LEGISLATIVE COUNCIL

Thursday 7 March 1991

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

MINISTERIAL STATEMENT: NATIONAL CRIME AUTHORITY

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement on the future operations of the National Crime Authority.

Leave granted.

The Hon. C.J. SUMNER: Members will recall that on Tuesday 5 March the Government tabled the report of the National Crime Authority on Operation Hydra. As was made clear in the tabling statement, Operation Hydra is the third substantial report by the National Crime Authority in the past two years of operation of the authority's office in South Australia, which has determined that there is no evidence of systematic official corruption in South Australia. As members will appreciate, the report into Operation Hydra has significantly reduced and eliminated the quantum of allegations which provoked the Government's invitation to the authority to establish an office in South Australia.

The attention given to the Hydra report's findings on me has masked the very important finding on the South Australian police. There is no evidence that blackmail was used by the operators of vice establishments to obtain favourable treatment or protection. This includes the police. Further, there is no evidence revealed in the report of other corrupt practices in the vice industry by police.

The completion by the National Crime Authority of Operation Hydra will enable the authority to marshal and direct its investigative resources to finalise its workload of outstanding investigations. The National Crime Authority will continue to investigate and to report upon those matters referred to it pursuant to and in connection with South Australian Reference No. 2.

I advise honourable members that further detailed reports from the National Crime Authority are expected over the next several months, and that, following discussions between myself and members of the authority in Melbourne on Friday 1 March, it is anticipated that, by the end of June 1991, the National Crime Authority should, in effect, have completed investigations and reported on the residual matters under South Australian Reference No. 2.

I further advise members that the South Australian Government will provide, after Parliament resumes in the budget session, a comprehensive and final report on all matters pertaining to investigations by the National Crime Authority, Adelaide office, pursuant to South Australian Reference No. 2, conjointly with a report on investigative work undertaken by the Anti-Corruption Branch on corruption allegations related or linked to the National Crime Authority investigations, particularly in so far as these relate to the corruption allegations that were made in 1988.

I also inform the Council that the Intergovernmental Committee of the National Crime Authority has under consideration the appointment of an additional member of the National Crime Authority to be based in South Australia, pursuant to section 7 (8AA) of the National Crime Authority Act 1984.

As presently contemplated, that member, if appointed, would perform and exercise powers and functions relevant to references granted by the Commonwealth, or jointly by the Commonwealth and State (or States) including, for example, the current Commonwealth reference on money laundering. The supervision of the remainder of the work to be undertaken by the National Crime Authority, South Australian office, in respect of South Australian Reference No. 2 (which is a State only reference, funded solely by South Australia), will continue to be undertaken until completion by Mr Greg Cusack QC, the Sydney member of the National Crime Authority. As I have said above, Mr Cusack QC expects to complete these matters by 30 June, although it is possible that there will be some residual matters to be resolved after that.

QUESTIONS

BREAK AND ENTER PENALTIES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about a magistrate's rebuke.

Leave granted.

The Hon. K.T. GRIFFIN: Housebreaking carries a maximum penalty of seven years imprisonment. In the past eight years, break-ins of dwellings, coming to the notice of police and referred to in the Police Commissioner's annual reports, have increased by 121 per cent. Per 100 000 South Australians, the number of break-ins coming to the notice of police has increased from 1 594 to 2 964, or one break-in every 12 minutes now compared with one every 25 minutes eight years ago. Magistrate Liddy has featured prominently in the newspapers this week and he has obviously seen the steadily increasing procession of offenders through his court and has tried to do what he can to upgrade penalties. For courts, the imposition of penalties is the only way to try to have some influence on the problem.

Mr Liddy has now attracted publicity on at least three occasions where he has imposed higher penalties than the Supreme Court has subsequently indicated that it regards as usual, at least on the last two occasions, for this type of housebreaking offence. In the most recent case, Mr Liddy has received what the *Advertiser* has described as a 'bucketing' from a Supreme Court judge. Somewhat surprisingly, the Chief Magistrate, Mr Manos, has sprung to Mr Liddy's defence by entering the public fray. Mr Manos is reported to have said:

> It was not at all improper for a magistrate who believes that penalties are too high or too low to state this.

Mr Manos is reported to have added to his view by saying:

> Personally, I am also of the view that break and enter penalties are weak, given the enormous number of break and enters and given the enormous number of break and enters which are not cleared.

Mr Manos and Mr Liddy would, I suggest, be reflecting the views of many South Australians. In fact, as I understand, at a meeting last week in the mayor's parlour at Elizabeth the issue of sentences was raised with the Attorney-General by a group of citizens representative of that area.

One recognises that there are two ways by which penalties can be increased: first, by amending the law and, secondly, by way of appeal. I think that members will recall that last year or the year before the Attorney-General took the question of robbery sentences on appeal to the Court of Criminal Appeal in an appropriate test case. My questions to the Attorney-General are:

1. Does he agree with the Supreme Court or with the Chief Magistrate and Mr Liddy in relation to the level of penalties for beaking offences?

2. Is he prepared to take a suitable test case to the Court of Criminal Appeal on the question of sentences for breaking and entering offences?

The Hon. C.J. SUMNER: To answer the second question, I am prepared to examine with the Crown Prosecutor whether we should take a test case on appeal to deal with the question of sentences for housebreaking. Whether or not I agree with the Supreme Court or with the Chief Magistrate will, of course, become obvious after discussions with the Crown Prosecutor on whether or not there are grounds to take such a test case. I doubt whether what the Supreme Court Judge (Justice Debelle, I think) said about Mr Liddy SM constituted a 'bucketing', but no doubt that is the journalistic interpretation of what was some criticism of the magistrate.

I accept what Mr Manos says, namely, that magistrates in the course of their duties are entitled to express views as to whether or not penalties are too high or too low. But, in the final analysis, the level of penalties is set by the Supreme Court, and a magistrate is obliged to award penalties that fit within the range set by the Supreme Court.

The Hon. Mr Griffin will know as well as I do that that is the system, that magistrates are bound by decisions of the Full Supreme Court or indeed of a Supreme Court judge sitting alone in relation to the law, including an appropriate range of sentences for particular offences. Certainly, magistrates are entitled to express their point of view but, in the final analysis, they must sentence in accordance with the law and in accordance with the precedents laid down by the Supreme Court.

It is true that test cases have in the past been taken, in particular, successful ones in the area of armed robbery, and perhaps not quite so successful ones but nevertheless taken in the area of rape offences. So, appeals to test an appropriate level of sentencing are possible, and obviously from what I have said I will examine this matter in conjunction with the Crown Prosecutor to see whether or not that is an appropriate course of action in this case.

It is clear that break and enters are of major concern to the community, that the numbers have increased and that they are at unacceptable levels. In so far as penalties can affect the level of housebreaking, then the question of penalties does need to be looked at. I will do that in accordance with what I have previously said.

TANDANYA

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about the former Director of Tandanya.

Leave granted.

The Hon. DIANA LAIDLAW: I have been provided with a copy of the minutes of a special meeting of the board of the Aboriginal Cultural Institute held at the Department for the Arts on Thursday 31 January at 10.30 a.m. Under the heading 'Director's position' it is noted:

The board resolved to reiterate its decision made at its meeting on 24 January that it will not renew the Director's contract (2.5.91) and to notify him of the following:

(a) that he be directed to take his leave as from 5 p.m. 1 February 1991 (38 days) to be confirmed;

(b) that all outstanding personal liabilities to Tandanya be recouped prior to the expiration of the Director's contract (2.5.91);

(c) the board informs the Director that his position will be clarified on his return from recreational leave;

(d) the board informs the Director that all delegated managerial and financial responsibilities will be removed from him as of 5 p.m. 31 January;

(e) that the Director be instructed to return all Tandanya keys (in his possession) and Tandanya cheque books to the Chairman (Mr V. Copley) as of 5 p.m. 31.1.91;

(f) that the Director be instructed to provide a full financial report in respect to the Edinburgh trip which shall include options for the recovery of the overrun of expenses. This report to be available by close of business Friday 1.2.91;

(g) that the Director be instructed to return the personal computer (purchased in Singapore on behalf of Tandanya) to Tandanya forthwith or pay the purchase price to Tandanya;

(h) further, that the Director be instructed to meet with Tandanya executive at 9.30 a.m. 11.2.91 to address and carry out these directions.

On 13 February the Minister said she expected the report on the costs of the trip to Edinburgh within a week. Yesterday, she said she was still awaiting such a report, which is now being prepared by the administrator. These revelations reveal that Mr Tregilgas did not meet the board's instructions (point f) that he provide by the close of business on Friday 1 February a full financial report in respect of the Edinburgh trip, including options for the recovery of the overrun of expenses. Therefore, it is reasonable to question if Mr Tregilgas met the board's other instructions, and I do so. I ask the Minister:

1. Did Mr Tregilgas immediately return to Tandanya the personal computer purchased in Singapore in August/September on behalf of Tandanya or immediately pay to Tandanya the purchase price and, if not, what action is being taken to recover the computer or the sums owed to Tandanya?

2. As at 31 January (the date of the special meeting), what was the value of all Mr Tregilgas's outstanding personal liabilities to Tandanya, and do these liabilities relate to advances on salary or to funds borrowed from Tandanya for personal use or to accounts for entertainment expenses incurred by Mr Tregilgas which Tandanya now deems to be personal expenses more appropriately paid by Mr Tregilgas, not taxpayers generally?

The Hon. ANNE LEVY: As I understand it, the previous Director of Tandanya did return the keys, cheque books and computer by the close of business on 1 February. I understand that the computer was further borrowed by another employee of Tandanya who has since been dismissed. He was asked on his part to return the computer to Tandanya and has done that since he was requested to do so, but he borrowed the computer without authority to use at home whilst still employed at Tandanya.

With regard to the value of personal liabilities that Mr Tregilgas has to Tandanya, I am not aware of the nature of or the reason for them—in other words, into what category they come. However, I have been informed that, as far as the administrator can tell at the moment, Mr Tregilgas still has debts outstanding of $836, which relate to the Edinburgh trip, and a further $447 since returning to Adelaide, giving a total currently owed by Mr Tregilgas of $1 283. However, the administrator is still working on the accounts (or lack of them) at Tandanya, and attempting to put some sort of order into the accounts and financial situation at Tandanya.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: He has indicated to me that he expects that it may be the end of March before he will have a more reliable estimate of just what the financial situation is at Tandanya.

The Hon. Diana Laidlaw: It is still an estimate.

The Hon. ANNE LEVY: It is still an estimate only, because he is unable, from the lack of records which he has found, to do other than make guesstimates at the moment,

but he is attempting to do what he can to put some order into the accounts at Tandanya.

With his complete concurrence and that of board members of Tandanya, I have today announced that I have requested the Minister of Lands to seek the intervention of the Auditor-General into Tandanya to carry out an audit as to how the present financial situation arose and why. Of course, Tandanya is not a Government organisation, and the Auditor-General has no automatic jurisdiction over a body which is not a Government body. However, under the Public Audit Act, the Auditor-General has authority, when requested by the Minister of Lands, to undertake an examination of the financial affairs of any outside organisation which is in receipt of Government funds. Tandanya obviously fits this category. As I said, I have requested the Minister of Lands to arrange for the Auditor-General to carry out an audit, and the Minister of Lands has indicated to me that she will do all that she can to expedite the Auditor-General and his staff assisting at Tandanya in sorting out the financial situation.

The Hon. DIANA LAIDLAW: As a supplementary question, were Tandanya's financial affairs audited at the end of the last financial year; if so, by whom; and, if not, why did the Government and the department agree to pay further funds, particularly a lump sum of $580 000, to Tandanya without sighting audited reports?

The Hon. ANNE LEVY: The accounts of Tandanya were audited for the last financial year and the auditor's report was received—I cannot remember the exact date—late in October. Nor can I remember who did the audit. However, I shall be happy to find out. As an independent organisation, Tandanya organises its own private auditor to audit its accounts. As I recall, the audited accounts were in several sections. There were audited accounts for Tandanya—the Government funded operations. There was a separate audit for the retail and cafe operations, and the auditor had some qualifications regarding the retail and cafe side of the accounts that he was auditing.

As regards the payment to Tandanya, I should point out that it did not get its yearly allocation in one lump sum. As I have previously indicated to the Council, as with all organisations which receive Government grants, the grants are paid in quarterly instalments due on 1 July, October, January and April. Tandanya received its first allocation on 1 July and its second on 1 October. As I have previously indicated, a condition for the grants is that quarterly financial reports must be submitted to the Department of the Arts and Cultural Heritage.

The first report was not due until 31 October. It was when that financial report did not arrive by 31 October that we immediately took steps to contact Tandanya and begin discussions regarding its accounts, financial reports and its complete financial situation.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: Mr President, if the honourable member did not interrupt she might be able to hear the answer. She would then have her concerns answered. As I have explained—and I will repeat this for the honourable member's benefit—the quarterly payments are normally due—and not just to Tandanya but to any arts organisation which receives Government grants—on 1 July, 1 October, 1 January and 1 April. The first two instalments were paid on 1 July and 1 October. It was when the first quarterly report due on 31 October did not arrive that officers of the department immediately made contact with Tandanya and sought explanations as to when the financial statement would arrive and just what was the financial situation of Tandanya. It became obvious during the month of November and into early December that Tandanya had very great financial problems and was facing a huge deficit.

At the request of Tandanya, the remaining grants for the year were paid in December so that staff could receive their salaries. Further investigations were carried out into the financial affairs of Tandanya. We have been active on this ever since the first quarterly report did not arrive on the due date. I am sure members are aware of the subsequent history and the meetings of the board that took place during January, leading to the director's taking his leave from 1 February and being informed that his contract would certainly not be renewed when it expired on 2 May. There is no conflict whatsoever between what I have said on numerous previous occasions in this Council, what I said yesterday and what I am saying today.

MARION COUNCIL

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about Marion council.

Leave granted.

The Hon. J.C. IRWIN: Last week I asked the Minister a question relating to the proposed two-tiered rating system put forward by Marion council. In her answer the Minister said:

> I have had discussions with representatives of the Marion council in relation to this matter and have suggested a modification to its plan which would be far more acceptable to me. I had hoped that the council would get back to me with the charts and graphs which would indicate the effect of the modification which I suggested, but it had not yet done so.

Imagine my surprise this morning to read on the second page of the *Advertiser* an advertisement inserted by the Marion council that under the heading 'Slow progress for new rate system' states:

> Marion Mayor, Kevin Hodgson, is concerned that legislation changes required to implement Marion council's proposed two-tiered rate system may not be in place for the 1991-92 rates.

A recent statement in Parliament by the Minister that she is awaiting details requested from the Council is refuted by the Marion council. The council lodged a proposal with the Minister of Local Government in October 1990, but as yet has had no response. Someone is not telling the truth. I believe the only contact by the Minister with the Marion council was made after my question and indicated an interest in the proposal, but with the trade-off of no minimum rates. I am aware of a considerable amount of documentation prepared by Marion council. The trade-off of no minimum rates in itself is an interesting and illuminating piece of manoeuvring, which may be viewed by the local government community as being somewhat warped. My questions are:

1. Does the Minister agree with Marion council's published position regarding her communication with the council on the two-tiered rating system?

2. Will she detail exactly her communications with the Marion council?

The Hon. ANNE LEVY: I am certainly not responsible for what Marion council may or may not publish in the press. I can assure members that I received a communication from Marion council, I think in October last year. If someone wishes to correct that time, I am quite happy to accept a correction. Following that, I had discussions with officers from Marion council in my ministerial office. If the honourable member wishes, I will determine from my official diary on what date that occurred. It was at that meeting that I suggested to them that the proposal they were putting

forward had regressive elements to it and that, if we were to consider something which was regressive, a progressive *quid pro quo* should ride in tandem with their regressive suggestion. I requested them to repeat the sort of calculation they had already done and the charts they had prepared, on the assumption that there was this regressive two-tier system at the top end, but a progressive approach of abolishing the minimum rate at the bottom end. I have never received such calculations, charts or diagrams from Marion council.

Following the Hon. Mr Irwin's question last week, I have received a letter from Marion council, in which it merely states that my suggestion was found to be unworkable or unacceptable—or some such negative phrase. I forget what the terminology was. It has certainly not provided any calculations illustrating the effects of the proposal that I made. I am certainly not in any way ashamed of suggesting that, if we are to introduce a rating method that is in some respects regressive, a progressive pay-off should apply at the same time. That would seem to me very equitable, and I am still waiting for such illustration in the way of calculations and charts of what the effects would be.

I may say that I have discussed this matter with officials and officers of the Local Government Association, who also expressed interest, but none of us had detailed calculations. We were just doing scribble charts on pieces of paper without having any notion of what values to put on the axes we were dealing with. However, I am certainly interested in the proposal—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —but I do require detailed investigation of it, which requires charts and tables of figures as to the effects of different proposals and the effects of changing different parameters in the equations, and I had understood that Marion council was about to do this. I may say that there was never any suggestion on my part that any change in rating structure would be agreed to in time for the 1991-92 financial year. I did not say it would not be agreed to and I did not say it would. This was merely a discussion about a possible change in the rating system, the effects and equity of which need to be investigated before any decisions are made.

PARLIAMENTARY PRIVILEGE

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking you, Sir, a question relating to parliamentary privilege.

Leave granted.

The Hon. I. GILFILLAN: I refer to my speech of 20 February in this place, in which I read into *Hansard* two letters to Westpac from its solicitor. The *Advertiser* editorial on Friday 22 February 1991 entitled 'The Primacy of Parliament' said:

> This makes the details public, for the media in South Australia at least have absolute privilege to report what is said in Parliament.

The Hon. John Trainer entered the lists on 27 February in his letter to the Editor of the *Advertiser*, when referring to the editorial:

> A Senator, you say, tried to have the letters tabled in the Senate. President Kerry Sibraa refused, arguing *sub judice* because they were before the courts. Since when have the courts been superior to the Parliament?

The member for Walsh (Hon. John Trainer) and former Speaker of the House of Assembly argued that the courts are not superior to the Parliament—

> but Parliament voluntarily imposes the *sub judice* limitation because it would be improper to allow parliamentary debate to influence the outcome of court proceedings, possibly risking a miscarriage of justice.

He disputes the editorial statement that:

> this makes the details public, for the media in South Australia at least have absolute privilege to report what is said in Parliament,

by saying that:

> . . . some caution might be appropriate, as even these media reports of Parliament can, in some circumstances, still be defamatory. Privilege for media reports is not absolute (unlike the complete *Hansard* reports) but is qualified by the fairness and accuracy of the media reporting of what is said in Parliament.

