recognising that they are nominees of Ministers, I think that the fourth member, representing the associations, should have a fixed term, which I have specified as three years. That will give the committee some continuity.

The Hon. C.J. SUMNER: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clauses 157 to 177 passed.

Clause 178—'Winding up.'

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

Page 126, line 18—Leave out, 'or, if some other amount is prescribed that amount'.

This is consequential on one of the very early amendments I moved. This clause deals with winding up, and provides that the commission can give a certificate to wind up if the building society has ceased to have a paid-up share capital of at least $10 million or, if some other amount is prescribed, that amount. One of the earlier amendments removed that power to prescribe.

The Hon. I. GILFILLAN: The Democrats support the amendment.

Amendment carried; clause as amended passed.

Clauses 179 to 193 passed.

Clause 194—'Appeals from decisions of commission.'

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

Page 131—

Line 20—Leave out 'This' and insert 'Subject to subsection (4), this'.

After line 26—Insert new subclause as follows:

(4) where—

(a) provision is made by this Act for an appeal to the Minister against, or a review by the Minister of, an act, omission or decision of the Commission;

and

(b) such an act, omission or decision of the Commission is, in a particular case, done or made in accordance with a direction of the Minister,

that act, omission or decision and any decision of the Minister on such an appeal or review may be the subject of an appeal to the Court under this section.

As I recollect the Attorney-General's reply at the second reading stage, he was inclined to accept this amendment. What I am proposing is that, in situations in which the Minister gives a direction to the commission, the commission makes the decision that the review ought not to be by the Minister who has given the direction but by the court.

Amendments carried; clause as amended passed.

Clauses 195 to 199 passed.

Clause 200—'Carrying on business with insufficient members or share capital.'

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

Page 134, lines 10 and 11—Leave out, 'or, if some other amount is prescribed, that amount'.

This amendment is consequential on an earlier amendment. It removes the reference to the minimum paid up share capital of $10 million being amended by regulation.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried; clause as amended passed.

Clauses 201 to 220 passed.

Clause 221—'Regulations.'

The Hon. K.T. GRIFFIN: I have several questions for the Attorney. This is the regulation making power and is one of the matters that I have not had time to pursue in the light of other pressures in the Parliament. Subclause (2) *(e)* provides that regulations may limit the charges that may be made by a building society in respect of the granting of a loan or for any work done by a building society in relation to the granting of a loan. Can the Attorney indicate whether that is in the existing Act and, if it is (or even if it is not), does the Government have any intention to make regulations limiting the charges?

The Hon. C.J. SUMNER: Yes, it is in the current Act and we are not intending to make any regulations at this time.

The Hon. K.T. GRIFFIN: Paragraph *(f)* enables regulations to be made requiring building societies, or building societies of a prescribed class, to keep their offices open to the public throughout prescribed periods. Is that in the present Act? I should have looked at this matter, but I did not.

The Hon. C.J. SUMNER: Yes.

The Hon. K.T. GRIFFIN: Is there any intention to prescribe periods during which the offices should be open?

The Hon. C.J. SUMNER: Not at present.

The Hon. K.T. GRIFFIN: Paragraph (i), limits the amount that a building society may subscribe to an association. First, is it in the present Act? Secondly, has the Government any intention to limit that sum?

The Hon. C.J. SUMNER: Yes, it is; no, we do not.

Clause passed.

Schedules and title passed.

Bill read a third time and passed.

MURRAY-DARLING BASIN ACT AMENDMENT BILL

Second reading.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

Because of the lateness of the hour, 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 approve amendments to the Murray-Darling Basin Agreement to enable the Murray-Darling Basin Ministerial Council to make decisions otherwise than at meetings.

The council concluded some time ago that many issues for which it has responsibility should be capable of being resolved without an actual meeting of council. The benefit would be quicker decisions without the expense of its interstate members having to travel to a common meeting venue. The procedures set down in the present agreement, however, do not allow out of session resolutions.

It may be of interest that the council was established in November 1985 by informal agreement between the Gov-

ernments of the States of New South Wales, Victoria and South Australia and the Commonwealth. This was subsequently formalised through the Murray-Darling Basin Agreement 1987 which was ratified by the respective Parliaments and took formal effect on 1 January 1988.

The council comprises up to 12 Ministers; three from each Government. It maintains general oversight and control over major policy issues of common interest to those Governments concerning the effective management of natural resources within the Murray-Darling Basin. Significant matters, including funding approval for major projects, require council endorsement.

After extensive negotiations between the parties, an amending agreement has been executed by the Prime Minister and the Premiers of New South Wales, South Ausralia and Victoria to allow out of session resolutions.

This Bill seeks to ratify this agreement.

Clause 1 is formal.

Clause 2 provides for commencement on proclamation.

Clause 3 approves the amending agreement.

Clause 4 amends the definition of 'the agreement' in the Act so as to include reference to this second amending agreement.

Clause 5 inserts a third schedule in the Act setting out the amending agreement.

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

MOTOR VEHICLES ACT AMENDMENT BILL (No. 5)

Adjourned debate on second reading.

(Continued from 5 December. Page 2348.)

The Hon. DIANA LAIDLAW: The Liberal Party will be moving a variety of amendments to this Bill, which aims to give effect to Government decisions arising from the 1990 State Government budget. These decisions all relate to the issue of concessions for the registration of vehicles. I will refer to the various areas in which the Liberal Party will be seeking to move amendments. First, in relation to the local government vehicle concessions, clause 10 amends the practice of registration without fee for trucks and utilities used for the maintenance and construction of roads and for the collection of household rubbish by local councils.

The Government has argued that councils should pay registration fees on such vehicles, as do all other organisations and bodies undertaking similar work, including the removal of rubbish. Certainly, I understand that private contractors and the Department of Road Transport pay full registration fees at the present time, unlike local councils, and there would appear to be some logic in the Government's arguments. However, the Liberal Party will be moving to provide that there be a 50 per cent only registration fee for such vehicles.

We have received considerable correspondence from both metropolitan and country councils on this matter, and also from the Local Government Association. I will refer to that correspondence from the LGA. The LGA is most concerned that these charges will be implemented and will take effect halfway through its financial year; in fact they were announced after most of the councils had organised their budgets.

Therefore it believes that these charges will have to be passed on to ratepayers at a time when most councils appreciate, even if this Government does not appreciate, that households in general are suffering considerably under the weight of Federal and State taxing and charging policies. Local government is sensitive to that and is most reluctant to pass on such charges, and I am most sympathetic to that.

Likewise, the only other option would be that councils cut their maintenance and construction programs. Again, any honourable member attuned to their electorate would appreciate that councils have been suffering considerably over recent times through cutbacks in road funding and through the escalation in costs for such work. I believe that we would be negligent if we contributed to a further cutback in such programs by an impost at this time of a full registration fee for vehicles that are involved in the construction and maintenance of roads.

However, I recognise that it is not proposed that the practice of registration without fee be discontinued for vehicles specifically adapted for road making—vehicles such as graders, tractors, rollers, bitumen layers and so on. We believe that even the restricted proposal for registration without fee for trucks and utilities should not be overturned at this time.

Correspondence from country councils in particular, and from one metropolitan council (Marion), confirms that the Minister's estimate in the second reading explanation is quite incorrect in respect of the impost on councils. The Government has estimated that the additional cost for a 'typical' metropolitan council would be some $20 000 in a budget of $17.9 million, and for a 'typical' rural council some $6 000 in a budget of $1.4 million.

So, as I indicated, the Liberal Party, irrespective of arguments of one government taxing another government, believes that it is most inappropriate at this time for the Government to be moving to charge the councils full registration fees for trucks and utilities used for the maintenance and construction of roads and for the collection of household rubbish, and we will be moving an amendment for a 50 per cent reduction in fees for the registration of such vehicles.

We will also be moving amendments with respect to the Government's intention to get rid of the current 50 per cent reduction in fees for primary producer vehicles—such as utilities and small tray-top vehicles—that are less than two tonnes mass. The Government has argued that these vehicles are often used for purposes other than in connection with primary production, and I believe that even my most honest country colleagues would concede that from time to time there have been abuses of the system. But, such cases are few and far between and certainly do not warrant this heavy-handed move by the Government to get rid of the 50 per cent reduction in fees for these light commercial vehicles.

We very strongly support the case presented by the UF&S to both the Premier and the Minister of Transport that the Government should reverse this decision. We also share with the UF&S their alarm that the Government has totally ignored its pleas in this regard.

In order to support its case, the UF&S recently undertook a survey of members to try to prove to the Government that there were not widespread rorts in the system. The UF&S undertook this survey on the understanding that that was the only reason why the Government could be moving in this field. The survey was conducted by telephone and the results collated and analysed by UF&S staff. The methodology was to collect a systematic sample of a tentative size and to collect further data if the sampling variability showed this to be necessary. An initial figure of 1 per cent was suggested to the UF&S by the Australian Bureau of

Statistics. Correspondingly, a sample of 92 farmers was selected using the orthodox systematic sampling method. Subsequent checks confirmed the adequacy of this sample size.

Technically, the spread of the scores suggest a high level of confidence with a calculated sample of N=91. The questions were initially drafted with the specific information needs relating to the proposed amendments in mind. Following discussions with the ABS, the content of the questionnaire was marginally refined and the format altered to make it more suitable for the telephone survey technique which had been agreed. UF&S field officers were briefed and a role play exercise undertaken to minimise accidental bias from that quarter. The survey revealed a small number of non-farmer members in the sample plus a small number of nil responses. The scores remained systematically valid, however, in terms of population estimates and acceptable predictive error.

I highlight those points because they serve to demonstrate the efforts that the UF&S has taken to prove to the Government that there are no rorts in the system and their earnest belief that the Government is totally wrong and unjustified in moving to get rid of this benefit to farmers at this time. Certainly, the UF&S has argued, as have individual farmers, that this is the last straw as far as farmers are concerned with respect to all Government imposts and consequences of the economic and rural climate in general.

One may suggest that that is an alarmist expression on behalf of the UF&S, but the fact is that, after we have seen increases in levies for wool, the collapse of the wheat market, skyrocketing interest rates, and the current increases in petrol prices (I could go on and on), they just cannot believe that a 50 per cent reduction in registration for vehicles would be a matter that the Government would even consider at the present time. They do not believe that the Government could be so insensitive to the plight of the family and the farmer on the land that it would move in this direction, and the Liberal Party totally endorses that point of view.

Getting back to this survey, I seek leave to include in *Hansard* two tables, one highlighting vehicle ownership per farm, and the second highlighting total vehicles versus concessional registration.

Leave granted.

TABLE 1

Vehicle Ownership per Farm

Passenger Cars	1.38
2-wheel drive Utilities	0.64
4-wheel drive Utilities	0.64
Other 4-wheel drives	0.08
Rigid Trucks	0.90
Semi-trailers	NA

TABLE 2

Total Vehicles versus Concessional Registration

	1 Total	2 P.P. Con
2-wheel drive Utilities	0.64	0.50
4-wheel drive Utilities	0.64	0.54
Other 4-wheel drives	0.08	0.02

The Hon. DIANA LAIDLAW: Within the numbers for vehicle ownership per farm, the breakdown between vehicles registered under the present primary producer concession and all others is as follows: two-wheel drive utilities, a total of 0.64; four-wheel drive utilities, a total of 0.64; and other four-wheel drives, 0.08. The interesting fact from those figures is that there was one concessionally registered four-wheel drive other than utilities for every 50 farmers surveyed. The notion of Range Rovers being passed off as farm vehicles, as the Minister of Transport has claimed, is not supported amongst UF&S membership. All small vehicles are kept either on the farm or nearby; thus, no respondents listed any small vehicles as usually located at a remote location.

There were 1.36 adults per concessional vehicle, including all vehicles such as trucks, amongst the respondents; and there were 1.66 primary producers per farm from a total of 2.52 adults per farm. In terms of *bona fides* this means that there was less than one light commercial vehicle per primary producer in the survey group. The use pattern of vehicles suggests that the typical concessional light commercial vehicle is used for farm business, at 65.6 per cent of the total use, that is, distance travelled. By deduction, this implies a 34.4 per cent use for either non-farm business or non-business purposes. Therefore, one could legitimately argue that, instead of a 50 per cent concession, the Government could and should be applying a 65.6 per cent concession, because that would reflect the position in terms of the use of light commercial vehicles by primary producers for farm business.

So, Liberal members will oppose the Government's wish to dispense with that 50 per cent reduced fees concession for light commercial vehicles. We will also move to incorporate within the Bill all the reduced-fee and no-fee registration provisions which the Government now seeks to incorporate in regulations. Currently, provisions relating to the registration of motor vehicles at a reduced fee are contained in the Act, while provisions relating to registration without fee are contained in both the Act and the regulations and the Liberal Party does accept the Government's argument that there is a need for rationalisation and some consistency in this area.

However, we do not accept that all those matters—reduced-fee and no-fee registration provisions—should be in the regulations. Our arguments are based on the fact that if they were incorporated in bulk in the regulations and the Government at any time sought to amend some of those reduced-fee or no-fee registration provisions by bringing in a package of regulations, this Parliament would be unable to look at and respond to those matters individually.

We believe that in each case these no-fee and reduced-fee provisions have, over time, been introduced because there was a valid case in each instance. Therefore, we are keen to ensure that, if there is any change in any of these provisions in the future, Parliament has an opportunity to debate those changes on their individual merit. The only way that we can ensure that in future—and we are doing exactly the same now with respect to this Bill—is to ensure that all these provisions are in the Act. I have a large number of amendments on file, mainly because the Government—

The Hon. Peter Dunn: They are good amendments.

The Hon. DIANA LAIDLAW: They are good amendments, yes, and this time quantity does reflect quality. The very fact that our file of amendments is so thick reflects the range of reduced-fee and no-fee provisions which the Government is seeking to repeal from the Bill. I suspect that most members would not have been aware of the range of concessions if the Liberal Party had not moved at this time to reintroduce them in the Bill. I want to refer to some of them because they are extremely important areas.

For instance, in terms of registration without fee, the provision applies to: any motor vehicle owned by the South Australian Metropolitan Fire Service or voluntary fire brigade; council vehicles used solely for fire fighting; motor

ambulances, and also ambulances operated by councils, societies or associations; vehicles owned by the Renmark Irrigation Trust; vehicles consisting of mobile machinery and plant used solely to bore for water; trailers used solely for the purpose of carrying equipment and fuel for generating producer gas; tractors, bulldozers and other vehicles which I indicated earlier related to the construction, improving and repairing of roads; any motor vehicle used by councils for the purpose of civil defence; West Beach Trust vehicles; animal and plant control board vehicles; motor omnibuses owned by the State Transport Authority; and vehicles owned by the Coober Pedy Progress and Miners' Association. I could go on. It is important that, in future, all these matters with respect to vehicles registered without fee be considered on their individual merits. Again, I stress that that will be possible in the future only if the amendments that I have on file are passed.

While some members may take exception to some of the no-fee registration provisions that exist, they will never in future have an opportunity to debate them on an individual basis, or get rid of them individually, if they are lumped as one in the regulations. I urge members—particularly Government members—to strongly reconsider this option of putting all the reduced-fee and no-fee registration provisions within the regulations.

Because of the time pressures being experienced by not only all members but also Parliamentary Counsel, it was suggested that our amendments (which are presently contained in sections 30 to 38 of the Act) be placed in a schedule, if members agree to the principle that I referred to tonight.

I wish to refer to one further matter which the Liberal Party wants to introduce into this Bill, that is, a reduced registration fee for veteran, vintage, classic and historical vehicles. At present, owners of such vehicles have two options. They can register their vehicles at a full registration fee and have unrestricted use of the roads, relatively speaking, as does the owner of any other vehicle which is fully registered, or they can apply for a permit under section 16 of the Act, the duration of each permit being for one to three days.

The matter of permits has become very sensitive for members of some 42 historical vehicle associations in this State. It has become an issue because in the past three years the Government has sought to increase threefold the permit fee. From November this year, the fee was further increased from $10 to $15. This means that, if the owner of a veteran, vintage, classic or historical vehicle wishes to use it for a joy run, to take it to a service station for a mechanical check or to participate in fairs and fetes and other charitable functions, they must take out on each occasion a $15 permit. If they use the vehicle a mere 10 times a year, they will pay out $150 for the use of the vehicle for between 10 and 30 days a year. The Liberal Party believes that that is very harsh when the only other option for these vehicle owners is the payment of a full registration fee.

In those circumstances, the Liberal Party is keen to introduce by way of amendment a third option for the owners of such vehicles. We are keen to see the permit system duration of one to three days remain, because owners of several vehicles may wish to use one on one day and another on another day, and this short period accommodates their needs. However, we believe also that owners of such vehicles in South Australia are being most harshly discriminated against compared with the owners of such vehicles in all other States. I seek to have inserted in *Hansard* a chart which depicts a national comparison of car club permits outlining in respect of each State the cost of such permits and their duration.

Leave granted.

National Comparison of Car Club Permits

	Cost	Duration
South Australia	$10 rises to $15 in November	1 to 3 days
Victoria	$71	Annual
Western Australia	$34	Annual
	$25	6 months
Tasmania	$62	Annual
Queensland	$68	Annual
New South Wales	$60	Annual

Note: Old-car owners in South Australia are required to obtain a $10 permit even if they want to drive their vehicle to a nearby mechanic for maintenance, or for a short road test to check on repairs. In most other States, the annual permit provides for 'club authorised' road testing and transfer to garages.

The Hon. DIANA LAIDLAW: When members look at this chart, they will see that South Australia is the only State that does not provide an annual permit at a reduced fee. The Liberal Party believes very strongly that that option should be available to owners of vintage, veteran, historical and classic vehicles if they are registered members of a car club and if they participate in activities recognised by that club and by the Registrar of Motor Vehicles. They are the amendments that the Liberal Party will move during the Committee stage of this Bill. We earnestly hope that all of those amendments will pass, because we believe that they are fair and just.

My outline of the Liberal Party's position has indicated our criticisms. I have not taken up the time of the Council at this stage to indicate the areas in which the Liberal Party does support the Government, and I would not want my contribution necessarily to be taken out of perspective in that respect. However, I support the second reading of the Bill and look forward to the Committee stage.

The Hon. I. GILFILLAN secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 22 November. Page 2174.)

The Hon. DIANA LAIDLAW: This Bill seeks to extend the powers of the Registrar, or a member of the Police Force or any person authorised by the Registrar to inspect a motor vehicle where an application to register a motor vehicle is made. The inspection is designed to determine whether a vehicle complies with legislation regulating the design, construction or maintenance of such vehicle, and whether it would put the safety of other road users at risk if driven on the road.

At present South Australian legislation requires preregistration roadworthiness inspection only of buses, country-based taxis and commercial vehicles seeking registration under the Federal/interstate registration scheme, although in March this year, this Parliament introduced a scheme for random on-road inspection of heavy vehicles. The condition of all other vehicles is monitored by on-road observation by police officers, and most members would be aware of grievances from time to time, particularly of country people, about the work of police officers at harvest time in terms of defecting vehicles. So, we know that the police are active in this field.

All the other States have far more stringent inspection requirements than we have in South Australia. New South Wales requires that all passenger vehicles of four years of age and older undergo an annual inspection. For many years, that annual inspection was required after a period of three years, but I note that the New South Wales Government recently extended the period to four years. In Victoria and Queensland, vehicle inspection programs operate on the change of ownership of the vehicle. So, in Australia there are two examples of vehicle inspection, either inspection on a change of registration or compulsory inspection four years after manufacture. Overseas, there are a variety of inspection procedures.

At a time when there is almost a national euphoria on the subject of road safety, the issue of unsafe vehicles on our roads is raised frequently. In South Australia, concern has been expressed that, when older vehicles do not pass the inspections to which I have referred in the Eastern States, they are dumped here because the Registrar does not have the power to enforce an inspection. This matter was highlighted by the Minister in her second reading explanation when she indicated that it is proposed that, initially, vehicles transferring from interstate and manufactured more than seven years before the date of application to register in South Australia will be subject to the inspection procedure.

My concern, which is shared by all members of the Liberal Party, is that the Bill does not reflect the Minister's limited intention in respect of the inspection of vehicles, nor is the Bill confined to the inspection of vehicles previously registered in other States, of which there were about 14 000 in 1989, including approximately 9 000 vehicles over five years old. In fact, following amendments in April this year to the interpretation of the term 'registration', the inspection provisions of the Bill could apply at the time of any registration or reregistration transaction, no matter the age of the vehicle. This is not an alarmist suggestion on my part. It has been confirmed by a variety of persons with sound legal training, which I readily admit I do not have.

Compared with the provisions in all other Acts, we seem to have gone from a situation where we have not had any forceful inspection procedures to a situation where at registration and reregistration, no matter the date of that reregistration after the manufacture of the vehicle—whether it was five months, 10 months, 20 months, two years, let alone five or seven years—this Bill will provide the Registrar with the power to inspect those vehicles. The Liberal Party is most concerned about the open-ended nature of the amendments. Although I do not want to make a pun in terms of road safety, this is complete overkill on the part of the Government. Essentially, we are allowing for the compulsory inspection of vehicles on a periodic or a change of ownership basis. That proposition can certainly be encompassed in the amendments that the Opposition will move, and it is a very contentious one, as anyone who takes an interest in this issue of vehicle inspections would know.

The Motor Trade Association of South Australia Incorporated, for instance, has long lobbied for the compulsory inspection of all motor vehicles of a certain age on an annual basis, as is the case in New South Wales. I noted in more recent times that it has modified this call to compulsory inspection of vehicles at the time of change of ownership, as in Victoria.

Certainly, when I spoke to the association about this Bill, Richard Flashman, who had not received any notification from the Minister that the Bill was to be introduced, let alone that it had been introduced, was euphoric when he noted the provisions of the Bill. It accommodated everything that the association had been lobbying for for some years in South Australia and certainly Richard Flashman, on behalf of the association, put out a press release on 9 November indicating that he was excited about the propositions and the opportunities that are provided for in the Bill.

In that same press release the Minister went on to say that a car check plan is not on, but what he does not realise is that he is providing such a car check plan by the introduction of this Bill. Just as the association in this State is euphoric about the prospects encompassed in the Bill, so too the RAA is strongly opposed to the same proposition. It has written at length to the Minister and to me calling on the Government not to proceed with the Bill at all.

In respect to periodic inspections of vehicles, the RAA has pointed out that vehicle defects are a small contributing factor to accidents. Certainly, our own Office of Road Safety suggests it is 1 per cent, while the Road Accident Research Unit based at Adelaide University suggests a figure between 2.5 per cent and 4 per cent. The RAA also notes that, while bald tyres are recognised to be a problem, it has been the experience in New South Wales that annual inspections do not pick up the problem, because offending drivers beat the system by borrowing sound tyres from another vehicle.

Also, if one's tyres are slightly worn but not totally worn or are in a vulnerable state, inspection from one year to another is not necessarily going to pick up this problem, because it can give drivers a false sense of complacency, believing that they have had their vehicle inspected and that they do not need to go around and look at their tyres. That is especially so as we no longer have a driveway service at most petrol stations. Drivers do not look at their tyres to see what condition they are in, and the consequences can be fatal. As I said, this has been the experience in New South Wales.

Also, there is no evidence that South Australian vehicles are worse than those in the States where compulsory inspections are carried out, although again I highlight the fact that the Minister acknowledged that we are now being subjected to some dumping not only from interstate but also from overseas. The South Australian police also agree that vehicle inspection on a periodic basis is not a cost effective road safety intiative.

Essentially, they are the grounds on which the Liberal Party would argue that this Bill is excessive, that it is certainly not required on road safety grounds in the form in which it has been introduced, that it certainly does not reflect the intentions outlined by the Minister in the Bill and that it has the potential to place a considerable cost burden on motorists, with little benefit in terms of future road safety.

The Liberal Party is an advocate of sound measures to promote road safety in this State, but we are not prepared to endorse a measure, especially one such as this which provides *carte blanche* very wide and, we believe, excessive powers to the Registrar of Motor Vehicles. Therefore, I will be moving amendments to limit the powers of the Registrar in this regard. We are not going to the extent that the RAA has argued, namely, that the only proper and fair outcome would be the defeat of this Bill.

We believe that vehicles coming from interstate, which may well have been rejected by the authorities in those other States, should certainly be the subject of an inspection before an application is processed for registration. That was the intention as outlined in the second reading explanation. Certainly, the Minister spoke of no other matter in the explanation of the Bill. Therefore, we will be moving to

limit—not defeat or oppose—the powers that are provided in this Bill. We support the second reading.