Just yesterday in the *Advertiser* of 6 March Mr Rick Sarre, Lecturer in Law at the University of Adelaide, offers his view as follows:

> In his letter (the *Advertiser*, 27.2.91) the member for Walsh, Mr John Trainer, responded to the editorial (the *Advertiser*, 22.2.91) concerning the suppression from publication of the so-called 'Westpac letters'. Mr Trainer's response and the editorial both suffer, however, from a misinterpretation of the law concerning the privilege attached to the fair and accurate reporting of parliamentary proceedings; in this case, the speech of Mr Ian Gilfillan wherein he read from the letters.

Mr Sarre goes on, referring to the South Australian Wrongs Act:

> The protection afforded a newspaper in that Act is against defamation proceedings only. It does not provide any protection if something is published in direct contravention (called contempt) of a court suppression order, such as the one handed down by Justice Powell.

In the light of the above differences, I seek clarification, and my questions are:

1. Does the *Hansard* report of my speech on Wednesday 20 February (pages 3058, 3059, 3060, 3061 and 3062) carry full parliamentary privilege? If not, why not?

2. Does the determination of Justice Powell of the New South Wales Supreme Court in imposing an injunction on the publication of the two letters to Westpac written by their legal advisers on 26 November and 11 December 1987 (that was an injunction placed on media outlets in New South Wales) prevent the fair and reasonable reporting of parliamentary proceedings of this Chamber?

3. If yes, does this not imply supremacy of the courts, and indeed a court of another State, over this Parliament?

The PRESIDENT: I was aware that possibly a question along these lines would be formulated, and my reply is as follows. In answer to the first question, yes, it is covered by full parliamentary privilege as it is published in *Hansard*. In answer to the second question, it is not within my province to report on judicial determinations and, in the light of my answer to that question, the third question becomes irrelevant.

TANDANYA

The Hon. L.H. DAVIS: My question is directed to the Minister for the Arts and Cultural Heritage. Given that the administrative sloppiness and financial fiasco at Tandanya can be traced back a long time, perhaps even to the time when Tandanya was opened in October 1989, will the Minister explain how she allowed such administrative sloppiness and a complete absence of financial control to continue unchecked for such a long time, and why it has taken until today for her to ask the Auditor-General to conduct a special investigation into Tandanya's finances?

The Hon. ANNE LEVY: I have already explained to the Council—

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: —that the first financial year of Tandanya's operation ended on 30 June 1990. Audited accounts were received in October of 1990. Those audited accounts were qualified in relation to the cafe and to the retail outlet, but were in no way qualified in relation to the rest of the accounts of Tandanya. There was no suggestion—

The Hon. L.H. Davis: You hadn't heard of any problems? I don't think they would even let you run a chook raffle at Trades Hall.

The Hon. ANNE LEVY: Mr President, I ask for your protection.

Members interjecting:

The PRESIDENT: Order! The only way is to throw everyone out, I think. The honourable Minister has the floor.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: The audited accounts revealed no cause for alarm in relation to the general accounts of Tandanya for the 1989-90 financial year. They were qualified with regard to the cafe and the retail outlet, but were in no way qualified for the general activities of Tandanya.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: They were received late in October 1990. A few days after the receipt of this report, the first—

Members interjecting:

The PRESIDENT: Order! I suggest that if honourable members want answers to questions they should listen to the Minister. The honourable Minister.

The Hon. ANNE LEVY: A few days after receipt of the auditor's report was 31 October when the financial reports for the first quarter were expected. When they did not arrive, officers took action, contacted Tandanya, had numerous discussions and meetings and offered assistance from then on.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: There has been considerable—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order. He has asked a question and he is getting an answer. The honourable Minister.

The Hon. L.H. Davis: Not much of an answer.

The PRESIDENT: Order! The honourable member may subsequently ask another question if he is not happy with the one he has already asked. The honourable Minister.

The Hon. ANNE LEVY: The honourable member interjected something about the Edinburgh trip. As I have already indicated to the Council on several occasions, the Edinburgh trip was brought to my attention early in July of 1990. I wrote immediately to Tandanya advising against the trip to Edinburgh and making it clear that if any losses resulted from the trip they would not be made up by the Government nor would the Government provide a supplementary grant towards travel to Edinburgh. Copies of that letter are freely available to anyone who would like to see them. I understand that the media have already seen that letter and others that were written to Tandanya regarding the Edinburgh trip.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. ANNE LEVY: Tandanya decided obviously that the Edinburgh trip would take place despite my advice against it. I was assured that there would be no cost to Tandanya and that the sale of art works and sponsorship would meet the cost of the trip, so there would be no net expense to Tandanya for the trip to Edinburgh. From the time that the group returned from overseas we kept requesting information about the financial outcome for the trip to Edinburgh, and we never received it.

Members interjecting:

The PRESIDENT: Order! The interjections are getting very tedious and repetitive. The honourable Minister.

The Hon. ANNE LEVY: The reason why a financial report on the Edinburgh trip was never prepared or provided is obvious, because it was absolutely disastrous from a financial point of view. The financial effect of that on Tandanya will, I am sure, be deleterious for quite a while to come but, as I indicated at the outset when the Edinburgh trip was proposed, the Government made it very clear that it would not support the trip and that, if it resulted in financial losses, as indeed it has, there would be no supplementary funding from the Government to alleviate the condition that would arise. The people who went to Edinburgh from Tandanya did so with their eyes open and they were well aware of the consequences of their trip.

The Hon. L.H. DAVIS: I ask a supplementary question. Does not the Minister accept the fact that a special grant of $139 000 paid to Tandanya in June 1990 and the trip to Edinburgh, which she learned of in July 1990, were themselves red lights that should have been thoroughly investigated by the Minister responsible?

The Hon. ANNE LEVY: The $139 000 paid in June 1990 is a totally different matter, and the honourable member is well aware of that. When Tandanya was set up, a budget was drawn up for the first financial year and guesstimates had to be made of how many visitors would go to Tandanya.

The Hon. L.H. Davis interjecting:

The Hon. ANNE LEVY: Let me explain.

Members interjecting:

The PRESIDENT: Order! I suggest that if honourable members want to hear the answer to the question we have a bit of silence in the Council. The honourable Minister.

Members interjecting:

The PRESIDENT: Order! It is your own time you are wasting, members. The honourable Minister.

The Hon. ANNE LEVY: In the first financial year of Tandanya's existence a budget was drawn up that allowed for a certain number of visitors to come to Tandanya and thus provide income from the entrance fee. The figure chosen was taken from a consultant's report, but it was always known that this was a guesstimate, and I understand that numerous people thought that the consultant had overestimated the number of visitors. It was agreed at the time that the situation would be looked at towards the end of the financial year to see what level of visitation had occurred and whether supplementation of the basic grant would be required if the level of visitation had not achieved what was contained in the budget. That was found to be the case and because, the number of visitors was less than the number built into the first budget, a supplementary grant of $139 000 was agreed as an adjustment for the fact that the visitor level had not achieved the guesstimate used in the budget estimates.

That was agreed all round, and there was no suggestion that this was other than an adjustment of the budget in the light of information then available on visitor levels. It had nothing whatsoever to do with the financial problems that have arisen with Tandanya in its second financial year.

NATIONAL CRIME AUTHORITY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about the National Crime Authority's South Australian office.

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General, in his ministerial statement, indicates that it is expected that the investigation of the South Australian references by the NCA will be completed by the end of June 1991. He also informed the Council that the intergovernmental committee of the National Crime Authority has under consideration the appointment of an additional member of the National Crime Authority to be based in South Australia. He went on to say:

> As presently contemplated that member, if appointed, would perform and exercise powers and functions relevant to references granted by the Commonwealth or jointly by the Commonwealth and the State or States.

He then makes other references. Will the Attorney-General indicate whether this means that it is definite that there will be a South Australian office of the National Crime Authority opening to take over from the present State-funded operation, or is there to be a hiatus between the completion of the investigations under the South Australian references and the establishment of any other office in South Australia by the National Crime Authority, during which time all the expertise that has been gathered together to assist the South Australian office will be stood down, or will there be some continuity?

The Hon. C.J. SUMNER: It is not expected that there will be a hiatus. The statement is expressed in that manner because the matter still has to go before the Federal Government.

SOUTH AUSTRALIAN CERTIFICATE OF EDUCATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Local Government Relations, representing the Minister of Education, a question about the South Australian Certificate of Education.

Leave granted.

The Hon. M.J. ELLIOTT: Last year we debated a Bill to amend the Senior Secondary Assessment Board of South Australia Act. During that debate I expressed some concern about the time frame for the introduction of SACE. In fact, I moved an amendment which provided that it could not have been introduced until 1993. It was done at that stage on the advice of people in schools who said that many schools may have been struggling to be prepared by then.

While the amendment was not accepted, the Government did acknowledge that there were some difficulties and talked about a phase-in of SACE. There was a press release only two days ago talking about the phase-in and the conditions under which it was to occur. I have been speaking with principals of a number of secondary schools, and the struggle that I suggested last year would occur is occurring. In fact, they have said that it has been exacerbated because of the loss in staff due to the cuts last year; also, schools have been highly disrupted because of the large number of transfers due to the 10 year rule.

Some schools, particularly at the senior level, have had a remarkable level of turnover of staff, so the continuity in terms of the work they are doing on SACE had been lost. It has been put to me that there are very real difficulties even with this phase-in, but the one thing that they have said would help is some extra staff assistance—something like .5 of a body per school. I understand that some of the more affluent private schools have put on staff for that purpose and for that purpose alone. This means that some schools, particularly some of the Government schools, look like missing out, and that could put some of the students at some of the schools at a disadvantage. Is the Government aware of the difficulties in some of these high schools, and will it provide some resources to help relieve those difficulties?

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

BANK CHARGES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about bank charges.

Leave granted.

The Hon. R.I. LUCAS: I refer to a news report in today's press that the National Australia Bank is, from 1 May, to levy a monthly $2 charge on customers whose bank accounts contain less than $500—something many of us could experience. The report says that other banks intend to monitor the NAB scheme in a bid to rationalise their own costs. The announcement by the NAB is only the latest of a number of extra bank and Government charges that appear to be hitting the public. Apart from financial institutions duty, which the Bannon Government last year lifted to the highest in the nation, bank customers also have to pay BAD duty, the responsibility for which was transferred from the Federal Government to State Governments.

At the same time various banks already penalise customers for having 'inactive accounts', that is, where there has been no change in balance for, say, 12 months, penalise them for having balances below a certain limit, and penalise them in certain accounts by paying no interest where their balance in an account again falls below a set amount.

A check with several of the major banks today revealed that while the NAB charge is a fresh assault on bank savers it is by no means unique. For example, Westpac already charges a $5 fee if customers with an advantage saver account let their bank balances fall below $100. The ANZ bank also imposes a similar charge on its access account customers.

The Commonwealth Bank also enforces a $1.50 penalty on Keycard/passbook account customers who allow their balances to fall below $250, even if that balance falls below that amount for one day in the month. The effects of these charges, and now the move by the NAB, will have a major effect on the disadvantaged, pensioners and other people on limited incomes. In view of my comments, I ask the Minister:

1. Is she aware of the National Australia Bank's plans to impose this new charge on bank customers, and does she have concern about the effects it could have on low income earners and other disadvantaged people?

2. Has the general issue of the increasing range of additional charges and levies being imposed by banks been raised at recent meetings of Ministers of Consumer Affairs and, if so, what was the outcome of those discussions?

The Hon. BARBARA WIESE: As to the last question, I do not recall the issue of bank charges in general being a topic on the agenda of recent SCOCAM meetings. Certainly, there has been considerable discussion about bank charges as they relate to credit provision to consumers as part of

the general discussions that have taken place over a long period of time on the matter of uniform credit legislation across Australia. I believe that Consumer Affairs Ministers generally would be concerned about the growing range of charges that are now being instituted by various financial institutions in Australia.

But, I believe that one of the reasons that this has occurred is that the process of deregulation of financial institutions, which was brought about by the Federal Government and which was supported by the Liberal Party at the Federal level, has allowed a lot of this activity to occur, they would argue, in return for benefits that have accrued to consumers in other ways. I think it is true to say that some benefits have come to consumers as a result of deregulation, particularly in the development of much more flexible housing financial packages. So, although it is a matter of concern, it is not a matter on the agenda at this time.

COORONG OCEAN BEACH

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister for Environment and Planning, a question about the Coorong ocean beach.

Leave granted.

The Hon. J.C. BURDETT: The National Parks and Wildlife Service commissioned John Bransbury and others over a period of time starting in 1982 to conduct a hooded plover count on the Coorong ocean beach, and it showed a count of 158 birds in 1982 and 90 birds in the spring of 1987. That was taken to be an indication that persons coming on to the Coorong beach were diminishing the numbers of the fairly rare variety of hooded plover. Surveys were conducted by a beach users' group, and I am informed that these were very carefully, scientifically and accurately conducted counts of hooded plovers on the beach. They showed that in spring 1988 the hooded plover count was 170; in spring 1989 it was 137; and in spring 1990 the count was 147. The highest figure from the beach users' group was for Autumn 1989, when the count was 207. It appears that these counts are being used to suggest that the Coorong ocean beach ought to be closed so as to preserve the hooded plover. My questions are:

1. What was the sum of money paid to Bransbury and others involved since 1982 to conduct the counts?

2. Will the Minister consider making a payment to the beach users' group, which provided her with the figures, for conducting accurate counts?

3. Does the Minister intend to close the beach in conjunction with her colleague the Minister of Marine?

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

SAGRIC REVIEW

The Hon. PETER DUNN: Has the Minister of Tourism a reply to the question I asked on 23 August 1990 about the SAGRIC review?

The Hon. BARBARA WIESE: I seek leave to have the reply incorporated in *Hansard* without my reading it.

Leave granted.

My colleague the Minister of Agriculture has provided the following information in response to the honourable member's questions:

Given that the question seems to be asked largely within the context of farmer education, it is true to say that farmers in Australia participate less in higher education than their counterparts overseas. Only about 25 per cent of our farmers undertook education past year 10 compared to 50 per cent in New Zealand and 90 per cent in the European Economic Community.

The United Farmers and Stockowners, and the Department of Agriculture work closely together in rural training issues, largely through the Rural Industry Training Committee. That group has, for example, been the main force behind the On Farm Training Scheme, recognised as the best of its kind in Australia.

The Advisory Board of Agriculture and South Australian Rural Advisory Council are also active in addressing the education needs of people in country areas including issues such as the Tertiary Education Assistance Scheme, provision of accommodation and isolated areas allowances.

There are national review processes currently underway, the most important of which is the Agricultural and Related Education Review. The South Australian Government submission to the review highlights, among other things, the importance of maintaining access by rural people to appropriate educational opportunities. The Advisory Board and South Australian Rural Advisory Council submissions do likewise.

In the meantime I am pleased to inform you that a recent analysis of student results at year 12 indicates that country based students performed well and do not appear to be disadvantaged.

The situation is being monitored and information from the above reviews will be used as inputs into future directions in rural education in this State.

YELLOW BURR WEED

The Hon. PETER DUNN: Can the Minister of Tourism advise me whether those involved have nearly finished the answer to the question I asked on 28 February 1990 regarding yellow burr weed?

The Hon. BARBARA WIESE: I have no idea whether the reply is available, but I will certainly provide it for the honourable member as soon as I am able to.

WRONGS ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

As this matter has been dealt with in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Pursuant to section 100 of the Motor Vehicles Act 1959 the State Transport Authority is a self-insurer for personal injury claims arising out of the use of its public transport vehicles up to $1 million for any one incident. Calamity insurance risk over that amount is covered by the Government General Insurance and Risk Management Program.

Section 127 of the Motor Vehicles Act 1959 and section 35a of the Wrongs Act 1936 have been amended in respect of claims procedures and restricted financial entitlements for persons who have been injured as a result of a motor accident involving the specific usage of a motor vehicle. These amendments were enacted in an effort to reduce the cost of third party personal injury claims in South Australia.

The definition of a motor vehicle in the Motor Vehicles Act and the Road Traffic Act specifically excludes 'vehicles' operating on a railway or tramway. The Wrongs Act does not provide a definition of a motor vehicle.

The amendment to section 35a of the Wrongs Act was passed in an effort to reduce the cost of third party personal injury claims arising from motor vehicle accidents. In broad terms, this amendment limits the non-economic loss component. Where claimants are not significantly incapacitated for seven days or more, or do not incur medical expenses of $1 000, they do not have an entitlement for a claim.

Because trams and trains do not fall within the scope of the legislation the authority will not be subject to the amendments. The Crown Solicitor states that 'the provisions of section 35a of the Wrongs Act will not apply to incidents arising exclusively out of the use of the authority's trains or trams'.

The authority has a lower number of claims arising out of the trams or trains in comparison to those arising out of buses. However, if a number of passengers were injured as a result of an accident involving a train or tram, savings could be significant. If, say, 100 passengers were injured as a result of an accident involving a train, it could be assumed that, without the amendments to the Wrongs Act, about 75 non-serious injuries could have a quantum of about $3.75 million. It is estimated that this could be reduced by about 50 per cent if the amendment applied. In the case of a claimant only having an entitlement to a non-economic loss the quantum could be reduced by about 50 per cent.

The costs of litigation in respect of injury claims arising out of the use of trains or trams would also be significantly reduced.

The Public Actuary has indicated that he would give consideration to reducing the authority's premium for calamity insurance when the legislation is changed.

Clause 1 is formal.

Clause 2 amends section 35a of the principal Act by inserting a definition of 'motor vehicle' for the purposes of that section. Section 35a sets out the method of determining the damages to be awarded to a person in respect of an injury that occurs as a consequence of—

(a) the driving of a motor vehicle;

(b) a collision, or action taken to avoid a collision, with a stationary vehicle;

or

(c) a motor vehicle running out of control.

The amendment defines motor vehicle for this purpose as—

(a) a vehicle, tractor or mobile machine driven or propelled or ordinarily capable of being driven or propelled by a steam engine, internal combustion engine, electricity or any other power, not being human or animal power;

(b) a caravan or a trailer;

and

(c) a vehicle, operated by the State Transport Authority, the Australian National Railways Commission or a prescribed person or body, that runs on a railway, tramway or other fixed track or path.

The amendment achieves this result by incorporating the definition of motor vehicle from the Motor Vehicles Act 1959, and adding to that definition vehicles (operated by the STA, ANRC or a prescribed person or body) that run on a railway, tramway or other fixed track or path.

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

PHYSIOTHERAPISTS BILL

Second reading.

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

That this Bill be now read a second time.

As this Bill was introduced in another place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The practice of physiotherapy in South Australia (indeed throughout Australia) has undergone extensive changes since the Physiotherapists Act 1945 came into being. All aspects of physiotherapy practice, education and research reflect the change which has been particularly pronounced during the last two decades.

In 1945, physiotherapists were entirely dependent upon the medical profession for the continued supply of patients. for the diagnosis of conditions to be treated and even for research within the profession.

Education programs were based on the traditional English model and instruction was provided by British qualified teachers—the programs were hospital centred, empirical in form and followed an apprenticeship style centred entirely around clinical experience. The Diploma of Physiotherapy under the auspices of the University of Adelaide reflected this educational model in 1945 along with other programs elsewhere in Australia.

The practice of physiotherapy was dominated by the effects of two world wars and two polio epidemics—massage to improve circulation. exercises and splinting to prevent deformity in paralysed limbs; rehabilitation centres for exservice men and women and the use of electrical treatment to stimulate muscle function and recovery.

Today, physiotherapy is a health profession concerned with the assessment. treatment and prevention of disorders of human movement. The overall concept of physiotherapy deals with problems of function and involves a combination of manual therapy, movement training and physical agents to resolve these problems. It forms part of the total care of patients of all ages suffering from a wide range of disorders. Equally important is the education of patient and relatives regarding the nature of conditions, the prevention of disability and the maintenance of health and function. In some cases a physiotherapist will be required to teach individuals with permanent disabilities how best to maximise their physical potential to cope with the demands of a 'new' lifestyle.

Taking into account changes in health trends and community needs, the physiotherapy profession throughout Australia has modified its practice and widened its scope to meet the demands placed upon it. This is particularly exemplified by the increased awareness of the community of a healthy lifestyle, including sport and recreational pursuits and the growth of physiotherapy in these areas. The profession of physiotherapy is a growth profession and one where demand outstrips supply. This is true for all States of Australia. The physiotherapist is educated to be a practitioner of first contact. Primary contact practitioner status for physiotherapists has been in place since 1976, allowing patients if they choose, to seek the services of a physiotherapist directly rather than being referred through medical channels. Indeed, after considerable national debate, Australian physiotherapists became the first physiotherapy group in the world to rescind a major ethical principle and accept their

responsibility as primary contact practitioners, thus replacing the requirement that all patients should be referred through medical channels. Since moving to a source delivery model as primary contact practitioners, this lead has been ratified by the World Confederation of Physical Therapy and followed by other countries. Today, across the country, an average of between 60 per cent and 70 per cent of private practitioner physiotherapy treatments are referred by medical practitioners. A growing number, however, attend the physiotherapist directly as the primary health provider of choice.

While physiotherapists do function as first contact practitioners, the desirability of a cooperative team approach to physical treatment is continually reinforced.

The education of physiotherapists in Australia had developed considerably since the first course of training in massage, medical electricity and medical gymnastics was established in 1908 under the auspices of the Australasian Massage Association. Even at this early stage the core competency in physiotherapy, namely, analysis of human movement, was recognised and in South Australia, physiotherapy students undertook anatomy and physiology at the University of Adelaide in conjunction with medical students.

Today the basic professional education requirement is a four year degree most commonly, a Bachelor of Applied Science in Physiotherapy. There are five Schools of Physiotherapy in Australia, all at major tertiary institutions.

The development of the undergraduate degree programs in physiotherapy across Australia occurred concomitantly with—

- broadening and extension of the knowledge base in physiotherapy
- extension of the curriculum to include aspects of fundamental biological and clinical research
- increasing integration of academic knowledge in the clinical situation

A conscious endeavour to widen the scope of physiotherapy practice by teaching the application of physiotherapy techniques for health promotion, accident prevention and community centred service has prepared graduates to respond to changing population needs.

All Australian degree programs include statistics, research design and a research project as required areas of study.

South Australia has an enviable reputation as a leader in physiotherapy training and research, at both undergraduate and graduate level. It is acknowledged as a centre of excellence in teaching and research in manipulative physiotherapy, attracting physiotherapists from all over the world.

In summary, the physiotherapy profession in South Australia (indeed throughout Australia) has changed over the past three decades from one which was entirely service based and medically directed, to a more independent and complex profession with increased responsibilities and wide community service requirements.

It is appropriate, therefore, that the legislation under which the profession operates should be significantly upgraded to reflect these changes.

The Bill seeks to redress shortcomings in the present legislation, to provide an appropriate framework for the protection of the public, the registration of physiotherapists, the regulation of the practice of physiotherapy, and at the same time, to provide sufficient flexibility for subsequent developments within the profession of physiotherapy.

The Bill continues the present arrangement of providing for a Board to implement its objectives and operate as a statutory body, which will be required to report to Parliament annually.

The present Board consists of five members. The Bill retains those categories of members but proposes to increase the size of the Board to seven, by adding a consumer member and one additional elected physiotherapist. The Board recognises that opening their proceedings up to scrutiny by the addition of a consumer member acknowledges and enhances their public accountability. A physiotherapist rather than the lawyer member is to preside at meetings.

The Board is empowered to form committees to whom it may delegate powers and functions. This should assist it in carrying out its functions expeditiously. Committees can include members who are not members of the Board.

For the first time, the functions of the Board are clearly delineated in the Bill. Along with the registration and professional discipline of physiotherapists, the Board is charged with exercising a general oversight of the standards of practice of physiotherapy, monitoring the standards of courses and consulting with educational authorities. In exercising these functions, the Board must have a view to ensuring that the community is provided with services of the highest standard and that professional standards of competence and conduct are maintained.

A number of changes are proposed in the registration provisions. Power to grant provisional and limited registration is included. In relation to provisional registration, power is given to the Registrar to grant registration provisionally if he/she believes that the Board is likely to grant the application. The Board would then determine the application at its next meeting. This will enable newly trained graduates, overseas trained persons and other qualified persons to take up a position as a physiotherapist without delay and financial hardship.

In relation to limited registration, provision is included for a person who does not meet all the requirements for full registration to be given limited registration. This can cover several situations:

- to enable the person to acquire the experience and skill required for full registration under the Act,
  or
- to teach or to undertake research or study in South Australia;
  or
- if, in the Board's opinion, registration of the person is in the public interest.

The Board can impose conditions on such registration, for example, limiting the areas of physiotherapy in which the person can practise; restricting places at which they can practise.

The trend toward private practice in physiotherapy continues. The Bill recognises this by containing provisions for the registration of companies whose sole object is to practise as a physiotherapist. These provisions are similar to those appearing in other recent health profession registration Acts.

The Board is concerned to ensure that physiotherapists maintain their professional competence and standards.

The Bill includes several important provisions in this regard. aimed at protecting the public. The Board, of its own volition or on complaint, can determine whether a registered person is fit to practise unrestricted. Not only could such a provision enable the Board to limit the area of practice, it should be used to insist upon continuing education in individual cases.

The Bill also makes provision for the Board to be able to require a registered physotherapist who has not practised for 5 or more years, to undertake a refresher course before resuming practice. Conditions may be placed on the registration.

It is proposed that the Board will be able to suspend or restrict the registration of a person who suffers from a mental or physical incapacity which seriously impairs their ability to perform duties. The treating practitioner is obliged to report such incapacity to the Board.

The Bill maintains the present proven effective procedure of allowing the Board itself to handle disciplinary matters, without the need or expense of creation of a separate disciplinary tribunal. It does, however, increase the range of sanctions which may be imposed as a consequence of an inquiry. Besides imposing penalties of reprimand, suspension or cancellation of registration, the Board may impose conditions restricting the right of practice and impose a division 5 fine.

Another important feature of the Bill is the provision that a suspension or cancellation in another State or Territory is automatically effective in South Australia.

It avoids the situation whereby a practitioner who is registered in a number of States and whose registration has been cancelled interstate (which would be for a serious offence) can come to South Australia and practise, putting the public at risk.

One of the difficulties in approaching legislation such as this is to arrive at a definition which adequately describes what the profession does, thereby providing for appropriate regulation over those who practise the profession for fee or reward but, at the same time, to ensure that other practitioners whose activities might impinge in some way on the definition are not unreasonably restricted.

The current Act contains a definition of 'physiotherapy' which describes certain procedures applied for the purpose of curing or alleviating any abnormal condition, and includes 'massage' within its ambit. There are limited circumstances under which massage or other components of the definition of physiotherapy can be carried out by unregistered people.

There are further restrictions in that unregistered persons (except in very limited circumstances) are prohibited from holding themselves out or from using certain titles, including 'masseur'.

In the light of current day attitudes and practices, the combined effect of the current provisions is considered to be unnecessarily restrictive and out of date.

The Bill therefore provides some loosening of the current provisions. The Bill retains a definition of physiotherapy which is wide enough to describe what constitutes physiotherapy, and includes massage. Clause 26 spells out a number of exclusions, one of which is 'a person who practises physiotherapy only by reason that he or she massages another or provides advice related to massage'. The Bill also removes any restrictions on the use of the title 'masseur'. Of course, only registered persons will be able to use the title 'physiotherapist' and related titles, thus ensuring that the public can continue to have confidence in receiving the high standards of care to which it is accustomed from members of this profession.

As with other health profession registration Acts, provision is included to require physiotherapists to be indemnified against loss. The Bill also obliges a physiotherapist to notify the Board within 30 days of details of payments relating to claims for negligence, as it is important for the Board to be aware of such activities.

The maximum penalties under the Act are currently $500. These are out of date, and are upgraded by the Bill to division 5 fines (not exceeding $8 000) and division 7 fines (not exceeding $2 000) in line with more modern Acts. In keeping with the Board remaining financially self supporting, fines imposed for offences against the new Act must be paid to the Board.

The role of the professional is under increasing scrutiny. The provisions of this Bill make a significant contribution toward public accountability of physiotherapists. It is the first major revision of the Act for some considerable time. A good deal of consultation has occurred. There will be the opportunity for further consultation prior to debate commencing in the Autumn session.

Clauses 1 and 2 are formal.

Clause 3 repeals the Physiotherapists Act 1945.

Clause 4 is an interpretation provision. 'Physiotherapy' means—

(a) any treatment applied to the human body (including manipulative therapy, electrotherapy, therapeutic exercise and massage) for the purpose of preventing, curing or alleviating any abnormality of movement or posture or any other sign associated with physical disability;

(b) any related service or advice;

and

(c) an act or activity of a class declared by regulation to be physiotherapy.

The remainder of the Bill is divided into the following parts:

Part II—The Board

Part III—Registration and Practice

Part IV—Investigations and Inquiries

Part V—Appeals

Part VI—Miscellaneous.

Part II, Division I deals with the constitution of the Physiotherapists Board.

Clause 5 provides that the Physiotherapists Board of South Australia continues in existence as a body corporate with all relevant powers.

Clause 6 provides that the Board is constituted of seven members appointed by the Governor—a legal practitioner, a medical practitioner, a person nominated to represent the interests of persons receiving physiotherapy services, a registered physiotherapist nominated by the Council of the University of South Australia and three registered physiotherapists elected by their peers.

Clause 7 sets out the terms and conditions of membership of the Board. The maximum term of appointment is three years, though a member is eligible for reappointment.

Clause 8 enables the Governor to determine remuneration and expenses payable to members.

Clause 9 disqualifies a member with a personal or pecuniary interest in a matter from taking part in the Board's consideration of the matter.

Clause 10 sets the quorum at four members. The presiding member has a second or casting vote.

Clause 11 empowers the Board to establish committees to advise the Board or to carry out functions on behalf of the Board (other than the function of the registration and professional discipline of physiotherapists). A committee may include persons who are not members of the Board.

Clause 12 gives the Board power to delegate its functions or powers (except those relating to investigations and inquiries under Part IV) to a member, the Registrar, an officer or employee or a committee established under clause 11.

Clause 13 provides that a vacancy or defect in membership of the Board does not invalidate its actions.

Clause 14 enables the Board to appoint a Registrar and other officers and employees. Such persons will not be Public Service employees.

Part II, Division II sets out the functions of the Board.

Clause 15 states that the Board is responsible for—

(a) the registration and professional discipline of physiotherapists;

(b) exercising a general oversight over the standards of the practice of physiotherapy;

(c) monitoring the standards of courses of instruction and training available to—

(i) those seeking registration as physiotherapists;

and

(ii) registered physiotherapists seeking to maintain and improve their skills in the practice of physiotherapy,

and consulting with educational authorities in relation to the establishment, maintenance and improvement of such courses;

and

(d) exercising the other functions assigned to it by or under the measure.

The Board is required to exercise these functions with a view—

(a) to ensuring that the community is adequately provided with physiotherapy services of the highest standard;

and

(b) to achieving and maintaining professional standards of competence and conduct in the practice of physiotherapy.

Part II, Division III contains administrative provisions.

Clause 16 requires the Board to keep proper accounts of its financial affairs and to have a statement of accounts in respect of each financial year audited.

Clause 17 requires the Board to prepare an annual report to be tabled in each House of Parliament. The report must contain statistics relating to complaints received by the Board and the orders and decisions of the Board.

Part III, Division I establishes criteria for registration.

Clause 18 provides that a person is eligible to be a registered physiotherapist if he or she is over 18, is a fit and proper person to be registered, has the qualifications and experience in the practice of physiotherapy required by the regulations and fulfils all other requirements set out in the regulations.

The clause further provides that a company is eligible to be a registered physiotherapist if the sole object of the company is to practise as a physiotherapist, if certain requirements are met in respect of directors and shareholders and if the memorandum and articles of association are otherwise appropriate to a company formed for the purpose of practising as a physiotherapist.

Part III, Division II provides for various kinds of registration and for the process of registration.

Clause 19 sets out the procedure for application for registration and enables the Board to require further information from the applicant.

Clause 20 compels the Board to register an applicant if satisfied that the applicant is eligible for registration. The Registrar may provisionally register an applicant if it appears likely that the Board will grant the application.

Clause 21 enables the Board to grant limited registration to—

(a) an applicant who does not have the requisite qualifications or experience or does not fulfil the prescribed requirements in order to enable the applicant to do whatever is necessary to become eligible for full registration or to teach or undertake research or study in the State or if the applicant's registration is in the public interest;

or

(b) an applicant who has the requisite qualifications and experience but who does not satisfy the Board that he or she is a fit and proper person to be registered unconditionally.

The Board can impose any conditions it thinks fit on such registration.

Clause 22 provides that registration must be renewed each financial year.

Clause 23 enables the Board to vary or revoke conditions attaching to registration of a physiotherapist.

Clause 24 requires the Registrar to keep a register of physiotherapists which is to be available for public inspection.

Clause 25 requires the Registrar to provide copies of certain information in the register.

Part III, Division III contains provisions relating to the practice of physiotherapy.

Clause 26 establishes the obligation to be registered. The clause makes it an offence for an unregistered person to practise physiotherapy for fee or reward or to use prescribed equipment on the provision of services that constitute physiotherapy. The penalty provided is a division 5 fine (maximum $8 000) or division 7 imprisonment (maximum 6 months). The clause excepts the following classes of person:

(a) a person who practises physiotherapy, under the personal supervision of a registered physiotherapist, in connection with a prescribed course of training;

(b) a person carrying on the business of a hospital, nursing home or rest home who practises physiotherapy through the instrumentality of a registered physiotherapist or of a person who is under the personal supervision of a registered physiotherapist;

(c) a person who practises physiotherapy under the personal supervision of a registered physiotherapist on behalf of a person carrying on the business of a hospital, nursing home or rest home;

(d) a qualified person personally providing services that constitute physiotherapy in the ordinary course of his or her professional practice.

(e) a person who practises physiotherapy only by reason that he or she massages another or provides advice related to massage;

(f) a person who is a trainer of a sporting team, club or organisation and—

(i) who practises physiotherapy only by reason of applying treatment (in accordance with the directions of a medical practitioner or registered physiotherapist) to members of the team, club or organisation for the purposes of preventing injury being suffered, or alleviating injury suffered, by any member in the course of participation in sport or training on behalf of the team, club or organisation;

but

(ii) who does not, for the purpose of alleviating an injury, apply such treatment for a period longer than one month.

Clause 27 makes it an offence for an unregistered person to hold himself or herself out as a registered physiotherapist or to permit someone else to do so. It also makes it an offence for a person to hold out another person as being registered if that other person is not. The penalty provided in each case is a division 5 fine (maximum $8 000) or division 7 imprisonment (maximum 6 months).

Clause 28 prohibits a person who is not a registered physiotherapist using certain words to describe himself or

herself or a service that he or she provides. It also makes it an offence for a person to use those words, in the course of advertising or promoting a service, to describe an unregistered person engaged in the provision of the service. The penalty provided in each case is a division 5 fine (maximum $8 000) or division 7 imprisonment (maximum 6 months).

Clause 29 requires a registered physiotherapist who has not practised for five years to obtain the Board's approval before practising again. The penalty provided for not doing so is a division 5 fine (maximum $8 000). The board is empowered to require the physiotherapist to undertake a refresher course or the like and may impose restrictions on the physiotherapist's right to practise.

Clause 30 requires a registered physiotherapist to have suitable insurance relating to his or her practice. The penalty provided for non-compliance is a division 5 fine (maximum $8 000). The Board may grant exemptions from this requirement.

Clause 31 requires physiotherapists to provide the Board with information relating to any claims against the physiotherapist for alleged negligence. The penalty provided for not providing such information is a divison 5 fine (maximum $8 000).

Part III, Division IV sets out provisions of special application to registered companies. The penalty provided for any offence against the division is a division 7 fine (maximum $2 000).

Clause 32 enables the Board to require a company registered under the measure to comply with requirements relating to provisions to be included in the memorandum or articles of association of the company. If the company refuses to comply with a direction of the Board, the company's registration is suspended.

Clause 33 provides that the Board must approve any proposed alteration to the memorandum or articles of association of a company registered under the measure.

Clause 34 prevents a company registered under the measure from practising in partnership, unless authorised to do so by the Board.

Clause 35 prevents a company from employing more registered physiotherapists (excluding directors) than twice the number of directors without the approval of the Board.

Clause 36 provides that any civil liability incurred by a registered company is enforceable against the company and the directors or any of them.

Clause 37 requires registered companies to submit annual returns to the Board and to inform the Board when any person becomes or ceases to be a director or member of the company.

Part IV, Division I empowers the Board to conduct certain investigations.