The Hon. I. GILFILLAN: I will comment briefly on the Bill. The Democrats support the second reading. In our concern for road safety, we have recognised that there is a role for inspection for safety purposes. In discussions that we have had, we proposed that there should be a roadworthiness check after five years, and more frequently after a vehicle is more than five years old. I have not yet had an opportunity to look specifically and critically at the Liberal amendments, nor to contemplate drafting some from the Democrats directly, but it appears as though there would be no dispute as far as roadworthiness checks for vehicles coming from interstate is concerned.

The Hon. Anne Levy: Wait till you hear my arguments.

The Hon. I. GILFILLAN: I will be happy to hear your arguments. Certainly, reading the report, which is the only description I have of the Bill to look to, I agree with what I think I heard the Hon. Diana Laidlaw say, that there does not appear to be an argument in proposing regular checks of vehicles which have always been registered in South Australia.

The Hon. Diana Laidlaw: That's right. That is why the Bill is such a shock. The second reading explanation—

The Hon. Anne Levy: We can have this out in Committee.

The Hon. I. GILFILLAN: I am being adjured by the Minister to wait for her words, which I gather...

The ACTING PRESIDENT (Hon. Carolyn Pickles): Order! We will get through this Bill a lot more quickly if members speak one at a time.

The Hon. I. GILFILLAN: Thank you, Ms Acting President. My observations are brief but simple: one is that there seems to be a lack of explanation in the report which I have in hand covering matters which appear to be covered by the Bill but, from the point of view of the Democrats, we believe that there is a role for regular roadworthiness and safety checks, and not only for vehicles that come from interstate. But it ought not to be necessary every year.

In our opinion that would be quite unnecessary, particularly for newer vehicles. However, we look forward to taking part in the Committee stage, and we are eagerly looking forward to the concluding remarks of the Minister. We support the second reading.

The Hon. ANNE LEVY (Minister of Local Government): I thank members for their support of the second reading. I think detailed argument relates to the proposed new clause, and I suggest that it be left to the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1a—'Duty to grant registration.'

The Hon. ANNE LEVY: I move:

Page 1, after line 11—Insert new clause as follows:

Duty to grant registration

1a. Section 24 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Notwithstanding subsection (1), the Registrar may refuse to register the motor vehicle pending—

(a) investigation as to the correctness of the particulars disclosed in the application for registration; or

(b) examination of the motor vehicle for the purpose of ascertaining whether it—

(i) complies with an Act or regulation that regulates the design, construction or maintenance of such a motor vehicle;

or

(ii) would, if driven on a road, put the safety of persons using the road at risk.

This new clause is deemed necessary consequential on the principal part of the Bill. The Bill provides for the examination of motor vehicles prior to registration to determine whether the vehicles comply with design requirements and are safe. Section 24 of the principal Act requires the Registrar to register a vehicle on due application and payment of the correct fee. A current provision in section 24 allows the Registrar to delay processing an application for registration pending investigation of the correctness of the particulars that are disclosed in the application.

This new clause will allow the Registrar to delay processing an application pending examination of the vehicle to determine whether it complies with design requirements and is safe. In other words, under section 24, if someone applies the Registrar must register the vehicle, provided the application is in order and the proper fee is paid. The Registrar can currently delay registration while he checks whether the statements in the application are correct, but he does not have the power to delay registration while finding out whether the vehicle is safe.

So, it seems to me that it is totally irrelevant whether we end up with Ms Laidlaw's amendment or that of the Government to give the Registrar power to delay giving a registration while a check is made whether the vehicle is safe or complies with design requirements.

The Hon. DIANA LAIDLAW: The Liberal Party supports the amendment on the understanding that we will not be including any time limit but that it would simply be complementary to the form of any matter to which we would agree as a result of discussion on the next clause. Certainly all members in this place have indicated that they are prepared to accept some form of inspection, even though I do not think that we are all agreed on the same form of inspection.

New clause inserted.

Clause 2—'Inspection of motor vehicles.'

The Hon. DIANA LAIDLAW: I move:

Page 1, lines 15 to 21—Leave out all words in these lines and substitute new paragraph as follows:

(ab) where an application to register a motor vehicle—

(i) currently or last registered in another State or a Territory of the Commonwealth or in another country;

and

(ii) first registered (in any jurisdiction) more than five years before the date of the application,

has been made, examine the motor vehicle for the purpose of ascertaining whether it—

(iii) complies with any Act or regulation that regulates the design, construction or maintenance of such a motor vehicle;

or

(iv) would, if driven on a road, put the safety of persons using the road at risk.

As I outlined during my second reading contribution, it is a fact that what appears to be a most reasonable proposition in the Minister's second reading explanation is certainly not reflected in the Bill. In her explanation, the Minister stated that initially it is proposed that vehicles transferring from interstate and manufactured more than seven years before the date of application to register in South Australia will be subject to the inspection procedure.

Certainly all the examples provided by the Minister referred to the dumping of vehicles from interstate, the number of vehicles previously registered in other States the registration for which was sought in South Australia last year, and the number of vehicles over five years of age which were previously registered in other States and for which registration was sought last year. I believe that, if we are moving to this inspection area, we should move with some caution to see how effective it would be, and to ensure

that we institute this inspection procedure in a fair and reasonable way, and that we do it effectively so that it is a credible inspection procedure that operates in this State.

I emphasise that very strongly because, as I outlined in my second reading speech—and I will not elaborate again at this hour—it is a fact from research undertaken both by the Federal Office of Road Safety and the Road Accident Research Unit based at the Adelaide University, and also from police work, that the number of defects on vehicles is responsible for about only 1 to 4 per cent of accidents. Clearly, there are flaws and rorts in the periodic inspection systems that operate in Victoria and New South Wales. I believe that we should at this stage tackle the major problem in terms of defects in vehicles that the Minister has outlined in her second reading explanation.

We should confine this inspection procedure at this stage to vehicles from interstate and overseas, manufactured seven years before the date of application, that come to this State to be registered, although I have argued that it be reduced to five years before the date of application, and the Minister has considered the proposition provided in the Bill in terms of the vehicles that the Government intends initially to cover.

So, the Liberal Party has relaxed what the Minister saw as reasonable for an initial inspection procedure in this State. We have advocated five, not seven, years in terms of vehicles from interstate. I stress very strongly that, because of the controversy about this area, the questions and doubts about the road safety value of periodic inspections and the cost factor that will be imposed on motorists, we believe very strongly in the need for inspections but that they should be limited to ensure that we get them correct, that they operate credibly and that they are effective in tackling what we all know at this stage to be the real problem area, that is, vehicles coming from interstate and overseas that are five or seven years from the date of manufacture. I hope that my arguments in moving this amendment have been sufficiently strong and persuasive to ensure that this amendment is passed.

The Hon. ANNE LEVY: The Government opposes this amendment as being unnecessarily restrictive. Currently, under section 24 of the principal Act, the Registrar does have the power to refuse registration for any vehicle if he is of the opinion that the vehicle does not comply with design requirements or is otherwise unsafe. But—and this is a large but—he does not have the power to require vehicles to be inspected so that a realistic opinion can be formed as to whether a vehicle is unsafe or does not comply with design requirements, hence the amendments in this Bill to enable inspections to occur.

The emphasis in the Hon. Ms Laidlaw's amendment is to limit such inspections purely to what one might call 'elderly' vehicles which come from interstate. When I say 'elderly' I recognise that five years does not necessarily make it a very elderly car; I say that indignantly, as I drive my eight year old car very happily. Such a requirement for inspections would be limited to these elderly vehicles from interstate and the Registrar would have no power whatsoever to require an inspection for any other vehicle, however elderly, that has always been South Australian or in other situations where one might well feel that an inspection to see whether the vehicle was safe was highly desirable.

One could think of a vehicle which had been involved in a severe accident and which was repaired. Repairs are not always carried out with the desired thoroughness. In such situations, the Registrar might well feel that an inspection for safety is necessary. Another instance which has been brought to my attention is what are called cut and shut procedures where, after an accident, the front end of one car is joined to the back end of another car to make a complete car.

In such circumstances, it would seem highly desirable that the Registrar have the power to check that this reconstructed vehicle is, in fact, a safe one, regardless of the age of the components and regardless of where the front and back ends of the cars were originally registered. Hence the broadness of the Government's proposal compared with the narrow approach of the Hon. Diana Laidlaw's amendment which would not enable the Registrar to require any safety inspection of cut and shut vehicles, vehicles badly damaged in an accident or elderly South Australian vehicles, no matter how elderly. Such inspections for safety could be highly desirable.

The Minister has indicated that the regulations under the Act will set down that, in terms of vehicles coming from interstate, a time limit of seven years will be applied so that seven-year-old vehicles coming from interstate can be required to be inspected. This should certainly prevent the dumping of defective vehicles from interstate. However, it is felt that the power for inspection should cover more than elderly interstate vehicles, although it is intended only for situations such as I have mentioned, in relation to which I would have thought anyone concerned with road safety would agree that an inspection would be highly desirable.

The Hon. PETER DUNN: What happens to a vehicle that has a lapsed registration? For instance, a number of vehicles on rural properties are registered for only two or three months—or generally for six months—during the harvest period. Will those vehicles have to be inspected each time they are registered if they are more than seven years old?

The Hon. ANNE LEVY: There is no compulsion to inspect: the Registrar may require inspection, and there would be no intention of requiring inspection of farm vehicles in that situation. The provision gives the Registrar power to require such an inspection where it is deemed to be highly desirable: it is not mandatory. I understand that there is no intention whatsoever of making inspections necessary for elderly farm vehicles.

The Hon. PETER DUNN: If the Registrar deems it necessary to have a vehicle inspected, where would the owner take it? The vehicle, which may be very old, may not necessarily be a farm vehicle: it could be one that is used irregularly in the city. Where are those vehicles taken for inspection? Must they be taken to a specific point such as Port Pirie, Mount Gambier, Murray Bridge or wherever they register vehicles, or can they be taken to the police station or to the weights and measures people? I understand that they now have the power to inspect vehicles and to allow them to be put back on the road after modifications are carried out.

The Hon. ANNE LEVY: As I understand it, the Registrar is quite able to make inspectors available to travel to the vehicle where any other arrangement would prove unreasonably difficult for the owner, but it is certainly not intended to require such inspections except where there is a genuine reason why the vehicle might be considered unsafe or not to comply with design requirements where one might expect that situation would apply.

The Hon. PETER DUNN: I cannot anticipate how the Registrar would know that a vehicle would need to be inspected. A modification could be made to a vehicle in Port Augusta; how would the Registrar know if the owner intended to re-register that vehicle? How would the Registrar know, for instance, that the registration of a modified motor car had lapsed because of a change of owner or

because someone ran out of money and could not re-register the vehicle, but then re-registered it and paid the penalty fee some three months later, in the meantime having modified it considerably?

The Hon. ANNE LEVY: He would not know, so he would not request an inspection. Other than in the case of elderly vehicles from interstate, inspections will be requested only where it is known that there is a good reason why the vehicle might be considered to be defective or not to comply with design requirements. As I say, if it is known that a vehicle is a cut and shut vehicle made by joining the back end of one vehicle to the front end of another, with the other two halves having been destroyed in accidents, that would be a very good example where one might expect that it was not the least bit unreasonable to ask for an inspection. The Registrar would know from the application to register the vehicle that it was a cut and shut vehicle, so he could request an inspection; and it would not be unreasonable for that to occur. However, if a vehicle's registration has lapsed because it has been sitting in the garage for 12 months and is then brought out again, there is no reason to assume that it will be defective or that it will not comply with design requirements, so no request for an inspection will be made.

The Hon. I. GILFILLAN: An interesting analysis is emerging. First, I feel that from the description, and referring back to the Act the Bill as drafted is useful and allows the Registrar power on any grounds that I think he or she should have. I am concerned about the wording in the second reading explanation, which states:

> Initially, it is proposed that vehicles transferring from interstate and manufactured more than seven years before the date of application to register in South Australia will be subject to the inspection procedure.

Although it is not in the Bill, that signals in the second reading explanation that there will be a mandatory requirement for a certain class of vehicles to be inspected. The word 'initially' signals that this is step one. As I indicated in my second reading contribution, the Democrats have sympathy with a regular safety check for vehicles, regardless of their origin in South Australia, interstate or overseas. It is not that I have a profound concern with what may be being signalled in the explanation, but there seem to be some ominous indications in the last paragraph of the explanation that are not spelt out specifically in the Bill.

From a reading of the Bill, I do not see any reason to be concerned. It is only because of the comments in the second reading explanation that I have these grounds for asking a question. If it is the Government's intention to make it mandatory for all vehicles transferred from interstate over seven years old at the date of application to register to be subject to the inspection procedure, can that decision be made by the Registrar without reference to any regulation or legislative requirement?

The Hon. ANNE LEVY: While it may be true that the Registrar could require this without any other action, no fee could be charged without a regulation. The Government is not likely to start requesting inspections where no fee could be charged in terms of cost recovery. The intention certainly is to do this by regulation and to state, by regulation, that interstate vehicles of seven years or older will be required to have an inspection. The word 'initially' that the honourable member quoted from the second reading explanation refers to the fact that, as I understand it, a second stage is to be considered some time in the future to change the age of the interstate vehicle from seven years to five years. However, that is the only change contemplated. As this will be determined by regulation, Parliament will have the opportunity to examine the matter and discuss the fee, and so on, as it sees fit.

The Hon. I. GILFILLAN: I accept the Minister's comments and, if she has accurately analysed the situation, I do not feel any particular concern about the implications of the Bill, in the first place, and regulations will be able to be dealt with by this place. I am not sure that the amendment moved by the Hon. Diana Laidlaw necessarily needs to be in conflict with the expressed intention of the Minister. It appears to me that it spells out a little more specifically the intention that is recorded in the report, with a slight variation between the years involved.

I admit that my earlier observation that it covered vehicles in South Australia was wrong. I misread the wording of the amendment, but what confused me were the words 'in any jurisdiction'. I think it appropriate that the State gets involved in vehicle safety checks and for a certain class of vehicle that could become mandatory, and the Hon. Diana Laidlaw's amendment indicates that it would be a step in that direction. In light of the Minister's earlier observations and if this amendment were passed, I am curious whether a fee could be charged under those circumstances or whether we would need regulations to deal with a fee to apply here. I notice that the amendment makes no mention, that I have seen, of any potential for a fee to be charged.

The Hon. ANNE LEVY: The fee to be charged would still have to be set out in regulations under the Road Traffic Act. Under that Act, all fees must be determined by regulation so, in either case, the necessary fee would be set by regulation. The difference is that, under Ms Laidlaw's amendment, inspections could be enforced only for elderly interstate vehicles. The Registrar would not have the capacity to require inspections for any South Australian registered vehicle, regardless of age, condition, method of producing the vehicle, or any other factor, so the Registrar would have no power to require an inspection of cut and shut vehicles prepared in South Australia.

The Hon. DIANA LAIDLAW: I have a number of questions for the Minister. Let me say, first, that the Bill is totally open-ended and does give the Registrar the power, with or without regulations, to require the inspection of any vehicle at any time when that vehicle is registered. I repeat: that is not with the initial registration but, following amendments to the Motor Vehicles Act earlier this year, 'registration' now means re-registration. In other words, this Bill provides the Registrar with open-ended powers on the re-registration of a vehicle, whether it be two, five or seven years old.

It also provides for the introduction of compulsory inspection, and that is the case with or without regulations. The regulations to which the Minister referred simply clarify that it is compulsory for one class or type of vehicle, that being a seven year old vehicle from interstate.

As I argued earlier, we believe there should be a limited inspection procedure for these vehicles to be carried out at the Office of Road Safety or the Road Accident Research Unit. The New South Wales and Victorian experience has shown that it is these vehicles from five to seven years old from interstate that are our major problem at present. We should work hard to ensure that we tackle the problem identified and do it effectively. Perhaps then we will win the confidence of others in the community so that we can move to a more all-embracing inspection procedure in this State.

My questions to the Minister are as follows: as the Minister identified in her second reading explanation that in 1989 there were about 14 000 vehicles previously registered in other States for which registration was sought in South Australia, and as about 9 000 of those were over five years

old (I am not sure of the number over seven years old), what provision has been made for the compulsory inspection in this State of those 7 000, 9 000 or possibly 10 000 vehicles? Is it envisaged that all those vehicles will be checked at the vehicle inspection station at Regency Park? If that is the case, what capital and recurrent provisions have been made for that program, or does the Government intend by regulation or further amendment to the Act to implement the procedure in New South Wales of authorised agents, including members of the Motor Trade Association and other engineers and mechanics in rural areas, so that such compulsory inspections of vehicles are not all undertaken at Regency Park?

The Hon. ANNE LEVY: As I understand it, the intention is that not all vehicles seven years old coming from interstate will be required to have an inspection: it will be only those that have not had the same owner for the previous three months. The inspection is for the vehicles being dumped here after being purchased recently by dealers. In other words, the current owner is not the owner that they have had for the previous seven years. It is intended to inspect only those elderly interstate vehicles whose owner has not had them for over three months, so it will be nothing like 9 000 vehicles. It is expected that there are adequate resources at Regency Park and in country locations to undertake the inspections. The cost will be met by the fee charged.

I emphasise again that fees for these inspections can only be charged through regulations, and neither this Government nor I imagine any other Government, is in the business of providing cost-free inspections. So, the idea that inspections will be required of a whole lot of people without fee, or of a whole lot of vehicles, is so unlikely as to be an absurd proposition.

The Hon. DIANA LAIDLAW: I did not say that I had never suggested that it be without charges in the proposition raised by the Minister. In fact, it would be most unlike me or my Party to suggest that there be no fee recovery for such an inspection. I would see it as a user pays inspection procedure.

The Hon. I. GILFILLAN: The principal Act reads:

> 139. The Registrar or an inspector or a member of the Police Force or a person authorised in writing by the Registrar to examine motor vehicles for the purposes of this Act may—

Then there is subparagraph *(a)*:

> examine any motor vehicle for the purpose of ascertaining any facts on which the amount of the registration fee for that motor vehicle depends or for the purpose of verifying any particulars disclosed in an application to register or to transfer the registration of any motor vehicle.

The Bill would then insert:

> *(ab)* where an application to register a motor vehicle has been made, examine the motor vehicle for the purpose of ascertaining whether it—

Then there are subparagraphs (i) and (ii), which all members know. I emphasise that the principal Act says 'may', so there is no compulsion, but it is an enabling Bill and I cannot see any reason for any exception with that. So, the Government is assured of my support for the Bill. The amendment, rather ironically, puts into effect the expressed intention of the Government which is not expressed in the Bill. It seems to me that it is appropriate that there could be a compromise that, if seven years is the witching time, the amendment of the Hon. Diana Laidlaw could be amended to five years, and that does regulate, in a way, the Government's expressed intention, but it would not be in conflict. So, I do not see any reason why the wording of the Hon. Diana Laidlaw's amendment needs to be 'leave out all words in these lines and substitute new paragraph as follows', because I think the Government puts a convincing argument that the Registrar should have the power to investigate the safety of vehicles in certain circumstances where he or she sees fit.

I indicate that the Democrats will support the Bill, but if there were an attempt by the Hon. Diana Laidlaw to adjust her amendment so that it complies with the seven years indicated by the Government and does not dent the contents of the Bill, that also would have the support of the Democrats.

The Hon. DIANA LAIDLAW: I appreciate the Hon. Mr Gilfillan's attempts perhaps to mediate, if that is the most appropriate expression, but it is a fact that my amendment reflects what the Minister has outlined will be in the regulation; however, my amendment also removes the open-ended powers that would continue to be provided in the Act for the Registrar to inspect at will any vehicle at any time of registration or re-registration. That is the matter to which the Liberal Party takes exception, believing that it is the basis for the introduction of compulsory inspection of vehicles. We would like to see this inspection procedure tested and address the area that the Minister and the Liberal Party have both identified as the major problem area, prove that it works well and then, if it does work well and wins community confidence as a sound and cost effective road safety measure, we could again look at amending the Act. While I respect the Hon. Mr Gilfillan's efforts, we are at odds.

The Hon. I. GILFILLAN: I think there is a degree of misunderstanding. The current Act virtually enables the Registrar to require examination. Section 139d provides:

> . . . for all or any of the abovementioned purposes, require any person to produce a motor vehicle at a specified place and a specified day and time for the purpose of examination.

So the Registrar, if he or she chooses to do so, could virtually impose the same requirement with the same possible inconvenience as—

The Hon. Anne Levy: It does not cover roadworthiness; it is only to check the particulars on the application. That is the legal advice.

The Hon. I. GILFILLAN: I would not want to argue if that is the legal advice. The Minister by way of interjection said that my interpretation of the Act, that this examination could in fact investigate the roadworthiness or safety of the vehicle, is not correct; that it is only to examine whether the vehicle complies with the details in the application or registration. If that is the case I stand corrected, and amendment of the Bill becomes even more important.

The Hon. L.H. DAVIS: I want to raise the question of the inspection of motor vehicles. Over a period there have been complaints about the draconian approach in the inspection of motor vehicles coming in from interstate. There have been examples of requirements that have been quite unreasonable and inappropriate; for example, a sports car where the front seat can take two passengers only but the back seat, which is a bench seat with no space at all for passengers, nevertheless is required to have seat belts installed. That is clearly nonsense; quite clearly it is inappropriate and very expensive.

That point of view has been put to me on more than one occasion by very reputable people engaged in the motor industry. I draw that point to the Minister's attention, and it has been a matter I have raised in the Council before. Given that legislation such as this may well result in an upturn in business in the inspection of vehicles, I ask the Minister to ensure that no inappropriate expensive requirements are placed on people in relation to upgrading motor vehicles. Also, perhaps the Minister will advise us whether uniform standards are in place in Australia in relation to

this matter. She may well have addressed this point earlier in discussion, because as I understand it there are variations in standards between the States. Is this a matter currently under consideration?

The Hon. ANNE LEVY: As I understand it, the Australian design rules do set the standards for new vehicles. Discussions are occurring in order to achieve uniform standards for vehicles currently in use, but that has not yet been achieved. The small space in the back of sports cars, while small, can and often does have children seated there. I do not think that seat belts are a waste in that situation, although I am sure both the Hon. Mr Davis and I would agree that that is totally irrelevant to the Bill.

Amendment negatived; clause passed.

Title passed.

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

That this BIll be now read a third time.

The Hon. DIANA LAIDLAW: I want it noted that because it is nearly midnight I will not call for a division on the third reading. But the Liberal Party feels very strongly that this Bill as it stands does provide the basis for compulsory vehicle inspections, and we believe that that is most inappropriate.

Bill read a third time and passed.

[*Sitting suspended from 11.53 p.m. to 10 a.m. on Friday 7 December*]

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2421.)

Clause 2—'Commencement.'

The Hon. M.J. ELLIOTT: I did not speak during the second reading debate, but have had some concerns similar to those of the Hon. Mr Lucas about the time of commencement. In fact, I have been contacted by quite a few people who are worried that the present commitment to SACE at year 11 commencing at the beginning of 1992 may not be achievable. As I recall, the Hon. Mr Lucas himself noted that, already, some of the interim dates have been pushed back somewhat.

It is worth noting that the Institute of Teachers had indicated to the Minister back in September that it was concerned that SACE would not be ready for implementation by the time suggested by the Government and by SSABSA. It sought to meet with the Minister to discuss that matter. To the best of my knowledge, that meeting still has not taken place, although it was sought back in September. It is a long-standing concern.

More recently, there have been suggestions that, because the teachers are upset about the staffing cut-backs, they were being uncooperative, but it is quite clear that this issue was raised well before the staffing cut-backs had occurred. It is also worth noting that the Institute of Teachers has been supportive of the sorts of changes envisaged under this Bill, as well as the associated changes in SACE. But I have that concern about the date.

Quite clearly, the institute is not trying to be obstructive. It says that it supports the general thrust of what is happening here. That is quite clear from correspondence I have received from it, and correspondence I have received from individual teachers about this matter also expresses broad general support for what is to be achieved here but raises the question of the implementation time.

In relation to commencement, I intended to move an amendment that sets about fixing a date for commencement at the beginning of 1993, but it envisages that, if it can be demonstrated that SACE is ready to fly earlier—in 1992, for example, particularly for year 11, where there is concern—that the Government can introduce a regulation that provides for an earlier commencement date. I want to make quite clear that I do not see the purpose of this regulation as being to interfere with course structures or anything like that but simply to ensure that those involved—perhaps the most important single group, the teachers who have to deliver those courses—are satisfied that the timetable is fair and reasonable. I might note by the way that there really has been an extra impediment placed upon the time that is likely to be taken for the introduction of year 11 courses in particular, in that the cut-back in teacher numbers and the great deal of uncertainty there is now about staffing in schools, what teachers will be at what schools and even what courses they will be involved in, really has thrown a heck of a spanner in the works.

There is no doubt about that; that feedback has come to me strongly, not just from industrial sources, but also from individuals who do not have an axe to grind in the first instance. It is a matter of grave concern and one that the Hon. Mr Lucas covered in the second reading debate. It is a concern which I share and which is shared by those in the teaching profession generally. I am aware that even SSABSA itself has a motion before it which is aimed at moving the starting date back. It is not the final intention of my amendment that 1993 must be the starting time; as I said previously, if it can be demonstrated that the courses are ready, there is no reason why the earlier starting date of 1992 cannot be used, but I would like to see the protection that, if that is to happen, it happens by way of regulation.

The Hon. R.I. LUCAS: In relation to the timetable, could the Minister indicate how many broad field frameworks have already been approved to this stage and, if all 10 have not been approved at this stage, what is the exact timetable for their the approval?

The Hon. ANNE LEVY: I understand that eight of the 10 have already been approved, the ninth will be approved next Wednesday and it is expected that the tenth will be approved at the first board meeting next year, in early February.

The Hon. R.I. LUCAS: How many extended subject frameworks of the 46 (I believe) have been approved at this stage? I would not expect the Minister to be able to provide the exact dates in this debate; if none or a few of the 46 have been approved (as I understand), would the Minister give an undertaking to provide an exact timetable as to when each of the 46 extended subject frameworks would be approved, leading up to this deadline which, I understand, is 18 April, when all 46 extended subject frameworks must be completed?

The Hon. ANNE LEVY: I understand that so far one has been approved, and that is for English, and that another 12 are due for approval next Wednesday. The remaining 35 are due for approval at different times between now and April next year, and a detailed timetable, while I do not have it here, can certainly be provided.

The Hon. R.I. LUCAS: Will the Minister confirm that there is a motion currently before the SSABSA board to delay the introduction of the South Australian Certificate of Education, and will she indicate the terms of that motion and when it is likely to be voted upon?

The Hon. ANNE LEVY: I understand that there is on the agenda a motion put forward by the representatives of the Institute of Teachers to the effect that the time line be considered. This motion is due to be debated and voted on at the meeting on 19 December.

The Hon. R.I. LUCAS: What discussions have there been with senior officers of the Education Department in relation to the concerns that have been raised about the time line for the implementation of the South Australian Certificate of Education and, in particular, has any consideration been given to what has been termed at senior levels of the department the phasing in of the South Australian certificate? It has been suggested that the South Australian certificate will be introduced as from 1992 but that the year 11 component will be delayed until 1993—that the year 11 component, which will comprise the new 46 extended subject frameworks, which have been the subject of most of the controversy, will be delayed in some way.

I am not sure how this phasing in proposal is meant to work in practice, but I know that there has been discussion at senior levels of the Education Department about the possibility of doing this. I am not suggesting that the department has made that decision, because clearly it has not been made at this stage, but there has been discussion about this phasing in proposal. Has this matter been discussed with SSABSA and, if so, what is SSABSA's response to the practicality of going ahead with the time frame for the introduction of the South Australian certificate but delaying, in some way, the introduction of the year 11 component until 1993.

The Hon. ANNE LEVY: I understand that the Director of SSABSA has discussed this matter with the Director-General of Education and that there have been discussions regarding the phasing in idea but that no decisions have been made. Currently, it is felt that we are on target for introduction in 1992, but the matter will be considered by the board at its meeting on 19 December. My colleague in another place has given an assurance that the whole situation will be monitored closely.

The Hon. R.I. LUCAS: I want to make one or two brief comments. As the Minister and her advisers would be aware, in my second reading speech I expressed concern about the timetabling and the time line. The Hon. Mr Elliott has indicated briefly again this morning his concerns, and he is moving an amendment, as the Minister knows, to clause 8a. At this stage the Liberal Party and I have not considered the Democrat amendment. I believe strongly that there ought to be at least consideration of this phase-in proposal if it is practicable, and indeed I want to explore that matter with the Minister and her advisers. In relation to the Liberal Party's consideration of this amendment, we will be wanting as much information as we can get both in the Committee stage this morning and subsequently with the officers of SSABSA. As I have said, there has been good cooperation with the Director and officers of SSABSA—we have no criticism of that—to assist us in making up our minds in relation to the Democrat amendment.

I have already expressed a concern to the Hon. Mr Elliott and Parliamentary Counsel that, whilst I believe this delay should occur, we have to decide whether we believe that we ought to take the role, doing it by legislation. We had this dilemma in relation to whether we should remove the pharmacy school from the Institute of Technology and put it with another institution. It is a question of believing in something, but determining whether in the end the Parliament should legislate.

I have some problems with the drafting of the Democrat amendment as it stands at the moment. That must be considered more closely. I believe that it should be delayed but, one way or another, the decision needs to be taken clearly and relatively early, that is, either we soldier on, come what may, and stay with the current deadline, or we take a decision relatively early, whether it be this month or, certainly, no later than early next year and say, 'We are going to delay it by a year' or 'We are going to delay it partially with this phase-in proposal.'

One of the problems I have with the Democrat amendment, unless the Hon. Mr Elliott can better explain it, is that potentially, given that he is using the regulation-making process of the Parliament and as we are already experiencing problems with the disallowance of video gaming machines in relation to the casinos, we have the problem that a motion listed on the Notice Paper might be rolled over by the person who might move it right through until the end of next year.

Potentially, I see that as being a problem with the current drafting of the Democrat amendment. A regulation might be promulgated by the Government and one of the 69 members of Parliament, with or without party endorsement, might move for disallowance. Given the conventions in this place and in another place—and quite properly—the timetabling of members' private business is basically in the hands of the private members. If a member wanted to cause a problem, he or she could have that matter rolled over for three or four months so that there would not be a vote until December next year.

The Hon. Mr Elliott and I share the same view. At this stage he has certainly made a decision to go a little further than we have. We have not ruled it out, but we need to get as much information as we can about the various options and decision-making processes that the Government, the Education Department and, in particular, SSABSA are going through. What are the significant practical problems, if any, in terms of this phase-in proposal that has already been discussed between the Director of SSABSA and the Director-General of Education? As it has been explained to me briefly by senior people within the department, the proposal talks about, in effect, delaying year 11, but in some way continuing year 12. How can year 12 continue without year 11 having been gained?

Does that mean that the new syllabi for year 12 will be used in 1992, or does it mean that schools will continue with the current year 12 syllabi for 1992, but that the new syllabi for year 12 will be introduced in 1993 at the same time as the new year 11 extended subject framework? In that situation we would have the introduction in the one year. It is those practical questions about the phase-in proposal that the Minister has indicated are being considered. The SSABSA board will obviously have a discussion in the next two weeks about this phase-in proposal and perhaps others. The Liberal Party seeks information from the Minister and her advisers on this issue.

The Hon. ANNE LEVY: The easing in concept is practicable. The board could take a number of actions to implement SACE year 11 in 1992, at the same time allowing schools more flexibility to use their existing year 11 courses, provided that they meet the pattern and other requirements of SACE. As mentioned earlier, this matter is still for consideration by the board, but it will be considered at its meeting before Christmas. It is important to emphasise that the phasing-in idea does not affect the year 12. In year 11 in 1992, it would be possible using some extended subject frameworks, but at the same time having a normal year 12. We need to remember that year 12 does not change under SACE, so it is possible to do it in this way. The phasing-in could use the granting of status section of the legislation to give schools status at year 11 for their existing courses. That would be a means of achieving it.

The Hon. R.I. LUCAS: So under the phasing-in concept, say a dozen of the 46 extended subject frameworks for year 11 could be used in 1992 and 30 or 40 of the existing year 11 subjects that schools currently offer could be used. SSABSA would say that this mixture of existing year 11 subjects and a few of those subjects in relation to which there is no controversy and all discussions have been finalised would be put together and used in 1992. By 1993, there could still be one or two that are creating controversy, although the other frameworks have been phased in, so they could roll over into 1993. That is the sort of clarification that I am seeking from the Minister.

The Hon. ANNE LEVY: That is correct.

The Hon. R.I. LUCAS: During my second reading contribution, I raised a concept that had been explained to me by a number of teachers from Government and non-government schools that SSABSA intended to consult, approve and finalise the broad field framework. As an example, let us take the science area, an area with which the Minister would be familiar. In Year 11, there is a broad field framework for science, one of 10, and there would be consultation, drafting, approval and refinement before it is finalised. The next step would be the extended subject framework which derives from that—biology, physics and chemistry, etc. Teachers have put to me that the original intention of SSABSA was to approve and finalise the broad field framework and then move to the extended subject framework. Conceptually, that makes sense. You do your

base first, you finalise it and, like the limbs of the trunk of the tree, you do the rest.

Many of the teacher complaints to the Liberal Party have been that, because of the contracting of this time frame and problems in meeting the deadlines, the broad field frame and the extended subject framework have been in the marketplace for consultation at the same time. I seek a response from the Minister and her advisers as to whether the Government and SSABSA concede that that has created problems for teachers wanting to provide advice to SSABSA on changes to extended subject frameworks.

The Hon. ANNE LEVY: There need be no apprehension. The broad field frameworks are approved before any extended subject frameworks are approved. The development and writing of the frameworks have overlapped and the extended subject framework writers have helped to clarify aspects for the broad field framework writers.

That has contributed greatly to the development of both the broad field frameworks and the extended subject frameworks. It has been an interactive process, which has been of considerable benefit to both groups.

The Hon. R.I. LUCAS: To refresh the Committee's memory, I will read one paragraph from a letter to which I referred in my second reading speech. The letter was from a senior master at a Government school, and reads:

> How does the level 1 extended subject framework merge with the level 2 (year 12) document? I believe that level 2 is yet to be finalised. If we do not know the level 2 approach, how can we be certain that the level 1 approach is appropriate as a prerequisite for level 2?

As I conceded during the second reading, submissions have been put to me both supporting and opposing this measure. Does one start at year 11, draft those documents and then rely on smoothness and continuity through to the appropriate level 2 document or does one stipulate the level 2 document and work backwards? I would be interested in the Government's response to both those points of view that have been put to us.

The Hon. ANNE LEVY: Level 2 is year 12, which remains stable under the new system. Year 11 is regarded as preparatory to the existing year 12. That is obviously known by those who are writing the syllabus. SSABSA has been working for six years on the current year 12 and, at this stage, it believes it has got it pretty right, so that the preparation that is being done for year 11 is done knowing what the existing year 12 is, and that it is stable.

The Hon. R.I. LUCAS: One view on this subject has been put to me, particularly by biology teachers. Perhaps the Minister can advise whether or not this is the only area of year 12 that has been revised, but certainly a final draft—a detailed syllabus statement—for year 12 was circulated in schools as of January last year, at the same time as these year 11 biology extended frameworks were being circulated. The same teachers were also getting year 11 science broad field frameworks. At the same time—and this would be an area with which the Minister would be familiar—a biology teacher in a Government school in respect of years 11 and 12 was being asked to consult on a year 11 extended subject framework, a year 11 broad field framework and a revision of the year 12 biology statement. Certainly biology in year 12 is being drafted, but is this the only example of a year 12 syllabus that is being redrafted and that it just happens to be a coincidence of events, or are other year 12 documents being redrafted at the same time?

The Hon. ANNE LEVY: It has been indicated to me that SSABSA has a record of reviewing and reflecting on syllabuses regularly, and it will obviously continue to do so over the years to ensure continuity. Year 12 subjects are always reaccredited after five years. So, it is perfectly normal that every five years there is another look at year 12. In general, the changes are fairly minor, but it is necessary to conduct these reviews at regular intervals. Certainly, that was the situation with biology. It was also the situation for English studies, and I understand that, likewise, others are being considered for reaccreditation. I do not have a list with me, but I would be able to obtain it for the honourable member.

I think we should note, too, that no newly reaccredited year 12 courses will be introduced in 1992. The board has extended all year 12 subject accreditations until the end of 1993. The new biology will be introduced in 1991, because it has already been developed and reaccredited.

The Hon. R.I. LUCAS: The original implementation time line of SSABSA obviously listed a number of time lines for various tasks that had to be done. In 1989 there was the suggestion that there be a trialling in schools of stage one broad field frameworks. Could the Minister indicate how many of the 10 broad field frameworks were trialled in our schools?

The Hon. ANNE LEVY: The broad field frameworks are not courses, they are broad frameworks, and in consequence it is not appropriate to trial them in schools in the way the honourable member suggests. There were two broad field frameworks, namely, science and arts. Prototypes of these two broad field frameworks were sent to schools for consultation as to whether it was felt they would be useful documents. This was a trial of the overall concept, but it is not a question of trialling it in terms of teaching.

The Hon. R.I. LUCAS: I understand and accept that point from the Minister. Was there ever an intention from SSABSA that some of the new extended subject frameworks at year 11 would be trialled or pilot tested in some schools to wheedle out the bugs and to further refine? As I indicated during the second reading debate, a number of the submissions that we have received from those who are opposing some of the new extended subject frameworks have suggested that perhaps SSABSA should have been trialling some of these and working out the bugs, and further refining them, rather than just consulting with teachers who then come back after a week or so and say, 'Well, we think this will work,' or 'It won't work,' or 'This is a good idea' and so on. Was it ever the intention of trialling these extended subject frameworks in schools and, if not, why was it not part of the original time frame of implementation for the new South Australian certificate?

The Hon. ANNE LEVY: None of the extended subject frameworks were trialled in the sense that the honourable member suggests, but there was very wide consultation with all schools in their development. They are, of course, subject to ongoing review with the five-year evaluation cycle which SSABSA maintains for all subjects and, if any problems are found, they will be amended accordingly.

Concerning the consultation with the schools that occurred, while it certainly could not be called a trial, all teachers were asked to match their current practice and courses to the extended subject framework. It is felt that this is more appropriate and efficient than what is normally meant by trialling.

The Hon. R.I. LUCAS: Is the Minister aware that the Victorian Curriculum Assessment Board (VCAB), which is overseeing the introduction of the Victorian Certificate of Education, did trial, I think, mathematics, English and maybe other subjects in schools? Why did SSABSA not implement a similar process of trialling of perhaps not all but certainly some of the year 11 extended subject frameworks that were controversial at least to some teachers, given that there were widely diverging views about the appropriateness or otherwise of some of the changes?

The Hon. ANNE LEVY: There are two main reasons. First, VCAB does not have the same evaluation system that SSABSA has and, as a result, more formal trialling was necessary. Secondly, Victoria is such a large State with such a large population and a large number of schools that there cannot be the same close relationship between teaching staff and VCAB that can and does occur with a smaller population as in South Australia.

The Hon. R.I. LUCAS: Will the Minister confirm what I thought she said earlier? While the year 12 subjects are reaccredited for a five-year period, is the Minister suggesting that the new year 11 extended subject frameworks will be reaccredited for five years and therefore there is no prospect of review within that time frame? If major problems were being experienced in schools after two years with an extended subject framework, could that be reviewed?

The Hon. ANNE LEVY: Certainly at any time the extended subject frameworks can be reviewed. SSABSA has a regular five year review even if no problems have ever been suggested. But, if problems develop, reviews can occur at any time.

The Hon. R.I. LUCAS: The current SSABSA Act (and I do not have the relevant section in front of me) talks in terms of approving syllabi for a particular academic year. I take it that SSABSA has interpreted that to mean that it approves it not necessarily just for a particular year but for a particular range of years, in particular five years, and then has a formal review and reaccreditation process?

The Hon. ANNE LEVY: Subjects are accredited for five years, but they are subject to monitoring and review throughout that time with then a formal reaccreditation after five years. Both minor and major changes to syllabi can be considered at any time during the five years and are in fact considered by the board every year.

The Hon. R.I. LUCAS: A time line announced in October 1989 indicated that there would be an announcement in August this year of higher education entry requirements. Could the Minister indicate whether that was finalised by that date? From my consultations there have been ongoing discussions with the Higher Education Liaison Committee (HELC) and I am still receiving submissions from various academics at our universities arguing the pros and cons of what they believe SSABSA and the universities are still doing in relation to the higher education entry requirements. Can the Minister indicate if that time line of August this year has not been complied with and when the higher education entry requirements will be finalised and announced so that schools and students will be aware of the details?

The Hon. ANNE LEVY: The higher education entry requirements were announced to schools informally about two and a half months ago and formal announcements were provided for schools in the 'Information and Advice' folder issued recently.

The Hon. R.I. LUCAS: At a later stage, could the Minister provide through her advisers the information that was provided to schools? Could the Minister indicate what the higher education entry procedure will be that has been informally announced to schools two months ago? I am aware of the three unit subaggregate, but there was this further refinement of bonus marks for other subjects that were to be studied. Could the Minister indicate what that bonus procedure is and how it will operate?

The Hon. ANNE LEVY: I will be happy to make the information kit available to the honourable member. The way the system will work is that, out of five subjects, there is a three subject aggregate worth up to 20 points for each subject, which makes a possible maximum of 60 points. Then there is a bonus for the next two highest subjects of up to five points for each, making a possible grand total of 70 points.

The Hon. R.I. LUCAS: Presuming that I am a year 12 student and have completed my five subjects, I take it that the three unit subaggregate will work on the basis of my best three subjects?

The Hon. ANNE LEVY: Yes.

The Hon. R.I. LUCAS: If I have done three subjects, let us assume that I obtained 20 out of 20 for each of the three subjects (which would be highly unlikely for me with my record). Further, let us say I have got 15 out of 20 and 10 out of 20 for the other two subjects: on what basis is that brought back to a five point score to give this 20, 20, 20 plus five and five?

The Hon. ANNE LEVY: A bonus of five points is for a score of 20; a bonus of four points is for a mark between 16 and 19; a bonus of three points is for a mark between 11 and 15; a bonus of two points is for a mark between eight and 10; and, below that, one point.

The Hon. R.I. LUCAS: Does the Minister concede that that will therefore mean there is a very strong incentive for students and that obviously they will still need to perform very well in all five subjects?

The Hon. ANNE LEVY: Yes, certainly.

The Hon. R.I. LUCAS: Was the final resolution of higher education entry requirements supported by each of the five higher education institutions that currently exist, that is, the two universities and the three colleges of advanced education? Did each of those five higher education institutions support this proposition, or was there some dissent from any of them?

The Hon. ANNE LEVY: They all finally agreed with the new system. Of course, there were discussions with all institutions and some agreed to the new system more rapidly than others, but ultimately all five institutions agreed.

The Hon. R.I. LUCAS: To clarify my own understanding of the current and future situation, can the Minister say whether a point score is provided for higher education entry? I know that students receive a whole number, that is, 14, 15, 16 or 17; I am not sure whether it still exists for higher education entry, but at some stage the mark might have been, say, 14.6 or 15. Is that long gone and no longer part of the current process? If it is still part of the current process, will it continue in the future?

The Hon. ANNE LEVY: Yes, as in the past, there will continue to be an aggregate score for entry into higher education.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: The total out of 70. There will not be any decimal points. It is an aggregate score—one figure for the five subjects. Of course, scaled separate scores will still be available for students. The scaled scores will be rounded scores.

The Hon. R.I. LUCAS: I am still not clear. Does SSABSA at the moment provide a score with decimal points as an attachment to its certificate or separately to higher education institutions? That means that, as a student, I get 14 out of 20 but, at some stage, that score was provided to the universities as 14.6, I want to know whether that still applies, because that provides better definition to the universities in relation to cut-offs?

The Hon. ANNE LEVY: As I understand it, only whole number scores are provided to the higher education institutions. From 1986 there was a two-year period during which decimal points were included, but that has been abolished.

The Hon. R.I. LUCAS: I now turn to the question of teaching programs. Out of the extended subject framework

at year 11, SSABSA provides to schools and to teachers the extended subject framework for biology, and out of that recommends what it calls exemplary teaching programs, which are, in effect, ways for biology teachers to approach their subject and to follow it. Following my discussions with the Director-General of Education on the subject of the management of teaching programs from the Education Department's viewpoint, I received a note from the Director-General, from which I want to read a couple of paragraphs. The Director-General states:

> At the local school level the school principal is responsible for the management of the curriculum and for approving individual teacher programs. The ESFs developed by SSABSA, once approved, will become approved courses and guidelines for schools under the curriculum plan approval processes of the Curriculum Authority and Responsibility Policy. This policy provides for the monitoring of curriculum offerings in schools, to ensure that they comply with Education Department requirements. The policy is currently being reviewed by the Education Review Unit.

Who in the end controls curriculum in schools? Under the Education Act the Director-General of Education controls curriculum in schools, but under this Act SSABSA is approving year 11 and year 12 curricula and syllabuses. I understand that the Director-General is telling me, 'SSABSA approves it, but I am still Director-General of Education and I will approve finally what SSABSA approves before it can be used in Government schools.' Can I clarify that understanding?

The Hon. ANNE LEVY: The honourable member is quite correct. Under the Act, the Director-General has complete final authority. However, there has been an enormous amount of collaboration and cooperation between the Education Department and SSABSA in developing the syllabuses and the curricula, and if any school wishes its courses to be recorded officially in the South Australian Certificate of Education, they will have to use the accredited courses. However, in legislation there is no doubt that the Director-General has the ultimate authority—and not, I might stress, politicians. That is made very clear indeed under the Act, but whatever the legal situation, there has been the most tremendous collaboration and cooperation between the Education Department and SSABSA in developing the curricula.

The Hon. R.I. LUCAS: We will not get into that debate about the control of the curricula, but I would like some clarification. It would be fair to say that the Director-General has the technical power to consider a SSABSA-approved course and alter it (not just accept or approve it) and say, 'I do not like this component part of it, based on the advice of my own and curriculum officers'. I guess SSABSA and the Minister's response to that would be that, whilst it is technically possible, it is *(a)* unlikely because of the consultation and *(b)* if it was changed, those schools offering that altered year 11 biology course would not have it accepted by SSABSA for the South Australian certificate.

The Hon. ANNE LEVY: That is quite correct. I do not understand why the honourable member should pick on biology, although I may say that not only am I familiar with a certain aspect of biology but one of my advisers here was once my student.

The Hon. R.I. LUCAS: I will not ask the Minister which one.

An honourable member interjecting:

The Hon R.I. LUCAS: This is being conducted in good humour, so we will not explore that at all! I want to continue with this recent letter to me from the Director-General of Education, and I quote the last paragraph, which talks about this area:

> Whilst self-monitoring of these requirements will be encouraged and supported through the provision of resource materials, the imperative of ensuring that students can fulfil the SACE pattern will require external monitoring—

and I want to explore that with the Director—

> especially in the earlier SACE years, through the existing processes of the curriculum authority and responsibility policy or through processes modified in the light of the Education Review Unit (ERU) review. Guidelines will be prepared in term 1 next year to assist in this monitoring which will occur in terms 2/3 of 1991.

SSABSA may or may not be in a position to answer this, but have there been discussions with SSABSA about what the Director-General means by this 'external monitoring' of the curriculum pattern, and is that to involve SSABSA officers or SSABSA at all?

The Hon. ANNE LEVY: I understand that using its existing data base, SSABSA has been monitoring the access of students to the pattern and that this data has, of course, been made available to the Education Department, again through the cooperation and coordination that has occurred between them.

The Hon. R.I. LUCAS: Is this just monitoring whether schools would provide the appropriate access to the curriculum pattern under 'subjects'?

The Hon. ANNE LEVY: That would be something for the Education Department to monitor.

The Hon. R.I. LUCAS: SSABSA's understanding of what the Director-General refers to when he talks about external monitoring of the pattern is, in effect, the department monitoring whether schools are offering the appropriate collection of subjects to enable students to be able successfully to undertake the South Australian certificate.

The Hon. ANNE LEVY: That is correct.

The Hon. R.I. LUCAS: The Director-General said:

> Guidelines will be prepared in term 1 next year to assist in this monitoring which will occur in terms 2/3 of 1991.

Can the Minister throw any light on what is meant by that statement and on what form of monitoring can be undertaken by the Education Department in terms two and three of next year? Will next year be too early for monitoring of this sort to be undertaken?

The Hon. ANNE LEVY: Subject counselling begins in the middle of the year, so from the counselling that will start in the middle of 1991, during terms two and three information will be available on subject choices and so on for 1992.