Clause 38 sets out the circumstances in which an inspector appointed by the Board may investigate a matter. These are where the Board has reasonable grounds to suspect that an unregistered person may have practised physiotherapy for fee or reward, that there is proper cause for disciplinary action against a registered physiotherapist or that a registered physiotherapist may be mentally or physically unfit to practise. Powers are given to an inspector to enter premises of a registered physiotherapist or of a person suspected of unlawfully practising physiotherapy, to put questions to persons on the premises and to seize any object affording evidence of an offence against the measure.

Clause 39 makes it an offence to hinder or obstruct an inspector or to fail to answer an inspector's questions truthfully. The penalty provided is a division 7 fine (maximum $2 000). The privilege against self-incrimination is preserved.

Clause 40 obliges a medical practitioner to report to the Board if of the opinion that a registered physiotherapist being treated by the practitioner is suffering an illness that is likely to result in mental or physical incapacity to practise. The penalty provided for not doing so is a division 7 fine (maximum $2 000).

Clause 41 empowers the Board to require a registered physiotherapist to submit to a medical examination relating to the physiotherapist's mental or physical fitness to practise.

Part IV, Division II empowers the Board to conduct certain inquiries.

Clause 42 sets out the circumstances in which an inquiry may be conducted. The first is to determine whether a registered physiotherapist is mentally or physically unfit to practise. If the Board is satisfied that the physiotherapist is mentally or physically unfit to practise or to exercise an unrestricted right of practice, it may impose conditions restricting the right of practice, suspend the registration of the physiotherapist for up to three years or cancel the registration of the physiotherapist. The second circumstance in which an inquiry may be conducted is to determine whether there is a proper cause for disciplinary action against a registered physiotherapist, namely, whether the physiotherapist's registration was obtained improperly; the physiotherapist has been convicted, or is guilty, of an offence against the measure or an offence involving dishonesty or punishable by imprisonment for one year or more; or the physiotherapist is guilty of unprofessional conduct. The regulations may specify conduct that will be regarded as unprofessional. If the Board is satisfied that there is proper cause for disciplinary action it may reprimand the physiotherapist, impose a division 5 fine (maximum $8 000), impose conditions restricting the right to practise, suspend the registration of the physiotherapist for up to three years or cancel the registration of the physiotherapist.

Clause 43 sets out basic procedures to be followed for an inquiry. The Board must give the physiotherapist and the complainant at least 14 days notice of the inquiry. Both parties may be represented by counsel. The Board is not bound by rules of evidence and must act according to equity, good conscience and the substantial merits of the case.

Clause 44 gives the Board various powers for the purposes of an inquiry. These include the ability to issue a summons to compel attendance or the production of records or equipment and to compel persons to answer questions. The privilege against self incrimination is preserved.

Clause 45 enables the Board to order a party to pay costs to another party. The assessment of costs may be taken on appeal to the Master of the Supreme Court.

Part IV, Division III relates to the consequences in this State of action against a registered physiotherapist in some other jurisdiction.

Clause 46 provides that a suspension or cancellation of a physiotherapist's registration in another State or Territory is automatically reflected here.

Part V provides for a right of appeal against a decision or order of the Board.

Clause 47 provides that the appeal is to the Supreme Court and that the time for appeal is one month. The Supreme Court is given the power to affirm, vary, quash or substitute the Board's decision or order, to remit the matter to the Board and to make orders as to costs or other matters as the case requires.

Clause 48 enables the Board or the Supreme Court to suspend the operation of an order of the Board that is subject to an appeal.

Part VI contains miscellaneous provisions.

Clause 49 makes it an offence to breach a condition of registration under the measure. The penalty provided is a division 5 fine (maximum $8 000).

Clause 50 sets out the consequences of a body corporate being found guilty of an offence against the measure.

Clause 51 protects members of the Board, the Registrar, the staff of the Board and inspectors from liability.

Clause 52 facilitates proof of registration of a physiotherapist and of any other matter contained in the register of physiotherapists.

Clause 53 provides that disciplinary action is not a bar to prosecution for an offence and *vice versa.*

Clause 54 enables service by post of any notice to be given under the measure.

Clause 55 provides that offences against the measure are summary offences. Prosecutions must be commenced within 12 months or such further time as the Minister allows.

Clause 56 provides that any fine imposed for an offence against the measure must be paid to the Board.

Clause 57 provides regulation making power, including power to regulate the standard of physiotherapists' premises and equipment, advertising by physiotherapists and the professional conduct of physiotherapists. Regulations may also empower the Board to exempt a specified class of persons from specified provisions.

The Schedule contains transitional provisions.

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

ROAD TRAFFIC ACT AMENDMENT BILL (No. 4)

Second reading.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill deals with four distinct matters: the reduction of the prescribed concentration of alcohol (PCA) from the existing level of .08 grams of alcohol in 100 millilitres of blood to the level of .05; the reduction of the general speed limit from 110 km/h to 100 km/h; the fitting of speed limiters to heavy trucks and buses; and the compulsory wearing of safety helmets by riders of pedal cycles.

These four proposals are each an integral component of the road safety initiatives package announced by the Prime Minister and agreed to by the State and Territory Transport Ministers at the meeting of the Australian Transport Advisory Council (ATAC) in May 1990.

The first part of the Bill deals with the reduction in the prescribed concentration of alcohol (PCA) from the existing level of .08 grams of alcohol in 100 millilitres of blood to the level of .05. Any driver with an alcohol level in the range of .05 to .079 will commit an offence.

If the driver does not hold a licence he or she will commit an offence if there is any concentration of alcohol in the blood.

One of the greatest contributors to road trauma is drink driving. As such, it is important that the minimum level, beyond which an offence is committed, should be consistent throughout Australia. While opposition to a .05 limit has attracted significant media attention, a Community Attitude Survey conducted in South Australia in December 1989 indicated that 69.2 per cent of those surveyed supported a legal Blood Alcohol Concentration (BAC) of .05.

Although it can be argued that there will only be minimal effects in dealing with the lower range of drink drivers, it nevertheless is estimated that the introduction of .05 would result in a community cost saving in South Australia of at least $8 million per year. Most of this saving would occur due to a reduction in hospitalisation of road users with a consequential easing for hospital beds, support services and a reduction in hours of time lost in the work force through injury. Drivers will be more conscious of the lower level with a possible across the board reduction in the consumption of alcohol associated with driving.

One major element in dealing with offenders is how sanctions are applied. In order to streamline procedures and enable offenders to be penalised without conviction, it is proposed to give offenders the option of expiating a fine with a traffic infringement notice. A penalty of $100 is proposed along with three demerit points. Second and subsequent offences would attract the same penalties.

The advantages of this system are:

- it provides for first offenders, who are 'social' drinkers, a reasonable, but effective, immediate monetary penalty along with the threat of licence suspension;
- for first offenders, who are aberrant drinkers and whose BAC is passing through the .05 to .08 range, the penalty may not in itself be a major deterrent, but these people would become exposed to the threat of higher penalties for repeat offences in the higher ranges beyond .08.

The sanctions to be applied to drivers detected with a BAC level between .05 and .08, that is, a traffic infringement notice with an expiation fee of $100 along with 3 demerit points, have been structured with deterrence and not revenue collection as the prime objective.

Drivers who fail to expiate the traffic infringement notice will be subject to a court hearing with a penalty on conviction of up to $700. As a result, the PCA levels in the Act will be restructured into a 3 category system. Apart from the option of expiating the fine, offenders in category 1 (.05 to .079) will have the same rights as offenders in the higher categories. 'L' and 'P' plate holders are not affected as conditions for these drivers as prescribed in the Motor Vehicles Act 1959 require a zero blood alcohol level.

The second part of the Bill deals with a reduction in the general speed limit from 110 km/h to 100 km/h. There is a provision contained in the Bill which will enable speed zones to be approved above the 100 km/h speed limit where it is considered appropriate to do so.

Apart from the trauma attributable to drink driving, speed is a significant contributor to the cause and severity of road crashes. Heavy vehicles and buses are at present limited to a maximum speed of 100 km/h on the open road. Probationary licence holders are also limited to a maximum speed of 100 km/h.

In lowering the general speed limit to 100 km/h outside of a municipality, town or township, it is recognised that on most major rural roads, the present maximum limit of 110 km/h is reasonable and safe for those conditions. Such examples are the South Eastern Freeway and other interstate highways. With the lowering of the general speed limit, it will be necessary to apply speed zones to those roads where it is considered reasonable to maintain the limit of 110 km/h. The economic cost/benefit for the community in the long term is not likely to vary to any great extent. However, more roads may be subject to a 100 km/h limit

than at present which should have positive marginal effects on road safety and an improvement in fuel economy.

The third part of the Bill relates to speed limiters which will limit the maximum speed capability of vehicles, to which they are fitted, to 100 km/h. Heavy vehicle speeds on our major highways have been a significant factor in contributing to the nation's road toll.

The South Australian joint industry and government Commercial Transport Advisory Committee (CTAC) proposed, in July 1989, the use of speed limiters and has endorsed this part of the Bill. It will require retrofitting of effective speed limiting devices to all heavy goods vehicles over 20 tonnes gross vehicle mass (GVM) and to all buses with a GVM over 14.5 tonnes manufactured between 1 January 1988 and 1 January 1991. It will apply to all these vehicles from the first registration or renewal of registration on or after 1 January 1991. For heavy vehicles in the GVM range between 15 and 20 tonnes, and manufactured between 1 January 1988 and 1 January 1991, it will apply from first registration or renewal on or after 1 January 1992.

Speed limiters will also be required to be fitted to any other heavy goods vehicle or bus detected being driven in excess of 115 km/h on conviction or expiation of the offence.

It is proposed that the owner and driver of these vehicles will each be guilty of an offence if a vehicle is detected being driven in contravention of this legislation. Where a vehicle is detected being driven at a speed in excess of 115 km/h, it will be proof that such vehicle does not have an effective speed limiter fitted.

Detail of the requirements for speed limiters will be placed in regulations which in turn refer to the Code of Practice based on uniform provisions to apply throughout Australia. For vehicles manufactured after 1 January 1991, Australian Design Rule No. 65/00 will apply under the provisions of the Commonwealth's Motor Vehicles Standards Act 1989.

The fourth part of the Bill relates to the compulsory wearing of safety helmets by riders of pedal cycles. Cyclists, both motor cyclists and pedal cyclists, are more prone to head injuries than any other type of road user: 55 per cent of cyclist fatalities in Australia are the result of head injuries.

The use of safety helmets for motor cyclists has been the single critical factor in the prevention of and the reduction in the severity of head injuries. It is estimated that if all cyclists wear helmets, up to 75 per cent of pedal cyclist fatalities could be prevented and serious injuries would decrease by up to 40 per cent. Based on 1989 provisional figures, up to nine lives could be saved and hospital admissions reduced by 334.

It is proposed to make all riders responsible for wearing an approved helmet which must be properly adjusted and securely fastened. A rider of a cycle will be responsible for ensuring that any child under the age of 16 being carried on the cycle is wearing a properly adjusted and securely fastened approved helmet. Where the rider of a cycle is under 16 years of age, a parent or person having custody will be responsible to ensure that child is wearing a helmet.

It is reasonable and consistent to remove existing exemptions for motor cycle riders, that is, for riders of motor cycles where the speed of travel is 25 km/h or less and for passengers in side cars.

Where a person over the age of 16 years commits an offence against this section, it is proposed to issue a traffic infringement notice. The existing fine for failure to wear a safety helmet on a motor cycle is $32 and this will also apply in relation to pedal cyclists. A defence clause has been inserted in which a defendant is required to prove that, in the circumstances of the case, there were special reasons justifying non-compliance.

The cut-off point of 16 years of age comes about for two reasons. The first being that it is the same age used for wearers of seat belts, for example, below 16 years of age the driver is responsible and age 16 and above, the non-wearer is responsible. Secondly, offenders below the age of 16 years cannot have their offence expiated by payment of a traffic infringement notice.

Clauses 1 and 2 are formal.

Clause 3 amends section 47 which creates the offence of driving under the influence. The section provides that any previous offence of driving under the influence, driving whilst having the prescribed concentration of alcohol in blood or refusing to undergo an alcotest, breath analysis or blood test is to be taken into account in determining whether the offence is a first, second or subsequent offence. The Bill reduces the concentration of alcohol in blood that will result in an offence of driving whilst having the prescribed concentration of alcohol in blood from .08 grams to .05 grams in 100 millilitres of blood (and to zero in the case of a person who does not hold a driver's licence). The amendment excludes any previous offence of driving whilst having less than .08 grams of alcohol in blood (called a category 1 offence) from being taken into account in determining whether the offence is a first, second or subsequent offence.

Clause 4 amends section 47a, an interpretation provision. The definition of 'prescribed concentration of alcohol' is altered to reduce that concentration from .08 grams in 100 millilitres of blood to .05 grams in 100 millilitres of blood. In the case of a person who does not hold a driver's licence, the prescribed concentration is reduced to zero. Consequently, the offence of driving whilst having the prescribed concentration of alcohol in blood created by section 47b (1) is altered.

The clause also inserts new definitions reflecting a division of the offence into 3 categories as follows:

category 1 offence—less than .08 grams of alcohol in 100 millilitres of blood.

category 2 offence—less than .15 grams, but not less than .08 grams, of alcohol in 100 millilitres of blood.

category 3 offence—.15 grams or more of alcohol in 100 millilitres of blood.

The category of offence determines the appropriate penalty and other consequences that flow from the offence.

Clause 5 amends section 47b which creates the offence of driving whilst having the prescribed concentration of alcohol in blood. The amendment to the definition of 'prescribed concentration of alcohol' in clause 4 means that it is an offence under this section to drive with .05 grams or more of alcohol in 100 millilitres of blood (or in the case of a person who does not hold a driver's licence, to drive with any concentration of alcohol in blood).

The amendment provides that the maximum penalty for a category 1 offence is a fine of $700. This applies whether the offence is a first, second or subsequent offence. The amendment also limits the consequence of licence disqualification to category 2 and 3 offences.

As in the amendment to section 47 (driving under the influence), the amendment excludes any previous category 1 offence from being taken into account in determining whether any category 2 or 3 offence is a first, second or subsequent offence.

The amendment also provides that a traffic infringement notice must be provided in respect of a category 1 offence giving the alleged offender an opportunity to expiate the offence.

Clause 6 amends section 47c to provide that, as with conviction of an offence of driving whilst having the prescribed concentration of alcohol in blood, expiation of a category 1 offence or a finding of guilty without conviction cannot be relied on in policies of insurance and the like as proof that the driver was under the influence of alcohol or incapable of driving a motor vehicle.

Clause 7 amends section 47e which provides for alcotests and breath analysis in a similar manner to the amendment of section 47 (driving under the influence) by clause 3.

Clause 8 amends section 47i which provides for blood tests in a similar manner to the amendment of section 47 (driving under the influence) by clause 3.

Clause 9 amends section 47ia which requires persons who commit first and second drink driving offences to attend a lecture conducted in accordance with the regulations. The amendment excludes a person who is convicted or found guilty of a category 1 offence from this requirement.

Clause 10 amends section 47j which requires recurrent drink driving offenders to attend an assessment clinic. The amendment excludes category 1 offences from being taken into account in determining whether a person is a recurrent offender.

Clause 11 substitutes section 48 which sets the State speed limit at 110 km/h. The new section provides that it is an offence to drive a vehicle at a greater speed than 100 km/h except within a speed zone.

Clause 12 amends section 49 to provide that the special speed limits set by the section do not apply within a speed zone.

Clause 13 amends section 50 which deals with speed zones. The amendment is consequential to the amendments of sections 48 and 49.

Clause 14 inserts a new heading and provision dealing with speed limiting devices. New section 144 provides that it is an offence to drive a vehicle that does not comply with the regulations relating to speed limiting devices. The provision is linked to section 53 which makes it an offence to drive certain classes of 'heavy' vehicles at a speed in excess of 100 km/h. The new section also provides for the fitting of a speed limiting device to any heavy vehicle not covered by the regulations that is detected being driven at a speed in excess of 115 km/h, on conviction or expiation of the offence. The new section makes it an offence to own a vehicle driven in contravention of the section. An evidentiary aid is included—proof that a vehicle was driven at a speed in excess of 115 km/h constitutes proof that the vehicle was not fitted with an effective speed limiting device in the absence of proof to the contrary.

Clause 15 amends section 162c which presently provides for the wearing of safety helmets by motorcyclists. The clause amends the section so that it applies to pedal cycists as well as motorcyclists. Under the section as amended it will be an offence if a person rides, or rides on, a motor cycle or pedal cycle without wearing a safety helmet that complies with the regulations and is properly adjusted and securely fastened.

It will be an offence for a person to ride a cycle on which a child under 16 is carried if that child is not wearing a helmet. It will also be an offence for a parent or other person having the custody or care of a child under 16 to cause or permit the child to ride or be carried on a cycle without wearing a helmet.

Under the section as amended it will be a defence to prove that there were in the circumstances of the case special reasons justifying non-compliance with the requirements of the section.

It should be noted that a child under 10 cannot commit an offence and that an expiation notice cannot be issued to a child under 16.

The schedule contains a consequential amendment to the Motor Vehicles Act 1959. It provides that a category 1 offence carries with it three demerit points.

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

STATUTES AMENDMENT (WATER RESOURCES) BILL

Second reading.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill amends five Acts of Parliament as a consequence of the introduction of a new Water Resources Act earlier this year. All these Acts impact on water and it has therefore been necessary to assess the overlap between them. The following amendments are considered appropriate:

1. Irrigation Act 1930—This amendment makes the taking of water from or the discharge of water into the Murray River or any body of water flowing through or adjacent to an irrigation area subject to the Water Resources Act 1990. This complements the provisions of the new Act.

2. Local Government Act 1934—An administrative amendment to make reference to the new Water Resources Act 1990 in lieu of the repealed Act in relation to the protection and management of watercourses by local government.

3. Pollution of Waters by Oil and Noxious Substances Act 1987—The definition of 'State waters' in this Act refers to waters within the limits of the State including inland waters, for the purpose of controlling the pollution of coastal waters. The new Water Resources Act 1990 is the vehicle for the control of pollution of inland waters. This amendment provides for a new definition of waters for the purpose of the Pollution of Waters by Oil and Noxious Substances Act 1987 limiting it to waters that are subject to the ebb and flow of the tide hence restricting control to coastal waters.

4. Public and Environmental Health Act 1987—Sections 21 and 22 of this Act deal with the pollution of water and currently overlap with Part V of the Water Resources Act 1990 covering the protection of water resources.

Under the latter Act authorisation may be granted for the release of certain wastes under specific terms and conditions. The release of this authorised waste however constitutes an offence under the Public and Environmental Health Act 1987. The amendment to section 21 resolves this untenable situation by exempting such authorised waste.