The Hon. R.I. LUCAS: I guess that this is almost out of the hands of the Minister and the SSABSA adviser. If one looks at this unit, which is not a typical unit but which does occur, one sees that the subjects offered by schools are being changed this year in term four. Subjects are now being cut from the curricula in various schools for next year because of Government policies taken at budget time. Of course, budget time does not occur until September in this State when the Government of the day, whether it be Labor or Liberal, might take a decision to, say, reduce X number of teachers from schools. Of course, that then would affect the subjects that schools can offer in the following year.

Term two begins in April and term three finishes in about September, so terms two and three are both finished before the budget decision of whichever Party—and this is not a political matter—occurs in September. I am just wondering about the possibility of being able to monitor the timetable at all. Are SSABSA officers able to provide any indication of how effective this sort of monitoring of the SACE pattern will be if it is suggested that this be done during terms two and three and certainly prior to budget decisions being taken by whatever Party happens to be in power when the budget is brought down in September of each year?

The Hon. ANNE LEVY: The major planning by the Education Department is done in terms two and three. This monitoring will give the general indications required for the planning process. It is true that budgets may mean that changes will have to be made, but these are usually considered to be minor compared with the major planning which occurs earlier. While the budget does not become a public document until September, much of it is decided prior to that time, and can be taken into account in planning adjustments if necessary.

The Hon. R.I. LUCAS: I will not pursue this matter other than to say that I accept that planning obviously goes on at a macro level—the level of Cabinet, the Cabinet committees and the head of each department—say, during terms two and three next year. However, teachers at Unley High School, Karoonda or wherever are not privy to that information, and are going on blissfully unaware of what these macro decisions are. They are saying to students and parents, 'We will work on the basis of the existing formula' and things like that. I do not want to prolong the debate but I want to make the point that, whilst I accept what the Minister has said, there is an alternative argument. How is SSABSA's proposed moderation model for stage one subjects intended to work?

The Hon. ANNE LEVY: The board has decided on the moderation procedures. Of course, a wealth of information is available on this matter. It depends upon how much detail the honourable member would like, but I can certainly undertake to provide the honourable member with probably far more detail than he ever would want to have.

The Hon. R.I. LUCAS: I would gratefully accept that undertaking. If I can be provided with some detail of how this moderation process is intended to work at year 11, I will not prolong the debate any longer. In relation to the teacher assessment program component of the moderation model, there is the extended subject framework for biology, and an exemplary teaching program which is recommended by SSABSA, or the teacher may well develop their own teaching program which has to be approved by the principal of the school. A component part of that is an assessment program as to how the teacher of year 11 biology will assess year 11 biology. That assessment component cannot be approved by the local school principal; it has to be approved by SSABSA. My understanding, from discussions I have had with the director and other officers, it was the intention of SSABSA that this assessment process would not start until 1992.

In my second reading speech, the point I made was that some teachers said to me, 'Look, we are looking at this extended subject framework for biology. We look at what SSABSA has offered us by way of an exemplary teaching program. We do not like it, and will develop our own program', as they are entitled to do. For example, I am a teacher at Unley High School, I develop my own program, and have it approved by my principal at the Unley High School. There is an assessment component of that program that must be approved by SSABSA. If SSABSA will not approve that until 1992, some of the teachers are saying to me, 'Look, what we do in our teaching program is, in part, determined by this assessment process, and if SSABSA says this assessment process is unacceptable, we will have to change our teaching program.' I would be interested in the Minister's response to the two different positions, that is, if the assessment process cannot be approved until 1992, yet you have the teaching program in 1991, does that not create difficulties for the teachers who want to have their teaching program finalised by the end of 1991?

The Hon. ANNE LEVY: The assessment plan must show how the teacher will assess the course. SSABSA always approves these plans in February of the teaching year. So, this approval is given right at the beginning of the teaching year. This is and has been the normal procedure for year 12. Moderation, including the plans for assessment, starts at the beginning of the year. Of course, it is also true that principals can modify teaching programs, if necessary. It has not been a big problem at year 12 so far, so there is no reason to suppose that it will be any problem at year 11 either. It cannot be done before the beginning of a teaching year because teachers may not know their class until then, and they need that knowledge before it can occur.

The Hon. R.I. LUCAS: Regarding this timetable and the position that the Liberal Party may adopt in relation to the Democrat amendment, as I indicated, this notion of a phase-in certainly attracts me, particularly as the Minister has explained that, in effect, a certain number of new subjects can be used in 1992, together with an approval for the continuation. On the surface, it seems to make sense and the Minister has advised that it is practicable. I simply wish to clarify my thinking because, obviously, I will be having discussions with SSABSA, the department and Parliamentary Counsel, and we may consider our own amendment to facilitate that or, indeed, to force it.

I do not know; I cannot prejudge the Liberal Party's position. I understood the Minister to say that a meeting of the SSABSA board would be held on 19 December. Will the board finalise its decision on that date as to whether it will be recommending to the Government this phase-in model, or will it just consider it at that stage? It may well be that it does not make a decision on the phase-in until early next year. Of course, that will affect the approach we might adopt because we will have to vote on an amendment of some sort next week, whether it be the Democrat amendment or, indeed, an amendment that we might look at along the lines of this phase-in model.

The Hon. ANNE LEVY: This is an item for consideration on the agenda for the meeting of the SSABSA board on 19 December. One cannot really say what the board will do. It may decide the issue finally on that date. On the other hand, it might seek further consultation with the Director-General and other people and decide the issue early next year. I can say confidently that the issue will definitely be decided by early February of next year, and made public, of course, in consequence. I cannot pre-empt what the board will do in 10 days.

Clause passed.

Clause 3—'Interpretation.'

The Hon. R.I. LUCAS: Will the Minister confirm that the work that SSABSA has been doing in relation to the preparation of year 11 courses, albeit necessary, has been technically and legally outside the province of the SSABSA Act? The Act empowers SSABSA to work on the preparation and approval of year 12 syllabi only but, for some time, it has been working on year 11 syllabi.

The Hon. ANNE LEVY: Technically, the answer is 'Yes.' However, it was a clear recommendation in the Gilding report that SSABSA should undertake this work, and it has done so.

Clause passed.

Clause 4—'Membership of board.'

The Hon. BERNICE PFITZNER: It is with some concern that I note the change of the composition of the proposed board, in particular, the reduction in the number of persons nominated from the tertiary education sector, from nine to four and, now that it has been amended, six. The reason given for that change in composition is:

To reflect better the expectations and aspirations of the wider student population.

Does that mean that we should lower the standard to accommodate the expectations and aspirations of students? We should be raising and increasing the expectations and aspirations of students.

Staff of the tertiary institutions have grave concerns that standards will be lowered. It is essential that the tertiary education representation be a significant part of the proposed board, as it has the expertise to help implement the functions of the board. Some of the more relevant functions—

The CHAIRMAN: Order! The Minister and her advisers are having difficulty hearing the Hon. Dr Pfitzner. I ask the honourable member to speak up.

The Hon. BERNICE PFITZNER: Some of these relevant functions are: preparing and approving syllabi; assessing and recognising the assessments of students; granting of status to students; and certifying satisfactory completion of the prescribed certification requirements. I believe that tertiary personnel can be more independent in their comments and criticisms because universities are autonomous, unlike the Education Department. It is important to monitor the content of the syllabi, and that the subject content be serious, challenging and clearly defined, not a vague dilution of present year 11 and year 12 syllabi.

The statement is echoed by some tertiary educationalists. We must be ever vigilant that the standards of our education should be of the highest quality and standard at all times, and we should not sink to mediocrity just because it is the expectation and aspiration of our students. Because of these concerns, I support strongly the change from four to six in the number of representatives from the tertiary institutions.

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

Page 1, line 29—Insert 'and at least one of those four a practising teacher' after 'education'.

The Minister and the Government are aware of the reasons for the amendment, and I do not intend to speak in detail. The amendment has already been moved in another place. It is a small and simple amendment which provides that four of the members of the SSABSA board shall be persons nominated by the Director-General of Education. The Liberal Party's amendment seeks to provide that at least one of those shall be a practising teacher. I am aware that the Government believes that in some way there is a problem with defining what is a 'practising teacher'.

That provision now exists in the Bill as it is before us, even though the Government opposed it in subparagraph (ix), where at least one of the Institute of Teachers' nominees must be a practising teacher. While the Government might indicate that there is a problem in understanding what is a practising teacher, SSABSA in good sense, and the Education Department in good sense and good spirit, will know what is meant. The understanding of 'practising teacher' is someone who is currently teaching in the senior secondary years in one of our schools and has some day-to-day practical involvement in it.

One could raise all sorts of questions about whether it means a contract teacher and so on. The Minister raised the question of whether a principal who teaches two hours a week would qualify. If the department wanted to be difficult, it could raise such questions or define the principal as being a practising teacher as well. The intention of the amendment is not to have in this slot a principal who is teaching for only two hours a week; rather it is intended that a practising teacher who is teaching primarily full-time in the senior secondary years of a school will fit into this slot. The Education Department now has a number of good representatives who are school principals, and we are merely suggesting that one of the four should be a practising teacher in a school.

The Hon. ANNE LEVY: The Government opposes the amendment. It would make an exception, treating the Director-General differently in relation to his nominees than any of the other bodies and institutions that are nominating members of the SSABSA board.

In this respect, I refer to the universities, the school organisations, the Chamber of Commerce and Industry and the United Trades and Labor Council; no restriction is placed on the persons who can be nominated to the SSABSA board. It seems a little unreasonable that the Director-General should be nobbled in this way and his choice fettered. I point out that teachers are represented on the board through a nominee of the Institute of Teachers and that furthermore, when the Director-General is choosing his nominees, he has many different factors that he wishes to balance, I mean not just a gender balance, but (principals being part of the nominees) city principals versus country principals, and a whole range of factors, backgrounds and skills which the Director-General wishes to take into account in determining his nominees on the SSABSA board.

Furthermore, it may not be generally realised that the nominees of the Director-General are supported by a broad reference group and have a great deal of contact with this reference group, which does include many practising teachers. So, it is not as if the Director-General's nominees have no contact with teachers or do not understand their concerns or perspectives. That is certainly possible, but it could pose great problems in terms of the balance that the Director-General wishes to achieve amongst his four nominees. It may mean, for instance, that a practising teacher from the country is put on, resulting in a school principal from the country being eliminated, and that might cause problems amongst principals. In general, the Government opposes the amendment, first, on the basis that it is inappropriate to restrict the Director-General's nominating powers when such a restriction is not imposed on other people or institutions, and that it will cause problems in the balance of interests which the Director-General wishes to have amongst his nominees.

I point out also that SSABSA itself intends to set up a teachers' reference group to provide input from practising teachers. To suggest that teachers do not have the relevant representation in SSABSA is absurd: over 600 practising teachers are represented on the various SSABSA committees. There is enormous input, and very desirable input, from teachers into the SSABSA processes which makes such an amendment unnecessary.

The Hon. I. GILFILLAN: The Democrats support the amendment.

Amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6—'Functions of board.'

The Hon. R.I. LUCAS: Under this clause I want to pursue the literacy component of the new South Australian Certificate of Education. As I indicated yesterday, I have an early draft of the literacy assessment framework of April 1990, and I understand that there have been some changes. Will the Minister indicate the current status of the literacy assessment? Has it been finally approved? If not, when will it be finally approved?

The Hon. ANNE LEVY: The literacy assessment component will go to the board for approval on 19 December. Details of the component are available if the honourable member wishes that information. I do not know whether he wants it read into *Hansard* or whether he would be happy to be provided with it.

The Hon. R.I. LUCAS: I thank the Minister for that offer. There are two or three aspects I want to pursue, though. First, can the—

The Hon. Anne Levy: With a lot of these things you could write to the board and get your answers.

The Hon. R.I. LUCAS: The Minister is getting a bit scratchy, but this debate has been conducted in good humour. My questions are part and parcel of the parliamentary consideration of the Bill. These are major changes that will affect the senior secondary years. It is not just Rob Lucas, shadow Minister, who ought to be aware of what is going on; it ought to be the Parliament and indeed anyone else who wants to be aware of these questions.

I have not sought to delay the proceedings: I am asking questions and will continue to do so. In relation to the literacy component, is it correct that there has been a reduction of the six pieces of writing back to four pieces of writing, and what has been the reason for that reduction?

The Hon. ANNE LEVY: Yes.

The Hon. R.I. LUCAS: And what has been the reason for that reduction?

The Hon. ANNE LEVY: It was felt that an assessment could be made on the basis of four rather than six.

The Hon. R.I. LUCAS: In relation to the resubmission of work, can the Minister indicate on how many occasions through the two years of the South Australian Certificate of Education will a student be able to resubmit work to attempt to satisfy the literacy component of the South Australian Certificate?

The Hon. ANNE LEVY: As often as is necessary.

The Hon. R.I. LUCAS: The original draft of the literacy component states:

> Assessments will be conducted twice a year at the end of each semester.

Is the Minister suggesting that that has now been removed from the literacy draft which will go to the board on 19 December and, instead of its being conducted twice a year, once at the end of each semester (which results in four goes at satisfying the literacy requirement), is the Minister suggesting that it will be done as often as required by the student, the teacher or the student and the teacher?

The Hon. ANNE LEVY: Schools will have autonomy to implement as they see fit. There will be a rolling, ongoing process.

The Hon. R.I. LUCAS: Has that section of the literacy draft been removed, that is:

> Assessments will be conducted twice a year at the end of each semester.

I take it from the Minister's response that that has now been removed?

The Hon. ANNE LEVY: Yes.

The Hon. R.I. LUCAS: In relation to Australian Studies, can the Minister indicate whether SSABSA is still considering or will reconsider the question of whether Australian Studies ought to be a compulsory component of year 11 of the South Australian certificate?

The Hon. ANNE LEVY: The Australian Studies content is compulsory at year 11. This was recommended by Gilding and has been accepted generally.

The Hon. R.I. LUCAS: Has SSABSA received any significant complaints—obviously it has received some complaints—about some of the exemplary teaching programs recommended as part of the Australian Studies unit at year 11?

The Hon. ANNE LEVY: There has been a great deal of comment received rather than complaints, some of the comments positive and some negative. As a result of this, the exemplary teaching program has been extended and includes a more traditional approach to history and geography.

The Hon. R.I. LUCAS: Can the Minister confirm that one exemplary teaching program on work, after consultation, has been withdrawn as a result of comments and discussion with those to whom the exemplary teaching program was submitted?

The Hon. ANNE LEVY: I do not have the answer to that question but I will undertake to find out and let the honourable member know.

The Hon. R.I. LUCAS: Can the Minister indicate whether the board is concerned about the one by-product of having Australian Studies compulsory in year 11; that those year 11 students who would want to study both maths 1 and maths 2, as they currently can, will have their maths component reduced by 25 per cent under the South Australian Certificate of Education?

The Hon. ANNE LEVY: No, the board is not concerned; it is convinced that three units of maths at year 11 will be adequate.

The Hon. R.I. LUCAS: Can the Minister indicate what is intended under new section 15(1)*(d)* of the Bill, 'to recognise, if it thinks fit and to such extent as it thinks fit, assessments of students at senior secondary education levels made by schools, institutions or other authorities'?

The Hon. ANNE LEVY: It exists in the current Act and it is merely transferred.

The Hon. R.I. LUCAS: I accept that but, in relation to 'or other authorities'—that is, authorities other than schools or institutions—what other authorities (under the current interpretation of the existing Act and therefore transferred in the new Act) come within the province of 'other authorities' involved in relation to assessments?

The Hon. ANNE LEVY: An example would be the Australian Red Cross, whose assessment of first aid can be given status under this clause. Of course, that is only a minor example.

The Hon. R.I. LUCAS: Under paragraph *(e)*, 'to recognise, if it thinks fit and to such extent as it thinks fit, the qualifications or experience of a student in or toward completion of the prescribed certification requirements of senior secondary education': first, in relation to adult re-entry students, I think there has been a suggestion that the entire year 11 component of SACE might be awarded to a person on the basis of experience. Is it suggested that any adult re-entry student who has any level of educational qualification—for example, someone who dropped out at year 7 who is not literate or numerate—is to be given, in effect, credit for the entire year 11 component of SACE?

The Hon. ANNE LEVY: The answer is 'No'. The accreditation is up to 12 units, which will be on the basis of criteria decided by the board.

The Hon. R.I. LUCAS: Clearly, the board will not be in a position to consider separately the many adult re-entry students, particularly as we have the transfer of adult matriculation from TAFE to the Education Department going on at the same time, as a result of Government policy changes. What will be the procedure? Will the board rely on the recommendation of the principal of whatever school it happens to be and SSABSA in practice accept that, or will it employ its own officers to conduct assessments of each student going into our adult re-entry schools and recommend up to 12 credits for each of those students?

The Hon. ANNE LEVY: SSABSA will not be conducting any assessments. Applicants will have to put forward evidence of their educational achievements—reports and so on—and SSABSA will collaborate with the Education

Department in this, as in other matters, in making the assessment.

The Hon. R.I. LUCAS: I did not mean that SSABSA's officers would be conducting tests—perhaps that has been misinterpreted—I was referring to the educational qualifications of a person and to making an assessment from that as to whether that person should receive a 12 or a six unit credit. If SSABSA officers will not do that, will they be relying on the principal's recommendations or those of someone else from the department?

Clearly, the members of the board itself will not sit down and look at letters from 2 000 adult re-entry students and say, 'I'm going to give this one six unit credits.' Some officer somewhere at some time will look at these letters and perhaps at someone else's assessment of these letters, and say, 'We recommend six unit credits' or 'We recommend 12 unit credits.' I presume that SSABSA board meetings will then *en masse* approve the whole series of recommendations. I want to understand the procedure.

The Hon. ANNE LEVY: The decision will be made by the Director of SSABSA on the recommendation of officers of SSABSA, based on the information provided by the applicants themselves, with collaboration from the Education Department.

Clause passed.

Clause 7 passed.

Progress reported; Committee to sit again.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 December. Page 2345.)

The Hon. C.J. SUMNER (Attorney-General): At the outset I must express some amazement about the approach that Liberal members opposite have taken in relation to this Bill. The fact is that this Bill is the product of extensive consultation carried out between the Government, unions and employer bodies in this State under the general umbrella of the South Australian Occupational Health and Safety Commission. This Bill was agreed to unanimously by the commission, with the exception of provisions dealing with the constitution of the commission, which were a late addition to the Bill. So, talk of opposing this Bill at the third reading stage, as the Hon. Mr Griffin has indicated will be the position of the numbers opposite unless they get their way on their amendments, is somewhat surprising.

The Hon. Mr Griffin says that the Liberal Party's stance should not be taken as an indication that members opposite are not sensitive about the issue of occupational health and safety. This Bill contains many important provisions that are intended to have a direct impact on the toll of work-related injury and disease in this State. The points raised by the members opposite are hardly of a fundamental nature. The Hon. Mr Griffin criticises the proposals to allow inspectors to police the activities of the self-employed, but the fact is that the self-employed already have obligations under the current Act to protect their own safety and that of others who may be affected by their actions.

What is lacking is an ability of inspectors to police these very reasonable obligations. It will not lead to inspectors entering homes where work is taking place unless there are very special circumstances which will make that necessary for reasons of public safety. Let us also not forget that if a self-employed person seriously injures themselves it is more than likely that the public will pay for the long-term support of that person. So, why should not the public have a say in protecting such individuals from themselves so that they do not become a burden on the public purse?

The Hon. Mr Griffin is critical of the proposal to expand the commission to give mining interests representation on that body. The honourable member's reasons for opposing this proposal ignore the fact that the mining and quarrying industries are amongst the riskiest in this State. Unlike the unions in this State which have an overall peak body, the UTLC, to represent their broad interests, employers in this State are disorganised and the only way for such groups as the mining industry to have representation on the commission is to give their organisation specific representation.

The Hon. Mr Griffin was also very critical of the proposal that all businesses whether large or small be required to have written occupational health and safety policies. The honourable member suggests that this is an unreasonable imposition on small employers who are currently exempted from that requirement, because he says that they are not capable of developing nor do they have the time to develop such policies.

The facts are that in South Australia we are a small business State. WorkCover figures indicate that there are 65 000 employers who employ less than 20 workers and only 1 725 who employ more than 20 workers; those small employers collectively account for 41 per cent of WorkCover's claims costs. It is essential, therefore, that small business be made more aware of its responsibilities for the safety of its workers.

The development of such safety policies is but a small step in raising their general level of awareness and to oppose this move is short-sighted, to a degree. How can Liberal members opposite have the gall to call for lower WorkCover levies if they are not prepared to support a reasonable proposal such as this which will assist in controlling costs at their source.

The proposal under the Bill to ensure that safety representatives working in small businesses are able to have time off for safety training was also criticised by the Hon. Mr Griffin. Again, the need for this training is obvious and does not become less as the size of the establishment becomes smaller. Some very small firms operate in very high areas of risk. The arbitrary cut off that is contained in the current Act in relation to safety representative training rights fails to recognise that there is a need for training across the board not just in larger enterprises.

The Hon. Mr Griffin suggests that the proposed duty of care on designers of buildings would be unduly onerous because designers may not know what work activity will take place in their structures. I find that very difficult to believe. If such were the case it would be a rarity indeed. The exceptional case should not determine the general rule. Once again, it raises the general question of what is more important: the safety of workers or the possibility that in exceptional cases the duty of care may be difficult to comply with realistically.

If it were the latter, this would in any case be taken into account by the regulatory authorities and the courts. The purpose of the provision is, in any case, wider than just the safety of those who may be required to work in such a structure. It also extends to the safety of those workers who must construct the structure and who must maintain it once the building is completed. Designers will need, in future, if this provision is passed, to give consideration to these issues. They are certainly not matters provided for under the Building Act and code, as the Hon. Mr Stefani suggests, but are proper issues to be addressed under this Act, just as the Act

clearly already covers the duty of care of designers of plant and equipment.

With respect to the points made by members opposite concerning the involvement of unions in various of the provisions of this Bill, I can only say they were considered reasonable by the tripartite Occupational Health and Safety Commission. But in any case trade unions have a major role to play in protecting the safety of their members in the workplace, and unionists should not be denied that assistance. Progressive employers who practice policies of open management welcome union cooperation and involvement in such issues and know that union officials can be valuable allies in securing the observance of safety procedures and practices by workers.

The Hon. Mr Griffin indicated that he was opposed to provisions of the Bill which were aimed at giving protections to workers who wished to pursue a safety issue, or who were being interviewed on an issue of safety by their employer. The Government's view is that in relation to any serious issue involving worker's safety, representatives have a right to know. They should not be excluded from any such discussions. The provisions under the current Act put individual employees on the spot by making them call in a safety representative. It is recognised that this could lead to victimisation where an employee exercised their right to call for representation, and to overcome this real concern the Bill proposes to change the process so that workers cannot be isolated in this way.

The Hon. Mr Griffin raised concerns with clause 27, which deals with the obligations of responsible officers and defines who they are in an organisation. The major point of concern appears to be with the proposal that, if an organisation fails to nominate a person, a wide range of people can be held liable, including all or any directors of a company. The purpose of this provision is to ensure that there is commitment at the top to occupational health and safety. If a company fails to make a senior officer responsible, then the regulatory authorities will be able to sheet home the responsibility to the appropriate persons, which may be the whole board of a company. This provision is easily avoided by a company if it does the right thing and nominates a person to fill that role. The existing provision has been very useful in getting senior management's involvement and commitment and the proposal to tighten up the provision, as with the other provisions of this Bill, should receive the whole-hearted support of this Council.

The Hon. Mr Griffin indicated that he would be moving an amendment to deal with the consultative process on standards and codes of practice. These proposals have not been put to the Occupational Health and Safety Commission for its consideration through the normal processes set up to consider such matters. I understand the Chamber of Commerce is the instigator of this amendment. It is unfortunate that on this occasion it has chosen not to gain the views of the social partners, including other employer associations on its proposal, and, although the Government will not support the proposal for the reasons given, we will undertake to have the matter raised at the commission so that the proper process of consideration and consultation can occur.

Bill read a second time.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

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

That it be an instruction to the Committee of the whole Council on the Bill that it have the power to consider a new clause relating to compulsory blood tests.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

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

Page 1, lines 20 to 25—Leave out paragraph *(b)*.

This amendment deletes the amendment to the definition of 'workplace'. The definition clause of the principal Act provides that:

'workplace' means any place (including any aircraft, ship or vehicle) where an employee works and includes any place where an employee goes while at work.

This amendment seeks to make a significant change to that definition by including a place where a self-employed person works. Of course, if that is included, it opens up the prospect of other persons, in particular inspectors, being able to enter even domestic premises where a self-employed person may be working. One can envisage a number of situations where a person might be working at home—self-employed with no other employees—and that workplace may be an office in the home or in a garage at the back of the house. Presently, if no other persons are employed, those premises are not within the description of 'workplace' and are therefore not subject to any intrusion by inspectors.

It seems to me and to the Liberal Party that it is quite outrageous to propose that there ought to be an opportunity for bureaucrats to enter the premises of a self-employed person, to inspect those premises and, in fact, to make the self-employed person subject to surveillance. For that reason, we very strongly oppose the definition.

The Hon. R.J. RITSON: I am an incorporated medical practice and I corporately employ my natural self. I do not have a practice of my own but I do *ad hoc* work for other doctors on nights and weekends, depending on whether or not Parliament is in session. In the course of that work, I do a number of house calls, and I presume that inspectors could enter the homes of all people I visit whilst working as an employee of my corporate self in the capacity of a medical practitioner. I agree with Mr Griffin that that results in an absurdity, and I support his amendment.

The Hon. I. GILFILLAN: I draw members' attention to my amendment on file to clause 21, which restricts the right of a person to enter a self-employed person's premises unless he or she has reason to believe that there is a risk to the health or safety of a person other than the self-employed person. It is my conviction that, where other people are put at risk by an activity of a self-employed person, that self-employed person does not have a prerogative right to do what they like.

In years past, we have dispensed with penalties imposed on suicide. There is debate on voluntary euthanasia, and we are tending towards freeing up restrictions as to what an individual may do in his or her own situation. There is a clear distinction between what I feel is a matter of principle regarding someone who works entirely on his own. However, I do not believe that that should be allowed to go unfettered where there is a clear indication that what that person does puts someone else at risk. Having foreshadowed an amendment, and regarding it as being essential to the implementation of this measure, I indicate my opposition to the amendment moved by the Hon. Mr Griffin.

The Hon. K.T. GRIFFIN: The Committee will debate the substance of the amendment to clause 21 later, but it seems to me that it is not even a reasonable compromise. We may have no option but to accept it later, in view of the indication that the Hon. Mr Gilfillan has given on our amendment. However, it seems to me that his amendment is wide open to abuse, even in the circumstances in which a person might be using an office in his or her own home for work-

related activities. With respect, I do not believe that that is an appropriate compromise, and I will persist with my amendment.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pairs—Ayes—The Hons J.C. Irwin and Bernice Pfitzner. Noes—The Hons M.J. Elliott and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 4—'Membership of the commission.'

The Hon. I. GILFILLAN: I move:

Page 1, line 28—Leave out paragraph *(a)*.

I oppose the increase in membership of the commission. I am not persuaded that it is to the advantage of the working of the commission to increase the numbers. Arguably, it is large enough, perhaps even too large, as it is now. If there is a particular requirement for representation of a specific group on the commission, that can be done by the appointment of people to the commission. I point out that the amendments on file to page 1, line 32 and to clause 5, page 2, lines 6 to 8 are consequential amendments.

The Hon. K.T. GRIFFIN: The Liberal Party was going to oppose the whole of clause 4. We did not think there was much point in retaining paragraph *(b)*. We were wielding the broad axe but, in the light of what the Hon. Mr Gilfillan is moving, it achieves the principal objective that we were seeking, that is, to limit the size of the commission and specifically not to involve the Chamber of Mines and Energy which, if it had been involved, would in our view have resulted in a broadening of the powers and responsibilities of the Minister responsible for the administration of the principal Act. So, I can indicate that the Liberal Party will support the amendments.

The Hon. J.F. STEFANI: It is not so long ago that the Occupational Health, Safety and Welfare Act came into this place, and in fact we increased the commission's size at that time. We argued at that stage that the step up to 13 was even too big. So, I certainly strongly support the amendment. We should keep the workings of a commission to a reasonable size, because if it is enlarged to 15 members it is unlikely to achieve its goals.

The Hon. C.J. SUMNER: The Government opposes the amendment for the reasons that I outlined in my second reading reply, relating to the importance of having mining and quarrying industries represented on the board.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 1, line 32, page 2, lines 1 to 5—Leave out paragraphs *(c)* and *(d)*.

This is a consequential amendment, as I understand it.

Amendment carried; clause as amended passed.

Clause 5—'Proceedings of the commission.'

The Hon. I. GILFILLAN: The Democrats oppose this clause.

Clause negatived.

Clause 6 passed.

Clause 7—'Employers' statements for health and safety at work.'

The Hon. K.T. GRIFFIN: I indicated during the second reading debate that the Liberal Party would oppose this clause. It deals with the policy statements which are required to be prepared by employers of a prescribed class. It will have the effect of providing that all employers, even of one or two people, will need to have the written statement setting out, with reasonable particularity, the arrangements, practices and procedures at the workplace protecting the health and safety of the employees at the workplace, and take reasonable steps to bring the contents of that statement to the notice of those employees. My understanding is that at the moment that does not apply to employers who have fewer than five employees.

In the current environment, and because of practical difficulties that are likely to be faced by those small employers, it does not appear to us to be appropriate that the amendments be made to widen the ambit of the requirement to provide that statement. Therefore, I indicate our opposition to the clause.

The Hon. I. GILFILLAN: The Democrats support the clause.

Clause passed.

Clause 8—'Duties of designers and owners of buildings.'

The Hon. K.T. GRIFFIN: It seems to me that new section 23a is really placing a particularly heavy onus on a person who might design a building—be it factory, office or workshop premises—specifically for an indicated purpose. How does such a designer get on in circumstances where a building is being designed for a purpose and there is a reasonable expectation that it might be sold in the foreseeable future, but the use might not then be readily identifiable? How then does one guard against a liability arising out of the use of those premises by, say, the second or subsequent owner of the premises when in fact there is a reasonable expectation that these premisis will be used as a workplace but not necessarily for a particular type of work which might require additional safety precautions to be built into the structure? It seems to me that the clause as it is leaves it very much wide open, and the liability that a designer might attract could be substantial. Will the Attorney-General indicate how that difficulty is overcome?

The Hon. C.J. SUMNER: I do not think there is a difficulty. Obviously, a person who designs a building cannot foresee what the building might at some time in the distant future be used for. But if, in designing it, he is aware that it is to be used for a particular purpose at the time that he is designing it, I think it is reasonable that the requirements of new section 23a, namely, that it is designed such as to minimise the possibilities of workplace injury, are reasonable. New clause 23a does refer to ensuring so far as is reasonably practicable that the building is designed so that people who might work in, on or about the workplace are, in doing so, safe from injury and risks to health.

Obviously, it is not reasonably practicable to design a building for a use of which one is not aware. So, I do not see that there is difficulty with the matter raised by the Hon. Mr Griffin. All I think that is being said is that you must, if you are designing or constructing a workplace, make sure that it is designed in a way that is reasonable in relation to the possibility of workplace injury.

The Hon. J.F. STEFANI: I have the same concerns as my colleague, the Hon. Trevor Griffin, on this particular clause but, more specifically, who determines what is 'reasonable'?

The Hon. C.J. SUMNER: Ultimately, if any action is taken, the courts determine what is 'reasonably practicable', but that is a practice they engage in every day of the week.

The Hon. J.F. STEFANI: I take it that, if there is a difference of opinion in the interpretation by an inspector from the Occupational Health and Welfare Commission as to the word 'reasonably', there is a court hearing to sort it out. Is that what the Attorney is saying?

The Hon. C.J. SUMNER: That is right.

The Hon. K.T. GRIFFIN: I place on the record my reservations about the clause. I do not intend to oppose it but I do have some reservations about it. Paragraph (1) *(a)* provides:

Ensure so far as is reasonably practicable that the building is designed so that people who might work in, on or about the workplace are, in doing so, safe from injury and risks to health.

That really goes to the design rather than to the foreseeing of the nature of the use of the prospective workplace. It really relates to the efficacy of the development or part of the development rather than the foreseeing of what sort of workplace it might be. I can see all sorts of difficulties. A person is given a job to design a particular building. It might be identified that it is for a mechanical repairs workshop, but no reference is made to, say, a spray booth where spray painting may be undertaken without proper precautions and facilities. Is the designer to cop the responsibility for that or is that someone else's responsibility? They are the sorts of concerns that I have. I just place them on the record because I think the clause needs some more work.

Clause passed.

Clause 9 passed.

Clause 10—'Substitution of section 27.'

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

Page 5, lines 1 to 3—Leave out subsection (4).

This clause creates two new sections. Proposed new section 27 is the one in issue, and it relates to the health and safety representatives elected by a group of employees to represent a work group for the purposes of the Act. Proposed subsection (4) provides:

If an employee is a member of a registered association, that registered association must, at the request of the employee, be consulted in relation to any proposal relating to the formation of a work group that could affect the employee.

Our view is that it is inappropriate. Membership of the registered association by only one employee who might make the request should not be sufficient to give the registered association the right to be involved in the formation of the work group that could affect the employee. So, it is our view that that ought not remain in the clause and, accordingly, I move the amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment which would delete a clause that currently exists and which has been in the Act since it began. The existing provision establishes that registered associations must, at the request of the employee, be consulted in relation to any proposal relating to the formation of a work group. The provision has not caused a problem in the past, so I do not see what justification there is to delete it.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

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

Page 5, lines 30 and 31—Leave out ', the employer or, if any employee is a member of a registered association, that registered association' and insert 'or the employer'.

This amendment relates to matters not already in the principal Act. Proposed section 27 (7) provides that certain matters should be considered in relation to the constitution of a work group subject to any guidelines issued by the commission. If an employer fails to respond to a request by an employee to act to constitute a work group, or where a dispute arises, the employee, employer or a registered association may refer the matter to the Industrial Commission.

To enable the registered association to take this sort of matter to the Industrial Commission is, in my view, not acceptable. It ought to be a matter for the employee or the employer. There is no reason why, as occurs at the moment, the employee cannot be represented by a registered association. But, it seems to me to be foreign to the relationship between employer and employee for a registered association to be able to step in and actually take a matter to the Industrial Commission whether or not it has been agreed with the employee and whether or not such course of action is reasonable. My amendment retains the right of an employee or employer to take a matter to the commission, but it removes the right of a registered association to virtually act as a third party and take a matter to the Industrial Commission. However, my amendment does not preclude an employee being represented by a registered association, and I think that is the proper relationship to maintain.

The Hon. I. GILFILLAN: Mr Chairman, should I move my amendment now?

The CHAIRMAN: Yes. Both amendments can be dealt with at the same time.

The Hon. I. GILFILLAN: I move;

Page 5, line 31—After 'registered association' insert 'if so requested by such an employee,'.

My amendment is consistent with the line that I have taken in other Bills to amend this Act in that I recognise that there is an appropriate and, at times, very important role for a registered association or union to play in representing an employee in an industrial context. However, it should be modified so that the registered association is involved at the request of the employee: the individual should decide on his or her own behalf whether it is appropriate or necessary to ask for the union to be involved.

My amendment, therefore, is consistent with the wording used elsewhere in the Act and in the Bill, so that in line 31 after 'registered association' I seek to insert 'if so requested by such an employee'. I will not expand on the argument, as it has been canvassed in previous debates on this legislation and I do not see it as being particularly inimical to the concern expressed by the Hon. Mr Griffin about the clause as it stands. I urge the House to support my amendment.

The Hon. C.J. SUMNER: In the circumstances, and because it has no choice, the Government will support the Hon. Mr Gilfillan's amendment.

The Hon. K.T. GRIFFIN: I think that the two issues are different and that this does not necessarily fit into the same category as the earlier views expressed by the Hon. Mr Gilfillan, because it relates to the actual reference of a matter to the Industrial Commission. Of course, under the Hon. Mr Gilfillan's amendment, if an employee requests the association to take up the matter, it is not a matter of representing the employee but of the registered association actually being the party before the commission. That is what I find objectionable.

The Hon. Mr Griffin's amendment negatived; the Hon. Mr Gilfillan's amendment carried; clause as amended passed.

Clause 11—'Election of health and safety representatives.'

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

Page 6, lines 27 to 29—Leave out all words in these lines.

If a dispute arises in relation to the election of a health and safety representative under section 28 of the Act, the dispute may be referred to the Industrial Commission. It may be referred by a person who is a recognised member of the work group or, if any such person is a member of a registered association, by that registered association.

Consistently with what I have been proposing during the Committee stage of this Bill, I want to delete reference to the right for a registered association to take a dispute to the Industrial Commission. I note that the Hon. Mr Gilfillan's amendment follows the theme of his earlier amendments, so that can be done, that is, a registered association can

refer the matter to the Industrial Commission if the employee so requests the association to act on his or her behalf.

Again I make the point that I do not think it is a matter of just acting on his or her behalf. That is already allowed; the association can represent the employee in the commission, but what this provides is that the registered association effectively steps into the shoes of the employee and again, as I said earlier, that is what I find objectionable. The registered association is being placed in the shoes of the employee and is taking over the whole matter. The association is then not required to act in accordance with the instructions of the employee; it can act as it thinks fit. Technically, no longer does the employee have any effective control and a third party is then interposed, and I do not think that is good for employer and employee relationships. That is why I have moved my amendment.

The Hon. I. GILFILLAN: I move:

Page 6, line 28—After 'registered association' insert 'and requests the registered association to act on his or her behalf'.

I am exasperated by what I think is a totally insensitive attitude of members of the Opposition in this matter. If they believe it is an even playing field between an employer and an employee—perhaps an 18 year old kid who has had no experience—and if they expect them to get up and bat eyeball to eyeball, it is a totally unjust attitude and I do not accept it as an argument.

The amendment allows for the employee to choose whether they will engage the organisation, which they have joined to represent them, to take the initiative on their request to carry a case in an appropriate manner. I consider that to be a basic area of justice in the industrial context and I am arguing, as I have done already that there ought not to be the right for the association to just bulldoze its way in, regardless of the sensitivity of the employee.

The employee may not want the association to be involved, in which case it will not be requested; but if it is requested, I cannot have any sympathy with the argument that then says that that individual has to stand up and take the initiative and carry it right through on their own behalf but occasionally they can have the help of their association. It is a fatuous example of an argument which may be based on logic, but which is totally detached from the reality of the industrial scene, so I oppose the Liberal amendment and urge the Committee to support mine.

The Hon. K.T. GRIFFIN: Now we have some passion in this debate and what the Hon. Mr Gilfillan—

Members interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: —is doing is totally misrepresenting the Liberal Party's view. We are not saying that an employee cannot be represented. I made the point right at the beginning when I made this statement—

Members interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: I made the point right from the start that there is no difficulty with the person's being represented, but what the Hon. Mr Gilfillan is doing is providing not for representation but for the association to take the place of the employee. I am not saying that the 18 year old kid should have to have the conduct of this matter on his or her own, because that is totally unrealistic and I have never said that that is the position. The Hon. Mr Gilfillan is misrepresenting what I am saying. What I am saying is that we cannot have a situation, in my view and in the Liberal Party's view, where the employee is in effect put to one side as a party before the Industrial Commission and the association takes over the conduct completely so that the employee can become effectively a mere pawn.

If the Hon. Mr Gilfillan says that will not happen, he is the one in cloud cuckoo land, not I, because the reality is that if there is a heavy representative of the association who says, 'I want to take this over,' the 18 year old will not say 'No': he will say 'I suppose so.'

It is the Hon. Mr Gilfillan who has lost his sense of proportion. I am not saying at all, as I indicated earlier and I repeat, that there should not be adequate representation, because that is already permitted. All I am saying is that, as a matter of reality, we should not have the registered association coming in and effectively taking over every aspect of the conduct of the matter and effectively being the party—and that is what is going to happen.

The Hon. J.F. STEFANI: I think that the argument is about a dispute arising in relation to the election of a health and safety representative. There are obvious concerns in the area of associations becoming directly involved in that dispute. More specifically, if we are logical about workplaces where employees are not members of a registered association—as there are—then we are leaving those employees—if we take on board the Hon. Mr Gilfillan's point—with having to deal with their employer. If a dispute arose, those employees would have the right to refer to the Health Commission and the Occupational Health and Safety Commission and to consult with and call in the Department of Labour. They would have the right to sit down and say, 'These are our concerns,' and I am sure that they would then be sorted out.

The Hon. R.R. Roberts interjecting:

The Hon. J.F. STEFANI: The Hon. Mr Roberts interjects, but the reality is that there are many workplaces where employees are not members of the union, so we are really neglecting to address the issue of disputes for those employees.

The Hon. T.G. Roberts interjecting:

The Hon. J.F. STEFANI: It is not. We need to be conscious of the fact that if the law provides for safety representatives to be appointed—and that is the law—then we need to have a mechanism for everyone to use and not necessarily only a select group. I believe that the mechanism is there as an option and I understand quite clearly the argument of my colleague the Hon. Trevor Griffin, that those members of a registered association may consult that association and call it into play saying, 'We have a problem with our boss.' To replace the employee with the registered association is incorrect, for the reasons I have given, because there are situations where employees—

The Hon. I. Gilfillan: Even at the request of the employees?

The Hon. J.F. STEFANI: They have the right to consult them—what is the difference?

The Hon. I. Gilfillan: If the employee asks an association to come in and represent them, in that case, are you saying that they should not be able to do so?

The Hon. J.F. STEFANI: It is not a question of not being able to do it; they can do it. It does not have to be written into anything, surely. They may consult with the Occupational Health and Safety Commission, the Department of Labour and the union, if they are members. That is the point, and we need to address this issue in a practical way.

The Hon. C.J. SUMNER: The Government supports the Hon. Mr Gilfillan's amendment and opposes the Opposition's amendment.

The Hon. Mr Griffin's amendment negatived; the Hon. Mr Gilfillan's amendment carried; clause as amended passed.

Progress reported; Committee to sit again.

[*Sitting suspended from 1 to 2.15 p.m.*]

OCCUPATIONAL HEALTH, SAFETY AND WELFARE ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

Clause 12 passed.

Clause 13—'Term of office of a health and safety representative.'

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

Page 7, line 1—Leave out 'two-thirds' and insert 'one-half'.

This clause deals with the term of office of a health and safety representative. There is a provision in the Bill which provides that a representative may be removed by a resolution of at least two-thirds of the recognised members of the group on the ground that they consider that the person has ceased to be a suitable person to act as their representative. Under the present provision, a person ceases to be a health and safety representative for a designated work group if that person completes a term of office and is not re-enacted, ceases to belong to the relevant group, resigns or is disqualified. The addition in the Bill is designed to give another option.

The view of the Opposition is that, because appointment is made by simple majority, removal also ought to be made by a simple majority rather than two-thirds of the recognised members. My amendment will reduce the majority from two-thirds to one-half.

The Hon. C.J. SUMNER: The Government opposes this amendment. The Opposition moved this amendment in the Lower House and actually withdrew it. I am a bit surprised that it is being pursued here. The Minister in another place explained that the Act already provides for a majority of members of a work group to apply to have their worker safety representative disqualified by a review committee. If this clause were amended as proposed, it would override the review committee process, and in particular, of course, health and safety representatives could be removed over any unpopular issue.

As the Act stands, a majority of the members can apply to have the representative removed by a review committee. The Bill proposes that, in addition, two-thirds of the members of a work group can vote to dismiss the representative. The Opposition amendment to change two-thirds to one-half would make a nonsense of the provision already in the Act.

The Hon. I. GILFILLAN: I am content with the drafting of the Bill. Bearing in mind that there is a limited term of tenure, it is reasonable that a more substantial majority be required to prematurely remove a duly elected person from the position. I oppose the amendment.

Amendment negatived; clause passed.

Clause 14 passed.

Clause 15—'Functions of health and safety representatives.'

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

Page 8, lines 9 and 10—Leave out paragraphs *(e)* and (f).

This clause amends section 32 of the principal Act, which deals with the functions of a health and safety representative. It currently provides:

> A health and safety representative may, for the purpose of the health, safety and welfare of the employees in the designated work group that the health and safety representative represents . . .
>
> *(d)* at the request of the employee, be present at any interview concerning occupational health, safety or welfare between an inspector and an employee;
>
> *(e)* at the request of the employer, be present at any interview concerning occupational health, safety or welfare between the employer (or a representative of the employer) and an employee.

Paragraphs *(e)* and *(f)* of this clause seek to delete the reference to the health and safety representative being present at the request of the employee. I seek to maintain the *status quo*. There is a practical difficulty, of course, in defining what is an interview and, rather than open that Pandora's box, the *status quo* can satisfactorily be retained and it will also to ensure that we do not get to the ludicrous situation where at any discussion with an employee there has to be the health and safety representative present. It seems to me that the scheme proposed by the Hon. Mr Gilfillan's previous amendments to the Bill is maintained by accepting my amendment.

The Hon. I. GILFILLAN: The principle is one that we have consistently hoped to maintain in the Act, and the Bill, as it was originally drafted, would reverse that. We believe the involvement of the union or a health and safety representative should be at the express request of the employee. The Hon. Trevor Griffin's amendment maintains that same principle and the Democrats have an identical amendment on file. Therefore, obviously, we will support the amendment.

Amendment carried.

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

Page 8—
Line 15—leave out paragraph *(i)*.
Lines 18 to 22—leave out paragraph *(k)*.

These amendments are the same as the amendments proposed by the Hon. Mr Gilfillan. The honourable member may find it difficult to follow my various amendments. All I can say is that I was not alert to the necessity to make the consequential amendments when I put my first amendment on file. I accept responsibility for not having done it earlier.

Amendments carried; clause as amended passed.

Clause 16 passed.

Clause 17—'Responsibilities of employers.'

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

Page 9, line 11—Leave out 'subject to a request of the employee to the contrary' and insert 'at the request of the employee'.

This restores the *status quo*. Instead of providing that, subject to a request of an employee to the contrary to permit a health and safety representative to be present at any interview, this amendment seeks to ensure that it is at the request of the employee to allow that person to be present.

Amendment carried.

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

Page 9, lines 46 to 48.
Page 10, lines 1 to 5—Leave out paragraph *(c)*.

Section 34 (4) provides that, where an employer employs 10 or fewer employees, the health and safety representative may only take such time off work to take part in a course of training as the employer reasonably allows. The amendment makes mandatory the right to take time off, although the employer can determine when the time is to be taken off work. As I said during the second reading debate, that places a fairly significant cost burden upon small business. We believe that the *status quo* is appropriate, and that is why I seek to delete paragraph *(c)* from this clause.

The Hon. I. GILFILLAN: I move:

Page 10, lines 1 to 5—Leave out paragraph *(a)* and insert new paragraph as follows:

> *(a)* where—
>
> (i) the employer employs 10 or less employees, and
>
> (ii) the employer is not an employer in respect of whom a supplementary levy has been imposed by the Workers Rehabilitation and Compensation Corporation under Part V of the *Workers Rehabilitation and Compensation Act, 1986*,
>
> the health and safety representative may only take such time off work to take part in a course of training as the employer reasonably allows;.

The original debate on this provision involved my identifying the difficulties faced by employers of smaller numbers of employees to adjust to having a full-time employee away from the workplace for five days, as well as the cost. That is a very significant burden and, the smaller the number of full-time employees, the more in proportion that impacts.

I am advised that the draft in the Bill was passed without objection by the commission. The commission includes representation from employers and, in discussions with employer representatives, they have not raised this as a matter of great concern.

One of the reasons for that is that the representatives tend to represent employers with larger numbers of employees and, therefore, the obligation to provide the representative with five days full-time paid leave for a course is less of an impost on the management of a business. Certainly, those employing one or two people could find compliance with that requirement quite a burden. At the same time it is important to recognise that these measures, if they are properly thought out and implemented, do have the direct result of reducing the number of accidents and increasing health, safety and welfare of people in the work force.

I believe that every member in this place would agree that that is an appropriate goal to strive for, on both counts—on the basis of compassion to reduce the suffering and to reduce the cost. The cost has been brought home to us substantially in debate concerning the cost to WorkCover. It was a dilemma and it still is a dilemma to find the appropriate formula to reword paragraph *(c)* to take into account all the matters of concern. I do not pretend that my amendment is the only one worthy of consideration, nor do I contend that it may be the best of those that could be available.

There has not been adequate time for thorough discussion of this matter, in my opinion. It has not been the subject of representation to me by groups or individuals. My amendment is a serious attempt, and I think members will find it a worthwhile attempt, to put in place a procedure that goes some way toward balancing considerations by employers of a small number of employees and pressure on unsafe workplace work practices in the smaller employer/employee situations. It puts pressure on improving that scene.