Section 22 prohibits or restricts the taking or use of polluted water. Pollution under the Public and Environmental Health Act 1987 means rendering a supply unfit for human consumption. A lot of water distributed throughout the State including irrigation supplies, does not meet the standards for human consumption and because of its particular use this is not a requirement. The amendment to

section 22 limits the section to waters distributed for human consumption.

5. Waterworks Act 1932—These amendments delete all the provisions relating to 'Watersheds and Zones' for the controlling of water pollution. These are now covered in the Water Resources Act 1990 by section 46 which enables regulations to be made to prohibit, restrict or regulate activities in any part of the State.

I commend these amendments to the House. They will enhance the effective administration and proper management of the water resources of the State.

Clauses 1 and 2 are formal.

Clauses 3 to 7 make amendments to various Acts for the reasons that have already been given.

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

EDUCATION ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment to the Legislative Council's amendment:

Legislative Council's Amendment No. 2:

Page 2 (clause 2)—After line 8 insert the following word and paragraph:

'or

(b) the determination of any other claim made by or on behalf of any person who was at any time or is an employee under this Act, if that claim was lodged with the Department at its Central Office or an Area Office before the commencement of this section.'

House of Assembly's amendment thereto:

Leave out 'the commencement of this section' and insert '5 March 1991'.

The Hon. ANNE LEVY: I move:

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

If I can recapitulate, when this Bill was before this place it was amended to enable someone who had put in a claim prior to the passing of this legislation to pursue that retrospective claim. The Legislative Council put in such an amendment. As is obvious from this amendment, the House of Assembly accepted the principle that people may be able to make retrospective claims if claims had been submitted, but it has amended the Council's amendment by changing the time by which such a claim had to made from being the proclamation date of the Bill to 5 March, which was the date that the amendment was made.

The obvious rationale for this is that between the passing of the amendment and the proclamation of the Bill there should not be a great flood of applicants urged on and advised as to how to put in claims in that intervening time, which may be of two to three weeks, and who would never have thought of putting in a claim, except that this window was suddenly opened for them. By changing the date to 5 March, it means that only those claims which have already been put forward can be considered and that a large number of people would not be able to take advantage of this situation simply from having learnt that Parliament was considering this amendment.

The Hon. R.I. LUCAS: The Liberal Party's position was clearly outlined earlier this week when we last debated this measure. We believe that the opportunity for lodging further claims, following the possible precedent of the Rossiter case, ought to be left open for a little longer; that is, until the commencement of this section. Our advice is that that might be not much more than a week away. That might be organised by next week if the Government chose to hasten the procedures which have to be adopted for the commencement of this new section of the Act. The Liberal Party remains of that view. We acknowledge that the Government's position has changed from its original position. A number of claims have currently been lodged. I am not sure what the latest number is; it was 16 when we last debated it, although I think the Minister of Education has indicated that a few more have been lodged with the Education Department. It is certainly not the tens of thousands about which he was talking, but there have been a few more since—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The figure of 16 was given to me two weeks ago. The Minister also indicated to me, when he outlined the new position, that the Education Department will continue to fight these claims through to the Supreme Court, or to the highest levels, if need be. The Government's position remains that the Rossiter case is not an all-embracing precedent for all other claims that may be lodged by other contract teachers. There is a reasonable level of confidence that, even though a number of claims have been lodged, in the end the department will not have to pay out on all of them.

The Liberal Party's position remains the same. The Australian Democrats have not indicated their position as yet. I understand there is a possibility that the Democrats might support the Government's position. In that case, we would at least acknowledge that there has been a movement away from the original position to allow processing through the courts of a number of claims that will have been lodged by 5 March 1991, the date in this amendment.

The Hon. M.J. ELLIOTT: I take it that the Hon. Mr Lucas is saying that if I did not support the amendment he would, but he is waiting to see what I am going to do. I had taken the original view of wanting to oppose the amendment that the Government was bringing in, but then accepted the amendment introduced by the Hon. Mr Lucas. So that we do not have to go through the agony of a conference on this matter, as I indicated earlier, I thought that anyone who felt they had a legitimate claim would have made one by now. On that basis, setting the date of 5 March, when it appeared that the Act was to go through, although amended, is probably reasonable in the circumstances and I will support that move.

The Hon. R.I. LUCAS: I should like to clarify one matter in case the Hon. Mr Elliott misunderstood the Liberal Party's position. It is not the case that if the Democrats did not support the amendment the Liberal Party would. I indicated that our position was clearly enunciated when last we debated the Bill, and that remains the position of the Liberal Party.

Motion carried.

The Hon. ANNE LEVY: I move:

That the report be adopted.

In doing so, I wonder whether I might ask that the House of Assembly, when a schedule of amendments is sent to us, indicate on the top to what Bill the amendment is being made. This piece of paper arrives on our desk with no indication as to which piece of legislation it is referring. It is rather confusing. While the Bill numbers may differ in the two Houses, the title remains the same and could at least be indicated.

The PRESIDENT: I understand that that is the normal procedure. It came up from the other place and was distributed before we picked up the error. Normally that would happen, and we will draw it to the attention of the other place.

Motion carried.

WATERWORKS ACT AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Insertion of Division I of Part V.'

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

Page 2—After line 36, insert paragraph as follows:

(ab) may, in relation to all residential land or to a particular class of residential land, fix a series of water rates that increase as the volume of water supplied to the land in a financial year increases;

During the second reading debate I foreshadowed that I would move amendments. I saw that one of the things that this Bill could achieve was the opportunity to encourage people to save water, and I felt that if we could introduce the concept of a rising block tariff into the Waterworks Act we would have a further incentive for the saving of water. I will remind members of the meaning of 'rising block tariff'. First, people would have a basic block entitlement, which is already within the legislation. The Government would then charge a tariff for the next amount of water used, and then charge at a higher rate again for a subsequent amount of water, and a yet higher rate for the next amount and so on. That way we are attempting to discourage consumption. Even the amendments already in this Bill encourage responsible use of water. The use of a rising block tariff is an even more powerful tool in that direction.

I suppose, ultimately, Liberal Party members could even see this as one way in which they may see the demise of their concern about the other component where there is a levy charge against houses. The reality is that people who can afford to use more water probably will, and they will probably be picked up in that way instead. That is really beside the point, because this Bill does not essentially change what was in the old Act in that regard.

The Hon. ANNE LEVY: The Government is happy to accept the two amendments; one is consequential upon the other. The passage of this amendment will not mean that a rising block tariff—

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: He is at it again. He really is insufferable.

The CHAIRMAN: Order! The honourable Minister.

Members interjecting:

The CHAIRMAN: Order! Everyone will have the chance in Committee to enter the debate in a reasonable and logical manner.

The Hon. ANNE LEVY: I wish to make two points regarding this amendment. It is only an enabling measure; it does not make a rising block tariff mandatory. Given that it is enabling legislation, it will mean that it can be introduced if it is thought desirable, but it is not necessary to do it. I also point out that this amendment is very much desired by the community of Streaky Bay. There is a considerable water shortage at Streaky Bay and the meeting held there recently, involving representatives of local government and members of the community, together with officers of the E&WS Department—

The Hon. L.H. Davis: So you want to accept an amendment on the basis of a population of a few hundred?

The CHAIRMAN: Order! The Hon. Mr Davis will have the chance to enter the debate. We are in Committee.

The Hon. L.H. Davis: I certainly will!

The CHAIRMAN: Well, I hope you do it in an appropriate manner. The honourable Minister has the floor.

The Hon. ANNE LEVY: The community at Streaky Bay felt that one of the solutions to its problems would be to have a rising block tariff so that excessive water usage would be discouraged and, in the light of that, it is highly desirable that there be such an enabling clause in the legislation. Other than for the community at Streaky Bay, which has suggested such a control of its water usage, there is no intention to introduce a rising block tariff in the metropolitan area in the next financial year, and probably not for some time after that, but this clause will enable the rising block tariff to be implemented in Streaky Bay, as requested by the community there.

The CHAIRMAN: I call the Hon. Mr Davis—entering the debate!

The Hon. Anne Levy interjecting:

The CHAIRMAN: Order! The honourable Minister will come to order.

The Hon. L.H. DAVIS: I am indeed entering the debate. As for the Minister's interjection, I will not comment on Streaky Bay; I will leave that to my colleague the Hon. Peter Dunn, who would know something about Streaky Bay. All I can say is that the Minister has made a pretty streaky contribution to the debate in this Chamber today. I am not surprised at all that she has grasped very quickly the proposition of the Australian Democrats who, true to their form, have shown how they can embrace one principle one week and oppose it the next week. My colleagues on this side certainly have fond memories of the small pickings that we achieved in the debate on the Valuation of Land Act Amendment Bill, when one Hon. Michael Elliott accepted with alacrity amendments from the Liberal Party designed to ensure that governments could not increase fees by proclamation.

What we have today is the same Hon. Michael Elliott, representing the Australian Democrats and representing the need for things that involve increased costs or increased burdens on the community to be paraded before the Parliament, gazumping through this Parliament something that he opposed only last week. It shows—I suppose, to be charitable—the versatility of the Australian Democrats. It shows an extraordinary about-face and it shows the remarkable versatility of the Australian Democrats in supporting a motion that undoubtedly could be used by the Government to lever even more money out of taxpayers.

It is not good enough for the Government to set by notice in the *Gazette* the threshold value, which is currently $111 000 and which, at the whim of a Government Minister's pen, can be changed to the disadvantage of a percentage of South Australians. The Democrats do not think that is good enough and then they say, 'Let's go one step further'—and indeed they have. It is extraordinary stuff, but we have become used to the extraordinary, convoluted and contorted twistings of the Australian Democrats.

So, I oppose the Australian Democrats' proposition with some force. Having said that, I want to ask the Minister a question about the threshold value, because the Minister may, by notice in the *Gazette*, fix the threshold value. We know where the numbers lie. We can see the Democrats are embracing this as if it were their own, so we know we are done on this—but let us not say we have been done without a fight, because we bitterly oppose this element, which we have described as a property tax or a wealth tax.

As the Minister will recall, I made the very simple but pertinent proposition that this Government is not recognising that people hold wealth in various forms. People who happen to have a house which they have held for a long time and which is of some value (let us say, $200 000 or $300 000), and they may have very little income or assets besides that, quite clearly will be disadvantaged under this legislation, as against the person or persons who have chosen to hold their assets in a different way and who will escape the notion of the threshold value.

In her reply last night, the Minister said that they could avoid the extra tax by simply using less water. But the Minister is being ingenuous in advancing that proposition. I think she would agree that we could easily fashion several examples to show that people would consume the same amount of water but would pay different amounts of tax because the respective values of their houses were different. That is the first question.

The next question I wish to ask the Minister is whether the proposition I have advanced is correct. If we have three identical houses, one valued at $80 000, one at $130 000 and one at $230 000, certainly, the water rates payable in each case will differ, notwithstanding the fact that water consumption is the same in each case. The rating system that is being introduced here, particularly as it applies to the threshold value, will mean that different water rates are paid. Does that meet with the Minister's notion of social justice and economic consideration?

The Hon. ANNE LEVY: I am happy to answer that question, but in fact it is totally irrelevant to the amendment before us.

The Hon. L.H. Davis interjecting:

The CHAIRMAN: Order!

The Hon. ANNE LEVY: With regard to the threshold of a prescribed value, it will alter from one year to another. This will relate not to a general CPI figure but to the actual movement in property values. I should also point out to the Hon. Mr Davis that, in the Waterworks Act as it currently stands, all the variations are set by proclamation. To continue having threshold values set by proclamation is in no way making an exception. Under the current legislation, the price of water and how the allowance is calculated from the property value is determined by proclamation.

Under the amended legislation, the various parameters, including the threshold, will also be determined by proclamation each year. So, it is in no way unusual in this legislation; in fact, it would be anomalous to have the price of water set by proclamation but not the threshold. There is no suggestion that the price of water should be fixed other than by proclamation; it never has been suggested and there is no suggestion of changing it.

With regard to the theoretical example put by the Hon. Mr Davis of three properties valued at $80 000, $130 000 and $230 000 using the same amount of water, I point out that, at the moment, these three properties pay very different E&WS rates.

The Hon. L.H. Davis interjecting:

The Hon. ANNE LEVY: No, it is my turn. I was taught as a small child not to interrupt.

Members interjecting:

The CHAIRMAN: Order! The Council will come to order. The honourable Minister.

The Hon. ANNE LEVY: Currently, those three properties pay very different water rates because the rate they pay is determined by their property value. The current rate is $1.68 per $1 000 of property value, so those three properties mentioned by the Hon. Mr Davis are paying very different amounts. Although in his hypothetical example they are using the same amount of water, at the moment they are paying very different rates.

The Hon. L.H. Davis: Yes, at the moment, but where are we heading?

The Hon. ANNE LEVY: The change that is being brought in by this legislation will mean that the access fee will be greater for the latter two hypothetical properties mentioned by the Hon. Mr Davis. If he wishes, I could get my calculator and work out the difference, but the difference in these charges will be much smaller because the property value component over the threshold will be $0.76 in $1 000 instead of $1.68. The differences between the three properties he has mentioned will be less than they are at the moment on the basic access rate.

If they continue to use the same amount of water, the odds are that they will pay the same as they are paying now because all calculations that have been done show that more than 60 per cent of consumers in South Australia, if they continue to use the same amount of water, will pay exactly the same amount as they would have under the old system. A small proportion of property owners, if they continue to use the same amount of water, will pay more than they are paying at the moment. These are the highly expensive properties.

The Hon. Diana Laidlaw: What, above $111 000?

The Hon. ANNE LEVY: No, not above $111 000.

The Hon. R.I. Lucas: Is that not what you are putting?

The Hon. ANNE LEVY: No, I am not. A property up to the value of $111 000 attracts a fixed access fee. Beyond that value, it is a fixed amount plus $0.76 in $1 000. This is less than the rate currently paid because the rate currently paid is $1.68 in $1 000. So, a higher valued property will pay a much lower access fee than the current rate. However, the water allowance will be lower than it is at the moment because everyone will have the same water allowance instead of having a water allowance determined by property value, whether or not you use that water.

So, someone with a higher valued property will have a much lower access fee than the present compulsory rate. However, in relation to a person continuing to use the same amount of water, I would need to know how much and look at charts and particular values to determine whether they would end up paying more or less. In any case, there will be the incentive to reduce the amount paid by reducing the amount of water used.

I point out that numerous studies show that the amount of water used is strongly correlated with the water allowance and that higher valued properties, which have had a much higher water allowance, have tended to use that allowance. Lower valued properties have had a lower water allowance and have tended to use about that allowance. There is no doubt that, in general, people's water usage is very strongly correlated with their water allowance as it now stands.

The Hon. Peter Dunn: Whose theory is that?

The Hon. ANNE LEVY: It is not a theory; it is fact shown by collecting data. So, if people are going to pay for water above the minimum usage, there will be a strong incentive to use less of it and thereby to reduce their water bill. By having a lower water allowance, according to data on previous behaviour one would expect water usage to drop, so that people will be able to control their water bill far more than they have been able to in the past. As I say, most of that is totally irrelevant to the amendment before us, but those matters were raised in the Hon. Mr Davis's ramblings.

The Hon. M.J. ELLIOTT: I have avoided getting personal in this place, but the rubbish that came from the Hon. Mr Davis before was nothing short of pathetic. It showed that the Liberal Party has not taken the time to properly analyse this Bill and to look at its effects. In fact, they are too damn lazy to even look at possible amendments. If they are so outraged about certain aspects of this Bill, they could have introduced all sorts of amendments to really tackle the issue.

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order!

The Hon. L.H. Davis interjecting:

The CHAIRMAN: Order! The Hon. Mr Davis will come to order. He will have a chance to respond in a proper manner.

The Hon. M.J. ELLIOTT: As I noted before, the primary issue that the Opposition is opposing is the fact that there would be a charge against the value of houses. An amendment to that effect could have been made to this Bill, but they were too damn lazy to do that. This Bill contains some very good aspects, such that people will now pay for the water they use, something which I thought they would have acknowledged as being highly commendable. Yet, the Opposition wants to throw out the whole Bill. As I say, the Liberal Party has been too damn lazy to analyse this Bill properly. It has gone out and put disinformation into the community without entering into the argument as to whether or not it is a good thing that people pay against the value of their property.

The Hon. L.H. Davis interjecting:

The Hon. M.J. ELLIOTT: Under the present Act you do that now, anyway, because you are given a water consumption rating on the value of your property and, whether or not you use the water, you pay for it. Some people have said that it is an outrage that they have had to pay for water that they did not use. That is what used to happen. If you had a valuable house and did not use much water you still paid for the water, whether or not you used it. That will now go. For once people will actually have a chance not to use the water and not pay for it, and the Liberal Party wants to complain. It is absolutely ridiculous.

The Liberal Party has been lazy on this issue. It has not analysed this Bill properly. There may be an argument about whether or not there should be a rating against the value of a house. That argument was open to amendment, but the Liberals were too lazy even to draft an amendment to do anything about that. Opposition members have been absolutely damn pathetic on this Bill.

I put forward an amendment that was criticised by Mr Davis because it will enable it to be done by proclamation through the *Gazette*. That is what is done with rates now; I am not changing the present situation. What I am doing is introducing a rising block tariff which means that people who use lots of water are penalised for doing so. The extra water, the last water, that we use in this State is the most expensive because we have to pump it from the Murray River. The people who waste that water are the ones who should damn well pay for it. That is a perfectly reasonable proposition. Mr Davis has missed the point totally.

The Hon. L.H. DAVIS: The Australian Democrats with their guilt feelings having been unmasked—

The Hon. M.J. Elliott: You have been lazy and you have been caught out.

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: We certainly have not been lazy. There has been a lot of public discussion about these new rates.

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order! The Committee will come to order. We are not getting anywhere with the rabble debate that is going on. Everyone will have the opportunity to enter the debate in a proper manner. I ask the Committee to respect Mr Davis, who is on his feet, and any other member, and let them be heard in silence.

The Hon. L.H. DAVIS: If one looks at the new scheme one will see that there is no doubt that houses over a certain value will pay more in rates if they are consuming the same amount of water. That is the proposition that the Liberal Party has put forward quite clearly and logically, and that is a proposition from which we do not resile. Many people in the eastern and southern suburbs will not find it easy to meet the additional money required by this. It is a tax on wealth; it is not a tax on consumption. That is the simple proposition. It is an irrefutable argument. What Mr Elliott is accepting is the fact that their situation has been worsened by this Act.