The amendment uses the recognition by WorkCover of employers who have already shown that they have an unacceptably high accident level in the workplace. WorkCover is rightly looking at ways of putting pressure on those employers to improve the safety of their workplace. Once again, I do not believe anyone could possibly disagree with that pressure being applied. It is to the advantage of everyone that those actions be reduced. Other amendments could be considered; the level of 10 employees could be varied, because a workplace that has a full-time work force of 10 is a considerable establishment in terms of employment. Therefore, it might be worth considering distinguishing between the obligation on workplaces with 10 employees and those with five employees.

I put that purely as a discussion point before the Committee and not as an amendment. I would signal that, as with some other matters under this legislation, the Democrats are willing to have further consideration and discussion in the new year and I have no objection, if I am convinced that satisfactory alternatives could be put forward, to supporting legislation that could come in early next year. As of today and the winding up of this part of the session, this amendment is a practical effort to put pressure on unsafe workplaces to improve the safety and health level and yet still exempt small employers from what is a real imposition of their having to provide time off for a safety representative to go to a full-time five day course. I seek support for the amendment.

The Hon. C.J. SUMNER: In the circumstances, the Government is willing to accept the Hon. Mr Gilfillan's amendment.

The Hon. K.T. Griffin's amendment negatived; the Hon. I. Gilfillan's amendment carried; clause as amended passed.

Clauses 18 to 20 passed.

Clause 21—'Powers of entry and inspection.'

The Hon. I. GILFILLAN: I move:

Page 10, line 39—After 'amended' insert:

(a) by inserting after subsection (1) the following subsection:

(1a) Subsection (1) *(a)* is subject to the qualification that a person cannot enter a workplace where a self-employed person works alone unless he or she has reason to believe that there is a risk to the health or safety of a person other than the self-employed person.;

and

(b) [The remainder of clause 21 becomes paragraph *(b)*].

This is an amendment to which I referred earlier when the definition of 'workplace' was discussed and the subject of an amendment by the Opposition. I indicated that I accept that there should be the right of inspection where there is reason to suspect that a risk to health or safety does exist to a person other than a self-employed person.

I am advised that this ties in with section 22 of the Act—that the self-employed must take steps to avoid adversely affecting the health and safety of any other person. It is an obligation which I fully supported originally and I still continue so to do, so, if there is to be reasonable opportunity for such measures to be inspected from time to time, it seems appropriate that the environment in which a self-employed person is working, if that is putting someone else at risk of either health or safety, could be subject to inspection by an inspector, but where that risk does not reasonably exist, by the reverse side of the coin, there would be no right of an inspector to inspect the workplace.

The Hon. K.T. GRIFFIN: This is better than nothing. In view of the fact that we have left in, by majority decision of the Committee, the extension of the definition of 'workplace' to include a place where a self-employed person works, it seems to me reasonable to try to limit that. The only difficulty I have with the amendment is that I do not believe it is strong enough or places a heavy enough burden of proof upon the inspector. All that person has to do is to have a reason to believe there is a risk to the health or safety of a person other than the self-employed person. It does not matter whether that reason is a significant reason or merely a specious reason; it seems to me that both ends of the spectrum will enable access to be gained to the premises where a self-employed person works. Therefore, I propose to amend the Hon. Mr Gilfillan's amendment as follows:

In the fourth line of new subsection (1a), in lieu of 'reason to believe', insert 'a reasonable belief'.

Therefore, a person cannot enter a workplace where a self-employed person works alone unless he or she has a reasonable belief that there is a risk to the health or safety of a person other than the self-employed person.

I think that that accords with the general standard that is required to gain access to premises—that there is a reasonable suspicion or belief—and we can argue about the difference between a reasonable suspicion and a reasonable belief. The emphasis is on the belief or suspicion being reasonable—not merely some very minor reason to believe.

Because this may well impinge on a person's own domestic premises, if we take it to that length—and we must remember that we are legislating for the future without

expectation that we will be amending this for a long time, so we must have in view both the reasonable and the unreasonable approach to the provision—and if we include the necessity for a reasonable belief to be the basis on which access is sought, that safeguards the interests of the self-employed person as well as giving a reasonable basis for an inspector to enter premises.

The Hon. T.G. ROBERTS: I oppose both amendments and support the clause. I do so on the basis that we are legislating for the future, and there is a growth in the possibilities and in actual work at home. A number of industries already use outworkers in what we regard as 'responsible' ways, but also a number of outworkers are exploited. The intention of the Bill is to cover those people who have the potential for exploitation in working at home without supervision.

The problem I see is the number of inspectors able to actually get around and cover the problems raised by the Hon. Mr Gilfillan and the Hon. Mr Griffin. The legislation provides for a consideration to be made by employers who group work programs into homes, and I think that that will be the problem. There will be various aspects of computerisation; those types of clerical jobs will be able to be done from home without possibly a lot of problems being caused to individuals or those around them in terms of occupational health and safety. However, where people, perhaps in the rag trade, do heavy industrial machining from home and it presents all sorts of different problems, I think it needs the legislative cover and protection that is being proposed by the Government.

By altering the Act to try to work out some sort of limit in protection for those people we will, I think, disadvantage them, and in the main they will be poor migrant women with very few avenues for recourse, because they do not have the confidence; nor do they know those protective legislative measures that are available to them. It is not just a matter of being able to get on the phone and going to the Department of Labour or the Occupational Health and Safety Commission and raising a complaint. In a lot of cases these people do not know that these services are available. Historically in Australia a lot of industries start up by using waves of new patterns of migrants who do not know, in a lot of cases, what their rights are.

I therefore support the Bill and oppose the two amendments on those grounds. I would like the members who have spoken in favour of their amendments to reflect on the fact that inspectors will not be knocking on people's doors regularly or harassing them unduly.

The inspectors themselves will not have a lot of time to get around to those home-based work premises somehow to harass, because there are not enough resources to put into place the number of inspectors that would be required, as indicated by the amendments, particularly that of the Hon. Mr Griffin.

The Hon. I. GILFILLAN: In response to the observations of the Hon. Terry Roberts, the workplace of self-employed people, at least under some of the circumstances he has outlined, where there may be a particular class or type, has been the cause of some concern and discussion. I suggest with respect that the most effective way to improve safety in those situations is by information and education, which can be achieved by effectively distributing material, possibly in languages other than English—in fact, it probably should be if we are really serious about it—advising these people of the places where they can obtain advice or help and, if there is a dispute or pressure on them, they can obtain help in that way.

I do not think that that problem will be solved by having, as the Hon. Terry Roberts observed, a very infrequent visit by an inspector. With due respect to the honourable member, I do not believe that my amendment makes that position any worse. I agree that it is an area that should be addressed, and organisations that care about it should be encouraged to distribute information, be it written or by telephone. I do not see that the inspector's right to visit, as provided in the Act, as being the arbiter as to whether we can improve the safety level of people working in that area. I acknowledge the comments made by the Hon. Terry Roberts but do not believe that that is an argument against my amendment.

The Hon. Mr Griffin's amendment carried; the Hon. Mr Gilfillan's amendment as amended carried; clause as amended passed.

Clauses 22 to 25 passed.

Clause 26—'Expiation of offences.'

The Hon. K.T. GRIFFIN: The Opposition opposes this clause quite vigorously. It introduces expiation fees and, in our view, opens the way for abuse and removes the present practice of warnings rather than prosecutions. One recognises that, in some instances, it may be better to pay up than go to court but, in other instances, the employer would pay up rather than go to court, even though he was innocent.

The other difficulty with this is that in the House of Assembly, although questions were asked about the offences which are to be prescribed by the regulations, no information was forthcoming and it leaves the matter open to speculation as to the sorts of offences that may be expiable.

In the area of occupational health, safety and welfare, it seems to us that, whilst the huge penalties in some instances are there to provide a deterrent, in what might be regarded as minor breaches—and in many instances inadvertent breaches—one would expect that a caution may be appropriate. But, with the availability of expiation notices, regardless of the merits of the matter, the inclination would be to slap a notice on and then leave it at that rather than endeavouring to resolve the matter by some more sensitive means. So, it is for those reasons that we oppose quite vigorously, to the point of division, clause 26.

The Hon. R.J. RITSON: I share the Hon. Mr Griffin's concern about expiation fees. In this whole area of expiation fees it is quite common for the fee to be set at about the median level of the penalty when, in fact, a number of those matters thus expiated may, if they went to court, receive a low penalty or, indeed, no penalty. But, it becomes easier for the person from whom a penalty is to be exacted, to pay up rather than argue the matter in court. Whilst some people may prefer to take that ease, it encourages a whole change in society. It gives strength in the executive branch to an army of minor officials. Faced with preference for expiation, even, albeit, of a penalty which might not be imposed by a court, the minor officials become increasingly confident that, in issuing an expiation notice, they will not have to justify their actions.

In other fields it is true that the decision to issue a notice that may be based on a particular minor official's interpretation of the law, which might be quite wrong, which is never considered by a prosecuting authority and which that minor official knows will never be tested in court, has, I think, the genesis of a police State if it is generally expanded throughout society. Therefore, I think that those organisations that are happy with the expiation fee are wrong and, hence, I do not support them. I support Mr Griffin.

The Hon. C.J. SUMNER: The expiation system is in place in this State, and quite rightly so. It is a reasonable approach in dealing with offences of a minor nature. Cer-

tainly, it is a saving to the community in respect of prosecution costs, because offences expiated in this way do not have to go through a court procedure. It is a saving to the person, the subject of the offence, because they do not have to defend the matter with lawyers: they do not have to appear in court with counsel fees, etc.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: No, not at all. The simple point is that, if people dispute the facts and say that they are not guilty, they are entitled to go to court—just as they were previously.

The Hon. R.J. Ritson: You're giving away a principle for expediency.

The Hon. C.J. SUMNER: The honourable member is not right in saying that we are giving away a principle for expediency. One could say that if there were no right to contest the matter in court, but there is that right. Dealing with minor offences, if you do not agree that you are being properly levied the expiation fee, you can contest it in court, just as you could contest in court any of these matters, if you wished. It is just that, if you are guilty and you admit that you are guilty, this is a cost effective way of admitting your guilt and paying the fine. That is all there is to it. I think that it is a good system within certain limits, and we are not expanding the limits here. As I understand it, employer groups support this.

The Hon. R.J. Ritson: They are wrong, then.

The Hon. C.J. SUMNER: In your view, they may be wrong, but they support it, as does the Occupational Health and Safety Commission.

The Hon. R.J. RITSON: Dealing with the Attorney's logic in the last explanation, where he said that if you are not guilty you can go to court, the fact of the matter is that in many expiable matters people who are not guilty or who may receive a smaller penalty do not go to court, because of the expediency of the situation. Whilst that, standing alone, might not matter, since the Attorney would argue that people have the right to do that if they prefer, the fact of the matter is that it encourages the issue of expiation notices that are not properly considered.

It becomes easier to issue them to people who are not guilty, because the matter will never be tested or vetted by a prosecution officer. I do not believe that it is as simple as the Attorney says, that if you are not guilty then you do not pay. It only encourages people to pay, which is why it is a bad piece of law that the Government has introduced. The organisations that support it look only at the immediate expediency and do not realise that they will be encouraging more and more the issue of notices relating to matters that should be tested in court. I reiterate my support for the Hon. Mr Griffin.

The Hon. I. GILFILLAN: I realise that the expiation procedure can be open to abuse and that there is always a margin within which the authority might be tempted to whack on the penalty if it is low enough, on the basis that it is not likely to be challenged. I recognise that that is a flaw in any expiation procedure, but that needs to be considered on balance with what would be a field day for the legal profession if all offences such as expiation of speeding and other road offences—

The Hon. R.J. Ritson: Expiation fees should be limited to the most trifling offences. It should not happen with marijuana.

The Hon. I. GILFILLAN: The interjection of the Hon. Bob Ritson is that expiation fees should be kept for the most trifling offences, which raises a point on which I wish to comment. I am made uneasy by the paragraph 'is prescribed by the regulations for the purposes of this section', which previously has tended to be an area of concern for the Opposition and the Democrats, and from time to time we have amended legislation to overcome it.

I do not have any information as to what particulars could be put into the Bill to avoid that prescription by regulation clause. Bearing in mind, as has already been observed, that the organisations representing employers and the commission have not raised any objection to this, the Democrats will oppose the amendment and support the Bill as it is currently worded. We express concern, however, and I hope that not too far down the track the commission will attempt to convince Parliament to specify which offences can be dealt with by expiation. I agree with Dr Ritson that not necessarily—

The Hon. C.J. Sumner: A maximum penalty not exceeding a division 5 fine.

The Hon. I. GILFILLAN: Yes, but I have not seen what those offences are, so I do not know. It may be listed in something which the Attorney has in hand, but I have not seen it. I think that the point of expiation settlement being reserved for the lesser of the offences is the right policy to follow, and the Democrats will be watching how this is applied. We will be looking for an amendment further on, to be more specific perhaps, about the offences to which expiation does apply. I disagree with the Hon. Mr Griffin's opposition to this clause.

The Committee divided on the clause:

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

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

Pair—Aye—The Hon. T.G. Roberts. No—The Hon. Bernice Pfitzner.

Majority of 1 for the Ayes.

Clause thus passed.

Clause 27—'Offences by bodies corporate.'

The Hon. K.T. GRIFFIN: I recognise that the Attorney-General responded to some comments that I made on this clause during the second reading debate, but will he indicate what he sees as the difference between what is in the present Act and what is proposed in the Bill, and what additional onus it places upon directors and executives in bodies corporate?

The Hon. C.J. SUMNER: The amendment to the amending Bill introduced by the Government more carefully defines who a responsible officer is, but proposed section 61 (4) merely ensures that, if the corporate body does not appoint a responsible officer—and it would be very easy to get around their obligations under the legislation by appointing a responsible officer—each officer of the body corporate will be taken to be the responsible officer, so that the responsibility can be sheeted home somewhere.

The Hon. I. GILFILLAN: The questions raised by proposed section 61 (4) were discussed with me by someone who spoke from an employer's point of view. I made some effort to look at a way to amend the clause to take that point of view into account. However, on reflection I have been advised that the implication of each officer of a body corporate would only involve the board of directors or, as provided under proposed subsection (2) *(a)*, a member of the governing body of the body corporate and, under paragraph *(b)*, the chief executive officer of the body corporate.

Based on that advice, my opinion is that it is not too horrendous a consequence of proposed subsection (4) if the

body corporate stubbornly refuses to appoint a responsible officer. That is what I imagine the situation would be, because I cannot imagine that a body corporate could innocently avoid appointing a responsible officer, and I assume that the Opposition is not moving to abolish any concept that a corporation ought to have a responsible officer. I am not unduly fazed by this because, as the Attorney points out, any body corporate that feels that this is an unacceptable consequence of not appointing a responsible officer could very rapidly appoint one.

The Hon. K.T. GRIFFIN: I accept that the emphasis of this amendment is to require a body corporate to appoint a responsible officer. Under existing section 61 it is at least implied but not clearly expressed that this is an obligation upon the corporation.

As the Hon. Mr Gilfillan says, representation was made to the Opposition that the broadening of the net to cover all officers of the body corporate was an overkill to meet this situation. That view was put in the House of Assembly, and was certainly not carried by a majority of the House of Assembly. I am concerned about proposed subsection (4), which provides that 'each officer of the body corporate will be taken to be a responsible officer'. I am not yet convinced that the use of the word 'officer' actually is limited by proposed subsection (2), paragraphs *(a)* and *(b)*. Here there is reference to 'responsible officer'.

The Hon. C.J. SUMNER: There is a definition in front of the Act.

The Hon. K.T. GRIFFIN: I must have missed it. I have been remiss. I looked for a definition of 'officer', but I did not find it. It must be the length of sitting weeks and the hours of sitting. Following on from what the Hon. Mr Gilfillan said, but for his clarification and mine, the Act provides:

'officer' in relation to a body corporate means—
(a) a member of the governing body of the body corporate;
(b) an executive officer of the body corporate;
(c) a receiver or manager of any property of the body corporate;
or
(d) a liquidator.

That clarifies and defines it and, on that basis, I do not think it is appropriate to take the matter further.

Clause passed.

Clauses 28 and 29 passed.

New clause 29a—'Compulsory blood tests.'

The Hon. K.T. GRIFFIN: I seek leave to amend the amendment that I have on file as follows: to delete from proposed subsection (1) *(a)* the words 'attends at, or'.

Leave granted.

The Hon. K.T. GRIFFIN: Accordingly, I now move:

Page 13, after line 8—Insert new clause as follows:

29a. The following section is inserted after section 64 of the principal Act:

64a. (1) Where—
(a) a person is admitted into a hospital for the purpose of receiving treatment for an injury; and
(b) it appears—
(i) that the injury has occurred during the course of employment;
and
(ii) that the injury has occurred within the preceding period of eight hours,
it is, subject to this section, the duty of a legally qualified medical practitioner by whom the patient is attended to take, as soon as practicable, a sample of that patient's blood (notwithtanding that the patient may be unconscious) in accordance with this section.

(2) A medical practitioner must not take a sample of blood under this section where, in his or her opinion, it would be injurious to the medical condition of the patient to do so.

(3) A medical practitioner is not obliged to take a sample of blood under this section where the patient objects to the taking of the sample of blood and persists in that objection after the medical practitioner has informed the patient that, unless the objection is made on genuine medical grounds, it may constitute an offence against this section.

(4) A medical practitioner is not obliged to take a sample of blood under this section where a sample of blood has been taken in accordance with this section by any other medical practitioner.

(5) A medical practitioner by whom a sample of blood is taken under this section must place it, in approximately equal proportions, in two separate containers, seal the containers and—
(a) must make available to an inspector—
(i) one of the containers marked with an identification number distinguishing the sample of blood from other samples of blood taken under this section;
and
(ii) a certificate signed by the medical practitioner containing the information required under subsection (8);
and
(b) must cause the other container to be delivered to, or retained on behalf of, the person from whom the sample of blood was taken.

(6) Each container must contain a sufficient quantity of blood to enable an accurate evaluation to be made on any concentration of alcohol present in the blood and the sample of blood taken by the medical practitioner must be such as to furnish two such quantities of blood.

(7) It is the duty of the medical practitioner by whom the sample of blood is taken to take such measures as are reasonably practicable in the circumstances to ensure that the blood is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of alcohol present in the blood of the person from whom the sample was taken.

(8) The certificate referred to in subsection (5) *(a)* must be signed by the medical practitioner by whom the sample of blood was taken and contain the following information:
(a) the identification number of the sample of blood marked on the container referred to in subsection (5) *(a)*;
(b) the name and address of the person from whom the sample of blood was taken;
(c) the name of the medical practitioner by whom the sample of blood was taken;
and
(d) the date, time and hospital at which the sample of blood was taken.

(9) After analysis of the sample of blood in a container made available to an inspector pursuant to subsection (5) *(a)*, the analyst who performed or supervised the analysis must sign a certificate containing the following information:
(a) the identification number of the sample of blood marked on the container;
(b) the name and professional qualifications of the analyst;
(c) the date on which the sample of blood was received in the laboratory in which the analysis was performed;
(d) the concentration of alcohol or other drug found to be present in the blood;
(e) any factors relating to the blood sample or the analysis that might, in the opinion of the analyst, adversely affect the accuracy or validity of the analysis;
and
(f) any other information relating to the blood sample or analysis or both that the analyst thinks fit to include.

(10) On completion of an analysis of a sample of blood, the certificate of the medical practitioner by whom the sample of blood was taken and the certificate of the analyst who performed or supervised the analysis must be sent to the Minister or retained on behalf of the Minister and, in either event, copies of the certificates must be sent—
(a) to the Director of the Department of Labour;
(b) to the medical practitioner by whom the sample of blood was taken;
(c) to the person from whom the sample of blood was taken;
and
(d) the person's employer at the time of the occurrence of the injury.

(11) If the whereabouts of the person from whom the sample of blood is taken, or the identity or whereabouts of the employer is unknown, there is no obligation to send a copy of the certificate to the person or employer (as the case may be) but copies of the certificates must, upon application made within two years after completion of the analysis, be furnished to any person to whom they should, but for this subsection, have been sent.

(12) Subject to subsection (15), an apparently genuine document purporting to be a certificate, or copy of a certificate, of a medical practitioner or analyst under this section is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters stated in the certificate.

(13) Where certificates of a medical practitioner and analyst are received as evidence in proceedings before a court and contain the same identification number for the samples of blood to which they relate, the certificates will be presumed, in the absence of proof to the contrary, to relate to the same sample of blood.

(14) Where a certificate of an analyst is received as evidence in proceedings before a court, it will be presumed, in the absence of proof to the contrary, that the concentration of alcohol or other drug stated in the certificate as having been found to be present in the sample of blood to which the certificate relates was present in the sample when the sample was taken.

(15) A certificate referred to in subsection (12) cannot be received as evidence in proceedings for an offence against this Act—

(a) unless a copy of the certificate proposed to be put in evidence at the trial of a person for the offence has, not less than seven days before the commencement of the trial, been served on that person;

(b) if the person on whom a copy of the certificate has been served has, not less than two days before the commencement of the trial, served written notice on the complainant requiring the attendance at the trial of the person by whom the certificate was signed;

or

(c) if the court, in its discretion, requires the person by whom the certificate was signed to attend at the trial.

(16) Any person who, on being requested to submit to the taking of a sample of blood under this section, refuses or fails to comply with that request and who—

(a) fails to assign any reason based on genuine medical grounds for that refusal or failure;

(b) assigns a reason for that refusal or failure that is false or misleading;

or

(c) makes any other false or misleading statement in response to the request,

is guilty of an offence.

Penalty: Division 7 fine.

(17) A medical practitioner who fails, without reasonable excuse, to comply with a provision of, or to perform any duty arising under, this section is guilty of an offence.

Penalty: Division 7 fine.

(18) No proceedings can be commenced against a medical practitioner for an offence against subsection (17) unless those proceedings have been authorised by the Attorney-General.

(19) An apparently genuine document purporting to be signed by the Attorney-General and to authorise proceedings against a medical practitioner for an offence under subsection (17) must, in the absence of evidence to the contrary, be accepted by any court as proof that those proceedings have been authorised by the Attorney-General.

(20) No proceedings lie against a medical practitioner in respect of anything done in good faith and in compliance, or purported compliance, with the provisions of this section.

(21) In this section—

'hospital' means any institution at which medical care or attention is provided for injured persons, declared to be a hospital for the purposes of section 47i of the Road Traffic Act 1961.

My colleague, the Hon. Dr Ritson, had a good look at this—and he can speak for himself—and as a result of his advice I decided to move this amendment in an amended form. I can accept that to blood test everybody who attends a hospital for the purpose of receiving treatment for an injury would be ludicrously wide, but where a person is admitted into a hospital the sort of injury is likely to be more serious than merely an attendance at the outpatient section. The basis for this provision arises from section 21 of the principal Act, which provides:

An employee shall take reasonable care—

(a) to protect his or her own health and safety at work; and

(b) to avoid adversely affecting the health or safety of any other person through any act or omission at work,

and, in particular, shall so far as is reasonable (but without derogating from any common law right)—

(c) use any equipment provided for health or safety purposes;

(d) obey any reasonable instruction that his or her employer may give in relation to health or safety at work;

(e) comply with any policy published or approved by the commission that applies at the workplace; and

(f) ensure that he or she is not, by the consumption of alcohol or a drug, in such a state as to endanger his or her own safety at work or the safety of any other person at work.

That last paragraph provides the basis for having a provision for compulsory blood tests. It seems to the Opposition that, in order to place an onus upon employees in respect to consumption of alcohol or drugs, and to ensure that the workplace is adequately monitored, for any indication that a worker is affected by alcohol or drugs, it is important to make an assessment as to whether or not alcohol or drugs played any part in any injury leading to hospitalisation.

In our view, the most effective way of doing that is not only to educate—which in many instances has little impact—but also to provide for the taking of a sample of blood when a person is injured and admitted to hospital. There are a number of protections in the new clause where a person refuses to allow a blood test to be taken. It seems to us that, if we can have compulsory blood testing of road accident victims and if we move into the arena of compulsory breath analysis tests at random, the significant area of work injury caused by the consumption of alcohol or a drug ought also to be subject to some monitoring. This is in the interests not only of the worker but also that worker's colleagues and employer. It is also in the interests of occupational health, safety and welfare and of the workers' rehabilitation and compensation legislation. So, it is in that context that I move my amendment, in its amended form, and seek the support of the Council for it.

The Hon. R.J. RITSON: I support new clause 29a as moved by the Hon. Mr Griffin. I remind members that this amendment is not in the same form as that which was rejected by the House of Assembly and that the removal of the three words 'attends at, or' in relation to a hospital makes a lot of difference in practice, because on a daily basis a much larger number of workers are referred or taken by employers from the workplace to public hospital casualty departments for the treatment of minor injuries—for example, to have a small foreign body removed from an eye or for the treatment of a sprained ankle—than are admitted into a hospital. On reflection, the Opposition did not want to impose the administrative bureaucracy that would be involved in the processing of a large number of these claims. Nevertheless, we feel it reasonable to monitor the role of alcohol in serious work-related accidents. That is no less reasonable than to require the gathering of statistical evidence in relation to road accidents.

Under the legislation, the injured passengers who could not possibly be guilty of an offence are nevertheless tested in hospital, as well. As regards any possible threat to a workman's rights, my legal advice is that, where death or serious injury occurs, other heads of statutory law prevent the workman's claim being diminished, even if, as a result of the discovery of alcohol in the blood, evidence leads to

a realisation that alcohol was causatively related to the accident.

On the ground that this amendment now avoids the administrative costs of processing blood tests from dozens of trivial injury cases, and on the ground that to be admitted a person must be reasonably seriously injured so there will be only a narrow band of cases, and given that the discovery of alcohol in the bloodstream may result in a diminution of the injured workman's claim, I ask the Government to reconsider it and not oppose it automatically because it is apparently like the amendment which was rejected in the other place.

In fact, the principal result of this measure will be the gathering of meaningful statistics in relation to alcohol-related work accidents, just as is done with road traffic accidents, but with less impact upon possible claims made by seriously injured workmen than is the case with road accident victims. The Opposition considered the question of requiring samples to be taken at post mortems. In the minority of cases, victims of work-related accidents, having been taken to a public hospital casualty department, die before being admitted, and are transferred to the morgue to await the Coroner's pleasure. A blood test taken at the time of the patient's death at the hospital would be useful.

It is a narrow band, but every workers compensation related case is reported to the Coroner, and I would be astounded if an alcohol-related pattern of injury requiring policy correction would escape the Coroner in the case of those deaths. However, enough mechanisms are in place, so we do not need to move a lot of consequential amendments to insert provisions relating to death. I ask the Government to reconsider the amendment on the grounds stated. I also ask the Democrats to consider it. It will not diminish the rights of people who are killed or seriously injured in terms of the recovery of claims and it avoids the expense of testing everyone. In addition, it will make a reasonable contribution to the body of knowledge and the understanding of alcohol-related work accidents.

The Hon. C.J. SUMNER: The Government opposes this amendment. It is important to point out, first, that three or four times a day Opposition members bleat in this Chamber about lack of consultation over issues, saying that the Government does not consult when, on most occasions, there has been extensive consultation. In any event, the Opposition is now putting before the Committee an issue about which there has been no consultation with either employer or employee groups or with the Occupational Health and Safety Commission.

The Hon. R.J. Ritson: We are groaning under the weight of this legislation day and night, hour after hour.

The Hon. C.J. SUMNER: You are hardly groaning under it: it is a reasonable program.

Members interjecting:

The Hon. Peter Dunn: All this congestion in the last fortnight.

The Hon. C.J. SUMNER: That is not true either. Do not go through that.

The Hon. Peter Dunn: Why are we here today?

The Hon. C.J. SUMNER: At the end of a session it is reasonable to expect to sit on Thursday morning and Friday in the last couple of weeks. It happens in the Federal Parliament all the time. It sits through four days a week, anyhow. Perhaps we can change the sitting times and sit five days a week—all the year.

The Hon. R.J. Ritson: Just stop grizzling.

The Hon. C.J. SUMNER: I am not grizzling. The point I am making is that there has been no consultation. There is nothing wrong with sitting on Thursday morning and Friday towards the end of the session. There is absolutely nothing wrong with that whatsoever, and to suggest that there is something wrong is ridiculous.

The Hon. R.J. Ritson: Are you opposing it because there has been—

The Hon. C.J. SUMNER: I am certainly opposing it because there has not been consultation. That is what members opposite claim every day, about six or seven times a day. It is the classic excuse why they do not want to proceed with a Bill and why they want more time to consider it. Half the reason why the program is delayed is that honourable members want to consult until the cows come home, when all the consultation has already occurred. In any event, this is not the way to approach the problem of alcohol and drug abuse. Any attempt to do this should be preventive and should be aimed at counselling and assisting employees before they get into the positions of endangering themselves. The proposal would be costly and it seems as though no-one has bothered to think about that—

The Hon. R.J. Ritson: I did.

The Hon. C.J. SUMNER: That is why injured employees may well go to their local GP instead of—

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: What is going on? He is the member who always complains about interjections. All I am getting is a tirade of mumble. Injured employees would be encouraged to go to their local GP instead of to hospital. That is another distinction that is drawn—discrimination, if you like. Those who go to hospital get blood tests and those who go to their GP do not.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: Okay. I oppose the amendment for those reasons. In any event, to lob this on us at this time, without consultation with anyone, is not appropriate. At least this Bill has been through consultation with employers, employees and the Occupational Health and Safety Commission. This amendment has not been considered by any of those bodies.

The Hon. I. GILFILLAN: As to consultation, we have not been consulted on it, although that does not necessarily mean that we do not consider it seriously. One difficulty that I see about such a major issue concerns the alcohol that caused the accident. In a majority of cases the persons who cause the accident as a result of the effect of alcohol are not the victims. If we are looking for reliable statistics we would need a much more comprehensive analysis of each accident so that there is not a distortion or a diminution of the impact of drugs or alcohol in the workplace because the victims were the only ones who were recorded in respect of being influenced by drugs or alcohol.

I believe that the campaign is a very important one. It should be directed at prevention, and I understand that the Drug and Alcohol Service Council has campaigns and resources to approach this problem. I think it is the appropriate body to tackle it. We are particularly interested in measures which will reduce the incidence of alcohol or drug-affected behaviour in the workplace, but we do not believe that this amendment is appropriate at this time.

New clause negatived.

Clause 30 passed.

New clause 31—'Regulations'.

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

Page 13, after line 11—insert new clause as follows:

31. Section 69 of the principal Act is amended by inserting after subsection (9) the following subsection:

(9a) Before a code or other document is incorporated in, or adopted or applied by, a regulation pursuant to subsection (9) (with or without modification), the Minister should, so far as is reasonably practicable, consult with any association that represents the interests of employers who are likely to

be affected by the proposed regulation, and with the United Trades and Labor Council.

This new clause is related to clause 28, which introduces a new section 63a that provides:

Where in proceedings for an offence against this Act it is proved that the defendant failed to observe a provision of an approved code of practice dealing with the matter in respect of which the offence is alleged to have been committed, the defendant is, in the absence of proof to the contrary, to be taken to have failed to exercise the standard of care required by that section.

Then there are other references to approved codes of practice. All the Opposition wants to do is to ensure that there is consultation with any association that represents the interests of employers who are likely to be affected by the proposed regulation and with the United Trades and Labor Council.

Close examination of the amendment will show that we do qualify the intention. We say that the Minister should, so far as is reasonably practicable, consult. What has prompted this is the concern that, although the national WorkSafe codes of practice are generally adopted, there are, as I understand it, in the manual handling code, some amendments which were peculiar to South Australia. We are not saying that they should not be made, but apparently there was no consultation in relation to those variations and the concern has been expressed that at least the principle of consultation ought to be embodied in the Act where it relates to the adoption of a code in accordance with the provisions of the Act. It is for that reason that I move the amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment. Section 68 of the Act requires that the Minister shall consult with the commission on any regulations proposed to be made before those regulations are made. A document incorporated in a regulation becomes part of a regulation. So, this provision already applies in that sense. The commission is made up of the very organisations with which the Opposition is promising consultation. What can possibily be the purpose of consulting them yet again?

The motivation for the Opposition's proposal apparently arose from its concern with the recent manual handling regulation. However, this regulation does not incorporate any documents. The proposed amendment would therefore not have applied in that situation. The commission's approach to the consolidation of the regulations is to delete almost all references to other documents in the regulations. This is because the Act provides for the use of approved codes of practice and it is much more appropriate to call up documents in that manner in most situations.

With regard to the adoption of nationally developed standards and codes of practice in this State, the commission has already recognised the need to streamline administrative procedures in this area, so that the national documents are adopted with minimum delay in South Australia.

To this end it will be discussing a policy proposal on this issue at its next meeting. There are no legislative barriers to the adoption of national standards and codes in terms of the Act itself. So, amendments in this area are unnecessary and redundant.

The Hon. I. GILFILLAN: On the face of it the amendment is appealing, as I had indicated to people who were involved in the commission. I am advised by them that consultation does take place. I must say that I was not approached by any representative to look at this as a matter of concern. I believe that one of the criticisms—and I did not hear the Attorney-General's full explanation—was that it would further delay the implementation of codes and procedures that should be adopted as rapidly as reasonably could be expected. Under those circumstances, the Democrats oppose the new clause.

New clause negatived.

Title passed.

Bill read a third time and passed.

TRUSTEE COMPANIES ACT AMENDMENT BILL

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

Clause 3, page 1, after line 15—Insert paragraphs as follows:

(aa) by inserting after the item—

ANZ Executors & Trustee Company (South Australia) Limited

the item—

Austrust Limited;

(aaa) by striking out the items—

Elder's Trustee and Agency Company of South Australia Limited

Executor Trustee and Agency Company of South Australia Limited

and substituting the item—

Executor Trustee Australia Limited;.

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

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

This is a simple amendment made in the House of Assembly at the request of what was Elder's Trustee and Agency Executor Company of South Australia Limited. It has changed its name to Austrust Limited. This amendment gives effect to that change.

The Hon. K.T. GRIFFIN: I support that amendment. It is only to record the change of names of two companies which are already recognised in the Trustee Companies Act.

Motion carried.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

SUPERANNUATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 2268.)

The Hon. L.H. DAVIS: The Bill to amend the Superannuation Act provides for a number of so-called technical amendments. Members will recall that there was a major reworking of the South Australian public sector superannuation scheme back in 1988, and these amendments seek to redress some of the problems that have arisen out of that very extensive examination of the superannuation scheme. At the time the scheme was adjusted, members will recollect that it was described as the most generous superannuation scheme in the world. Since that time, the scheme has been adjusted.

The old scheme was closed off—effectively frozen—in mid 1988 and the new scheme commenced operations in July 1988. So, it has been in operation for some 2½ years. The new scheme is much more akin to those operating in the private sector and offers much more flexible and acceptable alternatives to public servants who are retiring. Because of its flexibility, it is attracting more public servants to join it. The old scheme was certainly punitive, particularly of younger people, who were deterred from entering the scheme.

The Superannuation Act of 1988, which established the South Australian Superannuation Fund, specified the rules for Government employees. This amending Bill contains a number of features which I think will be generally welcomed by members. Certainly, it has received the endorsement of

the Life Insurance Federation of Australia, which has examined the Bill and believes that it tightens up on some of the provisions of the Superannuation Act.

One of the critics of the Public Service Superannuation Act has been the Auditor-General. Indeed, in the annual report for the year ended 30 June 1990 on page 13 he says:

In April 1988, Audit first raised with Treasury the matter of reporting the State's accumulated liabilities for superannuation and long service leave. Last year's report indicated that progress has been slow in attending to this matter. In July 1990, the Under Treasurer has provided a positive response to address the issues raised by Audit, indicating his intention to develop a planned program with a view to providing information in the 1991 Budget Papers.

On page 14 it states:

Treasury accounting arrangements provide for the recognition in departmental accounts of the annual accrued liability for contributors employed currently. The South Australian Superannuation Fund is an unfunded scheme, that is, the employer, in this case the Government, only makes a payment when a pension benefit is actually payable. In consequence, this form of funding defers the employer's liability until a benefit is due. It is the extent of this deferred liability that is not identified in the Treasurer's financial statements.

Further, as from 1 January 1988 the Public Sector Employees Superannuation Fund came into operation as a result of the 3 per cent productivity benefit (a decision of the Arbitration Commission). The scheme is a non-contributory scheme but will result in accruing costs to the Government, and it was not possible to provide an accurate assessment of the Government's present accumulated liability with respect to superannuation.

With respect to the last point, reference was made to the Treasury information paper 'The Finances of South Australia' (published August 1988) in which a figure of about $2 billion, (June 1987 price levels) was used in respect to all State schemes. That calculation represented the present value of accrued future benefits already accrued in respect of prior service, less value of employees contribution, that is, SASFIT (South Australian Superannuation Fund Investment Trust) assets.

That is a very appropriate summary of the concerns of the Auditor-General, and indeed of the Liberal Party, that these accruing liabilities had not been properly identified: that in an open ended, unfunded scheme, we were creating a liability for the future which will be a burden for generations hereafter. I am therefore pleased to see that clause 4 amends section 21 of the principal Act to provide that in future the cost of the scheme to the Government at the time of making the report and in the foreseeable future and the ability of the fund to meet its current and future liabilities must be stated.

In other words, the Government has recognised quite properly that the actuary must report on the long-term costs of the scheme. I think that certainly strengthens the accountability and financial management of the State's accrued and future superannuation liabilities.

I now want to address clause 10, which amends section 30 of the principal Act. It deals with rehabilitation of disabled pensioners and, again, I would support this provision, which has as its aim the rehabilitation of more disabled pensioners and which will, hopefully, result in fewer terminations of employment on the grounds of invalidity. I indicate to the Attorney-General that I will have some questions on this in Committee but, to facilitate proceedings, I am quite happy for those questions to be taken on notice.

The other matter that I want to address is clause 19, which provides, through schedule 1a, for the amalgamation of other public sector schemes into the South Australian Superannuation Fund Investment Trust. I find that a curious provision, in some ways. I accept that there are a number of small funds, and I should be interested in identifying them and their current assets. I understand that many of these funds are run through the private sector. I would be interested to know whether it is the Government's intention that they be absorbed into SASFIT at some future time. Also, perhaps it is not inappropriate—although it is not directly germane to this Bill—to ask how the Government operates SASFIT. As the Attorney-General would know, I have been a long-time critic of the investment management and investment priorities of SASFIT.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: I am pleased to say that, as I understand it, at least part of the South Australian Superannuation Fund's investments are now tendered out to private management. That is a positive measure. In response to the Attorney-General's interjection, I point out that for a decade I have been arguing the merits of more investments in equity shares. The Attorney would know that I have had an interest in that matter for some time, but he also should know that the Hon. Don Laidlaw and I have both argued this point: that, of all the major superannuation funds in Australia, the South Australian Superannuation Fund Investment Trust stands alone in having such a small percentage of its fund in equity shares. I think that the figure is just two or three per cent.

The Attorney-General thinks that he has the answer. As I have said to him before, he may well be a good Attorney-General but he is fairly limp when it comes to financial matters. The fact is that, if he had invested in equity shares over the past decade during which I have been arguing, he would have been well in front, notwithstanding, as the Attorney has correctly said, the very sharp fall in equity share prices over the past two or three years.

The Attorney-General will be surprised to discover that many shares are well ahead of the low point they experienced directly after 1987 and, indeed, are ahead of the high points they experienced prior to the crash of October 1987. One point I should make to the Attorney-General, which may come as a surprise (as it certainly did to me), is that there are no South Australian shares at all in the share portfolio of SASFIT. I know that that is not pertinent to this debate, and I do not wish to develop that argument further.

In conclusion, the public sector funds are trying to obtain tax exemptions from superannuation fund tax through the High Court. Indeed, there is a Bill trailing this one through the Parliament in relation to the Electricity Trust's superannuation fund, which will seek to bring it under the umbrella and so exempt it from the superannuation fund tax which has been imposed by the Federal Government and by the 'world's greatest Treasurer'.

If SASFIT is successful in obtaining that exemption, it will, of course, not be available to private sector funds. They will be at a disadvantage. So, I accept that in some ways I am hoist with my own petard. Perhaps the argument in schedule 1a is to give the Government power to amalgamate all smaller public sector funds into SASFIT to give them protection from this superannuation tax.

This is course will be an advantage to the employees concerned, but I think that, if the Attorney wishes to use the argument of social justice as he tried to last night, he would accept that it is rather unfair for employees in private sector funds or, indeed, for Public Service employees in superannuation funds managed by the private sector, who will be affected by the Federal tax on superannuation. With those comments, I indicate support for the Bill. I welcome particularly those provisions relating to the attempt to tighten up on rehabilitation. I indicate that I will have a few questions on the matters I have discussed, which the Attorney can take on notice during the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Reports.'

The Hon. L.H. DAVIS: I indicated in my second reading contribution that the Auditor-General had noted that all public sector schemes in June 1987 prices had an unfunded liability of approximately $2 billion. What is the comparable figure for the present time?

The Hon. C.J. SUMNER: I will get that information.

The Hon. L.H. DAVIS: When does the Attorney expect the cost of the scheme to be first made available, pursuant to the amended section 21 that we are now discussing?

The Hon. C.J. SUMNER: In the 1992 actuarial review.

Clause passed.

Clauses 5 to 9 passed.

Clause 10—'Rehabilitation etc., of disability pensioner.'

The Hon. L.H. DAVIS: I have indicated that I welcome the amendment to the principal Act to strengthen the rehabilitation provisions to minimise perhaps, the number of public servants who retire early on disability pensions. Will the Attorney indicate what percentage of pensioners are on disability benefits? These figures may well be published somewhere.

Will the Attorney seek comparable figures from the major public sector schemes in other States, in other words, the number of disabled pensioners expressed as a percentage of the total number of pensioners in public sector schemes? I accept that the comparisons with other States may be more difficult because in the Eastern States in particular there are a large number of public sector schemes.

The Hon. C.J. SUMNER: For 1989-90, in South Australia, 26 people received temporary disability pensions—I am advised that, compared with other States, that is very good—and 1 110 people received invalid pensions, which again I am advised compares very well with the situation interstate.

Clause passed.

Clauses 11 to 18 passed.

Clause 19—'Insertion of schedule 1a.'

The Hon. L.H. DAVIS: Clause 19 seeks to insert schedule 1a which gives the Government the ability to make regulations to transfer the assets and liabilities of other superannuation funds to the South Australian Superannuation Fund. Will the Attorney take on notice a request to provide a schedule of those public sector funds and their assets, and will he identify those public sector funds whose superannuation is privately managed by private sector groups?

The Hon. C.J. SUMNER: The intention with respect to the absorption of small claims is to close a large number of schemes operated by small hospitals which have been closed since their incorporation under the Health Commission Act. There are about 65 such small schemes belonging to hospitals and health centres. Generally, there are fewer than 20 members in these schemes. They are all private sector schemes, but their administrative costs are higher than State costs. Under the State scheme, members will be better off in terms of benefits.

The Hon. L.H. DAVIS: Is it intended to take over the Electricity Trust of South Australia's superannuation scheme?

The Hon. C.J. SUMNER: No.

The Hon. L.H. DAVIS: Does the Attorney accept my argument that the public sector is seeking to obtain an exemption from the Federal superannuation tax which is not available to the private sector? Does he see that as discriminatory, and does the South Australian Government accept that as social justice?

The Hon. C.J. SUMNER: There is a distinction, as the honourable member knows, but I am advised that it is not of great detriment to the private sector. Tax is still paid by the superannuant. In the case of the State fund scheme at the time that they receive the benefit in the private sector, the tax is paid up front. The State Government does not believe that it should provide that sort of windfall—that it should have to see that sort of money lost to the Commonwealth up front when, in any event, the tax is paid ultimately.

The Hon. L.H. DAVIS: What amount of the South Australian Superannuation Fund assets are currently put out to the private sector for management? Perhaps details of those arrangements could be obtained, if it is commercially appropriate.

The Hon. C.J. SUMNER: I will take that question on notice.

Clause passed.

Title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 5)

Adjourned debate on second reading.

(Continued from 5 December. Page 2347.)

The Hon. I. GILFILLAN: In speaking to this Bill, which attempts to make quite substantial variations to the cost of registration of certain categories of motor vehicle in South Australia, I would like to pay a tribute as regards a survey conducted by United Farmers & Stockowners of S.A. Incorporated. It was a responsible and thorough attempt to seek facts upon which to make observations and recommendations on this issue. Of course, it is a matter in which the UF&S is rightly involved because, almost without exception, its members would be those who own vehicles attracting a concession on the cost of registration.

As one who has had many years involvement with the rural sector, it comes as a source of complete amazement to me that there was any serious attempt to discredit agricultural primary producer use of vehicles under two tonnes that attract this concession—usually called 'utes' and, latterly, four-wheel drive vehicles. Anyone who has had any experience at all—not necessarily just those who have lived or worked as farmers—would recognise that the various roles of a farm vehicle *apropos* general use and contribution towards financial advantage to the farm itself are virtually inseparable. Even the private car is often used at the weekend or in the evening to carry goods and produce that is essential for the proper conduct of a primary product property, a farm. The allegation that there were substantial abuses of this concession and the attempt to pervert the whole system of fair recognition of concessions to primary producers, because of this suspicion that there were areas of abuse, were totally ill-conceived.

The limitation that it would apply only to vehicles under two tonnes is also equally stupidly conceived. At a time when we are encouraging the use of lower fossil fuel consuming vehicles, to make this arbitrary distinction that any vehicle over two tonnes is assumed to be above imputation as far as being a *bona fide* primary producer vehicle and that any vehicle under that weight is not, is totally illogical. Also, where there is the option, it will push the primary producer into buying and using a heavier fuel consuming vehicle.

The assumption that only vehicles over 2 tonnes are required for managing a property reflects how totally remote and detached are the designers of this legislation from the way farms are run. Most of the day-to-day work on a farm

is done using a vehicle which may carry up to half a tonne. They are used for the surveillance of stock or for carrying fodder or material for fence repairs. Anything more than half a tonne carrying capacity is unnecessary.

Even if there were shown to be some abuse of this privilege, it is totally unjust to penalise all primary producers. It must surely be an inarguable position of justice that the abusers should be tracked down, identified and, if need be, prosecuted for giving inaccurate or deliberately deceitful material in seeking to have their vehicle registered. It is hard for me to express my amazement that a Government can seriously put forward this measure, not only with all the flaws that I have pointed out but when considering that a major industry in South Australia is struggling to get through the tightest economic times in my memory.

In the current economic climate, any concession, however modest, or cost cutting is critical to the farming community, so how a Government has the gall to bring in this measure at this time leaves me flabbergasted. It either indicates total insensitivity to the situation of people living on the land or makes hypocrisy of the Government's avowed care and concern, when at the same time it is blithely imposing an extra cost.

It would give me a great deal of pleasure if, with no other justification, and considering how illogical this measure is, the Government recognised the insensitivity of its position and the parlous state of primary industry in South Australia and decided not to proceed with this legislation. That would be to its credit. I indicate that the Democrats steadfastly oppose the Bill. I have concentrated my remarks on the area about which I feel most aggrieved and outraged. Other areas in the Bill should and could be criticised, and I recognise that the Hon. Diana Laidlaw has a series of amendments on file. Those matters will be raised in Committee.

I do not hesitate to describe this measure as a scandal. Although the State is in a rural crisis, the Government has the hide to introduce legislation to cut a relatively minor but much appreciated concession on the cost of registering primary producer vehicles. The Democrats steadfastly oppose the Bill in that context. If we are unsuccessful in dramatically amending the Bill, and I am optimistic that we will not be, I indicate that we will oppose it at the third reading. However, for the sake of debate and amendment, I indicate that we will support the second reading.

The Hon. PETER DUNN: I have only a little to add to the debate, as almost everything has been said. However, I would like to bring forward a couple of things that I do not think anyone has addressed. Why was this concession introduced originally? It related to vehicles on which sales tax was not paid. I was not paid because such vehicles were used for productive purposes, especially in the export industry. It was an area where there was no way of recovering costs. People living in country areas drive on dirt roads most of the time. For 60 per cent of the time vehicles are driven on the farm. The present Government has forgotten that.

The Government seems hell bent on sucking money from the country in order to deposit it in the city. The Bill does that. It puts an impost on country people and most of those funds will end up in the city. As the Minister said, concession registration fees will be brought up to the level applying elsewhere in the State, that is, in the city. He claims the money will go to building roads. I believe that those funds will come back to the city at a rate of 50 per cent. About half of each dollar spent on road-making is spent in the city. Primary producers do not live in the city. The concession rate for primary producers is $60 a vehicle. I cannot declare an interest in this matter as I do not have a primary producer concession registered vehicle. My own vehicles are not eligible, as I have a couple of old cars. However, anyone with a utility or a vehicle under two tonnes who is eligible can obtain a concessional registration fee. The full fee is now $120. Of the $60, $30 will come to the city and the other $30 is proposed to be spent in the country.