The other proposition of which the Hon. Mr Elliott is apparently ignorant is that we have been steadily moving towards a user pays principle under the current system. There is no disagreement about that point. I made that point and others on this side have made it, too. Last night I explained the history to Mr Elliott: that, as far as back as 1980, the Liberal Party had a committee which lasted one year looking at this matter. So, I am not ignorant about water rating systems around Australia, Mr Elliott. To accuse the Liberal Party of sloppiness and laziness is totally inaccurate.

The Hon. M.J. Elliott interjecting:

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: The point that Mr Elliott fails to understand is that sometimes Oppositions are here to oppose. We are here on this occasion to say that we do not accept the principle of this new rating system, because it is a clever way of cutting across the user pays principle by inserting a top-up of the threshold value. That is injecting a new element into the rating system. If Mr Elliott accepts that, so be it. We happen not to accept it, because we do not believe that it sits squarely with the notion of social justice; nor do we believe that you can argue on principles of economic considerations. Also, we are extremely nervous about the fact that the Government, at the stroke of a pen, can change the threshold value.

The Hon. Mr Elliott should at least be conversant enough with economics to understand that the 18.2 per cent increase in State taxation at the last budget can be mightily assisted in the next budget by changing the threshold value. Then, of course, we will have the Democrats being the first with a press release saying that it is no good. We have seen before this sense of *deja vu* about workers compensation—a concern about the cost to the employer of workers compensation in this State. Why do we have this problem? It is because of the Democrats. We are trying to avoid another problem, and so we are opposing—

The Hon. ANNE LEVY: On a point of order, Mr Chairman, I do not see that workers compensation is relevant to the matter that we are debating.

The CHAIRMAN: I do not see it is a point of order because it is just a reference.

The Hon. L.H. DAVIS: Thank you, Mr Chairman. That is the simple point that I want to make. I want to further advance the point that was drawn to my attention by my colleague the Hon. Julian Stefani. The fact is—and again I will take advice from the Minister on this—that there is a point, given that water consumption stays the same, where people who have a house above a certain value will pay more water rates. I guess that that figure is of the order of $135 000 to $140 000, but I do not know. I ask the Minister to say, other things being equal, at what point people will pay more. That is a fair question.

The point I contine to make, which seems to continue to escape Mr Elliott, is that this legislation ignores the capacity of people to pay. Unlike a tax on income, where you must have the income to be able to pay the tax, you are imposing a tax on people, irrespective of whether they have the income to pay the tax. That is a fundamental point. It matters not one jot or tittle if they happen to be lucky enough to have this one asset in their life. Mr Elliott does

not seem to understand that. That is the point the Liberals object to, and that is why we oppose this legislation.

The Hon. ANNE LEVY: If the Hon. Mr Davis did not talk so much and occasionally listened he might learn something. This afternoon he has repeated questions and shown a misunderstanding, as was pointed out to him last night. He obviously was interested not in listening to the debate last night but merely in expounding his empty rhetoric. The honourable member asks, 'At what stage will people start paying more or less if their water consumption remains as is?' I have here a table, but it is complicated and depends on the value of the property and the present consumption. Let us take an extreme. If a property was worth $500 000, of which there would not be very many in South Australia, and it had a current water consumption of 600 kilolitres a year (which I imagine most people would agree is a large domestic consumption), and if they continue to use that 600 kilolitres they will pay $65 less under this system.

The Hon. L.H. Davis: How many people use 600 kilolitres?

The Hon. ANNE LEVY: If that same property had a current use of 400 kilolitres, they would pay $225 less under the new system than they pay now. The owner of a house valued at $250 000 which currently uses 600 kilolitres (a very large consumption) will pay $105 a year more than they are now paying if they continue to use that huge water consumption. If they reduce their consumption to 400 kilolitres—

The Hon. J.F. Stefani: You are assuming that they can do with less water!

The Hon. ANNE LEVY: If we take a house worth $250 000, how much extra they pay or save depends on their water consumption and whether they change it.

Members interjecting:

The Hon. ANNE LEVY: No, it does not. If one does not use one's full water allowance now, as I never have, there is no incentive whatever to reduce water consumption, because I am paying for water that I do not use. If a house valued at $250 000 uses 400 kilolitres a year, which is a large consumption (far more than I have ever used), they will pay $5 extra under this new system. If they reduce the consumption from 400 kilolitres to 350 kilolitres, they will save $35.

The Hon. L.H. Davis interjecting:

The Hon. ANNE LEVY: If they are using 600 kilolitres at the moment, they have an enormous water consumption, and there will be a strong incentive to reduce it. If they reduce the consumption to 350 kilolitres, which is not half of 600 (I do not need my calculator to divide six by two), they will save $35 on their current water rates. The basis of this sytem is to encourage people to use less water: they will pay less if they use less. As I indicated last night, if water consumption does not change at all—if the financial incentive to reduce water consumption is of zero effect—the owners of 16 per cent of Adelaide properties will pay more than they are paying now; 62 per cent will pay exactly the same as they are now paying; and 22 per cent will pay less than they are paying now, on the basis that water consumption in each house does not change.

Obviously, for those 16 per cent (and they are the higher value properties), there will be a strong incentive to reduce their water consumption. The facts show that it is these high value properties that use the most water. People in these properties use far more water than people in far less valued properties. This system is definitely an incentive to use less water.

The Hon. PETER DUNN: I am amazed and amused by the arguments. Can the Minister say how much a kilolitre of water costs now?

The Hon. Anne Levy: It is 80c.

The Hon. PETER DUNN: A house valued at $100 000 would get about 200 kilolitres.

The Hon. Anne Levy: A house worth $100 000 has a current allowance of 210 kilolitres.

The Hon. PETER DUNN: It is fairly easy to work out, by dividing the water rates by the value of the water and that gives the entitlement. We live in a State and a city which prides itself on its gardens and maintaining them. I thought it was the Government's responsibility to provide water for the community, but it appears that that is not so. The Government is saying that it wants to cut back on water. I agree that reasonable consumption of water is necessary. If one is going to increase the cost of water on the basis of the more one uses, it is the opposite to what else is supplied around the State. This is because there is a basic cost in providing the water in the first instance; there is the cost of providing pipes, pumping and so on. The more water one uses the cheaper it should get, rather like electricity.

The Hon. M.J. Elliott interjecting:

The Hon. PETER DUNN: I do not think the Hon. Mr Elliott has much idea. I agree with conservation, but I do not know what this has to do with conservation. The honourable member wants less consumption of water, but what has that got to do with conservation? There is nothing magic about 'conservation'. Indeed, it is causing a lot of pain for many people. If we are to set down facts about water consumption, then the Minister's argument that if you use less water you pay less will apply. Of course that is so: that applies under the present system.

The Hon. Anne Levy: No, because you have such a big water allowance, and I pay for water that I do not use.

The Hon. PETER DUNN: In my area of Streaky Bay we easily use more than our quota, and we pay for the water we use. I suggest that more than 60 per cent of the people in this State do that anyway, so it is a user pays system. As soon as one exceeds one's entitlement one is into a user pays system, anyway. Therefore, the more water one uses the more one pays, and the less one uses the less one pays. So, that argument is fallacious. I cannot understand why the Democrats have moved an amendment, because it means that the more water one uses the dearer it will be.

The Hon. M.J. Elliott: That's right.

The Hon. PETER DUNN: I find that difficult to accept, because it takes no account of the provision of water in the first instance. In the future, when people seek extra piping for an extended supply, the department will say, 'Sorry, but we do not get anything for supplying the first 100 or 200 kilolitres. It is not until you can prove to us that you can use 600 kilolitres each that we will be able to afford to put the pipeline in and extend the system.' It is an unusual system.

This clause deals with the capital gains tax, and it is interesting to note how the State Government is changing its tack in this respect. One cannot readily change a capital tax: once improvements are on a property, that is it. However, if a site value obtains, it can go up and down with the value of the land. That is what happens now. Look at the State Bank. Site values have deteriorated to such a degree that suddenly local government and the State have adopted this capital tax method whereby they can set their rates on the capital tax, which they know cannot change much.

Therefore, the poor people have no income and no ability to change it and they have to keep paying on a capital tax basis as against site value. It was great a couple of years ago; everybody was for site value. Local government was the same. When site values skyrocketed and property values were very high, they all wanted site value. Today, they all want capital value because that has not dropped to the same degree as site value. This had better be borne in mind, because people are beginning to wake up to it. This new Bill is about adding a capital tax. I felt that I should point that out to the public because it is worth looking at for the future.

The Hon. ANNE LEVY: It is an indication of how out of date the Hon. Mr Dunn is that he is now debating what we debated last week—a completely different piece of legislation. In response to his comments, I can only suggest that he read *Hansard* from last night, because he was obviously too sleepy to know what was being said then.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 19 February. Page 3019.)

The Hon. J.C. IRWIN: The Opposition supports the second reading of this legislation which amends the Local Government Act particularly in relation to the freedom of information. The Bill was first introduced on 12 December 1990 and therefore has had some time to lay on the table until we could start addressing it now.

Local government in South Australia took exception to being included in the main Freedom of Information Bill, introduced to the Parliament in April 1990. The local government sector was generally supportive of the freedom of information principles extending to local council operations, but argued strongly that such provisions should be dealt with separately in the Local Government Act 1934. The Local Government Association was philosophically opposed to the inclusion of local government as an 'agency' under the present Freedom of Information Bill, as such an approach does not recognise local government as a separate tier of government.

The main changes to the Local Government Act identified by the association include: first, provision of information statements; secondly, provisions to protect the privacy of individuals where documents held by councils relate to personal information; thirdly, provisions for the amendment of inaccurate personal records held by local government; and, fourthly, a review of the range of documents which are not currently available to the public.

The provisions of this Bill are similar to those in the Freedom of Information Bill (No. 2) 1990. Where possible, provisions are identical. However, the Bill does take account of differences between the two levels of government. The main differences are as follows:

1. Documents subject to an order under section 64 (6) of the Local Government Act 1934 are 'restricted documents'. Section 62 of the Act allows certain designated matters to be considered by the council in confidence. The council can then make an order under section 64 (6) that documents relating to such a matter are confidential. Such a document is then a 'restricted document' for the purposes of the freedom of information provisions.

2. The removal of the 'objects' provisions. The Local Government Act 1934 is not set up with 'objects' provisions. It is inconsistent with the scheme of the Act to include objects relating to freedom of information.

3. The requirements dealing with information statements and information summaries have been modified. Under this Bill it will not be necessary to publish an information statement in the *Gazette*. It will be sufficient for the statement to be available at the council office. In addition, the information summary need not be published in the *Gazette* but rather in a local paper distributed in the council area. As most people know, the *Gazette* is not readily accessible to members of the public, whereas the local paper can be easily obtained by any member of the public.

4. Some provisions of the Freedom of Information Bill (No. 2) 1990 have not been included in this Bill as they are unnecessary; that is, they are not relevant to the local government sector or provisions already exist in the Local Government Act 1934—for example, service of notices, delegation, fees and charges.

5. The schedule has been replaced by substantive provisions. I am advised that councils will find it easier to use the Act if the restricted and exempt documents are the subject of substantive provisions rather than set out in a schedule at the back of the Act.

With the advent of entrepreneurial activities by councils, new arrangements between the Government and local government and possible 'super' or large councils, electors are entitled to have maximum protection from elected members working together as a council and the powerful bureaucrats who will inevitably come into the system with the larger councils. The proposed amendments in this Bill go some way towards making it easier for the public to call a council and its staff to account.

I appreciate that the Bill has been lying on the table since it was introduced in December, so there has been a fair time for consultation to take place. Indeed, the Local Government Association briefed me in late January this year. The association briefing was based on a series of questions that it had put to the Attorney-General, and I am advised that it has not yet received any answers to those questions.

A number of matters were raised in the Assembly by my colleague the member for Goyder (Mr Meier) and I shall seek from the Attorney-General an indication as to whether they will be re-examined. First, I refer to the definition of 'council' in new section 65a. Why is the definition in this Bill different from the Act, which says, ' "council" means a council constituted under this Act'? The Bill states, ' "Council" includes a council committee or a controlling authority established under Part XIII'. Why does this Bill talk about policy and administrative documents in new section 65a, whereas the Freedom of Information Bill talks about policy documents only?

New section 65e was raised in the Assembly. We believe that paragraphs *(a)* and *(b)* of that section are not consistent. For the record I should read new section 65e:

> A document is an exempt document if—
>
> *(a)* it contains information communicated to a council by another council, the Government of South Australia or the Government of the Commonwealth or of another State;

On my reading, that provides that a document is an exempt document automatically when it may not be. The section continues:

> *(b)* notice has been received from the Government of the Commonwealth or of the other State that the information is exempt matter within the meaning of a corresponding law of the Commonwealth or that other State.

It seems to me that that is not automatic until notice has been received that that document is exempt.

New section 65y (2) refers to a council which fails to determine an application within 45 days. We have raised the problem of councils that meet only once a month. Admittedly, some councils meet twice a month, but the great bulk of rural councils with which I am familiar meet only once a month. I then put it to the Government that this time frame of 45 days is a little unreasonable because one council meeting may pass without the matter being put on the agenda and more than 45 days may pass before it appears.

The Local Government Association is very concerned about new section 65ao, which relates to the review by the Ombudsman. The association argues that, if the Ombudsman's powers are to be increased, they should be addressed in the Ombudsman Act and not in the Local Government Act. There is no question that the Ombudsman's powers are to be increased. The Local Government Association argues that this process should have been part of the negotiating process now in train between local government and the Government and not by this, shall we say, backdoor method.

It is proposed here that the Ombudsman may carry out an investigation and, if satisfied that the determination was not properly made, may direct the council to make a determination in specific terms. It is to be hoped that the Ombudsman will stop short of telling the council—that is, the people of an area—exactly what decision to make. I sincerely hope that the Ombudsman would not be foolish enough to be part of bypassing the democratic process. The Ombudsman, I hope, may tell an offending council that has not gone about its decision-making properly that it must be done properly. That may be what this legislation means, but as I read it, it says that the Ombudsman can direct that a decision be made in very specific terms. This legislation is about freeing up information, not about giving powers to some other outside person or body to make a specific decision. I hope that the Attorney-General will address this point made to him very strongly by the Local Government Association.

I am advised that new section 65s (3) suffers from a number of defects, but the most obvious is clearly and easily demonstrated. Suppose a council has a policy of exercising its discretion against developments of three or more storeys in a particular part of a zone in which buildings of up to five storeys are permitted, subject to consent. It has this policy to guide the exercise of its discretion on consent applications because of the character of that part of the zone or because of the unsound nature of the soil, drainage or for some other perfectly sound reason. Suppose, further, that a developer applies for approval a of five-storey building in the area and the policy was not available because of a simple error in listing this one policy in a list of, say, 100 policies.

Does this new section mean that the council must approve the development? It seems to say that it does. When does a developer become liable to the detriment (new section 65s (3) (a))? Is it when he makes the application or when the application is before the council? If the application is refused, has he suffered the detriment? He can always make a fresh application. Where is the detriment in being held to the same rule as everyone else? How can anyone tell whether anyone could have avoided a liability to a detriment? Is there a duty to mitigate damage?

As I said, the Opposition supports the second reading of this Bill. I have avoided going into very much more discussion at this time because I imagine there is a reasonable amount of scope in Committee to ask questions and to seek more information from the Government. The Opposition supports the second reading.

Bill read a second time.

PHARMACISTS BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 3118.)

The Hon. R.J. RITSON: The Opposition supports this Bill and recognises the need of law to adopt and facilitate changes in professional practice and in pharmacy in particular. In common with the other health professional Acts and Bills, this Bill seeks to modernise control of professional standards and disciplines and to provide for resolution of complaints and professional disputes. In addition, as with changes already made in other disciplines such as law and medicine, and changes that are to come in relation to physiotherapy and chiropractic, this Bill seeks to provide for regulations of corporate practice in a manner that strikes a proper balance between professionalism and commercialism.

While supporting the Bill, the Liberal Party has some concerns, notably in relation to the consultation provision for larger pharmacy companies. We also have some concerns about the quorum provisions of the proposed board and a few other matters, about which we will ask questions in Committee. We will also pursue the issue of a separate complaints tribunal. Again, this matter will be dealt with in Committee. As I said, the Bill is fundamentally supported and, without further ado, I support the second reading.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

CHIROPRACTORS BILL

Adjourned debate on second reading.

(Continued from 21 February. Page 3121.)

The Hon. BERNICE PFITZNER: I am pleased to be given the opportunity to speak on the Chiropractors Bill. In my previous profession as a medical practitioner, I had communications with chiropractors and, in particular, I was involved in discussion regarding a specialist component to the general chiropractic curriculum. The specialist component was in developmental paediatrics. During those discussions I was impressed with the detailed and professional content of the general chiropractic curriculum, which course now spans over five years.

It has been perceived by some that chiropractic was an 'unscientific cult' and not to be compared with medical or paramedical services. However, modern chiropractic has been found to be a valuable branch of health care. Modern chiropractic does not seek to provide a comprehensive health care service, nor does it take the place of the medical practitioner. However, in its particular scope, and acknowledging that there are contra-indications to chiropractic manipulations, 'spinal manual therapy' has a definite place in the relief of musculo-skeletal symptoms.

It is also acknowledged that modern chiropractic education and training are sufficiently detailed and comprehensive to enable a chiropractor to determine the contra-indications to 'spinal manual therapy' and to make appropriate medical referrals if necessary.

The report of the Commission of Inquiry into Chiropractic in New Zealand in 1979 was most comprehensive, and inquiries were pursued in Australia, the United Kingdom, Canada and the United States of America. In my view, the thrust of the report was that:

> Although the precise nature of the biomechanical dysfunction which chiropractors claim to treat has not yet been demonstrated scientifically, and although the precise reasons why spinal manual therapy provides relief have not yet been scientifically explained, chiropractors have reasonable grounds based on clinical evidence for their belief that symptoms of the kind described above can respond beneficially to spinal manual therapy.

So this Bill, which seeks to define chiropractic and osteopathy, which seeks to provide professional standards through the Chiropractic Board, and which seeks to maintain standards by education, for example, through refresher courses, is legislation that is long overdue and much needed.

However, there are a few issues that I would like to raise. I will signal them now and they can be dealt with in further detail in Committee. If these issues are not able to be resolved, I would like to attempt resolution by way of amendments. The first relates to the provision of an education component in the practice of chiropractic (clause 18 (2) *(a)* (i)). It is a concern that educational activities are not considered as part of 'practise as a chiropractor'. As the Bill encourages and supports the concept of progressive upgrading of the profession and quality assurance, there is therefore a commitment to provide at least educational in-service. This is not catered for in this clause.

For example, if a chiropractor of a chiropractic company runs refresher courses regularly, this will not be seen as practice of chiropractic, and therefore will not be allowed in the company. Secondly, the term 'for fee or reward' is rather confusing and needs to be clarified. For example, does that mean that, if one does not receive a fee or reward one can practise chiropractic without being qualified? This question was raised in the other place, but I am afraid the reply did not shed any further light on the matter. One ought not to be allowed to practise chiropractic if one is not qualified, whether or not he or she is paid.

Thirdly, it is of concern that any chiropractor should be exempt from the requirement to be indemnified against loss. I will seek an explanation regarding this—clause 29 (2). I cannot think of any examples of a person practising chiropractic who would not need to be indemnified against loss. Other minor clarifications will be raised in Committee but, in general, I support the total concept of the Bill. However, I would appreciate it if the Minister, in her second reading reply, could further clarify the points that I have raised.

The Hon. M.J. ELLIOTT: The Democrats support the Bill. I have been approached by several practising chiropractors who are expressing concern about certain elements of this Bill. I have already taken an opportunity to speak with officers of the Minister in relation to the legislation and I have raised all those concerns with them. For the most part, I have been personally satisfied that the concerns that were raised by the people who had spoken with me were based on a misunderstanding of the terminology and that sort of thing. However, during the second reading debate, I would like to raise several of those issues with the Minister so there may be a response at the end of the second reading stage that is on the record and so the people can be aware that those issues have been raised and of what the official responses are.

One concern was in relation to clause 6, where the board will have one medical practitioner among its membership. This legislation is essentially similar to that of the pharmacists and psychologists. Basically, all the legislation has been built on the same model. I understand that the psychologists and pharmacists are not required to have a medical practitioner on their boards. There are some chiropractors who feel that it is rather patronising that they should be required to have a medical practitioner on theirs. So, I would like to put to the Minister that that concern does exist among some chiropractors. I would appreciate a response on that matter. It was further put to me that, if a medical practitioner is required, why is it not a person with knowledge most relevant to chiropractic and, in particular, a person with expertise in muscular-skeletal matters or an orthopaedic surgeon?

Concern has been expressed about clause 18 (1) *(c)* where a person is required to have both qualifications and experience. On the face of it, it would appear that a person could arrive with the qualifications and be unacceptable because they had no experience, or there are also practising chiropractors who have experience but who perhaps may not fit the qualifications test. That is one matter that I have addressed and, as I understand it, the question of the grandfather clause that existed is covered in the schedule, where it is made clear that a chiropractor who is registered under the repealed Act will continue to be registered. So, as I understand it, that problem has been dealt with. I was not quite so certain about the other explanation, which suggested that, as chiropractors have to do some practice these days when they are studying, that counts as experience. I was not quite so convinced about that but that probably depends upon what regulations may be drawn up.

Clause 18 (2) *(a)* (v) provides that no director of a company may, without the approval of the board, be a director of any other company that is registered as a chiropractor. I am wondering what the precise purpose of that is and what sort of things are to be achieved that will have such a dramatic impact, which necessitated inclusion of this clause.

The concern has also been raised with me, similar to the one that was raised by the Hon. Ms Pfitzner in relation to clause 25 (1), where the term 'fee or reward' is used, and the suggestion that, if a person is carrying out chiropractic not for fee or reward, that is undesirable. It was said to me when I had my meeting that what we are trying to stop is daughters walking around on Dad's back, that that would not be seen as chiropractic. But clearly, it is not being done for fee or reward. I understand that, but what if a person tells their friends, 'I can do chiropractic' and the people are led to believe that they can; the person offers to do it for free, as a service for a friend; they do it in the belief that they know what they are doing and do some damage? That is hypothetical, but I would appreciate a response on that matter—similar to the matter which was raised by the Hon. Ms Pfitzner. In fact, she raised a few concerns that have also been raised with me, but I will not reiterate those.

Clause 33 provides that a company registered under this Act must not participate in a partnership with any other person unless it has been authorised to do so by the board. What does the Government hope to achieve? Is it a matter of not having a recognised chiropractic partnership taking on board a person who is not a chiropractor, or is it trying to achieve something else? Clause 34 provides that:

> (1) A company registered under this Act must not, without the approval of the board, employ more registered chiropractors than twice the number of directors of the company.

The provision holds a great deal of appeal for me. As I understand it, they are trying to stop the formation of large clinics, and I feel personally that right throughout the whole health field the development of super clinics, of which, mercifully, we do not have many in South Australia, is positively unhealthy. I think it leads to over-servicing and to being treated by doctors or other health practitioners who

do not know the patient on a personal basis, so that the quality of care deteriorates. The way that this clause is structured ensures also that the practitioners involved are only chiropractors and that there is very close supervision of what is going on within the practice. Clause 34 is admirable and I would like to see that sort of thing throughout the health field in general.

In relation to clause 42 (1), concern has been expressed to me about the minimum period of 14 days within which a person must be given notice if they are to appear before an inquiry. It is a rather short period of time, particularly if they decide that they need legal representation or if they need time to prepare their case. I am told that, at most, that period of 14 days is used only for preliminary hearings, etc., but it seems to me to be unreasonably short and I will move to amend the period of 14 days to 21 days. I do not think that is an unreasonable request.

As I said, quite a number of issues have been raised with me but, as happens so often, people do not understand how the law is interpreted and sometimes they do not realise that all that is happening is that provisions of the old Act are finding their way into the new Act, so there should not be any new problems created. All of the other matters that have been raised with me should fit into that category.

The Democrats support the Bill. I have raised a few questions and have foreshadowed at least one amendment. I may have a couple of further amendments depending upon the response to the questions I have asked. I am reminded that there was some concern about the way in which indemnity is achieved currently. As I understand from the explanation given to me, there is some concern that indemnity may only be achieved via the board and that some people may wish to privately insure. I would like a response to that matter which I may consider further.

The Hon. R.J. RITSON: I thank my colleague the Hon. Dr Bernice Pfitzner for the work that she has done in relation to this Bill. I support the second reading and I substantially support the Bill. The first observation I want to make is that this Bill obviously has been discussed at length and over some time since its introduction in another place. Consultation has occurred and substantial agreement has been reached.

This Bill now comes before the Council with some substantial new lobbies and new submissions. In fact, at midday today I met with the people referred to by Mr Elliott and the same matters were raised with me that have been alluded to by both Dr Pfitzner and Mr Elliott. I agree that about half of the concerns expressed to me were simply expressed because these good people naturally enough do not have experience in reading legislation and saw more cause for concern than was justified.

I would like to discuss a few matters: first, the matter of having a medical practitioner on the board. I put to the lobbyists that they ought not to be seeking to have another bone and muscle man on the board, because the notion of having a medical practitioner on the board is no more to know about chiropractic than it is for the medical practitioner on the nurses board to know about nursing. I think that the dental board has a practitioner as a member, but he is not there to tell anyone how to pull teeth. The point is that all health professional boards interface, and they should do this in a cooperative way with one of their members having an overview of their place in the health scheme as a whole.

The most important thing that I can see from the point of view of chiropractic is that the board should have a medical practitioner who will make a positive contribution to the relationship between chiropractic and medicine, someone who is sensitive and not hostile to chiropractic and who can make a positive contribution to the board in that sense. He would not need to know, and he would not pretend to tell anyone dealing with the board, how to practise chiropractic. He would have some useful ideas about inter-professional relationships and about aspects of traditional health care in inter-current disease that come before chiropractic practitioners in the course of their practice. So, I think that these people are mistaken in wanting to have a medical practitioner with a special interest in bones and joints. For those reasons I support the Bill as it is drafted in relation to this matter.

I think these people are mistaken in wanting an amount of prescribed experience in the Act. I think they are unreasonably alarmed at wondering how much experience will be required. That matter is for determination by a board of their peers to which presumably they will have an input by nominating or influencing members of the board. In many ways it is a self-regulatory system and chiropractors themselves will decide from time to time the experiential component as well as the academic component required for practice, and the Minister would take their advice when regulating that experience.

I am sympathetic with the desire to have the appeal period extended to 21 days. As a Party we have not had a chance to discuss this matter because of the lateness of the lobby. It is not for me to say at this stage, but it may very well be that Mr Elliott could find support for that proposition on this side of the Chamber. The question of fee or reward is a vexed question because one has to determine whether one wants to eradicate totally unqualified practitioners and produce an ideal world or whether that is not possible and whether one should therefore target the section of society more in need of control.

For instance, practising medicine whilst unqualified and dispensing an S4 drug without prescription occurs every time Aunty Mabel says to little Johnny, 'Take one of my penicillins, you've got a cold.' That sort of thing is happening in society all the time. Dietary advice occurs across the back fence in the same way as it occurs in the consulting room. One is called practising medicine and the other is called neighbourliness.

The Psychological Practices Act has been the bane of many people's existence year after year. We all know that if one goes to a clinical psychologist for a course of psychotherapy that person is practising psychology. But, if one receives similar advice in confession, is that the practice of psychology? Well, that is exempt by statute, but if one receives it—

The Hon. R.I. Lucas: There is a reward for that, though.

The Hon. R.J. RITSON: A heavenly reward, yes. I do not see how it is possible to define the practice of a profession in a watertight way that will catch every case. After all, there is some onus on a consumer of a service. If one goes to the chiropractor, the doctor or the psychologist there is an expectation that, if someone looks professional and has a plate and a bit of paper on the wall with the seal of the institution, somehow that person is trained and knows more about it than the neighbour does.

I think all we can do is target the commercial marketing of healing and make sure that somebody who chooses to go to an apparently professional source and pay money for it is in fact going to a professional source. I do not see that we can do any more than that. The front bar of every suburban pub around Adelaide is populated by a former footy trainer with half a glass of beer in his hand telling everyone what he knows about cartilages. He does not take

a penny for it; he is just big-noting himself. I see that Mr Terry Roberts is a little amused. I am sure that he knows some of those characters.

The Hon. T.G. Roberts: It extends to ligaments as well.

The Hon. R.J. RITSON: Yes. That is a fact of life in our society. I doubt that it can be targeted. My personal opinion is that the Act, in practice, would not be strengthened by removing 'fee or reward'. But, as I say, my impressions, like those of Mr Elliott, are based on a very recent lobby, almost, as they say, on a particular television show even as we speak. Members on this side will have to scratch their heads, pool our notes: and see whether or not we will be moving any amendments. At this moment it is not possible for me to foreshadow any amendment.

One matter that was raised was the question of appeal provisions and whether the suspension of a right to practise by the board should be lifted in a discretionary way or in a mandatory way pending appeal. Some years ago I recall that the Medical Practitioners Act was amended to make sure that the board had power to keep someone from practising until their appeal was heard if the board felt that the person subject to a board order was conducting the practice in a dangerous manner and had to be stopped as a matter of safety pending the appeal.

I pointed this out to the chiropractic lobbyist who was concerned about the word 'may' instead of 'shall' in relation to this matter. He felt that the word 'shall' should be inserted instead of 'may'. It would have the effect that an order of the board would certainly be suspended pending appeal so that the person could continue practising until the result of the appeal was known. He made the point, after all, that chiropractors do not deal in such a risky business as medical practitioners.

The Hon. M.J. Elliott: Dentists do, though. I say this in the light of my experience of a dentist only recently.

The Hon. R.J. RITSON: We were not discussing the Dentists Act and, because of that, I cannot quite recall all its clauses. I ask the honourable member to forgive me for not having that at my fingertips. The argument put to me was that chiropractors could not do much harm pending appeal because they do not deal in matters such as anaesthesia, surgery and the administration of potent drugs. I am not sure that a situation could not arise where a particular chiropractor might deviate from the standards of practice to the point where things such as spinal manipulation and neck manipulation were being done in a dangerous fashion.

Again, I have not made up my mind on that point. I will probably need the collective wisdom of my parliamentary colleagues to do so. As I say, it is a personal opinion just indicating the sort of things that have been thrown into the ring in the past few hours and days. Obviously, we cannot proceed to the Committee stage at present. I support the second reading of the Bill.

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

WATERWORKS ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 3366.)

Clause 3—'Insertion of Division 1 of Part V.'

The Hon. ANNE LEVY: I have already indicated the Government's support for this amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I refer to the heading 'Declaration of rates, etc., by Minister'. I refer to new section 65c (1) *(a)*, which refers to the threshold value. Will the Minister clarify how the threshold value is to be increased in future? I understand that an allowance is to be made to increase that value from $111 000. Is it taken on average increases in capital value over the forthcoming year or is it a CPI increase? How is it worked out?

The Hon. ANNE LEVY: It is interesting that the Hon. Ms Laidlaw asks this question, as I answered it both this afternoon in Committee and last night in the second reading debate. It shows how much interest and attention Opposition members are paying to this debate. I can repeat the exact words which I stated last night, as follows:

> There is no justification for the concern expressed about the effect of increasing property values in relation to the threshold value of $111 000. It is the intention of Government to review this figure each year, taking account of the movement in property values. This will represent a genuine reassessment, not merely the application of some general inflation index.

The Hon. DIANA LAIDLAW: Recent indications of property sales suggest that valuations have come down, but I doubt that the existing threshold value will come down. Will the value of $111 000 only go up, because property values have certainly come down in recent times? Also, I am concerned not so much about the present recession or, as some say, depression, but about the future. There could be huge increases in property values because of sales, as most of us would be aware, in the eastern suburbs, particularly in the foothills some time ago. Prices skyrocketed because of interest by a number of people. That has an enormous effect on property values and, therefore, rates and water rates, especially for people who have lived in areas for many years.

Generally they are on fixed incomes: their incomes do not increase by the same rate. If they are pensioners, it would increase by the CPI. If they are superannuants, they may have some difficulty, particularly if they are on a fixed income, getting a rate of return from investments to keep up with inflation. I understand the Government's policy, but I express considerable concern for a number of people who are income poor but asset rich and who will have lack of control in terms of the threshold and water rates in future, because they will be determined so much on the random factors of neighbouring property sales.

The Hon. ANNE LEVY: The threshold will be adjusted annually according to the movement of property values. If property values fall overall, the threshold value will fall. It is not just a rise—it will fall. Despite what the honourable member says, I recall reading that property values in Adelaide have on average not fallen, unlike the eastern States, but have remained fairly stationary in the past six or 12 months.

The Hon. Diana Laidlaw: That is certainly not what real estate agents are experiencing.

The Hon. ANNE LEVY: Well, the last figures published in the newspaper—if one can believe the newspaper—show that falls in average property values have not occurred in South Australia, unlike the Eastern States, but they have not risen, either, and have been virtually stationary. However, that is irrelevant to the fact that the threshold level will be determined according to movements in property values.

The honourable member said that property values may be greatly inflated according to certain sales that occur nearby. Valuations done by the Valuer-General are deterined as market values; there is no abstract notion of a capital value. It is merely what is determined by the market but, as all honourable members will recall when we debated the Valuation Act recently, the Valuer-General or a private valuer employed by a council determines the value for a

property, and it is on that value that both water rates and council rates are based.

It is open to anyone who feels that his property has been overvalued to appeal against the valuation to the Valuer-General. If they are successful in their appeal and the value of the property is reduced, they will pay lower water rates and lower council rates as a result of a change in the valuation. The valuations are determined by market values. Without wishing to rehash the debate of a couple of weeks ago, that is the definition as set out in the Valuation Act.

The Hon. L.H. DAVIS: On a point of clarification the Minister made something of the fact that most people will not be disadvantaged, initially at least, by this change in valuation. The argument has been that 62 per cent of property assessments valued below $111 000 by the Valuer-General will pay no more, provided they use the same amount of water.

The Hon. Anne Levy: No; it is 62 per cent over the whole of the metropolitan area, not just those below $111 000.

The Hon. L.H. DAVIS: Right; 62 per cent will pay the same, and another 13 per cent will pay less.

The Hon. Anne Levy: No. Some 22 per cent of the total assessments will pay less than they are paying now.

The Hon. L.H. DAVIS: I am not allowed to quote from another place, but the figures are different in another place.

The Hon. Anne Levy: No. I think there has been a misinterpretation of the table, which I am happy to show you.

The Hon. L.H. DAVIS: I am quoting the Minister in another place. In another place they say that people who have properties valued below $111 000 by the Valuer-General pay no more if they use exactly the same amount of water; there are 278 000 assessments in this category, which represents 62 per cent of the current properties assessed receiving assessments from the E&WS department.

The Hon. Anne Levy: That is the table. It has values up to $111 000 and values over $111 000.

The Hon. L.H. DAVIS: That is exactly the point that I have made. I am correct.

The Hon. Anne Levy: I beg your pardon, yes. It is 62 per cent there.

The Hon. L.H. DAVIS: That confirms what I am saying.

The Hon. Anne Levy: It is 62 per cent overall who pay—

The Hon. L.H. DAVIS: So what I am saying is correct. That is for values up to $111 000. That is exactly the point that I have made.

The Hon. Anne Levy: For values over $110 000 there is no change.

The Hon. L.H. DAVIS: No. I have only been talking about values up to $111 000. I am right.

The Hon. Anne Levy: So am I.

The Hon. L.H. DAVIS: I simply make the point that, on values up to $111 000, for 62.3 per cent there will be no change and 13.2 per cent will actually pay less.

The Hon. Anne Levy: Yes.

The Hon. L.H. DAVIS: This data was made available publicly by the Minister in another place and in public debate on this matter. However, I have had the advantage of perusing the table which sets out how much less they will pay. On my interpretation of the table—

The ACTING CHAIRMAN (Hon. T. Crothers): What is your question, Mr Davis?

The Hon. L.H. DAVIS: I can make an unfettered explanation.

The ACTING CHAIRMAN: Yes. I just lost the question.

The Hon. L.H. DAVIS: With respect, I am sure that the Minister has not.

The Hon. Anne Levy: You have not come to it yet.

The Hon. L.H. DAVIS: I am working up to it. I have set the scene and painted the picture. Now I am going to fill in—

The ACTING CHAIRMAN: You are an artist of considerable standing.

The Hon. L.H. DAVIS: I have a schedule of the new residential water charging, changes in total annual water bills, an official schedule, which I assume has been drawn up by the department. On my interpretation, it shows that the 13 per cent or so who will actually pay less for their water on current water usage from last year to the coming year will be saving—there has to be a pause while people sit down and wait for this—40 cents a year. That is my interpretation. At the bottom end, if they are consuming 150 kilolitres or less, their savings may be more than that. With a value up to $110 000 it may be $65. If they are consuming 200 kilolitres or more, except for one category, they will be saving only 40 cents a year.