The Minister has not yet got the money. It is only a proposal. I suspect that he will not spend those funds in the country. Half of it will go to administration in the Highways Department building. The Bill is deceitful and is unnecessary. The concession registration fee was introduced to assist people who pay a huge sum more than others for their fuel. Because they live in the country, they have no control over that. They must pay much more for all their other services as well. The Minister has an argument that it costs more to keep people in the country.

I loved his argument about electricity, that it is easier and cheaper to supply it in the city. Where is much of the electricity generated in this State? It is generated at Port Augusta and it costs a fortune to get it to Adelaide. The Minister should think again about where he gets most of his energy. The problem facing the rural community is that it cannot pass on its costs, and that is what this Bill is about. It is fine for someone in the city—

The Hon. Anne Levy interjecting:

The Hon. PETER DUNN: That is absolute nonsense. They can go to the commission and get a wage rise. What did the teachers do the other day? They went to the commission and got a wage rise. What do I do? Who pays my bill? It is the Russian, the Chinaman and the Egyptian—

The Hon. Anne Levy: Why don't you stick to one job when you are elected?

The ACTING PRESIDENT (Hon. T. Crothers): Order! The Hon. Mr Dunn will please address the Chair.

The Hon. PETER DUNN: Thank you very much, Mr Acting President, for your direction. The Minister asks why I do not stick to one job. I just happen to do so. When I am farming I cannot pass on the costs. I take what I am given. I am the only silly mug who pays for my goods to come to Adelaide. If I send sheep to Adelaide I pay the freight. When I get all the things back to run my property, chemicals or fertilisers or whatever, I pay the freight. When I send wheat or wool off the property, I pay the freight to get it to the city. Then I pay for all the things to produce that wool or wheat. Really and truly, the primary producers are the only silly devils who pay both ways. The city person does not pay for it, not on your sweet bippy.

An honourable member: You get a tax break on your working dog for food.

The Hon. PETER DUNN: Yes, when I buy some food for my hound, there may be a small tax concession as a primary producer. Generally, it is on your victuals bill from the local store and, therefore, you do not get a concession. There is no way of passing on the bill. Export incomes have dropped some 40 per cent this year. It would be very interesting to see what would happen if salaries dropped 40 per cent in the city. This Bill is adding a cost that is really not necessary at this time. We are in probably as bad a recession as we were in the 1930s, and it really has not hit the city yet. Last year some $400 million worth of produce came from the Peninsula, from wheat, sheep, plus the money from fishing, and not much from beef. Of the, say, $350 million to $400 million produced over there, about $280 million came back here in debts and was paid into the city and it went around this area, paying our salaries and the

salaries of other people in this city who provide services to the people in the country.

It just so happens this year that their ability to pay has dropped off about 40 per cent. In fact, it is probably higher than that. We will find that, instead of that money going to the city next year, it will go the other way. Believe you me, the depression has not hit the city yet, and when it does there will be a lot of bleating. I do not think this Bill does anything to assist those people who are finding it rather difficult.

Furthermore, there are some terrible anomalies in the Bill. What happens to the person who lives in an unincorporated area? At the moment, if I am a bank clerk, school teacher, stock agent or whatever, if I live in the country and have a private car I will pay $60 on my car for the registration in recognition of the fact that there are no bitumen roads in the area that have had to be paid for. So, he pays that $60. The primary producer next door to him pays, say, $40 at the moment for his vehicle, but he will go to $120. So, the primary producer who lives in the unincorporated area, or for that matter Kangaroo Island, will be paying $120 for the registration of his utility and $3 stamp duty.

The Hon. Anne Levy: They don't register.

The Hon. PETER DUNN: That is how much you know, and you are the Minister handling this. It is just as well there is not a group of farmers out there demonstrating or they would tear you to bits. Honestly, this is a terrible discrepancy. The Minister who put the Bill up in another place did not know that this was occurring. That is quite obvious from reading the debate. Obviously, he did not know that a discrepency could occur on Kangaroo Island or in the unincorporated areas. They all register; they have to register. You cannot drive your car on the road unless it is registered.

Members interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): Order! I call the Council to order. The Hon. Mr Dunn has the floor.

The Hon. PETER DUNN: This demonstrates clearly how ill-informed the Govenment was when it rapidly thought up this scheme to get a couple of million dollars into its coffers. It has not given it full thought at all. As has been said previously, a public servant probably thought that it was a grand idea to cut costs or add a bit to the coffers. The Minister himself said that the Government is under financial pressure. In fact, *Hansard* of last Tuesday records him as follows:

> In a financial climate in which the State Government has a declining income . . .

That explains perfectly what I was talking about earlier. All of a sudden he has decided that his income is falling, so what is he going to do? He will try to get if from someone whose income is falling even more rapidly. For a Government that likes to redistribute the income, it has got it wrong this time: it has got it back-to-front.

It would be much better if this Bill was withdrawn and the concession for primary producers stayed as is. But, it is not only primary producers: a great plethora of others have had that benefit because they do not use their vehicles very much, or for other reasons. For instance, district councils will now have to pay. I have never heard so much nonsense in all my life. It is like Caesar taxing Caesar. Does the State Government pay the Federal Government, or does the Federal Government pay registration for its vehicles that are running around this State? No. But, because the State Government can wield a bit stick over local government—

The Hon. Anne Levy: Come off it! I thought you believed in a level playing field.

The Hon. PETER DUNN: I do. But, the Commonwealth Government does not pay registration fees to the State.

The Hon. Anne Levy: It does not collect rubbish in competition with private contractors, either.

The Hon. PETER DUNN: Come off it! This is for road vehicles. Who collects rubbish in competition in the country areas? If the Minister wants to use that argument, she has to make it fit.

The Hon. Anne Levy: If you want a level playing field you have got to have a level playing field.

The Hon. PETER DUNN: The Government wants to tax its own people. If it is Caesar taxing Caesar, so be it. But it should tax the Federal Government, which uses the roads just as much, if not more: there are more red Cs running around out there than we can poke a stick at.

Members interjecting:

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

The Hon. PETER DUNN: The Minister really does not understand what she is talking about. She is totally inept at this argument.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Dunn has the floor. The Minister will have the right to enter the debate at the appropriate time. The Hon. Mr Dunn.

The Hon. PETER DUNN: The Government really does not understand the Bill. It has not thought it through—that is typical. It has come in at the last five minutes. It was interesting to hear the Attorney-General, a moment ago, say that we were bleating because we did not have time to consult. I can tell him that the Government and the department have not consulted in relation to this Bill. So many discrepancies have been caused by its introduction. However, we have amendments on file that will fix that up. As I said, people should not have to pay a high registration fee for vehicles that are not used on the roads very much but they will be cobbled together under this Bill and will have to pay full tote odds. I think that that is wrong and unjust.

This Government will do anything to raise money, it will do anything to milk the rural industry, and it has milked the cow so dry and failed to feed it that it is now about to die on it. It will not take very much more of this impost of taxes and charges before we re-experience the 1929 to 1935 situation—and I believe we are well into that now. To introduce this sort of Bill at this time in Australia's history, when finances are so low, is not on. The Minister would not understand it. Her salary has continued to go up and my salary has continued to go up, but she should go to those in primary industry and see what is happening to them and how they are bleeding. They cannot just say, 'I will get unemployment benefits. I will just leave my house,' like people here do. If they lose their job, they always have a house, but if you lose your farm where do you go? What do you do?

The Hon. Anne Levy: It is easy to say, 'I'll leave my house,' isn't it? People can sleep in the streets—

The PRESIDENT: Order! The honourable Mr Dunn.

The Hon. PETER DUNN: Don't talk such nonsense! You can get unemployment benefits. You can't get unemployment benefits if you are unemployed on a farm. The Minister's argument does not count.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! The Hon. Mr Dunn has the floor. I would suggest that the debate would go much easier if the Hon. Mr Dunn addressed the Chair.

The Hon. PETER DUNN: I think that the Minister must have a guilty conscience, because she is interjecting quite a lot, Mr President. I think her conscience is pricking her quite a bit, actually.

Members interjecting:

The PRESIDENT: Order!

The Hon. PETER DUNN: The Bill is not well thought out: it is counter to what ought to be happening at the moment with a little concession going to those people who have to pay high fuel prices, high electricity charges, high taxes and charges, high local government rates and all the rest of it. It does add an enormous cost to those people who live in the bush. When you think about it, that money just comes back into the city, and that really does hurt.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. DIANA LAIDLAW: I oppose this clause. The Bill seeks to strike out the definition of 'prescribed registration fee' and insert a new definition, which provides that a fee is not described in the regulations as a reduced registration fee. It also seeks to delete the references to 'primary producer' and to amend the reference to 'reduced registration fee' to mean a fee described in the regulations as a reduced registration fee.

There are a number of reasons why the Liberal Party opposes this measure. First, with respect to primary producers, we do not accept the Government's move to toss out the interpretation of 'primary producer' from section 5 of the Act, because essentially that would mean that we would lose the opportunity under later amendments to continue to refer to primary producers in the Act being eligible for receiving a 50 per cent reduction on registration fees for all their commercial vehicles, including vehicles of 2 tonnes mass and less. As members who have taken an interest in this matter will appreciate, the Government proposes to change the concessional arrangements for primary producers to ensure that primary producers no longer enjoy such benefits.

So, the arguments about primary producers, which are certainly incorporated in later amendments, must also be discussed and considered in this amendment. The Hon. Mr Gilfillan, having indicated in his speech that he did not wish to see the loss of the 50 per cent concession for vehicles of less than 2 tonne mass, must logically also oppose clause 3; otherwise, we will lose all opportunity to ensure that within the Act we can maintain specific reference to the fact that primary producers enjoy the tonne mass of their vehicles and a concessional registration fee.

Flowing from that, we do not accept that there should be reference in the regulations to reduced fee and no fee registrations. We believe that they should all be incorporated in the Act, so we are moving to oppose the Government's efforts to redefine reduced fee and prescribed registration fee provisions. It would be illogical for any member of this place who sought to support the primary producers in this argument to find that we ended up with primary producers being the only group within our community who remained under the Act as enjoying a benefit. Therefore, we must ensure that all the other groups in our community who currently enjoy that benefit continue to enjoy it. We must ensure that their benefit for a reduced or no fee continues to be incorporated in the Act rather than shovelled off to the regulations, where we would lose all opportunity in the future to discuss matters (as we are discussing these specific examples of registration fees for primary producers, prospectors and local councillors) on their individual merits. So, although our amendment to oppose this clause may seem technical, it is, in fact, a key amendment to all the other arguments presented in this debate so far.

The Hon. ANNE LEVY: I think that, in debating this clause, it is worth discussing primary producers, as they have been mentioned by speakers in the second reading debate. Various members have put forward what I consider to be specious arguments. I do not think anyone can argue that there is not misuse and abuse by primary producers of the current system. Anyone who has anything to do with the area of motor registration would be well aware that there is misuse.

The Hon. Peter Dunn: You show us.

The CHAIRMAN: Order!

The Hon. ANNE LEVY: Some of this is within the letter of the law. A person who resides in the city can register a utility on the basis that he or she is a primary producer and owns a farming property. There are many Rundle Street farmers, as I am sure honourable members know.

They get the primary producers concession on their utility, but that vehicle never leaves the city and is never driven on a country road or a dirt road. This is not right, and action needs to be taken to prevent this misuse of the existing law. During his second reading speech the Hon. Mr Dunn asked some questions regarding the unincorporated areas. I can assure him that, considering registration and insurance costs—and there is no point in looking at one without looking at the other, as the two go together, and you cannot get one without the other—a primary producer who has a Holden utility currently pays $106. Under the provisions of this Bill, he will pay instead $166 per annum.

The Hon. Peter Dunn: Registration?

The Hon. ANNE LEVY: Registration and insurance.

The Hon. Peter Dunn: This does not address insurance.

The Hon. ANNE LEVY: But I am considering the cost of the two, because when anyone registers a vehicle they must pay insurance as well, and it is the total cost that is of concern to the person who is obtaining a new registration disc.

The Hon. Peter Dunn interjecting:

The CHAIRMAN: Order!

The ANNE LEVY: As I say, a primary producer who now pays a combined tariff of $106 will, under this legislation, pay $166. People in the unincorporated areas currently pay $207 for insurance and registration for a Holden utility. That will not be altered by the passage of this legislation. The big advantage of the primary producer over someone in the unincorporated areas will remain, although it will diminish somewhat.

Instead of being $101, the difference will be $41. Nevertheless, the primary producer will still have an advantage over the person in the unincorporated areas. So, it is pointless for the Hon. Mr Dunn to pretend that it will be otherwise. At this stage, I point out that all revenue from the motor registration source goes directly to the road fund. I am sure everyone understands that, but I wish to re-emphasise it in case it has slipped anyone's mind.

The decision to rationalise the concessions which previously have operated was part of the Government's 1990 budget package. It does not single out primary producers. Many different concessions are affected, and primary producers cannot pretend that they alone are being singled out and made victims. Other people are also affected. Furthermore, the implementation of this Bill will result in abou an additional $3 million in a full year—not this financia year—going to the road fund.

If the Bill is amended as proposed by the Hon. Ms Laidlaw in such a way as significantly to reduce the resulting

revenue, this will mean that the road fund will be less than it otherwise would be and the Government will have no alternative than to reduce roadworks by a corresponding amount.

Members interjecting:

The CHAIRMAN: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: The Bill does not single out primary producers or any other sectors of the community but is part of a carefully constructed package taking account of the whole range of matters that were considered by the State Government in formulating the State budget. It was announced as part of the budget; it is part of the budget package that included many different matters apart from motor vehicle registration. The change that is suggested results in a small increase of only $1.15 per week for primary producers, and I would suggest that this is a small contribution to make towards the maintenance of country roads. If this Bill is not passed, the road building program will have to be curtailed by the resulting loss of revenue, and if anyone complains to me or to the Minister about a reduction in the road building program I will direct them immediately to the Hon. Ms Laidlaw and the Hon. Mr Dunn.

The Hon. DIANA LAIDLAW: I think the trivia we have heard from the Minister is just beyond belief. The Minister knows full well that this Government, of which she has been a key member for some years, has been responsible for the greatest loss of funding for our roads in the metropolitan and country areas of this State because of its decision in 1982-83 to freeze fuel franchise at a level of $25.7 million, and in money terms it has not increased above that sum. There was no allowance—it has not been indexed above that $25.7 million since 1982-83—yet fuel excise receipts which the Government has reaped from road users and particularly from country users over that time have increased from $25.7 million in 1982-83 to an estimated $81.4 million this financial year. That is a loss in money terms, not even real terms, of $55.7 million that the Government has taken from roads in this State.

What we see today is a mere 31.6 per cent of funds being used for roads. The Minister would know that country users, who are without access to public transport and will certainly be without access to railways in the near future, are so dependent on their car and, therefore, petrol, and they are great contributors to the fuel excise receipts in this State, yet the Government is returning only 31.6 per cent of those funds to roads, so the hypocrisy of the Minister to stand up here and suggest to any person who would oppose this hideous impost upon primary producers that they are depriving country people of funds for roads shows further insensitivity; I did not think even the Minister would seek to acknowledge that she or the Government were so heartless. I seek leave to have inserted in *Hansard* a statistical table that shows the fuel franchise receipts and funds provided to the Highways Department for road works for the years 1982-83 to 1990-91.

Leave granted.

Year	Fuel Franchise Receipts $m	Highways Department share of Fuel Franchise Receipts $ m	%
1982-83	25.792	25.726	99.7
1983-84	38.569	25.726	66.70
1984-85	48.487	25.726	53.05
1985-86	46.448	25.726	53.38
1986-87	47.285	25.726	54.40
1987-88	67.470	25.726	38.1
1988-89	76.425	25.726	33.7
1989-90	77.881	25.726	33.0
1990-91 (est.)	81.400	25.726	31.6

The Hon. PETER DUNN: Of the $2.977 million proposed to be gained by this measure, how much is insurance money?

The Hon. ANNE LEVY: Obviously, none. This is registration money only that is collected by the Government, as I am sure the honourable member is well aware. I mentioned registration and insurance because anyone who tries to register a vehicle must pay both simultaneously. They are well aware of this: it is the total cost of the two charges which is relevant to a person who wishes to register a vehicle. I fail to see that it would please people to pay motor registration of 1c and insurance of $1 000; they would complain about the cost of getting their vehicle on the road. So, it is the total cost of the two charges which is relevant to persons trying to get their vehicle on the road. I want to comment on a remark by the Hon. Ms Laidlaw about the fuel franchise and its effect on the cost of fuel in South Australia. When the Government—

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: She complains when I interject and then proceeds to do it back.

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order! The Hon. Minister.

The Hon. ANNE LEVY: I do not complain when she interjects. I am merely pointing out that she complains bitterly when I interject and then proceeds to do it herself.

The CHAIRMAN: Order! Interjections are out of order. The Hon. Minister.

The Hon. ANNE LEVY: When the Government was framing the last State budget, rather than rationalising the concessions on registration it could have left them as they were and increased the fuel franchise. That would have been another way of raising money for the road fund, particularly as every other State except Queensland raised its fuel franchise in its recent State budget.

In relation to the idea that the Government did not want to hurt the metropolitan area, this Government is the only one in Australia which has a price differential between metropolitan and country areas in what is charged to the benefit of country people. There is a 2c per litre difference for anyone who lives more than 100 km from the metropolitan area and a 1c per litre difference for anyone who lives between 50 and 100 km from the metropolitan area. If that is not consideration for country people and the disadvantages that they suffer I do not know what is.

To suggest that we did not want to change the franchise because it would disadvantage the metropolitan area is absolute nonsense. We have this system which benefits country people. Consequently, as part of our total budget package, we did not change the differential between country and city but instead moved to remove anomalies in registration concessions which, if members opposite are honest, they will admit are being rorted by some people. It is time that such rorts were stopped!

Their cries regarding this matter remind me very much of the cries of some of their fellow Party members in Canberra when attempts were made to stop tax rorts. There were cries of, 'Prove that there are tax rorts.' When the tax system was tightened up so that tax rorts were removed and prevented, millions of dollars more came into the Federal Government's coffers from people paying tax which

they had previously avoided paying through their income tax rorts. Likewise, there are rorts with the concessions for motor vehicle registration. This legislation will remove those rorts and prevent there occurring. Anyone concerned about justice and about paying proper dues and not rorting the system should support this Bill.

The Hon. PETER DUNN: I would like to take up that last point. When applying for registration for concessional or reduced registration, one must sign a statutory declaration. I do not expect the Minister to understand that: that would be a bit beyond her, because she has probably never had to do it. A statutory declaration must be signed saying that the vehicle will be used for primary industry.

The Hon. ANNE LEVY: On a point of order, Mr Chairman, I have signed many statutory declarations in my time. To suggest that I do not know what they are, I find grossly insulting.

The CHAIRMAN: I do not think it is a point of order, but I think the honourable member will recognise the point that you have made.

The Hon. PETER DUNN: But the Minister has never signed a statutory declaration to obtain reduced registration. If there have been rorts, I have seen nothing in the press about people rorting the system. If the Government knows of rorts, why does it not take them to the courts and duly deal with them? If people are signing statutory declarations that are not accurate, the Government has every right to take the appropriate action. To use this sledgehammer approach to crack a nut is just ridiculous. Furthermore, the Minister, in responding to my question about the $2.977 million, said that none of that $2.977 million saved had anything to do with insurance. That is a totally specious argument, and the Minister knows that: I can tell by the expression on her face.

Would the Minister be prepared to dedicate the $2.977 million, or whatever portion of it comes from the country—if she can determine that (and I suggest that that would be difficult)—to country roads? I suggest that 90 per cent of that money from primary producers comes from the country; I doubt whether 10 per cent would come from the city. However, if there is 90 per cent from the country, it ought to go back to country roads and not be spent on city roads. A sum of $8 million has just been allocated to upgrade 3 km of road at Flagstaff Hill. We are dealing here with a miserable $3 million in a total State budget of about $4 billion.

The Hon. ANNE LEVY: It is a pity that the Hon. Mr Dunn did not listen to what I was saying. I very clearly said that many of the rorts are legal ones.

The Hon. Peter Dunn: No, you didn't. You look at *Hansard* tomorrow.

The CHAIRMAN: Order!

The Hon. ANNE LEVY: I suggest that the honourable member look at *Hansard* tomorrow.

The Hon. Peter Dunn interjecting:

The Hon. ANNE LEVY: I did!

The CHAIRMAN: Order!

The Hon. ANNE LEVY: It is in my notes, and you can read *Hansard* tomorrow. The example I gave was about the Rundle Street farmer who obtains the primary production concession for a vehicle which never leaves the city, and I regard that as a rort. I am sure other people do too. It is a perfectly legal rort at the moment; it is not a question of taking someone to court.

The Hon. Peter Dunn interjecting:

The CHAIRMAN: Order!

The Hon. ANNE LEVY: If someone is a primary producer, they can get that concession. The aim of this legislation is to remove that availability of a legal rort so that it will no longer be possible for people to get it.

The Hon. J.C. BURDETT: I support the amendment moved by the Hon. Diana Laidlaw. I really was appalled by the Minister's first contribution. First, she pointed out that the primary producer concession is not the only concession removed. Of course, that is correct: the local government and the vintage and veteran car concessions are the other two principal areas, and they are addressed in other amendments to be moved by the Hon. Diana Laidlaw. The broader pattern of the budget has been mentioned, but that does not alter the fact that primary producers have been robbed of a concession that they have had for a long time. I think it is particularly insensitive to have removed the concession at this time when primary producers are being hit so hard.

The Minister has referred to abuse and to people who rort the system, but what about the people who do not rort the system? Why are they to be deprived simply because some people do rort the system? I am not sure what the statutory declaration says, but it certainly used to refer to 50 per cent of income being earned from primary production. I gather from what the Minister says that perhaps it does not now, but it could. If it is a legal rort, the statutory declaration could and should be tightened up.

In his second reading speech, the Hon. Mr Gilfillan put the case for country people very well indeed. It was pointed out that many of these vehicles are driven mainly on country roads and, of course, many of them are driven off road a good deal of the time on the primary producer's own property. Having lived most of my life in the country, although I was not a primary producer, I can certainly affirm what the Hon. Gilfillan said, that is, that this concession was very much appreciated by country people. I have noted for a very long time—for entirely non-political reasons—that this was one concession that they treasured, and certainly it has been made clear by the UF&S and other people that they very much resent having it taken away, as do I. I believe that it is quite improper that it should be taken away. If it needs to be tightened up in regard to rorts, it is not above the wit of the Government to do that—it can be done.

The other principal point covered by voting against clause 3—as advocated by the Hon. Diana Laidlaw—relates to what is described in the regulations as a reduced registration fee. I have always maintained that matters of this kind ought to be dealt with in Acts of Parliament and not in regulations. The registration fee itself will be prescribed by regulation, of course—that is acceptable and proper, and it is usual in all sorts of Acts. However, if we are to provide for a reduced registration fee, that should be done in the Act itself. In my view—and it is a view that I have held for a long time and expressed many times—anything of a major nature ought not to be relegated to regulations.

We have the subordinate legislation procedure, with the committee and with the ability to disallow regulations but, nonetheless, when you are providing for a mechanism such as a reduced registration fee, that ought to be done in the Act itself. Therefore, I support the Hon. Diana Laidlaw in opposing clause 3, which will take care of both the primary producers' situation and the regulations situation.

The Hon. ANNE LEVY: I point out that, ever since 1976, concessions have been put into regulations. While some concessions remained in the Act itself prior to that time, to move towards putting concessions back into the Act is a retrograde step. The aim should be for the Act itself to be general and all concessions to be dealt with in the regulations. To do otherwise would be a retrograde approach.

The Committee divided on the clause:

Ayes (7)—The Hons T. Crothers, Anne Levy (teller), Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Noes (10)—The Hons J.C. Burdett, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw (teller), R.I. Lucas, R.J. Ritson and J.F. Stefani.

Pairs—Ayes—The Hons M.S. Feleppa and R.R. Roberts. Noes—The Hons L.H. Davis and Bernice Pfitzner.

Majority of 3 for the Noes.

Clause thus negatived.

Progress reported; Committee to sit again.

ADJOURNMENT

At 5.15 p.m. the Council adjourned until Tuesday, 11 December at 2.15 p.m.