The Hon. Anne Levy: On 200 kilolitres they can save—

The Hon. L.H. DAVIS: They can save $8.40. That is just one category. What I am suggesting is that, of the 13.2 per cent, the bulk will be saving 40 cents a year. I should be interested to know whether my presumption is correct.

The Hon. ANNE LEVY: My information is that there are a great number of assessments which fall into the category of values between $80 000 and $110 000 and whose current water usage is 150 kilolitres grading up to 200 kilolitres.

The Hon. L.H. Davis: Have you got the numbers?

The Hon. ANNE LEVY: I do not have the figures here, but I am told that there are a lot of people in that category. While there are many entries in the table where the saving will be 40 cents, there are very few assessments which fall into those categories.

The Hon. L.H. DAVIS: I am sure that the Minister can provide those in due course.

The Hon. M.J. Elliott interjecting:

The Hon. L.H. DAVIS: The Hon. Mr Elliott, who presumes to be interested in social justice on other occasions, is far from being interested in social justice on this occasion. The fact is that, without anything changing, people are suddenly paying more. It is as if the State Government has imposed an additional tax on water, Mr Elliott. Don't you understand that?

The Hon. M.J. Elliott interjecting:

The Hon. L.H. DAVIS: He does not understand that. This table, as set out, clearly shows that people with valuations of $120 000 progressively through to $200 000 in particular will be paying more without any change in their consumption. If they are consuming as low as 250 kilolitres a year, in the case of someone with a valuation of $120 000, they will pay nearly $5 a year more. Admittedly it is not a big figure. However, the paradox of the table is that it really is Robin Hood in reverse. The people with the highest capital values will be making a saving under this proposal, whereas those with houses valued not much in excess of the average, which is $103 000, namely, houses worth $140 000, $150 000 or $160 000, will be paying much more.

Let me give Mr Elliott an example. Let us persuade him with a real live example from the department itself. Let us take a house valued at $160 000 consuming 350 kilolitres of water a year, which I would have thought was an average amount. I do not think that is an exceptional amount on my understanding of water usage. They will be paying an extra $37.

The Hon. M.J. Elliott: Per year.

The Hon. L.H. DAVIS: Per year. That is not peanuts, Mr Elliott. It might be peanuts to you, but it is not peanuts

to the lady in the eastern suburbs whose only asset is a house and whose pride and joy is a garden and who waters it efficiently, anyway. She might be on a fixed income and have a reasonable block and her pride and joy may be her garden. But suddenly we have an extra tax. It is as if it is a mid term tax for the Government as far as this lady is concerned. The irony is that people who have houses valued at $230 000 and who are also consuming 350 kilolitres of water are paying $16 a year less. If one has a house worth $330 000, one is paying $108 a year less. Of course, this is a magnificent version of social justice—the Australian Labor Party way. Will the Minister explain this new notion of social justice?

The Hon. ANNE LEVY: That is a stupid question. What the honourable member is forgetting is that this is a table of differences; it is not a table of sums paid. We would have a very different table. He seemed, in his very lengthy roundabout explanation, to be ignoring the fact that someone whose property is worth $200 000 at the moment pays a very great deal more than someone whose property is valued at $120 000 because of the valuation system used. It is a property tax, pure and simple, which is used now. Even after these reductions occur, provided the level of water usage does not change, a person with a property valued at $200 000 will still pay more than a person whose property is valued $120 000 because there is this property component—and component only now; property value is not the sole determinant.

However, because of the property component, someone with a highly valued property will still be paying more than someone with a lower valued property for the same water rate. However, they can reduce the amount that they pay by conserving water and using less.

The Hon. M.J. ELLIOTT: Mr Davis has played the usual game that people play with statistics: they go searching around for the number that suits them. The game can quite easily be played by, instead of using 350 kilolitres, using 300 kilolitres and that very same person would be in a different position. If their water consumption dropped further again, there would be a significant saving. The fact is that that little old lady in the eastern suburbs at present has no way of reducing the cost of her water rates because the amount of water she is allocated is now dependent on the value of her house. Whether she uses the water or not she has to pay for it. That is what has happened to the little old lady that the honourable member is worried about. There is nothing that she can do at the moment to reduce her water rates. Now, for the first time, she actually has a chance to do something about it. It means using less water and I would argue that, of anyone, little old ladies can probably use less water because they spend a lot of time in their garden individually attending plants. They handle water and do not have an automatic sprinkler system that wastes copious amounts of water. They are probably the people most able to take advantage of this legislation.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: I am afraid they do. I suppose that I must add that there are different versions of the automatic systems, but I am referring to the sort of system that goes on whether or not it has rained and while people are away on holidays. Those systems quite happily gobble up huge amounts of water.

The Hon. L.H. Davis interjecting:

The ACTING CHAIRMAN: The Hon. Mr Davis will come to order. The Hon. Mr Elliott has the floor.

The Hon. M.J. ELLIOTT: The Hon. Mr Davis knew what he was doing. He looked around for a figure that he thought suited his argument. In fact, there are plenty of figures that do not support it. I think that the little old ladies that he said he was so worried about actually have a chance to reduce their water bills, a chance they never had under the old system.

Clause as amended passed.

Clauses 4 and 5 passed.

Clause 6—'Rates on non-residential land.'

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

Page 3, line 23—After '(6), (7) and (8)' insert 'and substituting the following subsection:

(6) The Minister may fix a series of rates under subsection (4) *(a)* that increase as the volume of water supplied to the land in a financial year increases.'

The Hon. ANNE LEVY: For exactly the same reasons that the Government supported the previous amendment, we support this amendment, which is consequential upon it.

The Hon. PETER DUNN: My argument about this is how we are to budget for water rates. This legislation provides that the rate can be changed at any time during the year. Is it the Minister's intention that at the beginning of the year or at some stage during the year she will flag in advance what the increase in water rates will be? Will we just have it lumped on us half way through the year, when the Government has decided there is a bit of a shortage of water and it needs a bit more money, or the State Bank loses another $1 billion and it wants to fix it up?

The Hon. ANNE LEVY: It is not expected that there will be any change to the current situation, where, once a year, before the beginning of the financial year, the price of water for the coming financial year is proclaimed. The same system will apply.

The Hon. PETER DUNN: Is the Government then expecting to grade the price of water, now that the amendment will be accepted?

The Hon. ANNE LEVY: It is amazing how people do not listen. I have been asked this question already today and I have replied to it. It is not expected in the Adelaide metropolitan area that the block tier system will be applied in the coming financial year or for some time to come. It will certainly not apply for the coming financial year and it is unlikely to apply for years to come. That does not mean that it will not be used in other water districts in South Australia where it is felt that it would be useful, for example, at Streaky Bay, where there is a very severely limited supply of water. The community there has suggested that a block tier system would, by increasing the price of water for heavy users, encourage them very strongly to use less. Because of the limited water supply the community finds this highly desirable. So, the block tier system may be used soon in areas such as Streaky Bay.

The Hon. PETER DUNN: Once again, the country cousins get a belt in the ear.

The Hon. Anne Levy: They are asking for it.

The Hon. PETER DUNN: Who was the spokesman? Who asked for it? I go over there frequently and I have never heard that argument. I know the water basin for Streaky Bay is stressed. I understand that, but it is not a lack of water; it is going salty.

The Hon. M.J. Elliott interjecting:

The Hon. PETER DUNN: Do not blame the people; it is your planning Act that allows them to go there.

The Hon. ANNE LEVY: I am told that there was a community meeting held at Streaky Bay that was attended by a large proportion of the population and included members of the council and that this suggestion of block tier pricing of water was passed by a majority of those present at the meeting when a vote on the matter was taken.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 10) and title passed.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a third time.

The Hon. DIANA LAIDLAW: I wish to make a few comments at this stage. I was not a strong contributor during the Committee stage of this Bill, and I suppose in a way I should even declare an interest, because I will be a beneficiary of the Government's new program. That does not mean to say that I am not able to put my personal interests aside and look at the wider issues. The Liberal Party opposes this Bill on principle. We went to the last election indicating that we believed very strongly and that we would institute a review of what we saw as a most archaic and flawed system of rating water on the basis of property value.

The fact is that the Government has undertaken a review of the water rates and we have this same flawed system incorporated in the Government's Bill. I admit that, in part, it has changed and I think the Liberal Party generally would support the conservation of water and the introduction of a user-based system, because we recognise we are the driest State in the driest continent. However, this system adopted by the Government is as flawed as the earlier system was and we just do not want to have any part of it at all. That is why we have not sought to move amendments.

I make that comment in response to the holier than thou contribution made earlier by the Hon. Mr Elliott. We are concerned that the flawed tradition that has been operating for some time in this State is being entrenched by this system and it is hurting many older people, in particular, who may be—we use the words loosely—'asset rich' but on fixed incomes. They have lived in their houses for many years and have worked hard to pay off their houses. We believe this Bill is a severe penalty on many older people.

Lastly, I would say that, with respect to the Minister's statements about those who will save money, I have kept silent during the argument because that chart about which the Minister talks is based on the capital values and property values for this current financial year. The new system will operate on capital values for 1991-92. I have made inquiries and certainly those have not been determined at this time. It will be interesting to see not the theory but the reality of who are the winners and who are the losers in this.

Essentially, we believe that South Australians generally are the losers, because of this flawed system which the Government has allowed to be perpetuated in this new system. So, I make that brief explanation of the Liberal Party's stance and of why amendments were not moved during the Committee stage. I indicate that we will be dividing on the third reading.

The Hon. M.J. ELLIOTT: I stand by the comments I made during the Committee stage. There has been one issue and one issue alone, of which I am aware, in this whole Bill with which the Liberal Party has dissented, and that is proposed section 65b (2). An amendment to delete that would have deleted the very thing the Liberal Party was complaining about. It did not need to oppose the whole Bill. It may have lost an amendment and worked from there. However, the Liberals have not acknowledged some very good features in this legislation. I would have thought that the user-pays feature, where we pay for the water we use, which is provided for in this Bill now—

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: This has the user-pays feature in it. It has this other component with which the Liberal Party disagrees, but it still includes the user-pays principle. That is a good thing. It encourages conservation and it gives people some power to control their water bill. If the Liberal Party was honest in the first instance, it should have attempted to amend that part of the Bill to which I referred and, if it was still outraged, then oppose the whole Bill.

I have argued that, in any event, this Bill leaves most people in virtually the same position they were in previously if they use about the same amount of water. However, for the first time if they take the positive step of using less water, they will be able to reduce their bill. So, there is an incentive there—and that is what the Bill is supposed to be all about. This Bill has some good features. I have been able to add an amendment which, I hope, will eventually be used to encourage further conservation of water, particularly where watertables are under stress, where people are using groundwater—and there are a few areas in the State like that. In Adelaide, the situation is that the additional water must come from the Murray River, which is more expensive water, and that water is used by industry. So, economically it is a greater expense for the State. Also, it produces greater corrosion because of the salt, and the various other things that happen are all a cost to the State. Anything we can do to discourage the use of Murray River water in our system is a good thing—and that is something this measure will do. It will reduce the percentage significantly.

I think there are a number of gains here. I concede that the Liberal Party is not happy with one part of the Bill but, as I said previously, if this Bill was defeated, the people in Adelaide who are being hurt now would continue to be hurt in the same way. If there is a flaw there—and that is the argument—it was there previously, and it remains. At least people can now reduce their bill, as they will not be required to pay for water that they do not use. So, I stand by my previous statement. The Liberal Party looked at it, picked on that one particular clause, jumped up and down about it and did not take the time to analyse the Bill properly or to look at some of the very real—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: There are still some positives in this Bill and simply to try to defeat the whole Bill out of hand really does show that not sufficient care was taken in the analysis of the Bill. The Democrats support the third reading.

The Council divided on the third reading:

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

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

Pair—Aye—The Hon. Carolyn Pickles. No—The Hon. Bernice Pfitzner.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

SMOKING BAN

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

That this Council:

1. endorses the decision of the Joint Parliamentary Service Committee to prohibit smoking in certain areas under its jurisdiction and calls on all members to abide by the terms and spirit of the decision;

2. declares its support for the long-term introduction of a smoke-free environment throughout Parliament House; and

3. prohibits smoking in and about the lobbies, corridors and other common areas of Parliament House under its jurisdiction.

which the Hon. R.I. Lucas had moved to amend by leaving out paragraph 3 and inserting the following:

3. urges the President to prohibit smoking in and about the lobbies and corridors of Parliament House under the President's jursdiction.

(Continued from 6 March. Page 3278.)

The Hon. T.G. ROBERTS: I rise to support the amendment moved by the Hon. Mr Lucas last evening and hope that I do so with the confidence of both the smokers and non-smokers who have involved themselves in the spirit of the debate and who have had enough confidence in me to put the Government's argument before this Chamber.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: Debate has ensued on both sides of the Council. I recognise in particular the contribution made by the Hon. Bob Ritson, who raised the question of how the matter got into the Chamber for discussion. I agree with the sentiment expressed that this matter should have remained the province of the Joint Houses and that members should have drawn up respectable battle lines for smokers and non-smokers and come away with an agreement that could have been workable for both Houses. Unfortunately, this is not the case and the matter was referred to the Council.

I support the Hon. Mr Lucas's amendment on the basis that the responsibility goes back to the President. I think that is a responsible transfer of power back to the President to police. I would be very interested to see how the policing methods are carried out, but the motion itself appeals to the better nature of smokers to respect the wishes of non-smokers.

The Hon. Diana Laidlaw: We have for years.

The Hon. T.G. ROBERTS: The Hon. Diana Laidlaw says that they have respected them for years. I think that has worked fairly well. There are some people with more sensitive lungs than others who appear not to want to come near people who are smoking in various sections of the House, but it depends on the urgency of the discussion. I have noticed that some members will break their necks not to go near people who are smoking large cigars, but if the matter is urgent enough I notice that people do not stay away from each other or stop talking to each other, regardless of whether or not they are smoking.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I have watched the contortions between members on both sides of the Council, but I know that the Hon. Trevor Crothers with a cigarette in his hand does not put off members of the Opposition from approaching him and engaging in jovial conversation. On other occasions he retires to his room where his smoking offends no-one. That is covered by the motion. The areas set aside for members to smoke are practical. There is some resistance to areas of the bar being set aside for smoking, and I am sure that we will hear a little more about that as time goes on. I support the amendment.

The Hon. J.C. BURDETT: I cannot support this motion because I think it is a waste of parliamentary time. The way to deal with the matter of smoking is through education. I point out that there has been considerable success and that, as a result of an educative program, there has been a considerable drop in the incidence of smoking. It is my view that if we cannot sort out this smoking problem between ourselves, the members of Parliament, there is something wrong with us. I have not discerned any problem and I object to the Big Brother approach.

I turn now to the details of the motion. Paragraph 1 proposes that this Council endorses the decision of the Joint Parliamentary Service Committee to prohibit smoking. I think that is patronising. The Joint Parliamentary Service Committee is a statutory body that has its own method of operation and of enforcing what it decides. For us to solemnly endorse what it has done is quite unnecessary. Paragraph 2 of the motion provides that this Council declare its support for the long-term introduction of a smoke-free environment throughout Parliament House. We are not a policy-making body. Neither the Parliament nor this Council is a policy-making body: the Government, the Opposition and the Democrats make the policy, but this Council does not. We should not be making policy. We deal with matters that come before us which can be acted on directly, such as Bills and sensible resolutions, but it is not our business to make policy. I said recently that I am not a smoker except that I occasionally smoke cigars on birthdays, Christmas, Father's Day and occasions of that kind.

The Hon. R.I. Lucas: Election victories?

The Hon. J.C. BURDETT: Yes. As far as I can recall, I have never smoked in Parliament House since 1973, but I do not agree with clobbering people who happen to smoke or for whatever else they might do. To solemnly decide in this Council to have a long-term introduction of a smoke-free environment throughout Parliament House is patronising and Big Brotherish in the extreme.

The Hon. G. Weatherill: McCarthyism.

The Hon. J.C. BURDETT: It is. Paragraph 3 of the motion is improved by the amendment, but I am still not happy with the motion. It is the duty of the President, as I understand, to control conduct in the lobbies, corridors and so on of Parliament House.

I acknowledge that it must be within the jurisdiction of the Council to direct the President in special circumstances. However, since I have been in this Chamber, since 1973 it has never been done, and I hope that it never is done. I have had every confidence in all the Presidents whom I have served under, including the present one and his predecessor, to be able to ensure that there is proper decorum and conduct in the corridors and common areas of Parliament House, and there always has been. For those reasons, I cannot support the motion.

The Hon. T. CROTHERS: I rise as a recently about to be reformed smoker, and I have a question for the President. Given that this motion might pass through the Chamber, how long will it be before it has the full effect of law? Is there a question of gazettal? What happens?

The PRESIDENT: A resolution of the Council becomes effective when it is carried and by its implementation by the President or when any other instructions are given. It does not have to go to the Governor.

The Hon. M.J. ELLIOTT: I support the amendment. I did not expect this motion to produce quite as much heat and smoke as it appears to have done. This is not an anti-smoking motion. I do not mind people smoking. In fact, I am very much a libertarian. Today in the *News* I was quoted as saying that prostitution may need to be legalised, but I do not mean in the middle of this damn Chamber. What I am talking about is what consenting adults decide to do. Whether that is the sharing of tobacco smoke or anything else is really their own business.

The Hon. ANNE LEVY: On a point of order, Mr President, this is the third time this afternoon that the Hon. Mr Elliott has used the word 'damn' when speaking. It seems

to me that that word is even more unparliamentary than the word I was not permitted to use yesterday.

The PRESIDENT: In the context of 'damn' being used as a swear word, I think it is a rather unparliamentary word, and I ask the honourable member to withdraw it. I do not think it adds anything to the prestige of the Council in the context of a swear word.

The Hon. M.J. ELLIOTT: I will retract that word if it causes great offence. I really do not mind what consenting adults decide to do, but I think some people have very little consideration for others. One of the reasons for moving this motion was that the Joint Parliamentary Service Committee has made decisions—and I am not being patronising supporting what it has done—which people have decided to flout because they feel that their interests were put above those of others. I think that they should re-examine themselves rather than being so quick to point their fingers at others. In any event, I do not wish to protract this debate further. I hope that I have the support of the Council.

Amendment carried; motion as amended carried.

ADJOURNMENT

At 6.10 p.m. the Council adjourned until Tuesday 12 March at 2.15 p.m.